



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

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SEANAD ÉIREANN

Dé Céadaoin, 10 Bealtaine 2017

Wednesday, 10 May 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 Neale Richmond that, on the motion for the Commencement of the House today, he proposes to raise the following matter:

The need for the Minister for Education and Skills to set out a feasible action plan for the short-term temporary and medium-term permanent accommodation requirements for Ballinteer Educate Together national school.

I have also received notice from Senator Catherine Noone of the following matter:

The need for the Minister for Health to consider allocating additional funding to provide at least one autistic spectrum disorder, ASD, unit for every school that requires one.

I have also received notice from Senator Keith Swanick of the following matter:

The need for the Minister for Health to outline the future plans, including staffing and facilities, for Elphin and Strokestown health centres in County Roscommon in light of local reports inferring that one or both centres will close once a new primary care centre opens in Boyle, County Roscommon.

I have also received notice from Senator Robbie Gallagher of the following matter:

The need for the Minister for Health to reopen the 19 beds that were suddenly closed at Dungarvan Community Hospital and to give an explanation as to why the closure of the beds happened with very limited notice to the Dungarvan community.

I have also received notice from Senator James Reilly of the following matter:

The need for the Minister for Education and Skills to provide an update on the urgently-needed new school facilities at Lusk community college which have been delayed for some considerable time and which the Minister has said will commence construction in summer 2017.

I have also received notice from Senator Tim Lombard of the following matter:

The need for the Minister for Transport, Tourism and Sport to develop a strategy for increased funding, recognition and participation for women's sport.

I regard the matters raised by the Senators as suitable for discussion. I have selected the matters raised by Senators Richmond, Noone, Swanick and Gallagher and they will be taken now.

Senators Reilly and Lombard may give notice on another day of the matters that they wish to raise.

Commencement Matters

Schools Building Projects Status

An Cathaoirleach: I welcome the Minister for Education and Skills to the House. Senator Richmond is first and he has four minutes to make his opening remarks.

Senator Neale Richmond: I thank the Cathaoirleach for the opportunity to speak on this issue. I am very grateful to the Minister for coming to the House and I also thank him and his officials for their engagement with me on this and many other issues in the educational sphere in recent weeks.

I bring this matter to the floor of the House following repeated and frustrating correspondence between the local school community and departmental officials. I want to go through the background to this matter and to outline the outstanding issues that need to be addressed urgently and clearly. This goes back to initial meetings on a new school that I attended in 2010. Unfortunately, after much initial progress and enthusiasm from all parties there has been a continuous cycle of expectation, disappointment and anticipation relating to this project which is part of the Department's six-year capital programme.

In the short term, a series of questions need to be answered and I would appreciate if the Minister could provide answers today or at least send on the information to me and the school community later this week. What facilities will be made available for Ballinteer Educate Together national school in its short-term accommodation in Notre Dame? How many classrooms will be made available in that short-term accommodation? What size classrooms will be made available? How many pupils will be on campus from the other two schools at the Notre Dame site? What school start and end times are envisaged for Ballinteer Educate Together national school at the short-term site? What traffic management plans will be put in place? In light of the decision to bring all schools on campus this September, what arrangements have been made with the other two schools at the Notre Dame site? What arrangements have been or can be made to provide a school bus service to the Notre Dame campus?

As the Minister is aware from previous correspondence, it is my personal opinion that the short-term plan to move Ballinteer Educate Together national school to the site of Notre Dame

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in Churchtown is far from ideal, putting parents under undue hardship and diminishing the strong links already made by the school to the local community. In the context of the medium-term plan to build a permanent home for the school adjacent to St. Tiernan's community school, the school community is understandably frustrated and angered by the perceived delay and difficulty in dealing with departmental officials, in terms of getting answers. In that context, I have another series of questions that need to be answered and I would appreciate if the Minister could respond today or send on further information at a later date. First, at what stage is the purchase of the required land to allow for acceptable access to the new school? At what stage is the planning application? When will the planning application be lodged? What needs to be resolved before the application can be lodged? When will the school be built and when will the permanent school be opened?

The questions I am putting to the Minister this morning are all pretty straightforward. As we approach the end of the school year, a very large school community is deeply frustrated and angry at the severe delays in obtaining answers to legitimate questions. My office has been inundated with correspondence relating to this issue for quite some time from parents in the immediate area and from a catchment area that stretches way beyond the local environs into Bray in County Wicklow and across to Tallaght, County Dublin. I most recently attended a parent teacher association meeting at the school on Monday. The levels of confusion and uncertainty are worrying. I ask the Minister to prioritise this school and to ensure that the maximum levels of transparent information are provided regularly.

Minister for Education and Skills (Deputy Richard Bruton): I thank Senator Richmond for raising this issue. I can understand the concerns of parents because the situation is unusual, in that temporary accommodation has to be moved to a new site. However, this does signify the success of the school.

There are nine mainstream classes which will increase to 11 in September 2017. That necessitates a move from the current site. We are fortunate in that earlier this year, as Senator Neale knows, the Department completed the purchase of the Notre Dame site, which offers a solution to the need for Ballinteer Educate Together national school to move, pending completion of its own school premises on the St. Tiernan's site. Obviously, the provisions for the school on the new site are being worked on by my Department. A technical assessment of the campus is currently being carried out. We will need to complete that before we can answer a number of the questions the Senator raised. We will seek to accommodate, to the best of our ability, the needs of parents without there being any disruption. I took a note of the points the Senator raised specifically regarding traffic plans, co-ordination with other schools and so on. I will endeavour to get back to him with responses to those in so far as that is possible, but some of them will necessitate the completion of the technical assessment.

On the wider issue of the building a school for Ballinteer Educate Together national school, the Senator will be aware of the planning history. A planning application was submitted to the relevant local authority but it was refused on grounds of site access. That decision was appealed to the An Bord Pleanála but subsequently withdrawn to facilitate an amended outline planning permission but that, in turn, was refused on similar grounds. I can understand the frustration that has built up. A series of attempts were evidently made in good faith but they have not been successful in meeting the needs. While an appeal was lodged on foot of the decision on the second planning permission application, it has since been withdrawn and the Department and the local authority are meeting to discuss appropriate access routes with a view to a further planning application being submitted as soon as possible.

I can understand the Deputy saying that we should be able to clearly trace details of land purchase, planning permission and then track the process out on a very clear critical path but having been twice bitten, it would make one shy on a third occasion. There is no doubt we will have to submit a planning application and secure a satisfactory site. Any land purchase is always confidential until every element of it is complete. I can understand why the Senator is seeking a clear timetable for some of these issues, and I would be looking for those myself, but I am equally aware that with respect to many of the schools with which I deal, which have submitted planning applications and designs, that hitches arise which, with the best will in the world, are unavoidable in terms of the choice of the design team and additional ideas related to the scale that are put forward during the course of the process. All these aspects can delay a process.

I do not want to nail down a critical path as that would only lead to disappointing people. I can assure the Senator, from our point of view, that this is a high priority. We want to facilitate this successful school. We want to complete these processes as quickly as possible but we have to do them in a way that meets the requirements and expectations of pupils for the long term, and that is a very important consideration. I appreciate the points made by the Senator. In so far as I can, I will provide him with answers to the queries he raised, but some of them remain in a realm where definitive answers cannot be entirely laid out at this point.

Acting Chairman (Senator Diarmuid Wilson): I call Deputy, sorry, Senator Richmond.

Senator Neale Richmond: I have been upgraded twice in one go this morning.

Acting Chairman (Senator Diarmuid Wilson): It was a Freudian slip on both counts.

Senator Neale Richmond: No problem. I thank the Minister for his very thorough response. I understand the many constraints in terms of his position. Some of the questions I posed were perhaps direct but they were deliberately so and that is a direct response to the deep levels of frustration among that school community. A Department official said to the principal that her role is to keep the school community positive but that is getting increasingly difficult. They mainly want to know if there is hope of the community having a permanent school. Will their most precious resources, their children, be looked after on the temporary site? Can the Minister indicate when the technical assessment, which might bring some clarity, will be completed?

Deputy Richard Bruton: I do not have a specific date in the briefing material. The decision will be made once the technical assessment is complete. I will get back to the Deputy or rather the Senator on that. I spend too much time in the other House.

Acting Chairman (Senator Diarmuid Wilson): The Minister is welcome here any time.

Deputy Richard Bruton: I will see if I can give some timescale for the completion of the technical assessment. Presumably that also depends on what sort of issues arise in the complexity of adapting the site. I am conscious that September 2017 is not that far away and that we need to move with due haste.

Special Educational Needs

Acting Chairman (Senator Diarmuid Wilson): The next Commencement matter is in

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the name of Senator Noone and I understand the Minister of State, Deputy Corcoran Kennedy, will take it.

Deputy Richard Bruton: I am taking Deputy or, rather, Senator Noone's matter.

Senator Catherine Noone: There is a better chance of the man to my left as opposed to myself becoming a Deputy in the near future. The matter concerns funding for autism spectrum disorder, ASD, units. Currently, in Ireland approximately one child in 65 is diagnosed with autism, as the Minister will be aware. ASD is the name used for a specific set of behavioural and developmental problems and the challenges that go with them. As the Minister will know, a diagnosis of ASD means that children's communication, social and play skills are affected in some way, which means they have specific educational needs. Some parents are forced to drive miles to a school in another town or county to access a school with an ASD unit. I have heard of other cases of children with autism who are currently not attending school due to a lack of a suitable placement. Other children have left school early due to a lack of places.

Studies show that children who secure a place in an ASD unit can benefit greatly and make good progress. They learn at their own pace in a much smaller class size. Moreover, they get one-on-one attention in an environment tailor-made for their needs. Some units have access to a sensory room and children can also integrate with mainstream classes where possible. Children with autism have a right to an education in their own school. I ask the Minister to make funds available to provide at least one ASD class per school nationwide based on the statistics of the number of children with a diagnosis of ASD in Ireland.

Deputy Richard Bruton: I thank the Senator for raising this matter. It is an issue of particular concern to many Members of both Houses. We have made huge changes in this area in recent years. For example, since 2011, the number of resource teachers has increased by 41%, the number of special needs assistants has increased by 23% and the number of ASD units has increased by more than 100%.

As the Senator will note from the reply, the position regarding the provision of ASD units is that 18,000 students have been diagnosed on the autism spectrum and approximately 63% attend mainstream schools, 26% attend special classes in mainstream primary and post-primary schools, and 11% are in special schools.

The policy of the National Council for Special Education, NCSE, on enrolment is that, where possible, a child on the ASD spectrum should be accommodated in a mainstream setting with the appropriate supports. However, where it is demonstrated that students require the support of a special class, that should be because they are unable to learn effectively in a mainstream setting. That is identified by the NCSE as a need for a particular child. Currently, 26% of such students attend special classes. As I stated in the reply, the rate at which we have been expanding these is very rapid and we are responding to need as and when it arises. The number of special classes in 2011 was 549. That number has increased progressively to 1,153 this year and we will be adding 162 special classes for children on the ASD spectrum. I do not have the number but there is probably an additional figure for those outside the ASD spectrum. There will be another increase of 18% this coming year for children in that area.

To go from a figure of approximately 1,300 by next September and say that the need would be 4,000, which would be one for every school in the country, would be a very radical transformation and is not in accord with the NCSE's assessment of the need. It recognised that many

students on the ASD spectrum did well in mainstream schools without the requirement for special classes. The NCSE sees that the approach being taken in meeting this demand on a needs basis and expanding the category in accordance with identified need is proceeding satisfactorily. In general, the council is satisfied that we are providing special classes to meet demand as it evolves. We will continue to respond to need on that basis.

When it comes to providing classes, we have to consider which schools are best placed and can provide the most effective facilities. Therefore, classes are not provided automatically in every school. The NCSE examines schools to match the profile of need with those that can offer the best delivery of ASD units. The approach to accommodate a larger proportion of children in ASD classes is continuing and there will be a significant increase next September. We are responding based on the assessed needs of each child and that is the right approach to take. In an ideal world, if we had plenty of capital and were not trying to address population pressures in other areas, we might consider building ahead of need, but the NCSE's view - it is the expert in this field - is that we need to examine the needs of children. Mainstreaming is the ideal, unless it does not work for the child and then we should opt for a setting that allows the child's progress to be ideally fulfilled. The approach adopted by the Department is, therefore, correct. In 2015 the NCSE provided my Department with policy advice on supporting students with ASD in schools. The advice set out a range of recommendations for future provision in the area, including recommendations on teacher education and qualifications, appropriate special class provision and so on. That is the policy backdrop against which we are implementing on the capital side.

Senator Catherine Noone: I appreciate the Minister's response and the efforts being made by him and his Department. Clearly he is on top of what is happening in this area. I was contacted by a number of parents engaged in a campaign for this provision, of which I am sure he will be aware. The progress being made is heartening. I am not an expert on ASD, but if one in 65 children is on the spectrum, the chances of there being an ASD unit in a larger school must be significantly increased. I hope the NCSE will take account of areas where parents have to travel a great distance on a case by case basis. We are moving towards what these parents wish for and in that sense I am satisfied with the Minister's response. Perhaps it might be a little too much to move towards a scenario where there will be an ASD unit in each school. That may be over the top, but I am keen to ensure parents and children will not suffer because of their lack of proximity to a school with an ASD unit. Will the Minister clarify that this is at the forefront of the Department's mind when it comes to assessing individual cases?

Deputy Richard Bruton: I thank the Senator for her comments. The NCSE's advice is that it has not identified a need to provide an ASD special class in every school, which would mean 4,000 classes. It is interesting to examine the numbers. For example, at post-primary level, demand and provision are increasing much more rapidly, although it is starting from a lower base. There were only 100 such classes in 2011, but that number has trebled in the intervening period. There is a pattern of identified need in passing through primary level and increasing pressure at post-primary level. The Department is considering the provision of a map of ASD units across the country for parents in order that they can see where such units are available. That would be helpful as they would be better able to plan their child's education by having that support.

As the Senator said, an ASD unit is designed to accommodate six children. It is geared up with 1 and 1.5 teachers per child at primary and post-primary level, respectively. The units have SNA support and provide facilities that allow children to progress. While still in a social environment, they progress well. The NCSE's approach to identifying a child's needs is at heart of

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the policy we are implementing. There will be continuing growth in the number of ASD units as need is identified and we respond to it.

Health Services Provision

Senator Keith Swanick: I thank the Minister of State for coming into the House to take this matter. I am hopeful she will be able to allay the fears of the communities of Elphin and Strokestown who are hearing reports of the potential closure of one or both of their health centres once the new primary care centre opens in Boyle, County Roscommon. The opening of the new centre is warmly welcomed. Providing dental services, occupational therapy, physiotherapy, speech and language therapy and public health nursing services all under the one roof will be of fantastic benefit to the community. I know this because of my experience in general practice in Belmullet, County Mayo, but I am also aware of how destitute my patients would be without these services and the hardship it would cause if they were forced to travel 50 miles to Castlebar to avail of them.

Shortly before the Easter break, the Minister of State at the Department of Health, Deputy Helen McEntee, reiterated in the House that one of the Government's key priorities was to implement a decisive shift in health services towards primary care. She stated: "Our ultimate goal and, as Minister of State with responsibility for older people, my goal is to make sure that people get the care they need as close to home as possible and have access to a greater range of health and social care services within their community." Will the Minister of State, Deputy Corcoran Kennedy, advise what "as close to home" and "within their community" mean in this context? Does it mean within walking distance or the county boundary? Whatever way we look at it, a healthy person would have no problem in travelling a distance to a primary care centre for treatment, but, as I have said previously, we need to remember that most people visiting GPs and care centres are not in the whole of their health. They are in need of medical attention and we can assume in pain or distress. The fact that they cannot visit a doctor in their own locality, in close proximity to their home, only adds to their distress.

The journey from the health centre in Strokestown to the new primary care centre in Boyle is at least a half an hour's drive. The smaller care centres around the country are vital in so far as they act as a filter to the larger centres and the wider hospital network, thus preventing an additional workload at these highly pressurised sites. In response to a parliamentary question submitted by Deputy Billy Kelleher on the future of services in Elphin and Strokestown health centres, Mr. Frank Murphy, head of primary care services, stated the services being provided from existing health centres would be reviewed in the context of whether they would be more appropriately delivered from a primary care centre. I am referring to two small health centres in two small villages facilitating older people in rural communities. Will the Minister of State provide further clarity on the future of these centres which cater for a large ageing population in great need of them?

Minister of State at the Department of Health (Deputy Marcella Corcoran Kennedy): I thank Senator Swanick for raising this issue. I know his experience as a GP in addition to being in the House is a motivating factor.

Enhancing and expanding capacity in the primary care sector is crucial to ensuring delivery of a preventive, joined-up approach to the management of the nation's health and the modernisation of primary care delivery. In a fully developed primary care system, 90% to 95% of

people's day-to-day health and social care needs can be met in the primary care setting.

The development of primary care centres to accommodate primary care teams and, where possible, GPs in the one location is a key enabler for the delivery of primary care services. Primary care centres facilitate the shift from acute care towards primary care because of the range of multi-disciplinary services they can provide and the role they can play in keeping people who do not need to be in an acute setting out of hospital.

Significant investment has been made in the development of primary care centres and continues to be put in place. These additional primary care facilities across the country will be provided through a combination of direct build, through public private partnership and by way of the Health Service Executive's primary care operational lease mechanism. Boyle primary care centre is one of the 14 facilities being developed under the public private partnership model and is expected to open in the third quarter of 2017.

The Health Service Executive has advised that the Elphin health centre provides a range of services to the local community delivered by two GPs, one public health nurse and one visiting speech and language therapist while the Strokestown health centre provides the service of one GP. The HSE has advised that no decision has been made to close any health centres located in close proximity to the development of new primary care centres. This is the position for Elphin and Strokestown health centres. Once newly opened primary care centres become operational, the services being provided from existing health centres will be reviewed in the context of whether these services would be more appropriately delivered from a primary care centre. A decision will then be made on the future of some health centres, with the HSE advising that many of the health centres will remain where GPs are *in situ* and not relocate to a primary care centre.

It is very important to stress that from the point of view of people using the wide range of services provided by the HSE at community level, the objective is to ensure services are responsive to people's needs and enable them to receive a joined-up service that results in the most favourable health outcomes for patients. These primary centres will, when completed, significantly enhance and expand capacity in the primary care sector to deliver on this. This is very much in line with the policy of Government that people access the great majority of their health care needs in the community and, as far as possible, in one location.

Senator Keith Swanick: I thank the Minister of State. I welcome that the HSE has advised no decision has been made to close the health centres in Elphin and Strokestown. While the Minister of State has said some services may be relocated, she acknowledged that where a GP remains in a health centre, it will remain open. It is a very important point. Once a health centre is staffed by a GP, the health centre cannot be closed. It is one message I want to send out today.

While I welcome the development of primary care centres, it is not all about bricks and mortar and building fancy new buildings; it is about the activity that happens in the primary care centre. Often where care is delivered close to communities and where people have easy access to care it is the best form of care and it leads to fewer referrals to hospitals and earlier discharges. I welcome that no health centre will be closed as long as a GP remains *in situ*.

Hospital Closures

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Senator Robbie Gallagher: Gabhaim buíochas leis an Chathaoirleach. Cuirim fáilte roimh an Aire Stáit go dtí an Teach seo inniu. The Minister of State is very welcome to the House and I thank her for her attendance. I will address the issue of the closure of the Sacred Heart unit in Dungarvan Community Hospital. The unit provides vital rehabilitation for patients suffering as a result of strokes or other serious accidents. It is regrettable the decision was taken on a Friday of a bank holiday weekend. It was underhanded and mean. It placed the patients and families affected in a very stressful situation of not knowing where they were going to go and when they were going to go. The reason given was the HSE is finding it difficult to recruit nursing staff. Surely the Minister of State will agree somebody in the HSE should have seen this particular problem coming down the tracks so it would not have had to take such a knee-jerk decision on a Friday of a bank holiday weekend. It is very clear the terms and conditions of nurses are not good enough. My colleague, Senator Swanick, with whom I will share my time, with the permission of the Acting Chairman, will go into more detail on that. It is having a serious effect on the health service. A bigger effort needs to be made to try to give better terms and conditions to nurses. We are educating our nurses and as soon as they are qualified they are going abroad because there are better terms and conditions on offer to them.

I will ask two questions before I let my colleague in. The HSE has made a commitment to reopen this particular unit when it recruits sufficient staff to do so. Is there a timeframe for that? I have spoken to a number of people who were thinking about coming home from the UK to take up a post in Ireland but they have to go through a procedure of applying for a PIN. We understand they could be waiting six months in order to get that PIN, which seems crazy. Will the Minister of State look into that?

Senator Keith Swanick: I will be very brief. I thank my colleague, Senator Gallagher, for allowing me to share his time on this very important issue. The closure of the Sacred Heart unit in Dungarvan is absolutely devastating to the community and will send shivers down the spines of other community hospitals which are experiencing the same issues with recruitment. Most hospitals are only a couple of staff away from ward closures. As a director of Belmullet hospital, I am too aware of it. I also concur with my colleague's sentiments that the closure was underhanded in the manner in which it was executed over a bank holiday weekend in an attempt to bury the story. At the very end of last year, the Minister for Health said he had no magic wand to recruit more nurses into the health service. He also said he was satisfied with the package on offer to graduate nurses and that many nurses are returning here to be closer to family and friends. This is in direct contrast to what the INMO reported only a few weeks ago. The organisation undertook surveys of all nursing and midwifery students on the final leg of their degree to examine whether they would seek employment upon qualification in September 2017. It found that 78% of respondents are considering emigrating and 70% have already been approached by overseas recruitment agencies. That is compared to 29% who had been offered permanent positions in the Irish public health service at that time. Surely all of the students who are in their final 36-week placement should be offered competitive, permanent contracts to be entered into following successful graduation of their course. The people of Dungarvan are now without 16 vital beds, which provided much needed rehabilitation, respite and step-down care and undoubtedly alleviated some of the pressure on the struggling University Hospital Waterford.

Community hospitals facilitate discharges from university hospitals and prevent admissions to university hospitals. Another important aspect of the community hospital is that it acts as an interface between the fair deal system and the university hospital. If a loved one is waiting

for the fair deal scheme in a university hospital, he or she can be transferred to a community hospital for the intervening period before being transferred to a nursing home. This is another vital element. I ask the Minister of State to review these closures as a matter of priority.

Deputy Marcella Corcoran Kennedy: I thank Senator Gallagher for raising this important matter and I thank Senator Swanick for his contribution. The overarching policy of the Government is to support older people to live in dignity and independence in their homes and communities for as long as possible. This is clearly what older people want but we also have patients who are in genuine need of residential care either on a long-stay or short-stay basis.

The Health Service Executive is responsible for the delivery of health and personal social services, including those at facilities such as Dungarvan Community Hospital. The hospital provides long-stay residential, respite, palliative care and rehabilitation services for older people.

As with the health service in general, Dungarvan Community Hospital is experiencing significant challenges with recruiting and retaining nursing staff, which the Senator acknowledged. Dungarvan has 16 whole-time equivalent vacancies, eight of which are required for the Sacred Heart ward. While there have been several national recruitment campaigns for nurses, unfortunately, a serious challenge has arisen in recruiting nurses to fill vacancies in Dungarvan. As a result, to maintain the delivery of safe and high-quality services, the Health Service Executive, HSE, has decided to move residents internally from the Sacred Heart ward to alternative accommodation in the hospital. This is a temporary measure and staff will be re-organised to optimise patient safety. Long-stay and short-stay care, including palliative and dementia care, all continue to be provided.

I understand, as does the HSE, that this decision has caused a great deal of upset for residents, families and the local community. I hope further clarity has been and will continue to be brought to the situation by the HSE. The HSE has assured me patient welfare is a priority for staff and management and expressed its deep appreciation of the support the hospital receives from families, as well as the wider community.

The HSE acknowledges the concerns expressed on this subject in recent days and apologises to residents and their families for any inconvenience. It will work to ensure minimum disruption to normal services during this interim arrangement. It is important to note there is no negative impact on existing staffing numbers while this interim safety arrangement is in place.

The HSE has ongoing opportunities for nurses. Advertisements remain live on the HSE website. In recent days, the HSE issued an appeal for any registered nurses available for work, whether on a full or part-time basis, to contact it. Specifically for Dungarvan, all inquiries, including from nurses who are retired or not currently serving, may be directed to the HSE's manager for older person services for Waterford. The HSE has given an assurance all applications will be processed without delay.

Representatives of hospital management continue to be available at all times to residents and their families to discuss any matter of concern to them. They will work closely with staff representatives to bring the hospital back to full operating capacity. The HSE met families on 3 May and a further meeting is scheduled for June. The Department will monitor this situation carefully. I have asked the HSE to keep me updated on progress. I will bring the specific points made about recruitment to the attention of the relevant people.

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Senator Keith Swanick: I acknowledge the temporary measure of this arrangement. However, as the Minister of State will accept from my experience working in medicine, when hospital beds are closed temporarily, they tend not to open again. I also acknowledge the measure was introduced for patient safety arrangements.

Can the Minister of State put a timeline on this? How long will it take for these beds to re-open? Will she suggest to the HSE to conduct monthly reviews of the administration in the hospital and staff recruitment? Local public representatives and patients are concerned about the current situation there.

Deputy Marcella Corcoran Kennedy: The HSE has advised me that it is its intention to re-open the ward. To give a timeline would be difficult, however, because it depends on the recruitment of nurses. As soon as the recruitment process is concluded, we can look forward to it being re-opened.

I will bring the Senator's suggestion about monthly reviews to the attention of the relevant people.

Sitting suspended at 11.15 a.m. and resumed at 11.30 a.m.

Order of Business

Senator Jerry Buttimer: The Order of Business is No. 1, motion regarding discharge of order for committee of the Courts (No. 2) Bill 2016, to be taken without debate on conclusion of the Order of Business; No. 2, motion regarding exchange of views with Mr. Michel Barnier in joint committee with Dáil Éireann, to be taken without debate on the conclusion of No. 1; No. 3, report on the Committee on Procedure and Privileges, the amendment of Standing Order 70A and the adopting of new Standing Order 104F, to be taken without debate on conclusion of No. 2; No. 4, Misuse of Drugs (Supervised Injecting Facilities) 2016 - Committee and Remaining Stages, to be taken at 12.45 p.m. and adjourned not later than 2 p.m. if not previously concluded; No. 5, Private Member's business, Gender Recognition (Amendment) Bill 2017 - Second Stage, to be taken at 2 p.m. with time allocated to this debate not to exceed two hours; No. 5a on the supplementary Order Paper, Courts (No. 2) Bill 2016 - Committee and Remaining Stages, to be taken at 4 p.m. and to conclude not later than 5 p.m. by the putting of one question from the Chair which shall, in relation to amendments, include only those set down and accepted by Government; and No. 6, Private Member's business, Litter Pollution (Amendment) Bill 2017 - Second Stage, to be taken at 5 p.m. with time allocated to this debate not to exceed two hours.

Senator Catherine Ardagh: I call on the Tánaiste and Minister for Justice and Equality to attend this House and explain what she knows about the current saga of the alleged misappropriation of millions of euro at the Garda training college in Templemore. There appears to be a huge disparity between the evidence given by a senior civil servant within the force, Mr. John Barrett, and that of the Garda Commissioner with regard to both of their recollections of a meeting in July 2015. Mr. Barrett recollects a detailed two-hour meeting in which a recommendation by Mr. Ken Ruane to invoke article 41 of the Garda Síochána Act was discussed. Mr. Barrett accumulated very detailed attendance notes of that meeting. The Garda Commissioner, on the other hand, recollects a very different meeting and describes such a meeting as a

brief meeting over a cup of tea. We understand that a 120-page detailed dossier was given to the Committee of Public Accounts last night on the financial irregularities and alleged malpractice. We also know that audits of the Garda training college in or about 2008 and 2010 found a complicated web of company accounts and raised serious concerns about the use of taxpayers' money.

It is now time for the Minister for Justice and Equality to come to this House and inform us of her interpretation of the events. The Minister needs to let us know when she found out about the alleged irregularities and what exactly she was told. Can the Minister for Justice and Equality stand over the Garda Commissioner in light of these new revelations? Did the Minister question the Garda Commissioner and ask her why there was a 15-month delay in informing her of these irregularities? Did she question why senior civil servants were prevented from getting information they needed to conclude the audit? That information was the 2008 and 2010 audit reports which, as we have learnt, were denied to the audit committee. Finally and most importantly, does the Minister for Justice and Equality believe that the Garda Commissioner misled the Committee of Public Accounts? If the Minister does believe that, is the position of the Garda Commissioner now untenable?

The second issue I wish to raise relates to the increase in costs of motor insurance premiums. Anecdotally, we learn that car insurance premiums have gone up in many cases by 32% to 40%. We know that the Competition and Consumer Protection Commission, CCPC, is investigating potential legal breaches by insurers as car insurance premiums continue to rise. I ask the Minister for Finance to inform this House when the investigation by the CCPC will be complete. We understand that it is a complicated process, but in the meantime, consumers are at risk of being exploited by anti-competitive practices within the industry. Policies put forward by the Minister of State, Deputy Eoghan Murphy, in January need to be implemented because consumers are outraged that these nonsensical price increases continue.

Senator Victor Boyhan: I wish to raise two specific issues. Both relate to the portfolio and responsibility of the Minister, Deputy Varadkar, in the Department of Social Protection. The first issue relates to the carer's allowance payment and the second relates to the maternity benefit. We know that the carer's allowance is a payment to people on low incomes who are looking after persons who need care due to age, support, disability or illness, including mental illness. On 27 April, I contacted the Department with regard to a number of people who had contacted my office about serious issues of appeals over the carer's allowance. Our contacts were not followed up. After we made contact again on a number of occasions, we were informed by a very senior public servant that there was a huge backlog. We were told in April, as we were heading into May, the Department was dealing with the backlog from December. Carer's allowance payments are not being processed in cases where there are appeals, concerns, refusals or questions to be investigated or pursued. The Department is not in a position to look at anything beyond December 2016. That is nothing short of an absolute disgrace and needs to be addressed. It was reported on RTE this morning, during a discussion on "Morning Ireland" of the media coverage of the maternity benefit issue, that there is now a backlog of 3,000 claims for maternity benefit. It seems again that it will take months to clear the backlog. I have double-checked these facts today. The position with regard to these two key social protection benefits is totally unacceptable.

I ask the Leader to arrange for the Minister, Deputy Varadkar, to come to this House to explain the background to all this and what he is going to do about it. Will additional resources, including staff, be put in place to address the genuine concerns of people who have made ap-

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peals to get their carer's allowance payments, which are critical if those for whom they care are to be able to stay in their homes and communities with dignity and with the appropriate and necessary care they need? As a result of the difficulties with maternity benefit, people will be cut off and will have no income. People need to be given assurances that they will get these benefits. This is a process that has been set up within the Department. It is clear that the Department has neither the staff nor the resources to check all this out and pursue it. It needs to be addressed. I am asking the Leader respectfully to invite the Leader to come to this House to brief us on these two specific issues and to set out how he intends to address these appeals processes immediately.

Senator Rose Conway-Walsh: I would like to second what Senator Boyhan has said about carer's allowance and maternity benefit. The Minister is acting deplorably in trying to put the focus elsewhere by suggesting that everybody who is on social welfare is somehow corrupt or trying to defraud the system. It is his responsibility to make sure the system works so that people on maternity benefit get these payments and do not have to wait for a month. Equally, people on carer's allowance should get the small pittance that is due to them.

I am very pleased that Fianna Fáil has finally decided it no longer has confidence in the Garda Commissioner, Nóirín O'Sullivan.

Senator Diarmuid Wilson: We have a longer list than that.

Senator Rose Conway-Walsh: I am glad to hear it. I am sure there are many Fianna Fáil names on it.

An Cathaoirleach: I ask Senator Wilson not to interrupt Senator Conway-Walsh.

Senator Rose Conway-Walsh: Tell him to have some manners.

Senator David Norris: He does have some manners, but the problem is that they are bad manners.

Senator Máire Devine: Think of the children.

An Cathaoirleach: Le bhur dtoil-----

Senator Jerry Buttimer: The Cathaoirleach is very sensitive this morning.

Senator Rose Conway-Walsh: Fianna Fáil is beginning to realise that this is a really serious matter. According to Fianna Fáil, its decision is based on the contradictory evidence on the Garda College issue that was given at the Committee of Public Accounts. When Sinn Féin tabled a motion several weeks ago calling for the resignation of the Garda Commissioner, Fianna Fáil opposed it on the basis that a Garda Commissioner cannot be removed other than by the Government of the day. I suggest the only circumstances in which a Government would contemplate such a move would be if a majority in the Dáil voted for it to happen. This brings into focus again the complex nature of the Fianna Fáil-Fine Gael coalition. There appears to be a threshold of scandal that the Government will tolerate. Fianna Fáil will tolerate a certain amount of wrongdoing and corruption, but when it passes a certain point, it tips off its partners and tells them to act. The Garda Commissioner lost public confidence a long time ago, and she should leave or be removed from office. I look forward to some clarity from Fianna Fáil on when exactly it decided the Commissioner needed to go. One scandal is one scandal too many. That is why Sinn Féin tabled the motion. I welcome the appointment of Kathleen O'Toole

to chair the commission to examine Garda reform. However, I believe that root-and-branch reform of An Garda Síochána cannot take place while Commissioner O'Sullivan remains in office. Now that most parties are calling for the Garda Commissioner to be removed, I ask the Minister for Justice and Equality to come to this House to tell us exactly what she proposes to do. Good and decent rank-and-file gardaí are paying for the public's loss of confidence in the force. That is not fair and it is not reasonable. It is not fair to the people the gardaí are serving and it is certainly not fair to the gardaí themselves. This has to be rectified sooner rather than later.

Senator Lynn Ruane: I join Senator Boyhan in inviting the Minister for Social Protection to come to the House to discuss the two specific issues highlighted by the Senator. I would like to mention another issue with payments, the effects of which women are most vulnerable to. Under the current system in Ireland, women are ordered by the one-parent family system to go to court to seek maintenance from the fathers of their children. When they do so, court orders for maintenance are made and equivalent amounts are deducted from the one-parent family payments made to these women. The State steps back out at this point and does not take a role in ensuring these moneys are extracted from the fathers, for example, through tax or from their social welfare payments. On paper, it appears that women are receiving maintenance, but in reality they are not. This is pushing them further and further into poverty. I would like to add this to the list of issues to be discussed with the Minister, Deputy Varadkar, if he comes to the House.

Senator Ivana Bacik: I welcome the election of Emmanuel Macron as President of France. I particularly welcome the defeat of Marine Le Pen and the rejection by the French electorate of the politics of the far right.

Senator David Norris: Hear, hear.

Senator Ivana Bacik: I think it is a very optimistic sign in what is often a bleak political landscape at present across Europe.

I would like to welcome one aspect of the scheme of the social welfare and pensions Bill, as published by the Minister, Deputy Varadkar, last night. Colleagues will be interested to know that head 14 of the scheme mirrors the Seanad Private Members' Bill I introduced on behalf of the Labour Party group on 22 March last. They might recall that my Bill - the Pensions (Equal Pension Treatment in Occupational Benefit Scheme) (Amendment) Bill 2016 - sought to address the real discrimination that was highlighted in the case that Dr. David Parris brought before the European Court of Justice. The court refused to rule against Ireland in the case, which related to a pension scheme that required people to have married before the age of 60 in order for their spouse or partner to qualify for survivor's pension. Dr. Parris was unable to marry before that age because marriage equality had not yet been introduced. The Bill I introduced earlier this year sought to address the cases of a small number of LGBT couples who are continuing to face discrimination in Ireland in terms of pension benefits. I am delighted that the Minister has accepted the wording of our Bill and has incorporated it into head 14 of the social welfare and pensions Bill. This is a big win for the Seanad and an important step on the road to equality for LGBT couples with regard to the legacy issue of discrimination on pension rights. I thank my colleagues, particularly Senators Buttimer and Norris, for supporting this Bill. I know Senator Norris has worked on this issue for a long time.

I join other Senators in calling for the Minister for Justice and Equality to come to this House

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for a debate on Garda mismanagement. It is clear from last night's edition of "Prime Time" and the revelations at last week's meeting of the Committee of Public Accounts that there is a discrepancy between the various accounts of what happened in 2015 between John Barrett, who is the civilian head of human resources in the Garda Síochána, and the Garda Commissioner, Nóirín O'Sullivan. Her position is untenable. Fianna Fáil seems to be calling for her to go while stopping short of actually pulling the plug as it could do. I ask the Leader to invite the Minister to come to this House to address this tension. The mismanagement of accounts at the Garda College in Templemore, as highlighted by Deputy Kelly, is just one aspect of the real structural problems within An Garda Síochána. As we know, many other issues have come to light in recent months. I welcome the appointment of Kathleen O'Toole to lead the root-and-branch review. We need to see a review as fundamental as the review of the RUC in Northern Ireland which was initiated by Chris Patten and which led to the foundation of the PSNI. That is how serious the structural issue we are dealing with is.

The Stephen Fry case that came to light over the weekend highlights the ridiculous nature of our law on blasphemy.

Senator Paul Gavan: Who came up with the law in question?

Senator Ivana Bacik: There is an absolutely clear need to repeal the provision in the Defamation Act 2009 which introduced the new statutory offence of blasphemy and then to have a constitutional referendum to remove blasphemy from the Constitution.

Senator Diarmuid Wilson: Remove the Constitution altogether.

Senator Ivana Bacik: As an Oireachtas, we could repeal the 2009 provision by taking out the statutory offence and thereby removing the crazy situation whereby someone like Stephen Fry was apparently facing interview by the Garda for his comments.

Senator Joe O'Reilly: Will the Leader invite to the House either the Minister with responsibility for tourism, Deputy Ross, or specifically the Minister of State, Deputy O'Donovan, for a general discussion on tourism and the tourism product. The particular challenges to the tourism industry are presented by Brexit, fluctuations in sterling, etc. I am not convinced that we do enough to market Ireland in a uniform sense. We have focused on the south west, the north west and areas in the east. Areas such as the midlands, the lake district from which I am from and the drumlin countryside in Cavan-Monaghan are not focused on sufficiently. They have a particular topography and very interesting features which present great opportunities to engage in interesting and niche holiday pursuits such as walking, etc. There is huge potential to promote cultural holiday breaks in the region. The list includes Patrick Kavanagh, Henry James, Brinsley Sheridan, Dr. William Bedell and Percy French, huge literary figures associated with the area within which there is the potential to develop specific tourist trails. We are very fortunate in having in Cavan County Council an excellent tourism officer, Ms Joanne Hayes, but the point I am making is that I am not convinced there is sufficient investment to market Ireland in a uniform way. We target certain areas in marketing our tourism product and do not give other areas across the country a fair crack of the whip. I ask the Leader, given the challenges presented by Brexit in my region, to arrange as a matter of urgency a discussion on the dispersing of investment in the marketing of our tourism product. Are we marketing all of the country equally? I ask the Leader to respond specifically on the issue.

Senator Keith Swanick: I welcome Mr. Darren Aylward and his colleagues from Scoil

Aireagail in Ballyhale.

I propose an amendment to the Order of Business, that No. 16, Declaration of Independence Day Bill, be taken before No. 1. It seeks to have 21 January 1919 declared as independence day.

An Cathaoirleach: Is the Senator formally proposing that No. 16 be taken before No. 1?

Senator Keith Swanick: Yes.

Senator Gerard P. Craughwell: I wish to address the lack of corporate citizenship on the part of the banking sector. Day after day I listen to the news and hear the Minister for Housing, Planning, Community and Local Government being criticised for his failure to act on housing provision. Thousands of houses cannot be built overnight at the drop of a hat, but there are houses for sale. In the last couple of weeks I encountered a young couple who had been handed €30,000 by their families as a deposit on an apartment that they would have been able to buy. They had been paying €1,500 a month in rent for seven years and never missed a payment. They had told the bank that they had received a gift of €30,000 and said they would like to buy an apartment. The actual cost of the mortgage would have been somewhere around €1,000 to €1,100 per month, resulting in a saving of €400 for the couple and the release of a rented apartment, but the bank had stated the couple had no record of saving, although they had been paying €1,500 a month in rent for seven years. It is time the banks rowed in behind the Minister for Finance who produced the help-to-buy scheme and the Minister for Housing, Planning, Community and Local Government who is trying to solve the housing crisis and actually became good citizens. They were saved by citizens, but they have now turned around and started to focus on their shareholders, ignoring citizens. Will the Leader bring the Minister for Finance or the Minister for Housing, Planning, Community and Local Government to the House to discuss how we can force the banks to behave like good corporate citizens? The quicker we do this, the better as what they are doing is appalling. I will finish by saying I support the Minister for Housing, Planning, Community and Local Government in what he is doing. I do not want it to be taken as an endorsement of his future leadership qualities, but he is doing a good job. It is time we backed off and left him alone to try to finish it.

Senator Jerry Buttimer: The Senator should tell his colleagues that.

Senator Gerard P. Craughwell: I only speak for myself.

An Cathaoirleach: The leadership of Fine Gael is not an issue for the Order of Business. I call Senator Ray Butler to speak about relevant matters.

Senator Ray Butler: I welcome the results of a survey of the self-employed by the Department of Social Protection. Three out of four self-employed persons favoured paying a higher rate of social insurance to allow them to receive benefits similar to those received by PAYE workers. More than 80% of those surveyed put the payment of long-term illness benefit as the top priority. The survey found that 74% of respondents would be interested in a system under which extra voluntary contributions could be made to access more benefits. It also found that almost 90% of self-employed persons would pay a higher rate of PRSI in return for specific extra benefits. Their top choices would be long and short-term illness and unemployment benefit. There were 3,200 respondents. I would prefer if it was mandatory. I have waited so long for this to happen that I could live with a voluntary system, but let us get the ball rolling. Can we have the Minister come to the House before the summer recess to iron out some of the issues

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with the new stamp? The scheme is very welcome for the 340,000 self-employed persons in the country.

Senator Máire Devine: I extend my thanks to the organisers of the Tree of Hope event who were on the lawn this morning. The planting of a Tree of Hope was respectful, bracing and uplifting. I hope we will all ponder and enjoy it as we walk around the gardens.

The Minister for Social Protection, Deputy Varadkar, is in a bit of trouble this morning over the backlog of maternity benefit payments, for which he has apologised. I recognise the urgent need for resources to deal with the backlog which extends to several months. The Department is telling anxious and soon-to-be mothers that it is not possible to give an accurate date as to when applications will be processed and paid. Some are on half an income, but others have no income whatsoever. However, rent, mortgage and bill payments still need to be made. The advice given to go and beg in Intreo or local welfare offices for a loan is unsatisfactory, especially if one needs to bundle up a newborn. The situation is stressful. I ask the Minister to come to the House to set out a clear and immediate plan to resolve the issue. The problem seems to extend throughout the Department. Backlogs in paying carer's allowance, family income supplement and paternity benefit extend to several months. We need to ask the Minister to concentrate on this issue to ensure the smooth running of his Department. It is a less easy catch for him than talking to the media about the fraud line, known colloquially as the "Rat for Leo Line". We need to get the Department in order first.

Senator David Norris: I welcome the move made by the Minister for Social Protection, Deputy Varadkar, to deal with the pension anomaly. I have been involved in dealing with it since the legislation was initially introduced, but I compliment my colleague, Senator Bacik, on the work she has done on it and, in particular, producing the first Bill to deal with it. However, I think it is too narrow as it seems to focus particularly on the David Parris case. There are further anomalies outside it. I hope it will be possible to work with the Minister to tweak the legislation, but I am very pleased that he has taken up the issue. We had a meeting this morning with the Russian ambassador organised by the Leader, Senator Jerry Buttimer, about the horrendous treatment of gay men in Chechnya. The ambassador pointed to the pension anomaly as a blot on the Irish reputation, so it actually has a certain international currency. I think it is too narrow.

Dr. David Parris is a university lecturer. I do not know what lecturers are paid nowadays, but we were not paid a huge amount when I was lecturing. To expect somebody like him to cough up €50,000 in legal fees is wrong. In the series of cases that I took on the criminalisation of homosexual behaviour among men, the Government first applied for costs and costs were awarded against me of €75,000 which, in the 1970s, was a hell of a lot of money. *12 o'clock* Eventually, however, the Supreme Court decided that because it was a matter of constitutional interest, the State should bear the costs. I believe very strongly that as individual citizens, Dr. Parris and his partner should not be loaded with this very heavy financial responsibility. I ask the Government to absorb the costs because the case was a matter of fundamental, constitutional interest and in that context, an individual citizen should not be required to pay.

Senator James Reilly: Thank you, a Chathaoirligh-----

Senator David Norris: I am sorry but there was one other matter. I ask Senator Reilly to forgive me for interrupting.

An Cathaoirleach: The Senator is well over the limit but if he is brief, I will allow him.

Senator David Norris: I apologise but this is something that was drawn to my attention by Senator Bacik. The provisions of the legislation appear to exclude Dr. David Parris. The legislation asserts that a claim for redress in respect of a breach of the principle of equal pension treatment-----

An Cathaoirleach: That is a matter that can be dealt with in the debate, Senator Norris.

Senator David Norris: -----on the sexual orientation ground must be made within three years of the date the employee married or entered into a civil partnership. That excludes Dr. Parris.

An Cathaoirleach: That is a matter that can be dealt with during the debate on the legislation.

Senator James Reilly: Earlier today the Cathaoirleach and many other Senators were present during the planting of a Tree of Hope for those who have lost loved ones through suicide and those who have mental health issues. I mention this because the most common cause of death for people who are higher functioning on the autistic spectrum is suicide. In that context, I wish to propose an amendment to the Order of Business. I ask the Leader to take No. 17 before No. 1 so that we can discuss the need for a national strategy for autism in the context of the Autism Spectrum Disorder Bill 2017.

Senator Paul Gavan: I understand that we are likely to see Senator Lawless's Bill to repeal the Good Friday licensing laws back before this Chamber in the coming weeks. To be clear, I am quite happy to see that Bill progress. However, I am concerned about the disappearance of the Public Health (Alcohol) Bill. It is a little bizarre that a member of the Opposition has to raise a Fine Gael Bill and ask where it is-----

Senator Jerry Buttimer: It is not a Fine Gael Bill. It is a Government Bill.

Senator Paul Gavan: Apologies - a Government Bill and to ask where it is. What message will it send-----

An Cathaoirleach: Technically, that was a correction from the Leader.

Senator Paul Gavan: I accept that. What message is this Chamber sending-----

Senator David Norris: Fine Gael is part of the Government.

Senator Paul Gavan: What message will we be sending from this Chamber if we are seen to be rushing through legislation to enable people to drink more alcohol, while the Bill to deal with the crisis in alcohol consumption in this country has disappeared? It has disappeared because of difficulties within Fine Gael and we must be very clear about that. I have a very simple request to make. I ask the Leader to confirm that the Public Health (Alcohol) Bill will be reintroduced before we proceed with the Bill from Senator Lawless so that the country can see where our priorities lie. We should be tackling the crisis in alcohol before we license for further sales of same.

Senator David Norris: Hear, hear.

Senator Diarmuid Wilson: I second the proposed amendment to the Order of Business by

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Senator Swanick. I welcome the fact that Sinn Féin is attempting, democratically, to remove a member of An Garda Síochána, namely, the Garda Commissioner because over a period of 35 years, its colleagues in the IRA have removed over 24 members of An Garda Síochána-----

Senator Niall Ó Donnghaile: Point of order-----

Senator Diarmuid Wilson: -----by murdering them.

Senator Niall Ó Donnghaile: On a point of order, please.

An Cathaoirleach: What is the point of order, Senator?

Senator Niall Ó Donnghaile: I have no colleagues in the IRA. Sinn Féin and the IRA are two very distinct and-----

An Cathaoirleach: That is not a point of order.

Senator Niall Ó Donnghaile: -----separate organisations. Sinn Féin is certainly not responsible for the accusations made by Senator Wilson.

Senator Máire Devine: Surely that is defamation.

An Cathaoirleach: That is not a point of order.

Senator Niall Ó Donnghaile: I resent the implication-----

An Cathaoirleach: Senator, that is not a point of order. Please respect the Chair-----

(Interruptions).

Senator Niall Ó Donnghaile: The Leader may laugh-----

An Cathaoirleach: Respect the Chair.

Senator Niall Ó Donnghaile: The Leader may laugh at such a serious accusation but it will be a cold day in hell before I allow him-----

An Cathaoirleach: Respect the Chair, please.

Senator Niall Ó Donnghaile: -----given where his party comes from, to discredit my party or any member of it.

Senator Jerry Buttimer: With respect, it was not me. It was Senator Wilson.

An Cathaoirleach: Please allow Senator Wilson to continue.

(Interruptions).

Senator Diarmuid Wilson: I have said what I have said and-----

(Interruptions).

An Cathaoirleach: Senator Wilson, without interruption-----

Senator Niall Ó Donnghaile: On a further point of order-----

An Cathaoirleach: Senator Ó Donnghaile-----

Senator Niall Ó Donnghaile: He is saying that his lie is a fact. That is not in order.

An Cathaoirleach: Senator Ó Donnghaile, please resume your seat.

Senator Niall Ó Donnghaile: That is not in order.

An Cathaoirleach: Please resume your seat. That is not a point of order.

Senator Niall Ó Donnghaile: It is not in order for him to make those accusations.

An Cathaoirleach: I have ruled against you twice. If you stand again, I will adjourn for 15 minutes.

Senator Niall Ó Donnghaile: Perhaps the Cathaoirleach could rule on whether it is in order-----

An Cathaoirleach: I have ruled against you, Senator.

Senator Niall Ó Donnghaile: Perhaps the Cathaoirleach will explain to me-----

An Cathaoirleach: I have ruled against you, Senator.

Senator Niall Ó Donnghaile: Perhaps the Cathaoirleach will explain to me, under Standing Orders-----

An Cathaoirleach: Allow me to explain-----

Senator Niall Ó Donnghaile: Allow me to elaborate on my point-----

An Cathaoirleach: No, I am suspending the House-----

Senator Niall Ó Donnghaile: Is it in order? How is that in order?

An Cathaoirleach: -----for 15 minutes.

Senator Niall Ó Donnghaile: The Cathaoirleach does not like Fianna Fáil being challenged.

Sitting suspended at 12.06 p.m. and resumed at 12.22 p.m.

An Cathaoirleach: If the Senator would like to conclude, he has one minute left.

Senator Diarmuid Wilson: The Fianna Fáil Party in the Lower House could not support the motion by Sinn Féin because it would have been illegal to do so. The Government is the only body which can take a decision to dismiss a member of An Garda Síochána.

An Cathaoirleach: Senator O'Donnell is gone so I call Senator Feighan.

Senator Frank Feighan: I agree with Senator Reilly that we need to do more to encourage tourism in rural Ireland. In my town, many years before I went into politics, I was chairperson of Lough Key Forest Park action group. It is now one of the major tourist attractions in the country. At the time, when we brought the council on board with Coillte, everyone was concerned that Coillte would sell off this huge, fabulous forest park. We brought the council on

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board with Coillte because Coillte could not draw down European regional development funds. Some 15 years later, we drew down over €12 million in European grants and it is now a tourist attraction. I am saying this because in Boyle town, similar to many other towns, we do not have a flagship hotel. Tourists come to the area but there is no flagship hotel in the town. We seemed to have missed the Celtic tiger practice where hotels were built in places that they were not needed. In this case, there is a tourist attraction but no one in their right mind would build a hotel unless there was some sort of Government intervention, tax break or something similar. There are towns around the country, such as Ballaghadreen, Castlerea and Boyle, which need that vital piece of infrastructure not only for tourism, but also for locals as leisure centres. I appeal for a different look to be given to it.

I welcome the appointment of Ms Kathleen O'Toole to carry out a root and branch review of the Garda Síochána. It is certainly needed. The Garda Síochána was formed in 1922 and my grandfather, James Feely, was one of the first gardaí. I am one of those people who are very proud of the tradition of the Garda Síochána. It is an unarmed force but it has held the line against numerous threats to our State. Someone likened the Garda to the RUC. The Garda was our unarmed force and I am proud of its tradition. If a root and branch review needs to be done, so be it. It probably needs to be done but I am a citizen of this country and I am very proud of its past members, the men and women who have held the line in our State.

Senator Gerard P. Craughwell: Hear, hear. Well said.

An Cathaoirleach: Before Senator Ó Donnghaile commences, as Cathaoirleach, and previously as Leas-Chathaoirleach and as a Member for nearly 15 years prior to that, I have chaired sittings of the Seanad and I have never been accused of being political. When I got this job, I left politics aside. Charges are made from different sides against different people. I try to be fair and perhaps I fail at times-----

Senator David Norris: No, the Cathaoirleach is very fair.

An Cathaoirleach: I left my political baggage behind when I got this job.

Senator Niall Ó Donnghaile: I accept that wholeheartedly, a Chathaoirligh, and I withdraw the comment. I do not feel-----

An Cathaoirleach: We will leave it at that.

Senator Niall Ó Donnghaile: We will surely.

An Cathaoirleach: I am sure the Senator is rising to raise another matter.

Senator Niall Ó Donnghaile: Absolutely. I withdraw the remark.

An Cathaoirleach: Thank you.

Senator Niall Ó Donnghaile: I understand that sometimes orders might need a bit of guidance and that is the point I wanted to expand upon.

The Twenty-fifth Seanad has been sitting for over a year. It is unfortunate to say that in that-----

Senator Jerry Buttimer: That is wrong.

Senator Niall Ó Donnghaile: I apologise. We have been elected to the Twenty-fifth Seanad for over a year. It is simply cordial to offer each other some advice now and again and keep each other right.

An Cathaoirleach: This Seanad has been sitting for 11 months.

Senator Niall Ó Donnghaile: Eleven months is still a good chunk of time. In the course of that 11 months, the Taoiseach has been before us once. That is equal to the number of appearances before this House by the Scottish First Minister and tomorrow by the lead negotiator of Brexit from the EU side. We all agree that Brexit is one of the biggest threats to this State in its entirety in a generation, if not longer. We have been told repeatedly by the Leader that the Taoiseach leads on this important issue, that he is leading the Government position alongside the Minister for Foreign Affairs and Trade. We will have Michel Barnier before us in a joint sitting tomorrow. I do not think it is too much to ask that the Taoiseach would come to this House on a more regular basis to afford us the courtesy of updating us on where negotiations and the Irish Government position has reached.

The Government has been mandated by the Dáil to argue for special status for the North. It would be very useful for Senators to hear where things lie regarding that negotiating stance. We have heard some points emerge from the EU side and while Michel Barnier and his colleagues are here tomorrow, we should take the opportunity to convey a very clear message that we too support special status for the North given the democratic vote there and that we support the preservation and the pre-eminence of the Good Friday Agreement and its all-Ireland institutions. Perhaps the Leader could ask the Taoiseach to come in before we break and update Members on where we are at in the Brexit negotiations.

Senator Paul Daly: I ask the Leader to ask the Minister for Justice and Equality to take control of the situation and for us all, irrespective of our political allegiance, to leave the political point scoring on the Garda Síochána and the Garda Commissioner outside the door. Many people, all over the country and particularly in rural areas, are the victims of our shenanigans. They are the elderly, who are living vulnerably in rural Ireland. I have with me the local paper from my home area which reports that there has been a litany of crime in the past two weeks. In particular, it relates to elderly people in rural areas. We have all heard of the high profile case in Tipperary last week, but it is the same all over the country. The reason for this is that the criminal element sees total disarray among the Garda Síochána from the top down by virtue of the media coverage from these two Houses. In essence, we are the initiators of much of this and it is about time that the Minister for Justice and Equality, the person who can grasp the nettle, takes control of the situation and sorts it out once and for all in the interest of the most vulnerable in society.

Senator Gabrielle McFadden: I share Senator Feighan's sentiments about An Garda Síochána and I am very proud of it. Equally, I am immensely proud of our Defence Forces. I rise today to praise the members of the 110th Infantry Battalion, who travel today to serve with the United Nations Interim Force in Lebanon, UNIFIL. Ireland has a long association with UNIFIL since its establishment in 1978 and I am really proud of the 336 members who fly out today, both men and women, who volunteered to take on this mission. I point out that 95 of those 336 people are first-time overseas travellers with the force, and it could be very daunting for them. They are very brave and I pay tribute to them. Many of their families come from my home town of Athlone.

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Peacekeeping is a very important job and it can sometimes be carried out in very challenging circumstances. The role carried out by the Defence Forces is done with complete dedication and professionalism. The 110th Infantry Battalion was on parade last Friday and reviewed by the Minister of State in Athlone; the town was immensely proud to see the troops march through to the barracks. I could not help but be very impressed with their demeanour and obvious pride. I wish them well and hope they do a very good job abroad, coming back safely to serve their country with the distinction they have done until now. With this in mind, will the Leader speak with the Taoiseach and Minister of State with responsibility for defence about giving medals to those who served in the Congo in 1961, the Jadotville group?

Senator Aidan Davitt: Today I will raise a matter that I hope the Leader will bring to the attention of the Minister for Housing, Planning, Community and Local Government, Deputy Coveney. There has been much discussion about our housing issue, as Senators are aware, and the results and formulae we are trying to achieve in solving the housing crisis. There is a history of a certain approach working. There are many vacant houses, as we are aware, and the statistics are there to be seen regarding such houses. We have heard how councils could use their powers to buy houses that we could get people to renovate or use compulsory purchase orders or other threats.

A far more suitable way to get houses back to the market that, for example, have not been in use for over two years would be to apply a reduced rate of capital gains tax. It is the way forward and it would encourage people to sell these houses. Currently, a third of whatever profit these people might make in their houses would go in capital gains tax. I would stress a reduction of the rate to 10% for housing units that are vacant, so it would not relate to currently occupied houses. If we reduce the rate on these properties, it would bring a steady flow of houses to the market that are not there currently.

Senator Paul Coghlan: I second Senator Reilly's proposed amendment to the Order of Business. I do not wish to labour the following point as I know it was raised yesterday in my absence from the Order of Business. Far too many people are showing blatant disregard for the law relating to fire and burning regulations. What has happened in Connemara is a national disaster, with 4,000 ha being wiped out and millions of euro of trees being destroyed. Coillte has told us it will take 25 years to replenish what has been lost. Competence in the provision of proscribed burning operations is critical. As we know, fire services are being diverted all over the place from potentially dangerous domestic cases as a result of this. Perhaps the appropriate Minister might come to the House and outline the Department's strategy for preventing these types of fires.

Senator Trevor Ó Clochartaigh: Tacaím leis an méid atá ráite díreach romham ag an Seanadóir Coughlan. Tá géarghá le díospóireacht faoi na tinte sléibhe. We certainly need a debate around the impact of the gorse fires and the other ensuing fires. The management of that type of cleaning of lands must certainly be debated. We need to see if we can have an impact on that at policy level.

I raise the issue of our coastal communities. We have seen a major loss of population in our coastal communities and a very good report was produced by the joint committee dealing with agriculture and fisheries in the previous Dáil and Seanad on sustaining rural communities. The report made many very practical recommendations that were agreed across parties. It would be interesting to see if any of those recommendations have been moved forward in the life of this Government.

We are seeing major problems in the fishing industry with a depleted fleet and people losing morale in the sector. There are issues concerning technicalities in quotas and tonnage, etc., so it is important to have a discussion around the future of our fishing fleet, particularly in the context of Brexit and the implications it will have.

Connected to this is the issue of seaweed harvesting, aquaculture, etc., as well as the implications of designations in the area. On our priority legislation list we have the maritime area and foreshore (amendment) Bill, and I understand issues around licensing of aquaculture and seaweed harvesting are being held up until that comes forward. We know the heads of the Bill were approved in July 2013 and pre-legislative scrutiny was completed in February 2014. We have not seen anything of the Bill since. It would be very important to have a debate around that Bill, as well as an indication of when it will come forward. Could we be told if it is to come forward in this session? I will seek clarification of that and a debate on those issues if possible. There are issues around infrastructure in coastal areas, particularly in my own area of the deep water harbour of Ros a' Mhíl. Is that being moved forward? There is also the issue of the road infrastructure leading to those harbours. That is very important in rejuvenating rural areas where the infrastructure projects are located.

Senator Colm Burke: I support the Bill being introduced by Senator James Reilly. It is important we start planning in this area. There are simple issues we must resolve, such as the numbers of people getting support or being cared for by family. What is the age profile of parents? What planning must we do to ensure that when parents are no longer able to provide care, there can be someone to step in and take over that care? It is a big issue as there is no planning. I raised the issue yesterday about the need for respite care for people being cared for at home. I very much welcome the Bill being introduced by Senator Reilly.

We have introduced many changes in the primary school sector over the past number of years relating to people who need additional support in primary schools and the educational system. Many children are going forward into the secondary schools system but we do not seem to have planned in that system for their needs. I was speaking to people yesterday and in one school, over 70 people are looking to get into the unit operating in that school. We should have a debate on how we provide forward planning for young people who are getting support in the primary school sector but who are not getting it in the secondary school sector. I ask the Minister for Education and Skills to come here to deal with that matter in a debate.

An Cathaoirleach: I take this opportunity to welcome trainees and staff from Cavan Youthreach who are in the Gallery. I hope they enjoy their visit. I called Senator O'Donnell earlier but he was absent. I will allow him in as the last speaker.

Senator Kieran O'Donnell: The Cathaoirleach might allow me to take the liberty of welcoming the children from Our Lady Queen of Peace national school in Janesboro and their principal, Mr. Michael Ryan, who are in the Gallery. I will raise the issue of maternity benefit delays. I note the Minister, Deputy Varadkar, has stated there are problems with a new system. The delays appear to have arisen because a new system is being implemented in the Department of Social Protection for the processing of maternity benefit. The Department should go back to the old system to get rid of the backlog and perhaps delay the introduction of the new system. Maternity benefit is based on contributions. It is not a means-assessed payment and, therefore, it is relatively straightforward. Assessment is based on the number of stamps paid in previous years. Women who are employees apply six weeks before they go on maternity leave and 12 weeks before if they are self-employed. Taking all factors into account in respect of the delays,

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perhaps what is required is a return to the old system and a staggering of the introduction of the new system, perhaps over a slightly longer period, to ensure women who are on maternity leave at the moment and who are not in payment will come into payment as quickly as possible. Perhaps there is a common sense solution in the short term. We all want innovation in the Department but it is critical that a mechanism is found whereby the payments can be sped up. The payments system had been working efficiently. My suggestion to the Minister for Social Protection is that he should process the backlog under the old system and stagger the introduction of the new system, perhaps over a longer period, in order that arrears can be brought up to date and that there can be a smooth transition in respect of payments between the old and new systems.

Senator Jerry Buttimer: I thank the 25 Senators who contributed. I join Senator O'Donnell in welcoming the children from the school in Limerick whom I had the pleasure of meeting on the corridor. I also welcome the workers from Cavan Youthreach who are doing great work, not least having to endure Senator Wilson on occasion. I commend them on the great work they are doing. As a former director of adult education, I know they do tremendous work, which is of value to our communities and society.

Senators Conway-Walsh, Bacik, Wilson, Feighan, Daly and McFadden raised the ongoing issue relating to An Garda Síochána. It is important to recognise the importance of the force to our society and our communities. All of us should thank and commend the men and women who patrol our streets and neighbourhoods and who act as the guardians of the law to keep all of us safe. It is important that we acknowledge, and pay tribute to, the rank and file members of An Garda Síochána. We can all point out the community garda, local sergeant, inspector or superintendent in our communities who do Trojan work. They do this at unsocial hours at times and in difficult conditions. I am a member of the joint policing committee for Cork city and county and I am aware of the work gardaí do. They are as frustrated as many of us by the ongoing issues pertaining to the force. It is important that, as Senator Daly rightly said, we do not politicise the issue. That is why I will not take lectures from Sinn Féin Members regarding An Garda Síochána. Their new found interest in, and respect for, the force, while welcome, should always have been there and it should not be ambiguous.

Senator Máire Devine: Here we go again.

Senator Jerry Buttimer: The Senator can pout all she wants.

Senator Máire Devine: The Leader is out of order again. He throws lots of digs and is very defensive.

Senator Jerry Buttimer: It is important that we all have confidence in gardaí and the Commissioner-----

Senator Máire Devine: The Leader should stop lecturing us. It is his true form.

Senator Jerry Buttimer: The truth hurts.

Senator Máire Devine: It is the Leader's default position to lecture and to get digs in every now and then.

An Cathaoirleach: The Senator should allow the Leader to continue without interruption.

Senator Jerry Buttimer: The truth hurts. The facts are the facts.

Senator Máire Devine: The Leader is nasty.

Senator Jerry Buttimer: If the Senator wants to go through history and speak about being “nasty”, she should look at her own party’s relationship with An Garda Síochána.

An Cathaoirleach: The Leader should please address the Chair.

Senator Máire Devine: He does not know how to address the Chair. Day in, day out, he is like a broken record.

An Cathaoirleach: The Senator should allow the Leader to conclude.

Senator Jerry Buttimer: It is important that all of us have confidence in An Garda Síochána and in the Commissioner. All of us are concerned about, and frustrated by, the recent developments and the ongoing issues but it is important that we allow change, whether it is structural or cultural, to happen in the force. That is why the Minister for Justice and Equality has not been slow in bringing about reform and ensuring the appointment of Ms Kathleen O’Toole and the other appointments-----

Senator Paul Gavan: She needs to go.

Senator Jerry Buttimer: -----to ensure transparency and accountability in regard to An Garda Síochána. I very much welcome the appointment of Ms Kathleen O’Toole.

The Committee of Public Accounts is engaged in an ongoing investigation into the matters relating to the college in Templemore but all of us aspire to accountability and transparency regarding all matters relating to the force. The revelations are upsetting, worrying, frustrating and serious-----

Senator Paul Gavan: So we do it in reverse.

Senator Jerry Buttimer: -----and we must allow for that cultural change to take place. The repeated political requests of the Members opposite to get rid of the Commissioner are about looking for a head; they are not about structural change or transformation.

Senator Paul Gavan: They are about credibility.

Senator Jerry Buttimer: We all accept that matters relating to An Garda Síochána need to be sorted out and that is why the Government has not been found wanting in bringing about change. All of us are frustrated and annoyed because these matters undermine the work being done by the force, but there must be accountability and cultural change.

Senator Máire Devine: The Leader will undermine his party’s position.

Senator Jerry Buttimer: I will be happy to see that change happen in the coming months. We should allow the issues to be resolved.

Senators Boyhan, Conway-Walsh, Ruane, Devine, Bacik, Norris and O’Donnell raised social protection issues. Senator Boyhan raised a particular issue regarding the carer’s allowance and I will take that back to the Minister. All the Senators raised the maternity benefit issue. I join those who expressed disappointment at the delay in the processing of the applications. A total of 1,300 women are awaiting the payment of this benefit. I have been informed by the Minister that additional staff have been appointed, overtime has been provided and there is an

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issue with the roll-out of a new system. Senator O'Donnell made a telling contribution regarding how the issue could be resolved by using the old method. The Minister should do that. As Senator Devine rightly said, women who are at their most vulnerable require that payment and the delays are unacceptable. Senator O'Donnell is correct that the Minister should be asked to postpone the implementation of the new system and the training of staff and have the payments made under the old system until the Department gets the structure right.

Senator Ardagh raised the motor insurance issue. The Minister of State at the Department of Finance, Deputy Eoghan Murphy, along with the Joint Committee on Finance, Public Expenditure and Reform, commissioned a report into motor insurance which has made 76 recommendations. All of us want a reduction in the cost of premia and there is a need for more change, to which we all look forward.

Senators Bacik and Norris raised the pensions issue in the context of the Social Welfare and Pensions Bill. I very much welcome head 14. Senator Norris referred, in particular, to the exclusion of Dr. David Parris. As the Cathaoirleach rightly said, that can be addressed in the Bill and I hope we can reach an accommodation on that.

Senator Bacik referred to the issue of blasphemy, about which we had a discussion yesterday. All of us recognise that there has been no conviction since 1855 but it might be no harm to have the offence removed completely. I am not against that.

Senators O'Reilly and Feighan raised the important issue of tourism in the Border area. As Senator O'Reilly rightly said, the Cavan area has a tourism product. Those who watched last Monday's edition of "Nationwide" could not but be impressed by the product on offer in Cavan and Monaghan. It is something that the Minister of State at the Department of Transport, Tourism and Sport should come to the House to discuss. He is very much aware of the impact Brexit could have on the tourism strategy but the strategy needs to be accentuated and highlighted in respect of the Border counties and I would be happy to facilitate a debate on that.

I am happy to accept Senator Swanick's amendment to the Order of Business.

I join Senator Craughwell in pleading with the banks to take their corporate citizenship responsibilities seriously. They have an obligation and duty to work with people rather than holding the sword over them all the time. The Senator's points were well made as were those made by Senator Butler regarding the self-employed. The Minister for Social Protection has made significant changes and is working towards a bigger change for the self-employed. Senator Butler, who is a long-standing champion of the self-employed, made some good points.

Senators Devine and Reilly referred to the Tree of Hope. It is important, as the Senator said, that people do ponder and reflect as they walk past. This is mental health awareness month, and it is important that an awareness is created, that people are able to talk about mental health and that there is an opportunity to have that discussion. As was mentioned yesterday when discussing the Cinderella element of the health budget, there is a stigma associated with mental health that we need to overcome, and that can only be done by having public events where people can speak about the pain of isolation, loss, anxiety and loneliness and other frustrations that have been bottled up for years. Government, despite what some people will say, have put in place a number of measures that will be of benefit to people, but we have a road to travel yet, and I fully subscribe to the view that any initiative that we can take to allow people to speak and highlight mental health is to be welcomed.

I thank Senator Warfield and Senator Norris for joining me this morning to meet the Russian ambassador to highlight the issues in Chechnya and Russia. It is frustrating when one hears the ambassador saying that there are no issues and that all people are treated with respect, but as Senator Norris said we have an issue to deal with.

I would be happy to take Senator O'Reilly's amendment to the Order of Business, and I thank him and Senator Burke for their remarks regarding an autism strategy. We will have that debate next week in the House.

Senator Gavan brought up the issue of the Good Friday Bill. I share with him the desire to reduce the harm alcohol has on our society, and as the former chair of the Oireachtas Committee on Health - our first piece of work was about alcohol - who has scrutinised the public health and alcohol issue, I am working on having that Bill back in the House before the summer recess. I am not hiding or demurring from my responsibilities in any way. I will always be willing to work for public health, as is Senator Gavan. We are not in any way preventing consideration of the measure. From speaking to the Department of Health and the Minister of State at the Department of Health I know she is anxious to progress the Bill on which work is ongoing. It is nearing completion. I as Leader gave a commitment to Senator Lawless on the Bill, and it is hoped we will have it back before the summer recess.

Senator Paul Gavan: Our priority should be the public alcohol Bill.

Senator Jerry Buttimer: We are working to progress that legislation.

Senator Feighan raised the issue of tourism around his area of Roscommon, and he is right to raise that point. It is important that we see a tourism strategy post-Brexit.

Senator Ó Domhnaill raised the issue of Brexit negotiations and the Taoiseach's availability to come to the House. We had former taoisigh before the Special Committee on the Withdrawal of the United Kingdom from the European Union, so it is hoped the Taoiseach will appear before that committee as well. If we look at the agreement secured by the Taoiseach in terms of the recognition of the unique constitutional status of the North and the issue around the Good Friday Agreement and the entire territory of the island of Ireland, we will see that the Government's strategy around Brexit has worked so far. The outcome is attributable to the work of the Taoiseach, the Minister for Foreign Affairs and Trade, Deputy Flanagan, the Minister of State at the Departments of the Taoiseach, Foreign Affairs and Trade and Justice and Equality, Deputy Dara Murphy, and all of Government, through its diplomatic and political campaigns in recent months.

I would be happy to have the Taoiseach come to the House or to the Brexit committee. The Taoiseach has been a true leader, and has not politicised Brexit. He has worked across the world pursuing an intensive campaign on the importance of Ireland in the European Union and our unique position. That will be recognised at the European People's Party later this week. We all support the peace process and the need to protect the Good Friday Agreement. That is not a political mantra but has been at the heart of Government. I agree with Senator Ó Domhnaill that we need to have a flexible and imaginative solution to ensure that we do not have a hard border in our country and that there is a need to protect the special status of not just the North but of all of Ireland. I look forward to the debate with Monsieur Barnier tomorrow, and I thank the House in advance of the agreement of the resolution later.

Senator Paul Daly is correct in that we should always keep the victims of crime at the fore-

front of what we do.

Senator McFadden raised the issue of the 110th Infantry Battalion heading off to the Lebanon. On behalf of this House I wish them a very safe and peaceful mission. We are fortunate as a nation that the men and women who serve in our Defence Forces go overseas and act in a way that other countries are extremely complimentary of. The Army has a very strong affinity to Lebanon, and I again commend the troops and wish them well on their mission. I thank Senator McFadden, who has been a strong advocate of the Defence Forces. Senators MacLochlainn and Craughwell have raised the issue of the Jadotville group in the Congo. We will bring resolution to the matter, which has been supported by all of us in this House, in the coming weeks.

Senator Davitt raised the issue of vacant houses and voids. The Senator is correct in that creativity and imagination should be used to fix the situation around voids and vacant houses, and every consideration should be given to the matters he raises on the issues of taxation and capital gains tax. That should be looked at.

Senator Coghlan raised the matters of the gorse fires again today. We had very good contributions yesterday by many Senators on the Order of Business. I repeat my line from yesterday that those who break the law on burning gorse should be pursued and prosecuted, and I would be happy for the Minister to come to the House to discuss that.

Senator Ó Clochartaigh raised the issue of our coastal communities, which are very important to our country. The issue of a report on sustaining rural communities and the issue of the maritime area and foreshore licences were brought up. I would be happy to have the Minister come to the House to discuss that matter.

Senator Colm Burke also raised the issue of respite care, and the point made is one on which we have to have a special debate. I am endeavouring to have the Minister come to the House to discuss that. He also raised the matter of the primary school and post-primary school sector and planning for the future needs of children. He cited the issue yesterday, and it is a matter that needs to be addressed through a Government-wide approach. I look forward to having that debate.

I will accept the two amendments to the Order of Business from Senators Reilly and Swanick.

An Cathaoirleach: Senator Keith Swanick has proposed an amendment to the Order of Business, “That No. 16 be taken before No. 1”. The Leader has indicated that he is prepared to accept this amendment. Is that agreed? Agreed.

On the next matter, Senator James Reilly has proposed an amendment to the Order of Business, “That No. 17 be taken before No. 1”. The Leader has indicated that he is prepared to accept this amendment. Is that agreed? Agreed.

Order of Business, as amended, agreed to.

Declaration of Independence Day Bill 2017: First Stage

Senator Keith Swanick: I move:

That leave be granted to introduce a Bill entitled an Act to recognise the meeting of the First Dáil and the Declaration of Independence made on 21 January 1919 and to provide for a “Declaration of Independence Day” to be held on 21 January annually and to provide for

related matters.

Senator Paul Daly: I second the proposal.

Question put and agreed to.

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

Senator Keith Swanick: Next Tuesday.

An Cathaoirleach: Is that agreed? Agreed.

Second Stage ordered for Tuesday, 16 May 2017.

Autism Spectrum Disorder Bill 2017: First Stage

Senator James Reilly: I move:

That leave be granted to introduce a Bill entitled an Act to provide for the development and implementation of a cross-departmental multi-agency Autism Spectrum Disorder Strategy and to provide for related matters.

Senator Colm Burke: I second the proposal.

Question put and agreed to.

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

Senator James Reilly: Next Tuesday.

An Cathaoirleach: Is that agreed? Agreed.

Second Stage ordered for Tuesday, 16 May 2017.

Courts (No. 2) Bill 2016: Motion

Senator Jerry Buttimer: I move:

That the Order of the Seanad of 9 May, 2017, fixing the Committee Stage of the Courts (No. 2) Bill 2016 for Tuesday, 16th May, 2017, be discharged and that the Committee Stage be taken today.”

Question put and agreed to.

Exchange of Views with Mr. Michel Barnier: Motion

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Senator Jerry Buttimer: I move:

That Seanad Éireann:

(a) notes that the Treaty on European Union recognises the active contribution of National Parliaments to the good functioning of the Union through being informed and having the ability to express their views on matters of particular interest to them;

(b) in view of the economic, political and social implications for Ireland of the decision of the United Kingdom to withdraw from the European Union as notified under Article 50 of the Treaty on European Union on 29th March, 2017, considers that members of the Houses of the Oireachtas should be enabled to express their views and be informed on this issue of significant national importance;

(c) resolves therefore that the Seanad shall sit in Joint Committee with Dáil Éireann on Thursday 11th May, 2017, at 11.30 a.m., for the purpose of an exchange of views with Mr. Michel Barnier, Chief Negotiator of the Taskforce for the Preparation and Conduct of Negotiations with the United Kingdom.

(2) The following arrangements shall apply:

(a) the Ceann Comhairle shall be the Chairman and shall adjourn the proceedings immediately following the Cathaoirleach's concluding statement;

(b) the proceedings shall be as follows:

(i) 11.30 a.m. – Ceann Comhairle's opening statement;

(ii) 11.34 a.m. – statement by Mr Barnier;

(iii) 11.54 a.m. – statements from members in the following order, and to which the following time limits shall apply:

- Government – 12 minutes,

- Fianna Fáil – 10 minutes,

- Sinn Féin – 8 minutes,

- the Labour Party, Solidarity-People Before Profit (Sol-PBP), Independents 4 Change, the Rural Independent Group, the Social Democrats-Green Party Group, the Seanad Independent Group, and the Seanad Civil Engagement Group – 3 minutes each, and members may share time; and

(iv) 12.45 p.m. – Cathaoirleach's concluding statement.”

Question put and agreed to.

Standing Orders: Motion

Senator Jerry Buttimer: I move:

That the report of the Committee on Procedure and Privileges on the amendment of Standing Order 70A and the adoption of new Standing Order 104F be adopted and laid before the House.

Question put and agreed to.

Misuse of Drugs (Supervised Injecting Facilities) Bill 2016: Committee and Remaining Stages

Sections 1 and 2 agreed to.

SECTION 3

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

Senator Diarmuid Wilson: I ask the Minister of State to outline specifically what this section contains.

Minister of State at the Department of Health (Deputy Catherine Byrne): Section 3 provides for the criteria with which the Minister may be satisfied in order to consider granting a licence. These include, but are not limited to, consultation with An Garda Síochána, the HSE or other Ministers as the Minister considers appropriate. It also includes the matters that the HSE will consider when advising the Minister as to the appropriateness of such an application. The HSE is placed to assist with the clinical governance and operational protocol and to ensure that premises are fit for purpose. In addition, it will consider whether the location of the proposed centre is appropriate given the level and nature of drug use in the area.

Question put and agreed to.

Sections 4 to 13, inclusive, agreed to.

Title agreed to.

Bill reported without amendment and received for final consideration.

Question proposed: “That the Bill do now pass.”

Senator Keith Swanick: The Fianna Fáil Party did not propose any amendments to this Bill. We believe that the measures that have helped to avoid drug-induced death should be taken, yet we see this as a pilot programme that will lead to regular reviews. We have many questions regarding the function of such facilities that we hope will be teased out through protocol. An amendment we had considered submitting was one that would take the decision of granting a licence for such an establishment solely from the Minister and would compel him or her to consult with members of local authorities, An Garda Síochána and the HSE before granting a licence. Our reasoning was such that there should be a greater consultation process with

key stakeholders and local authority members who know their own areas inside out and are best placed to participate in decision-making such as this. I ask the Minister to take this into account and to seriously consult with the local authority members before decisions are made with regard to the granting of licences for supervised injecting facilities.

Senator Aodhán Ó Ríordáin: I want to put on record what a wonderful moment it is in our Oireachtas to finally pass this Bill. I acknowledge the members of the Ana Liffey Drug Project who are in the Visitors Gallery. They have been working over a number of years to make this day a reality. I thank the Minister of State for taking this on and for bringing it to today's point at which it will finally pass and become law. Notwithstanding the comments of my colleague from Fianna Fáil, this has had pretty much universal political support across the spectrum in both Houses. Perhaps we are maturing as a country in terms of drug law. Senator Lynn Ruane and I are moving a Bill on 31 May that will hopefully once again achieve wide-ranging political support to take the next step in the decriminalisation of the drug user.

I want to put on record the name of a man called Robert Keyes, who died on 8 November 2015 in St. Audeon's Park in Dublin of a fatal overdose. When the person who came across his body telephoned the emergency services, the person said that it was "just another junkie". This man's mother came forward recently and spoke about her son lovingly and caringly in the media and said that nobody is a "junkie" in this country. What the Minister of State is doing today is ensuring through this life-saving measure that we bring humanity back into our drug policy and that we finally move beyond the situation in which anybody would decide to dehumanise or denigrate another person with that disgusting term. Every citizen of this State is entitled to humane and compassionate treatment. If somebody is hopelessly crippled with an addiction, he or she deserves the care and compassion of this State. This injecting centre legislation provides this in order that nobody else has to go to a park, behind a skip, into an alleyway or into a playground to inject themselves in such a harmful manner.

We will establish a facility that will ensure people's lives can be saved, that they will not contract hepatitis C or HIV and that we can look on these individuals as people with names. Perhaps it is time for a names project such as the one in the United States for people with AIDS. We have the third highest overdose rate in Europe. Perhaps people who are affected by this or whose families are affected such as the people who approach me and say their son or brother died of an overdose but will not say so publicly can begin to speak their names in a loving way because they are or were not junkies. They are human beings afflicted by addiction. This is the first step along the road towards a proper way to tackle this issue in a humane and compassionate way. I congratulate the Minister of State on taking it on, dealing with it with such humanity and dignity and seeing it through to this day. We speak in an empty Chamber, but that does not mean that what we are doing is not absolutely historic and will not save lives.

Senator Colm Burke: I thank the Minister of State for bringing forward this legislation and Senator Aodhán Ó Ríordáin for his work in this area, as well as all those in the Department and the various voluntary organisations and support agencies who have been to the forefront in pushing for this legislation which is very welcome. Just passing it and opening these centres, however, is not sufficient. It is extremely important to provide co-ordinated backup support for the people who will use these facilities to give them the assistance they require with their health and to try to move away from their difficulties. Sometimes we do the minimum when we need to do much more. It is a challenging issue, but it is also one with which we can deal and we must do so effectively. Rather than working in a piecemeal way, it is important to have co-ordination between the agency, whether voluntary or a support service, and the health and

other services involved.

Senator Máire Devine: I welcome the legislation on behalf of Sinn Féin. It is one tool to tackle a major problem and I congratulate Senator Aodhán Ó Ríordáin on pushing it through. It is a good day when action is being taken.

In December last year the Health Research Board released figures for deaths due to poisoning and drug overdose in the years from 2004 to 2017, inclusive. Almost 7,000 people have died due to a drug overdose or misuse. That is higher than the rate of suicide or fatal road traffic accidents, yet the impetus to do something has been lacking. It is probably seen as self-inflicted. Today we gathered at a ceremony to plant the Tree of Hope on Leinster Lawn. Among the thousands who have committed suicide there are thousands whose completed suicide was due to a drug overdose because of the misery of their lives and their mental health problems.

The Bill is a paradigm shift from criminalisation to health care, which is where we must focus our attention. It is an offer of recovery to members of our own families, mothers, fathers, husbands, wives, children, aunts and uncles, all of whom have been touched by drug misuse and the absolute depths of darkness in which drug users find themselves. The legislation will provide for the establishment, licensing, operation and regulation of supervised injecting facilities for the sole purpose of reducing the harm caused to people who inject drugs. It will also enhance their dignity and well-being. They will have contact on a daily basis with health care workers who will encourage them and provide wrap-around services to enable them to focus on a different lifestyle, one free from drugs. They will not be condemned for depending on drugs in the short life they may have. The legislation will also allow communities to reclaim their local areas, parks and leisure facilities and not to be surrounded by the paraphernalia and litter drug-taking entails. It will help to save lives, which is its importance.

Last Friday in County Louth, Deputies McDonald and Buckley and I concluded five country-wide conferences on dual diagnosis. We spoke to many relatives who talked openly and in distressing terms about the drug-related deaths in their families and how deeply their children were lost to their families as a result of drug misuse and addiction. They wholeheartedly agree with the shift to a health-based approach. Neither they nor I condone, excuse or promote the misuse of drugs, but they recognise that the cycle of death, neglect, criminality and desperation must be cracked. That can and will be achieved through compassion which we need to reintroduce in the health service. Everything we do should be guided by it being a public health issue.

Senator Colette Kelleher: I congratulate the Minister of State on introducing this enlightened legislation which represents decency, humanity and a realistic response to those with an addiction. I also congratulate Senator Ó Ríordáin on talking about this issue, with the encouragement of the Ana Liffey project and others at a time when it was not popular to do so. It is wonderful to see that bravery and leadership bearing fruit today. As I said, the legislation represents dignity and respect and, above all, will provide for the provision of health care for people with addictions. We are talking about some mother's son or daughter, people with names, as Senator Ó Ríordáin said. Those of us who have worked in the area knew the names. They were not considered to be human detritus or litter or a nuisance but people who deserved respect. Establishing injecting centres is a way of recognising their humanity and decency. I understand what Senator Swanick says about making sure all stakeholders are consulted, but from my experience in Cork of trying to open a wet centre where people could have a drink – Senator Colm Burke is shaking his head because he recognises the scars on all of our backs – I would not want to overegg that pudding. The barriers in the way of these rightminded, proper

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interventions can often be extensive and extreme. We need to get the balance right and, above all, the person with the addictions and his or her family need to be kept to the fore.

I look forward to the enactment of the legislation. I would also like to think people with addictions in Cork city and country towns will have access to such humanity and dignity and that we will not sit on our hands in that respect. I congratulate the Minister of State and Senator Ó Ríordáin. This is a good day for people who are often not named or remembered.

Minister of State at the Department of Health (Deputy Catherine Byrne): To allay any fear Senators may have, particularly about the legislation and the need for consultation, I have said from day one that no service can be provided in any community unless the wider community takes part in facilitating it. It is our intention when the Bill is enacted to have an open conversation with the community in which the service will be provided. I do not know where that will be as of now because that decision is ahead of us.

When I first came to this Chamber a few months ago, I felt that I was a part of a relay team and had taken the baton from the then Minister, Senator Ó Ríordáin. The race is only beginning. This might be the first hurdle but there are many to come. I hope with the co-operation of local people and public representatives in the community in which the facility will be located there will be genuine support for this service and that we may be able to cross the line eventually.

Senator Ó Ríordáin is correct to state it is all about saving lives and helping people who cannot help themselves - chronic users and those predisposed to addiction. It is only with a service like this we may be able to find out the numbers injecting openly on a daily basis. Senator Colm Burke referred to a wraparound service. There is no point in having a place where people will come and be supervised while injecting if we do not have services that they can avail of if they wish to. They may not, but if they do, at least the services should be there. It is very important that whoever facilitates the running of the supervised injecting facility must meet the criteria as well.

Senator Kelleher articulated what I feel inside, namely, it is about decency, humanity and above all about treating people as human beings. In all walks of life, whether one comes from very rich, very poor or someplace in the middle, one is a human being and deserves respect. For whatever reason people lose their way and find themselves with an addiction, whether alcohol, drugs, gambling or any other addiction. There is an onus on society to care for them. That is the reason I really believe it so important that the public identify with the first part of this Bill and respect it for what it is. It is about health care and helping those who have not been able to help themselves. I really believe if we get this right the attitude of those who are addicted to drugs, gambling or anything else may be seen in a more humane light.

I would like to thank all who supported the Bill and have contributed to the debate both in the Seanad and in the Dáil in the past number of months. I acknowledge their compassion, vision and knowledge, but most of all their humanity and their ability to look at people in a different light, particularly people with a chronic illness, because addiction is a chronic illness. Senator Devine mentioned the people and families she met around the country through the public consultation process. I, too, have met many families, young and old, people who have been in addiction for far too long and still fighting that challenge. I met young people who have recovered, people who have relapsed but most of all I met people who have gone through the different stages and find that they are now in a better place and are in recovery. They are

making a real effort to bring light back into their life. We should encourage people who are in addiction services to continue on their journey to the light.

I met families who have lost loved ones and grandparents who have been left to raise grandchildren because their children have died of addictions. I think we owe them a debt of gratitude because there are so many families who have been left bereft by addiction. Parents and grandparents have to pick up the pieces and we owe them a wealth of support and facilities.

I thank the Cathaoirleach and those who were in the Chair previously. I thank the Ceann Comhairle for facilitating the passage of the Bill through both Houses. I thank all the staff who have been very supportive of why I am in this Chamber. I thank the recording and reporting staff, the ushers and the Seanad staff for the services they have been providing during the passage of the Bill.

I thank the staff of the Departments and agencies who have worked with the Department of Health in the formulation of the Bill, the Department of Justice and Equality, An Garda Síochána and the HSE. I acknowledge the assistance and support of my predecessors, the then Minister and Minister of State, Deputy Varadkar and Senator Ó Ríordáin, for their commitment to this issue. I thank those at Ana Liffey and others who have campaigned for many years and have been tireless advocates of the benefits that a supervised injecting centre can have for society.

I thank the staff and the health service in Denmark for facilitating my visit to the supervised injecting facility in Copenhagen and Dr. Marianne Jauncey of the medical supervised injecting centre in Sydney. I met Dr. Jauncey on a number of occasions and had long conversations with her on the service in Sydney. I want to thank the staff in the controlled drugs unit in the Department of Health, in particular, Mr. Eugene Lennon, Mr. Eamonn Quinn, Mr. Hugh Drumm as well as the drugs policy unit.

I want to especially thank Dr. Eamonn Keane, the clinical lead in addiction service. He has done major work around identifying the prevalence of drug addiction and deaths in the city. I also thank Ms Una Keating from the Office of the Parliamentary Counsel for drafting the Bill. Sometimes a Bill can be very technical but with the assistance of all these people I think the Bill has been manageable both to read and to understand.

When I spoke in the Dáil on a number of occasions, I ended with a poem and I will quote two stanzas which I think are significant to what is happening today and above all to people who find themselves in the grip of addiction:

What was it that made me
Lose my reason
And drew me into these seasons
Of self-affliction
Habitual addiction?
.....
Once filled by painful pride
May You now hide

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Restoring hope

Opening doors

To life anew

I believe those words are very important in respect of the service that we will provide into the future for people who inject on a daily basis, to give them hope, to open doors but above all to give them the opportunity to come into a service that sees them as human beings and will help them in their addiction and on their journey to recovery.

I am delighted to be in this Chamber and am delighted that Senators Ó Ríordáin and Ruane are in the Chamber. I thank them for their support and in particular for their understanding and knowledge of addiction and addiction services.

An Leas-Chathaoirleach: I thank the Minister of State.

Question put and agreed to.

Sitting suspended at 1.30 p.m. and resumed at 2 p.m.

Gender Recognition (Amendment) Bill 2017: Second Stage

Senator Fintan Warfield: I move: “That the Bill be now read a Second Time.”

When we discuss sexuality, orientation, identity and LGBT rights, we must be mindful that many members of the LGBT community across the globe still put their lives on the line to do as we do today. I refer, in particular, to the LGBT community in Chechnya, which is facing unprecedented levels of persecution, murder and violence. They are not alone and we will be with them always. Those who deny the existence of gay men in Chechnya should know that Ireland condemns their murder and hate, and stands with all those who seek to overcome their violence with solidarity, compassion, actions that, I hope, speak louder than words, truth, and love against a force of evil.

Today presents an opportunity for us to also reflect on the importance of having these conversations in this institution because we must with urgency enable all our communities to see themselves in Leinster House where Senators and Deputies reflect all the cultures and sub-cultures that speak of, and for, a new Ireland of all genders and none, of all ages, of all sexual orientation and social backgrounds, of all skin colour, and regardless of a disability. Ireland is not one-dimensional and it is time for this institution to catch up because Ireland will be best served by a diversity of imagination. I see an Oireachtas that does not speak to itself, an institution that does not make promises it cannot keep and keeps every commitment that it makes. I see an Oireachtas where political representatives face outward, talk less and listen more. I see an Oireachtas that stands for inclusivity, not a morning prayer. I see an Oireachtas made up of political representatives who alongside their communities are the engine for change in whatever form that community takes. If not, that Government would, therefore, be unsustainable.

It is with great pride that I introduce my second Bill since entering the House last year. I thank the Government and the Minister for Social Protection for their engagement and for

providing time for the debate. I thank Independent Senator, David Norris, and Senator Grace O'Sullivan of the Green Party for co-signing the Bill. This is a recognition of goodwill and support across this Chamber.

In two months, we will celebrate the second anniversary of a milestone for transgender rights in Ireland. We are two years into the operation of the Gender Recognition Act 2015 during which hundreds of trans people have shared with their families, neighbours, colleagues and friends the joy, celebration and empowerment that comes from such recognition. It is two years since the Government refused, to its credit, to settle for second best, seeing self-determination as common sense and insisting on Ireland being a global leader for transgender rights.

It is two years since the commencement of the Gender Recognition Act and now is the time to move forward. It is the time for renewed critical thought and to inject positive change to make the lives of trans and LGB young people a little easier because growing up LGBT can be tough. Two years since the commencement of the Act, young trans people continue to live unrecognised by their State while others on reaching the ages of 16 and 17 face a process that is invasive, gruelling and problematic, but we can do better because, although the Act falls short in many ways, there is a vital and intrinsic ambition in it that recognises the right to self-determination. This ambition sets us apart in an international context and says to trans people across the globe that this is what can be achieved, and that when their struggle meets a setback, their spirits are low and inequality weighs heavy on their hearts, there are regions in the world that offer hope and that raise the bar.

Ireland can, and must, act as a beacon of hope for marginalised people everywhere and ensure the core human decency that is common among our people is built on proactively with empathy, inclusion and education around the complexities of the trans lived experience. The 2015 Act is also the result of tireless activism and campaigning by members of the trans community, many of whom join us from TENI and other organisations in the Visitors Gallery. The Seanad salutes their activism and I thank them for it.

Senator Niall Ó Donnghaile: Hear, hear.

Senator Fintan Warfield: We should not underestimate the impact of the civil marriage equality referendum in allowing the previous Government to breathe and to rethink the original, flawed gender recognition proposals. That Government acted when the people said in no uncertain terms that they believe in an equal Ireland, that they favour civil marriage equality and that all citizens should have the same opportunity no matter who we are, what we look like, where we are from or who we love. Two years on from both of those LGBT milestones - the passing of civil marriage equality and the passing of the Gender Recognition Act - now is our time to act. Let the Seanad be the House that does so. It is imperative that we listen to trans voices. The trans community has spoken. To no surprise, self-determination remains a core demand. That message is consistent, loud and clear. This amendment Bill seeks to extend the right to self-determination to trans people aged 16 and 17 years. For the first time, this legislation will also open a legal pathway, currently unavailable to trans people under the age of 16 years. With this legislation, the State will truly recognise the existence of trans young people, acknowledging that one does not just turn trans on turning 16 years of age. We can facilitate that process through family consent and through the Circuit Family Court. I acknowledge that while medical practitioners can play an important role in transitioning processes for transgender and gendervariant children and their families, I believe and transgender advocates believe that legal gender recognition should not be conditional on medical assent. Legal gender recognition

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should not be conditional on medical assent. Why would aligning ones legal documents require medical assent? Is that not invasive? Is that not problematic? I believe it is.

The third element of this legislation is focused on the status of non-binary people in the two-year review of the operation of the principal Act in 2015. Passing this legislation will ensure that the Minister specifically considers the possibility of providing a gender recognition certificate to citizens who do not identify as a man or a woman or as male or female. To do so in this legislation does not infringe or prevent the Minister from exploring any additional topics or questions in that review.

When we recognise a person's right to a home, to marriage equality, to gender recognition, to Traveller ethnicity, to live free from direct provision, when we recognise a citizen's right to a universal health service, to decency and democracy at work, when we achieve access to basic rights such as these, we will not only positively empower people but we will enable people to live at peace with their lives and free society from scapegoating and a search for the other. Be sure of this, the type of change that we seek here is possible; progressive change, clear in black and white on the seven pages of this Bill. The trans community has never let this State down. It is surely time for Government and State to step up and fully embrace the valid concerns and aspirations of our trans community because the contribution of that community to the betterment and social integration of this island is truly invaluable. The Oireachtas is nothing without the people. Politics should always face outwards and today the Oireachtas has a chance to act as that engine for change, to say that our response to a fractured world is truly inclusive and that our response includes all the multitudes of voices that together speak of and for a new Ireland.

I hope Senators join with us in recognising and importantly celebrating the existence and visibility of trans young people in law and vote with us in favour of the Gender Recognition (Amendment) Bill 2017.

An Cathaoirleach: I understand that Senator Norris is seconding the Bill.

Senator David Norris: I second the Bill.

It is my great honour to do so. I congratulate Senator Warfield on his vision in producing this Bill. It is a very professionally produced Bill and it is very welcome. Somewhat to my surprise, as a result of my experience in Seanad Éireann since Sinn Féin has been elected here, I find it to be a very progressive party of the left, many of whose policies I have no difficulty in supporting whatever. They have been extremely good in the area of sexual reform in particular.

The question of transgender people is to someone of my generation, and I am nearly 73 years, a comparatively new phenomenon. It simply was not mentioned. I do not think the word "transgender" was in our vocabulary, we simply did not know. We certainly did not know the scale of the situation that confronted people in this situation. It is very welcome indeed that we now do so. When the original Gender Recognition Bill was put through the House, it had a clause indicating that there should be a two-year review. I am very glad that Senator Warfield has taken this opportunity to operate this review and to look at the situation to amend the legislation in a way that is progressive and forward-looking. The legislation itself was, at the time, progressive and imaginative, but as the two-year review clause indicated, it was not the final word on the matter.

I come from an older generation that is now fast disappearing, if one reads the obituary columns in the newspapers. For people of our generation, the usual thing to be said about children

was that they should be seen and not heard. There was no real conception that children had independent rights of any kind at all. I remember a hell of a battle that I had here to try to introduce the guardian *ad litem* clause, but we eventually prevailed. If one looks at international views on the position of children, the United Nations Convention on the Rights of the Child requires states to respect the right of children to be heard and to duly take into account their views, and that the best interests of the child shall be of primary consideration. That is what should govern all legislation in this area - the rights and well-being of the child. The Convention on the Rights of the Child notes: “the assessment of a child’s best interests must include respect for the child’s right to express his or her views freely and due weight given to said views on all matters affecting the child”. A blanket age restriction on gender recognition does not follow these ideas.

I was involved in a learning process on this area. I did not know much about it, but listening to the voices of transgendered people, it is remarkable the very early age at which people identify this situation, I would say much earlier than gay people. I always kind of knew I was gay, or I did not know I was gay but I knew I was me and being gay was part of my personality, but I do not think I actively considered anything like that until I was around 11 years old. People of a very young age identify as transgender.

Among the things in this Bill which we should applaud, is the recognition for the first time of providing a gender recognition certificate to people who do not identify themselves as either male or female. Again, this is a completely new prospect. I remember the interest caused when someone from RTÉ, it may have been a weather person, announced they were gender fluid. I think it is appropriate that we consider these matters.

The requirement for a medical certificate was a complete mistake. It should not be seen primarily as a medical situation.

Legal gender recognition for people under the age of 16 years is a highly significant element of this Bill. According to the explanatory memorandum, this will ensure that the Circuit Family Court is no longer prohibited from making an exemption order under section 12 of the principal Act for the sole reason that the child has not reached the age of 16 years. This is very much to be welcomed. Again, we come to the principle that the most significant element to be considered should be the welfare of the child. In appraising what course of action best serves the interest of a given child, the court should ensure that as far as practicable where a child is capable of forming his or her own views, the views of the child should be ascertained and given due weight with regard to the age, maturity and evolving capacity of the child.

It is also important in considering these matters to take into account the evidence from TENI, the Transgender Equality Network Ireland. Thanks to Senator Warfield, I have a document on the subject of legal recognition of trans young people. There is evidence that social transition can greatly improve a trans child’s emotional well-being, promote better health, improved self-esteem and confidence yet social transition can be very difficult if it is not formally recognised through some type of legal gender recognition process. Young people use these things such as their birth certificate and so on, in enrolling in school or college, for example, and they are looked at and called into question. The current criteria for legal recognition of 16 and 17 year olds is very restrictive and acts as a barrier to young trans people to obtaining legal recognition. This is partly due to the fact very few medical practitioners are properly qualified in this area. There is reference in the document to a young trans man, who states he was 17 when he received his first letter from a psychiatrist and now he is 21 and he is still waiting for

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his second letter. It is outrageous to keep somebody holding on like this for four years. I have another document which states it is time to listen to the voices of these young people, and to the voice of Amnesty International, which states the absolute denial of legal gender recognition to individuals under a given age is not consistent with existing international standards regarding the rights of children. Legal gender recognition should be accessible to children on the basis of their best interests and taking into account their evolving capacities.

I will quote a very moving email I received from somebody who lives in rural Ireland:

I live in Boyle, Co. Roscommon, a tiny, little town, and I live openly as a transgender person. It's no secret. Everybody knows me - and with very, very few exceptions people have been wonderful: very friendly, understanding and accepting. This is the kind of thing that makes a real and positive change in someone's Life. The people of this town are the best in the world and I know that they have no way of measuring what they have done for me. I recall, too, walking in the St. Patrick's Day parade last year in Longford with the local LGBT group. At various places along the way we were given a round of applause. Then when we got to the end, the MC on the podium introduced us to the crowd there, and they gave us another round of applause.

That is the Ireland of which I am proud to be a citizen and I very much hope that the Minister will be able to accept this excellent legislation. I have to say I think it is remarkable that a young man such as Senator Warfield, in his first term in the Seanad, should introduce several measures that are so progressive and so necessary, and I hope the Minister will be able to give this legislation a welcome.

Senator Ray Butler: On 15 July 2015, the Irish Government passed the Gender Recognition Act, providing the process to enable transgender people to achieve full legal recognition of their preferred gender, and to allow for the acquisition of a new birth certificate to reflect this change. The Gender Recognition Act allows all individuals under the age of 18 to self declare their own gender identity. Young people aged 16 and 17 can also apply to be legally recognised through the process.

In 2017, the European Commissioner for human rights stressed the obligation on states to adopt a system to recognise preferred gender for transgender people. Ireland is the last country in the European Union to allow legal recognition of transgender. This is despite a High Court ruling in 2007 that found the State to be in breach of its positive obligations under Article 8 of the European Convention on Human Rights in failing to recognise Dr. Foy in her female gender and provide her with a new birth certificate. This was the first declaration of incompatibility to be made under the European Convention on Human Rights Act. The High Court declaration of incompatibility meant Ireland needed to introduce legislation.

Trans people are among the most vulnerable members of Irish society and experience high levels of stigmatisation and marginalisation. Research shows regular harassment, violence and systematic discrimination are commonplace. The lack of State recognition in other areas of trans identity is a major contributing factor to the marginalisation of trans people and is an urgent health and human rights issue.

Legal gender recognition provides a process for individuals to change their gender marker on their birth certificate and be legally recognised by the State in their true gender. A birth certificate is a fundamental identity document and is often requested for official purposes, such

as assessing social welfare, obtaining a personal public service number to work and, in certain cases, when getting married. People may be recognised as being of one gender in certain documents and being of another gender on their birth certificate. This puts the individuals at risk of being outed when they apply for a job or a new passport or on entry to education. It has also led to the denial of services and restrictions on the ability of individuals to travel domestically and internationally. Forced outing may result in harassment, discrimination and even violence.

Despite progress, trans young people fail to be meaningfully included and protected by the Act. I was on the social protection committee as a Deputy from 2011 to 2016. I had my reservations about what was going on with regard to the age limit. Trans young people aged 16 and 17 years must go through a much more complicated and arduous process than people over the age of 18 because they are required to obtain parental consent, two medical opinions and a court order, which can be a lengthy and most prohibitive process. For trans people under the age of 16 years it is even worse. There are no pathways whatsoever to legal recognition, even with parental consent. This causes a number of practical day-to-day difficulties for young people, such as travelling with their passports, opening a bank account or attending school in their true gender. In the meantime, there is a review so we will let the review take place. In 2015 we took a step forward, now let us finish the job.

Senator David Norris: Hear, hear.

Senator Catherine Ardagh: I congratulate Senator Warfield on introducing the Bill. I was delighted to meet members of TENI yesterday and get the proper lowdown on all of the Senator's hard work. Fianna Fáil supports the Bill, the purpose of which is to amend the Gender Recognition Act 2015 to provide a right to self-determination for persons who reach the age of 16 years, to introduce a right to legal gender recognition for persons under 16 years of age, and to ensure consideration of the status of non-binary persons in Irish law, as has been outlined.

While the Gender Recognition Act 2015 was a watershed moment in Ireland, it nevertheless fell short in that it contains particularly onerous procedures for people aged 16 and 17 to be legally recognised. Furthermore, it made no provision at all for those aged under 16 years, as if trans people under the age of 16 are invisible and do not exist. This can cause a number of practical day-to-day difficulties for young people, such as travelling with their passports and opening bank accounts. I concur with Senator Norris on the onerous condition of having to get a medical report to apply for a gender certificate. Some of the young people I spoke to yesterday told me this stipulation in the Act forces the hand of young people, who perhaps do not want go through medical conversion at that time and just want their gender to be recognised on paper. Perhaps later in life they would be more prepared to do so. They told me this part of the Act was a very regressive step, so I am glad the Bill has been introduced to make it a little more progressive.

Absent legal recognition for children in the gender in which they identify, and being forced to live and be identified in the wrong gender can make everyday life fraught with the potential for humiliation and embarrassment, driving many into the shadows and making them vulnerable to exclusion and depression, notwithstanding the requirement to get a legal certificate. Research in 2013 by TENI revealed 78% of Irish trans people surveyed had contemplated suicide and 40% had attempted it. The level of self-harm is also notably high at 44%. The research also found 83% of trans people avoid public spaces for fear of being harassed. In addition, and of particular importance when discussing the Bill, the survey showed self-harm and attempted suicide rates plummeted when people were able to transition to their true gender, which is

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very welcome. The rationale for Fianna Fáil supporting the Bill is that, in 2013, the Office of the Ombudsman for Children, in its advice on the general scheme of the Gender Recognition Bill, noted that it understood the motivation for excluding children to safeguard them from the potentially negative consequences of having their preferred gender recognised when they have not formed a stable view in relation to their gender identity. However, it argued that this must be weighed against the difficulties faced by young people who have gone, or are going, through transition. The advice stated that these concerns are not hypothetical; that they are real and substantial, and that it seems untenable to argue that in order to close off the possibility of granting legal recognition to young people who have not formed a stable view regarding their gender identity, all young people should be denied the opportunity of legal recognition, irrespective of their individual circumstances. The office therefore recommended that the Gender Recognition Bill should make provision for children and young people by removing the criterion relating to minimum age. It argues that refusing to include children represented a disproportionate interference with young people's rights to gender recognition.

In addition, it is essential that our legislation aligns itself with Ireland's international human rights obligations in regard to children. The Office of the Ombudsman for Children also underscores that the UN convention on the Rights of the Child was ratified by Ireland in September 1992. The UN Convention on the Rights of the Child does not explicitly address the situation of transgender or intersex young people. However, Article 2 of the convention requires states to respect the rights set out in the convention to each child within their jurisdiction without discrimination of any kind. The prohibitive grounds of discrimination contained in the convention include race, colour, sex, birth, or other status. Although gender identity is not included in this list, the UN Committee on the Rights of the Child has clarified that transgender young people are protected by Article 2. Gender identity can, therefore, be taken to constitute a form of other status within the meaning of the non-discrimination provisions of the convention.

Ireland has been considered very progressive along the lines of countries such as Argentina, Malta, Norway and Denmark in legislating for a self-declaration model for those aged over 18. The passing of the Gender Recognition (Amendment) Bill 2017 would be another step forward in creating a more equal and inclusive society in Ireland. I congratulate Senator Warfield on introducing it and I look forward to its passage through the Houses of the Oireachtas.

Senator Victor Boyhan: I welcome the Minister, Deputy Varadkar, to the House. I also extend a very warm welcome to the people in the Gallery. I met many of them yesterday - as did some other Members of the Oireachtas - when they shared their personal stories with us. It was an honour to listen to these people tell their stories and place in context their journeys, vulnerabilities, fears and anxieties but also their hopes. I walked away from that meeting yesterday full of hope for the people who spoke to us because they began to believe and to see that the Oireachtas was seriously committed to supporting them in their particular cause, and, hopefully, the debate today will prove that point.

I particularly thank Senators Fintan Warfield, David Norris and Grace O'Sullivan who took up the ball, put this legislation together, and cosigned and supported it. I know Senator Fintan Warfield drove it from the front and has worked on this for a long time. I acknowledge his enormous contribution to this legislation.

I said in my opening remarks yesterday that it was very clear for me to make up my mind on this legislation because it hinged on two matters. It was about allowing people to be their authentic self. Authenticity is very simple but a very profound and important word. It is about

ensuring that people can be authentic and that they can feel free to develop in their own unique way as every person is unique in his or her own way. That is important. Also, it was an issue of equality because this is all about equality at the end of the day.

Yesterday, I was asked three questions, namely, first, would I support amending the Gender Recognition Act to meaningfully include young people under the age of 18? Second, would I seek to enact hate crime legislation to protect Ireland's young and, many times, vulnerable citizens? Third, would I support the allocation of additional funds to the HSE to ensure that appropriate accessible health care and related service is available for trans people? My answer to all three was "Yes".

It is important that we acknowledge in the Houses of the Oireachtas, Dr. Lydia Foy, based in Athy, County Kildare-----

Senator David Norris: Hear, hear.

Senator Victor Boyhan: -----and the long, long journey she took. I have had the pleasure of meeting her on a number of occasions over the years. She was a lone person then at a very difficult time when she took up this work-----

Senator David Norris: And Michael Farrell, her solicitor.

Senator Victor Boyhan: -----and I want to acknowledge her.

I spoke to a number of people in the past few days and I want to quote and share their words because, for me, they have crystallised the issue. I spoke to Susan who said:

The enactment of the Gender Recognition Act allowed me to self-determine my gender. It gave me permission and the respect of my country to be recognised for who I am.

Terry and Paul said:

Gender recognition is important for a great deal of reasons. It is important because it gives us certainty. It protects us from those who may wish to question our gender identity.

Finally, David said:

Whether it is a new job or going to hospital, I am a woman in the eyes of the Lord now and that provides immeasurable comfort. Life is scary enough without feeling the constant need to prove and explain myself and my gender.

That crystallises for me many of the issues.

We know that the passage of the Gender Recognition Act in July 2015 was an important step in the history of gender equality and rights in Ireland. The law provides a transparent process for individuals who are over the age of 18 to self-determine their own gender. However, trans people will face high levels of discrimination, violence and stigmatisation in the workplace, schools, in the community, within families and within homes. That is the reality of it. It is important the Government enshrines the rights of all people in law and policy. I am sure our society is a fairer one, a more compassionate one and a more just one. That, surely, is the job of Members of the Oireachtas.

Legal recognition is the cornerstone of identity. A number of people said that to me yester-

day and that continues to resonate. I spoke of the right to be authentic. Surely it is everyone's right to be authentic and to be able to live and express themselves, regardless of age or gender.

I want to leave a few thoughts with the Minister. I call on the Government and, effectively, the Minister who has overall responsibility in this area, to act. The Minister should conduct a comprehensive review of the Gender Recognition Act, as stipulated in the two-year clause in conjunction with all the key stakeholders. He should ensure that trans young people are provided with a pathway to legal recognition. The equality legislation should be reviewed to ensure it explicitly protects and provides for protection under the Equal Status Act 2000. Comprehensive hate crime legislation should be introduced to ensure the protection of individuals based on gender identity and gender expression. Trans people are often targeted as the subjects of violence, abuse and harassment as a result of their identity.

It is important the Minister issues clearer guidelines and supports in the education system to addresses and combats homophobic and transphobic bullying in schools and colleges. We need to allocate additional funding to the HSE to ensure the appropriate delivery of trans health care and transition-related services. We need to support gender inclusive mental health and suicide prevention initiatives, services and campaigns. That is a very important issue. In regard to the Minister for Education and Skills, we need to focus on talking to those in schools about how programmes can be rolled out in terms of educating and supporting people.

This is very important legislation. It has been a struggle for people who, for years, have had to endure this. Last night, I had the opportunity in the self-service canteen of Leinster House to meet a number of people who travelled here yesterday to meet politicians. I could not but be moved by how courageous, brave, committed and determined they were. There have been many setbacks on this issue. A lot hinges on the Minister and on his reforming zeal, his commitment to deliver, and on his track record and commitment to deal with equality issues. I hope he will be able to share with us today some good news or bring us some news of the Government's position. Is it going to oppose this legislation? I hope not, but if it is, I would like the Minister to explain why.

I will wrap up by saying that as I left a number of people yesterday evening in this House, I was conscious that they were filled with hope and expectation that their time had arrived and that we as legislators were going to deliver for them. I hope we will not let them down or disappoint them and that they will leave here today with their heads higher than they were when they came in.

Senator Jerry Buttimer: I welcome the opportunity to speak on what is another extraordinarily significant day for the lesbian, gay, bisexual and transgender, LGBT, community in our country. I assure Senator Boyhan that the Oireachtas is always serious in bringing about gargantuan change, as it was in 2015. It is important that we pay tribute to the Transgender Equality Network Ireland, TENI, and welcome its members who are in the Visitors Gallery. As Leader, I am very happy to facilitate the passage of this Bill and to have it debated this afternoon in the House. This affects people's quality of life. It sends a message and ensures the message is heard not just in the confines of Leinster House but across the Irish community and internationally. Last week, I had the pleasure of travelling through parts of the United States of America with Sam Blanckensee from TENI. The visibility and power of his message could not but resonate with members of different LGBT organisations who were in many ways looking to us for leadership. We have seen extraordinary leadership in TENI. I pay tribute to its former chief executive, Broden, who has gone to new pastures.

To put this debate in context one needs to picture a 14 year old boy wanting to attend an all-boys secondary school, with parental support, and not being able to do so. That is happening today in our country and it cannot be allowed to continue. I am fond of quoting Maslow, we must allow people reach their full potential. We all know about the struggle with depression and mental health problems that affects the quality of life of people in the trans community, and this is not just research on paper. We need to lift that veil and become that voice. I know people in my party, such as Claire Farrell, who have brought a new lease of life and understanding through the personal testimony of the lived life. This Bill is personal and the change or review concerns life. It is not a theoretical Ph.D. study. It is the quality of life of many of the people in our gallery and people watching here this afternoon.

This morning Senator Norris, Senator Warfield and I met the Russian ambassador. One could not but be disheartened at his lack of understanding or appreciation, or perhaps he was playing the old KGB spy in just obfuscating and denying, but it was incredible to watch his performance. That is why people like the Minister for Social Protection, Deputy Varadkar, can make change that can send a message internationally, as in 2015, that our country in many different ways is concerned with progress, international good practice and human rights. We can make a difference. We can change rights and bring in entitlements and ensure that all people can live to their full potential. Senator Warfield in his fine speech and Senator Norris in his remarks have touched on many issues that I will not go into. It is important to have an independent review, that we have a panel that reviews the Gender Recognition Act 2015 that includes members of TENI or the transgender community. That is an imperative. I will be asking the Minister to put in place people who come with lived experience and who can speak as a voice for the community.

That is why it is good that this debate is taking place in the Seanad because here there is not that quintessential critical adversarial tone that comes with a Bill like this. We have met people. I am struck that we do not necessarily have figures for the number of people we need to speak to but equally, last week, I was struck by the number of young trans people in the United States who were being forced to leave home with nowhere to go. I have asked myself is it the same here. How do we as a State and society look after, support and work with our trans community? The issue of self-determination for those younger than 16 has been spoken about. Just as early intervention is important in education, this Bill concerns the child identifying in their preferred gender at an early age and being able to live a full and wholesome life, which is important.

This is important legislation. Senator Humphreys was the Minister of State in the previous Government who drove it and did so in a spirit of co-operation with all of us. The TENI briefing document for this Bill should not be just put on a shelf to be admired but we should work to see if we can implement it in its totality. I was struck by the words of a mother at a conference in Waterford organised by Vanessa in TENI who spoke of the heartache and turmoil in their house prior to their daughter making a transition. When the family accepted and was willing to embrace that new life the house was transformed. I have spoken to members of TENI, friends of mine, people whom I have worked with for years and seen the powerful impact of the Gender Recognition Act 2015 on their stories, their lived experience. We saw it in the political parties and the previous Government. We need to see it with the bureaucrats, whether the Civil Service or the Health Service Executive, HSE, who can make a difference and move from denial, obfuscation or confusion to acceptance. I often use that word. There is a need for us to recognise that we have a journey to travel. We have made a huge transition. We have a powerful presence in the world because of our legislation. I hope that we can join with TENI and others in advocat-

ing the human rights of all citizens.

I thank the Minister for his willingness to co-operate in this Bill. I commend Senators Warfield and Norris on the Bill. It is an important day. I hope the House will not divide on this. We have started a job and, as Senator Butler said, we must put the roof on the house.

Senator Grace O’Sullivan: I offer heartfelt thanks to Senator Warfield for taking the initiative and putting the work into this important step towards full equality in gender recognition. His eloquence and dedication in this matter are a testament to himself, his party and the cause. I am most delighted to have been asked to co-sign and second this Gender Recognition (Amendment) Bill 2017 with the father of the House, Senator Norris, and its initiator, the youngest Member of the Seanad, Senator Warfield.

As a member of the Green Party and of the civil engagement group, which is supporting me today, it is my duty and privilege to add my voice to those calling for greater freedom. The passing of the Gender Recognition Act 2015, by the previous Government, was a major step forward in the modernisation of Ireland and the creation of a fairer and more pluralistic society. It ended the 22 year struggle of Dr. Lydia Foy to get legal recognition of her true identity and has since made a major contribution to the lives of transgender people in our country. The Act had other practical effects. Legislation can affect the lives of citizens in ways other than administrative or legal ones. It can be an indicator of social change, of acceptance, understanding and new realities. The best example of this in Ireland was seen in 2015, when a large majority supported marriage equality for all our citizens. I have seen the effects that legal changes such as marriage equality and the Gender Recognition Act 2015 have had on people. I am thinking in particular of young people who always struggle to find their place in the world as they undergo the complex transition to adulthood, which is never easy. Laws can help to change perceptions, validate experiences and reflect changing norms in society. This is not their primary aim, but it is an important side-effect.

Dr. Martin Luther King suggested that “the arc of the moral universe is long, but it bends towards justice”. As we observe some of the hate spewed by extremist parties across Europe, watch the President of the United States display such pride in his ignorance and see basic human rights continuing to be threatened in many countries, it is sometimes hard to believe the progress we have made in freeing people from cruel and needless oppression is quite fragile. We have been hearing about horrific abuses of gay men in Chechnya, ranging from confinement in camps to Chechen Government calls for families to kill their own sons and brothers in the name of the avoidance of shame. The values of progress, tolerance and acceptance are hard fought for and must be equally robustly defended. We must continue to bend the arc of the moral universe towards progress. That is what we are here to do today.

One of the central principles of this Bill is that those affected by the existing legislation - mainly young transgender people and non-binary people - are best placed to decide what is good for them. This Bill has the support of Transgender Equality Network Ireland, which has assisted in its drafting and advised on its development. It is great to see representatives of the network present in the Gallery today.

I mentioned earlier the complex and constant difficulties of growing up for all people. Some people have raised concerns about allowing young transgender people under the age of 18 to decide their own fate. This ignores the evidence and lived experiences of people like Dylan, who is here today. He was brave enough to talk to the Oireachtas delegation at the briefing

for this Bill in the AV room yesterday. I have to commend Dylan's mother, who spoke very powerfully as the mother of a transgender person. Dylan told us about the continuing discomfort caused by the big and small obstacles placed in his way in school and elsewhere as he has sought to become the male person he has always known himself to be. This is not a teenage fad or a whim; this is his life.

In my former life in Greenpeace, I had the privilege of knowing other transgender people who grew up in a previous generation. They are living full and fruitful lives, but the process of coming out was neither simple nor early for them. Some of them delayed that process for decades because of doubts and anxieties. We also heard yesterday from Sam, who is also here today, a person who does not feel comfortable being assigned entirely to either of the two prevalent genders. Sam described the difficulties faced on a regular basis in airports, workplace environments and elsewhere. We also heard about the consequences that dysphoria has had for Sam's mental health.

This Bill can help to improve the situation by removing some of the practical difficulties faced by Dylan, Sam and others. It is not an end solution; it is part of the process. The Government will be reviewing the operation of the Gender Recognition Act 2015 this September. The amendments provided for in this Bill will enable it to take account of a broader and better view of the needs of the communities. I welcome the indication of Government support we have heard from the Minister, Deputy Varadkar. I also welcome the start of a nationwide public consultation on the needs of young LGBTI people in Ireland in advance of the national strategy later this year. I hope everyone else who contributes to this debate will join the Minister in this spirit of positive engagement as we work to ensure all children of the nation of Ireland are cherished equally.

Senator Aodhán Ó Ríordáin: I welcome the Minister to the House. It is great to have him here in his current capacity. Given what his next capacity might be, it is good to have an opportunity to air our opinions with him. I acknowledge the presence of various campaigners, including representatives of Transgender Equality Network Ireland, in the Gallery.

It was interesting to listen to the comments of Senator Butler earlier in this debate. When I was a member of the Joint Committee on Education and Social Protection in the last Oireachtas, we were not expecting to be asked to deal with gender recognition legislation. One would imagine that such a Bill would be an equality measure, but it turns out that it is a social protection measure. I think it would be reasonable to suggest that the officials with whom the then Minister, Deputy Joan Burton, and the then Minister of State, Senator Kevin Humphreys, worked on that Bill were not used to working in this sphere on an equality measure that would benefit the lives of so many people in Ireland. At the time, a number of members of the joint committee scratched their heads and asked why they were dealing with this matter. It was a social protection measure because it was about registering one's identity.

It was fascinating to watch the process evolve during that period. Senator Butler might have admitted that he was one of the many people who came from a certain perspective on this issue because they were not used to dealing with it. Indeed, they did not even have the language to deal with it. Much of the language that one must get used to using in this whole area is very sensitive. One can offend somebody gratuitously without realising it. During the period in question, we watched people from different political perspectives come to the conclusion that it was a good and ground-breaking Bill. I think it was one of the first Bills of this kind to be introduced by any government across Europe. Although we realised that it should probably go

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further, we went with it and it was passed. We felt at the time that it was a good day's work.

I want to join others in congratulating Senators Warfield and Norris for bringing this Bill before the House. I genuinely think Senator Warfield's speech, in which he set out what this is really all about, will go down in the annals of the history of standing up for LGBT rights in these Houses over the ages.

The Labour Party absolutely supports this Bill. Rather than going over the issues that have already been raised, I would like to take a moment to reflect on how far we have come. Twenty years ago, it would have been almost impossible to imagine that a conversation like this would happen in a political sense, that there would be very little political opposition to this type of measure and, with the best will in the world, that we would all want this type of legislation and the changes in it to be supported.

I would like to raise a few issues with the Minister while he is here, in the first instance by picking up on a point made by Senator Buttimer. While I understand the need for somebody to have recognition of their true identity, I sometimes wonder why we make it even more difficult for people in this situation by having such a gender-conscious society. For example, why are we still obsessed with having boys' and girls' schools? I mention education because it is very much a State-run institution. Maybe we should have a longer conversation on why it is so important to separate children and young people on the basis of gender. It should not be important. In fact, it leads to gender stereotypes. There is no real reason behind it. There is no educational reason behind it. I know that is another discussion for another day, but having to participate in such a gender-orientated education system does not make it easier for a young trans person trying to live in Irish society.

I would like to refer to an issue that I have brought to the Minister's attention previously. I know he is aware of it, but I will raise it again. A young trans man, Noah Halpin, has come to my attention. I am working with this gentleman. He is finding it easier to get gender recognition of himself as a trans man than to get his name changed. It is frustrating for him that he has spent two years waiting for his name to be formally recognised as Noah as opposed to the name he was given as a child. It is particularly difficult for him to go through the process of constantly having to revert to his given name. While we may achieve things in legislation that can make it easier for somebody to change their gender identity in a formal sense, we do not allow them the same ease of transition in changing their names. I think this is something that genuinely needs to be addressed.

3 o'clock

I will finish my comments because everything I wanted to say has already been said.

We have made significant advances in this sphere, and Senator Buttimer referred to this. Over the past number of years, the Employment Equality Act has changed the chilling effect for LGBT teachers. In the education sphere we have had the compulsory anti-transphobic and anti-homophobic bullying legislation and the Gender Recognition Act which Senator Humphreys drove through the Oireachtas. The Child and Family Relationships Act has been passed and we have marriage equality.

Sometimes, there is sense that as the focus of public debate moves on to another area, we can become complacent about where we are with LGBT rights and assume that these rights will always be with us and will always be enhanced. It is only when Senators like Senator Warfield stand up and point at the deficiencies in the Bill that we can come back together again. We can

never take for granted the rights that have been hard-won by people like Senator Norris. We need to consider what is happening in the United States, and the mentality of the Vice President, Mike Pence, who is a powerful man in America. The situation in Chechnya was mentioned. The meeting with the Russian ambassador today was, I am led to believe, pretty pointless because he had a total disregard for what Senator Buttimer said.

Senator David Norris: He gave as good as he got.

Senator Aodhán Ó Ríordáin: I am quite sure he was on the receiving end of some very tough talk. The point is that we always assume we are getting more progressive, things will always get better, we will always be more progressive and enlightened and that legislation will always become more liberal. That is not always the case. We have to be very mindful of that. I again congratulate Senator Humphreys and Deputy Joan Burton for driving this issue through the last Dáil.

Senator David Norris: Hear, hear.

Senator Aodhán Ó Ríordáin: I congratulate the members of the committee who were willing to have their perspectives on this changed and go with the Bill as it was. I thank Members of the House who were open-minded enough to meet the representatives and organisations and support the Bill. None of us can in any way be complacent about this agenda - I know Senator Warfield is not.

While we congratulate ourselves on how far we have come in such a short space of time, we need to look around the world and realise that while we may perhaps be a guiding light now, there will always be forces trying to bring us back. I again thank Senators Warfield and Norris and the Minister. I wish to repeat that there is a difficulty with changing one's name officially. Our obsession with gender-based education has to be challenged.

An Cathaoirleach: The Minister can, at any time if he wishes, make a contribution. I am sure he will indicate when he wishes to do so.

Senator Máire Devine: I welcome everyone to the House and congratulate my colleague, Senator Warfield, on bringing the Bill before the House. I also want to thank Independent Senators Norris and Grace O'Sullivan for co-signing the Bill.

This is a human rights issue, but I want to discuss the Bill from the perspective of mental health and well-being on the island, for which I am Sinn Féin spokesperson. I have lengthy experience as a psychiatric nurse in Ireland. The LGBT Ireland study found that LGBTI people are still suffering and struggling with their mental health. While some great work has been done, such as the marriage equality referendum and gender recognition for those aged over 18 years, we are not quite there yet.

As I said earlier, we dedicated a tree of hope in the grounds of Leinster House to those lost to us and struggling with mental health difficulties. We need to recognise the LGBT community and the impact negativity has had on their well-being. Senator Ó Ríordáin has pointed to how well we have done in this country, but that we need to be very mindful of how easy world trends or trends in Ireland can reverse what we would see as a period of enlightenment.

In the next couple of months I will help to represent a 14-year old transgender person before the Equality Commission. He was refused service in his local shop due to the fact he was not

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seen as representative of the clientele the shop wanted. He tried to buy a bottle of Lucozade in a normal shop. We still have a long way to go in educating and including some parts of our society.

A lot of work needs to be done to support GPs in the understanding of transgender issues. I encourage the Minister to consider this.

The Bill brings us closer to an island that fosters well-being in its LGBTI community and among us all. The Bill will help to challenge the misconceptions around transgender and non-binary issues that negatively impact on young transgender and non-binary people.

The LGBT Ireland report found that one in three members of the general public do not believe that a young person can know she is LGBTI at the age of 12, yet the most common age for trans people to be aware of their identity was 12 years of age. The Bill would recognise and respect the true experience of transgender and non-binary young people by respecting their knowledge of themselves at an early stage and reflecting this knowledge in documentation.

We know from research that having one's identity accepted by others is a positive factor in LGBT well-being. The Bill extends this recognition to younger people. We also know that progress in the LGBT community creates positive impacts on the well-being of others and, if enacted, the Bill will positively impact on the school and travel experiences of young transgender and non-binary people which, in turn, will have a positive impact on their mental health.

It was not too long ago that gay or transgender people were incarcerated and put through corrective programmes in our psychiatric hospitals. We have come a long way, but that does not make us complacent. We need to continue to stand up for rights in general and, in particular, the rights referred to in the Bill. There is no doubt that if it is enacted it will have a significant positive impact on young transgender people.

I urge every Member of the House to support the Bill. We are going from a situation where it was felt something was an ailment that needed to be cured to one where there is celebration, pride and acceptance, which is necessary to support all of our young transgender people.

Senator Colette Kelleher: I welcome the Minister, Deputy Varadkar, and our guests from TENI, in particular Dylan and Kirsty who spoke so movingly and lovingly to us yesterday in the audiovisual room during the briefing on the Bill. I am delighted to support it and commend Senators Warfield, Norris and Grace O'Sullivan for bringing it forward. Senator Grace O'Sullivan is my colleague in the Civil Engagement group.

I know from speaking to young people in recent days that their everyday lives are impeded by a number of practical difficulties. There are issues in terms of obtaining passports and denial and foot dragging from schools, all of which directly affects people's lives. I am aware that the LGBT study launched by former President, Mary McAleese, last year found that when compared with the wider population lesbian, gay, bisexual and transgender young people had twice the level of self-harm, three times the level of attempted suicide and four times the level of severe stress, anxiety and depression than others. If for no other reason, those mental health issues are why today's Bill is so important.

I would like to put on the record some of the correspondence I received on the issue because the words I received from other people speak more powerfully than I ever could. One citizen emailed me to say:

I wish there was a means by which I could express how much Bills like this affect my life. Bills such as this let people like me know there is light at the end of the tunnel and that if we keep reaching, keep trying, we will live in a world where people who accept us are the majority and that we won't be considered weird or ill or crazy. Bills like this mean that one day, when I come out to my parents, even if they don't get it or don't understand it, they will still accept it, accept me, accept that I am their daughter but I am sometimes their son and sometimes their child. Bills like this allow us just to live.

Another person said:

I am a non-binary transgender person marginalised in both general society and in my queer community. This is a state-sponsored and legitimised discrimination because of my utter exclusion from the Gender Recognition Act as it stands. The law is supposed to be for the just morality that a population strives for, a guiding force for progress. This is not how it currently stands. You can help fix that.

We can help fix it today. The calls to fix the law have not only come from young transgender people. Youth leaders like the current President of the Trinity College Student Union, Kieran McNulty, have said that young people in Ireland should not have to wait until they are 18 to declare who they really are. He says we need to give 16 and 17 year olds the opportunity to self-declare and legally declare their gender.

There is no doubt that we have made phenomenal, unimaginable progress on LGBT issues over the last decade but more needs to be done. We should not rest until we have full equality and inclusion for our LGBT brothers and sisters and sons and daughters. Passing this Bill will send a positive, reaffirming message to our young transgender, queer, non-binary or gender fluid citizens. Rejecting it will do the opposite. I ask the Minister to set out in the response the timeline and process for the required review of the Act. It would be useful for us to have a sense of what that is. In conclusion, we must trust and listen in general to young people. We need to empower and enable them to live life to its full promise. For that reason, I urge everyone to support the Bill.

Acting Chairman (Senator John O'Mahony): Before calling the next speaker, I welcome the Athleague Active Retirement Group to the Gallery.

Senator Niall Ó Donnghaile: Go raibh maith agat a Chathaoirligh. Gabhaim buíochas leis an Aire as bheith linn inniu don díospóireacht agus don phlé stairiúil, tábhachtach agus suntasach seo. I thank the Minister for being in the House today for the debate. Sitting here, I have found the discussion insightful, useful and representative of the Seanad at its best. It is at its best in engagements and discussions like this. Hopefully, we can act as a forum for the rest of Ireland to have similar discussions and to learn and hear about the experiences of our transgender and non-binary citizens. It has been a very positive event. Other contributors have already said it should not only be that. We should not be coming to the House merely to pay lip service to the issue. I do not believe anyone is doing that.

In my short time in the Seanad, two of the most positive discussions I have witnessed were this one and the recent debate on the Bill to lower the voting age to 16. While we did not win the day on that occasion, it was a very worthwhile engagement back and forth. I note graciously the remarks of Senator Norris, but both discussions resulted from Senator Fintan Warfield coming to the House. He has been a champion since entering the Chamber of the rights of children,

and young people and LGBT people. As a result, he has simply been a champion for the rights of people. If we are not champions for the rights of people in the Seanad, we should consider what our role here is. That has been greatly manifested by Senator Warfield throwing down the challenge and gauntlet to us. Very willingly, we have accepted it on this occasion and are running with it.

Like other Members, I was voting in the Chamber yesterday and was unable to attend what I understand was a very powerful event in the AV room to brief Senators on the issue. I thank the representatives from various organisations in the Gallery or watching online for affording us the opportunity to hear those real lived experiences as we have moved forward with the Bill. I hope we can move forward as my colleague, Senator Kelleher, said without any undue delay or frustration of this important legislation.

Senator Boyhan used a powerful word when he talked about “authenticity” and the purpose of the Bill being about the authentic identity and life of those it is intended to have an impact on. I share the sentiment expressed by Senator Boyhan. The Bill has the opportunity to be transformative. I say that with a deep appreciation of what we can do as legislators in the Seanad and as an Oireachtas. I do not say it to be glib. Like others, I come to this institution to try to be transformative and to live up to the challenge and needs of citizens regardless of who they are. While it has been outlined in a much better and extensive way than I could hope to do it, the experience of transgender and non-binary people out there has not always been positive. We should try to be positive today and to look at the legislation as a transformative way to send a message to those citizens which says they are cherished, appreciated and that we are working with them, thinking of them and trying to improve their quality of life as well as that of their families and other loved ones. That is the purpose of today’s debate.

As I came in and as Senator Warfield spoke to our team about the Bill, it appeared to me to be a no-brainer. The Bill had to be moved. The Proclamation is the bedrock of my political ideology and what I do when I enter this institution, when I entered Belfast City Hall in a previous life and when I visit a business or meet with whoever. The Proclamation states clearly:

The Republic guarantees religious and civil liberty, equal rights and equal opportunities of all its citizens, and declares its resolve to pursue the happiness and prosperity of the whole nation and of all its parts, cherishing all the children of the nation equally [.]

Sometimes, that is in danger of losing its impact. Sometimes, we repeat it *ad nauseam*. However, we should never forget the impact and power of those words and what they are about. We are not there yet, but today is, hopefully, about moving us to a position where we get to that realisation and make those words a reality. Those words are not qualified. They do not say we want religious and civil liberty, equal rights and opportunities for particular people, they guarantee them for all. If we are serious about realising those words for people across the board, today is part and parcel of the journey. We are on the right track and have put our best foot forward. We must then put the next foot ahead. With the support of Members and the leadership of the Minister, we can surely do it.

Senator Alice-Mary Higgins: Like others, I must begin with compliments. First, I compliment Senator Fintan Warfield for the long and thoughtful process he has put into bringing the legislation forward. It is part of a very strong commitment by him to looking at how best he can use his time in the Chamber to make a real difference to people’s lives. I compliment him and his co-signers, Senators David Norris and, my colleague, Senator Grace O’Sullivan,

both of whom are extremely committed to the issue also. It is also important to compliment and recognise the work of the former Minister of State, Deputy Kevin Humphreys, and the former Minister, Deputy Joan Burton, in bringing forward the original gender recognition legislation. It was very important and it set a strong and ambitious agenda. I also compliment them on the building in of a review. Building in that two-year review was a recognition that Ireland could move into this area knowing it would evolve and that new issues would emerge, namely, the exact issues identified by Senator Warfield. I believe there was an element of foresight in that original legislation that gives us the opportunity to so smoothly and cleanly address these issues now. Of course, I compliment the social protection committee members who preceded me. I also compliment the members of TENI, BeLonG To and the many youth and student organisations that have been very active on this issue. I know that the Minister represents in Ireland a great point of encouragement and inspiration for many in the LGBTQI movement and advocacy internationally and for LGBTQI activists around the world who are often operating in situations of great difficulty.

This legislation identifies very well some of the key areas that we need to move towards. I will touch on the three areas very briefly because they are each important. The first is the need to look at the real gap in the legislation whereby between the ages of 16 and 18, young people who wish to have their true gender recognised have to go through what was described by a colleague as an “arduous process”. Between the ages of 16 and 18 is a difficult time when people should be looking at their leaving certificate, their studies and all of the other challenges of transitioning to adulthood. Those young people who currently wish to be recognised through their chosen gender have to face in Ireland a huge set of logistical challenges, a set of obstacles and a journey through bureaucracy that nobody of that age should be put through. The lowering of the age to 16 for the receipt of a gender recognition certificate makes infinite sense.

Having sat on the social protection advisory committee and having previously worked with the National Women’s Council of Ireland, I recognise how difficult it is for young people who might have graduated early from school to enter the social protection system, to enter employment or to enter college with one gender and then seek to have that recognition of gender changed midway through. People should always be able to enter that chapter of their lives with the identity that is true and authentic to themselves.

In terms of the question of recognition for those who are younger than 16, we need to be absolutely guided by the very wise advice of the Ombudsman for Children. The point was made eloquently by my colleague that young people themselves are the best deciders of the best interests of the child. Not only in terms of our international commitment to the rights of the child, but in terms of the decision we made as a nation to respect the rights of the child, the idea that we would have our children recognised, treated with respect and trusted in how they authentically identify themselves sends a very important signal. It helps them grow into adults who live their lives fully on their own terms. It is something that we can absolutely support.

It is also notable in the proposed legislation that we move to a situation in which children can engage with psychological services or medical services as a matter of support rather than as gatekeepers. We need to ensure that young people guide their own journeys. They must get any supports they wish to access. However, they must not feel that they are being put through any process of judgment or gatekeeping.

Lastly, I wish to focus on the part that I am very interested in. I believe it is one of the most important aspects of the legislation. It is the question of the provision of gender recognition to

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people who have a preferred gender that is not male or female - those who are non-binary. This is a crucial issue and it is missing piece of the puzzle for many people. To be able to say, “I do not identify as male or female and that is not where my identity sits”, is vitally important for those who are non-binary. I want to raise another group for whom that is vitally important and for whom such a certificate or recognition would be vital. There are those who identify in this way as well as those who are intersex and who biologically have features that are both male and female. Currently, they are one of the groups most discriminated against.

As a member of the Council of Europe committee on equality and non-discrimination, we have been working over recent months on a report looking at the experience of intersex people right across Europe and looking at good legal practice in this area. We have heard quite harrowing testimonies from those who have been asked to have one part of their identity disregarded, those who have been forced through medical procedures, for example, which introduced early menopause because they were being pressed into one aspect and having another part of their biological identity repressed, and those who are socially being forced into a binary choice which requires them to deny part of who they are. That could be in terms of identity or biology. On the question of non-binary recognition, the idea that we would allow children, young people and adults to be who they are, live as who they are, not to fit themselves necessarily into a category and to again allow proper access to supports is very important.

I look forward to this Bill progressing. I very much welcome it. The review was mentioned and the request to ensure that the rights of non-binary persons are recognised is included in it. I encourage the Minister to recognise that this is an issue for both those who are non-binary in identity and those who are non-binary biologically. I believe that a certificate and access to recognition in that category would benefit all. I would be very happy to feed anything that may be useful in terms of other European practice into that review.

Ireland has been a leader in this area. It has been out there, pushed forward and shown the way. However, these debates are happening everywhere now. There are proposals in place. For example, there are reviews of legislation around intersex rights in France. There is new legislation in Norway. Australia has moved forward in terms of non-binary recognition. There is a positive wave that Ireland is part of. It is important to acknowledge, as the Leader of the House did, that there is also a regressive backlash from those who want to maintain some of the old categories and hierarchies that exist. It is important that Ireland continues to show that it is a part of the move forward. I welcome the fact that the Minister is here today and that he is seemingly supportive of the legislation. It is a very good opportunity for Ireland to continue leading the way.

Senator Billy Lawless: I thank the Minister for being here. I will be very brief. I am very proud to be Irish today. I am delighted that I have held on to my dual citizenship in being American and Irish. I can tell the House that this discussion would not be taking place in the United States today because they are going backwards. That we are able to have this discussion on transgender people and on the rights of children is so important.

Let us not ever underestimate children, regardless of what age they are. I was watching a television programme the other night on this issue. What really struck me was that the young transgender girl told her mother when she was three years of age and the mother believed her. She is the most beautiful girl today and is so happy in herself. I was really overcome with emotion when I watched that programme and thought of what she would have gone through. That we in this country of Ireland are able to discuss these issues is a credit to everyone.

I would like to thank the organisations and the transgender people here today. I am so proud of them. I am proud of Ireland and of what we are doing. I am proud of the legislators here as well. When I see the likes of young Fintan - sorry, Senator Fintan Warfield, I am the old guy - and others discussing this in such a very humane and rational manner, I concur with all of the speakers here today. I congratulate everyone involved. I look forward to this legislation progressing.

Minister for Social Protection (Deputy Leo Varadkar): I want to start by thanking Senator Warfield, Senator Norris - *Monsieur Thénardier du Sénat* - and Senator Grace O'Sullivan for tabling this Bill on gender recognition. I welcome the opportunity to engage with the House on the issues contained in this important Bill. I join with colleagues in congratulating Senator Warfield on what I believe was a very fine speech on introducing his Bill today. I join Senators in welcoming all those in the Visitors Gallery who have joined us for the debate.

I acknowledge the real progress made in this area in recent years. It is fair to say Ireland now has one of the most progressive legislative frameworks for affirming the rights of people who want to have their preferred choice of gender recognised. Senator Billy Lawless made a valid contribution in which he reminded us of the extent to which things in most of the world were not what they were here. In many parts of the world, whether in Russia or Turkey, they are even moving backwards.

I take the opportunity to acknowledge the work of Senator Kevin Humphreys who was Minister for State in my Department with responsibility for this legislation, to which he committed an enormous amount of energy during the time he worked in Aras Mhic Diarmada.

The Gender Recognition Act 2015 introduced a self-declaration model for applicants aged over 18 years. It also provided a route to recognition for 16 and 17 year olds with parental consent, supported by medical opinions. Applications for gender recognition certificates can be made to my Department. Where a gender recognition certificate is issued, the person's preferred gender is formally and legally recognised for all purposes, including in all dealings with the State, public bodies and commerce. To give an indication of the level of uptake, the number of certificates granted since the provisions of the Act took effect in September 2015 amounts to 230. Of this figure, 221 were granted to applicants over the age of 18 years and nine to applicants aged 16 or 17 years. A review of the operation of the Act will commence later this year and I am pleased to inform the House that officials in my Department are making arrangements to initiate the review as soon as possible.

The current system provides for a person to change his or her preferred gender from male to female or female to male. A gender recognition certificate can currently only be issued with a gender of male or female. I am well aware that there are people who do not identify as either male or female. Section 2 of the Bill seeks to ensure the possibility of providing legal gender recognition for non-binary persons will be considered in the review of the Act. This is a complex issue which will have to be considered fully. It is fair to say it is uncharted waters for us, legislatively; therefore, we cannot say what the legal and other implications might be, but it was agreed that the issue would be dealt with as part of the review. When the Gender Recognition Bill passed through the Houses, Senator Kevin Humphreys, in his role as Minister of State, gave a commitment that it would be considered as part of the review. I am happy to restate his commitment.

Section 3 of the Bill provides for the age at which someone may apply for a gender recog-

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dition certificate, by way of self-determination, to be reduced from 18 years to 16. Currently, only those aged 18 years and over can apply. Those aged 16 and 17 years must apply through the courts with supporting medical opinions, although it does not require medical treatment *per se*. There is currently no provision in the Act for those aged under 16 years.

Section 4 of the Bill will allow applications to the court for a gender recognition certificate in the case of children aged under 16 years and no lower age limit is specified. The section further provides that such applications will not need to be accompanied by supporting statements from the child's treating medical practitioner or an independent medical practitioner. I am aware that there are a range of issues to consider in this area; therefore, we should proceed with caution. The current legislative provisions relating to age were carefully considered. They apply significant safeguards that seek to balance the rights of children with the need to protect their interests at a vulnerable age. Research in this area is evolving and I consider it appropriate that the matter be explored in further depth in the upcoming review of the Act. Given the child welfare issues involved, I must be guided by my colleague, the Minister for Children and Youth Affairs, Deputy Katherine Zappone. As Senators may know, following passage of the 2015 Act I wrote to her requesting that her Department undertake research in the area of gender recognition for children to help us to inform future policy. She has replied and is engaging in a consultation process with relevant NGOs and young children on the issue. I look forward to the outcome of the consultations.

As I mentioned, my Department will undertake a review of the Gender Recognition Act this year as provided for in section 7 of the Act. The review will commence by September and officials of my Department are undertaking preparatory work. We expect the findings and conclusions of the review to be presented to the Oireachtas not later than September 2018. I again confirm that the position of persons who are non-binary will be considered as part of the review, as will that of 16 and 17 year olds and younger children.

I thank the Cathaoirleach and Members for their contributions. I again recognise Senators Fintan Warfield, David Norris and Grace O'Sullivan for introducing the Bill. I look forward to examining the issues set out in it as we advance the review in the coming months. Consequently, the Government will not oppose the passage of the Bill on Second Stage.

Acting Chairman (Senator John O'Mahony): I thank the Minister for his statement.

Senator Fintan Warfield: I thank the 13 other Senators who spoke. They were Senators David Norris, Ray Butler, Catherine Ardagh, Victor Boyhan, Jerry Buttimer, Grace O'Sullivan, Aodhán Ó Ríordáin, Máire Devine, Colette Kelleher, Niall Ó Donghaile, Alice-Mary Higgins and Billy Lawless.

I apologise to the members of the trans community who came to observe the debate but could not be facilitated in the Visitors Gallery, which is a shame. I can see that the Press Gallery is empty. Members of the press do not really cover the proceedings of this House. It would be good, therefore, if we could amend the rules to allow us use the space available in the Press Gallery for guests.

Senator Paul Gavan: Hear, hear.

Senator Fintan Warfield: My guests are sitting in my party's room.

I thank Deputy Aengus Ó Snodaigh for bringing forward legislation in Private Members'

time. I also thank the Minister for Children and Youth Affairs, Deputy Katherine Zappone, who, as a Senator, also brought forward legislation in Private Members' time. I join Senators in acknowledging the former Minister of State, Senator Kevin Humphreys, and Deputy Joan Burton who played their part in progressing this legislation.

I note that Senator Gerard P. Craughwell was unable to be here today. He was deeply disappointed that he was unable to co-sign the Bill, although I had committed to work with Senator David Norris and also Senator Grace O'Sullivan of the Green Party.

Senator David Norris has mentioned that trans people and young LGB people between the ages of seven and 12 years come to terms with their identity and sexuality. We know, however, that the majority come out closer to 21 years of age. That means that there is a gap of up to 14 years which young people spend in silence. This legislation will go some way towards aiding them.

Senator Jerry Buttimer mentioned statistics and the public space the referendum on civil marriage equality occupied in comparison with the issue of gender recognition on which many of the people seated in the Visitors Gallery lobbied in silence. The statistics - I guess they are the latest available figures - show that there have been around 500 civil marriage registrations compared with only 150 gender recognition certificates issued.

I listened to Senator Grace O'Sullivan talk about how laws could help to change perceptions. Senator Jerry Buttimer mentioned this morning that, with Senator David Norris and I, he had met the Russian ambassador who seemed entirely ignorant of the ability of laws to change perceptions in society. Senator Grace O'Sullivan also mentioned how this was not a fad for young people but their life. It was a real pleasure and privilege to listen to Kirsty and Dylan at the briefing yesterday. I thank them for coming both yesterday and today. After the briefing I mentioned to Dylan that I had come out publicly at a Sinn Féin Ard Fheis when I was 16 years old. I said I had done so because I had felt there was a political imperative to do so. I do not think there is a political imperative to do so any more. I believe that by speaking out someone like Dylan will ensure another trans young person will not have to do so in the future, just like Dr. Lydia Foy did previously. By speaking out, someone like Dylan will ensure that another young person who is transgender will not have to do what Lydia Foy did earlier. Today LGBT rights moves forward. It has moved forward because people took a stand and risked their lives to say enough was enough. It moved forward because of the actions of those who overcame criminalisation in some cases and who overcame transgender phobia. It moved forward because of people such as Lydia Foy, a well known transgender woman whose 22-year struggle in the public interest led essentially to where we stand today.

It struck me that the political imperative that Dylan felt to speak out at yesterday's briefing and to be present today will no longer be felt by young transgender people in the coming months and years. In my opening speech I said that the transgender community has never let the State down. It is with significant pride that I listened to all of the contributions from Senators today. I thank the Minister, Deputy Varadkar, and the Government which did not let down transgender people today.

I thank all the Senators for their support and for their good wishes.

Acting Chairman (Senator John O'Mahony): I thank Senator Warfield.

Senator Marie-Louise O'Donnell: On a point of order, some Senators present in the

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Chamber were supporting Senator Warfield but may not have spoken.

Senator Fintan Warfield: I agree with Senator O'Donnell.

Acting Chairman (Senator John O'Mahony): Before we conclude let me welcome the pupils and teachers from St. Kieran's national school in Fuerty, County Roscommon, who are guests of Senator Leyden. They are very welcome.

Question put and agreed to.

Acting Chairman (Senator John O'Mahony): When is it proposed to take Committee Stage?

Senator Fintan Warfield: Next Tuesday.

Committee Stage ordered for Tuesday, 16 May 2017.

Sitting suspended at 3.45 p.m. and resumed at 4 p.m.

Courts (No. 2) Bill 2016: Committee and Remaining Stages

An Cathaoirleach: I welcome the Minister of State, Deputy Stanton, to the House.

Section 1 agreed to.

SECTION 2

Question proposed: "That section 2 stand part of the Bill."

Senator Diarmuid Wilson: I welcome the Minister of State to the House. I am seeking clarification from him. As we know, a person who is alleged to have committed a road traffic offence currently has two opportunities to avoid going to court, the first of which involves paying a fixed-charge penalty within 28 days. If he or she fails to do that, he or she has another 28-day period in which he or she can pay the fixed amount with a 50% surcharge. This Bill provides for a third payment option, which will involve the addition of 100% to the original fixed amount.

Every week, thousands of cases are thrown out of court by District Court judges because there is no proof that the fixed-charge penalty notice was issued in the first place. I suggest to the Minister of State that rather than pursuing the third option, as proposed in this Bill, it is time for fixed-charge penalties to be sent by registered post. That is the only way of proving someone actually received a fixed-charge penalty notice in the first place. Like many other people of whom I am aware, I have been summoned to the District Court without having received a fixed-charge penalty notice in the post. It is up to the District Court judge in question to decide whether he or she believes the person before the court. I believe such a situation is not acceptable.

If we are going to have transparency in the operation of fixed-charge penalty notices, the issuing of such notices will have to be registered sooner or later. The fine is sufficient to cover this charge. I understand it costs less than €5 to register, so what is the problem? My sugges-

tion would cut out many of the difficulties being faced by the District Court on a weekly basis. I would be interested to hear what the Minister of State has to say in this respect.

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

I thank the Senator for raising this issue, which was discussed and debated during the preparation of this legislation. As the Senator knows, the purpose of this Bill is to provide part of the legislative framework necessary for the introduction of a third payment option for road traffic offences in respect of which a fixed-charge notice may be served under Part 3 of the Road Traffic Act 2010. This third payment option will give a person to whom a District Court summons has been issued an alternative to attending court in respect of an alleged road traffic offence for which he or she was originally issued with a fixed-charge notice.

A fixed-charge notice provides for two payment options before a summons is issued requiring a person to attend court: a first period of 28 days during which the person may pay the fixed amount, followed by a second consecutive period of 28 days during which the person may pay the fixed amount plus 50%. The key objective now proposed is to provide a third payment option involving the payment of the fixed amount plus 100%, as provided for in section 44 of the Road Traffic Act 2010, which has yet to be commenced. The technical solution for the deduction of the third payment option has been developed under the aegis of the working group on the criminal justice fixed-charge processing system, which is jointly chaired by the Department of Justice and Equality and the Department of Transport, Tourism and Sport. This solution gives rise to the amendment of the Courts Act 1986 now proposed in the Bill as the Act currently operates on the basis of summonses issued as a singular document by the District Court office which is then conveyed, electronically or otherwise, to the applicant or the agent for service. It is proposed to administer arrangements to use the third payment option which involves the Garda Síochána taking on the printing of District Court summonses in order to facilitate the integrated printing in the cases of fixed-charge notice of a summons and a fixed-charge notice.

I mentioned on Second Stage, but by way of information, 325,762 fixed-charge notices were issued and 234,000 were paid, which is a 72% payment rate. The intention here is to increase that payment rate. The suggestion put forward by the Senator is a good suggestion and has been considered, but the conclusion reached was that this third payment option will improve matters considerably. The whole system of issuing and recording and so on has improved dramatically also. The situation where somebody would get a summons not having received the original fixed-charge notice, should not happen anymore. As we know, An Post is extremely reliable. It will now be assumed that when something is posted or sent out, it is actually sent out and received. There are three different goes at it, as it were. Rather than going to the administrative work and burden of having to register every single charge, and one can see the volume here, it is now considered that this approach will actually work which is why we are doing this.

Senator Diarmuid Wilson: I accept what the Minister has said, yet in the figures he quoted, 28% of people did not comply. What proof is there that those 28% received the fixed-charge penalty in the first place? Most people who find themselves before the court do not want to be there in the first place. If they receive a fixed-charge penalty notice and they do not pay it and a summons arrives and there is the option of paying a 100% surcharge on the initial amount, then of course, rather than go to court they will pay it. There is still no proof that they got the initial fixed-charge penalty in the post.

The only way of ensuring, and proving that somebody did initially get the fixed-penalty charge, is by registering the post. If we were to conduct all of our other legal affairs in such

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a manner, and 28% of people did not turn up in court, it would not be long before there was a change. I am asking the Minister of State if it is not futile to implement this third payment option, because innocent people will pay the 100% additional charge because they do not want to face court when the problem is that they never received it in the first place and there is no proof that they did.

Deputy David Stanton: A few things arise. The option of registering the post was considered. It was felt that it would not improve the payment rate significantly, as many people would be reluctant to accept or call to the post office for a registered letter if they believed it contained a fixed-charge notice. Just because it is registered does not mean that people have to accept it, if they think there is something in it that they do not want. They can say they do not want it and send it back.

In addition, a delivered registered letter does not prove that the person named received the notice and the offender still has the option of claiming that he or she never received the notice. Someone else in the house might sign for it and the person could say he or she never got it and we are back to where we started again. There is no proof that it is going to significantly improve matters.

Personal service of the document is the only means that one can guarantee proof of service on an alleged offender. That is something that happens in other jurisdictions where there is a summons service and things like that. An additional legislative provision, Part 3 of the Road Traffic Act which will be commenced, provides that where a summons is served in respect of a fixed-charge offence, evidence that a fixed-charge notice was not served shall not be a defence to the alleged offence. Part 3 further provides that service of a fixed-charge notice may be executed by posting or delivering it to the address inside or outside the State at which the person ordinarily resides which, at the time of the alleged offence, the person gave to the detecting garda or at which the vehicle is registered.

If a vehicle is registered at a certain address, that is where it will be sent. That is where the person is more than likely to be living, and it is posted to that address. In addition, it is also provided that in any proceedings in respect of a fixed-charge notice, a document purporting to be a certificate or receipt of posting or delivery issued by An Post or another postal service is admissible in evidence as proof of the posting or delivery, as in the case of a fixed-charge notice, until the contrary is shown. What we are saying is that we are acknowledging that there are difficulties up to now. That is why we are doing this, but this third option will really improve matters. Hopefully it will. The only other option is the serving of summonses personally to people by a summons server of some sort. I am sure the Senator will appreciate that would be a very difficult thing to do and be quite expensive.

To repeat, people can decide not to accept a registered letter if they feel there will be bad news in it, and someone else can sign for a registered letter and the person can still say that they never got it. Registering the letter was properly examined and it would not improve matters enormously. We feel this option would bring matters up to where we want them to be.

Senator Michelle Mulherin: I stand in support of my colleague. It is standard practice when serving court proceedings to send them by registered post. When one goes higher up the line, to the High Court and Circuit Court, and certainly in the higher courts, one sees personal service being required. I would not subscribe to the idea that a notice sent out could be deemed to be served without any evidence having to be forthcoming. If somebody refuses a registered

letter, that is known by the person who issues it. One can seek substituted service which could be serviced by ordinary post.

In the normal course, if a registered letter is signed for and it is known that the address given, and the address it has been served at, is the place the defendant would ordinarily reside, that should be sufficient to deem service on the person unless the contrary can be shown. The Minister of State is going one step further than that by saying that it is not necessary to prove it was served at all. This is why we are in this situation with summonses and letters of notification on fixed-charge penalties and people not having received them and due process not having been observed.

One cannot get away from registered post because with the sheer numbers of speeding fines and fixed-charge penalties involved, to require personal service of all these would involve an awful lot of manpower or womanpower on the part of the Garda. There should at least be a check. I am not saying it would work in every case and the Minister of State is right, people can send back registered letters, but I still think for due process and fairness, we should know every effort has been made.

If that system had been in place we would not have the problem we have with the Garda now because where a registered letter was returned by somebody who was going to get a fixed-charge notice, the next time there would be a note back from the post office saying this person had refused to accept service and seeking substituted service. There is a bit more paperwork or bureaucracy involved but in lots of cases we do not mind bureaucracy if there is accountability. It is not accountability on the part of individuals that we are talking about here but on the part of the system. It is this part of our criminal justice system that is experiencing a crisis at the moment regarding the Garda. I would have more confidence. Having been a legal practitioner, I do not understand how it has never been done by registered post, notwithstanding what the Minister of State said. Every day legal practitioners must overcome the issue of service of documents and they do so. Registered post is a very important tool. Legal practitioners can make an application for substituted service where this is not working and where they know where the person ordinarily resides. Most people who have vehicles have a fixed abode and an address. There are many ways to pin them down and verify their address. I am concerned about a presumption that people received a notification if they did not.

I welcome the third option. In certain circumstances, it would be the fairest way to go. It would keep people out of court but they would pay a fine. Obviously, this would be an increased fine but people would not have to go to court. We are trying to develop a system outside of clogging up the courts, which would be severely clogged up if all these fixed charge notices were brought before them.

An Cathaoirleach: I call Senator Ó Donnghaile.

Senator Niall Ó Donnghaile: Does the Minister of State wish to respond?

An Cathaoirleach: I will let the Senators offering have their say. When the Minister of State comes in we might be forced to put the question.

Senator Niall Ó Donnghaile: I do not think the Minister of State will have too much to come back at me on in this regard. This is a technical Bill. As has been reflected today in the discussion so far, this is a technical issue. Senator Wilson is right to ask the questions he has asked, and is even right to put forward some solutions he feels might assist in the issue. It is my

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party's view this technical amendment is worthy of support and should proceed in the hope it can address some of the vast scale of discrepancies and issues which have presented themselves before the courts with regard to people suggesting or alleging they did not receive the first fixed charge notice. I spoke very briefly on Second Stage on this issue.

We must remember when discussing this issue it is about more than people being issued fixed charge notices, and whatever is alleged about whether or not they received it this is about people speeding and about the chronic issue of speeding and loss of life on roads in the State and in the North also. In the first instance, we need to reflect on this when we approach this subject matter and at least take cognisance of it when discussing matters such as this. It is useful to have this discussion. The Minister of State has at least made the right trajectory on this matter. It is worthy of review and I am sure the Minister of State will concede it will be reviewed with regard to the concerns other Members have raised. The Bill has our support.

Senator Diarmuid Wilson: I have no wish to hold up this legislation. I am merely making the point that as a result of the third payment option, as Senator Mulherin already stated, people who do not receive the initial fixed penalty notice will pay the 100% surcharge to avoid going to court. I do not think this is acceptable. This is a technical Bill and I will not hold it up, but if we want transparency and accountability the only way to prove delivery is to register the post. If somebody does not accept a registered letter the person delivering it knows he or she called to that address and nobody accepted the letter. At present, thousands of people who never received a fixed penalty notice appear in court on a weekly basis. As the Minister of State said, the legislation states they will be deemed to have received the notice. This is not good enough. I firmly believe the initial legislation is open to a constitutional challenge. We are all concerned about road safety and people speeding and, thankfully, this year there has been a reduction in the number of people killed on our roads. In addition to this, I ask for justice for people who do not receive the initial fixed charge penalty notice and who will now be forced to pay money to avoid going to court. To me this is not acceptable. While I have no difficulty with the Bill and my party supports it, we need to look at it again. That is all I am saying.

An Cathaoirleach: Does the Minister of State have anything further to add?

Deputy David Stanton: I respect what the Senator has said and he is right to bring it up. It is a very important issue. We all acknowledge that An Post has a very good record of delivering mail. If mail is posted it gets delivered and very little of it gets lost. This brings us to two questions, namely, whether it was posted in the first place and whether it was ignored after it arrived. We accept that An Post has a very good record of delivering post, and we know the men and women of the postal service go out of their way and when an address is vague they can still find the person for whom it is intended. I know investigations are ongoing at present into why so many are not received in the first place.

If we have a situation where a letter is registered sometimes the recipient must go to the post office or post depot to collect it and people might decide they know what it is and they will not go. In other cases, somebody else might sign for it and the intended recipients will tell the truth when they state they never received it, that somebody else signed for it and that they did not see it or receive it. We must change this and we are doing so, whereby evidence that a fixed charge notice was not served shall not be a defence to the alleged offence.

Senator Ó Donnghaile is correct that we are focusing on speeding and other offences. An Garda Síochána is considering other options, such as moving to proof of service. The alterna-

tive of outsourcing the entire summons service process for fixed charge notices is also being considered. In the interim, the advice is this technical change might make a huge difference and we might not have to go the extra mile with respect to the personal serving of summonses and outsourcing the entire issue. The advice is this should make a massive difference, bearing in mind all the other changes made to bring the Court Service and the Garda together in issuing notices and what has been done in this regard.

I thank Senators for their support on this. I take on board their reservations and suggestions. It is felt the Bill will improve matters considerably. I also take on board the suggestion the legislation needs to be constantly reviewed once it gets through and is passed. We still need to review this and keep on top of it. Perhaps the Oireachtas committees could look for reports on it on a regular basis. It is quite important this would happen to make sure it works. If it does not work it must be revisited in the short term. I am confident it will make a massive difference, but let us wait and see how it works. This is the advice we have. I thank the Senators for their suggestions and constructive criticism of the Bill, which are very important. I will take on board what they have said and it will be taken seriously.

Question put and agreed to.

Sections 3 and 4 agreed to.

Title agreed to.

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

Sitting suspended at 4.30 p.m. and resumed at 5 p.m.

Litter Pollution (Amendment) Bill 2017: Second Stage

Senator Catherine Ardagh: I move: “That the Bill be now read a Second Time.”

Many people have asked me what exactly this Bill provides for. Substantively, it increases fines in accordance with inflation to correspond with the seriousness of the offences involved. It further provides for a civil claim to be taken against an individual who causes damage to a person or property where section 22 of the original Litter Pollution Act 1997 is contravened. Section 22 relates to cleaning up after a dog. At first glance, the fines may seem high, but section 58 of the Protection of the Environment Act 2003 increased them dramatically. On-the-spot fines outlined in and permitted by the Act will continue and are mostly contained in by-laws of local authorities. This Bill updates the Litter Pollution Act 1997, as amended by the Protection of the Environment Act 2003, to increase the penalties for littering to a fine on conviction on indictment not exceeding €150,000 or on summary conviction to a fine not exceeding €5,000. Obviously, these are large fines but they are very much at the discretion of the judge. They are maximum fines not mandatory minimums.

Fianna Fáil is introducing the Bill in recognition of the fact that current measures to control and prevent illicit dumping and littering do not go far enough. Each year, Dublin City Council picks up almost 16,000 tonnes of litter from our streets and public spaces. Whether it is illegally dumped household waste, chewing gum, cigarette butts, dog fouling or other litter, this

comes at a serious cost to local authorities nationally and is a waste of taxpayers' money. Littering and illegal dumping have devastating impacts on our built and natural environments. In urban areas, dumping and littering is a serious eyesore and damages Ireland as a green nation. For example, litter has been a serious issue in Temple Bar, which is one of our most popular tourist attractions. Dog fouling is evident every few feet on many housing estates in south and north County Dublin. Serious health and safety hazards are created by litter, especially dog fouling. For example, children often pick up infections from dog fouling on the streets. We all know of the disease toxocariasis which can blind a child. For people with mobility issues, dog fouling represents an additional challenge with many people unable to avoid it. This specifically affects those in wheelchairs, mothers with prams, people using walking frames and others with mobility issues. Many scenic areas have become hot spots for people dumping large sacks of household waste. Many people go to the bother of actually bagging their dog litter but then consider it appropriate to fly tip it under a neighbour's tree or into a park. It is not appropriate. This is a serious impediment to the beauty of our country and in particular of neighbourhoods in urban areas.

As matters stand, fines under the Litter Pollution Act are too low and fail to reflect the severity of offences. We must send the strong signal that littering in any form is unacceptable and that we will not accept as a society the spoiling and mistreatment of our shared spaces. The Bill makes changes in respect of all forms of littering and dumping covered by the Litter Pollution Act which allows for on-the-spot fines of €150, a maximum fine of €3,000 on summary conviction and a maximum fine on conviction on indictment of €130,000. The fines for continuing offences are €600 per day for summary offences and €10,000 per day for indictable offences.

Ultimately, the Bill changes the fine limits for indictable and summary offences. It provides in section 2, without prejudice, for the bringing of a civil action against a person who has committed an offence under section 22 of the 1997 Act by any person or owner of property who has suffered damage as a result. If a child is injured as a result of dog fouling, a civil action would lie. The remedy is already there in the tort of negligence, but the Bill puts this on a statutory footing. It shows people that we are watching and taking litter and dog fouling a little more seriously.

Every year, local authorities spend significant sums to remove waste and litter from our streets, roads and public spaces. In 2015, South Dublin County Council spent €1.3 million to dispose of waste illegally dumped on our roads and public spaces. Dún Laoghaire-Rathdown County Council said it spent €1.7 million to remove 2.3 tonnes of rubbish. In 2014, the cost was approximately €700,000. The problem is not isolated to Dublin. Almost 800 cases of littering were investigated by Kerry County Council in 2015 while Wexford County Council spends approximately €2.7 million to deal with littering every year. This is a clear waste of taxpayers' money.

It is our duty as citizens to respect our neighbours and friends and ensure we do not litter, which is easily avoidable. I take the case study of Dublin City Council. In 2016, dog fouling bins were removed across the city in an effort to deter the placing in them of domestic waste. This was around the time domestic waste charges were introduced. In their place, a scheme to distribute free dog bags was rolled out accompanied by a media campaign. The dog bags can be disposed of in any public litter bin. A suite of 3,000 anti-dog littering signs were purchased in 2014 and erected across the city. A further 3,000 signs were purchased in 2015 and are now in place. The signs are visually appealing and are bilingual.

In 2014, Dublin City Council litter wardens dealt with approximately 10,265 litter-related complaints, including issues like fly-tipping, dog fouling, shop-front issues and general littering. CCTV was installed at ten illegal dumping blackspots across the city and it has acted as a deterrent to fly-tipping at these locations. In 2014, there were 18 litter wardens in Dublin city but we now only have 16. There were 2,295 fines issued, 698 fines paid and 542 prosecutions for failure to pay on-the-spot fines, of which only 44 were successful. It seems from the statistics that no one was prosecuted either summarily or on indictment.

Dog fouling was the single biggest issue raised by Dubliners in the public consultation on the litter management plan with one third of all submissions citing it as an issue in the city. By working with dog owners and educating them on the correct way to dispose of their litter, as well as making them aware of the penalties for not cleaning up after their dogs, Dublin City Council and the dog owners of Dublin can help eliminate the scourge of dog fouling from the city streets.

An interdepartmental group has been established to develop a policy for responsible dog ownership which is clear, coherent and acknowledges the important value of dogs to the quality of life of their owners. The policy also reflects the needs of others in the community, particularly the elderly and children, to have public spaces which are safe and clean in which they can rest, relax and play. The plan is to fully envisage and work with dog interest groups and dog workers across the city. By making picking up dog litter visible in this way, we can affect the behaviour of many and make dog fouling socially unacceptable.

Along with the general policy issues relating to litter and dog fouling, some practical steps have been taken by local authorities around the country, including the provision litter bins in parks; the use of technology - for example, Dublin City Council has examined the role of possible audio devices in parks giving out an audio message reminding people to dispose of their dog litter in a sensible manner; education and awareness campaigns through schools; and responsible dog ownership in terms of the Green Dog Walkers initiative, which is a community led programme that aims to encourage responsible dog ownership in a positive and friendly way through building up relationships with other dog workers. They remind fellow dog owners to pick up after their dogs and carry extra dog litter bags.

In terms of Dublin City Council, there are only 16 litter wardens throughout the city. It would be right for the Department of Communications, Climate Action and Environment to request local authorities to increase the number of litter wardens they have and perhaps allocate them funding to employ more to ensure the implementation of fines for litter offences can be progressed.

Along with all these practical steps that councils across the country are taking to combat dog fouling and illegal dumping, legislation is needed which will be seen as a deterrent and which will work hand in hand with the practical measures introduced around the country. We need to let those who litter and do not clean up after their dogs know that we are watching them and that we will do all in our power to ensure they respect our streets, footpaths, parks, our friends who are less mobile and our children. We need to respect each other and our communities and that translates to people cleaning up after themselves and their dogs.

Senator John O'Mahony: I compliment the Senators involved in bringing forward this Bill. Litter is a major issue not only in cities but also in rural areas which is where I would be more aware of it. Dumping in beauty spots and in drains is widespread and is an increasing

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phenomenon. One can see empty wine bottles and other items dumped on the grass verges of our public roads and I do not know if they are thrown out of cars. It is farcical sometimes to see local authority signs warning that people will be fined €3,000 and beside those signs to see black bags of litter increasing by the day. The message that seems to be coming back to us is that people know that they will not be prosecuted. Dog fouling is a major issue as well.

The difficulty we face is to examine how this problem should be dealt with. The necessary legislation is in place as is provision for the imposition of fines and I would not argue about increasing them. The failure to implement the legislation is the problem. If the issue is that not enough people in the local authorities are being designated to deal with the issue, that should be addressed.

The operation of closed circuit television cameras in urban areas is a great deterrent. Obviously, they cannot operate to the same extent in open rural areas. The problem is the lack of implementation of the legislation rather than the size of the fines. In 2014, only €79,000 was paid on litter fines nationwide and, in 2015, that figure increased to €144,000 but the amount is minuscule.

The issue needs to be highlighted, which is being done here today, and it needs to be acted on. There has been a great increase in our tourist numbers, but there is no worse a message we can send to tourists than the sight of litter scattered across our beautiful countryside and in our cities.

I commend the Bill. The solution to the problem is the implementation of the legislation but that is certainly not happening at present.

Senator Rose Conway-Walsh: I thank the Minister for coming to the House. I welcome the introduction of this Bill. Sinn Féin will support its passage through Second Stage.

The issue of proper waste management is one that has impacted on many communities. Sinn Féin is against the privatisation of council and domestic refuse services. We increasingly find the impact of privatisation, particularly in rural areas but also in urban areas, is that people cannot afford the prices being charged for the disposal of waste. Increasingly more households are not using bin collections because they have to make choices between whether they pay household bills or whether they eat or cover the cost of the many other demands that are made on households. That is hugely contributing to the increase in illegal dumping. Local authorities do not have the resources to police such behaviour, particularly in rural areas. This Bill will be meaningless unless the local authorities are given the resources to have extra inspectors to implement the legislation and impose fines. That is what will encourage waste management and stop illegal dumping. The increased cost and uncertainty brought about the bungled pay-by-weight scheme added to the burden of household expenditure and saw an increase in illegal dumping. While we disagree with privatisation, illegal dumping is reprehensible and is an attack on the whole community. I take this opportunity to ask the Minister what is the position regarding the pay-by-weight scheme. There was to be a deferment period of six months. During this period many refuse companies have used the time to revert to a previous *status quo* and flout the new regulations. We agree with increasing fines, as provided for in this Bill, to help alleviate the scourge of illegal dumping across the country but, as other Senators have said, it needs to be enforced. There are many instances of increased penalties for various offences yet very few prosecutions follow due to a lack of resources.

I welcome the fact many local authorities now have a hotline for members of the public to report illegal dumping. We should not forget that illegal dumping poses serious health risks to the communities blighted by it. We also need greater Garda involvement in tackling the problem of litter pollution, including enforcement. A key factor is to place greater obligations on the companies that produce the waste in the first place. If these companies need help to either source new materials or assistance during a changeover to new types of packaging, this could perhaps be addressed as part of the Finance Bill. There needs to be an obligation on producers for the whole life-cycle of the packaging. We need to reduce packaging and encourage companies to recycle more of the waste they produce while at the same time discouraging illegal dumping.

I welcome this Bill. It will go some way to addressing the issue of illegal dumping, which must be supported.

Senator Jerry Buttimer: I welcome the Minister, Deputy Naughten, to the House. I commend Senator Ardagh on the Bill. It is a simple Bill in its practicality and we all broadly support the thrust of it. The debate is necessary. All of us, as public representatives and citizens, must aspire to have our cities, towns, places of residence and communities litter-free so they are places we can be proud of. I come back to the polluter-pays principle. Those who litter should be made to pay. I listened to Senator Conway-Walsh referring to people making choices about the payment and the pay-per-weight. There is a responsibility on the individual citizen whether it is, as Senator Ardagh referred to, in terms of dog fouling, chewing gum, tossing stuff out of a car window, fly-tipping or the illegal dumping of rubbish. There is a personal choice irrespective of income. We need to take responsibility individually and collectively as a State through the city and county councils and the Departments. We cannot say it is about making a choice to pay bills and not to pay for waste. It is too simplistic in its approach. There is a responsibility on individuals to ensure their space and communities are litter-free and that we take pride in our communities. I was at a Pride in our Community event in Cork recently, which is a competition being run by Cork County Council, and which is in its 13th year. Communities are involved in enhancing public space. In my area, people in Douglas Tidy Towns work hard each year to try to improve their locality. They are volunteers going out across the community, picking up litter, planting shrubbery and improving their area. In my area of Bishopstown, I commend the local business association which is beginning to put together a group dedicated to improving public space.

We have an issue with dog fouling. There needs to be a concerted campaign on the issue. It goes back to my comment earlier that people must take responsibility. I am not a dog owner but I know there are many dog owners who do, as Senator Ardagh said, pick up after their dog and resist the temptation to fly-tip. We need to look at the matter. I am conscious that in my city of Cork, the city council spent almost €33,000 on a campaign to create awareness by putting up posters about a €150 fine and providing receptacles and bags. It is also about ensuring we have people prosecuted. There was only one fine issued by the city council over a number of years. It is not just about prosecuting or increasing the fine, which Senator Ardagh is proposing in her Bill. It is also about working with organisations such as Irish Business Against Litter which runs a very successful, high-octane campaign. Some of its results make for unsavoury reading and others can bask in the glory of seeing their areas improve and being litter-free zones.

We talk about the public realm a lot. I will refer to the issue of the city of Cork which I am from. The revitalisation and improvement of the streetscape by two groups, Mad about Cork and Reimagine Cork, should be warmly complimented and used as a pilot across the country.

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They are volunteers coming out onto the streets of our city in Cork with creativity, imagination and energy to create an uplift in the city for spaces that are dark, damp, derelict, dirty or unclean. It is about regeneration and rejuvenation of the city through street art and murals or by painting over old ESB junction boxes. It is about making the city look attractive. If one walks through certain parts of the city, one sees window boxes and colourful displays and one gets a lift and feels warmth. There is a sense of pride in one's city. These are people working collectively to improve our city. It has been going on for two years and it is an important issue. It is one we need to recognise in the House. I invite the Minister to Cork to meet with these people who are volunteers but who are doing a huge amount of work.

We have another issue with gum. There has been a local authority gum litter task force. Irish Business Against Litter described gum as a pernicious source of litter. We have spent an enormous amount of money in Cork City Council on removing gum from our streets. It leaves a lasting impression. If one walks along many of our city streets or through towns, one will see its legacy on the footpaths. People might think I am being negative but there is a responsibility on the individual in the disposal of waste and to be more careful, particularly with chewing gum.

I am glad the Government is working with Senator Ardagh to ensure the Bill will be added to the suite of measures under the 1997 Act, which is important. We need to look collectively at the approach in terms of policy and awareness campaigns and to become more in tune with society and engage with society and people. We had the Tidy Towns competition which is a very important element in our improvement of our areas. I referred to the very significant level of volunteerism in many of our Tidy Towns groups which work at the most extraordinary times of the day and night and they deserve credit. We need to look at the blight of litter in our communities and in particular illegal dumping in rural Ireland. We are an island that needs tourists and the tourism sector. We all have a role to play in making sure we have a better, cleaner society and country.

Senator Colette Kelleher: I welcome the Minister. I am delighted to support the Bill and I thank and commend Senator Ardagh and her colleagues for bringing it forward. More needs to be done to prevent litter in our streets, parks and public spaces. A big reason I support the Bill is because of litter in the form of dog foul. I am particularly concerned about dog foul and the harmful effects it can have on our children. When my children were little, we lived in the middle of London where the park was everything. I remember taking my children to play in a beautiful park by the River Lee. I never seem to be very far away from a River Lee. The park was beautiful but a lot of dogs used the park and there was very little enforcement of good rules with regard to penalties for fouling. When children were playing in the park they were at serious risk. A Millward Brown study from 2013 showed that 40% of dog owners in Dublin admitted to not cleaning up after their pets and one in ten have never or rarely removed dog foul from the city streets. This has a potential serious consequence that should carry a serious fine, as is proposed by the Bill.

There is a particular worry about toxocariasis which is a serious illness caused by a parasite that lives in dogs' digestive systems. These parasites lay eggs which are released via the infected faeces. The eggs can remain active for a long time. If the eggs are ingested by a human they can hatch into larvae causing toxocariasis. Unsurprisingly it is most common in children aged one to four. Toddlers like to play in the grass; they put things in their mouths and on occasion refuse to wash their hands. There are three types of toxocariasis. Covert toxocariasis is the most common and mildest form. Symptoms include abdominal pain, a cough and a headache.

The most serious is the one referred to by Senator Catherine Ardagh, ocular toxocariasis, which occurs when toxocara larvae migrate to the eye. Symptoms and signs include vision loss, eye inflammation and damage to the retina which can be long-lasting.

Visceral toxocariasis occurs when the larvae migrate to various body organs such as the liver or central nervous system. Symptoms include fever, fatigue, coughing, wheezing and abdominal pain.

Litter and dog foul, in particular, can give rise to serious health issues, especially for children. The best way to prevent these problems is to ensure dog owners clean up after their dogs straightaway. To that end, we must make sure there are adequate penalties and deterrents in place. We also need bins. I was reminded by some people from Cork that there were no dog litter bins in Tank Field, for example. We also need poop scoops and doggy bags to be more readily available in newsagents and elsewhere. I agree with Senator John O'Mahony that all of the penalties in the world will not act as a deterrent if we do not enforce the laws in place.

Dog fouling is a significant health issue, especially for children playing. We must remember that play is not just an optional extra but essential for childrens' growth and development. Children are increasingly living in urban rather than rural environments and if we want them to be able to play safely without these unnecessary health risks, we need to deal with the issue of litter, dog litter in particular. The Bill will go some way towards encouraging dog owners to clean up after their pets, which is why I will be supporting it. I hope other Members will support it, too.

Senator Kieran O'Donnell: I welcome the Minister. I see considerable merit in the general thrust of the Litter Pollution (Amendment) Bill 2017 and wish to make a number of observations on it. This is an issue that has been coming up a lot. Anyone who has canvassed in recent years will have noticed the increase in the number of dogs generally. More and more people have pets nowadays. The increase in the past five years, in particular, has been significant and has given rise to the problem of people not picking up litter after their dogs foul outdoors. The solution is a combination of education and enforcement. It does not matter what fines we introduce - if they are not enforceable, they will have no consequences. The existing law needs to be enforced. The lack of enforcement is unfair on those who are abiding by the law and bring plastic bags with them to pick up the litter. In some areas it is a major problem, with dog excrement on footpaths and so forth.

It would be interesting to look at the number of dog licences issued this year in comparison to previous years. What needs to be done in that regard? Most dogs are kept indoors and when taken for a walk, they are invariably on a leash. In that sense, there is no reason owners cannot clean up after their dogs foul outdoors. In Limerick we have a problem with illegal dumping, which is an absolute blight on the landscape. We recently had the Total Limerick Cleanup, TLC, a concept that originated with J. P. McManus, Paul O'Connell, Helen O'Donnell and others and which has been hugely beneficial. However, I visited an area last week that had been cleaned on TLC day and it was as bad as ever. Those who dump illegally believe they will not be caught. In that context, there are inconsistencies between the various local authorities. Some are great at dealing with this issue, while others are very poor. Why is that the case? This is a nationwide problem. People will speak about a lack of resources, but if that was the only problem, there would be a consistency in the way problems were addressed. The inconsistencies come down to management, as well as funding. We must benchmark the local authorities in a range of areas, litter being one.

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We need to turn this issue on its head. We should introduce something that is anti-litter, while at the same time introducing something positive such as encouraging those living in villages to plant flowers. We must reward people when they try to keep their areas looking well, but at the same time, if they do not do so, we must impose severe penalties. People believe they will not be caught if they dump illegally. At the same time, there are no rewards for them to do something that their neighbours are not doing. We need to look at this issue in the context of rural rejuvenation. We must encourage people in order that it will become a positive and people living in a town or city will not litter because their neighbours will tell them that it is not on. We should be rewarding the person who is abiding by the law and not allowing the person who is not law-abiding to think he or she can get away with it.

There has been a huge escalation in the number of dogs being kept as pets. It is amazing. In practically every house to which one calls there is a dog. I am a dog owner and have been for many years. Dogs are man's best friend and hugely important, particularly for older people. They provide company, security and can improve peoples' health. However, we must make sure there are proper dog litter controls in place. The issue of illegal dumping is clearly one of enforcement. It is also an issue of resources in terms of local authorities ensuring housing estates, footpaths and so forth are swept. Often local representatives will contact the local authority to ask, as a favour, that an area be swept, but that sweeping should be done as a matter of course. We also need to consider rewarding people who are proactive. The TLC campaign was a phenomenal success and should be replicated nationwide. I encourage Members to visit Limerick to see what is happening there. I support the general thrust of what has been proposed.

Minister for Communications, Climate Action and Environment (Deputy Denis Naughten): I have sympathy for Senator Rose Conway-Walsh. She has difficulty in standing up, while I have difficulty in sitting down. Between the two of us, we would make up one normal person.

I thank Senators for drafting the Bill, in particular Senator Catherine Ardagh. I really appreciate the fact that she has taken this initiative. While I have some concerns about the detail, I welcome the principle of the Bill. I assure the House that I am fully behind any reasonable measures that will combat littering and illegal dumping in our communities. Last year more than €95 million was spent nationally on litter prevention and control. I have stated repeatedly that I consider littering and illegal dumping economic and environmental treason. It is a scourge. I am also particularly exercised about the issue of dog fouling. The nuisance and potential public health risks associated with dog fouling is something I specifically want to address, but before I do I want to set out my role and that of the Department in respect of litter. The Department provides the legislative framework to enable local authorities to tackle litter. The Litter Pollution Acts 1997 to 2009 provide that statutory framework. It is a matter for each local authority to decide on the most appropriate public awareness, enforcement and clean-up actions in regard to litter in their respective areas, taking into account local circumstances and priorities. It must be appreciated that the challenges presented in tackling litter in primarily urbanised local authority areas may differ from those in more rural locations. I recognise that legislative measures alone will not suffice. In order to tackle the issue effectively, a wide-ranging approach is needed. This approach will involve all elements of Irish society, incorporating enforcement by local authorities, public awareness and education aimed at achieving behavioural change and attitudes toward littering and dog fouling.

The anti-litter and anti-graffiti awareness grant scheme, ALAGS, is just one element of the targeted direct response to deal with litter which my Department supports. This year, I am

increasing the funding provided to local authorities under the grant scheme by 28%. It allows local authorities apply for funding for projects aimed at raising awareness of litter, including dog fouling, and graffiti issues in their functional areas.

Local authorities are asked to focus their activities under the scheme on young people, in particular schools and community groups, with an emphasis on encouraging long-term behavioural change. Grants can cover a broad range of measures to raise public awareness and stimulate anti-litter and anti-graffiti activity at local level.

I have also increased and extended funding for the protection of the uplands and rural environments, PURE, project for a further three years following its significant success at tackling litter and illegal dumping in the foothills of south county Dublin and Wicklow. For this project I have allocated a further €345,000 over the three-year period from 2018-20. I also oversee the funding allocation for several other anti-litter initiatives currently in operation in Ireland including the national spring clean; the green schools programme; Irish Business Against Litter, IBAL, litter league; and negotiated agreements with the banking and chewing gum industries. A particular bugbear of mine is the issue of dog-fouling. Unlike Senator Conway-Walsh, I can do a lot of walking at the moment. I was out walking and came across an older neighbour, who told me somebody had let a dog foul right outside the gate. The person has poor mobility and this was the way the entrance to her home was left. I do not think it is acceptable for any older person to have to deal with that, because they are not physically able to clean up dog foul outside their homes.

Although it is an offence under section 22 of the Litter Pollution Act not to clean up after one's dog that has fouled, the reality is that many dog owners are reneging on their civic duty to clean up after their dogs. Dog faeces contain bacteria and roundworm parasites which can be harmful to young children, in particular. Although statistically dog waste represented just 1.22 % of overall litter in 2016, it is perhaps the most intrusive type of litter and a constant source of nuisance for the public on our streets, in our parks and on our beaches. I have had small children and pushed buggies around the streets on numerous occasions. No one should have to come home after a walk and not be able to bring a buggy into a house because it needs to be power hosed as a result of the scale of dog faeces on it. It is not right that people ignore the law in such a way as they do now.

Thankfully, my children are now older but they are still quite small and when I bring them for a walk I have to point out dog faeces and watch the street rather than what is going on around us so that the children do not walk into it. Obesity is a major issue and we should be actively encouraging everyone to go out and walk. We encourage children to go out and walk, but they end up walking into dog excrement. It is off-putting and is not right.

People need to take a far more responsible approach to this issue. If they own dogs, they have a responsibility to clean up after them and need to live up to that responsibility. As we have seen in many other areas of society, such as the smoking ban, there has to be a zero-tolerance approach to this practice.

Many initiatives have been tried to deal with dog fouling, including obvious ones such as signage, more dog waste bins and bags and advertising campaigns in cinemas and on social media. A new approach has been adopted by some local authorities using talking lamp-post technology, particularly in Dublin, in areas such as Baldoyle and Fingal, and in Mullingar, my town, Athlone, Lahinch, Kilkee and Limerick. Dog fouling was the single biggest issue raised

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by Dubliners in public submissions to Dublin City Council. The technology uses pre-recorded messages to remind dog walkers to obey the law.

The green dog walkers scheme is another new initiative being adopted by local authorities, including my home county of Roscommon. It aims to increase awareness of dog fouling by signing up members to take a pledge to always clean up after their dogs. These members are provided with green dog walker armbands and waste bags. By wearing the green armbands, they are indicating that they are responsible dog owners who are participating in and supporting the scheme. However, ultimately the responsibility for tackling dog fouling rests with the dog owner. If a dog fouls inside a person's house, he or she would not contemplate for a second not cleaning it up, yet many owners simply do not apply the same logic when they are walking their dogs in public, for some unfathomable reason. With dogs come pleasure and companionship, but also responsibility. Areas in our towns and communities across the country should not, under any circumstances, become no-go areas as a result of dog fouling. As regards the scourge of illegal dumping, I recently launched the 2017 anti-dumping initiative to work in partnership with local authorities and community organisations to identify high risk or problem areas using smart technology, such as drones, to develop appropriate enforcement responses and to carry out clean-up operations.

Applications for funding were invited by the relevant waste enforcement regional lead authority, WERLA, and the scheme has been a major success with 111 applications to date. An initial allocation of €650,000 was made available, but given the very positive response and the quality of the applications submitted, I will make further funds available to support a second phase of this initiative this year. I will make an announcement in this regard shortly.

Before addressing the Bill specifically, I would like to draw attention to the *www.fixyourstreet.ie* website. It is a service launched in 2011 whereby non-emergency issues can be reported to a local council. It is a website where littering, illegal dumping and dog fouling can also be reported. I would urge people to spread the word about this website and download the EPA app, See It? Say It!, to report litter and illegal dumping by taking a picture. The GPS coordinates are automatically included and it is sent to the EPA. I welcome the opportunity presented by the Bill to highlight and publicly debate the litter issue. Although the Bill is clearly well intentioned, in the short time my officials and the Office of Attorney General have had to consider it we have already identified some legal, policy and operational concerns in respect of the Bill as presented. These concerns essentially fall into two categories, namely the primary focus of the Bill on court imposed fines, which I believe is misdirected, and some significant concerns as regards the legality of the Bill as currently worded. Although I am not proposing at this stage to oppose the Bill outright, it is very clear, having taken legal advice, that it will require considerable amendment before I will be in position to support it, if that is possible at all. I need more time to reflect on it to satisfy myself whether it can be amended adequately to address these concerns in a robust, legally sound manner. It might be helpful for me to set out some of the concerns so as to inform our debate and further consideration of the matter.

The Bill focuses on the litter fines imposed by courts. Statistics compiled by my Department indicate that the level of fines imposed by the courts for litter-related offences is very low. In 2015 fines and costs for litter offences amounting to only €79,000 were imposed by the courts nationally. Although this figure almost doubled to €144,000 last year, it is still a very low level considering that 31 local authorities are involved. Therefore, I do not believe the Bill is targeting the right issue. These figures are also evidence that when these matters come before the courts, the levels of fines awarded on summary conviction are far below the current allow-

able threshold of €4,000. Again, it points to the fact that amending the maximum court fines, as proposed, is unlikely to effect any major improvement in enforcement or to have any great impact on litter levels nationally. The Bill, as worded, will not increase the current on-the-spot fine of €150 for littering offences, which is the principal tool used by local authorities to tackle litter offenders. For example, in 2015 local authorities collected €655,000 in on-the-spot fines, compared to just €144,000 imposed by the courts in fines in the same year.

Notwithstanding my personal annoyance at dog fouling, the amendment to section 24(3) proposed in the Bill to allow a person to initiate civil proceedings against a person convicted of a dog-fouling offence is superfluous. My advice is that there are already well defined courses of action in common law, including by way of negligence or nuisance and possibly trespass, and the approach proposed is not recommended. However, I do accept the principle of what is being outlined by Senator Catherine Ardagh. I am quite willing to facilitate engagement by her or anyone else in this House with my departmental officials to determine whether we can come up with constructive suggestions, particularly on the issue of dog fouling. I am very open to suggestions or approaches people have to make on this matter.

The Bill proposes to increase in monetary terms court imposed fines under the Litter Pollution Acts 1997 to 2009. Under the Fines Act 2010, it is envisaged that in the future changes to such summary fines should reference one of the five “classes” contained in the Act. In this regard, the Bill is legally flawed.

As I said, it is welcome that the Bill has been published. As Members will know, particularly those who have been here a little longer, my approach from the Opposition benches in this and the Lower House was always to engage constructively with Ministers. I encourage Senator Catherine Ardagh to engage with my officials and go through the legislation with them. We will highlight the issues we have with it. If we can come up with sensible suggestions that would strengthen the legislation in this area, I will be quite willing to work with her on Committee Stage in that regard. I urge her to take up this offer and talk to the team in the Department. I do not believe the legislation, as constructed, will do what she wants to do, but I am quite willing to sit down with her and come up with other suggestions in this field and come forward on Committee Stage with a constructive and agreed approach. I accept the principle of what she is trying to do, that is, combat the scourge of litter and illegal dumping. Let us work together and come forward with a proposal that will work legally, strengthen the law in this area in practical terms and also address the scourge of dog fouling across the country. As we did in the case of the smoking ban and the plastic bag tax, let us come up with something innovative. If any Member of the House has a suggestion we could incorporate into the law, let us look at it. I am prepared to look at suggestions with an open and constructive mind. As Minister, I am totally committed to tackling Ireland’s litter issues in a meaningful way that will result in better outcomes for the environment and the public, particularly children.

I thank the sponsoring Senators for the Bill and kindly request their patience as we reflect further on the proposals contained in it which appear, as I said, to be flawed. I look forward to further engagement with them as we seek to identify some common ground in addressing Ireland’s litter challenge.

Senator Catherine Ardagh: I thank the Minister for coming to the House to address this legislation. I also thank him for taking the time to do so. I am glad that we are *ad idem* on the nuisance that is dog fouling in the city and the scourge many people face daily on opening their door. Many dog walkers tend to have the same habits. Many people we have met wake up ev-

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ery morning to a little gift at the gate. It does not just happen on one morning; it might happen every second morning. It is not fair and not right.

This is essentially a respect Bill. Obviously, funding is the issue. If we had many more litter wardens monitoring each dog walker, we would be in a better position. However, we do not, unfortunately, have that luxury, as we know.

There are a few issues on which I would like to take the Minister to task in regard to the conclusions to which he has come. The first is on-the-spot fines. I agree that they have been a great success for local authorities across the country. I did not touch on the issue because I believe they are working very well. The Bill will actually complement the ability of local authorities to impose on-the-spot fines. It does not in any way undermine the message of enforcement.

The Minister has said we already have the law of negligence to deal with dog fouling and offences that stem from it. Both he and his adviser will know that many approaches to matters involving negligence are placed on a statutory footing just to cement them and show a willingness on the part of the Government. It is not something new; it is commonly done. Therefore, I disagree with the Minister in that regard.

I looked at the Fines Act. It does not limit the right of the Oireachtas to increase mandatory fines as it sees fit. I might discuss that issue with the Minister again. Ultimately, we know that the section on summary convictions and indictable offences has not been used. I refer to the section in which I am seeking to change the limits. Ultimately, enforcement is the key.

I am really introducing the Bill to highlight the scourge of dog fouling in the city. Something really needs to be done about it. My preference would be to have more resources. If we had some campaign to achieve respect for individuals, society and communities, it would be beneficial. The issue needs to be kept in the ether.

On bringing a civil action, the relevant Part of the Bill is actually new. Placing something on a statutory footing attaches to it a little more seriousness. It will go some way towards acting as a deterrent if it is advertised and people know about it.

I understand the Minister is to allow the Bill to proceed to the next Stage. I am glad that he is offering his services and inviting me to discuss with him how we can improve it, ensure it will work, have a meaningful outcome and help people who are affected by the problem.

Question put and agreed to.

Acting Chairman (Senator Gerry Horkan): When is it proposed to take Committee Stage?

Senator Catherine Ardagh: Next Tuesday.

Committee Stage ordered for Tuesday, 16 May 2017.

Acting Chairman (Senator Gerry Horkan): When is it proposed to sit again?

Senator Kieran O'Donnell: It is proposed to sit again at 11.30 a.m. tomorrow for the meeting of both Houses sitting in joint committee. At the conclusion of the joint committee meeting the House will adjourn until 2.30 p.m. on Tuesday, 16 May 2017.

The Seanad adjourned at 6.05 p.m. until 11.30 a.m. on Thursday, 11 May 2017.