



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

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SEANAD ÉIREANN

Déardaoin, 13 Aibreán 2017

Thursday, 13 April 2017

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

Machnamh agus Paidir.
Reflection and Prayer.

Business of Seanad

An Cathaoirleach: I have received notice from Senator Lynn Ruane that, on the motion for the Commencement of the House today, she proposes to raise the following matter:

The need for the Minister for Education and Skills to outline the amount of revenue generated by the national training fund levy in the past five years; where the revenue generated has been spent; how much revenue generated has not yet been allocated for expenditure; and to give details of the governance structure that decides on how the levy is spent.

I have also received notice from Senator Terry Leyden of the following matter:

The need for the Minister for Housing, Planning, Community and Local Government to introduce new wind energy development guidelines on noise, proximity and shadow flicker as a matter of urgency.

I have also received notice from Senator Pádraig Mac Lochlainn of the following matter:

The need for the Minister for Health to intervene and ensure that the HSE urgently advertises for a replacement paediatric endocrinologist at Sligo University Hospital to protect this specialist service for children in Donegal and the region; and to outline his plans to address the ongoing crisis in diabetes care in Donegal.

I have also received notice from Senator Máire Devine of the following matter:

The need for the Minister for Health to provide an update on the approval process for psychiatric centres abroad within which Irish children were placed in the past two years, in light of the Channel 4 “Dispatches” documentary entitled “Under Lock and Key”.

I have also received notice from Senator Fintan Warfield of the following matter:

The need for the Minister for Education and Skills to give an update on consultations on school admissions.

I regard the matters raised by the Senators as suitable for discussion. I have selected the matters raised by Senators Ruane, Leyden, Mac Lochlainn and Devine and they will be taken now. Senator Warfield may give notice on another day of the matter he wishes to raise.

Commencement Matters

National Training Fund

Senator Lynn Ruane: I thank the Cathaoirleach for selecting the matter and I thank the Minister of State for giving his time today. The national training levy is a crucial source of revenue in the context of the ongoing national debate on the funding of third level education. As the Minister of State will be aware, the Cassells report released last year has painted a bleak picture of the state of our higher education sector. The report has made it clear that we must act decisively to save a third level education sector which is in serious financial trouble. I firmly believe that the national training levy must play a central role in our response to this crisis.

The report correctly identified employers as major stakeholders in and major beneficiaries from higher education. Our highly educated workforce is a major structural advantage for Irish businesses and enterprise, and it is logical that they would contribute towards its funding. I welcome the public consultation process currently under way in the Department of Education and Skills on a proposal for an increase in the levy from 0.7% to 1% and strongly support such an increase.

I note that the consultation process is specifically framed with the intention of responding to the Cassells report and the challenges facing the higher education sector which include funding issues such as the poor spend compared with other OECD states and the lower spend in comparison with primary and secondary education, but also the STEM skills gap and the growing demographic of students expected to attend higher education, with a 27% increase expected by 2028.

It is welcome that the Department is aware of and preparing for these issues. However, since the Government recognises that the national training levy will be a key part of our response to the third level funding crisis, it is crucial for us to understand the administration of the revenue generated by the levy since its introduction in 2000. How much has been allocated for expenditure? Where has the money been spent? What money has not been spent and why? How are such decisions made? What does the Government plan to do with the increased revenue? It is important for us to properly examine the record of the levy and the national training fund. We need to ensure the fund is fit for purpose and is being managed well for the benefit of citizens.

I have a number of questions for the Minister of State. How will the additional income generated by an increased levy be distributed? None of us wants Irish businesses to play a direct role in higher education policy and decision making, and demanding that their skills gaps be prioritised above other important factors. Given that we need the arts and other such subjects to be supported just as much as STEM projects, how will this be managed?

Will the Minister of State consider investing the increased revenue in capital infrastructure in higher education institutions, as universities are not ready to respond to changing demographics or opportunities that may arise as a result of Brexit? Will the Minister of State give a commitment that this funding will come as an additional resource for the higher education sec-

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tor and is not used as a replacement for the loss of any existing revenue streams?

I note that section 2.4 of the legislation provides that the Minister shall manage and control the investment account of the fund. Can the Minister comment on what investment return the fund has achieved in the last five years? What is the investment strategy? Finally, can the Minister explain why there are unspent moneys in this fund, given the current condition of the education sector?

I look forward to engaging with the Minister on this issue. I have also provided a more detailed submission under the submission process.

Minister of State at the Department of Education and Skills (Deputy John Halligan):

I thank the Senator for raising these important questions and for agreeing to postpone this matter from last week for me.

The National Training Fund, NTF, is resourced by a levy on employers of 0.7% of reckonable earnings in respect of employees in classes A and H employments, which represents approximately 75% of all insured employees. The levy is collected through the pay as you earn, PAYE, and pay related social insurance, PRSI, system and funds are transferred monthly to my Department. Funding from the NTF is allocated by me, with the consent of the Minister for Public Expenditure and Reform, in accordance with the provisions of the National Training Fund Act 2000. While the NTF does not form part of the Vote of my Department, the allocation for each scheme is determined as part of the annual Estimates process. The NTF is included as an annex to the published Estimates of the Department and such funding has been included in the overall expenditure ceiling for my Department since 2011.

Prior to 2012 income from the NTF levy had fallen from a high of €413 million in 2008 to €299 million. However, since 2012, receipts from the NTF levy have increased annually, due to improved employment levels. The NTF levy generated €299 million in 2012, €317 million in 2013, €338 million in 2014, €364 million in 2015 and €390 million in 2016. It should be noted that the operation of the EU fiscal rules and the inclusion of the NTF in the Department of Education and Skills overall annual expenditure ceiling mean that, in the absence of an increased rate of contribution, additional expenditure cannot be sourced from the NTF without a corresponding drop in Exchequer expenditure.

The accumulated surplus in the fund has been critical in maintaining expenditure levels, particularly in the provision of training for the unemployed, in the years when receipts fell below the expenditure levels required. It is considered prudent to continue to maintain an adequate surplus in the fund to meet demand in future years and it should be noted that, while the current surplus of €232 million represents a very significant sum, it would only cover seven months of NTF expenditure at current levels. The surplus remains available for investment in education and training programmes to meet skills needs.

NTF funding is used to raise the skills of those in employment, to provide training to those who wish to acquire skills for the purposes of taking up employment and to provide information relating to existing or future requirements for skills in the economy. The majority of the funding is expended under the broad headings of training for employment and training in employment. Training for employment provides a range of training programmes for jobseekers, including training for early school leavers and for people with disabilities and targeted skills programmes such as Springboard and ICT skills conversion. Training in employment funding supports the

training of employed people, primarily the apprenticeship programme and employer-led and contracted training through the Skillnets model.

There has been a shift recently in the focus of investment with more funding allocated to training those in employment and less allocated to training jobseekers, due to the upturn in our economy and growing numbers of people in employment. In 2017, I am providing funding of €366 million from the NTF. As part of this allocation, I have provided an additional €24 million to training those in employment to meet demand which will arise mainly in the expansion of apprenticeship opportunities. I am also reviewing the allocation of funding to programmes in the further education and training and higher education sectors as between NTF and Exchequer sources in terms both of the appropriate emphasis required on training for employment and training persons in employment and of satisfying the needs of enterprise to meet strategic skills requirements.

I hope I have answered the Senator's questions. There is a consultation process and she is more than welcome to contribute to that. I would appreciate her contribution. If I have omitted to mention anything, I will get that information from the Department. I will also be delighted to provide the Senator with any further information she requires.

An Cathaoirleach: That was a frank response. Is the Senator happy with it?

Senator Lynn Ruane: I have one or two more questions which I will send directly to the Department because the Minister will not have access to the information here. I wish to clarify whether I understood the Minister of State correctly. He said that additional funds cannot be allocated unless there is a reduction in the Exchequer fund. Will the increase be a replacement and not additional?

Deputy John Halligan: From what I can gather, it balances with the Exchequer all the time. Whenever funding is spent on something, if one overspends or underspends one is required to deal with the Exchequer. I will find out what the position is. I have contacted the Department of Finance to ask for a detailed analysis as to why that is the case and I will forward that to the Senator.

Senator Lynn Ruane: I have another question. Obviously, much of the additional spend in previous years has gone to filling skills gaps at jobseeker level and third level funding has not received a great deal from the national training levy. Will the percentage increase be directly for third level? If so, and this ties in with the Cassells report, is it expected that the Department would not decide where that money is spent and that it would go to the core fund of the Higher Education Authority, HEA, which would be aware of where the gaps are in third level?

Deputy John Halligan: How best to allocate the money, be it to higher education and so forth, will be part of the consultation process. I know the Senator has a great interest in this so I would value her contribution to the consultation process in respect of how she believes it should be spent. After the consultation process this will come back to the Houses for discussion. I urge the Senator to let the consultation proceed. I probably have almost the same view as the Senator as to how the funding should be spent. It is a balance of skills, apprenticeships, higher education and so forth. I ask the Senator to wait for the consultation process to conclude, after which I will refer back to her.

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Senator Terry Leyden: I thank the Cathaoirleach for selecting this matter for the Commencement debate and I welcome the Minister of State, Deputy Catherine Byrne. I am calling on the Minister for Housing, Planning, Community and Local Government, Deputy Coveney, to introduce new wind energy development guidelines in respect of noise, proximity and shadow flicker as a matter of urgency. It is more than three years since the closing date for submissions under the public call for submissions on the proposed revision of the 2006 wind energy guidelines, but we are still no closer to the new guidelines being introduced.

The guidelines were first introduced in 1996 and they were revised in 2006. In the intervening years, the size and scale of wind turbines and industrial wind farms have increased dramatically. Where turbines were approximately 90 metres in height, many are now 170 metres to 200 metres in height. While we wait for new wind energy development guidelines to be introduced rural communities such as mine are sitting ducks for the highly subsidised wind energy industry. It was highlighted that interest had been conveyed to timber companies about the development of a wind energy farm near to where I live in Castlecoote. The Minister needs to do two things. The subsidy for onshore wind energy is far too high. The industry is subsidised but it has created great difficulties for families and residents, particularly in the Slieve Bawn area. Coillte and Bord na Móna built a wind farm in the Roscommon-Strokestown-Ballyleague area but it has caused major difficulties for the residents. The Minister must introduce new wind energy guidelines where the setback is ten times the height of the wind turbine. For example, a 150 m turbine would be setback 1,500 m or 1.5 km from residents. The most critical things for consideration are the potential impact the noise generated will have on residents in close proximity, the associated effects on sleep and subsequent health, the potential for shadow flicker on residential homes, the overall impact on the landscape, the general amenity of the residents and the loss of tourism and economic benefits.

Coillte is the national company that organises and runs the timber industry. I am concerned by the fact Coillte has been approached by a German company with a proposal to develop wind turbines in my area. The German company is only interested in erecting wind turbines in the area. The project would have a detrimental effect on the communities in the area - for instance, Aghagad, Aghagower, Bracklin, Carrowkeel, Cornaveagh, Creemully, Aghagad Beg and Derryhippo, County Roscommon. A major project has been put forward by the local action group. It has met practically every week over the past number of weeks in order to put forward a very good policy decision or request to Coillte, which I hope will be considered in the very near future. I call on Coillte to desist from dealing with the wind farm proposal for the area. I also ask the Minister to introduce guidelines as quickly as possible. The guidelines are a number of years out of date. I look forward to the Minister responding in a positive manner with new planning guidelines for wind turbines that will be erected in the future.

An Cathaoirleach: The Senator has finished spot on time.

Senator Terry Leyden: Thank you.

An Cathaoirleach: I call the Minister of State to respond.

Minister of State at the Department of Health (Deputy Catherine Byrne): I am taking this matter on behalf of the Minister for Housing, Planning, Community and Local Government. I thank Senator Leyden for raising this issue.

Since May 2016, the Minister has liaised closely with the Minister for Communications,

Climate Action and Environment, Deputy Denis Naughten, having regard to his responsibility for renewable energy policy, on the focused review of the 2006 guidelines. The Minister recognises the need to bring the review to a close in order to give certainty to all stakeholders, local authorities, the energy sector and the wider community.

In light of the commitment in A Programme for a Partnership Government to finalise the guidelines and the ongoing policy and legal developments in this area, the Department of Housing, Planning, Community and Local Government, in conjunction with the Department of Communications, Climate Action and Environment, is continuing to advance work on the guidelines and related matters in order to bring the various issues to a conclusion as early as possible. The Minister, Deputy Coveney, expects to be in a position to make a statement on the matter in the coming weeks when he will outline the proposed revisions to the guidelines and the timelines for implementation of the various elements.

As part of the overall review, and having regard to a recent European Court of Justice judgment on the Belgian-Wallonian wind energy guidelines, it is proposed to undertake a strategic environmental assessment, SEA, of the proposed revisions to the 2006 guidelines before they come into effect. This is in accordance with the requirements of EU Directive 2001/24/EC on the assessment of the effects of certain plans and programmes on the environment. SEA is a process by which environmental considerations are required to be fully integrated into the preparation of plans and programmes that act as frameworks for development consent prior to their final adoption, with public consultation as part of that process. In light of the SEA requirement, which will take approximately nine months, it is likely that while the proposals for revisions to the guidelines will be available shortly the guidelines will not be finalised and come into effect until the end of the year. When finalised, the revised guidelines will be issued under section 28 of the Planning and Development Act 2000, as amended. Planning authorities and, where applicable, An Bord Pleanála must have regard to the guidelines issued under section 28 in their assessment of planning applications and in the performance of their functions generally under the Planning Acts.

In the interim, the 2006 guidelines will continue to apply to existing planning applications that are with either the local planning authorities or the board for determination. As mentioned earlier, there has been close engagement between both Ministers and their Departments with a view to advancing the revision of the guidelines to a conclusion. The Minister, Deputy Coveney, recently had a constructive meeting with the Minister, Deputy Naughten, and his officials. Both Ministers will further discuss the matter today. In light of the recent progress made on the matter, the Minister, Deputy Coveney, is confident that he will be able to make an announcement on the final proposed revisions to the guidelines which will be subject to the SEA process in the coming weeks.

Senator Terry Leyden: It is encouraging that the Minister is moving in this particular regard. There have been numerous public consultations on this matter. Ireland has fully complied with European Union law in this regard and the Belgian case should not be used to delay or prevent the implementation of new guidelines. I welcome the fact that new guidelines will be announced shortly and that they will be implemented by the end of 2017.

Hospital Staff Recruitment

An Cathaoirleach: Next is Senator Pádraig Mac Lochlainn. An bhfuil sé ullamh? The

Senator has four minutes.

Senator Pádraig Mac Lochlainn: Will the Minister for Health attend?

Deputy Catherine Byrne: No.

An Cathaoirleach: I see the difficulty. Senator Leyden raised this issue on the last occasion and I can understand why Senators raise this matter. It is a Government decision and I have no say over it. The Minister of State is here and we should allow her to give a response.

Senator Pádraig Mac Lochlainn: Yes.

An Cathaoirleach: We are not blaming the Minister of State who is here. I am sure she could find other things to do this morning.

Senator Pádraig Mac Lochlainn: I appreciate that but it has become regular practice for the Minister not to attend. This is the third time an important health issue in Donegal has been discussed in the Dáil and the Seanad. Let us remember that it takes many days and sometimes weeks to table a Topical Issue and Commencement matter. It is important and precious to have such an opportunity. The Minister for Health has not appeared before us and been accountable, which is completely unacceptable. I assume that he will read the transcript of this debate. It is unacceptable that he has not come here to answer our questions. With all due respect to the Minister of State, she cannot know all the details about this matter.

The Minister for Health met the Donegal Diabetes Association last December at Letterkenny University Hospital and was made fully aware of the crisis in diabetes care in the county. In Donegal as many as 700 adults and children have type 1 diabetes and 6,000 adults and children have type 2 diabetes. We need a team of endocrinologists and nurse specialists who can deal with children and adults. We need a centre of excellence in the north-west region of Donegal, Sligo and Leitrim. The nearest centre of excellence for diabetes care is in Limerick and the paediatric endocrinologist at Sligo University Hospital has left her position to work in the centre of excellence in Limerick. The Minister has known about this matter since January. The position has been advertised and God knows how long it will take to fill the post. There is no commitment to provide cover, which is the vital issue from a Donegal perspective, in the clinics for children. There are 161 children with type 1 diabetes who rely on the monthly clinics for pump therapy. The pump therapy is the accepted way to deal with diabetes care and prevent long-term issues. Type 1 diabetes is a chronic condition and these children must live with it. We urgently need reassurance that the monthly clinics will continue and that the post will be filled.

The Donegal Diabetes Association has also made it clear that we need to double the number of endocrinologists and specialists at Letterkenny University Hospital. We need to ensure that we have the correct number of specialists to deal with a population living with diabetes types 1 and 2 in the county.

11 o'clock

I am disappointed the Minister is not present and ask the Minister of State to convey to him the urgency with which he must meet representatives of the Donegal Diabetes Association to provide reassurance on these issues.

An Cathaoirleach: Perhaps the Senator might write formally to the Committee on Procedure and Privileges on the issue. I, too, have been annoyed on occasion by the absence of the

Minister when I raised issues related to farming, fishing and so on. We cannot, however, pin blame on the Minister of State. I ask her to respond to the Senator on the matter he raised.

Deputy Catherine Byrne: The Minister apologises for his absence. I will relay the Senator's concerns about the failure on occasion of Ministers to appear in the Chamber to deal with Commencement matters.

A paediatric insulin pump service was initiated in May 2015. The service is based in Sligo University Hospital, with outreach clinics in Letterkenny University Hospital. The Saolta University Healthcare Group has confirmed that the consultant paediatrician with specialty interest in diabetes who was instrumental in commencing the service is leaving the post in mid-April. It has recently advised the Department that a consultant paediatrician has been appointed to the post on a temporary basis. The permanent post is to be filled through public competition via the Public Appointments Service and this process is ongoing.

To address the issue of continuity, the clinical service arrangements for the management of the insulin pump service are being examined in consultation with the relevant clinical teams. There is one consultant endocrinologist at Letterkenny University Hospital providing the adult diabetes service which serves approximately 700 patients with type 1 diabetes and 6,500 patients with type 2 diabetes. The consultant endocrinologist is receiving support from a locum consultant general physician who has a diabetic interest. Additional clinics are being run on a monthly basis, with one or two extra clinics per month, to address waiting lists for the service.

The major focus in the past 12 months has been on seeing newly referred patients. The overall waiting list for no patients to be seen by the consultant endocrinologist has been reduced by 20% from 313 patients in 2015 to 249 patients at present. More significantly, the number of new referrals waiting for more than one year for a clinic appointment has been reduced by 80% from 97 in 2015 to 19 at present.

With regard to addressing waiting times for patients who require repeat appointments, work is continuing with the diabetic service to address this pressure, while simultaneously ensuring newly referred patients are seen promptly. The Saolta group advises that an adult insulin pump therapy service is provided for patients in the north west. The current number of adult pump therapy patients is 24. However, eight additional patients are transitioning to the adult service, while a further eight will move to the service in three to six months, bringing the number of adult pump patients to 40.

On the future of diabetes services in the north west, the Saolta group advises that a business case is being prepared in support of a second consultant endocrinologist, a diabetic nurse specialist and a diabetic dietician to further support the Letterkenny diabetes service. On the recruitment of health care workers generally, significant efforts are ongoing at national and local level to address staffing issues across the health service. It should be noted that the numbers of consultants increased by more than 130 between February 2016 and February 2017, while numbers of nurses and non-consultant hospital doctors increased by approximately 460 and 230 whole-time equivalents, respectively, in the same timeframe.

I note the Senator's dissatisfaction about the Minister's absence. I will convey to the Minister the various issues raised, in particular, the Senator's view that the Minister should be present in the Chamber. While I am not familiar with the process in place in County Donegal, I have provided a response to the matter raised.

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An Cathaoirleach: We must not shoot the messenger. The Minister of State may be minded to ask the Minister to visit Letterkenny to see at first hand the problems Senator Pádraig Mac Lochlainn has raised.

Senator Pádraig Mac Lochlainn: I appreciate the Minister of State's response and ask her to convey to the Minister the need to meet representatives of the Donegal Diabetes Association, as promised, as soon as possible to address their concerns. In her response the Minister of State omitted to mention that there is a 21-month waiting time for repeat referrals for adults with type 1 diabetes in County Donegal. This is a serious issue, given that it has been well documented that diabetes care will prevent long-term interventions such as amputations and long-term conditions such as loss of sight. The paediatrician endocrinologist at Sligo University Hospital has moved to the centre of excellence in Limerick. The failure to deliver a centre of excellence in counties Donegal and Sligo, as justified by the numbers involved, has resulted in the needless loss of top class professionals to another centre of excellence. I reiterate my request that the Minister meet representatives of the Donegal Diabetes Association as soon as possible to assure them that the monthly clinics for their children which offer pump therapy essential to their care will not be lost. We urgently need reassurance on the issue and that the number of specialists in Letterkenny University Hospital dealing with patients with diabetes will increase.

An Cathaoirleach: I am sure the Minister of State will convey that point to the Minister.

Deputy Catherine Byrne: I have taken a note of it and will ask the Minister to communicate with the Senator on the matter.

Mental Health Services Provision

Senator Máire Devine: I welcome the Minister of State at the Department of Health, Deputy Helen McEntee. It is good to have the correct Minister of State in the House. It is not the case that Senator Pádraig Mac Lochlainn was shooting the messenger because this issue affects all Senators.

The issue I raise is the care of children outside the State. A small number of children need special care which cannot be provided here and are sent abroad to avail of a broader range of treatment options, supports and interventions. In the past two years six children were sent abroad for this reason. However, records are not held for other years. Data must be collected nationally for future reference and use. Of the six children sent abroad, three were sent to the St. Andrew's facility in Northampton in England. I do not know where the other three were sent, but perhaps the Minister of State might provide that information. The lack of facilities for children who require them means that some children are sent abroad where they do not have access to family, friends and someone who will fight their corner. These disturbed and vulnerable children do not have a voice abroad and are in a dire position. The cost of placing three children in facilities abroad for one year is €1 million.

A few weeks ago Channel 4 broadcast a "Dispatches" documentary, "Under Lock and Key", which painted a damning picture of disgraceful conditions at the St. Andrew's facility. It found that children were held in an institution that did not meet their needs, make them better or keep them safe. The facility is operated by one of the largest and wealthiest health care charities in Britain. Serious concerns arising from the "Dispatches" programme include that patients were subject to restraint, seclusion and frequent sedation. An inspection by the Quality Care

Commission, the British equivalent of the Health Information and Quality Authority in this jurisdiction, noted the use of a technique known as prone restraint. This face-down method of restraining a person, with which I am familiar, is widely used across all wards in the St. Andrew's facility which caters for young children aged between 11 and 18 years. The use of prone restraint has been banned here because it compromises respiratory function and has caused deaths in the past. If someone sits on a person and restrains him or her in a prone position, it cuts off his or her airways.

In a six-month period between 2015 and 2016 prone restraint was used 600 times in child and adolescent wards. One 15 year old patient remained mainly in segregation for 22 months in a room with very little natural daylight. Four patients died within seven months of each other in one ward between October 2010 and May 2010. All of those patients had been prescribed the drug clozapine, which has been lauded as the new wonder drug for schizophrenia in particular, but it is also what we consider quite a dirty drug, having too many side effects and needing constant monitoring.

It is a damning report of a healthcare facility to which we send some of our most vulnerable and disturbed children. What is our oversight? Tusla claimed that St. Andrew's was highly regulated. Do we have any input or impact there? Do we carry out cross-balance checks to ensure our children are safe over there when they are all alone?

Minister of State at the Department of Health (Deputy Helen McEntee): I thank the Senator for raising this extremely important issue. I know a programme such as the "Dispatches" programme can be very upsetting, particularly for someone with a child with a mental health problem or disability, and even more so for a parent whose child is there. As the Senator said, three young people with mental health problems have been sent over there. I am sure people in Tusla and the disability sector are speaking to the HSE officials who, I know, are over and back quite frequently. They were over in October before the new facility was occupied. They have been over since then and have assured me they have not found any issues with the three young people currently over there. However, it is extremely important we are not complacent and that we ensure the checks and balances we have are up to the highest standard possible.

The HSE is committed to ensuring that all aspects of mental health services are delivered in a consistent and timely fashion. However, on occasion as we know, the presenting clinical need of children is such that current service provision is not in place to address identified need here in Ireland.

Child and adolescent mental health services fall within the secondary and tertiary levels of care provision, based on the increasing severity of the mental health need. Tertiary services provide specialist mental health services for those children and adolescents who have complex and severe mental health problems or who are at high risk of harm. It also includes those with an eating disorder.

The four HSE CAMHS units operate as a national network of inpatient care. Each has a regional remit and co-operates with other units to ensure optimal utilisation of available bed resources. I know we have a difficulty in recruiting staff at the moment which, of course, has a knock-on effect on the ability to use all our beds. We are trying to deal with that.

There is a small group with particularly complex needs who may require a level of specialised intervention not available in Ireland. In such cases, a child or young person may be

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placed in out-of-State care at a facility abroad, which offers a wider range of treatment options or interventions than those provided in Irish facilities. In such cases, priority is always given to the care of the young person's needs, and placements are made in the best interests of the child.

The HSE operates a treatment abroad scheme for people entitled to treatment, along with associated costs, in another EU state. The scheme is governed by EU regulation, and in accordance with Department of Health guidelines.

The scheme allows a consultant, based in Ireland, to refer a patient normally resident in Ireland for treatment in another EU member state or Switzerland, where the treatment in question meets various relevant criteria as follows. Following clinical assessment, medical evidence must be provided by the referring hospital consultant, giving details of the patient's medical condition, the type of treatment envisaged and the proposed provider of the treatment abroad. The referring consultant, having reviewed the patient in the immediate previous two weeks, must certify that they recommend treatment in another EU or EEA country. The treatment must be medically necessary and meet the patient's needs. The treatment must be a proven form of medical treatment and not be experimental or test treatment. Care must be in a recognised hospital or other institution and under the control of a registered medical practitioner. The treatment must not be available in Ireland or otherwise not available within the timeframe normally necessary for obtaining it in Ireland, taking account of the young person's current state of health and the probable course of the medical condition.

The HSE keeps the needs of young people with mental health issues of greater severity under review, where the treatment abroad is considered necessary and in the young person's interests.

The process of finalising the design brief for the national paediatric hospital is near completion. This will include a 20 bed CAMHS inpatient unit, incorporating an eight-bed specialist eating disorder service. We know the reason that many of our young people are sent abroad is to deal with eating disorders. The provision of a ten-bed adolescent secure unit is part of the planned redevelopment of the national forensic services at Portrane. We hope the contracts will be signed in the coming weeks so that we can get moving on that. Such additional service initiatives should assist in providing services not currently available.

Children with difficult life experiences and mental health difficulties require the highest possible standard of multi-agency supports to address specific needs. The HSE is committed to working to ensure this is attained. It is also committed to ensuring that those children who are on the island of Ireland receive the same level of care as those here.

An Cathaoirleach: That was a very thorough response.

Senator Máire Devine: I thank the Minister of State for her response. She has outlined the process and criteria for the treatment abroad scheme. However, my concern is with the oversight of the care of those children and the facilities in which they are being treated as opposed to the rigmarole of getting them such treatment. It is about where we are sending them to. This report was damning of St. Andrew's and we cannot stand over that.

The Minister of State said HSE officials carried out a visit. Did they do so on the back of this report or was it prior to the report? How often do they visit? Patients in voluntary and mental health facilities have a mandatory six-month review involving all concerned - case workers, health-care workers and family - to ensure the patient's needs are being met. I do not know how

they are being met in a very unsuitable and scary environment for children.

An Cathaoirleach: If the Minister of State has the answer, I am sure she will respond to it.

Deputy Helen McEntee: It has been brought to my attention that many of the cases shown in the programme were historical cases and since then HSE officials have made regular visits to the children sent over there. As I said, there were visits in October before the new facility was occupied and there have been visits since then.

Those high-intensity cases or the ones with most specific needs are kept under regular scrutiny. It is important for us to continue to develop our own specialist services so that young people do not need to be sent abroad. Our new paediatric hospital as well as the new forensic hospital will provide much needed support. In addition there is the development of clinical programmes around eating disorders, dual-diagnosis, self-harm, all of which, we know, affect our young people. Where that is not possible and our young people are sent abroad, they are monitored closely. I am assured by the HSE that any young person who is abroad is monitored closely.

Where concerns are raised, as has happened with this “Dispatches” programme, all of these issues are investigated. I am assured that no issues have been raised in respect of the three young people who are there and that there have been no problems. The matter will be kept under close scrutiny and monitored.

Sitting suspended at 11.18 a.m. and resumed at 11.30 a.m.

Order of Business

Senator Jerry Buttimer: The Order of Business is No. 1, motion regarding amendment of Standing Orders 70, 81, 104 and 104A, to be taken without debate at the conclusion of the Order of Business; No. 2, motion regarding the establishment of a special committee on the eighth amendment of the Constitution, to be taken without debate at the conclusion of No. 1; No. 3, motion regarding the Seanad Special Committee on the Withdrawal of the United Kingdom from the European Union, to be taken without debate at the conclusion of No. 2; No. 4, Heritage Bill 2016 - Report and Final Stages, to be taken at 12.45 p.m. and to conclude not later than 5.30 p.m. by the putting of one question from the Chair which shall in respect of amendments include only those tabled or accepted by the Government; and No. 5, motion regarding the report of the Joint Committee on Future Funding of Domestic Water Services, to be taken at 6 p.m. with the time allocated to all Senators not to exceed five minutes each.

Senator Gerry Horkan: I note from the *Irish Independent* today that farmers are facing huge damage from post-Brexit tariffs, so it is important that we invite the Minister for Agriculture, Food and the Marine to the House to explain what preparation is being made. Irish beef and dairy exports face tariffs of 16% and 15%, respectively, if a deal is not concluded. It is highly unlikely that the deal will be concluded within two years and, on that basis, Irish farming and the agrifood sector are very vulnerable given the figures quoted. Ireland imports produce worth €2.8 billion from the UK and approximately 40% of our food exports go to the UK. We should invite the Minister to the House to discuss the tariffs, what we intend to do in respect of agriculture, what other markets we could seek to try to minimise our exposure and how we can try to get a good deal between Ireland, the EU 27 and Britain in terms of food.

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I also wish to raise the serious issue of vacancies in the health service, particularly in the child and adolescent community mental health service. Figures recently released to our spokesperson in the Dáil, Deputy Anne Rabbitte, reveal that 82 posts, including consultant and clinical nurse specialist posts, are vacant. The scale of vacancies is really frightening. The positions include eight consultant posts, 20 clinical nurse specialist posts and eight psychologist posts required for the 2017 recruitment targets. A Vision for Change must be implemented, so it is important that we invite the Minister for Health, Deputy Harris, or the Minister of State, Deputy McEntee, or both to the House to discuss this.

Finally, I have raised the situation in Bus Éireann in the House in the last few days. We must invite the Minister to the House to discuss it. As the Leader said yesterday, the strike is affecting not only the travelling public but also many businesses, shops, restaurants and so forth, due to the fact that their customers cannot get to them. The situation in Bus Éireann must be considered by the House so I ask the Leader to invite the Minister for Transport, Tourism and Sport, Deputy Ross, to the House to discuss it.

Incidentally, I wish formally to move the Bill in the name of Senator Ardagh relating to litter.

An Cathaoirleach: The Senator is proposing an amendment to the Order of Business, that No. 16 be taken before No. 1?

Senator Gerry Horkan: Yes.

An Cathaoirleach: I welcome the former councillor, Bart Donegan, and his good wife to the Visitors Gallery. There is an interesting history to this. His grandfather was a Member of this House and the great freedom fighter, Seán Moylan, helped him to become a Senator but lost his own seat. Seán Moylan was nominated to be a Member of the House and was subsequently appointed Minister for Agriculture. Perhaps the Leader will ask the Taoiseach and the Cabinet to reflect on the fact that Members of this House can be good Cabinet Ministers. Mr. Moylan was a very successful Minister, one of many who came from this House. It is important information. Cuirim fáilte roimh Bart Donegan and his wife, Patricia.

Senator Gerard P. Craughwell: On 18 January last, I wrote to the Department of Defence to seek information with regard to the appointment of an additional assistant secretary general in the Department. In my freedom of information request I sought a copy of the correspondence between the Department of Defence and the Department of Public Expenditure and Reform. I also sought details about the reasons for the appointment.

The Department of Defence has 440 employees. It has a Secretary General, two assistant secretaries and a finance administrator, who holds the rank of an assistant secretary. My freedom of information request was partially agreed. Some 75 pages of documents were exchanged between the Department of Defence and the Department of Public Expenditure and Reform to get agreement for this appointment. The Department refused to tell me, a public servant, what criteria were used to make the appointment. This job has a salary of €146,000 a year, yet the Department of Defence handed back €27 million of unused salary for those in uniform. At a time when the Department of Defence is in a crisis with regard to operational capability, what is the justification for an additional head of human resources for 440 employees? The uniformed personnel have their own HR department.

In line with the above efforts, the Minister was asked to secure additional naval appoint-

ments for the National Maritime College of Ireland, which is in or close to the Leader's constituency. This request by the Chief of Staff was refused by the Department of Public Expenditure and Reform. We are speaking about an operational post refused by the Department, yet we are prepared to appoint an additional assistant secretary general head of HR for 440 people. We will finish up with the Department of Defence having a Secretary General, three assistant secretaries general and a finance director for 440 people. This is totally and utterly wrong. We have discussed the Defence Forces in the House and I note the Leader is making efforts to bring to the House the Minister of State with responsibility for defence. Today, I call for the Order of Business to be amended, and I do not do so lightly, to bring the Minister of State with responsibility for defence to the House to explain this. The public has a right to know why we are appointing an additional assistant secretary general to a Department which is tiny in the grand scheme of things. What is going on? What is contained in the 72 or 73 pages of correspondence between the Department of Public Expenditure and Reform and the Department of Defence? One particular series of documents amounts to 21 pages. There is something seriously wrong when we have bomb disposal people on duty for 15 days a month because we do not have enough commissioned officers to do the work. There is something terribly wrong when we have young officers away from home for as many as 25 days a month. I propose the amendment to the Order of Business so that, before the end of the day, the Minister of State will come to the House to speak on this specific issue.

Senator Paul Gavan: This morning, I raise the case of Irish citizen Elizabeth Crumlish Doran, who is making a desperate plea to the Irish Government to step in and help return her three children, who were taken into care by British social workers in distressing scenes in Solihull, Birmingham in April 2016. This is a most disturbing case. The children were aged nine, six and 21 months old at the time social services took them away. Since then, she has done everything she can to try to get her children back. What is really disturbing is the fact that the family court system in Britain operates a system of forced adoption. It is the only country in the EU to operate such a system, although of course it is leaving the EU now. The court decided that because it would take Elizabeth a year or more to learn how to read or write, it would be too long for the baby to be fostered, so her now two year old baby son has been put into forced adoption. In other words, she was told she would never see her child again.

This case is not a one off. I have been researching this policy of contested or forced adoption, and I find it particularly disturbing because the system operates in secret. A number of Irish citizens have been affected by the system. My colleague in Tipperary, Councillor Catherine Carey, has been approached by a number of people in recent times to tell her stories of mothers who, because they suffer from a mild disability, again, because they cannot read or write, have had their children taken away from them and told they will not see them again.

We began the week speaking about Tuam and a very disturbing situation there and the horrors inflicted on women. I find it absolutely shocking that today, just across the water, there is a system of contested or forced adoption, which seems to be picking on vulnerable people in particular. Elizabeth's heart is absolutely broken, but it gets worse. Given that the system in Britain operates in secret, once a child is forcibly adopted, if one speaks out, one can be jailed. Elizabeth is being threatened with jail by the British court system at present. It is not just a threat because at present 200 parents of children are in jail in Britain because they have spoken out about the fact that their children have been taken from them.

Let us be clear: I fully understand the State has to be responsible and must intervene at times to protect children. We all agree on this point. However, it is particularly disturbing to find

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that parents are effectively gagged, threatened and jailed if they have the temerity to say their sons or daughters have been taken from them and they have been told they will never see them again. I ask the Minister for Justice and Equality to address urgently the specific issue relating to Elizabeth Crumlish Doran, and to come to the House to discuss this issue because it affects thousands of citizens. It has been addressed by the Council of Europe, which has expressed concern. The European Parliament has also expressed particular concern and the Italian courts have expressed concern that it may be in breach of the UN Convention on Human Rights with regard to children. I ask for the full support of the Leader on this issue.

Senator Lynn Ruane: I wish to raise the issue of the child care subsidy. It has been announced that 9,000 families will miss out on the subsidy due to commence in September. It probably does not seem like much to some, but €48 per month for child care for some families, who would have already begun to consider it part of their budget from September, is a massive deal. The articles I have read today point out it was down to the new computer system. We should get answers. For the past number of years, we have been updating and installing new computer systems for the public services card. I thought there would be some crossover in terms of being able to administer the child care subsidy through the administration put in place for the public services card. Perhaps this is an answer we need to find out with regard to trying to move this along so there is not a hefty wait for people with regard to child care.

On a more personal note, I wish to honour my father, who passed away this day four years ago. When I drove through the gates today, I was thinking about what he taught me about politics. My father grew up in a one-bedroom tenement in poverty on Usher's Quay, and places such as here and Trinity College were so out of bounds for someone growing up in that situation that he never got to walk through the gates of Leinster House. He taught me two things about politics. One of these was the importance of voting. He never explained why it was important, and I am not sure he had the language for it, but he made sure we all marched up to the booth every time there was an election and he always took time off work to vote. This was as far as he got at explaining why it was important. Obviously, I learned over time why it is so important for people to exercise their democratic right. The other thing he taught me, at which I have failed miserably, is not to talk about politics in the pub. I wish to remember him today, and the fact he never experienced this building, but I am here today, I hope after taking his lead with regard to exercising my democratic right.

An Cathaoirleach: I am sure he would be very proud of the Senator, and the advice he gave her was very wise.

Senator Kevin Humphreys: Too often we do not acknowledge the progress we have made over the past six years. The unemployment rate six years ago was 15% and there have been enormous improvements and gains in this regard. This is despite issues with regard to bogus self-employed people, precarious employment and low-cost hours. Overall, huge strides have been made in getting people back to work. I was always very conscious of one particular group, who were in their 40s when the recession hit. They have probably experienced two, three or four years of unemployment. If they were late 40s when the recession hit, they are now in their early 50s and mid 50s. Statistics show they are now finding it more and more difficult to get back into employment.

I call on the Leader to bring to the House the Minister for Social Protection to see if we can engage in a constructive dialogue with regard to particularly targeting this group. The budget in JobsPlus is underspent for this year. There is a possibility we could develop a specific targeted

mechanism through JobsPlus for this particular age group, which has many challenges. There is automatic discrimination by many employers against people because of their age. Young men or women in their 30s or 40s do not necessarily want to employ somebody older than them, often with much more experience than them, as they can feel threatened. We have an obligation to look at this group of people and to see what we can do and how we can assist them to get back into employment and bring forward particularly targeted measures. There is also a subgroup who received no benefit and so are excluded from any of the back to work programmes because the qualifying criteria mean they must be in receipt of a benefit from the State to access them. In some cases, a woman or man whose partner is in employment failed the means test and did not get access. It would be very worthwhile having that conversation in this House. It would assist the Minister in bringing forward new ideas in that area, not in a divisive way, but to see if we can work together to make sure the older, more experienced person can share in the recovery that is there.

Senator John O'Mahony: I ask the Leader to arrange a debate in the House after Easter about the state of sport in Ireland and its administration, governance and funding. During the past weeks and months, sport has made headlines, in many cases for positive reasons but also for very negative reasons. In the last couple of days, all Members will have received the Sport Ireland report on the Rio games. It is a review of what worked and what did not work and what needs to be done. It is a very comprehensive document and on an initial perusal it points to many of the successes, obviously, but also the shortcomings and the glaring weaknesses of some of the governing bodies. Anyone reading through it would wonder why it has taken until now to sort out some of the issues but that is the situation. I ask the Leader to arrange that the Minister responsible for sport come to the House. There is a little confusion over whether that is the Minister, Deputy Ross, or the Minister of State, Deputy O'Donovan, but that is for the Leader to sort out. There are many inquiries into the ticket issue and the Olympics and so on but that should not prevent debate and action and corrective measures being put in place. It would be good to have the discussion. There is nothing that can lift a nation like sport can, whether at national or international level. Increased funding is needed, even from the Government side I would say that, but there is also need for accountability and transparency on the funding provided which has not always been present.

Senator Robbie Gallagher: I second the proposal on my colleague, Senator Ardagh's Bill. I want to comment on the grave issues Senator Craughwell raised, his query and the response to same. I second his proposal asking the Minister to come to the House.

An Cathaoirleach: It is only possible to second one item. Senator McDowell has indicated he wishes to speak, so I am sure he will do so.

Senator Robbie Gallagher: Tá sé sin ceart go leor. The Leader might confirm whether any performance bonuses have been paid to any personnel in the Department of Defence.

I ask the Leader to invite the Minister, Deputy Naughten, to the House to discuss his plans for the post office network in this country. This comes at a time of great risk to the future of the 1,100-strong post office network around the country but especially in rural areas. I heard the Minister's comments during the week about the new fibre optic cable, which he thinks will be outside the door of every post office within 90 days. With respect, it will take more than a fibre optic cable to secure the future for the post office network, particularly in rural areas. It is important the Minister comes to the House to outline his plans and what additional services he plans to install in the post office network to ensure that network has a sustainable future. It is

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another symptom of the decline of rural Ireland, of which, unfortunately, there are many. We, as a country, need to have a debate on what we believe rural Ireland will look like in 20 or 30 years' time because if we continue on the road we are on, it will be a closed shop. We cannot let that happen.

Senator Michael McDowell: I raise the issue of insurance premiums generally and as they affect motorists and employers, in particular. The reason I am concerned about this is that it was the case that the former Minister and Tánaiste, Mary Harney, and I, together in our respective Departments in the period 2002 to 2007, instituted major reforms in personal injuries law and insurance law, including the Personal Injuries Assessment Board. There was a general downward movement in insurance premiums at that time. Even though the economy of the country was probably overheating, the level of insurance premiums noticeably went down. Since the downturn in the economy it is strange to see that insurance premiums have been climbing back up again. There must be a number of reasons for this but it cannot just be a matter that there are more cars on the road or there are more people at work. The number of premiums being exacted by insurers from employers and people who depend on insurance for their livelihood has gone up very substantially.

The plight of taxi drivers deserves particular mention. They are being driven off the ranks and out of business in the city of Dublin, with some finding that their premiums have gone up from, say, €1,200 or €1,400 monthly to €2,000, €3,000 or €4,000, depending on whether they have had to make a claim of any kind. Some have been forced to retire because of the burden of insurance.

I am aware the Government has asked the former President of the High Court, Mr. Justice Nicholas Kearns, to consider the whole question of personal injuries awards. It is strange that although newspapers often report on fraudulent claims where, for instance, someone might have got into a car which might have been rammed by another car, and there are patterns of this in different locations around the country, I am not aware that there has been any effective Garda prosecution of those involved. Given that during early 2000, making a false claim became a criminal offence, the law needs to be enforced. Most of all, we need a genuine Government response to the rise in the cost of insurance and frequency of claims and the rise in fraudulent claims so that the progress that was made between 2002 and 2007 can be reinstated.

An Cathaoirleach: Is the Senator minded to second the earlier proposal?

Senator Michael McDowell: Yes, I second Senator Craughwell's proposal.

An Cathaoirleach: I was unsure whether the Senator was anxious to do so.

Senator Michael McDowell: No.

Senator Tim Lombard: I rise to speak about the flood relief scheme in Bandon. It has been an ongoing issue for the last decade if not more and there has been a stop and start situation in the scheme for the last three or four years. Work began four years ago but people were pulled off-site. There has been major concern in Bandon over the last week at the lack of progress and as rumour spread that there were negotiations between the OPW and the main contractor there was fear about where this might lead. I am aware the Minister of State, Deputy Canney, is working behind the scenes to ensure the contractor stays on-site and the works continue in Bandon but it is important this House would look at this issue and that of contractors going on-site and the possibility of them moving off-site in situations like that. It is a key issue in major

infrastructural projects that are planned and a situation where we might not be confident that the same contractor would finish a job is a big issue. The Minister of State, Deputy Seán Canney, should come to the House not only to discuss this issue in Bandon but also other issues relating to the OPW and its contractual arrangements with other major contractors. It is a major fear in some communities that these contractors might pull off-site because prices have gone up and there is a competitive issue in the market since they quoted their prices.

12 o'clock

It is important that the Minister comes to the House. I hope the Leader can arrange that the Minister of State, Deputy Canney, sheds light not only on what is happening in Bandon, but on the OPW projects and how we can ensure they will be delivered. There is a fear in some communities that contractors who go on site might not stay on site.

An Cathaoirleach: It might be an appropriate matter for a commencement debate, if Senator Lombard wishes to table it in the near future.

Senator Paul Daly: As far back as late November, I raised the plight of the cereal and grain farmers in the west who suffered tremendous losses last year due to the severe inclement weather. There was a lot of crop lost on a strip of the west coast. This issue was raised not only by me, but by several others on numerous occasions both in this House and in the Dáil. There is agreement in theory and I believe there is money available to compensate these farmers. As late as yesterday, the farmers' representative bodies met with departmental officials as to how the money will be paid out in compensation. Following that meeting, the farmers were extremely frustrated because no progress was made and they are no closer to a decision on how, when, how much and to whom the money will be paid. What seems to have developed is a scenario of "live horse, and you'll get grass".

We are in the planting season. The farmers who were most severely hit last year do not have the cashflow to purchase fertiliser, seed or in some cases the diesel for their tractors to plant this year's crops because they have had absolutely no income from last year's crops. In order for those farmers to survive and have a harvest in 2017, they need this money now. It will be no good to them in two, three, four or six months. They will have gone out of business. I plead with the Leader to use his influence with the Minister to progress this process. To repeat, in theory the money has been agreed and is there, but there seems to be major confusion as to how it will be paid out. It is "live horse, get grass" for many of those farmers at present.

Senator Ray Butler: Will the Leader ask the Minister for Social Protection, Deputy Varadkar, to come to the House to explain his new ideas for the self-employed, and the findings of the survey conducted last year of 20,000 self-employed people? We all heard the new advertisement on the radio for the extra services that self-employed people are entitled to on the S class stamp, such as dental and eye benefit and disability pension. We want to move this forward. It is in the programme for Government and I am sure that everybody who is canvassing and knocking on doors meets self-employed people who ask what they have done for them. This is a major issue that has been left for many years.

We have come a long way for the self-employed so we should finish the job. The elephant in the room is whether we make this contribution class, the S stamp, voluntary or mandatory. I would like to see a mandatory contribution but I am happy to go with the flow once we get something up and running because we cannot leave it the way it was during the crash when

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the self-employed were left to the wolves. They paid their VAT, tax and PRSI and when they needed help, there was no help from the State. They had to go and beg for food so that they and their families would survive. I do not want to see that happening ever again in this State. Let us get protection for the 340,000 self-employed people in this country for the first time through the Department of Social Protection. I hope the Leader will be able to bring the Minister to the House after Easter and start the ball rolling with a good debate. We need to make a start to put measures in place for the next budget.

Senator Aidan Davitt: Will the Leader ask the Minister, Deputy Coveney, to return to this House? This is an ideal forum. The Minister for Housing, Planning, Community and Local Government, Deputy Coveney, was in the House and spent a great deal of time discussing the housing Bill. It would be ideal if the Minister, Deputy Coveney, would return to this House and give Members an update on the progress that has been made and possible changes to increase supply.

Senator Michelle Mulherin: I welcome the announcement by the Minister for Arts, Heritage, Regional, Rural and Gaeltacht Affairs, Deputy Humphreys, of the town and village renewal scheme 2017. This will allow new life to be breathed into many towns and villages around the country. The recent census figures show population decline in two counties, Mayo and Donegal, and low population growth in other counties which are predominantly in the west and north west. These counties have a significant older population. I believe that Government action is required to address this issue or these regions will be left further behind. In County Mayo, where I am from, I can safely say that the young people are leaving the country and are migrating to the cities. The young people who are leaving are putting more pressure on housing and on school places in the big urban centres. People cannot live on fresh air. There needs to be investment in strategic infrastructure, roads, trains and ports. This area is characterised by a lack of investment, and it missed out during the years of the Celtic tiger.

As we examine the mid-term review, I ask for special provision to assist these counties in decline, which is evidenced, in terms of accelerated capital investment in infrastructure projects. I believe the draft national planning framework shows no vision as a spatial strategy to push back the decline in these counties. If we do not get a formula to provide a solution to problems of housing in the country, these regions will continue to decline and we will continue to compound the problems in the major urban centres. Now is the opportunity to do something and I am asking for Government action. In light of the remit of the Minister, Deputy Humphreys, perhaps we could have a proper debate with her on the critical need for a significant response to the problems in rural Ireland.

Senator David Norris: I refer to the debate yesterday on the Intoxicating Liquor (Amendment) Bill 2017 which proposes to open pubs on Good Friday. It was stated that this was a generally popular change and that the tourism industry would be gravely damaged if this did not happen. After the debate, I went through Trinity College and spoke to two large groups of tourists, one from the Netherlands and the other from the United States of America. They laughed like drains, saying the pub opening times would not affect them. There was no research produced or evidence to back up the bland statements in mid air by populists. They are not popular.

Senator Michael McDowell: The Senator spoke to two large groups of tourists. Did they ask the Senator about it or did he address them?

Senator Gerard P. Craughwell: The Senator just bumped into two temperance groups.

Senator David Norris: I have a very considerable volume of emails, all supporting the idea of closing the pubs on Good Friday. I was on “Pat Kenny” this morning. He rang me up and asked if I would do an interview.

Senator Jerry Buttimer: Did Senator Norris say “No”?

Senator David Norris: The response to that was overwhelmingly in favour of keeping pubs closed on Good Friday. There is no research to show that this was a popular thing, it was just a fantasy.

One of the issues that came in, which was very significant, is off-licence sales. I got a very detailed note about below cost selling of alcohol by the supermarkets. This is an absolute plague. They are dropping the price of vodka, whiskey and all the rest of it, let alone the slabs of beer, to a very considerable extent.

Senator Gerard P. Craughwell: We support Senator Norris in full on that.

Senator David Norris: That is where there is a need to attack. There is a need to stop the supermarkets peddling alcohol to young people at below cost.

Senator Gerard P. Craughwell: Hear, hear.

Senator David Norris: Forget about Good Friday. God knows, we have plenty of problems with drink in this country and the last thing we need is another day of booze. As far as people stocking up goes, it is not just on Good Friday but on every day of the week because of the price of alcohol.

An Cathaoirleach: I thank the Senator for that rendition. He will have ample time on Committee and Report Stages to speak and I understand there is also a Public Health (Alcohol) Bill on the Order Paper which might be resurrected at some time.

Senator Colm Burke: We talk about no pubs being open on Good Friday. One of the big issues in Ireland at the moment is social media and I wonder if we could have a “No mobile phones” day. It would be interesting to see how we could function for an entire day without a mobile phone.

Senator David Norris: I would function perfectly well.

Senator Colm Burke: It might be interesting to see how that would work.

I raise the issue of the home care proposals, which was touched on briefly during the week. The Minister of State at the Department of Health, Deputy McEntee, is dealing with it. It would be appropriate to have a debate in the House on the matter and how we can develop a comprehensive policy for the country on home care. As I have said on previous occasions, the changing demographics of the country mean the nursing home sector will not be able to accommodate the growth in the numbers who require care. We will have to set up proper support mechanisms. It would be appropriate to have a debate here before the document is finalised because many Members have experience in the area and could make useful contributions.

I raise also the issue of dementia. Private nursing homes are finding it difficult to get the necessary support from the HSE in regard to taking in dementia patients. Community hospitals cost approximately €1,700 per week per patient whereas it is approximately €1,000 in the

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private sector. Private nursing homes are not getting the necessary supports for patients with dementia as they need a higher level of care. It is a matter we need to debate because there are many people who would like to get a parent or relative into a nursing home near where they live but cannot because there is a lack of availability of beds in their local community hospitals. It would be appropriate to debate the matter given the publication of discussion documents on elderly care, home care and future planning. I ask the Leader to invite the Minister to the House to debate the issue.

An Cathaoirleach: The next speaker is Senator Byrne. The Senator should note that I have done my penance yesterday and am a bit more indulgent today.

Senator Maria Byrne: I thank the Cathaoirleach. A course was launched recently in Waterford Institute of Technology. It is an online maths programme to help parents of secondary school students. Parents can learn online to fill in the gaps where they feel they can no longer help their sons and daughters with their maths. The online programme is facilitated with books, worksheets and open access to lectures. It is something that should be considered for national roll-out because when the leaving certificate results are published, there is always an emphasis on the fact that maths is an area in trouble. The course in Waterford is being funded under the national forum for the enhancement of teaching and learning's All Aboard programme for 2017. I ask the Leader to bring the course to the attention of the Minister as something he could look at rolling out nationally.

Senator Michael McDowell: On a point of order, I ask the Leader to include in his reply some indication of the Government's proposals to protect innocent tourists from being harangued by Senator Norris.

Senator Robbie Gallagher: It is in the interests of the tourism industry.

Senator David Norris: They were delighted to make my acquaintance.

An Cathaoirleach: I am sure the Leader will deal with that as an appropriate point of order in an appropriate fashion.

Senator David Norris: In other words, ignore it.

Senator Jerry Buttimer: I thank the 16 Senators who contributed on the Order of Business. Senator Horkan raised the very important issue of Brexit and, in particular, the farming community. It is important to recognise that in 2016 agrifood exports to the UK amounted to €4.8 billion, or 39% of total agrifood exports. That is something that is not necessarily communicated and it may be lost. On the other hand is the issue that agrifood imports from the UK to Ireland came to €3.7 billion, or 46% of total agrifood imports, which is also important. The Minister for Agriculture, Food and the Marine, Deputy Creed, has been very proactive on this matter and I commend Senators Paul Daly and Lombard who have raised the issue of the farming community in the context of Brexit on a regular basis. Just this week, the Minister engaged in the Brexit consultative stakeholder committee which is providing a platform within the Department and the wider agriculture community to raise matters. A dedicated Brexit unit has been established in the Department and additional resources have been provided to Bord Bia and Bord Iascaigh Mhara, which are interacting with Enterprise Ireland. A €150 million low-cost loan scheme was launched in January. Along with agritaxation measures and increased rural development funding, all of these measures are aimed to Brexit-proof the farming community.

It is important to build on the civic dialogue which took place on 15 December last. The Minister held two further events in February and has been proactive and engaged at EU level and across the Continent. These are matters on which the Brexit committee of the Seanad must keep a very vigilant eye as we must not allow any dent to appear in our agricultural community. As Senator Paul Daly said in his contribution, the inclement weather last year caused havoc for cereal farmers. We must be very careful and vigilant in regard to the farming community.

The child and adolescent figures from CAMHS were mentioned. It is disappointing that the figures are as they are. Notwithstanding that, the Government has included in the last allocation for the HSE service plan increased funding from €826 million in 2016 to €851 million this year. It is acknowledged that further development is required under the HSE service plan. There is a detailed need to make child and adolescent mental health services a strategic priority and to create a focused, targeted incentivisation scheme of recruitment to address the inevitable rise in young adolescents who require services. All Members recognise from their own constituencies and communities that this is an issue which is not going away and which requires targeted funding.

Bus Éireann was raised as an issue. I join the Senator in hoping that the Labour Court will resolve the dispute today. As I said yesterday, I hope the dispute will be resolved. It is having a profound impact on bus drivers, their families and on the company. It is also having an impact on businesses. In the city of Cork, where I live, there are businesses which are laying people off and retail trade is down. In everyone's interest, the strike needs to be fixed. From talking to bus workers, I know there is a willingness on their behalf to go that extra mile to reach a resolution. I hope we will have it today and that the Labour Court can bring both sides to a place where the dispute can be ended.

Senator Craughwell raised the matter of the Department of Defence. The appointment of the assistant secretary general in the Department of Defence is, in keeping with all other positions, to be dealt with under the TLAC public jobs criteria.

Senator Gerard P. Craughwell: Why did it take 75 pages of documentation from the Department of Public Expenditure and Reform?

Senator Jerry Buttimer: I cannot answer that.

Senator Gerard P. Craughwell: Neither will the Department.

An Cathaoirleach: Allow the Leader to respond.

Senator Jerry Buttimer: Does Senator Craughwell want to hear my reply or not? If he does not, I will not reply.

Senator David Norris: What about the rest of us? We are all agog.

Senator Jerry Buttimer: I am glad to hear it.

Senator James Reilly: Was Senator Norris here for the question?

Senator David Norris: I was here for the question.

Senator Jerry Buttimer: The job specification states the position is to deal with personnel issues in the Department of Defence and the Defence Forces. There are only two assistant

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secretaries in the Department of Defence. Senator Craughwell has raised issues in the Defence Forces on more than one occasion and this appointment will deal with personnel issues. I am not aware of any posts not being filled and the Government has allowed for funding for 9,500 staff, which would make the Defence Forces fully funded. If there are issues around posts being filled, it is in specialist areas in the military and the forces are working to solve them.

Senator Gerard P. Craughwell: This post was created.

Senator Jerry Buttimer: We moved a debate from defence to accommodate the Senator and I am more than happy for the Minister to come to the House, although I know he is not available tonight. He is willing to come in but I will not accept the Senator's amendment to the Order of Business. The matter he has raised is one we can discuss with the Minister. This House has no role in the appointment of assistant secretaries or departmental officials. That is a role for the public service.

Senator Gerard P. Craughwell: It is a classic case of jobs for the boys.

An Cathaoirleach: The Senator has the means to press his issue later if he does not accept the Leader's response.

Senator Jerry Buttimer: I am willing to work with the Minister for Defence but he has other engagements this evening as part of his portfolio.

Senator Gavan raised the very sensitive and emotive story of Elizabeth Crumlish Doran and her family and the issue of forced adoption. I would be happy for the Minister to come to the House. If the Senator wants to give the details to me afterwards, I could pass them on to the Minister. We need to keep an eye on this important matter.

Senator Paul Gavan: I thank the Leader.

Senator Jerry Buttimer: Senator Ruane asked about the child care subsidy and the 9,000 families who will not get it. There is a reorganisation of the scheme in the Department and the Minister is trying to expedite it. It is an important issue concerning IT and it is not acceptable that there should be such a delay. I would be happy for the Minister to come to the House. As the Cathaoirleach said, the Senator's father would be justifiably proud of her and the point she made about this House is one we should communicate more. It is great to see the visitors in the Gallery and we, the custodians of these seats, are the representatives of the people. Leinster House is the people's House and I hope we see more people, such as school groups, community groups etc., coming to visit because it is about the people and their representatives engaging. The events of 1916 demonstrate the need for us to be more in touch and this may be something for CPP to consider. On culture night, the gates of Leinster House are opened but perhaps we could have an open day on one other day of the year when Members of the Oireachtas could talk to people in different groups. The Senator is right that there should not be a "them and us" situation in this House. This is the people's House and we are their representatives. Her father's advice about pubs and politics is very apt too and we should bear it in mind every day.

Senator Humphreys mentioned people of a certain age group not being able to gain employment. I share his views that the activation schemes must be targeted and that there must be a focused initiative for those people. The Department needs to look again at how we can mobilise and incentivise people of all ages to get employment. There should be no ageism and no age barrier to employment. We are living longer and are living fuller lives, which the Department

needs to reflect on.

Senator James Reilly: Hear, hear.

Senator Jerry Buttimer: We all welcome the fact that just 6.4% are now unemployed. However, I agree with the Senator about the cohort of people who made a vital contribution prior to the recession and in many cases still want to.

Senator O'Mahony raised a recent report published by the Minister of State at the Department of Transport, Tourism and Sport, Deputy O'Donovan, who is specifically responsible for sport. The Rio games report highlights key deficiencies and shortcomings and is worth reading for those who want to prepare our Olympians in a better and more targeted way. It is important to have such a debate in this House and I would be happy to hold one after Easter. Senator Gallagher raised a number of issues. It is unusual for public service bonuses to be paid to Department officials but if Senator Gallagher has information on that, I would be happy to take it back to the relevant Department. I am happy to accept Senator Horkan's amendment to the Order of Business to take Senator Ardagh's Bill on litter earlier.

The Minister for Communications, Climate Action and Environment, Deputy Naughten, has agreed to come to the House to debate the post office network. It is just a question of whether we have it now or after Easter. Senator McDowell raised the issue of insurance costs. The Minister of State at the Department of Finance, Deputy Eoghan Murphy, was in the House on 22 March and he and the Oireachtas committee on finance commissioned a report on the matter. The report should be highlighted. There are 33 recommendations and 71 action points. The intention is to bring about a reduction in premiums but it is also important to recognise that there is a compensation culture in our society and we all pay a premium for that, whether individuals in their motor insurance or local authorities and people in public buildings and shops. We have to try to change that. The Motor Insurers' Bureau of Ireland figures reveal that the level of uninsured driving in Ireland rose from less than 5% in 2013 to 7.1% in 2015 and the payout of between €50 million and €60 million is being passed onto motorists. There is a need for motorists to recognise that we cannot be a compensation culture society. I would be happy for the Minister to come to the House again on the matter.

Senator Lombard mentioned the flood relief scheme in Bandon. He has been very forceful and vocal on the issue. The Minister of State at the Department of Public Expenditure and Reform, Deputy Canney, and previous Ministers, Mr. Brian Hayes and Deputy Harris, were committed to the flood relief scheme for Bandon. Those of us who know Bandon recognise that there are home owners and businesses which are affected annually, sometimes on multiple occasions during the course of a year, and I commend Senator Lombard on his involvement in the scheme. I will ask the Minister, who is committed to the scheme, to come to the House between Easter and the summer.

Senator Paul Daly raised the plight of cereal and grain farmers. The Minister is committed to ensuring that affected farmers receive compensation and it is disappointing to hear there are delays in the redress scheme. I hope the matter can be rectified and if the Senator gives me the details, I will talk to the Minister for Agriculture, Food and the Marine, Deputy Creed, on his behalf and bring him back to the House for an update on the working group and the report. Senator Davitt raised the issue of housing. The Minister of State at the Department of Housing, Planning, Community and Local Government, Deputy English, was here on 21 March and I would be happy to invite him back, with the Minister for Housing, Planning, Community

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and Local Government, Deputy Coveney, on a regular basis to provide updates on Rebuilding Ireland.

Senator Mulherin joined in the commendation of the Minister, Deputy Humphreys, who launched the town and village renewal scheme. Senator Mulherin is right to raise the matter she raised this morning on the Order of Business. I would be happy to have the Minister come to the House to have a debate on that matter after Easter.

Senator Norris raised the matter of Good Friday. The tourists are lucky they bumped into the Senator yesterday. He is a font of knowledge, wisdom, wit and-----

Senator David Norris: General jollity.

Senator Jerry Buttimer: -----brevity. They had a very rumbustious and robust debate with the Senator on the issue of Good Friday. There are diverging views. This morning on "Morning Ireland" we heard Senator Horkan and Senator Reilly have a very passionate debate on the matter. I am sure the matter will be debated again. There is no uniformity of view on it. The one issue Senator Norris is right to raise is the issue of binge buying of alcohol on Holy Thursday. It needs to be addressed because we have an issue with the misuse of alcohol in our country. The Government is committed to doing that in the sale of alcohol Bill. The Bill will be with us before the summer recess. The issue of alcohol is one we need to see addressed as a society. It is a societal issue. It is important we work to reduce the sale of alcohol and also the harm of alcohol. It causes huge distress in many families.

Senator Butler raised the issue of the self-employed and the change the Government has made. The Senator is a champion of the self-employed in this House, to be fair to him. The Minister, Deputy Varadkar, has done a lot of good things in the Department on the issue of the class of stamp and extending benefits to the self-employed. I would be happy to have the Minister come to the House again on the matter.

Senator Colm Burke raised the issue of having a no mobile phone day. I would very much love to see us all try to have that. It might be worth doing as an exercise to see how long we last without a mobile phone. I wonder if we could survive without it. It is an interesting point that as a society we have become reliant on our phones and social media. It is a worry when one sits on buses or is in a pub or restaurant and sees people on the phone rather than engaging in conversation. Perhaps we will try it as an exercise some day. I am guilty of doing it here in the House but when Senator Craughwell, for example, wants to bring in the Minister it is handy to be able to text the Minister and see where he or she is.

An Cathaoirleach: I will add my voice by saying I would love to see a no phone day in the Seanad for one working day.

Senator David Norris: Hear, hear. I would also like to see fewer people on their telephones texting during Seanad proceedings.

Senator Jerry Buttimer: Perhaps the first day back we could see how we get on with that. It might be a matter for the CPP.

An Cathaoirleach: We will search Senators coming in.

Senator Jerry Buttimer: We could do that.

Senator Paul Gavan: Put them in a bin.

Senator Gerry Horkan: A lead-lined room.

Senator Jerry Buttimer: Senator Colm Burke raised the issue of home care packages, the national dementia strategy and Nursing Homes Ireland. In both the House and the health committee, the Senator has been a very strong advocate of the need for a plan to use nursing homes as step-down facilities and also to have a national project on the issue of home care. He is right. We have a change in our demographics and we need to plan for it. We need to have a national plan. Maybe at a later date the House can do something on that issue under the Seanad Public Consultation Committee. It is important.

I join with Senator Byrne in congratulating those in Waterford IT on their online maths programme. It will allow parents to work with their children and teenagers and fill in the gaps in maths. It is important that we recognise there are a whole host of incentives and schemes to help people in the area of education. We should be doing more. This initiative is one we should be commending.

I wish all Members of the House, members of staff in the Seanad office, ushers and the men and women who record us and who take the notes of what we say here a very happy and peaceful Easter. It is one of the solemn feasts of the Christian calendar and I hope Members get a well-earned break over the Easter period and reflect upon the real meaning of Easter, which is the resurrection and the joy. No matter what our beliefs are, we are an Easter people. We live in hope. The Paschal candle gives us the light and the way forward. I wish everyone a happy and peaceful Easter.

Senator David Norris: The same to the Leader.

Senator Jerry Buttimer: I thank the Cathaoirleach for his impartiality and good humour in the Chair. He has to put up with lots of things.

Senator David Norris: Hear, hear.

An Cathaoirleach: I wish all Senators a pleasant, happy and peaceful Easter and perhaps a no-phone Easter.

Senator Horkan has proposed an amendment to the Order of Business: “That No. 16 be taken before No. 1.” The Leader has indicated he is prepared to accept this amendment. Is that agreed? Agreed. Senator Craughwell has proposed an amendment to the Order of Business: “That the Minister for Defence comes to the House to discuss the appointment of an assistant secretary at the Department of Defence.” Is the amendment being pressed?

Senator Gerard P. Craughwell: There is little point in pressing it if the Minister is not available. However, by the time we get to talk to the Minister the post will be filled. It is a jobs for the boys post of €146,000 a year when we cannot get serving officers. We cannot do a whole lot about it.

An Cathaoirleach: I cannot allow further debate. The Senator has made his point. I take it the amendment is being withdrawn.

Senator Gerard P. Craughwell: The amendment has to be withdrawn.

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Order of Business, as amended, agreed to.

Litter Pollution (Amendment) Bill 2017: First Stage

Senator Gerry Horkan: I move:

That leave be granted to introduce a Bill entitled an Act to amend the Litter Pollution Act 1997 to provide for increased fines where a person is convicted of an offence under that Act; and to provide for related matters.

Question put and agreed to.

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

Senator Gerry Horkan: Next Tuesday.

An Cathaoirleach: Is that agreed? Agreed.

Senator Gerard P. Craughwell: The Senator will be here on his own.

Senator Gerry Horkan: I will get much more business done.

An Cathaoirleach: As a formality, to enlighten Senators, the House has not yet agreed that we will not sit next week. It is the final matter this evening. The Senator may be surprised.

Senator Gerry Horkan: Senators should be careful what they wish for.

Second Stage ordered for Tuesday, 18 April 2017.

Committee on Procedure and Privileges: Motion

Senator Jerry Buttimer: I move:

That the report of the Committee on Procedure and Privileges on the amendment of Standing Orders 70, 81, 104 and 104A be adopted, laid before the House and printed.

Question put and agreed to.

Establishment of Special Committee on the Eighth Amendment of the Constitution: Motion

Senator Jerry Buttimer: I move:

That, notwithstanding anything in Standing Orders-

(a) a Special Committee (hereinafter referred to as 'the Committee') is hereby appointed, to be joined with a Special Committee to be appointed by Dáil Éireann, to form the Joint Committee on the Eighth Amendment of the Constitution to –

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(i) consider the Citizens' Assembly report and recommendations on the Eighth Amendment of the Constitution; and

(ii) report to both Houses of the Oireachtas, in accordance with paragraph (i);

(b) the Citizens' Assembly shall, as soon as is practicable after it adopts its report, forward same to the Clerks of both Houses, who shall arrange for it to be laid before both Houses, whereupon the report shall stand referred to the Joint Committee;

(c) the Committee shall not exceed 7 members of Seanad Éireann.

(d) the Cathaoirleach shall announce the names of the members appointed under paragraph (c) for the information of the Seanad on the first sitting day following their appointment;

(e) the quorum of the Joint Committee shall be eight, at least one of whom shall be a Member of the Seanad, and one a Member of the Dáil;

(f) the Joint Committee shall elect one of its members to be Chairman;

(g) the Joint Committee may meet in advance of receipt of the report from the Citizens' Assembly for the purposes of electing its Chairman and making practical preparations (such as agreeing its work programme and agreeing on the specialist or technical expertise required to assist it in its work): Provided that the Joint Committee shall not embark on its consideration of the recommendations of the Citizens' Assembly until the report has been referred to it under paragraph (b);

(h) the Joint Committee shall have the powers defined in Standing Order 71(1), (2), (3), (4), (5), (7), (8) and (9); and

(i) the Joint Committee shall report its conclusions and recommendations to both Houses of the Oireachtas within three months of its first public meeting."

Question put and agreed to.

Special Select Committee on the Withdrawal of the United Kingdom: Motion

Senator Jerry Buttimer: I move:

That the Order of the Seanad of 23rd February, 2017, relating to the Seanad Special Select Committee on the Withdrawal of the United Kingdom from the European Union, be amended by the insertion after paragraph 1(g) of '1(h) Future of Europe,'."

Question put and agreed to.

Senator Jerry Buttimer: In terms of No. 1, I will add that I seek agreement that the report be adopted, laid before the Houses and printed. Can I get agreement on that?

An Cathaoirleach: Is that agreed? Agreed.

Senator David Norris: I am not terribly in favour of a-----

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An Cathaoirleach: Can we agree the matters first?

Senator David Norris: Before we are agreed, I am not terribly keen on a whole load of things going through without debate, particularly the motion regarding the eighth amendment. I would like to have a bit of discussion on it. I am a single voice but I just want to register a little protest.

An Cathaoirleach: It creates a platform for the future. There will be loads of debate on it.

Senator Jerry Buttimer: To help Senator Norris, it was debated yesterday at the CPP. It is a technical motion, as the Cathaoirleach has said.

An Cathaoirleach: Its purpose is to establish the committee, not to stymie debate.

Sitting suspended at 12.38 p.m. and resumed at 12.45 p.m.

Heritage Bill 2016: Report and Final Stages

Acting Chairman (Senator Michelle Mulherin): Before we commence I wish to remind Senators that a Senator may speak only once on Report Stage except the proposer of an amendment who may reply to the discussion on the amendment. On Report Stage each amendment must be seconded, except Government amendments.

Government amendment No. 1:

In page 3, between lines 21 and 22, to insert the following:

“Amendment of section 1(1) of Act of 1986

3. Section 1(1) of the Act of 1986 is amended—

(a) by the deletion of the definition of “common interest property”, and

(b) by the insertion of the following definitions:

“ ‘authorised officer’ means a person appointed as an authorised officer under section 7B;

‘canal bye-laws’ means bye-laws made under section 7;”.

Minister for Arts, Heritage, Regional, Rural and Gaeltacht Affairs (Deputy Heather Humphreys): This was originally in the Schedule to the Bill but is now brought up front in a new section 3 following drafting advice from the Office of Parliamentary Counsel. I have tabled another amendment to delete the Schedule and section 5 of the Bill which refers to the Schedule. In respect of other items in the Schedule, I advise the House that there is no need for a new definition of the Minister as the functions were transferred from the Minister for Communications to the Minister for Arts, Heritage and the Gaeltacht by virtue of SI 332 of 1996. Similarly, there is no need to delete the definition of commissioners or to substitute Waterways Ireland for the commissioners as the functions vested in the commissioners under the Canals Act 1986 transferred to the Minister by virtue of SI 332 of 1996 and transferred to Waterways Ireland by virtue of the British-Irish Agreement Act 1999.

Basically, there was a Schedule at the end of the Bill but we are now moving part of the information to a new part. We are getting rid of it and moving some of it to another part.

Senator David Norris: It seems logical to accept the advice of the parliamentary draftsman.

Amendment agreed to.

Acting Chairman (Senator Michelle Mulherin): Amendments Nos. 2 to 6, inclusive, are related and may be discussed together by agreement. Amendment No. 6 is a physical alternative to amendment No. 5.

Senator David Norris: I move amendment No. 2:

In page 4, line 9, after “designate” to insert “, without unnecessarily impeding navigation,”

The canals were built more than 200 years ago and their principal purpose was navigation. It is important to maintain the navigability of the canals as far as possible. We discussed this on Committee Stage and I changed the wording slightly in response to the debate. Instead of just saying baldly “without impeding navigation”, which might restrict the authorities a little, I put “without unnecessarily impeding navigation”. I think that is reasonable. One has to maintain the canals open for navigation. However, if there is a necessity or it is required for maintenance or safety purposes or whatever good reason, they should be able to take this action. The inclusion of the words “without unnecessarily impeding navigation” should make it acceptable to the Government. I hope the Minister will accept the amendment.

Senator Brian Ó Domhnaill: I second the amendment and reiterate what Senator Norris stated. I presume we are speaking on amendment No. 2, that is, on not impeding navigation for users of the waterways. I am interested to hear what the Minister has to say.

Deputy Heather Humphreys: I understand what the Senators are trying to achieve. The only problem is that it will be impractical to implement. The amendment would restrict Waterways Ireland’s ability to provide new infrastructure such as moorings and weirs along the canals. For example, water levels need to be lowered due to flooding and other circumstances which would impede navigation. Waterways Ireland, through its marine notices, regularly closes navigation to allow special events to take place. This system has been in place for many years, works well and allows all navigation users’ interests to be represented and accommodated. It has never caused any difficulty. I know what the Senators are trying to achieve but it would be impossible to implement because it is very hard to say what “unnecessarily” means. It is very hard to define. If the Senators would accept that, I would appreciate it.

Senator David Norris: I will help the Minister. “Unnecessarily” can be defined as something that is not required by the process. Of course one may have to lower the water levels in the canals from time to time and of course there may be special events, but these things necessitate the closing of the canals to navigation. Therefore, it is very simple. May I just say that the two examples provided by the Minister are clearly covered by this amendment. I, therefore, do not understand the Minister’s difficulty. There may be some other reason that the Minister has not put on the record, but I see no reason. The amendment states “unnecessarily”. In other words, whether one can perform the function one wants to perform without closing the canal relates to the whole concept of it being necessary or unnecessary. If one requires to close the

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canal in order to perform certain actions, it is necessary. If it is not required, it is unnecessary. It is really quite simple.

Deputy Heather Humphreys: It may sound quite simple but what the Senator thinks is necessary and I think is necessary could be two different things. To put that ambiguity into the legislation could cause all sorts of problems. Some people might think it unnecessary and others might think it necessary to do something. Then we run into a lot of trouble. It is a subjective term and someone would have to adjudicate whether it was necessary or unnecessary. It would make it very difficult. At the end of the day, we are trying to allow the canals to be policed so that they can be used for the enjoyment of everyone.

Amendment put and declared lost.

Senator David Norris: On this occasion, we will agree that it was defeated.

Acting Chairman (Senator Michelle Mulherin): Very good. We will move on.

Government amendment No. 3:

In page 4, lines 12 and 13, to delete “Minister for Communications, Energy and Natural Resources” and substitute “Minister for Communications, Climate Action and Environment”.

Amendment agreed to.

Government amendment No. 4:

In page 4, line 15, to delete “canals.” and substitute “canals.”.

Amendment agreed to.

Government amendment No. 5

In page 4, to delete lines 16 to 19.

Amendment agreed to.

Acting Chairman (Senator Michelle Mulherin): Amendment No. 6, in the names of Senators Norris and Ó Domhnaill, cannot be moved.

Senator David Norris: Why not?

Acting Chairman (Senator Michelle Mulherin): As amendment No. 5 is agreed, amendment No. 6 is out of order.

Senator David Norris: I see.

Amendment No. 6 not moved.

Senator Michelle Mulherin: Amendments Nos. 7, 8 and 10 to 18, inclusive, may be discussed together by agreement. Amendment No. 11 is a physical alternative to amendment No. 10.

Senator David Norris: I move amendment No. 7:

In page 4, line 31, after “canals” to insert “subject to existing maximum dimensional criteria”.

I may be a little slow on this because there is quite a large grouping. To address amendment No. 7 first, the canals were built more than 200 years ago and maximum dimensional criteria have, in practice, been in existence for that time.

I o'clock

They sustain the position of traditional canal boats and it is for that reason this should be maintained and we should support the traditional heritage boats, which were actually what the canals were built for. This is why I suggest maximum dimensions. I see the Minister nodding. I am not sure whether that means she agrees with me, but she is in a very good mood today.

Deputy Heather Humphreys: Like the Senator.

Senator David Norris: Yes, like myself.

It will be a fairly restricted debate because of the constrictions on the number of times people can come in. This is a reasonable amendment to make, that they should be subject to the maximum dimensional criteria.

Amendment No. 8 is about the regulation of the canals, particularly with regard to closing. To ensure this is not done on an *ad hoc* basis it proposes to insert “in the event of emergencies within agreed procedures on a temporary basis”. In other words, to limit the number of times these procedures can take place.

Amendment No. 10 is an amplification of what is in the Bill at present. The Bill mentions boats on the canals or other canal properties and this should be more targeted. The amendment proposes inserting “the canals or other canal property by all users. Any permits or licences issued should be set at a cost appropriate to the intended use and linked to the rate of inflation in the economy”. In other words, it is the intention of the Minister and the Department to make the canals as accessible as possible to the general public. For this reason, I think it appropriate that permits and licenses be set at a rate that will have the effect of encouraging people to use these amenities. This is an argument that is very defensible. I do not see any reason against it.

I will leave Senator Ruane to speak on her amendment, but I may comment on it when I come back, because it would be impertinent of me to take up her amendment.

Amendment No. 12 is a continuation of the same section, and it proposes to insert “within agreed procedures on a temporary basis, taking into account with due diligence the safety of boats that may be on that stretch of the canal that could be affected by the alteration of water levels, that may need to complete the journey underway and notifying owners of same”. This is a question of safety. If the water levels are being altered, the safety and welfare of boats that are already on that stretch of the canal need to be taken into account. In other words, it is to try to prevent a situation being created through lack of diligence whereby water levels could be altered and damage caused to boats. We need to ensure this does not happen. This is why I propose this amendment.

Amendment No. 13 is a Government amendment. Amendment No. 14 again is a question of safety. It proposes putting into the text of the Bill the whole question of “safety, security and access by the emergency services”. We all accept that access by life-saving people, fire brigades

and ambulances should not and must not be impeded.

Amendment No. 15 proposes to insert “prescribed for and detailed in the bye-laws” after “activities” in page 5, line 12. In other words, we want everything done by the book. We need to have provision for it made in the by-laws. The same argument goes for amendment No. 16. Amendment No. 17 is exactly the same, and then we come to Amendment No. 18, which proposes to insert “and only issued where there is failure to comply with warning notices as defined within the bye-laws”. The question of notices is interesting, and I will come back to it in my reply because I have a note about it but I do not want to hold up the Seanad while I am rooting around looking for it.

Senator Grace O’Sullivan: Take your time, Senator.

Senator David Norris: Yes, I will. I have it. The Minister is of the view these amendments are unnecessary. However, the Inland Waterways Association of Ireland, IWAI, can provide evidence that in recent times marine notices are occasionally issued after closures have taken effect. There is not much point in sending out a notice stating something will be done when the thing has already been done. This is the actual historical fact. In the past, marine notices have been sent out after a closure has taken place. Many notices are occasionally issued after closures have taken effect and works commenced. There have also been occasions where water level management has not taken into consideration the needs of boat owners. This is a serious point. Alterations, notices and all the rest need to be given to people with boats on the water so they can then take the necessary action to protect their boats from damage, either by moving them to a different location on the canal or doing whatever is necessary. It would risk serious damage to vessels if levels drop from underneath moored boats, grounding the boats, putting pressure on mooring lines and risking boats taking on water and sinking. At a meeting between the IWAI and Waterways Ireland management, Waterways Ireland assured the IWAI that procedures would be put in place to ensure situations such as that which I described would not happen again. However, the facts demonstrate, and I have written evidence to this effect, that the situation has occurred again since the meeting took place, and I will give the House the specific locations and dates. It happened in Lowtown on the Grand Canal in late October 2016, and in Robertstown on the Grand Canal in March 2017. It actually is a real situation on the ground that has happened. This could be cured by my amendment so I urge the Minister to take account of it.

Senator Lynn Ruane: I second the amendment.

I will not go into too much detail on all the amendments, as Senator Norris and others will cover them. I will speak to amendments Nos. 10 and 11 specifically. As we all know, the canal waterways are not just for the enjoyment of tourists. For communities of people the canal is their home. In this context, with regard to our housing crisis, we must ensure any laws impacting on canal residents are done in such a way that the crisis is not exacerbated. At no point during the hours and hours of debate in the Chamber on the Bill has the Minister referenced in any way our concerns about the potentially huge increase in costs for boat users on our canals. I wish to spend a little time looking at this today. Many canal users have contacted me and come to my office. Some of them are students. One of them is training to be a teacher and has another two years to complete. He is living in great fear that the minimal amount of money it costs to live on the canal at present will increase dramatically because it is not linked to inflation. They are paying a small amount at present but they are concerned that the cost of a permit will increase to a few thousand euro a year.

Amendment No. 10 is reasonable and sensible. It simply seeks to ensure that the cost of permits and licences is set at a level that correlates to the intended use and to ensure that there is some linkage with the general level of prices in the economy. It is not a radical amendment. It would simply ensure that the canal residents are protected from prohibitive increases in costs.

Is the Minister willing to accept the amendment? If she feels she cannot accept it, amendment No. 11 is a compromise and also provides for some joined-up thinking in respect of the Department of Housing, Planning, Community and Local Government and rent pressure zones. As homes on canals might also be homes in rent pressure zones that legislation should link up so that it applies to houseboat owners as well. Amendment No. 11 deals with increases in costs for permits and licences. Will the Minister at least accept that canal residents moored in designated rent pressure zones are living in areas where there is huge pressure in the local rental market and that people who live on the water, as opposed to the land, deserve protection from cost increases as much as others? Is she willing to link the canals in rent pressure zones with the current rent pressure zone limits set in the rental market?

Deputy Heather Humphreys: I will speak first on amendment No. 7. Heritage boats can travel on the canal. In fact, any boat that fits on the canal can travel on the canal. There is no need for this additional wording. The maximum dimension criteria are already in section 14 of the 1988 by-laws so it is not necessary to qualify this subsection further. The canals have not changed in size so the 1988 by-law provisions are adequate. The size is determined by the width of the lock chamber and the depth of the canal. It is any boat that can fit on the canal. It would not make sense to insert this provision because we cannot legislate to put a boat on the canal that will not fit. The amendment states “subject to existing maximum dimensional criteria”. If a boat was bigger than the canal, it could not go on it anyway.

Senator David Norris: It could still be above the maximum criteria.

Deputy Heather Humphreys: I do not believe so. Heritage boats are not stopped from going on the canal.

Senator David Norris: I am not suggesting they are, but the Minister is saying that they would not fit anyway. I am saying they could quite easily fit into the canal.

Deputy Heather Humphreys: I am saying we cannot legislate to put a boat on the canal. If it is too big it will not fit. The amendment states “subject to existing maximum dimensional criteria”, so if a boat is too big and will not fit on the canal it could mean that we are stating in legislation that it should go on the canal.

Senator David Norris: The maximum criteria govern the size of the boat. A boat could be over the existing maximum limits and still fit physically on the canal.

Deputy Heather Humphreys: I do not think so. The legislation we have at present is to allow the maximum size boat go onto the canal.

Senator David Norris: It is defined as maximum in the by-laws.

Acting Chairman (Senator Michelle Mulherin): Senator Norris, you can raise those issues in your response.

Deputy Heather Humphreys: Amendment No. 8 limits the closing of navigations to emergency situations and does not take account of other reasons a navigation can be closed, such as

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land drainage, flood management and control, where there is a loss of water, where something sinks, the need to protect men working and so forth.

Senator David Norris: Or events.

Deputy Heather Humphreys: Waterways Ireland regularly issues marine notices advising of the closing of a navigation. However, it is not practicable or workable to give due notice before closure of the navigations in an emergency situation. I cannot accept the amendment.

Amendment No. 10 proposes that licences and permits would have to be issued to everybody who is using the canal. Everybody who uses the canal is not a boat owner. There are also walkers and cyclists, so they would have to have a licence to use the canal property. I am aware of what the Senator is trying to achieve in the amendment, but the amendment would not achieve what she seeks. Waterways Ireland and its predecessors traditionally have only charged boat owners on the canals. This seeks to widen the charge to all users which would not be practical, for example, with regard to towpath users walking or cycling and whose use and the benefit derived are recognised and supported by the local authorities and Waterways Ireland which are working together to create these off-road amenities. The amendment is over-restrictive.

I know what Senator Ruane is seeking in amendment No. 11 but the Residential Tenancies Acts 2004 to 2016 do not apply to Waterways Ireland. Section 7(1)(p) of the Heritage Bill already provides for the power to make by-laws for the charging and fixing of fees, tolls and charges in respect of the use of the canals by boats, including the use of locks and moorings on the canals and the taking of water from the canals. The Department's legal advice is that this provision would also include the powers to charge a fee for the issuing of such licences, so there is no need for the additional sentence at section 7(1)(e).

With regard to linking the costs to the rate of inflation in the economy, the canals are a public asset. In setting costs for boat users of the canals, such as permits for mooring, Waterways Ireland would set the costs having regard to the fees paid by boat owners for similar facilities on other navigations provided by the private sector. Costs and fees linked to the rate of inflation could be significantly higher than the modest increases currently being proposed by Waterways Ireland. The permits or licences issued by Waterways Ireland for boats and residential boats or houseboats are not tenancies. They are permissions to moor a boat, which could be a houseboat, and usually the boat is owned by the licensee. Waterways Ireland does not charge rent for moorings. A licence fee or toll is charged. As I said earlier, the Residential Tenancies Acts do not apply to Waterways Ireland. If one applied the inflation rate or the consumer price index since 1988 to the licence fees they would be approximately €300 at present, rather than the modest increase being proposed by Waterways Ireland in the revised canal by-laws of €4, bringing it from €126 to €130. If we had gone with the consumer price index it would have been much higher. That is the reason it is not included.

With regard to amendment No. 12, it is the Department's opinion that there is not need to put in primary legislation what will be in the by-laws. All of this detail will be in the by-laws and it is more appropriate to include it there. For that reason it is over-prescriptive to put it in the legislation. The by-laws will be brought before the Houses of the Oireachtas. This sort of detail would be better served in the by-laws and not in primary legislation. Amendment No. 13 is a Government amendment to delete the "Minister for Communications, Energy and Natural Resources" and insert "Minister for Communications, Climate Action and Environment". The proposed amendment No. 14 would narrow the power to make by-laws in this area. Safety,

security and access by the emergency services are considerations in everything Waterways Ireland does, so Waterways Ireland has to take account of that anyway. It is best not to put that in. Amendment No. 15 is unnecessary as it is a repetition of section 7(1), which is about the powers of Waterways Ireland to make by-laws. Amendment No. 16 is a repetition of section 7(1) and is unnecessary. Amendment No. 17 is a repetition of section 7(1).

Amendment No. 18 misrepresents the basis underlying the issue of a fixed payment notice. The fixed payment notice is issued in lieu of prosecution for an alleged contravention of the by-laws, not for failure to comply with warning notices. The form of the notice will be specified in by-laws. The notice will specify the alleged offence and by-law contravened. The by-laws will be subject to 90 days of consultation. That is something that I took on board from the recommendations in this House. The by-laws will be laid before the Houses of the Oireachtas, which will have 21 days to annul them if they are not happy about them. It would be better if those issues that I talked about there could be put into the by-laws. They will be consulted upon and the Senators will have an opportunity to have their views known on them.

Senator Alice-Mary Higgins: I am a co-signer of amendment No. 11 and wanted to express that the substantive issue in what we are looking at here has not really been addressed by the Minister. I accept some of the points that she has made on the cost of inflation, although I would note that we say “with reference to” and “taking into account”. We do not suggest a prescriptive matching with the rate of inflation. I also note the spirit of what we are doing here follows a very intensive debate in this House on the Planning and Development (Housing) and Residential Tenancies Act 2016. Severe concern was expressed right across the House, including by the Minister’s own colleague, the Minister, Deputy Simon Coveney, about the great pressures in areas that have been identified as areas of rental pressure. I would like if the Minister would indicate that she is understanding of the spirit of it. In effect, as I know from our meetings with departmental officials, there was a concern that the best market rates available could become a determinant for moorings when looking at the areas of canals.

We have a community of dwellers. It is a neighbourhood very close to us here, in Grand Canal Dock. If Grand Canal Dock were to be treated simply as a commercial proposition, with the aim of maximising the return, I think we would see a displacement of a number of residents who live on the canals and have their homes there. We would see a further lack of diversification within the area. We are supposedly committed to a social mix within our neighbourhoods. There is a real concern. We have not yet had any assurances that there will be any break put on the costs that may be attached to those who, for example, would seek to moor in an area like Grand Canal Dock. We have a real concern that we would see a further addition to the high levels of displacement, rental insecurity and persons who may become homeless unless some kind of measure is put in place to manage that issue. I note that similar issues will arise in other rental pressure zones, for example in Galway.

I ask the Minister to address the spirit of this point because it will have to come up in the Dáil. We need to know where the cap and measure are for these neighbourhoods and the people who are living and resident in these areas. Not everyone is recreational. We have people who are resident on canal boats. I do not know if my colleague who also proposed wishes to speak.

Acting Chairman (Senator Michelle Mulherin): The Senator does not have an opportunity to speak further.

Senator Alice-Mary Higgins: She is a proposer.

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Acting Chairman (Senator Michelle Mulherin): She is not. The proposer is Senator David Norris. The amendments have been grouped.

Senator Alice-Mary Higgins: This is our amendment.

Acting Chairman (Senator Michelle Mulherin): Only Senator Norris can speak a second time.

Senator Lynn Ruane: It is more just a point of order than anything, to say that the amendment is not linked to inflation. It just takes inflation into account.

Deputy Heather Humphreys: Waterways Ireland has no plans to dramatically increase the costs of licences or permits. Its remit is to enhance this amenity for everyone and for public use. To be clear again, the by-laws will go out for consultation, which will include the fees, and will be laid before the Houses of the Oireachtas. There will be an opportunity to voice concerns at that stage. I understand the spirit in which the Senators are putting forward the amendment.

Senator Brian Ó Domhnaill: That particular amendment is a cause of a concern to the Inland Waterways Association of Ireland, in particular the increased fees. The fees have not been increased since 1986, as I understand it. It would be expected that those fees would increase with new investment and development of the canal network. The spirit of this amendment is certainly not to increase the fees, taking the rate of inflation from 1986 to 2017 into account. It is to ensure that the fees do not increase any further than that. There is a great fear there. It is a fear that is not underpinned in the legislation, that the fees would be drastically increased by Waterways Ireland. No one knows the intention of Waterways Ireland. The lack of consultation by Waterways Ireland with the users on the canal network, including the Inland Waterways Association of Ireland, which did not hear about this legislation until BirdWatch Ireland informed them of it-----

Senator David Norris: Exactly.

Senator Brian Ó Domhnaill: -----would lead us to believe that this organisation, which gave a briefing in the audio-visual room at the Minister's own request - which we are grateful for - did not want to listen to what we had to say.

Deputy Heather Humphreys: I do not agree with the Senator.

Senator Brian Ó Domhnaill: I know that we differ on that. I can assure the Minister that Waterways Ireland did not want to hear anything that would question its authority as a North-South body. If it is not willing to listen to us as Members of the Oireachtas within the confines of Leinster House, then I would hasten to add that there is little chance that it will listen to ordinary users or to people who are representative of the Inland Waterways Association of Ireland. There are concerns and there has to be a clear remit given to Waterways Ireland that it cannot drastically increase these costs. I know that the Minister mentioned an initial increase from €126 to €130, but that is not in the Bill. There may be some indication from Waterways Ireland that that is what it is about to do, but it is not underpinned in the legislation, nor should it be underpinned in the legislation. Consultation is required and I very much welcome that. If there are to be increased by-laws, there should be consultation and that should form part of the 90-days consultation. I presume that that is the case and any increase in fees will form part of this new 90-day consultation. That is to be welcomed.

There has to be a bit of leeway here. It cannot be written in the legislation, but Waterways Ireland, as a North-South body, which receives substantial funding, in the region of 80% from the Irish State and 20% from the Northern exchequer, has to listen to the users here. The taxpayer is funding its activities. It has to listen. It has not done that up until now. It certainly has not done so in the Barrow network or in other areas. As I understand it, it is undertaking an investment in the region of €16 million to develop towpaths without any analysis of the impact on flooding or economic analysis of the benefits or otherwise of the project. There are questions to be asked. I posed some of these questions at the briefing in Leinster House but there were no answers to very simple questions. If €7 million is being spent to develop a towpath along the River Barrow, it may or may not have implications for flooding. A senior engineer working for Kildare County Council said it would have major implications. Despite this, no study or analysis of the flooding implications was carried out on the project.

Consultation is required and Waterways Ireland, which has done some excellent work, must listen to ordinary stakeholders. If it had done so, I would not have to raise concerns because the amendments are the result of grassroots concerns. The extensive engagement between departmental officials and Waterways Ireland in recent weeks and months must continue. If all else fails and the North-South body is unwilling to listen, the stakeholders need a pathway into the Department through which they can raise concerns.

Deputy Heather Humphreys: Some of the matters raised by the Senator regarding the River Barrow are subject to the planning process and a matter for the planning authorities. The matter will, therefore, have to take its course.

Many Members indicated to me that they found the briefing provided by Waterways Ireland very worthwhile and had learned a great deal from it. I ask Senators to raise any concerns they may have with me and my officials and we will address them. I was able to arrange a briefing for them, for example, when they sought one.

This is enabling legislation to allow the making of by-laws. Some of the issues causing concern can be included in the by-laws, which is the appropriate forum for addressing them.

Waterways Ireland does a great deal of collaborative work with local authorities. I visited Moate, County Westmeath, this morning to launch the town and village enhancement programme, under which €20 million will be provided for investment in towns and villages in the next 15 months. Speaking to members of the local authority, they complimented Waterways Ireland on the way it had worked with them in developing blueways and greenways along the route of the Royal Canal. This was an unsolicited compliment as I had not mentioned Waterways Ireland. From my experience of working with Monaghan County Council, which works with Waterways Ireland on collaborative projects along the route of the Ulster Canal, the agency is frequently complimented on the collaborative approach it takes to delivering projects along the canal route for the benefit of the wider public. These projects are good for attracting tourists to areas that do not normally receive many visitors. Waterways Ireland has a good record and it is appropriate that I defend the organisation. I often hear it complimented on the good work it does.

Senator David Norris: I am 73 years old and I have never been confined by political correctness. The Minister is looking particularly elegant today and she is gracing Seanad Éireann.

Deputy Heather Humphreys: Thank you, Senator.

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Senator David Norris: You are very welcome, Minister.

Senator Aodhán Ó Ríordáin: I second that.

Senator Paul Daly: The Minister will still not support Senator Norris's amendment.

Senator David Norris: On amendment No. 12, the Minister stated these matters will all be addressed in by-laws. I am glad the report of the proceedings will show that she made that statement because it will enable us to hold her to it later. However, I remind her of a principle in philosophical logic known as Occam's razor, which prohibits the hypothetical discussion of the non-existent. Given that the by-laws do not yet exist, any discussion of them is hypothetical. In this case, Occam's razor rules out the Minister's argument completely because, as I stated, one cannot discuss the hypothetical existence of the non-existent.

With regard to amendment No. 14, the Minister stated Waterways Ireland would take these matters into account. This is a highly generalised phrase which does not mean the matter should not be addressed in the legislation. It is very important that safety, security and access by emergency services are provided for in the main Bill, rather than being left to the goodwill of Waterways Ireland. I ask the Minister to reconsider her position on this very important amendment because I intend to press it. The issue of safety, access for the emergency services and so on should not be left to the goodwill of Waterways Ireland. While nobody questions the agency's goodwill, and I am glad compliments have been paid to it, I also strongly support Senator Ó Domhnaill's comments, particularly on the River Barrow pathway and the use of inappropriate materials. I do not believe planning permission was sought for this project, although retrospective planning permission may be sought. It is not good practice, particularly for a semi-State body, to rush in, wallop matters through and subsequently seek planning permission.

I hope the Minister will reconsider, even if she regards the amendment as somewhat redundant in the sense that it is already provided for. By saying that, she ceded the principle that access for the emergency services and so forth should be taken into account. It is no big deal for her to accept the amendment because, according to her, it will not affect practice. It means, however, that something that is so fundamental to the use of the canals as access by the fire services, ambulances, rescue services and so on should be guaranteed. That is crucial to the proper and safe use of the waterways. It should be provided for in the main Bill, rather than being left to the goodwill of Waterways Ireland, which I do not doubt. I hope the Minister will give way on the amendment because there is no contraindication and it is not causing a problem. She stated the amendment was redundant because Waterways Ireland already does that for which it provides but Waterways Ireland is not required to do so in legislation.

Deputy Heather Humphreys: I assure the Senator that Waterways Ireland is obliged to have regard to safety, security and access by the emergency services. My advice is that the amendment would narrow the ability to make by-laws in this area. While I agree in principle with what the Senator seeks to achieve, Waterways Ireland must do this in any case and take account of-----

Senator David Norris: How would this ability be narrowed?

Deputy Heather Humphreys: I understand the inclusion of the amendment in the primary legislation would narrow the powers and make it very cumbersome.

Senator David Norris: The Minister is making a statement without giving reasons.

Amendment, by leave, withdrawn.

Amendments Nos. 8 to 10, inclusive, not moved.

Senator Lynn Ruane: I move amendment No. 11:

In page 4, line 36, to delete “boats on the canals or other canal property” and substitute the following:

“the canals or other canal properties by all users. Any permits and licences issued should be set at a cost appropriate to the intended use and taking into account the rate of inflation in the economy. In the case of residential boats moored in designated rent pressure zones, increases in the cost of permits and licences should only be permitted in accordance with section 19 of the Residential Tenancies Acts 2004 to 2016”.

Acting Chairman (Senator Michelle Mulherin): Is there a seconder?

Senator Alice-Mary Higgins: I second the amendment.

Amendment put:

The Seanad divided: Tá, 11; Níl, 21.	
Tá	Níl
Craughwell, Gerard P.	Burke, Colm.
Gavan, Paul.	Burke, Paddy.
Higgins, Alice-Mary.	Butler, Ray.
Humphreys, Kevin.	Buttimer, Jerry.
Norris, David.	Byrne, Maria.
Ó Domhnaill, Brian.	Coffey, Paudie.
Ó Donnghaile, Niall.	Daly, Paul.
Ó Ríordáin, Aodhán.	Davitt, Aidan.
O’Sullivan, Grace.	Gallagher, Robbie.
Ruane, Lynn.	Hopkins, Maura.
Warfield, Fintan.	Horkan, Gerry.
	Lawless, Billy.
	Lombard, Tim.
	Mulherin, Michelle.
	Murnane O’Connor, Jennifer.
	Noone, Catherine.
	O’Donnell, Kieran.
	O’Donnell, Marie-Louise.
	O’Mahony, John.
	O’Reilly, Joe.
	Reilly, James.

Tellers: Tá, Senators Alice-Mary Higgins and Lynn Ruane; Níl, Senators Maura Hopkins

and John O'Mahony..

Amendment declared lost.

Amendment No. 12 not moved.

Government amendment No. 13:

In page 5, lines 6 and 7, to delete “Minister for Communications, Energy and Natural Resources” and substitute “Minister for Communications, Climate Action and Environment”.

Amendment agreed to.

Senator David Norris: I move amendment No. 14:

In page 5, line 10, after “property” to insert the following:

“, taking into account and optimising in each area with regard to safety, security and access by the emergency services”.

Senator Brian Ó Domhnaill: I second the amendment.

Amendment put:

The Seanad divided: Tá, 13; Níl, 22.	
Tá	Níl
Craughwell, Gerard P.	Burke, Colm.
Devine, Máire.	Burke, Paddy.
Gavan, Paul.	Butler, Ray.
Higgins, Alice-Mary.	Buttimer, Jerry.
Humphreys, Kevin.	Byrne, Maria.
Nash, Gerald.	Coffey, Paudie.
Norris, David.	Conway, Martin.
Ó Domhnaill, Brian.	Daly, Paul.
Ó Donnghaile, Niall.	Davitt, Aidan.
Ó Ríordáin, Aodhán.	Gallagher, Robbie.
O'Sullivan, Grace.	Hopkins, Maura.
Ruane, Lynn.	Horkan, Gerry.
Warfield, Fintan.	Lawless, Billy.
	Lombard, Tim.
	Mulherin, Michelle.
	Murnane O'Connor, Jennifer.
	Noone, Catherine.
	O'Donnell, Kieran.
	O'Donnell, Marie-Louise.

	O'Mahony, John.
	O'Reilly, Joe.
	Reilly, James.

Tellers: Tá, Senators David Norris and Lynn Ruane; Níl, Senators Maura Hopkins and John O'Mahony.

Amendment declared lost.

2 o'clock

Amendments Nos. 15 to 18, inclusive, not moved. Government amendment No. 19:

In page 5, to delete lines 29 to 33 and substitute the following:

“(2) (a) If Waterways Ireland proposes to make by-laws under subsection (1), it shall—

(i) publish a notice of the proposal on its website and in one or more newspapers circulating in the vicinity of the canal or other canal property to which the proposal relates, and

(ii) communicate the proposal in writing to each local authority whose functional area is affected by the proposal.”

Deputy Heather Humphreys: Senator Craughwell and other Senators raised this matter with me during the Committee Stage debate on 29 March. I agreed in principle to accept the amendment regarding communication with local authorities and to introduce an amendment on Report Stage. This is provided for in section 2(a)(ii). To incorporate the amendment into section 2(a) there is the substitution of the earlier section 2(a). The content of the provision remains the same - it is merely reformatted.

The purpose of amendment No. 20 is to change and extend the period of consultation for the making of by-laws to 90 days to take account of concerns expressed by many Seanad Members about the insufficiency of the consultation period. This amendment will enable objections to draft by-laws to be submitted for up to 90 days from the date of the publication of notice of the proposal to make by-laws.

Amendment No. 21 is related to the consultation period for the making of by-laws. Amendment No. 22, as stated previously, relates to the consultation period for the making of by-laws. It provides that if any person submits an objection during the 90-day period, Waterways Ireland shall consider the objection. Amendment No. 23, as stated previously, relates to the consultation period for the making of by-laws. This amendment provides that the by-laws can be made after the expiry of the 90 days. The purpose of amendment No. 24 is to delete the title “Minister for Arts, Heritage and the Gaeltacht” and replace it with “Minister for Arts, Heritage, Regional, Rural and Gaeltacht Affairs”.

Shall I speak to amendment No. 25 now or later?

An Cathaoirleach: Now. It is related.

Deputy Heather Humphreys: Regarding paragraph 2, the Bill already provides for the publication of the canal by-laws on its website. This amendment is unnecessary.

On paragraph 3, this is unnecessary because the by-laws are published online. This is a procedural issue and is not for primary legislation. If an authorised officer tells a person that he or she is breaking a by-law the officer will specify which one, and the person can look it up. The officer will say which by-law is being broken so it should not be necessary to physically show the person the piece of paper with the by-law on it.

Senator David Norris: That assumes that they have a telephone with them.

Deputy Heather Humphreys: If the person has not broken the by-law and it is incorrect, he or she can go through the courts.

Senator David Norris: Thank you very much.

Deputy Heather Humphreys: Gardaí are not obliged to show anyone the Statute Book when they tell people they have broken the law and the same principle applies here. What this officer is trying to do is police the waterways for everyone's enjoyment and make sure that people do not break the laws. It is not fair to ask them to produce the piece of law. Once they have quoted the relevant by-law, that should be sufficient.

Senator David Norris: I thank the Minister for accepting the four amendments in the names of myself and Senator Ó Domhnaill. I am glad she has done so. It is a good day's work and shows the engagement and involvement of the Seanad.

The Government's amendment No. 19 by and large reflects the spirit of our amendment. The Minister says amendment No. 25 is redundant because the notice is already published. That is not actually the case until the Government's amendment is passed. I get the feeling that the Government was pushed to an extent by the existence of our amendment No. 25 and it is for that reason that it is publishing the notice. That is very welcome because that shows a certain degree of collegiality between the Minister and Seanad Éireann.

However, amendment No. 25(iii) now reads to: "provide to authorised officers for presentation on request for reference purposes a copy, either hard copy or copy by electronic transmission by smart phone, iPad, etc., of the bye laws in the event of a bye law issue being raised by the authorised officer". This is a change from our proposal on Committee Stage because then the Minister said that the authorised officers could not be expected to hump around an enormous book all the time. Our response was that it is the modern age, there are iPads and smartphones and so on, and it would be no great imposition to have the authorised officers carry the regulations on their smartphones.

The Minister makes quite a good point about gardaí not having to produce the Statute Book of Saorstát Éireann and the Republic of Ireland which would be very onerous. However, this was a situation that was established before the existence of smartphones, iPhones and iPads and so on, and now that we have these things, it is not too much to expect that regulations be uploaded onto the smartphone of any authorised officer. For the sake of convenience, it would be a very good idea if someone is being charged with an offence that the officer can just turn on the phone and show the person the exact section of the code under which he or she is being

charged. It is not onerous.

We have listened to the Minister's argument and changed this amendment and it is perfectly reasonable to expect an authorised officer to have the by-laws on a smartphone. The by-laws of the canals of Ireland are nothing like as extensive as the enormous collection of statute books that a garda would be required to carry around in similar circumstances, had I introduced an amendment covering the Garda. I do not think that is fair and I am inclined to stick on this. I am interested in what my colleague, Senator Ó Domhnaill, thinks, what his arguments are and if he has any additional information to add to this if the spirit moves him to contribute. It seems a perfectly reasonable thing to do. When the Minister returns, I will listen to her or any of my other colleagues on either side of the argument and then I will make a decision on whether to pull a vote on it.

Senator Brian Ó Domhnaill: I acknowledge Senator Norris's excellent contribution and acknowledge his input into this area of the communication element of enforcing by-laws.

I acknowledge the Minister's willingness to accept our recommendations to increase the period of consultation around the objections to by-laws from 21 days to 90 days and placing the onus on Waterways Ireland to have an adequate consultation period which is in line with the consultation period in its own corporate plan. It affords an opportunity to all stakeholders and users, more importantly some of the stakeholders who are the local authorities or councillors, and the Minister has acknowledged that. It is important that there is a direct point of interaction between Waterways Ireland - a North-South body - and local councils, where democracy interfaces with the public at the closest point.

The Minister's amendment No. 19 places an onus on Waterways Ireland to furnish each local authority with a written copy of any proposals within the functional area of the local authority. That is vitally important. The 90 days is important. Take the example of a by-law issued in July. If a council did not hold its plenary meeting in August, the 90-day period means that it would still be able to raise objections by its meeting in September.

The issue of communicating the by-law by publishing it on the website has been addressed in section (ii) of amendment No. 25.

Senator Norris spoke on section (iii) of amendment No. 25 and the need for authorised officers to present the by-law in an electronic or hard copy format. I am relatively easy on that. I am not sure whether other authorised officers, such as fisheries officers within the Department of Communications, Climate Action and Environment working for Inland Fisheries Ireland, have to provide regulations. If they do not, it may be difficult to implement or request Waterways Ireland officials to implement it. I agree with the thrust of Senator Norris's request. I can only assume that there are going to be a lot of new by-laws coming down the tracks from Waterways Ireland, given its investment programme and developmental works. There is nothing wrong with that, and there is consultation built in, but if there are new by-laws coming down the tracks and if people are in contravention of a by-law, they need to be clearly aware of what it is. There may be a need to update communications and there are ways of doing it. For example, Electric Ireland meter readers bring an electronic device to one's home which can read the meter. I do not see why officers, whether of Inland Fisheries Ireland, Waterways Ireland or any other State agency, would not have an electronic device. If one gets registered mail through the post, one does not sign a piece of paper, rather one signs on an electronic device. There is a little pen. Technology has advanced, albeit I am not sure that is the perspective Senator Norris

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comes from with the amendment. It might be something to look at. I am not sure whether it can be incorporated at this stage. Is there a rationale for refusing to accept the amendment? Is there a constitutional issue which prevents it or another reason?

I thank the Minister for accepting the 90-day period. It is sensible and shows she is willing to take such steps.

Senator Alice-Mary Higgins: I join other speakers in welcoming the fact the Minister has taken on board the strong message from across the House on the 21-day consultation period being inadequate. I appreciate the Minister has now accepted and agreed to a 90-day consultation period, which is a significant improvement. Government amendment No. 19 is positive in that it clarifies not simply that there will be consultation but that there will be clarity around information on by-laws and an invitation to consultation. It is positive both in terms of its communication with local authorities and in terms of its general public advertisement provision. I commend the amendment.

I wish to speak in favour of amendment No. 25, which is important. It is not simply a matter of technology but of accountability and transparency. The authorised officers who will come under this legislation will be the front line of Waterways Ireland and will implement the by-laws. It is a considerable evolution of the original points put forward by Senator Norris. He argues not that presentation would be required but for presentation on request. It is extremely reasonable where one is being told one is in breach of a by-law that one should be able to know, on request, what exact by-law that is and to see it. It is a reasonable point. We should bear in mind that in other provisions of the Bill authorised officers are being given the power to issue fixed notice fines. I urge Fianna Fáil to look at this. Perhaps the Minister will indicate that she will take it on board on Report Stage. However, I urge others to support it. Do we want a situation in which an authorised officer can say one is breaking a by-law, hand over a fine and walk away with no mechanism for appeal in place while one never sees the by-law of which one is supposedly in breach? It is a reasonable request and it is updated. It is simply a hard copy or it could be as simple as a phone. It places an onus on Waterways Ireland to provide authorised officers with the materials they need to do their jobs responsibly and appropriately.

It is a reasonable amendment to allow one to be clear. While the analogy of gardaí was used, I note that there are appeals mechanisms where one is fined by a garda. They may not be adequate and we may have had problems with their implementation but there are structures in place. With due respect to the Minister, it is not right to suggest that people who feel wrongly treated having been fined under a by-law which they have never seen should pursue redress through the courts. It is the policy of the Government as stated elsewhere on other occasions to take these kinds of tiny cases out of the courts system. We do not need someone clogging up the courts system or having to take on the cost of legal counsel simply to contest a €200 fine he or she feels was wrongly imposed. It is a simple measure. If we are introducing these powers for authorised officers and the power to introduce by-laws, the least we can provide is simple transparency at the point of contact. It is very basic and extremely reasonable. I cannot understand why it would not be taken on board. Perhaps the Minister would like to suggest a reworded amendment and carry it through herself, but if it is opposed, I will certainly support Senator Norris should he wish to press it.

Senator Jennifer Murnane O'Connor: I welcome some of the points that have been made. My concern, as I said to the Minister the last time, is that in Carlow-Kilkenny there was no power given in respect of the River Barrow. One had the local authorities, the OPW and

Waterways Ireland but one could not get them when one wanted them. My main concern is to ensure that in the 90-day consultation period Waterways Ireland contacts every local authority. I see that it says there should be communication with every local authority in the long term, but local authorities have a 90% input on this because every local authority is different, from rural ones to city ones. Waterways Ireland needs to have meetings with them. Everyone will know his or her own area best and that is half the work done. By-laws are also crucial. Where some small works have needed to be done on the River Barrow, there has been no real point of contact and one did not know who was responsible. No one took responsibility. Going forward, by-laws are crucial but they cannot be made without every local authority having an input into the consultation.

Fees are something that need to be minimal. We must ensure that this does not go under the radar and that we cannot vouch for it. Fees must be kept as low as possible. I ask the Minister to ensure that Waterways Ireland visits and consults with every local authority. That is crucial.

Deputy Heather Humphreys: I reassure the Senator that Waterways Ireland writes to all local authorities. A notice of proposed by-laws will be published in the newspapers and on the website, there will be consultation meetings and all known users will be written to. It is important to note that what the authorised officers will be doing is reprimanding people for doing something wrong. We should look at it from that perspective also.

Senator David Norris: What about the presumption of innocence until proven guilty?

Deputy Heather Humphreys: My point is that it is not in the interests of authorised officers to go around issuing fixed notice penalties to people who are doing nothing wrong. That does not make sense. They are well trained people and they take their responsibilities very seriously. Wildlife officers do not have to carry around their rules and regulations nor do Inland Fisheries officers. I do not see why those policing the canals should have to go around with a set of rules and regulations. Having said that, there is nothing to stop Waterways Ireland from taking on board the views of Senators. It might be good practice for authorised officers to have a copy of the by-laws on their iPhones.

Of course the person breaking the law will be told which by-law he or she is contravening and can be referred to a website which he or she can access on a mobile phone. If anyone has a query, he or she can request information from Waterways Ireland which will be provided. A fixed notice will state exactly what by-law has been breached. It would be onerous and unfair to pick out the officers of Waterways Ireland where a similar obligation does not apply to other officers right across the board.

Acting Chairman (Senator Gerry Horkan): I am now going to put the question.

Senator David Norris: May I come back on that?

Acting Chairman (Senator Gerry Horkan): Unfortunately not, Senator Norris.

Senator David Norris: That is a great pity because I wanted to point out to the Minister that she said it was good practice.

Acting Chairman (Senator Gerry Horkan): I am indulging the Senator again, he may keep going.

Senator David Norris: The Minister's amendment just states that if it is proposing to make

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a by-law it would put it up. It does not say that when the by-law is passed it should be put up. The Minister states it is good practice. There is no reason that we should hold things back just because things have not been done in the past. Perhaps the Garda should have to carry this information. I will be pressing the amendment.

I do apologise for transgressing.

Acting Chairman (Senator Gerry Horkan): I was indulging you again Senator Norris.

Amendment put and declared carried.

Government amendment No. 20:

In page 6, line 5, to delete “21 days” and substitute “90 days”.

Amendment agreed to.

Government amendment No. 21:

In page 6, line 7, to delete “21 days” and substitute “90 days”.

Amendment agreed to.

Government amendment No. 22:

In page 6, line 12, to delete “21 days” and substitute “90 days”.

Amendment agreed to.

Government amendment No. 23:

In page 6, line 13, to delete “21 days” and substitute “90 days”.

Amendment agreed to.

Government amendment No. 24:

In page 6, line 15, to delete “Minister for Arts, Heritage and the Gaeltacht” and substitute “Minister for Arts, Heritage, Regional, Rural and Gaeltacht Affairs”.

Amendment agreed to.

Senator David Norris: I move amendment No. 25:

In page 6, to delete lines 24 and 25 and substitute the following:

“(ii) publish canal bye-laws on its website,

and

(iii) provide to authorised officers for presentation on request for reference purposes a copy, either hard copy or copy by electronic transmission by smart phone, iPad, etc., of the bye laws in the event of a bye law issue being raised by the authorised officer.”.

Senator Brian Ó Domhnaill: I second the amendment.

Amendment put:

The Seanad divided: Tá, 13; Níl, 20.	
Tá	Níl
Bacik, Ivana.	Burke, Colm.
Craughwell, Gerard P.	Burke, Paddy.
Devine, Máire.	Butler, Ray.
Gavan, Paul.	Buttimer, Jerry.
Higgins, Alice-Mary.	Byrne, Maria.
Humphreys, Kevin.	Coffey, Paudie.
Nash, Gerald.	Conway, Martin.
Norris, David.	Daly, Paul.
O'Sullivan, Grace.	Gallagher, Robbie.
Ó Domhnaill, Brian.	Hopkins, Maura.
Ó Donnghaile, Niall.	Horkan, Gerry.
Ruane, Lynn.	Lawless, Billy.
Warfield, Fintan.	Lombard, Tim.
	Mulherin, Michelle.
	Murnane O'Connor, Jennifer.
	Noone, Catherine.
	O'Donnell, Kieran.
	O'Mahony, John.
	O'Reilly, Joe.
	Reilly, James.

Tellers: Tá, Senators David Norris and Brian Ó Domhnaill; Níl, Senators Maura Hopkins and John O'Mahony.

Amendment declared lost.

Acting Chairman (Senator Gerry Horkan): Will Senators, please, resume their seats?

Senator David Norris: Back to your kennel Senator Ó Donnghaile.

Senator Niall Ó Donnghaile: No kennel in Ulster.

Senator David Norris: I move amendment No. 26:

In page 6, to delete lines 26 to 28.

Acting Chairman (Senator Gerry Horkan): The Senator needs a seconder.

Senator Brian Ó Domhnaill: I second the amendment.

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Senator David Norris: This is an exceptionally wide provision. I will read the lines I propose to delete:

(3) Canal bye-laws may contain all such incidental, subsidiary and ancillary provisions as Waterways Ireland considers necessary or expedient for the purposes of the bye-laws.

That is a huge catch-all phrase. Waterways Ireland can introduce anything it thinks is expedient or good for it.

It gives it such enormously sweeping powers that I am against it. There should be some degree of restriction and consideration given. That is all.

Deputy Heather Humphreys: Waterways Ireland has to publish the proposed by-laws and they have to go out for consultation as we have just discussed. Waterways Ireland has to write to all users and the local authority. There is not a chance that it will do something outrageous without somebody picking it up. To be fair, it is within the area it already makes by-laws about.

Amendment, by leave, withdrawn.

Acting Chairman (Senator Gerry Horkan): Amendments Nos. 27 to 32, inclusive, may be dealt with together. Is that agreed?

Senator David Norris: Amendment No. 27 to which?

Acting Chairman (Senator Gerry Horkan): Amendments Nos. 27 to 32.

Senator David Norris: To amendment No. 32.

Acting Chairman (Senator Gerry Horkan): That is agreed.

Government amendment No. 27:

In page 6, between lines 28 and 29, to insert the following:

“(4) Waterways Ireland shall, within 5 years after the making of any byelaws under subsection (1) and thereafter at intervals not exceeding 5 years, review such bye-laws and prepare and submit a report on its findings to the Minister for Arts, Heritage, Regional, Rural and Gaeltacht Affairs consequent on that review.

(5) The Minister for Arts, Heritage, Regional, Rural and Gaeltacht Affairs shall, as soon as practicable after receiving a report under subsection

(4), cause a copy of the report to be laid before each House of the Oireachtas.”.

Deputy Heather Humphreys: I will speak on amendments Nos. 27 to 32.

Acting Chairman (Senator Gerry Horkan): Amendment No. 29 is in the names of Senator Norris and Senator Ó Domhnaill.

Deputy Heather Humphreys: On amendment No. 27, I indicated to the Senators that I would look at having a review of the by-laws every five years and introduce an amendment on Report Stage. This amendment provides that Waterways Ireland will review the by-laws within five years of the making of any by-law and thereafter at intervals not exceeding five years and submit a report of its findings to the Minister. I am also arranging for a copy of the report to be

laid before each House.

Acting Chairman (Senator Gerry Horkan): I will now put the amendment.

Senator David Norris: May I speak on amendment No. 29?

Acting Chairman (Senator Gerry Horkan): We will deal with amendment No. 27 first but the Senator may speak on the grouping now.

Senator David Norris: Amendment No. 29 provides that “In page 6, line 32, to delete ‘a class D fine’ and substitute “warning notices and fines as defined within the bye-laws”. This is potentially a €1,000 fine. The fining system should reflect the seriousness of the offence. As it stands, this means that someone not displaying the permit correctly is open to the same fine as, for example, someone who discharges slurry into the canal. They are two totally different events in terms of their seriousness so there should be a system of provisional notice without fines, so sending a warning notice and-or fines. I have received communications from members of the public on the subject of fines. I will quote a letter from a decent woman who lives in Phibsborough, who said:

I sense there’s a false understanding represented in the Heritage Bill that penalising the residents and moored boats along the canals will encourage more traffic on the canal. This is a conclusion reached with no research and no consultation with the boating community. Simply cycling along the canals (as I do often) it is clear to see that there are not enough moorings to facilitate the imposed movement, nor is it always possible to get these moorings due to travel restrictions currently in place. In essence imposing the penalty described in the bill will be like shooting fish in a barrel.

There is a certain degree of resistance from the general public out there on this. I recommend my amendment. With regard to a €1,000 fine, there is a lack of discrimination and a lack of fineness in the application of the law. It is wrong if a person can be fined this amount for the inappropriate displaying of a permit, on the one hand, and get the same fine for discharging slurry into the canal which will kill fish stocks and create a nuisance and a very noxious situation. There should be more definition and discrimination. I will be pushing the amendment at least to a voice vote.

Deputy Heather Humphreys: The fines will be determined in the courts by the judge and €1,000 is the maximum fine. The maximum fixed penalty is €150. The penalties are for breach of by-laws. It is legislative practice to provide penalties in primary legislation. I cannot accept the amendment. We must provide for the fines in primary legislation.

Acting Chairman (Senator Gerry Horkan): Does anyone else wish to speak on amendments Nos. 27 to 32 or will we proceed? Amendment No. 27 arises from committee proceedings.

Amendment agreed to.

Government amendment No. 28:

In page 6, line 29, to delete “(4) A person” and substitute “(6) A person”.

Amendment agreed to.

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Senator David Norris: I move amendment No. 29:

In page 6, line 32, to delete “a class D fine” and substitute “warning notices and fines as defined within the bye-laws”.

Senator Brian Ó Domhnaill: I second the amendment.

Amendment put and declared lost.

Government amendment No. 30:

In page 6, line 33, to delete “(5) Where” and substitute “(7) Where”.

Amendment agreed to.

Government amendment No. 31:

In page 7, line 1, to delete “(6) Every” and substitute “(8) Every”.

Amendment agreed to.

Government amendment No. 32:

In page 7, line 8, to delete “(7) Waterways” and substitute “(9) Waterways”.

Amendment agreed to.

Acting Chairman (Senator Gerry Horkan): Amendments Nos. 33 to 36, inclusive, and amendments Nos. 38 and 39 are related and may be discussed together. Amendment No. 37 has been ruled out of order because it would result in a potential charge on the Exchequer.

Senator David Norris: I move amendment No. 33:

In page 7, line 15, after “section 7” to insert “and can produce proof of same”.

Senator Brian Ó Domhnaill: I second the amendment.

Senator David Norris: These amendments all follow the same line of thought. I am sorry that amendment No. 37 has been disallowed on this nonsensical notion which I do not blame the Cathaoirleach for but I think the Seanad should be free of the notion of creating a charge on the Exchequer. It is complete and absolute nonsense. We should be allowed to create a charge on the Exchequer. Why not? God knows the Dáil has made a big enough balls of the economy over the years. I think we could be trusted a lot more than Dáil Éireann. I regret this. I would like to ask the Minister to take into account-----

Acting Chairman (Senator Gerry Horkan): The Senator’s language is slightly unparliamentary.

Senator David Norris: I am always slightly unparliamentary.

Acting Chairman (Senator Gerry Horkan): We will go back to the amendment.

Senator David Norris: I would like to ask the Minister to take into account the notion of an independent appeals board. There should be some degree of appeal. I know the amendment was ruled out of order but I would like the Minister to take it into account.

With regard to the use of the word “balls”, I said it and perhaps it was wrong but it is there. I would like to make this point. Last week, I said “bugger off” about something in a lighthearted way. It was changed by the transcribers. I do not think that is right. The record of the House should show exactly what is said. I have had this before when a Senator who I was rather friendly with said that he was about-----

Acting Chairman (Senator Gerry Horkan): There are 40 amendments still to go and we only have until 5.30 p.m.

Senator David Norris: I was censored before because my sense of humour was cruel. I do not think the transcription office is a place for cruelty police. I will leave it at that.

Amendment No. 33 provides that Waterways Ireland needs to produce proof and needs evidence. Amendment No. 34 provides that Waterways Ireland needs to give the details of reason for grounds for believing that an offence has been committed and details of proof of this offence. One is entitled to know what one is charged with. One is entitled to know if there is any proof.

3 o'clock

Amendment No. 36, which proposes the insertion of the words “determining reasonable proof”, is similar. We are seeking to provide for proof in this respect other than that an offence has been committed.

Acting Chairman (Senator Gerry Horkan): If no other Senators wish to comment, I call the Minister. This group includes amendments Nos. 33 to 36, inclusive, and 38 and 39.

Deputy Heather Humphreys: On amendment No. 33, the words “reasonable grounds” included in the section are sufficient. It is normal in legislation to use the words “reasonable grounds”. One does not have to prove it on the spot. That is all I have to say on it.

Amendment, by leave, withdrawn.

Amendment No. 34 not moved.

Acting Chairman (Senator Gerry Horkan): Is Senator Norris pressing amendment No. 35?

Senator David Norris: No.

Senator Brian Ó Domhnaill: Can we discuss this amendment?

Acting Chairman (Senator Gerry Horkan): I mentioned that amendments Nos. 33 to 36, inclusive, 38 and 39 were being taken together and asked if anybody wanted to comment on them. Does the Senator wish to comment at this point?

Senator Brian Ó Domhnaill: I move amendment No. 35:

In page 7, line 20, to delete “21 days” and substitute “30 days”.

My apologies, I did not realise they were all grouped. I would be interested to hear if the Minister has reflected on the proposal to increase the period for allowing persons to pay fines from 21 days to 30 days. I appreciate that 21 days is the norm but that does not necessarily

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mean it is right. Given that the financial cycle now tends to operate on a 30-day cycle, with people being paid monthly and visa and credit cards payments operating on a monthly cycle, 30 days prior to interest accruing, a 30-day period would be much more appropriate in this respect. A 21-day period, irrespective of from which Department this comes, is out of date. I am sure the Acting Chairman, being an accountant by profession, would agree. I hope the Minister will indicate a willingness to accept this amendment for the purpose of allowing people an additional nine days to pay a fine. It makes sense. There is no rationale for having a payment period of 21 days versus 30 days. This is a reasonable proposal. The Minister will probably make the argument that other Departments have a set payment period of 21 days. That might have worked in 1985 or 1995 but we live in 2017 and these are changed financial times where people live from paycheck to paycheck, from month to month. Also, the 30-day cycle is relevant to every other aspect of economic activity within a household, for example, mortgage payments and credit card statements. Therefore, a 30-day payment cycle would be much more appropriate. I should have probably pushed it out to 31 days because 30 days does not cover some calendar months. I would be interested to hear the Minister's response.

Senator David Norris: I second the amendment.

Deputy Heather Humphreys: A period of 21 days is the standard number of days for payment of a fixed payment notice for similar offences under the Maritime Safety Act, the Merchant Shipping Act, the Shannon Navigation Act and the Harbours Act. The fixed payment provision is not a new provision having already been provided for in section 56 of the Maritime Safety Act, which amended the Canals Act 1986. We are trying to be consistent here. The advice is that variants would be confusing and inconsistent with other provisions within this Bill. I take the Senator's point but for the sake of uniformity it should be left at 21 days. If a person pays a fine by credit card and their credit card payments are up to date, they will get a month's credit on top of it.

Senator Brian Ó Domhnaill: Only if their payments are up to date.

Amendment put and declared lost.

Amendment No. 36 not moved.

Acting Chairman (Senator Gerry Horkan): Amendment No. 37 has been ruled out of order as it poses a potential charge on the Exchequer.

Amendment No. 37 not moved.

Amendment No. 38 not moved.

Senator David Norris: I move amendment No. 39:

In page 8, line 3, after "defendant" to insert the following:

" . This will be determined by the issue of a receipt by Waterways Ireland confirming that a payment has been received".

I did not realise this amendment was being discussed.

Senator Brian Ó Domhnaill: I second the amendment.

Acting Chairman (Senator Gerry Horkan): Amendments Nos. 33 to 36, 38 and 39 were

grouped together.

Senator David Norris: The issuing of a receipt should be accepted as proof and that is the only proof one can have. I do not understand why the Minister would object to that. The amendment is being pressed.

Deputy Heather Humphreys: If they pay the fine, they get a receipt.

Senator David Norris: Yes.

Deputy Heather Humphreys: They get one in any event.

Senator David Norris: If there is any challenge, that receipt can be produced as evidence.

Deputy Heather Humphreys: Yes, but they will get it. They will have it.

Senator David Norris: Yes.

Deputy Heather Humphreys: The Senator's amendment proposes that "This will be determined by the issue of receipt" but they will get that. This proposal is not necessary. A prosecution can only be brought if the amount payable on the notice has not been paid by the defendant. With respect to the proposal that Waterways Ireland would issue a receipt, the person would have paid the fine and Waterways Ireland would not bring the case further when the person has paid the fine.

Senator David Norris: Is there not a reference in the legislation indicating that it has to issue a receipt?

Deputy Heather Humphreys: It does not need to be in the legislation in that if a person makes a payment, he or she gets a receipt.

Senator David Norris: No, one does not. I am definitely going to press this amendment. There is nothing in the legislation indicating that one gets a receipt. Apparently, there is such a reference, as I note the Minister's advisers are indicating that there is. When they have written out in clear legible writing that we can have this, I will be satisfied.

Deputy Heather Humphreys: On page 7, the new section 7A(2)(b) states that where notice is given under subsection (1) "Waterways Ireland may receive the payment, issue a receipt for it and retain the money paid, and any payment received shall not be recoverable in any circumstances by the person who made it ...".

Senator David Norris: I thank the Minister and compliment her advisers for being on the ball.

Deputy Heather Humphreys: Thank you.

Amendment, by leave, withdrawn.

Acting Chairman (Senator Gerry Horkan): Amendment Nos. 40 and 41 in the names of Senators Ó Domhnaill and Norris have been ruled out of order as they pose a potential charge on the Exchequer.

Senator David Norris: Has amendment No. 40 has been ruled out of order?

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Acting Chairman (Senator Gerry Horkan): It has been ruled out of order, according to the note I have, as it proposes a potential charge on the Exchequer.

Senator David Norris: Will the Acting Chairman explain how on earth a person can be a charge on the Exchequer? A person is there already - there is a person at the hatch. Perhaps we could have some elucidation as to why this-----

Acting Chairman (Senator Gerry Horkan): It has been ruled out of order by the Cathaoirleach and he is not here.

Senator Brian Ó Domhnaill: On a point of order, this amendment will save the Exchequer money.

Acting Chairman (Senator Gerry Horkan): The Cathaoirleach has ruled it out of order as it poses a potential charge on the Exchequer.

Senator David Norris: I think we will challenge this.

Senator Brian Ó Domhnaill: This amendment will categorically save the Exchequer money.

Senator David Norris: Would the Senator like to explain that?

Senator Brian Ó Domhnaill: I certainly can. That is not the intention behind the amendment but an additional benefit of it is that it would only require Waterways Ireland staff to carry out inspections. In other words, Waterways Ireland would not have to hire in other people to carry out that work; it would be carried out by its employees who are salaried and paid for in any event. They are there from 9 a.m. to 5 p.m. and there would not be any additionality in terms of wages. I am not sure why the amendment was ruled out of order.

Acting Chairman (Senator Gerry Horkan): It is stated-----

Senator Brian Ó Domhnaill: I accept that.

Senator David Norris: Can I suggest-----

Acting Chairman (Senator Gerry Horkan): I can either see if we can get the Cathaoirleach to come back in and say why he ruled it out of order-----

Deputy Heather Humphreys: To be helpful, my officials advise that the reason it is out of order is that amendment Nos. 40 and 41 both relate to the same matter and amendment No. 41 causes amendment No. 40 to be out of order where amendment No. 41 provides that "All authorised officers should be permanent employees of Waterways Ireland". It is probably the reference to permanent-----

Senator David Norris: Can I comment on that? We have not discussed that amendment yet. It is highly unlikely-----

Acting Chairman (Senator Gerry Horkan): Unfortunately, because amendment No. 40 has been ruled out of order, it is out of order, and I cannot allow-----

Senator David Norris: The Minister has given a-----

Acting Chairman (Senator Gerry Horkan): I have given the Senator a fair bit of latitude

but no Member is allowed to speak to an amendment that has been ruled out of order. Once it has been ruled out of order, it is out of order. We must move on.

Senator David Norris: I am responding to what the Minister said, namely, that amendment No. 40 was out of order-----

Acting Chairman (Senator Gerry Horkan): We need to move on.

Senator David Norris: ----because of amendment No. 41, but we have not reached it yet and it will not be accepted by the Minister, so amendment No. 41 cannot be used as an argument for amendment No. 40 being out of order.

Deputy Heather Humphreys: I did not make the decision. I was only trying to be helpful.

Senator David Norris: We very much appreciate that. I believe Senator Ó Domhnaill is the proposer of amendment No. 40 and I recommend that we refer this to the Committee on Procedure and Privileges for a ruling on whether it was-----

Acting Chairman (Senator Gerry Horkan): It is out of my hands. The Cathaoirleach has ruled the amendment out of order.

Senator David Norris: I understand that but we should send it to that committee for a ruling on whether it is properly out of order. Let me make a point of principle. I have felt for a long time that there should at least be some justification given for rulings from the Chair. It is like if I had an argument with my poor unfortunate older brother who died last year. If we had an argument, I would ask, "Well, why?" He would say in reply, "That's the why."

Acting Chairman (Senator Gerry Horkan): The Senator would have received a letter from the Cathaoirleach telling him that it was out of order.

Senator David Norris: Just stating it was out of order but not stating any reason or justifying the fact.

Acting Chairman (Senator Gerry Horkan): It involves a potential charge on Revenue.

Senator David Norris: Senator Brian Ó Domhnaill and I will refer to it.

Senator Lynn Ruane: It is clearly a misunderstanding of the text of amendment No. 41. There should be a new ruling on it. What has been perceived from the amendment which seeks to insert the words "All authorised officers should be permanent employees" is that new employees would be given permanent contracts, but that is not what the amendment seeks to do.

Senator Alice-Mary Higgins: That is not what it states.

Senator Lynn Ruane: The amendment might need to be reworded to state current employees of Waterways Ireland could carry out that function.

Acting Chairman (Senator Gerry Horkan): I did not interpret it.

Senator Lynn Ruane: It is a misinterpretation of the amendment. We need to clarify rather than lose the amendment.

Senator Alice-Mary Higgins: I concur. I believe "permanent employeeship" should be a qualifying criterion for those assigned to this job.

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Senator Lynn Ruane: It is merely a misunderstanding.

Senator Alice-Mary Higgins: That is clear. In fact, it is based on an amendment Senator Lynn Ruane and I brought forward and that was the clear intention. As a member of the Committee on Procedure and Privileges, I will raise it at it also as a concern.

Senator David Norris: Good.

Acting Chairman (Senator Gerry Horkan): I cannot do anything about it. We must move on. Senator David Norris can take up the matter with the Cathaoirleach.

Amendments Nos. 40 and 41 not moved.

Acting Chairman (Senator Gerry Horkan): Amendments No. 42 to 47, inclusive, are related and may be discussed together.

Senator David Norris: I move amendment No. 42:

In page 8, lines 25 and 26, to delete “boats may be used in the canals in” and substitute “the canals and canal property may be used in”.

Senator Brian Ó Domhnaill: I second the amendment.

Senator David Norris: We have already spoken about substituting the words “boats may be used in the canals in” and the words “the canals and canal property may be used in” would merely broaden them slightly.

On amendment No. 43, the words “stop a boat that is under way” are too broad for me because there are safety issues involved. One must take into account the safety and seaworthiness of a boat. One does not want to involve oneself in a situation where one is causing danger.

Amendment No. 45 which seeks to insert the words “if this evidence is not available then an individual should be able to produce said evidence within a reasonable period of time as determined in the bye-laws” seems to be quite reasonable. In other words, if the evidence is not directly to hand, the individual concerned should be given a reasonable amount of time to produce it. I do not see any reason to be against this, but I will wait to be informed by the Minister.

Then there is the amendment which seeks “In page 9 ... to delete “A person to whom a direction is given, or a request is made” and substitute the words “Where there is an identified risk to safety a person to whom a direction is given, or a request is made, by a suitably qualified authorised officer...”. As it stands, the Bill is too vague. The amendment would tie it down a little more and indicates a situation where there is an identified risk to safety.

Are we also discussing amendment No. 47 which is about fines? I would have thought it would have been much more relevant to group it with the other amendments.

Acting Chairman (Senator Gerry Horkan): Amendments Nos. 42 to 47, inclusive, are related and we agreed to discuss them together.

Senator David Norris: In amendment No. 47 I am merely seeking to insert the words “fines as outlined in the bye-laws”. What is the point in having by-laws unless one can impose fines as instructed under them?

Senator Brian Ó Domhnaill: I agree with Senator David Norris. The powers set out in the section are aimed specifically at boat users and no others. Concerns have been expressed about the powers authorised officers will have under the section. For example, the Inland Waterways Association of Ireland is of the view that they are excessive and prohibitive. The concern seems to be that boat users risk being exposed to the impersonation of officers in terms of being stopped and boats being robbed, etc. I am not sure how those fears can be addressed and allayed. This applies particularly to vulnerable boat users where persons impersonate officers and stop boats along a canal. Amendment No. 45 seeks to ensure an officer acting on behalf of Waterways Ireland would be compelled to produce evidence not only of his or her identity but also of the by-laws or the section of the legislation under which the boat user was being stopped.

The other issue is safety on board a vessel. The master ultimately has responsibility not only for the vessel but also for the passengers and crew. If the vessel is being stopped, pulled in or detained, does that compromise the safety of passengers on board?

These are some of the concerns being expressed and I am sure they have been articulated to the Department by, for example, the Inland Waterways Association of Ireland. That is the general thrust of these amendments.

Deputy Heather Humphreys: In amendment No. 42 at lines 25 and 26 the Senators want to take out the words from “boats” and insert “canals and canal property”. In paragraphs (b) and (c) the Bill covers what they want to do by way of amendment of paragraph (a). That should allay their concerns. Subsection 5(a), (b) and (c) cover all of the matters about which they are concerned for users of canal property.

On amendment No. 45 which seeks to insert the words “if this evidence is not available then an individual should be able to produce said evidence within a reasonable period of time as determined in the bye-laws”, I know what the Senators are trying to do, but it does not make sense in that particular space. It would be a material change to the provision and as such, I am not able to accept it. I presume the Senators are referring to evidence of insurance. I am a little unclear on what is meant.

Amendment No. 46 would be very restrictive for Waterways Ireland. One can only give directions for safety reasons and the amendment would make the measure unworkable.

To be clear regarding impersonation, all officers must carry a warrant of appointment. That is included in page 8 of the legislation. Section 7B(2) states they must produce identification.

Amendment, by leave, withdrawn.

Amendments Nos. 43 to 47, inclusive, not moved.

Government amendment No. 48:

In page 11, to delete lines 16 to 21.

Amendment agreed to.

Acting Chairman (Senator Gerry Horkan): Amendment No. 49 has been ruled out of order as it is not relevant to the provisions of the Bill.

Amendment No. 49 not moved.

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Acting Chairman (Senator Gerry Horkan): Amendments No. 50 to 52, inclusive, are related and may be discussed together, by agreement. Is that agreed? Agreed.

Government amendment No. 50:

In page 11, line 30, to delete “(as amended by section 46 of the Act of 2000)” and substitute “(as amended by the Inland Fisheries Act 2010).

Acting Chairman (Senator Gerry Horkan): Does the Minister or any of the Senators want to speak to the amendment or are we happy to make it?

Deputy Heather Humphreys: It is a minor technical amendment.

Amendment agreed to.

Acting Chairman (Senator Gerry Horkan): Amendment No. 51 is in the names of Senators Alice-Mary Higgins and Lynn Ruane who are not present. Therefore, it cannot be moved.

Senator David Norris: There is general agreement on this side of the House on the matter.

Acting Chairman (Senator Gerry Horkan): As the Senators are not present, the amendment cannot be moved.

Senator David Norris: That is regrettable because Ireland does suffer a lot from invasive species. The Minister should consider this.

Amendments Nos. 51 and 52 not moved.

Acting Chairman (Senator Gerry Horkan): Amendments Nos. 53 to 56, inclusive, are related and may be discussed together.

Senator Kevin Humphreys: Senator Alice-Mary Higgins was in the Chamber but you moved on.

Acting Chairman (Senator Gerry Horkan): She was not.

Senator Kevin Humphreys: She was.

Senator Alice-Mary Higgins: I was. I was sitting at the door.

Acting Chairman (Senator Gerry Horkan): It is done. We have moved on.

Senator Alice-Mary Higgins: I was, in fact, moving when I said the amendment was being moved.

Acting Chairman (Senator Gerry Horkan): We are on amendment No. 53. Amendments Nos. 54 to 56, inclusive, are physical alternatives.

Government amendment No. 53:

In page 12, to delete lines 1 to 6 and substitute the following:

“(2) Notwithstanding section 40 of the Act of 1976, the Minister may make regulations, in relation to land referred to in that section, to allow the cutting of vegetation growing in any hedge or ditch on the roadside during the month of August of such year

as is specified in the regulations, subject to such conditions or restrictions specified in the regulations in relation to hedgerow husbandry, management or maintenance to ensure the protection of fauna or flora.”

Deputy Heather Humphreys: During the passage of this legislation through the House I have stated on a number of occasions that the intention of the provision under section 8(2) is to allow hedge trimming to take place in the month of August on roadsides and that the trimming will only be of the current year’s growth and not involve the use of heavy flails. If a person needs to carry out heavier cutting of hedges such as grubbing and flailing, he or she must do so during the current permitted period between September and the end of February. Therefore, I propose in the amendment to section 8(2) to delete the provisions relating to grubbing and destroying and confine the activity to the cutting of vegetation in hedges and ditches on roadsides in the month of August. The regulations which my Department will produce on foot of this provision will emphasise the fact that the destruction and grubbing of hedges is prohibited in the month of August. My amendment is similar to amendment No. 54 which has been proposed by a number of Senators. In fact, it strengthens the language of the Bill and makes it clear that any cutting in the month of August can only happen on foot of and in accordance with regulations to be made by the Minister. I ask Senators to support it.

Senator Kevin Humphreys: Is it the Minister’s intention not to allow any cutting of hedges on roadsides in the month of August until she has published the regulations?

Senator David Norris: I was going to ask exactly the same question. Are the regulations referred to in the legislation contained in it or is it, once again, a reference to something that will vaguely happen in the future?

Senator Alice-Mary Higgins: In effect, there are two halves at work in section 8. In the first there is the extension of burning into the month of August. I realise we will not get a chance to vote on the amendments I tabled on the issue. They were quite nuanced and also considered invasive species. I trust our colleagues in the Dáil will address the very serious concerns about gorse burning and the damage caused by it to habitat and the long-term impact of the exact same issues the Minister is now suggesting she will address in regulations for hedgerows under amendment No. 53. The same issues in respect of pollination, habitat and natural heritage that affect birds, bees and pollinator plants still apply to upland burning and upland removal also. This debate will continue in the Dáil. The Minister has said she will introduce regulations. Is she also planning to make regulations for gorse burning in the extended period? Is it envisaged that she will also publish regulations and express the same concerns about management, maintenance and husbandry in section 2? Will that apply to the section dealing with gorse burning or simply to the section that deals with hedgerows?

I came to the House hoping to welcome the move towards ameliorating, to some degree at least, the extraordinary damage that can be done to hedgerows in the month of August by limiting the cutting to hedgerows on the roadside. Unfortunately, I am extremely concerned because while it is not adequate, I had hoped to welcome it at least as a small concession. We will come to amendments dealing with the regulations and where they might be published. I am concerned about the policy intent in a later section which effectively will undo the progress made in amendment No. 53. If amendment No. 53 represents what I believe has been a genuine, open, well-intentioned and honest debate and engagement across the House by those with different perspectives to come to a form of compromise on the Heritage Bill and, even though we may not agree fully, reach an amelioration, we are in danger of undoing the good that will

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be done by the later amendments tabled by the Minister. I will support amendment No. 53, but I regret that there might be a danger of what it symbolises being diluted later in the Bill by means of the Government's amendments. I hope the Minister will consider the withdrawal of amendment No. 63.

Senator David Norris: Amendment No. 63.

Senator Alice-Mary Higgins: Yes, I am speaking to amendment No. 53 which represents a moment of progress and a recognition of concern, but I point out that amendment No. 63, should it be moved, will represent a roll-back on all of the progress made. I did not agree fully with our colleagues across the House in Fianna Fáil in respect of gorse burning and although we completely disagree on certain sections of the Bill, I recognise that it was an honest attempt to compromise and ameliorate the problem. That is what is reflected in amendment No. 53. I urge that we celebrate that and do not want to see it undone.

Senator Grace O'Sullivan: I acknowledge and support what Senator Alice-Mary Higgins said. We have made huge progress in getting rid of terms such as "grubbing" and "destroying" hedgerows. I never saw a heritage Bill as being conducive to the use of such terms. We have come a long way which I welcome and it would be most unfortunate if we were to row back at a later stage and unpick all of the work we have done in recent months on the Bill. We have listened and engaged with those involved in various sectors such as farmers, the environmental NGOs and communities which were supportive of protecting hedgerows in the month of August. We recognise that in what she has proposed the Minister has gone some way towards acknowledging what we put forward, but there is a danger that the amendment will be unpicked and rowed back on later, which would be a crisis.

Senator David Norris: I will give a little detail to show how important it is to restrict hedge cutting. I will reserve my remarks about bees until we reach Senator Alice-Mary Higgins's very important amendment on pollinators. I have been advised by Birdwatch Ireland, for example, that the impact on the most endangered species of wild birds is extraordinarily significant. I wonder if the Minister who has so far not shown a great interest in the scientific evidence is aware of the situation with regard, for example, to a series of listed birds. The barn owl, for example, is red listed in Europe because of a 77% decline in the breeding population over a 20-year period. It uses hedgerows for the purposes of foraging. Hedgerows are a vital foraging habitat for it. The research has demonstrated the importance of hedgerows as a preferred prey-rich habitat selected by adults hunting for food for their unfledged young. Another red listed bird is the yellow hammer. There has been a 90% decline in the breeding population over an 11 to 14 year period. That is a figure of 90%. Yellowhammers are almost entirely gone. They use the hedgerow for nesting and are therefore particularly vulnerable. Some 5% of yellowhammer nests are still active. In other words, they contain unfledged young at the end of August and 1% still contain young on 20 September. That is the situation in which we are encouraging this extension of burning and grubbing.

With regard to the kestrel, there has been a 34% decline in breeding. It uses the hedgerows for foraging. As with barn owls, the hedgerows offer a prey-rich habitat for the adults. There is then the mistle thrush. There has been a 37% decline in the breeding population. They also use the hedgerows for foraging. Large post-breeding flocks of mistle thrushes containing both adults and juveniles are dependent upon berries after the main nesting season during the autumn from July to September and they particularly favour overgrown hedgerow habitats.

I had a visit this morning. I was delighted to see my little robin hopping along towards the kitchen window. However, even robins are subject to a 37% decline in the breeding population. They use the hedgerows for foraging and nesting. They are important habitats for the robins throughout the year. Unusually for some birds, robins defend territories all year round, with winter territories dependent on the availability of food. Hedgerow species, notably spindle and elder, are their preferred berries, particularly in August and September. The linnet is a species of European conservation concern. The greenfinch has been amber listed due to a 38% decline in breeding population.

If we look at not just the hedgerows but at the mountains and low-lying hills, there is a similar situation. We have already referred to the curlews. There has been an 86% population decline. The golden plover has seen a 52% decline. The red grouse has endured a 50% decline. The meadow pipit has seen a 59% decline. Hen harriers, merlins, snipes, skylarks, stonechats and wheatears are all species that use upland, peatland or moorland habitats throughout the year and are particularly vulnerable during the nesting season. I believe it is extremely important that we take into account the impact on the rare and threatened bird species when discussing this legislation.

Acting Chairman (Senator Gerry Horkan): I call the Minister. Senator Humphreys has spoken already.

Senator Kevin Humphreys: I have, but so had Senator Norris.

Acting Chairman (Senator Gerry Horkan): He had not spoken on this amendment. Senators are only allowed in once and everybody has been in once.

Senator Kevin Humphreys: I just wish to make a point of clarity to the Acting Chairman. I want to be clear about the groupings the amendments are being taken in. One grouping includes amendments Nos. 53 to 56, though amendment No. 56 is not necessarily tied to upland burning. The grouping has taken the hedgerows-----

Acting Chairman (Senator Gerry Horkan): That has all been agreed. We have already agreed that we are taking amendments Nos. 53 to 56 together. I call the Minister.

Deputy Heather Humphreys: I wish to respond to some of the issues raised. This relates to both hedges and gorse and therefore involves hedge-cutting and burning. Citizens must abide by the existing legislation until this proposed legislation is passed and the regulations issued.

Amendment agreed to.

Acting Chairman (Senator Gerry Horkan): Now that amendment No. 53 has been agreed, amendments Nos. 54, 55 and 56 will effectively all fall. They cannot be moved as one cannot amend text that has already been deleted.

Senator Kevin Humphreys: Sorry, Chairman. Amendment No. 56 actually amends the amount of upland lands that can be-----

Acting Chairman (Senator Gerry Horkan): Just to be clear-----

Senator Kevin Humphreys: There is nothing in amendment No. 53 that prohibits amendment No. 56.

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Acting Chairman (Senator Gerry Horkan): The text to which amendments Nos. 54, 55 and 56 is addressed was removed by amendment No. 53. One cannot amend a text that is no longer there.

Amendments Nos. 54 to 56, inclusive, not moved.

Acting Chairman (Senator Gerry Horkan): Amendments No. 57 and 58 are related and may be discussed together by agreement. Is that agreed? Agreed.

Senator Alice-Mary Higgins: I move amendment No. 57:

In page 12, between lines 6 and 7, to insert the following:

“(3) All hedges cut and uplands burned under this section of this Act shall be included in a register with the Department of Communications, Climate Action and Environment which is made publicly available.”.

Senator Grace O’Sullivan: I second the amendment.

Senator Alice-Mary Higgins: Amendment No. 57 states that all hedges cut and uplands burned under section 8 of the Act must be included in a register to be located with the Department of Communications, Climate Action and the Environment and to be made publicly available. Amendment No. 58 also suggests that hedgerows cut under the pilot scheme as proposed in section 8 of this Act and under any section 70 order should be included in a register that is made publicly available.

I will speak first to amendment No. 57. What is important to highlight and what is clear is that this is not simply a hedge by hedge issue. There is a collective concern in respect of the hedgerows of Ireland. They are part of a shared heritage. They are the conduits of our nature and have a value for all of the citizens in Ireland. They contribute to the global responsibility of a shared planet. Ireland and the Irish Government has in two key areas made strong and key references to hedgerows. In its representations in respect of the Common Agricultural Policy, CAP, Ireland has been very clear that hedgerows constitute a large portion of our habitat maintenance and greening in order to qualify for the greening section of the CAP payment, which constitutes almost a third of the payment. The Department of Agriculture, Food and the Marine seems to be very far ahead of the Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs in this area. The Department of Agriculture, Food and the Marine under the current GLAS scheme lists extensively very specific measures that will be applied in respect of hedgerows, for example, the margin around each hedgerow, whether there is a bee box, and which particular species is being supported and how.

We are moving towards a period of time in which, in order for farmers to access their GLAS payment scheme, the single farm payment or any other schemes that may be considered meritorious, there will need to be extensive indicators provided. As we move towards the 2020 wave of CAP, it is increasingly likely that we will need actual concrete results. For example, if the yellowhammer were to disappear from Ireland, as it may well as Senator Norris has described, Ireland will no longer be eligible for payments in respect of the yellowhammer habitat. There is a very direct interlinked economic case to be made. That is why we are suggesting that we need to register and know exactly what is happening under this legislation.

Along with the carrot of the CAP payment, not far down the line we will be looking as a

nation at the stick of penalties and fines in respect of failure to meet our climate change targets and emissions. That which we cannot prove we are delivering upon in terms of, for example, sequestration through our hedgerows will need to be proven and delivered upon under other targets in other areas. We are looking for something that we will discuss later when we discuss the pollinator plan. Ireland will need to know and be able to prove what it is doing in respect of our hedgerows and how they are contributing and meriting CAP payments and greening. The Irish EU Commissioner, Phil Hogan, is currently fighting for a larger role for greening within the payments from CAP. At a time of extraordinary vulnerability for our farmers due to Brexit, these payments are crucial if we are to find a way through what will be an economically testing period for farmers.

At a time when we are representing our interest in that way, there is a danger that this legislation would be perceived by Brussels and others as representing a significant message from Government that the preservation and conservation of hedgerows is not of the same degree of priority as it was when we last applied for CAP farming and that the hedgerows that we have cannot be considered with the same merits and on the same grounds as previously in terms of meeting our climate change targets. We would be weakening our case. This amendment is a small and practical suggestion in order to at least monitor what is happening so as to have some chance to ameliorate the weakening of our case as represented by this legislation. I previously asked if the Minister had engaged with the Minister for Communications, Climate Action and Environment and the entire legislation had been proofed against Ireland's climate change targets, but we have not received a satisfactory answer to that question.

With regard to amendment No. 58, people have contacted us to say they face obstacles when they seek to report illegal cutting of hedgerows and gorse burning out of season with devastating consequences, including the contamination of water and, for example, the cutting off of electricity to the Aran Islands in early March. They are asked whether the landowner has a section 70 order. The amendment proposes that where such orders are issued, they should be recorded in order that they would be publicly available and people would know whether hedgerows had been cut legitimately. Our group tabled practical amendments to strengthen the section 70 regime which would have allowed landowners to actively seek an order to better deliver what they believed to be road safety. Our amendment also provides that concerned citizens could seek section 70 orders. The order system, while established and functional for more than 20 years, could have been strengthened. I am concerned, however, that the proposal seems not only to fail to keep a record of section 70 orders and make them publicly available but also ensure councils will maintain records of hedges cut for road safety reasons. It is proposed to abolish the section 70 order system and move towards something closer to a free-for-all without regulation or monitoring. Amendment No. 58 would represent an improvement in, and a strengthening of, section 70 transparency. We have bigger battles ahead in later amendments.

Senator Kevin Humphreys: Amendment No. 57 relates to the maintenance of a register. On Committee Stage I referred to the EMBER project that had demonstrated the effects of moorland burning on the ecology of river basins, which is practised predominantly to support the red grouse population for gun sports. Senator Daly highlighted that the red grouse population in his area had recovered through good practice as people acted as the guardians of the countryside. However, there is a need for a register to know what is going on in the countryside. Long-term monitoring under the EMBER project has shown a significant negative impact on peat hydrology, chemistry and physical properties, river water chemistry and river ecology. We need a clear record of what is happening on peatlands and uplands in the context of gorse

burning. The changes to bogs and upland peatlands are not clear, particularly in respect of how often different areas may be burned to encourage grass growth. Senator David Norris has clearly covered the numbers of bird species and pollinators that can be affected by this, but the effects of upland burning on soil erosion and expensive flood relief works being carried out and the sponge effect of the upper peatlands have not been covered. It seems we want to race to extend the area that can be burned when the current areas are not even controlled properly. In 2005, 4,500 acres of land in Killarney alone was damaged by burning out of season, but there was little enforcement at the time and not much data was available subsequently. I accept that this is difficult. Somebody can go to the uplands, set a fire, go to the pub and before anybody realises what has happened, the damage has been done. I strongly support the proposal for the establishment of a register. We must protect uplands. If we do not know what is happening and cannot monitor what is happening in the long term, there will not be a scientific basis for decisions.

Deputy Heather Humphreys: With regard to amendment No. 57, it should not be mandatory for every hedge cut and area of land burned under this provision to be reported to the Department of Communications, Climate Action and Environment. I cannot accept that there might be a gain from having such a register that would justify the cost and efficiencies involved, nor can we require another Department to keep a register.

With regard to amendment No. 58, it should not be mandatory for every hedge cut under this provision to be included in a register. That would be an overly bureaucratic and time-consuming process which would have significant cost and resource implications for my Department. I cannot accept that any gain there might be from having such a register would justify the cost and efficiencies involved.

We cannot amend the Roads Act which covers section 70 orders.

Senator Alice-Mary Higgins: Amendment No. 58 would not place a requirement on the Department; it would place a requirement on those issuing section 70 orders at local authority level. Given the extraordinary reluctance to monitor the provisions and that the question of road safety has been moved aside, is the pilot project also to be cut? Monitoring is regarded to be onerous, yet in earlier debates we were told pilot projects would be carefully selected. It will be the most extraordinary pilot project where not only have we rejected previously any opportunity to conduct a baseline study but there will also be no intent to monitor where the pilot scheme happens. Presumably, if the area in which the project is happening is not monitored, what is happening will not be monitored. There is a disjunct in that regard. Perhaps when the Bill reaches the Dáil, we might arrive at a point of honesty where the language of the pilot project will be entirely abandoned because that is clearly what we are looking at, unfortunately.

The Minister has stated she cannot amend the Roads Act and does not wish to engage with the amendment as it relates to the Act. It has previously been used as the rationale to reject amendments, yet amendment No. 65 provides for a direct set of actions in respect of the Act. The Minister is weighing in on a level not seen in more than 20 years. The Roads Act 1993 gave cognisance to the Wildlife Act 1976. Unless she changes her mind, the Minister is very shortly proposing to engage with all of the delicate proposals, amendments and structures for overlap between those two Acts constructed at that time which have been in place for over 20 years. I find it somewhat inconsistent that the Minister speaks about not intervening in the Roads Act in respect of my amendment but is discussing the Roads Act at the centre of her own proposed amendments a little bit later on.

Senator Brian Ó Domhnaill: A Chathaoirligh-----

Acting Chairman (Senator Gerry Horkan): I am sorry, unfortunately I cannot let Senator Ó Domhnaill in on this amendment at this stage.

Amendment put and declared lost.

Senator Marie-Louise O'Donnell: Can I ask a question?

Acting Chairman (Senator Gerry Horkan): Yes.

Senator Marie-Louise O'Donnell: Can I?

Acting Chairman (Senator Gerry Horkan): Yes. I have just said the Senator can.

Senator Marie-Louise O'Donnell: I am genuinely losing faith in all of this. I would like to be reassured by the Minister. The reason I am losing faith is that when I travel around the country, which I do regularly, and look at the hedgerows all along our motorways and our roads, they are hacked to death. Leaving out the internal and external hedges of farms and those internal to every county, when I travel on the motorway, which I did yesterday and the day before and the day before that, the hedges are hacked to death. One would think Vikings had come in with huge hooks and hacked every bush regardless of its size and shape and its natural environment.

Acting Chairman (Senator Gerry Horkan): I was letting the Senator in because-----

Senator Marie-Louise O'Donnell: They are hacked to death. Now that our pilot scheme is gone and this scheme is gone and there is a general free-for-all, I wonder where we are.

Acting Chairman (Senator Gerry Horkan): I should have let Senator Ó Domhnaill in and I did not.

Senator Marie-Louise O'Donnell: I just want assurance from the Minister about our county councils. They are not even using the right instruments.

Acting Chairman (Senator Gerry Horkan): I will bring the Minister back in.

Senator Marie-Louise O'Donnell: Am I wrong? Is it a stupid thing to say?

Acting Chairman (Senator Gerry Horkan): Does the Minister want to comment on that or will we just move to the amendment?

Deputy Heather Humphreys: Just move to the amendment.

Senator Marie-Louise O'Donnell: It is disgraceful.

Senator Alice-Mary Higgins: I move amendment No. 58:

In page 12, between lines 6 and 7, to insert the following:

“(3) Hedgerows cut under the pilot scheme in *Section 8* of this Act and hedgerows cut under a *Section 70* order must be included in a register that is publicly available.”.

Senator Grace O'Sullivan: I second the amendment.

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Amendment put and declared lost.

Government amendment No. 59:

In page 12, lines 12 and 13, to delete “for such further period as is expressed in the resolution” and substitute “for such further period not to exceed 3 years as is specified in the resolution”.

Deputy Heather Humphreys: This amendment relates to section 8(4)(b) of the Bill which provides for a sunset clause in the provisions in sections 8(1) and 8(2) on burning and hedgerows, which are only in force for a two year pilot period and can only be extended by a resolution of each House of the Oireachtas. Having considered the contributions of a number of Senators on Committee Stage, I am of the view that it is appropriate that such a resolution should be limited to a period of three years at any one time. This will allow me to report back to the Oireachtas on the workings of the section in a timely manner.

Senator David Norris: Is it two years as it stands?

Deputy Heather Humphreys: No. I ask the House to support this amendment.

Acting Chairman (Senator Gerry Horkan): Senator Humphreys is indicating and I think Senator Norris has a question.

Senator Kevin Humphreys: I thank the Minister, because I made very strong representations to her on Committee Stage that there should be a sunset clause in this. The Minister just mentioned this pilot scheme again. Now that we have not accepted the register, how are we keeping a record? This is a pilot scheme as the Minister just mentioned again.

Deputy Heather Humphreys: It is on a pilot basis.

Senator David Norris: It is not on a pilot basis. It is a pilot scheme.

Deputy Heather Humphreys: It is on a pilot basis. I am sorry.

Senator Kevin Humphreys: How are we to know what damage is done or how well the pilot scheme operated if there is absolutely no record of what has happened in respect of upland burning or hedging? If it is a pilot, will the Minister please tell us how we are going to measure whether it has been successful or not? We have now accepted that there will be no records of what will happen over the next three years.

Senator Brian Ó Domhnaill: I have listened to a lot of the debate around the pilot issue and the hedges. Senator Marie-Louise O'Donnell, who reminds me of Gráinne Uaile, a great Irish champion who stands up and is counted when it is important, has hit the nail on the head. There is an issue here around how we define the pilot scheme. Are we going to completely abandon what was agreed here the first day, namely that it would be confined to roadside hedgerows? Now there seems to be a dilution of that position. I cannot wait to hear what the Minister has to say on that when we come to amendment No. 63.

On the pilot issue, let us not fool ourselves. We cannot operate a pilot scheme over two or three years and include the whole country, because there would be no comparative analysis to base findings on. It is not really a pilot in the scientific sense. I would be interested to hear what the Minister has to say about two current pilot projects which are taking place around our

hedgerows in Ireland. They are being undertaken by Tipperary County Council in conjunction with Donegal County Council. That is one pilot project that is defined to two counties. Submissions were made locally. Considerations of biodiversity have been taken into account. The conclusion of that pilot project was due at the end of March but it is my understanding that the volume of work was such that it has not concluded yet. Why are we even talking about a national pilot project when we have a pilot project in County Donegal and in County Tipperary which could be used as a barometer? Has the Minister's Department had any engagement or interaction with the local authorities or the staff involved in these counties? Surely, if we are really interested in biodiversity, heritage and protecting wildlife, we should at least use that project as our barometer. We are pre-empting that study - which is a study because there is something to compare it against - if we push ahead with what is being suggested here today.

Senators O'Sullivan and Higgins touched on amendment No. 58, around the issue of pilot schemes and so forth. I agree with that, but if we are going to undertake a pilot scheme, and if we are here as Members of the Oireachtas in Seanad Éireann, we should make laws based on the best available information from the professionals who operate within the sector. We should not base laws on hearsay or decide to bring in laws that will satisfy the needs of one interest group over another.

This is a very serious issue. It is about protecting our biodiversity and it also about protecting our agriculture. Over the period up to 2020 the Common Agricultural Policy, which is a European project, will deliver €10.7 million to Irish agriculture. Some 30% of the direct payments, which make up €8.8 million of that €10.7 million, are provided for greening proposals. All of the farmers I know on the western seaboard and the farmers in County Donegal have been doing that for years anyway without getting any money for it, but the whole objective was to protect biodiversity and soil quality and to deal with climate change issues. Some 30% of direct payments provided for by the European taxpayer are in respect of greening. It would be very wrong if that were torn up here today by allowing a free-for-all on cutting of hedges throughout the entire year, which would appear to be the objective of amendment No. 63. That is wrong. We are not dealing with it.

Acting Chairman (Senator Gerry Horkan): We are dealing with amendment No. 59 now.

Senator Brian Ó Domhnaill: I know.

Senator David Norris: Amendment No. 59 is about extending the period to three years.

Acting Chairman (Senator Gerry Horkan): I think the debate might have drifted into amendment No. 63.

Senator Brian Ó Domhnaill: I was talking about the pilot. Maybe I-----

Acting Chairman (Senator Gerry Horkan): It is okay. We will remember it for the next time.

Senator Brian Ó Domhnaill: I moved into another aspect there, but the pilot scheme-----

Senator David Norris: The Senator hit a sandbank in his pilot.

4 o'clock

Senator Brian Ó Domhnaill: To return to Tipperary and Donegal, could the Minister use

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those for her pilot project or do we not trust the officials in both councils who run it? Surely if section 8 is to be introduced on a national basis, we would first take on board the work of both of those local authorities and then decide if it was appropriate to proceed. Maybe that is where we should start from. Would the Minister delay further debate on this until the findings of both those pilot programmes are complete and available to her Department and all Members of both Houses and relevant committees of the Oireachtas. Surely that would be the correct, scientific approach if we are to make the best possible laws in this House.

Senator David Norris: As I understand it, this is amendment No. 59. Senator Humphreys suggested this measure and I think we can all accept it.

Senator Alice-Mary Higgins: I am also happy to accept amendment No. 59. It is an improvement. I note, however, that the legislation still gives us the capacity for indefinite and ongoing renewal. I welcome no. 59 -----

Acting Chairman (Senator Gerry Horkan): I thought we were all welcoming it.

Senator Alice-Mary Higgins: I am welcoming it but I hope that in the Dáil we will see an actual sunset clause inserted. What we have now is a constraint on the period of renewal but the legislation still allows for indefinite renewal on an ongoing basis. I acknowledge that it is a step forward and improvement on the Minister's part, but I would like to see a sunset clause.

Deputy Heather Humphreys: I want to clarify a number of incorrect statements. My Department will monitor activity under the proposed new provision and an assessment of the impacts will be carried out before any decision is taken on continuing this measure beyond the pilot phase. Records will be kept. Officials from my Department, National Parks and Wildlife Service staff, are out working very hard every day, and they work very closely with the local authorities. I want to make sure people are aware of that.

Amendment agreed to.

Acting Chairman (Senator Gerry Horkan): Amendments Nos. 60 and 61 are related and may be discussed together by agreement.

Senator Alice-Mary Higgins: I move amendment No. 60:

In page 12, between lines 13 and 14, to insert the following:

“(c) The regulations set out by the Minister under *Section 8* of this Act will be laid before the Joint Oireachtas Committee on Arts, Heritage, Regional, Rural and Gaeltacht Affairs for consideration.”.

This is to clarify a number of points that have been raised. We have been told that records will be kept and regulations will be put in place on husbandry and the way things are carried out. We have also been told there will be regulations on, for example, the amount of growth that will be cut. The Minister has given indications of policy intent on the kinds of regulations she envisages. We have pushed strongly to have those provisions inserted into the legislation, which is my preference, but if the various issues we have raised are to be addressed in regulation, and we have been told they will be, we ask that the regulations would be sent for scrutiny to the Joint Committee on Arts, Heritage, Regional, Rural and Affairs for consideration. We are asking that there be an oversight process for these regulations. My preference would be that some of the concerns we have raised would be addressed in primary legislation but if they are

to be addressed in regulations instead, let us ensure there is oversight and scrutiny of these to ensure they deliver on the stated and hoped-for intents.

If we are to look at a pilot period, for example, and regulations in respect of a pilot period, we would assume that we would learn from that. The Minister has indicated she will keep records and information will be gathered from it. We would imagine that information would lead to change in the regulations before they were extended. The Minister just stated that there would be a review and an examination of impacts before making any extension. That would potentially necessitate a change to regulations. I am stating similarly where new experiments are conducted on hedgerows, those regulations would also be put before the relevant committee for discussion and scrutiny.

Senator Grace O’Sullivan: I second the amendment.

Senator David Norris: I very much agree with the sentiment of this amendment but I would have thought these regulations should be put before the Oireachtas.

Senator Alice-Mary Higgins: That would be our preference.

Senator David Norris: I would much prefer the Oireachtas to decide on these things, rather than a committee. That is my only reservation. I would strongly prefer it to go to the Oireachtas.

Senator Alice-Mary Higgins: That would be my preference. That would be my next stage amendment, I agree.

Senator Kevin Humphreys: I welcome the Minister saying that there will be no changes to the legislation until the regulations have first been issued. That is positive. Is the Minister’s intention to make the regulations through statutory instrument?

Deputy Heather Humphreys: The answer to Senator Humphreys’ question is yes.

The regulations will be laid before the Houses. The Wildlife Act, section 8(4) states that; it is not practice to lay regulations before a committee. They will go before both Houses and the primary legislation should not specify which committee.

Senator Kevin Humphreys: For clarity, I asked the Minister two questions and the answer to both is yes. One is that the legislation will not be enforced until the regulations are passed and the regulations will be made by statutory instrument.

Deputy Heather Humphreys: Yes.

Senator Kevin Humphreys: That is great, thank you.

Amendment put and declared lost.

Senator Alice-Mary Higgins: I move amendment No. 61:

In page 12, between lines 13 and 14, to insert the following:

“(c) Any subsequent changes to the regulations under *Section 8* of this Act will be put before the Joint Oireachtas Committee on Arts, Heritage, Regional, Rural and Gaeltacht Affairs for consideration.”.

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Senator Grace O’Sullivan: I second the amendment.

Amendment put and declared lost.

Senator Alice-Mary Higgins: I move amendment No. 62:

In page 12, between lines 13 and 14, to insert the following:

“(5) The Minister shall have regard to the objectives and actions in the All-Ireland Pollinator Plan 2015 to 2020 in making regulations under *Section 8* of this Act.”.

Senator Grace O’Sullivan: I second the amendment.

The plan has been written by Dr. Una FitzPatrick in the National Biodiversity Data Centre in Waterford. It is an excellent plan. She has consulted a huge number of stakeholders, particularly the Bee Federation of Ireland, to input into the pollinator plan. When we talk about pollination, we are talking about a number of different species that pollinate and the importance of pollination in Ireland for food growth. Only recently, I heard a story of a tillage farmer in Kilkenny who has diversified and is growing pumpkins. He requested that a beekeeper in Kilkenny bring some of his stock to pollinate in order to get the best pumpkins possible. Pollinators are absolutely essential not only for the growth of food sources but also the growth and support of biodiversity around the country. I refer to an earlier debate in which we discussed the importance of pollinators in the supply of food for bees in the months of July and August. Pollination is critical. This plan, if the Minister or officials in her Department read it, sets out very well what Ireland should do to meet and comply with its EU obligations. Senator Alice-Mary Higgins has requested that the plan be given teeth and some foundation whereby it would be recognised in policy-making and legislating in the future for the betterment of biodiversity, farming, gardens and the country generally. I hope the Minister will take note of it as it is an excellent report which needs to be recognised. I hope she will also support the amendment.

Acting Chairman (Senator Gerry Horkan): I thank the Senator. Does Senator Alice-Mary Higgins wish to speak?

Senator Alice-Mary Higgins: I think Senator Kevin Humphreys had indicated before me that he wished to speak.

Acting Chairman (Senator Gerry Horkan): Senator David Norris had indicated before Senator Kevin Humphreys. Senator David Norris will be followed by Senator Kevin Humphreys and then Senator Marie-Louise O’Donnell.

Senator David Norris: I hope the Minister will accept this, but I very much doubt that she will. It seems that, by accepting this excellent amendment, she would actually be going against the thrust of some of the legislation. She has blissfully ignored the plight of bees. We are now in a situation where there are practically no wild bees in this country. All of them are cultivated by beekeepers who are not happy about this legislation. They are completely against it.

I have received correspondence from the president of the Federation of Irish Beekeepers Associations. It talks about how he had been watching farmers cutting down hedges outside the times permitted and that they are getting in contractors. The contractors are - the correspondent highlights it by capitalising the word - “FLAILING the hedges, not cutting them, already outside the permitted nesting time,” resulting in damage to hedges which consist of willow, alder, chestnut, whitethorn, blackthorn, gorse, ivy and all other species of native trees and briars

which all produce food which sustain the pollinators, bees and birds, throughout the years. It takes 15 years for a whitethorn to recover having been flailed and cut.

The correspondence reads:

Even now, around the country, farmers are cutting hedges and ditches all over their farms, setting heather on fire on the hills outside the permitted time, totally against the law but there is only one case I know where the local farmer was fined 3500 euro for doing so, but if this bill goes through, farmers will have another few months to do as they please and not care about nature.

These are very significant points. I ask the Minister or her advisers to comment because what is being alleged is that farmers are replacing the strain of clover in their fields that is particularly attractive to bees with another main crop for a different pollinator that is not good for bees. They are doing this while acting on advice from Teagasc. It seems extraordinary that farmers are being advised by one Government agency to replace one strain of clover which is attractive and beneficial to bees with another that is not attractive or beneficial to bees. That seems absurd and I wonder if the Minister will comment on it. There is much more lyrical stuff about blackberry tarts and gorse bushes in flower and so on, but I will leave that aside.

Further correspondence from the Federation of Irish Beekeepers Associations, the group to which I have already referred, states the value of pollination services in Ireland is estimated at €53 million a year. It pays tribute to Senator Alice-Mary Higgins and the report in her name. It notes that the proposed changes to section 40 will allow the cutting of hedgerows from 1 August annually, rather than from 1 September. It will also, as we know, extend the period to 31 March. This is capitalised and headlined in the letter - "THE FEDERATION OF IRISH BEEKEEPERS' ASSOCIATIONS CONDEMNS PROPOSALS IN HERITAGE BILL 2016 TO EXTEND HEDGE-CUTTING AND BURNING PERIOD BY TWO MONTHS." The Bill totally ignores sectors such as beekeeping. As far as I can make out, there is no reference to beekeeping at all in the legislation. Bees are not even mentioned once, even though they are under threat worldwide. The Bill also ignores the fruit sectors which rely on pollinators and which "in turn rely on pollen in August to survive throughout the winter. Ireland's hedgerows are a vital source of pollen and permitting a blanket cutting of the hedgerows in August will greatly endanger the bee population". The federation is calling on the Minister to think again on the issue.

The federation gives a list which might be of interest of crops in Ireland that are pollinator-dependent. They include apples for eating and cider, blackcurrants, pumpkins as indicated by my colleagues, strawberries, courgettes, marrows, blueberries and raspberries. "Blueberries" is the American name. In County Laois we know them as "fraochán". The last on the list is cultivated blackberries which is probably the reason for the reference to blackberry tart. In addition to these outdoor crops, indoor crops which are pollinator-dependent include tomatoes, cucumbers, raspberries and bell peppers. Bees absolutely depend on hedgerows for sustenance. They provide essential pollen and nectar for them to store. The correspondence reads: "They benefit especially from the long, late flowering blackberry crop in the hedges, which would be decimated by earlier hedge cutting".

The letter states: "WE CANNOT AFFORD TO LOSE ANY MORE OF THESE VITAL RESOURCES FOR OUR POLLINATORS ... WE RISK LOSING MANY OF OUR CROPS IF WE LOSE OUR POLLINATORS". I think many people just accept that fruit and vegetables emerge year after year and never think of this almost invisible action of pollination that takes

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place. It is vital to the production of most, if not all, species of fruit and vegetables. I strongly urge the Minister to take into account the all-Ireland pollinator plan which is essential. Inclusion of the amendment in the legislation would give some degree of respect and recognition to the threatened bee population of Ireland.

Acting Chairman (Senator Gerry Horkan): It might be helpful for all Senators to realise we have about 12 amendments left and just over an hour in which to deal with them. We may end up not getting to all of them and obviously we would prefer to talk about them. I, therefore, ask Senators to be relatively brief in their contributions and we might then get to all of them. Otherwise, the debate could be guillotined, which would not-----

Senator David Norris: As the last ten are Government amendments, it does not matter so much.

Acting Chairman (Senator Gerry Horkan): They are more likely to get through than the others. Senator Kevin Humphreys wanted to speak. I will let Senator Alice-Mary Higgins speak first because it is her motion and she should have been able to speak. I will call Senator Marie-Louise O'Donnell. I ask Senator Alice-Mary Higgins to be brief.

Senator Alice-Mary Higgins: As the proposer of the amendment, I am hopeful it will be accepted and receive support across the House. We have all heard from the beekeepers of Ireland in their advocacy. It is clear that the protection of bees and beekeeping is not in any way a whimsical issue. Beekeeping is a key activity in rural Ireland and our pollinator plan is an excellent document. It was the subject of extensive consultation and there was an input from farming groups of every kind and type. It has had inputs from communities across Ireland. The All-Ireland Pollinator Plan is an excellent piece of work on the part of the Government and it should be proud of it. I ask the Minister to be proud of that work and of the significant targets set out in it. This amendment is not prescriptive but simply proposes that the Minister would have regard to the national pollinator plan. It is very reasonable.

Others have spoken at length about the role of pollination in respect of our crops and so forth. These are core issues for farmers if we move towards high value goods and market gardening, which is effectively the future for much of Ireland's farming. I can give a small example which resonated with me. It takes 20 visits from a pollinator to form a full correct apple. One might have an apple that tastes fine but if one wishes to have an apple one can sell and which will meet the various standards that are demanded in different shops, 20 visits are required. There is a real concern that if pollination is compromised the output of orchards, market gardeners and farmers, and the marketability of their product, will be impacted directly. Potentially, we face large scale food wastage as well as economic loss. We heard previously about pumpkins. Basically, higher value, high input crops are crucial. In fact, in many parts of the world bees are moved around actively to encourage positive pollination.

We have a good pollinator plan in the Government's plan. We have opposed the Government on various other matters but, in fairness, neither I nor anybody else here drafted the plan. The plan represents the input of all groups in society, including the farming community, so it would be appropriate that the Minister would have regard to it when she draws up her criteria and regulations. I strongly seek the support of the House on this. It would be strange not to support regard for the All-Ireland Pollinator Plan. To refer again to the collective good, there are certain tillage crops that do not depend on pollinators, but on wind pollination. However, when we develop our national agricultural policy and when we make the case to Europe for

that policy we must look to the wider, collective good. I urge all farmers, including those who might not be directly affected by the pollination issue, to have regard and consideration for their fellow farmers and to ensure we have a robust and effective pollinator plan. I will press this amendment strongly and I hope it will receive support across the House.

Senator Kevin Humphreys: There has been a 50% decline in the bee population since 1980 and that has the potential to have a negative impact on food production, as outlined by Senator Higgins. If we wish to be fair to all of the farming community, especially farmers in the fruit production area, we must ensure protections are put in place. The amendment simply provides for having regard to the plan. I would prefer if it were stronger, but there is a need for it to be included. The pollination plan needs to be considered. Senator Norris mentioned Teagasc earlier. Among the Teagasc guidelines for hedge cutting is a recommendation that hedge cutting should take place between January and February to avoid destroying the food supply of seeds and berries in the autumn for pollinators. Even our experts in the agricultural sector are saying we should be careful here-----

Senator David Norris: Hear, hear.

Senator Kevin Humphreys: -----as long-term damage could be caused. This pilot project may cause long-term damage to our environment and to the farmers who are the custodians of the countryside.

Senator Marie-Louise O'Donnell: According to *National Geographic*, if all the human beings left the planet it would flourish but if the bees left it would die. It is very interesting. I remember reading that years ago as a young person, but it is coming to fruition. Two weeks ago I saw hundreds of beekeepers gathered outside the Dáil. I knew instantly that the Bill was flawed. Otherwise, they would not have arrived. I have read everything they have sent us and I agree with everything Senator Norris has said. I also agree with Senators Ruane, Grace O'Sullivan and Higgins on this. It must be included. Beekeepers do not gather outside the Dáil unless there is something amiss, wrong, omitted or flawed. In this instance, we should re-align and include the pollinator plan to ensure there is protection in this area. I hope the Minister can see a way to do it.

Senator David Norris: Well said.

Deputy Heather Humphreys: The limited scale of hedge cutting proposed is unlikely to have much impact due to the small scale of what I am proposing and because flowering is largely over by August.

Senator David Norris: It is funny that the beekeepers do not agree with the Minister.

Deputy Heather Humphreys: The main forage for bees in August is undoubtedly heather, followed by herbaceous plants such as knapweed. The main hedgerow nectar resources would be provided earlier in the year by species such as willow, blackthorn and hawthorn.

The All-Ireland Pollinator Plan 2015 - 2020 was published in 2015 and includes a strategy to address pollinator decline and to protect pollination services on the island of Ireland. Almost 70 governmental and non-governmental organisations agreed a shared plan that identifies more than 80 actions to make Ireland pollinator friendly. I agree with Senator O'Donnell that we would not exist without the bees. It is absolutely true. I pointed out on Committee Stage that any regulations I will make under section 8 will take account of our obligations under the EU

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birds and habitats directive, other international nature conservation conventions and the Aarhus Convention on access to information on the environment. It would not be normal practice to list these various directives or conventions in legislation. EU directives are binding on member states, so there is no need to provide for them separately in legislation.

The All-Ireland Pollinator Plan 2015-2020 includes a strategy to address pollinator decline and protect pollination services on the island and its recommendations will be taken into account in developing the regulations. A number of plans inform our decisions, for example, the national biodiversity plan and the action plan for rural Ireland. These are all taken into account. However, it is not proposed to list them in the legislation. That is not to say that we do not think they are important or that we do not take account of them. I am trying to strike a balance here. The input of the specialist groups and experts will be taken into account when reviewing the pilot project.

Senator Alice-Mary Higgins: At one point the Minister appeared to be responding to a previous Committee Stage amendment in respect of EU regulations. There is no amendment here regarding EU regulations. My concern with regard to the pollinator plan is the fact that it is not statutory and is not an EU directive or obligation. In fact, it was made clear to me during my meeting with the Department's officials that it was not statutory or an obligation. That is the reason I am seeking an indication that it is taken seriously. It is not enough simply to state that it exists-----

Deputy Heather Humphreys: I said it will be taken into consideration in developing the regulations.

Senator Alice-Mary Higgins: I know. I am asking the Minister to consider supporting the amendment, which would include the plan. It is at the heart of this issue. The Minister talks about striking a balance. I ask her to ensure that we are not striking a blow in respect of the pollinators of Ireland, our bees and birds and the reproduction of natural life. Without going into detail, and all of us could dwell on this, we know that the red berries are a key source of food in August. They need to be available for bees. We have heard that is what provides the protein, which allows bees to build up their bodies in order that they can survive the winter at a time of significant attrition. It is an extraordinarily reasonable amendment, which is weaker than I would like. It only asks for the Minister to confirm that she will have regard to the pollinator plan, that it will not be subsumed to other commercial interests and that, for example, it will be placed on the agenda for consideration. It is a mild amendment, which I will have to press. I regret that she is unable to take it on board.

Deputy Heather Humphreys: I cannot take the amendment on board but I have said clearly that I will take the recommendations in the pollinator plan into account when I develop the regulations.

Senator David Norris: Then the Minister should be able to accept the amendment.

Amendment put:

The Seanad divided: Tá, 15; Níl, 19.	
Tá	Níl
Bacik, Ivana.	Burke, Colm.
Craughwell, Gerard P.	Burke, Paddy.

Devine, Máire.	Butler, Ray.
Gavan, Paul.	Buttimer, Jerry.
Humphreys, Kevin.	Byrne, Maria.
Lawless, Billy.	Coffey, Paudie.
Mac Lochlainn, Pádraig.	Conway, Martin.
Nash, Gerald.	Daly, Paul.
Norris, David.	Gallagher, Robbie.
O'Donnell, Marie-Louise.	Hopkins, Maura.
O'Sullivan, Grace.	Horkan, Gerry.
Ó Donnghaile, Niall.	Lombard, Tim.
Ó Ríordáin, Aodhán.	Mulherin, Michelle.
Ruane, Lynn.	Murnane O'Connor, Jennifer.
Warfield, Fintan.	Noone, Catherine.
	O'Donnell, Kieran.
	O'Mahony, John.
	Ó Céidigh, Pádraig.
	Reilly, James.

Tellers: Tá, Senators Grace O'Sullivan and Lynn Ruane; Níl, Senators Maura Hopkins and John O'Mahony.

Amendment declared lost.

An Cathaoirleach: Senator Lombard, in his exuberance to get into the other House, voted twice. The amended result is Tá, 15; Níl, 19. The amendment is lost.

Government amendment No. 63:

In page 12, between lines 15 and 16, to insert the following:

“Disapplication of section 40(1) of Act of 1976 to cutting etc. undertaken pursuant to section 70 of Roads Act 1993

9. Section 40(2) of the Act of 1976 is amended by inserting the following paragraph after paragraph (f):

“(g) the felling, cutting, lopping, trimming or removal of a tree, shrub, hedge or other vegetation pursuant to section 70 of the Roads Act 1993;”.”.

Senator David Norris: This is a dangerous amendment and I am not sure to what degree the Government is aware of what it is doing. I have been contacted by various people who are extremely alarmed at it. It appears to contradict sections of the Wildlife Act 2000. That Act is specific in requiring oversight of hedge cutting for health and safety purposes during the nesting season and the amendment removes that protection. It is very regressive. It could result in

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a year-round roadside hedge cutting free-for-all in the name of health and safety, which is one of the things the Wildlife (Amendment) Act 2000 was intended to prevent, so the Government proposes to reverse original Government policy. I very much hope Fianna Fáil will listen to this and make the appropriate decision as to which way to vote.

Section 40 of the Wildlife Act restricts hedge-cutting from 1 March to 31 August, the closed period, in order to protect wildlife. Road safety issues during the closed period are defined by the roads authority. The roads authority has the power to issue notices to landowners to deal with health and safety issues on public roads under section 70 of the Roads Act. There is some uncertainty as to whether a landowner who is served a section 70 notice by the roads authority during the closed period is exempt from the Wildlife Act. An amendment was proposed by Senators Grace O'Sullivan and Lynn Ruane to clarify this situation by stating explicitly that notices served under section 70 of the Roads Act would be exempted, and the Minister agreed in principle to this amendment on Committee Stage last November. Section 8(2) of the Heritage Bill, as currently amended, permits landowners to cut roadside hedges in the month of August subject to ministerial regulations. Road safety issues during the month of August are self-defined by landowners but are subject to regulation. The new Government amendment goes beyond just exempting section 70 notices; it appears, at least to me, to remove the restriction in section 40 of the Wildlife Act on hedge-cutting by landowners for health and safety purposes. Road safety issues all year round would be self-defined by landowners with no regulation. This is a potentially disastrous measure-----

Senator Fintan Warfield: Hear, hear.

Senator David Norris: -----whereby landowners could decide to cut hedges without any regulation at all. Section 8(2) of the Wildlife Act would therefore be completely overridden. The amendment to section 8(2) of the Heritage Bill is intended to make sure that road safety issues during the month of August are self-defined by landowners but are subject to regulation, and this regulation is now being removed. What was proposed and agreed in principle by the Minister last November was that road safety issues covered by a section 70 notice would be exempt from the Wildlife Act, but the actual effect of this amendment is that road safety issues all year round would be self-defined by landowners with no regulation, and for that reason section 8(2) of the Wildlife Act would be overridden. This is a disaster. I am not sure whether it was intended - I cannot believe it was - but having pointed it out now, I hope the Minister will rethink her position on the amendment, which is a last-minute effort and is highly dangerous. We on this side of the House at least have been very much warned against it and asked urgently to oppose it in the House.

Acting Chairman (Senator Catherine Noone): Does the Minister wish to respond?

Deputy Heather Humphreys: Yes.

Senator Alice-Mary Higgins: Others are indicating.

Acting Chairman (Senator Catherine Noone): I did not see anyone else indicating. I call Senator Higgins.

Senator Alice-Mary Higgins: I also think-----

Acting Chairman (Senator Catherine Noone): The Senator must make her indications visible to me. I did not see any indication.

Senator Alice-Mary Higgins: I apologise. We both indicated on the same microphone.

Acting Chairman (Senator Catherine Noone): That is no problem.

Senator Grace O’Sullivan: As Senator Norris just outlined, it has really shocked us to see this amendment to the Bill. We had felt we had made progress over the course of the past months, and then we see this, which we feel is absolutely regressive. I would like to hear from the Minister exactly what she intends by tabling this amendment. The amendment reads “Dis-application of section 40(1) of Act of 1976 to cutting etc.”. When does the expression “etc.” come into such a Bill?

Senator David Norris: Exactly.

Senator Grace O’Sullivan: When I saw the expression “etc.”, I asked myself what it meant. We are on Report Stage of the Bill and there is a proposed amendment referring to “cutting etc.”. What does it mean? This is absolutely regressive. I am very concerned that every step we felt we had made with the Minister over the course of the past few months has now been obliterated. I very much hope she can give us some sense that we are not misreading the amendment and that there is something in it that will help us to understand because, as it stands, my concern is that we are back to square one. The Bill, as Senator Norris said earlier, is absolutely grubby and it needs to be thrown in the bin. I am very frustrated to see what the Government has proposed here. It represents destruction of heritage, destruction of our hedgerows and destruction of the beauty of the Irish landscape. It is an absolute disgrace. I am appalled and upset by what has happened today. We are on Report Stage. We are running out of time. Our natural heritage, the acres and acres of hedgerows of our hedgerow system, pollination, birds - every aspect of our hedgerow system I see being eroded in one late, miserable, fell swoop, and I am very disappointed.

Senator Alice-Mary Higgins: I wish to be very clear about what this amendment proposes. I question whether it does genuinely arise from Committee Stage. I ask that the Minister not suggest in any way that the amendment represents an extension of or any aspect of the spirit of the amendment we proposed on Committee Stage. On Committee Stage, my colleagues and I supported an amendment which sought to deal in a very practical way with section 70 orders, which allow the cutting of hedgerows. We engaged genuinely with issues of road safety.

Let us be clear that there are two matters here: section 70 of the Roads Act 1993 and section 40(1) of the Wildlife Act. It is crucial we get this right. Section 40(1) of the Wildlife Act concerns the protection of our wildlife and sets out that: “It shall be an offence for a person to cut, grub, burn or otherwise destroy, during the [closed season], any vegetation growing on any land”. Subsection (2) of section 40 of the Wildlife Act offers a number of exemptions, mainly reasonable ones. Meanwhile, section 70 of the Roads Act 1993 states that where there is a road safety concern, a landowner is obliged to take reasonable action to address that concern. There is the natural heritage imperative and the obligation in respect of road safety. This system has been in place for over 24 years. The Roads Act 1993 came subsequent to the Wildlife Act 1976 and had regard to it. According to the system we have had in place, section 70 orders may be issued by a local authority to allow a landowner to fulfil his or her section 70 obligations on road safety. That is the balance that has been struck. In 2000, we sought to affirm further that balance and we produced legislation to make very clear the importance of the balance between regulation and the duty to safety.

5 o'clock

That is why we have a system in place which allows a landowner to take action where there is a road safety issue. Such an order can be issued 365 days of the year. We propose to go further. We recognise that, in many cases, a landowner or concerned citizen might identify an issue before the local authority does. We seek to provide that such a person would be able to request a section 70 order from a local authority, regulated under clear criteria, permitting the individual to take action to ensure road safety. In good faith, we have looked to strengthen the section 70 order permit.

The provision the Minister has put before us goes against the spirit of what has happened over two decades. It is a move to get rid of the order and permit issuing system altogether. It states that under section 42 of the Wildlife Act, we will add, as an exemption, any landowner who feels he or she has a concern about road safety. Such landowners are, therefore, to be exempt from obligations under sections 40 and 41 of the Wildlife Act. That means cutting, grubbing, burning and destroying are back on the table. When we repeal the obligations, we will make it clear that it is now permitted to do these things and all of the changes we have put in place will become meaningless. It does a deep disservice to the amendment proposed by Fianna Fáil which sought to provide for a reasonable accommodation on roadsides in the month of August. This is an extraordinarily opportunistic move. I know that the Minister will talk about a tree falling in the middle of the night and ask how people will get a section 70 order at 5 a.m. Trees have been falling in the middle of the night for 23 years, including in the 16 or 17 years since the Act of 2000. We have moved on and accommodated it. Now, right before we come to the conclusion of this debate, we are seeing an amendment being snuck in which will allow any landowner to take any action he or she personally deems to be appropriate for health and safety reasons in respect of a roadside hedge at any time of year. Regulation is out the window, as are section 70 orders. The role of the local authorities is being absolutely disregarded. The amendment is an insult to them and this House. It is an insult and an injury to our natural heritage. It is another abrogation of responsibility. We are washing our hands. It is shameful that a Minister with responsibility for heritage would seek to gut the Wildlife Act of which she is guardian.

Acting Chairman (Senator Catherine Noone): I remind Senators that the debate is to conclude at 5.30 p.m. Brevity should be the order of the day. While the Senator can speak for as long as she wishes, it takes from the time we can spend on other amendments.

Senator Kevin Humphreys: We have nearly 25 years of history in respect of this matter. Fianna Fáil, Fine Gael and the Labour Party have been in government during that time and all three parties made progress in protecting the environment. The unintended consequences of this amendment - I believe they are unintended - will be enormously harmful. It is not that there are hundreds and thousands of farmers lined up and ready to drive a coach and four through the legislation. The vast majority of farmers are responsible. However, the legislation is in place to regulate those who do not care about the environment and will not protect our heritage and hedgerows. The amendment will allow a gap to open up. I, therefore, ask the Minister to reconsider and redraft it.

It has become clear over the course of the debate that the Bill is with the wrong Minister. It is not about heritage. We have spent more time discussing road safety and agricultural matters. Some 80% of tourists to Ireland talk about our green economy, the beautiful countryside, hedges and hedgerows. I ask the Minister to withdraw and reconsider the amendment. It is disingenuous to propose an amendment at this stage that could have such severe consequences

for our natural heritage.

Senator Paul Daly: I would like to hear clarification from the Minister. I would like to hear what she perceives the consequences of the amendment being omitted to be. I have heard everybody else's opinion, but what would be the consequences if the amendment was not accepted today?

Acting Chairman (Senator Catherine Noone): If Senators indicate to speak, I have to allow each of them to do so.

Senator Marie-Louise O'Donnell: I asked this question earlier. Who is responsible for hacking hedges along a motorway? If the county council, the Government or some State agency is responsible, God help us in the free-for-all when it comes to other hedges.

I agree with everything Senators Grace O'Sullivan and Alice-Mary Higgins have said. The eye is off the ball. Bringing in the issue of road safety is crazy. Everybody knows that it has to do with speed and substances. Senator Grace O'Sullivan puts it well when she describes it as the destruction of who and what we are. I can see it every day, done by supposed agencies of the State. If it was a free-for-all engaged in by individuals, where would we be? I would like some clarification and security. My flip-flopping friends in Fianna Fáil might like it also.

Senator Paul Daly: I thank the Senator for her compliment.

Senator Gerald Nash: On amendment No. 63, Senator Alice-Mary Higgins, with our group, would like to propose that the Minister consider rewording the amendment to read: "cutting etc. undertaken pursuant to an order under section 70 of Roads Act 1993". We believe this would address the concerns expressed if the Minister was to consider it.

Deputy Heather Humphreys: This matter was raised on Committee Stage. I was asked to bring the Wildlife Act into line with the Roads Act. The House is aware that there is a provision under section 72 of the Roads Act which obliges landowners to ensure a tree, a shrub, a hedge or other vegetation on their land is not a hazard to road safety. There is also a provision which allows a local authority to serve notices on landowners to undertake works such as hedge cutting and clearance for safety purposes along public roads. However, these provisions under the Roads Act conflict with the exempted activities under section 40 of the Wildlife Act, whereby such works may be undertaken by public authorities such as a local authority but not by individual landowners. Therefore, I have brought forward this amendment which provides that under the provisions of section 70 of the Roads Act works to be undertaken for safety purposes along public roads by landowners are considered to be an exempted activity under section 40 of the Wildlife Act. The amendment will harmonise both pieces of legislation and eliminate the confusion that has arisen on the issue during the years.

I understand the concerns raised by Senators. However, the fact is that there is a conflict between the roads legislation and the wildlife legislation. It makes no sense to have a direct conflict and contradiction between two separate pieces of legislation. It is important for good governance that the entire body of law which regulates how citizens are governed be clear, unequivocal, consistent and joined up. To have it otherwise leads to confusion, misunderstanding and inconsistency for citizens in practical adherence to the law and for the courts in interpreting and dealing with breaches of the law. If a landowner becomes aware that vegetation in a roadside hedge belonging to him or her is giving rise to a significant hazard for people using that road and could cause an accident, possibly resulting in serious injury or death, what does

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the law state to him or her? Under the Wildlife Act, as things stand, it could be an offence for the owner or occupier to take reasonable steps to deal with the hazard during the prescribed closed period. On the other hand, the same owner or occupier is obliged under section 70(2)(a) of the Roads Act to take all reasonable steps to ensure such vegetation is not a potential hazard. What we are talking about is something that is very obviously a potential hazard for road users. This divergence in the law makes no sense. The amendment I am bringing forward has been designed to harmonise the two statutes to clear up the confusion and remove the conflict. The provision in the Roads Act is already on the Statute Book. I will make a couple of points about the provision. It can only be invoked where there is a hazard or potential hazard and the owner or occupier may only take reasonable steps to deal with it. The key word is “reasonable”.

Senator Alice-Mary Higgins: How is it to be determined?

Deputy Heather Humphreys: It has to be reasonable-----

Senator Alice-Mary Higgins: Against whom is it to be invoked?

Deputy Heather Humphreys: If a landowner-----

Senator Alice-Mary Higgins: It is entirely subjective.

Deputy Heather Humphreys: If a landowner cuts a roadside hedge during the prescribed period, other than for the purpose of dealing with a road safety issue, or takes steps which are not reasonable, he or she is guilty of an offence under the wildlife legislation. The amendment seeks nothing more than to introduce certainty and avoid confusion. The conflict has been identified to my Department. There have been reports from wildlife officers stating it is a grey area which needs to be clarified. What I am trying to do is bring clarification to the matter. If the amendment is not accepted, a person will be obliged to remove unsafe growth or branches but will also be prohibited from doing so. That is not fair to anybody because he or she is being told, on the one hand, that he or she has to remove it and, on the other, that he or she cannot do so.

Senator Alice-Mary Higgins: That is what the section 70 mechanisms have been designed to address.

Deputy Heather Humphreys: Nothing-----

Senator Alice-Mary Higgins: I apologise, but I think we need to be very clear.

Acting Chairman (Senator Catherine Noone): The Minister to continue, without interruption, please.

Senator Alice-Mary Higgins: This is a fact. We need to be clear. It is being suggested there is not a mechanism and that the mechanism is in place.

Acting Chairman (Senator Catherine Noone): The Senator has made her contribution.

Senator Alice-Mary Higgins: We need to be clear.

Acting Chairman (Senator Catherine Noone): The Minister to continue, without interruption, please.

Deputy Heather Humphreys: Nothing we do here will change the obligations under the

Roads Act which apply all year round. All we are seeking to do is to remove the conflict that one must deal with safety issues and at the same time one cannot do so during the closed period. The Roads Act states one must do something with a particular branch hanging out over the road because it is dangerous and will cause an accident. On the other hand, the Wildlife legislation states that if it is during the closed period, it cannot be touched. All I am addressing is the exceptional circumstance where it is hazardous in order to ensure road safety. I am not talking about cutting the hedge but about certain exceptional circumstances that are outlined.

Senator Alice-Mary Higgins: I am afraid the Minister is misleading the House.

Deputy Heather Humphreys: The fact that there have been confusion and conflict for nearly 25 years does not mean that we should ignore the issue forever. Regional staff of the NPWS of my Department have had difficulties in understanding where they stand when dealing with issues they come across in pursuing their duties. It has been brought to my attention that they cannot enforce the law because they are unsure of where they stand. To help to clarify matters, advice received from my Department's legal adviser pointed to the conflict which had led to confusion. I am trying to implement the legal advice in the amendment. I am not trying to do anything that is not-----

Senator Alice-Mary Higgins: This is very radical.

Deputy Heather Humphreys: Excuse me.

Acting Chairman (Senator Catherine Noone): The Minister to continue, without interruption, please.

Senator Alice-Mary Higgins: My apologies.

Deputy Heather Humphreys: What I am trying to do is to regulate to make sure it will be in compliance with the Roads Act. It should not interfere with any other part, except when there is a hazardous danger. It is very clear what a hazardous danger is.

Senator Alice-Mary Higgins: The Minister has said she is trying to regulate. There is no element of regulation whatsoever in the amendment.

Deputy Heather Humphreys: What I will say-----

Acting Chairman (Senator Catherine Noone): At this point I will ask if the amendment is being pressed.

Senator Alice-Mary Higgins: We will leave it; it is fine. I will not speak again.

Deputy Heather Humphreys: I want to be very clear. I am not trying to ruin all hedges in the country. The legislation refers to trimming back one season's growth on hedges along the side of the road. It does not relate to every hedge in the country.

Senator David Norris: The Minister is flailing and thrashing.

Deputy Heather Humphreys: What I am saying is-----

Acting Chairman (Senator Catherine Noone): The Minister to continue, without interruption, please.

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Senator Alice-Mary Higgins: Through the Chair.

Deputy Heather Humphreys: If there is a tree with a branch hanging out over the road that will cause an accident, please do not put an individual, whether it be a farmer or a land-owner, in the awful position where, on the one hand, he or she has to comply with the Roads Act and, on the other, will be contravening the Wildlife Act. That is all I am trying to do. The idea that I am trying to sneak something in to allow people to cut hedges is absolutely outrageous. I have been here for over 20 hours at this stage and tried to work with the Seanad.

Senator David Norris: As have we.

Deputy Heather Humphreys: This is not a sneaky attempt or anything like it-----

Senator David Norris: No one said it was.

Senator Kevin Humphreys: On a point of order-----

Acting Chairman (Senator Catherine Noone): I can hear a point of order.

Senator Kevin Humphreys: Will the Minister yield for one question which is allowed for under Standing Orders? Will the Minister agree to do so?

Acting Chairman (Senator Catherine Noone): It is not a matter for the Minister; I am in the Chair.

Senator Kevin Humphreys: Standing Orders allow the person speaking to yield to a Senator to ask a question.

Acting Chairman (Senator Catherine Noone): The Senator is talking about making an intervention.

Senator Kevin Humphreys: An intervention, yes.

Acting Chairman (Senator Catherine Noone): The Senator can only make a point of order.

Senator Kevin Humphreys: I totally accept the point on the amount of time the Minister has spent in the Seanad. That is why I referred to unintended consequences. The Minister has outlined the process involved. Her offices have highlighted the contradiction in the law.

Acting Chairman (Senator Catherine Noone): This is a contribution, not a point of order.

Senator Kevin Humphreys: It is an intervention.

Senator David Norris: It is very interesting. Please proceed.

Senator Kevin Humphreys: Will the Minister outline why the amendment was not brought to the House on Second Stage or Committee Stage? Why are we only getting to deal with it on Report Stage when we cannot fully discuss and debate it-----

Acting Chairman (Senator Catherine Noone): At this stage, I have to put the question.

Senator Kevin Humphreys: The Minister has outlined that the issue has been highlighted on several occasions, yet we are only seeing the amendment on Report Stage. Why was it not

mentioned on Second Stage or Committee Stage?

Acting Chairman (Senator Catherine Noone): The Minister-----

Senator Alice-Mary Higgins: I also have a point of order to raise. The Minister has stated she is speaking about a period of one month. As I understand it - the Minister can correct me if I am wrong - the amendment will cover the 12 months of the year.

Acting Chairman (Senator Catherine Noone): The only person who can now speak to the amendment is the Minister. Every other Senator has spoken. Would the Minister like to come back in on it?

Deputy Heather Humphreys: I indicated on Committee Stage that I would be bringing forward this amendment.

Amendment put:

The Seanad divided: Tá, 19; Níl, 16.	
Tá	Níl
Burke, Colm.	Bacik, Ivana.
Burke, Paddy.	Devine, Máire.
Butler, Ray.	Gavan, Paul.
Buttimer, Jerry.	Higgins, Alice-Mary.
Byrne, Maria.	Humphreys, Kevin.
Coffey, Paudie.	Mac Lochlainn, Pádraig.
Conway, Martin.	McDowell, Michael.
Daly, Paul.	Nash, Gerald.
Gallagher, Robbie.	Norris, David.
Hopkins, Maura.	Ó Domhnaill, Brian.
Horkan, Gerry.	Ó Donnghaile, Niall.
Lombard, Tim.	Ó Ríordáin, Aodhán.
Mulherin, Michelle.	O'Donnell, Marie-Louise.
Murnane O'Connor, Jennifer.	O'Sullivan, Grace.
Noone, Catherine.	Ruane, Lynn.
O'Donnell, Kieran.	Wilson, Diarmuid.
O'Mahony, John.	
O'Reilly, Joe.	
Reilly, James.	

Tellers: Tá, Senators Maura Hopkins and John O'Mahony; Níl, Senators Alice-Mary Higgins and Grace O'Sullivan.

Amendment declared carried.

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An Cathaoirleach: As it is now past 5.30 p.m., I am required to put the following question in accordance with the order of the Seanad of this day: “That the Government amendments undisposed of are hereby made to the Bill; that Fourth Stage is hereby completed; that the Bill, as amended, is hereby received for final consideration; and that the Bill is hereby passed.”

Question put:

The Seanad divided: Tá, 22; Níl, 16.	
Tá	Níl
Burke, Colm.	Bacik, Ivana.
Burke, Paddy.	Craughwell, Gerard P.
Butler, Ray.	Devine, Máire.
Buttimer, Jerry.	Gavan, Paul.
Byrne, Maria.	Higgins, Alice-Mary.
Coffey, Paudie.	Humphreys, Kevin.
Conway, Martin.	Mac Lochlainn, Pádraig.
Daly, Mark.	McDowell, Michael.
Daly, Paul.	Nash, Gerald.
Davitt, Aidan.	Norris, David.
Hopkins, Maura.	Ó Donnghaile, Niall.
Horkan, Gerry.	Ó Ríordáin, Aodhán.
Lawless, Billy.	O'Donnell, Marie-Louise.
Lombard, Tim.	O'Sullivan, Grace.
Mulherin, Michelle.	Ruane, Lynn.
Murnane O'Connor, Jennifer.	Warfield, Fintan.
Noone, Catherine.	
Ó Domhnaill, Brian.	
O'Donnell, Kieran.	
O'Mahony, John.	
O'Reilly, Joe.	
Reilly, James.	

Tellers: Tá, Senators Maura Hopkins and John O'Mahony; Níl, Senators Grace O'Sullivan and Lynn Ruane.

Question declared carried.

Sitting suspended at 5.45 p.m. and resumed at 6 p.m.

6 o'clock

**Report of the Joint Committee on the Future Funding of Domestic Water Services:
Motion**

Senator Paudie Coffey: I move:

That Seanad Éireann accepts the Report of the Joint Committee on the Future Funding of Domestic Water Services, copies of which were laid before Seanad Éireann on 12th April, 2017.

Minister of State at the Department of Housing, Planning, Community and Local Government (Deputy Damien English): I am pleased to address the Seanad on the report of the Joint Committee on the Future Funding of Domestic Water Services.

Senator Paul Gavan: The Minister of State is not.

Deputy Damien English: I am always happy to be in this lovely House surrounded by people who have positive contributions to make. This is an important motion and I am glad we have the report. It is great to have had an opportunity in the Dáil last night and in this House this evening to debate the report. It is important that this work will be completed before Easter and that timelines will have been adhered to. The Dáil voted to accept the report's recommendations earlier and I hope the Seanad will do the same. That would be great in order that we can draw a line under this stage of the process and move forward to legislate for what has been democratically agreed by the committee.

Like the Minister for Housing, Planning, Community and Local Government, I recognise and respect the diverse views that people have on domestic water and how we fund and manage it, but I also recognise that it is a very emotive issue for many people. We have had many discussions on this in both Houses and I have always said that people have principled views on this issue. I can understand them better than those who have political views for other reasons. However, when people have genuine principled views, that is acceptable to me.

The committee attempted to bring everyone together and agree some common ground to move the issue forward. It is important to recognise the work of the committee and its Chairman, Senator Ó Céidigh. I compliment him on all the work he did to bring the report to both Houses and to achieve a compromise that is acceptable to the majority of us, which is what democracy is about. That was hard work, which took many hours and committee meetings. Many members were prepared to do that work but it takes a chairman to pull everything together. I congratulate him on that.

We have agonised about this for too long and neglected our infrastructure in the meantime. There has been an attempt over the past few years to use the single water utility to direct increased investment at our water and wastewater infrastructure, which we have to do as a country and which we all agree has to happen. It did not happen in the past because we were having this debate. When the Government was formed a year ago, there was agreement to keep investment going and to retain Irish Water to direct that investment and secure the money required. That investment must continue in the years ahead. It was a separate issue from levies and charges, wastage and the polluter pays principle.

It was important to have that discussion. We need to grasp the nettle and move on with a system that responds to the various viewpoints, while delivering a water services infrastructure that meets the needs of our society and our expanding economy. It is about what we have today in society but also about what our plans are in respect of job creation, expansion and deliver-

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ing an additional 500,000 houses all over the country over the next 15 to 20 years. We would like jobs to be dispersed nationwide and we will do that. We have proven over the past four or five years as a country what we can do when everyone comes together with the private sector helping to reduce the unemployment rate from 15% to 6%. Water services infrastructure can contribute to job creation and business expansion.

I welcome the committee's report. It provides a sound basis for Ireland to move forward on an issue and take the issue of how we fund water off the table. Let us take a moment to remind ourselves of the process by which the committee reached this point. Its terms of reference were clear. It was tasked with considering and making recommendations on the report of the expert commission published in November 2016. The commission proposed the following: the funding of water services for normal domestic and personal use should be out of taxation; excessive or wasteful use of water should be paid for directly by the user by tariffs; and excessive or wasteful use of water will be discouraged by charging for such use and therefore is consistent with the polluter pays principle. The commission argued that this model would provide for clarity around long-term investment, support the application of the polluter pays principle and meet the requirements of basic equity and fairness. The commission's thinking was sound and provided a basis for moving forward through the committee. Commissioner Vella, in his letter to the Minister, Deputy Coveney, last January also emphasised the central importance of full cost recovery and encouraging sustainable consumption through metering to our future funding model.

Over the last four months the discussions at the committee have been wide ranging and intensive. The members can clarify that better than me but that is the feedback I am receiving, even from the private meetings. The committee had input from the chair of the expert commission, the European Commission, regulators from other jurisdictions, our policy makers and regulatory bodies and other stakeholders from the water sector. There was much consultation. People got to make their presentations and bring their views to the table. There was plenty of discussion and input, which was correct. That is the way it was meant to be. The rubber has hit the road over the last couple of weeks, especially as the work of the committee moved towards conclusion. The draft text presented led to discussions in the last fortnight that have been robust and on occasions quite fraught. We have come to this process willing to engage constructively and to seek a compromise outcome that respects people's differing perspectives while meeting certain fundamental requirements. Most people approached it in that way.

The Government's consistent objective over the last four months at the committee has been to ensure that the final report clearly reflected these fundamental requirements. We did this for a number of reasons, including the need to make clear to the European Commission precisely how Ireland intends to go about meeting its inescapable EU obligations. However, more importantly, the Fine Gael members want to be clear with the Oireachtas and with the Irish people and clearly to set out how the model would work and to whom it would apply. Other parties had a similar approach, with the same desire to get that message across.

Early drafts of the report last week raised significant concerns for the Fine Gael members of the committee and more broadly for me, the Minister, Deputy Coveney, and for the Government. It appeared that the committee report would propose a model that the Minister, Deputy Coveney, believed, on the basis of advice before him, would clearly fail to satisfy our EU obligations for the sake of a short-term victory with a significant price tag in terms of fines which the Irish taxpayer would ultimately have to fund. I welcome the fact that the report has come back on track now with the benefit of further legal advice around certain key aspects. Every-

body was able to reach an understanding on that and reach a consensus decision.

The committee has now agreed that households responsible for the wastage or excess usage of water would be required to pay, but that a generous allowance would apply for households consuming normal volumes, paid for through taxation. The key is the generous allowance. The majority of people I have met over the years during this discussion understand and accept the polluter pays principle. They accept that people must pay if they waste water. However, there was always a fear that one could get a bill that one could not afford and that the general allowance would be too low and people would not be able to afford usage for their daily lives. That was a genuine fear for some. Others had political motives and I separate them from genuine people. Genuine people had that concern. The committee has dealt with that fear that people could get a bill they could not afford or that they would be charged too much for their normal usage of water. The committee has done its job and put that to bed. It has agreed that average consumption would be determined independently by the Commission for Energy Regulation and that only those households using 70% more than average consumption would pay. It has also agreed that the basis for measuring consumption would be the existing meters, domestic as well as district meters, and that all new builds or refurbishments would be required to be fitted with meters.

All of this is in the context of the forthcoming discussions at the housing committee on the issue of preparing for a referendum to enshrine the public ownership of public water infrastructure in the Constitution. Again, that allays people's fears. Even though the law currently prevents anything happening until the Houses agree and there is a plebiscite, people wanted the position clarified further. Enshrining it in the Constitution through a referendum is the best way to bring that clarity and allay that fear.

The Minister, Deputy Coveney, outlined a number of inescapable truths to the Dáil last night. He said that we require significant investment in our water infrastructure to address years of under-investment and to support a modern economy. I said that at the beginning of my contribution because it is a key issue. We must invest in our infrastructure. We did not do it for decades and it is important we move on from that. I believe everybody agrees on that. We also cannot walk away from our EU obligations, including those we face under the Water Framework Directive. The European Commission will not tolerate continued non-compliance by Ireland and has indicated a willingness to go the distance to force Ireland into compliance through the European Court of Justice. We will face significant penalties if that happens.

As Deputy Coveney said, we have an opportunity now to make responsible, long-term, sustainable decisions around how we fund our domestic water services, which include treated water and dealing with wastewater. It is often missed in this debate that treated water and wastewater can be very costly to deal with. The Minister is absolutely correct in all of these points. The Government has a serious responsibility to lead and to legislate for a responsible package that gets Ireland to where it needs to be. Following the Dáil and Seanad votes, the Department will commence drafting a Bill on the basis of the report and will engage with the Office of the Attorney General as part of this process. I hope this House will be able to pass this motion tonight.

Like the Minister, Deputy Coveney, last night, I wish to record my thanks to the Chair and all members of the committee for their deliberations. That includes the substitutes. It is hard to commit to a three or four month process so there were substitute members as well, which was important. I also thank Senator Coffey for tabling the motion and I thank the Fine Gael

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members on the committee. Other parties will speak on their contributions as well. I am aware of the work that was required. Trying to find a compromise can take time. Not everybody is completely happy, but the majority are happy. Most people would regard this as major progress on the position over the last couple of years, and that is the key. We can move on from something that has been ongoing for a long time. Others in the House have more scars than me from this issue. It has been going on for a long time, so it is time we put it to bed. I thank the House for its time.

Senator Jennifer Murnane O'Connor: I thank the Minister of State. I wish to say “well done” to the Chair and the members of the water committee who have worked so hard in the last few months. The committee had 23 meetings. They were long and hard and there were times when it almost came to blows, but today we are where we are. The realistic outcome is that 92% of people will not have water charges. That is the end of water charges. Over the last few years €465 million has been spent on metering. In 2015, the Fine Gael and Labour Party charges regime cost the State €22 million. Now, we have moved on.

The Minister of State is correct that it is time to move on. We must move on and the people need to see us moving on. I welcome the comment by the Chief Whip, Deputy Regina Doherty, that it was a catastrophe and a cock-up. She was right, because it was. We can all say what we wish. I understand Sinn Féin is voting against the abolition of water charges today. That is disappointing. In future, the existing water charges regime will be abolished-----

Senator Paul Gavan: Will we send you the bill?

Senator Jennifer Murnane O'Connor: -----and water services will be funded through Exchequer funding. Households that have paid their bills will be refunded. This is crucial for the people who have paid their bills. There will be no future metering programme for existing homes. A referendum on the public ownership of Irish Water will be held. The independent advice indicates that this will satisfy EU legal requirements. Again, what the Minister said in that regard is crucial. A detailed report on ensuring equal funding for rural and urban dwellings will be published and used for future budgeting.

The vast majority of householders will no longer pay water charges. Those who wilfully and excessively abuse water will be fined. Many on the hard left of Irish politics have sought to claim that the report failed to deliver what Fianna Fáil had sought. However, four questions are answered today. Have charges been eliminated? The charges are gone for 92% of households. Will householders be receiving bills through their letterboxes? No. We will tackle the abuse of the water system. We have put a system in place that will ensure Ireland meets its European obligations. Those four questions have been answered.

Fianna Fáil has done what it said it would do in the 2016 election campaign. We did not win last year's election but we decided to be constructive and use our mandate to maximise benefits for voters and our country. As part of the agreement we reached to facilitate the establishment of a Government we set in train the events that led to yesterday's report. Those who sat on the sidelines, complained and did nothing to contribute did not deliver on their commitments. We did. Today, 92% of Irish people will not have water charges. That is a lot. It is a bill they could not afford and they are not worried about it now. There will be no bills going through their letterboxes.

Finalising the State's position on water charges, as we have done, allows us to focus on

other issues and move forward. As the Minister said, there are challenging times ahead of the country, namely, housing, schools, health care and protecting ourselves from the risks associated with Brexit. The process from now on is absolutely clear. It is the obligation of the Government to quickly draft these changes into legislation and finally put behind it years of arrogant badly devised mis-mash water policies, which is what they were.

I am glad. We have had lots of compromise. We, in Fianna Fáil, had to compromise. What the people need to understand is that 92% of people will not have water bills and anyone who does exceed his or her allowance, will have a very small bill. We will stand firm on that. I note the Government will honour its commitment too.

Senator Pádraig Ó Céidigh: Ní úsáidfidh mé cuig nóiméad.

I thank the Minister of State and everybody for their nice comments and comments of support. It is much appreciated. As the Minister of State will be aware, I am new to these Houses and it is my first time taking on a challenge like this. I very much appreciate the Minister and the Minister of State's confidence in me, but also both Houses of the Oireachtas supporting my name going forward as Chair. Frankly, I was apprehensive. People told me, "This is a hospital pass. It will not work out." However, I am probably the kind of guy for whom the bigger the challenge, the more I try to jump the fence in as much as it is possible.

From day 1, the support and commitment I got from every member of the committee was 110%. The commitment and the work that everybody put in was significant. As was said, there were 23 meetings. The 23 meetings were only a very small part of the overall amount of work that members did. I found out what real positive politics can be like in this country where we went on and said, "Look, there is a big challenge here. Let us together try and work it out." There were members coming from different philosophies and different backgrounds, but the one certainty right in the middle of the whole lot was that they all wanted to achieve a result for a better Ireland, as they saw it, and I fed into that. I felt passionate about this.

For me, personally, it is one of the greatest challenges, if not the greatest challenge, I have ever had in my life - I have been involved in business and many other aspects like that. If we can get results from something that was as challenging as this, and we can, certainly there is so much more we can do together on behalf of the Irish public. We can punch way above our weight. One thing I would like to do - it has been part of this House - is to let us start doing it.

It is also important that the Minister of State and the Minister entrusted me, a Seanadóir, to chair this committee. I understand that does not happen often. This is not about me, but there are many Senators - Senators here and Senators who are not here this evening for whatever reason - who have significant skills, talents and abilities, and I ask the Government to utilise this House as much as possible. There is a lot more we can and want to do, to support the Minister and support the Government, but primarily supporting the Irish people. I encourage the Minister to work on bringing us much more into the fold. I am only one Senator. There are 59 others here who, I believe, can make as much, if not more, of a contribution than I can. I had a small role in the whole lot.

All of the 20 members made a strong commitment. The Senators here, Senators Paudie Coffey and Grace O'Sullivan, made a very significant and important contribution. One can look at various lines and recommendations where one sees their input has been there in a positive sense. Long may this Seanad continue. Long may they continue to give really strong service

to the Irish people.

Right at the centre of the work of all of us are the people and what is in their best interest. Frankly, I was looking at it from a point of view of health. The Minister of State mentioned it. They have already started working on analysis of the water, the wastewater of the water we consume, of the showers and baths we have. That is having an effect on our health. That will be the single biggest issue. For me, probably the most important recommendation of all is that we have one body which is focusing on the health aspect of domestic water in the future. That happens in other countries. There are various parts of the recommendations that introduce best practice from other countries into it. That, for me, is hugely important. This is fundamentally a health issue, as well as very much an environmental issue which is also very important to me.

I might leave it at that. I merely made a few quick notes. I thank everybody, those who voted for and those who voted against, for their contributions. Those who voted against made a significant contribution too and I very much appreciate that. They really added to it.

I would say, as maybe my second last point, that between 80% and 90% of the recommendations were agreed unilaterally. We did not have to contest if they were agreed across the table by every one of the 20 members. There were a small number of issues that we had to have a number of votes on, but it was confined to a small number of areas.

Tá mé an-bhuíoch den Chathaoirleach as ucht deis a thabhairt dom labhairt. I am privileged to have an opportunity to play a small part in this, but there was a committee of 20 extremely dedicated members. Everybody played a big part in it. It is like a football team. One will never win any game just with a full forward or a corner back; it takes everybody. I refer to all the political parties and all the individuals. Those who voted overall in favour and those who voted against made a big contribution. I hope that, just like in the Dáil, the Seanad supports this report and we move forward because there are a lot of other pressing issues that we can help support the Irish people with. Gabhaim buíochas leis an Aire Stáit.

Acting Chairman (Senator Catherine Noone): I am sure we all appreciate and agree with Senator Ó Céidigh's comments with regards to this House and its Members.

Senator Paudie Coffey: As spokesperson for Fine Gael, I was happy to move this motion in the House and to seek its adoption by Members of Seanad Éireann. To follow on from what our colleague, Senator Ó Céidigh, has said, I want to put on the record that this House was represented front and centre, and strongly, by four Senators. Certainly, the Chairperson, Senator Pádraig Ó Céidigh, and our colleagues, Senators Grace O'Sullivan and Lorraine Clifford-Lee, and myself were all honoured. Speaking for myself, I was particularly honoured to serve on this committee which, I believe, has done the State some valuable service.

If I can, I will give special mention to Senator Ó Céidigh who, I believe, was an outstanding Chairman and took on a role in a very difficult circumstance where an issue caused much division and emotion in this country. I say to Senator Ó Céidigh, and put it on the public record here today, that he was a fair, independent, impartial and constructive Chairman. He was strong and he was supportive to all members. All views were respected, heard and facilitated, and what more could any Chairperson do? I thank Senator Ó Céidigh for that.

The committee produced a majority report. Many diverse views were heard. We heard expertise from all sectors that had to do with public water services in the country - with both national and international experts - where we had the issues teased through and worked through.

The focus at all times was to find solutions. I believe, as Senators do, that the Irish people demand solutions and a sustainable water system for the country.

I commend Senator Ó Céidigh for his work. Indeed, I commend all my committee colleagues. As I said, they have done the State some valuable service and they can be proud.

The history of water services has been problematic for this country. It has been unsustainable where we spent over €1 billion a year and had nearly 50% of treated water leaking into the ground. We had boil water notices all over the country, we had lead pipes that are unhealthy servicing mains water and we had raw sewage flowing out into the rivers, lakes and oceans. Unfortunately, that is still happening. I think we are all agreed that was no longer sustainable and a future of sustainable water systems was necessary.

I cannot complete my statement without saying that we must recognise those who have provided their own water in this country for many years and paid for it themselves. I refer to the many thousands who are in group water schemes and the many thousands who have their own private wells and septic tanks. I am glad that they are being recognised and acknowledged in this report also. That is only right.

I do not want to be too political here because that will not achieve anything. Some parties might say that we were strong armed into water rates or water charges when the troika came in, and that is possibly the case. That is possibly the case but none of us can get away from the fact that we need to invest in our infrastructure. I have always stood four square behind the establishment of Irish Water as a national utility, and it is one of which we can be proud of in time. I have often compared it to the ESB, a company for which I worked for 20 years. The ESB is a utility and a national asset of which this country can be proud. I believe that in time we will also be very proud of Irish Water, which will manage our assets in terms of our infrastructure in a cohesive and efficient way to sustain the needs of our country. We are already seeing the benefits of that in my county of Waterford. Dunmore East and Ardmore, two beautiful coastal villages, always struggled to attain blue flag status and they now have that status guaranteed every year as a result of the investment by Irish Water in new wastewater treatment plants. That is the type of investment that needs to be made throughout the country. I am confident that as a result of this report, we will see such investment properly managed to secure the future of our water infrastructure.

A charge will apply to polluters and those who waste water, which I fully support. That is in compliance with our environmental and moral obligations and with our EU water framework directive obligations, and that is only right. The best way to identify leaks and to encourage conservation is to measure water usage. I welcome that block meters will be installed in apartment blocks and meters will be installed in all future builds. With the recovery in the construction sector, more than 20,000 housing units will be built per annum and they will have meters to assist homeowners to identify their water usage and conserve water. It is now over to the Minister, Deputy Coveney, and I acknowledge the support that he, the Minister of State, Deputy English, and their staff gave to the Fine Gael membership on the committee. We worked as a team not in the best interests of Fine Gael but in the best interests of the Irish people and this country and I believe members of the public realise that. We stand over the positions we took. I am glad that common sense prevailed in the end and that we produced a report that has the support of the majority of the Houses of the Oireachtas. When the Seanad hopefully passes the motion on this report this evening it will prove that politics works. It will prove that we must respect alternative views and that every one of us as policy makers has a responsibility to the

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Irish citizens. This is an example of how that has worked.

Senator Paul Gavan: I pay tribute to all the Members in this Chamber for their hard work as members of this committee, particularly the chairperson. It is important to recognise that. I stress there were common grounds on a number of key points and it is also important to recognise that. The report supports a referendum on public ownership of water services and also endorses public ownership being enshrined in the Constitution to protect against privatisation. I have a feeling that the Government will backtrack on that but I would be very happy to be proved wrong on that. The recommendation is absolutely right. The report recommends that domestic water use should be funded through general taxation and we certainly endorse that principle. It includes a whole raft of sensible conservation measures, some of which include retrofitting, rainwater harvesting, education in schools with the involvement of the Environmental Protection Agency, all of which are all good aspects. The report recommends refunds for those who paid water charges. It also recommends parity for those on group water schemes, and it is important that provision is included. The report recommends an end to the metering programme for existing builds. None of these recommendations would be contained in the report without the work of the Right2Water campaign and the members of that campaign who were on that committee.

I do not want to explain why Sinn Féin voted against the report. A week is a long time in politics. Last week's version of the final report also recommended an end to all mandatory metering, an end to the Fine Gael proposal for a meter charge for so-called excessive use. This version of the report was supported by the Right2Water campaign members, Fianna Fáil and two Independents. However, under threat of a general election, after the Minister, Deputy Simon Coveney, sent a letter to the committee outlining his opposition to the amended report last Friday, Deputy Barry Cowen and Fianna Fáil backed down. The decision taken by Fianna Fáil to support Fine Gael has nothing to do with complying with EU law and everything to do with Fianna Fáil's fear of a general election. It is using the legal advice as a fig leaf to justify it making another massive U-turn on the issue of water charges. The words "flip flop" do not go far enough to cover Fianna Fáil's stance on this issue.

The fact is that Fianna Fáil has broken its key election pledge to abolish water charges, having previously abandoned its pledge to scrap Irish Water. By supporting this report, Fianna Fáil has conceded a number of major issues. The party voted in favour of volumetric water charges for excessive use based on average household usage and mandatory domestic metering in all new builds and refurbishments. The roll out of domestic water meters in new builds and refurbishments is not to promote conservation but to leave the option open for a domestic charging regime in the future. Charging for excessive use will initially affect an estimated 10% of households but, like bin charges, waivers can be ended and the charges can be increased. This is why Sinn Féin voted against the report. Our work, alongside our colleagues in the Right2Water campaign will continue until there is an end to all mandatory domestic metering, any so-called excessive use charge is abolished, water services are enshrined in public ownership, and Irish Water is abolished and replaced by a fully accountable water and sanitation board.

My heart goes out to my colleagues in Fianna Fáil because they have been trying for the last year to pretend they are somehow a left of centre party but whenever it has come to the crunch on matters such as Irish Water, voting rights for emigrants and lowering the voting age to 16, they have always retreated back to the conservative ground and, to be fair, that is where they are based and from where they come. The issue of water points us very clearly in the direction of a merger between Fianna Fáil and Fine Gael. They have no significant ideological differences.

They believe in the same type of economics and in the same type of right-wing philosophy that has dominated this country for 80 years. They have been engaged for a year and it is time they gave us a day out.

Senator Paudie Coffey: We are not populist.

Senator Paul Gavan: On that romantic note-----

Senator Jennifer Murnane O'Connor: Some 92% of people-----

Acting Chairman (Senator Catherine Noone): Allow Senator Gavan to continue without interruption. I ask Senator Gavan to conclude.

Senator Paul Gavan: The Senator does not know that. That is the point.

Senator Jennifer Murnane O'Connor: The Senator does not know that either.

Senator Paudie Coffey: The Senator's party can join up with Deputy Paul Murphy.

Senator Paul Gavan: We know where bin charges started out. Sinn Féin has always been consistent in its opposition to water charges.

Senator Jennifer Murnane O'Connor: Deputy McDonald said she would pay.

Acting Chairman (Senator Catherine Noone): Allow Senator Gavan to conclude without interruption.

Senator Paul Gavan: If the Senator were to read our manifestos, we have always been consistent in opposing water charges.

Senator Jerry Buttimer: That is a fairytale.

Senator Paul Gavan: The fairytale is the Fianna Fáil flip-flop fairytale-----

Senator Jennifer Murnane O'Connor: Not at all-----

Acting Chairman (Senator Catherine Noone): Allow Senator Gavan to continue without interruption.

Senator Paul Gavan: -----where it introduced water charges; it proposed a water charge of €500 per household as we know from a Cabinet memo but when it proved increasingly unpopular and it was embarrassed, it flip-flopped, and now it has flip-flopped again. The people can see where Fianna Fáil really stands. In fairness to Fine Gael, we know it wanted there to be charging and we know it has left the back door open to allow for charging. That is okay. It is a right-wing party, it believes in toll booth taxation and that is fine. We know where it stands.

Acting Chairman (Senator Catherine Noone): I ask the Senator to conclude.

Senator Jerry Buttimer: Senator Gavan's party is a high tax, high spend party.

Senator Paul Gavan: Fianna Fáil on the other hand pretends to be something it is not and all I am saying is that in the spirit of Easter harmony it is time for a big day out.

Senator Jerry Buttimer: It is voodoo economics.

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Senator Grace O’Sullivan: I wish to say a major thank you to the Chairman of the committee, Pádraig Ó Céidigh, who did an incredible job. Like him, I am a relatively new Member to this House and I must say that rigour was the order of what we as a committee went through over all the months. It was excruciating at times. We met over the course of 23 meetings over many weeks and over and above that. A great deal of negotiating went on outside the committee where we tried to find ways to move the issue forward. That has been achieved, of that there is no doubt. As well as the Chairman of the committee, his right-hand man, the clerk to the committee, Tom Sheridan, is to be complimented-----

Senator Paudie Coffey: Hear, hear.

Senator Grace O’Sullivan: -----as well as the other members of the Chairman’s team who were superb. They ran around at times to facilitate and introduce efficiency because at times the committee was about to break down. It was very tense at times but in the end the objective remained clear: we wanted to get through it and get the best for the country. Reference was made to the issue of public health, and that was to the forefront of my mind. There is no doubt about the public ownership of water services. The Green Party some two years ago promoted enshrining water in public ownership to address the concerns of those who had a lack of confidence and feared that there was a back door in this respect and a chance of privatisation. There was a chance of privatisation. The sooner we copperfasten that and close that door the better.

There is so much in the report that is excellent. Last night when I was on “The Late Debate” I became aware that the tide is turning. In recent weeks water has been all over the newspapers. It is out there. More importantly, people are being empowered to make decisions themselves based on what they have been reading in recent months about the committee’s deliberations. During “The Late Debate” programme I said I was very proud of the committee, in particular of one recommendation I had promoted for which I had the full agreement of the committee, namely, that consumers could opt to have a meter if they so wish. If people do not have a meter and they decide they want to control their water consumption, take ownership and measure water usage in order to know how much they are using, they can call up the utility and ask to have a meter installed. The presenter of the programme grinned at me and suggested we put it to a vote. He took a poll during “The Late Debate” programme and listeners were split 50:50 on the issue. I believe that would not have been the case some months ago but because water has been on the agenda people realise they can take ownership of water usage.

From my perspective there is so much in the report that is superb. For me, the meter is the gold standard in terms of an ideal measurement tool. There is so much in the report in terms of fairness, equality and power being given to the Commission on Energy Regulation, CER, and more support is being given to the Environmental Protection Agency, EPA. The document is very worthwhile. However, I voted against the report because for me a water bill should be simple. If someone is abusing water he or she must be billed for it and there must be a penalty or fine. The bill should come in one’s door and it should not be a mechanism to drag people through the courts, as in the Water Act 2007. The taxpayer will now pay for water and the taxpayer is supporting the courts system. If a person is dragged through the courts to pay a fine for excessive consumption of water it will be an extra burden on the State and the people of this country.

Senator Paudie Coffey: That is not correct.

Senator Grace O’Sullivan: That is why I voted against the report in the end but, by and

large, I compliment the Chair, his team and the committee. The committee made a huge effort and although I voted against the report, by and large the effort is sufficient to bring people on board and to recognise that water, public health and the sewerage system require investment and must be protected. We need the best water service for the Irish people.

Senator Joe O'Reilly: I congratulate Senator Ó Céidigh and our colleagues from this House who were on the committee on the good work that was done. I also congratulate the Minister of State, Deputy Damien English, and the Minister, Deputy Coveney, in his absence, for the good work they did in the background by way of briefing.

I say to my good friend, Senator Grace O'Sullivan, that it is not the intention to drag people before the courts. The legislation will be drafted to levy but not with the intention of bringing people before the courts.

I say to my Sinn Féin colleague who spoke earlier, Senator Gavan, that I would have thought there was nothing more right wing, almost verging on the extreme right, than allowing people to waste water and asking ordinary working people to pay for it. I say that with respect.

It is very important that the polluter pays principle is established. It is not an accident that it is a European directive. There is good science and good reasoning behind that. The alternative to the polluter pays principle is that a working person, for example, in County Cavan, where I come from, perhaps a family on the average industrial wage paying to their local group water scheme would through their personal taxation then subvent people who waste water in their gardens, who might have something as outlandish as a swimming pool, who would not bother to fix a leak. It is an unreasonable proposition that one would have anything other than the polluter pays principle. I am pleased that is enshrined in our approach. The allowances are extremely generous. Senator Coffey covered that issue. There is no difficulty in that regard but the concept that there should be free water beyond the allowances is unacceptable.

It is good that the installation of meters in new builds will be enshrined in the legislation. That is important from a conservation point of view because at the root of all our difficulties is the fact that between 45% and 50% of water is wasted through leakages, and metering to prevent excessive use and identify leakage is critical.

It is very good that the principle of refunding people who already paid for water incrementally and in a reasonable fashion will be enshrined in the legislation, as per the recommendations of the committee. That is eminently fair and right. It is right that people who through good civic mindedness, patriotism and concern for the welfare of others did the right thing should not be penalised now. That would be a very bad thing to do.

The issue is primarily related to health. This is about ensuring a level of investment. There is a forecast investment of €533 million this year by Irish Water and €300 million was invested by local authorities in 2013, which indicates that spend on water infrastructure increased. The threat of contamination has been removed from four drinking water supplies in Dublin affecting 220,000 people and many boil water notices have also been removed. Raw sewage is another issue. Water is fundamentally a health issue and it is important that we get the principle right.

We are all reasonably intelligent people so let us deal with the myth that exists – there is no such thing as free water. Other than the water coming from the sky, which has to be treated before it gets to the consumer, there is no free water. The only issue is who pays and how we pay. If it is not the polluter that pays - the person using the water - then it is the taxpayer. If one

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removes water bills from the individual one then moves them to another source of taxation. We should bear in mind that the working people of this country are taking the brunt of the burden of taxation at the moment and we should be very cautious about increasing that burden.

Senator Gerard P. Craughwell: I wish to preface everything I say by saying that I support the motion. I find it deeply regrettable that after such a long period we are only coming to grips with water. It is also deeply regrettable that we constantly blame the European Union for what is a national decision, one that was negotiated nationally. We must stand up and take responsibility for the things we negotiate in Europe. It could not be a European obligation unless we agreed that would be the case. One cannot have water coming through one's pipes for nothing. We made a bags of it from the beginning. We set up the wrong type of company. Everything we did with Irish Water was a mess from start to finish, but having said that, Senator Paudie Coffey was mentioned and I want to single him out in particular. He was a Minister of State who put his neck on the line and he paid a massive price in the last general election for his commitment to water charges. Deputy Alan Kelly also paid a price, as did his party. The Cathaoirleach chosen for the Committee on the Future Funding of Domestic Water Services, Senator Pádraig Ó Céidigh, was the ideal man for the job because he came with clean hands. I think he was able to bring all parties together and did a tremendous job. As everybody has said, Ireland owes him a debt of gratitude which we will be paying for years to come.

I want to deal with the issue of charges for water and the 92% of people who will not have to pay them. Let us be honest about it. As time passes, more and more people will be brought into the water charges net.

Senator Paul Gavan: That is right.

Senator Gerard P. Craughwell: That is just the nature of the world in which we live. There is nothing anybody here can do about that or to guarantee that it will not happen. It will happen as time passes, as technology moves on, as we develop better systems and install new ones. People will have to pay through central taxation, from which we have too many things dragged out. That will have to change over time.

I congratulate the Government on managing to get this measure through. I congratulate new politics. I am not sure a marriage of the centre left and centre right would work out that well. There might be a divorce in a very short period.

Senator Paul Gavan: That is true of Fianna Fáil and Fine Gael; not us.

Senator Gerard P. Craughwell: I am sorry that it has been reduced to a political argument, as we saw in the final few days. This is not really about politics but about the health of the nation, as my colleague said. It is about people being able to switch on the tap and knowing they will not catch something. It is about being able to dispose of waste. As reluctant as I am about having to pay for water at some stage - I hope not in my lifetime, but it could happen and if it happens, it happens - I wish the Minister of State, Deputy Damien English, and the Minister, Deputy Simon Coveney, well. I have seen huge work being done in their Department to try to solve some of the most difficult problems in the country, namely, water charges and housing provision. I genuinely wish them well. I am genuinely sorry that we were dragged through so many committees and discussions on the issue of water charges.

The motion is now being passed and the legislation will follow, but let us be honest with the people, of whom 92% will not pay water charges, but over time the number of whom will

pay will increase. I am desperately sorry that we wasted €550 million in installing meters that now seem to have no value other than in establishing whether there is a leak in the system. That €550 million would have helped to shift a fair few hospital trolleys or given us a better education system. We should have been paying a standing charge from the outset and have had a better company than Irish Water. I hope everything will go well and that the motion will be passed. I will support it. Fair play to the Minister of State. He put his neck on the line on this issue, for which he must be admired.

Senator Jerry Buttimer: It is welcome that we have reached this point in the debate. I thank and pay tribute to Senator Pádraig Ó Céidigh in his role as Chairman of the Committee on the Future Funding of Domestic Water Services. It illustrates the point, as referenced by him at the meeting on the Committee on Procedure and Privileges yesterday, that it is important to have Members of the Seanad as chairpersons of committees. Many of us have been. Senator John O'Mahony is in the Chamber. I chaired a committee while in the other House of the Oireachtas. Transferring to this House does not mean that our abilities diminish. It is important that we recognise and stand up for the Members of this House. Senator Pádraig Ó Céidigh is right. There is a vast array of talent in this House, irrespective of political viewpoints. I thank all members of the committee for their work on behalf of the Oireachtas and the people. In particular, I pay tribute to my colleague and friend, Senator Paudie Coffey, who, as a Minister of State, demonstrated his ability to take decisions and govern. He demonstrated it equally through his work on and, if I can use the phrase, off the committee to help to broker a deal and, I hope, facilitate the passage of the motion.

Senator Paul Gavan speaks about marriage. I notice that he did not offer a ring to anybody tonight or make any overture to anybody other than in Fine Gael and Fianna Fáil. The Irish people are in the political centre. Some involved in politics like to take a megaphone and a banner and march up and down O'Connell Street or outside the gates of Leinster House, which is their prerogative. The real fact, as Senator Paul Gavan's colleagues in the Northern Ireland Assembly recognise, is that politics is about government and governing the country. It is about making decisions. We may argue the toss about what way to go, but it is about running the country. My party has always been consistent on the matter of water charges. It has always been consistent in wanting to be in government to do the right thing for the people at all times. Some day Senator Paul Gavan's party may have the good fortune to be in government in the South.

Senator Paul Gavan: Is that a proposal?

Senator Jerry Buttimer: I would not dare make that proposal.

Senator Catherine Noone: The Senator is being very romantic this evening.

Senator Jerry Buttimer: Whatever else I will do, I certainly will not propose to the people that they should put Sinn Féin into government.

Senator Gerard P. Craughwell: At least not until the next general election.

Senator Jerry Buttimer: It is important that we be honest. In the past few months the debate has been about the need to recognise that we need a national utility company to provide clean drinking water and end the battle where there are boil water notices in many parts of the country and raw sewage is being pumped into harbours and waterways across the country.

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I disagree with my friend, Senator Craughwell. Metering, whether it be district metering or metering in individual houses or apartment complexes, will, in time, reveal the leaks which will lead to a saving of money and conservation which, in turn, will lead to a better outcome for the people. I do not agree that we are on the slope Senator Paul Gavan says we are on or a similar pathway to bin charges. If the importance of conservation and using water wisely is recognised, we will not see people being put into the water charges net. As Senator Paudie Coffey said, 8% of people waste water.

This week has been bookended by this debate, while we had political controversy at the beginning of it. Irish Water opened a €117 million wastewater treatment plant in Shanbally just outside my city of Cork, from which some 20,000 houses are benefiting. I will give one statistic. Up to this point some 44,000 wheelie bins of raw sewage have been pumped into Cork Harbour daily. None of us can be irresponsible in allowing that to continue, irrespective of what our viewpoint is. That is why I have always been a firm proponent of having a national utility company for water services. I salute the men and women who work in Irish Water who have been ridiculed, belittled and treated poorly by members of the political class and the media. We read a story last weekend in the newspapers about bonuses. It was a Workplace Relations Commission recommendation; it was not Irish Water deciding to pay bonuses. In time Irish Water will save the country money. We made a hames of it at the beginning in explaining what it was about and rolling it out, but we are now seeing the benefits in Cork. We have expertise, a funding model and a national utility company. It behoves all of us to support Irish Water and not go back to the days when we had boil water notices and people had to buy water in shops. None of us wants to go back to those days.

I commend Senator Paudie Coffey for his ability and work on the committee. I say it again because he is present. He took hard decisions when Minister of State. He was a Trojan worker and pivotal as a member of the committee. He deserves to be commended, as does Senator Pádraig Ó Céidigh.

An Cathaoirleach: Before I put the question, I add my congratulations to an Seanadóir Pádraig Ó Céidigh for his extreme professionalism as a Member of the Seanad in chairing the Committee on the Future Funding of Domestic Water Services. It is a special accolade for the Seanad that we have such individuals. As I said today, there are many others who could take their place, whether in the Cabinet or as chairpersons of committees.

Question put.

Senators: Vótáil.

7 o'clock

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

Senators Paul Gavan, Pádraig Mac Lochlainn, Niall Ó Donnghaile and Fintan Warfield rose.

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

Question declared carried.

Seanad Éireann

An Cathaoirleach: When is it proposed to sit again?

Senator Jerry Buttimer: At 2.30 p.m. on Tuesday, 9 May.

The Seanad adjourned at 7.10 p.m. until 2.30 p.m. on Tuesday, 9 May 2017.