



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

Business of Seanad	438
Commencement Matters	439
Office of Public Works Properties	439
General Practitioner Services	441
School Admissions	442
State Pensions	445
Order of Business	448
Recognition of Irish Sign Language for the Deaf Community Bill 2016: Committee Stage.	463
Petroleum and Other Minerals Development (Prohibition of Onshore Hydraulic Fracturing) Bill 2016: Second Stage.	497
Business of Seanad	509
Mental Health (Amendment) Bill 2016: Second Stage	509
Central Bank and Financial Services Authority of Ireland (Amendment) Bill 2014: Second Stage	529

SEANAD ÉIREANN

Dé Céadaoin, 21 Meitheamh 2017

Wednesday, 21 June 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 Keith Swanick that, on the motion for the Commencement of the House today, he proposes to raise the following matter:

The need for the Minister of State with responsibility for the Office of Public Works and flood relief to consider the roll-out of a scheme to allow free entry for children to all OPW sites nationally, to help promote greater awareness of the many cultural and historical sites to future generations.

I have also received notice from Senator Maria Byrne of the following matter:

The need for the Minister for Health to extend blood-testing facilities to general practitioners on a Monday-to-Friday basis at University Hospital Limerick.

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

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

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

The need for the Minister for Social Protection to outline whether she plans to abolish the averaging rules for the calculation of pension entitlements introduced in 2012 with a view to reverting to the previous system of calculation so that those, mostly mothers, who are currently being inadvertently penalised will be able to access the full State pension.

I have also received notice from Senator Colm Burke of the following matter:

The need for the Minister for Health to clarify the current position regarding the number of medical consultant vacancies in hospitals and the actions his Department is proposing to address the current shortfall, which is reported to be in the region of 400.

21 June 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 increasing funding, recognition and participation in women's sport.

I regard the matters raised by Senators Swanick, Byrne, Warfield, Gallagher, Burke and Lombard as suitable for discussion. I have selected the matters raised by Senators Swanick, Byrne, Warfield and Gallagher and they will be taken now. Senators Burke and Lombard may give notice on another day of the matters they wish to raise.

Commencement Matters

Office of Public Works Properties

Senator Keith Swanick: I warmly welcome the Minister of State to the House on his first official engagement here. Before I speak on the specific topic, I want to publicly put on the record of the House my praise for the Minister of State for the bravery he has displayed in recent weeks in highlighting his battle with literacy and the challenges it poses in his life. His actions have spoken louder than any words, which is why I believe he will inspire many people to put their hands up for help. Now that it has put the issue on the agenda I would be happy to work with the Minister of State in progressing it in any way. As Nelson Mandela said, the brave man is not the one who has no fears, he is the one who triumphs over his fears. I say "Well done" to the Minister of State.

I am very glad it is the Minister of State, Deputy Moran, taking this Commencement matter today. He is from a neighbouring county of mine. It is a subject of which he has spoken in favour before and he will be making proposals which will come before the Cabinet on this very issue. I agree entirely with the Minister of State when he says the long-term benefits of opening all Office of Public Works sites freely to children will be huge.

There has been much talk recently about how we need to move our education system away from the reliance on memory and recitation and focus more on learning through experience. Visits to various sites steeped in history will not only inspire creativity but also create lifelong memories. Paris is one city that can be looked to when examining such a plan. Anyone who has visited Paris is aware it is an expensive city. However, if one is under-26 and a citizen of the European Union, one is entitled to free entry into some of the finest and most popular museums and monuments of the city such as the Louvre, the Arc de Triomphe and the Panthéon, which ordinarily cost €12, €9.50 and €9, respectively, to enter. They are some of the most well-known tourist attractions in the world so it would save a young visitor a very incentivising €30.

We have some fantastic sites here in Ireland which are spread all over the country and draw many visitors every year. The opening of heritage sites managed by the OPW for free on the first Wednesday of every month for the duration of their seasons has proved very popular. The number of visitors to OPW heritage sites rose to 6.6 million last year, which was a significant increase on the previous year. The most popular site in 2016 was the National Botanic Gardens where over 583,000 visited, up more than 30,000 from 2015. The number of visitors

to Castletown House and parklands in County Kildare nearly doubled last year with 547,000 visiting the 18th-century mansion and its surrounding gardens, which was up from 297,000 in 2015. Kilkenny Castle has also seen record-breaking numbers come through its gates with 384,000 visitors to the castle and its grounds. The completion of the new visitors' centre in the old Kilmainham courthouse saw the number of visitors to Kilmainham Gaol rise by 64,000 to 390,000 in 2016. While these numbers are testament to the great work of the 1916 commemoration committees, figures show that the numbers were rising before 2016 as a reflection of the increasing popularity of our heritage product nationally and internationally. All across Ireland, visitor numbers are up. Areas outside the big cities have seen a huge rise in the number of visitors, for which we can thank the OPW sites.

As we all know, the greatest threat to Ireland currently is Brexit. Its effects have already been felt on the island with the numbers arriving from the UK falling by almost 11%. The post-Brexit fall in sterling has made it more expensive to travel. Coupled with the sheer uncertainty of the negotiations, this is forcing the British people to think twice about visiting their nearest neighbours. If we want the number of visitors to these sites to continue to rise and not to decline, opening them up freely for entry by children is the smart option. According to a response to a parliamentary question submitted by my party colleague, Deputy John McGuinness, the then-Minister of State, Deputy Canny, stated that the popularity of OPW sites was a key driver in terms of the economic benefit being generated for the tourism sector and that receipts in this area had increased year on year to over €11 million in 2016. With this in mind, I beseech the Minister of State not to rest until he has carried out his plans to open all OPW sites to children free of charge.

Minister of State at the Department of Public Expenditure and Reform (Deputy Kevin Boxer Moran): I thank the Senator for the kinds words in his opening remarks. It is a privilege for me to be here as Minister of State with responsibility for the OPW. The Senator is right that it is my first such engagement and I am delighted to be here for it.

Immediately on taking up the post of Minister of State with responsibility for the Office of Public Works, I asked my officials to introduce a scheme of free entry for children under 12 to paid heritage sites managed by the OPW's heritage service. Such a scheme would be a very progressive development and foster a greater awareness of the value of our national culture among our young. A scheme would encourage greater participation among families and a desire to visit these sites. The Office of Public Works already operates a free scheme for school visits which has been in place for many years and this will remain unchanged. The proposal I am considering would, however, extend the scheme to all children who visit the sites. Following a full assessment of the operational needs surrounding this proposal, which will involve changes to the admission protocols at sites and a consideration of the financial costs, I hope to be in a position to make a formal announcement in the coming weeks.

Senator Keith Swanick: I thank the Minister of State for his response and his enthusiasm on the subject. I hope very much that this will be carried through to Cabinet and that the proposal will succeed.

Deputy Kevin Boxer Moran: I assure the Senator that this is one proposal I want to carry through and on which I am working with my Department to implement.

An Cathaoirleach: I also welcome the Minister of State to the House. I had not realised it was his first engagement here. I wish him every luck in his brief. I am sure he will acquit

himself with the usual aplomb. I wish him well.

Deputy Kevin Boxer Moran: I thank the Cathaoirleach.

General Practitioner Services

An Cathaoirleach: I welcome the Minister of State at the Department of Health, Deputy Jim Daly, to the House and wish him every success in his new brief. It is a very proud occasion for him and his wife and family, including his extended family. Like Deputy Daly, there were 11 in my family and I am the baby of the 11. It is great to see a west Cork man here. I am delighted he has been successful. Senator Byrne has four minutes to outline her case.

Senator Maria Byrne: I welcome the Minister of State, Deputy Daly, to the House and congratulate him formally on his appointment yesterday. I am delighted for him and wish him the best of luck for the future.

I raise this matter to call on University Hospital Limerick to provide access for general practitioners to the blood clinic over five days a week. Currently, there is access only on four days a week, namely, Monday to Thursday, but I have heard from a number of general practitioners that this is causing a problem. Where a patient presents in a practice on a Monday to Thursday morning, bloods are taken and the results are back in the afternoon. The doctor will then know whether the patient needs to be sent to the hospital. On a Friday, however, that access to the blood clinic is not available to general practitioners. If a patient attends on a Friday, there is no way to check the bloods for various issues, including anaemia. As such, there is no choice but to send the patient to the accident and emergency department.

There is a chronic situation in University Hospital Limerick. The Minister for Health, Deputy Simon Harris, was in Limerick recently to open the new accident and emergency department, which was very welcome. It was great to see it. While there were very few people on trolleys that day, what is happening now is that people are being sent in on a Friday because GPs cannot check their bloods. As such, some people are being sent unnecessarily and taking up places which should go to those who really need them. Some of the time, these people may simply have been feeling tired and have no other issues. Until that is checked, however, they have to sit in the accident and emergency department, taking time from those with more serious illnesses. I am asking for the Department to intervene to see if the blood clinic can open on a Monday to Friday basis.

Minister of State at the Department of Health (Deputy Jim Daly): Sa chéad áit, ba mhaith liom mo bhuíochas as ucht an fáilte. I thank the Cathaoirleach very much for his welcome and his very generous and kind words and I thank Senator Byrne for raising this important issue, which I am replying to on behalf of the Minister for Health, Deputy Simon Harris.

I welcome the opportunity to address the House on this matter and to ease the Senator's concerns about blood testing facilities for general practitioners at University Hospital Limerick, or UHL. I am pleased to inform the Senator that UHL provides blood testing facilities for GPs on a Monday to Friday basis. The UHL pathology department's laboratories have always accepted and tested GP bloods and, of course, other specimens, on week days. Defined drop off and delivery times for specimens are in place to provide a streamlined process and to allow for the timely processing and testing of patient samples. Specimen acceptance criteria times are

Monday to Thursday from 9 a.m. to 4 p.m. and on Fridays from 9 a.m. to 2 p.m. The defined specimen drop off and delivery times allow UHL laboratory staff sufficient time to process specimens according to their priority. The House will no doubt appreciate that all internal acute hospital clinical specimens are essentially prioritised due to the nature of acutely ill patients. GP and primary care specimens are then processed, within acceptable timeframes, so as to prevent any compromise of test results due to any testing delays.

I acknowledge that the Senator may be concerned about the status of urgent specimens required by GPS but I have been assured by UHL that all urgent and critical GP specimens are accepted by UHL laboratories outside routine working hours. However, in such circumstances, it is necessary for the referring clinicians to make contact with laboratory staff prior to the delivery of the specimen. In addition to the blood testing facilities operating on a Monday to Friday basis, I have been informed that Shannondoc provides out-of-hours medical care to patients throughout the mid-west region, and as such, has blood testing facilities. The Shannondoc GP courier specimen collection service recently extended its service from three to four days. The service, which previously operated on Tuesdays, Wednesdays and Thursdays, has now been extended to include Mondays. While this extension of operating hours has obviously resulted in a corresponding increase of some 20% to 30% in the number of GP specimens received by the UHL laboratories, I am delighted that UHL has been in a position to respond to this increase in demand.

It is a fact that any further extension of services at UHL laboratories will increase the financial demands on the hospital in terms of staff costs, test reagents, kits and consumables. It is important, therefore, that any proposal to increase service provision should be evaluated in light of the priorities of UHL and the provision of the best service to patients. Finally, I note the very considerable investment in UHL in recent years. As the Senator noted, it was only last week that the Minister, Deputy Harris, officially opened its new state-of-the-art emergency department which represents a major landmark in the provision of patient services in the mid-west.

Senator Maria Byrne: I thank the Minister of State for his response. The point the GP is making is it is restricted times on a Friday and the Shannon Doc only operates Monday to Thursday so there is a shorter timeframe. I understand extending the time would create greater costs on the hospital, but if the service were extended, it would help to reduce the numbers going in through accident and emergency. Perhaps it is something that can be taken on board.

Deputy Jim Daly: I will certainly take it back to the Minister. The Senator made a valid point that if it places additional pressure on the accident and emergency department and results in extra admissions, it does not make financial sense. I will certainly report back to the Minister and have it looked into for the Senator. I will see she gets a response.

An Cathaoirleach: I thank the Minister of State. I have no doubt there will be bonfires blazing for him in west Cork tomorrow night. Do not do too much damage to the environment in the process.

School Admissions

Senator Fintan Warfield: I thank the Minister for joining me for this conversation. The Joint Committee on Education and Skills has released its report on the Equal Status (Admission to Schools) Bill in which it calls for an end to the baptism barrier. It shows there is ever

growing cross-political support for an end to this law. Does the Minister have a response to the report and its recommendations and will he table an amendment to the Bill reflecting that? Since the Minister announced the public consultation on the role of religion in primary school admissions in January, there has been a national conversation on the need for religion to be gone as a discriminatory admission criterion in State-funded schools. We know from research that the vast majority of citizens, including parents with children in school, want it to end. The baptism barrier, which allows State-funded schools to discriminate against children because of their religion or belief, is one of the great inequalities of our time and has no place in a modern, pluralist democracy. The Minister's Department received thousands of submissions in the public consultation on the issue, and I understand the vast majority of those were in favour of removing the baptism barrier. Will the Minister confirm that? One in five people baptised their child to ensure school admission which I think the Minister will agree is problematic. These realities need to be reflected in our education policies. Latest census figures show an Ireland that is very different from when the baptism barrier was created. The 2016 figures show a 73.6% growth in people with no religion, which marks the growth of the largest cohort in society, while 45% of those who identify as having no religion are young adults around my own age, between 20 and 39. They are part of the cohort most likely to have young families and children who are attending school at present or who will be attending in the coming years. These CSO results have to have an impact on how we set our policies and shape our education system. The Minister is aware of these figures because he quoted them. It shows the understanding he has of the changes that are needed in order that school policies reflect the Ireland of today. It is not the job of school admissions policies to dictate to parents the religion in which they should raise their children. The State should not facilitate it. The function of the State is to uphold the right of every child to an education. The Oireachtas is nothing without the people. We are here to support children and young people, not stakeholders. It is through applying the best interest of the child principle that we will see a solution.

I will reiterate my questions. Does the Minister have a response to the committee report and its recommendations? Will he table an amendment to the Bill to reflect those recommendations?

Minister for Education and Skills (Deputy Richard Bruton): I thank the Senator for raising this matter. It is a very important issue. As he rightly says, the census shows the degree to which our society is changing. As of today, probably northwards of 20% of young parents express either no religion or none of the established religions. It poses a challenge to our system in which 96% of schools are denominational. We have to approach this on a number of fronts. One is the diversification of schools. We are trying to bring new schools in, transfer schools and offer more choice. The issue is how we deal with religion as a criterion of admissions. I have very clearly put on the record time and again that I do not believe it is fair for a school to admit a child from a long way off in preference to a local child simply because that child is of a particular religious denomination. I also do not believe it is fair that parents should feel under pressure to baptise their child simply to get admission to schools.

I have put forward four different possible solutions to restrict the use of religion as a criterion. One is to restrict it to the catchment area. Other solutions are the nearest school rule or to confine the religious preference to a quota of applicants. The fourth option is to do away with religion altogether as a criterion but to look at ways in which the ethos of schools could be protected.

The issue of minority schools comes up. Many people would feel rightly that minority

religion schools should be protected. If it were an open access system, some minority schools would not survive because they would be swamped by children of an ethos other than of their own. Those are the constraints. There are other constitutional constraints that we are working within and there are many other issues, such as whether it is feasible to go down the catchment route since there are no catchments. How would we define catchments and would there be one mother and father of a row when we try to decide the catchments in specific areas? That would make it very impractical to do.

We have had the submissions. They were not overwhelmingly in favour of getting rid of the baptism barrier. There were a very substantial number of submissions on the opposite side of the case. We had a forum where we discussed this in great detail and we asked people to look at two things. They looked at finding solutions rather than sticking to where they came from. Many people had very strong, legitimately held views that are diametrically opposed to others. We had that forum and there was no consensus breaking out of it. We are looking to see how we can do this. I very much welcome that parents want to raise their children in their traditional faith. It is a good thing. Parents are the primary educators. We should seek to facilitate them but we cannot do that at the expense of parents who have a very different view. We are trying to balance this. I have only just seen the report of the Oireachtas committee. It is fresh off the printing press. I favour change in this area, as the committee does. It gets down to the detail of what we do.

We have decided in the other House that there will be two tracks. We will proceed with the existing Education (Admission to Schools) Bill and deal with the issues there, which are important. It will say that where a school is not oversubscribed, it must take every child regardless of religion and anything else. That will be the law. It is only in the 20% of schools that are oversubscribed that the issue arises. We are putting into that law, for example, a power
11 o'clock for the National Council for Special Education, NCSE, to designate a school for a child with special needs. That is another important power. In the other House, the Labour Party put forward a Bill which included a catchment solution. It will proceed to Second Stage at the end of June. It is on a separate track. It is not my intention at this stage to try to resolve the religious issue. Committee Stage of the Education (Admission to Schools) Bill will be next Wednesday. I do not think we will be ready with a solution for next Wednesday. I do not want to hold up the largely agreed admission improvements while we resolve the other issue. I am absolutely committed to resolving this issue and I am looking at practical ways it can be done. I have to get assurance that any change I make is legally robust, as there is constitutional provision in this area, and that it is practically implementable.

The forum did not resolve that and more work will therefore have to be done to try to find a solution to bring people with us on what the Senator recognises - as do I - is an area in respect of which changes must quickly be made.

Senator Fintan Warfield: I am encouraged that the Minister favours change in this area. The Migrant Rights Centre of Ireland, in its submission to the consultation, said that contemporary Ireland is one of the most diverse countries in Europe, with over 16% of the population being foreign-born and over a quarter of children being born to at least one foreign parent but discriminatory practices such as the baptism barrier hinder the process of integration. There is only one proposition for Irish identity in our age and that is diversity. Do we value all of our community's contribution to the betterment and social integration of this island? I do not think the baptism barrier reflects the Ireland that we live in today. I appreciate the Minister's response.

Deputy Richard Bruton: To be fair to schools under religious control, many operate a very open policy. As I said, only 20% of them are over-subscribed. The remainder admit every pupil regardless of background and many of them do so in a very good way. Perhaps not all meet the very best requirements and we are trying to develop that. We will have a parents and students charter and, under the Education (Admission to Schools) Bill 2016, which is due to proceed to Committee Stage next Wednesday, we will require that schools should specify how they will deal with children who are not of the relevant denomination. We can work with schools that have a denominational ethos to make them a much more positive environment for every pupil and we can also work on more choice and on diminishing the use of religion as a criterion for entry. We have to move on all those issues together.

I have learned that education is very much a community. There are many really strong communities running schools of excellent quality. One has to bring many of those people into the process. One cannot say that one model is to be thrown out in favour of another. For a long time, communities have been running schools and building a community ethos around them. It is a question of trying to change but bring as many people as possible with us. That is the journey that we are on.

State Pensions

An Cathaoirleach: I welcome the Minister for Employment and Social Protection, Deputy Regina Doherty, and wish her good luck and success in her new brief. From my humble position, it appears to be a nice promotion for her. I wish her well. She is very welcome. I hope we will see her regularly. It is nice to see senior line Ministers coming in to show respect for the Chamber rather than for me.

Senator Robbie Gallagher: Cuirim fáilte roimh an Aire go dtí an Teach seo ar maidin fosta. The Minister is very welcome. I join the Cathaoirleach in congratulating her on her nomination and in wishing her every success in her post. As the Cathaoirleach said, we look forward to seeing her here on a regular basis.

I wish to ask the Minister about pensions and pensioners. Thousands of pensioners, mainly women, are losing large amounts of money from their pension due to changes made to the State pension eligibility rules in 2012. Figures provided by the Department of Employment and Social Protection show that of the 36,000 people affected by these changes, over 65% are women. The Irish Human Rights and Equality Commission has called for a review of the welfare policy from a gender perspective and it appears to have a point. A pension gap of 28% exists between men and women, meaning that women on the State pension are getting approximately €88 less than their average male counterpart.

One of the main reasons women are losing out is changes made by the previous Government in 2012 to amend the eligibility criteria for a contributory State pension by introducing an averaging rule to calculate the number of contributions made by a worker, thus making it more difficult to qualify for a full State pension. The changes clearly and unfairly punish women who took time out of work to care for and rear their children. This is because the current generation of pensioners get no benefit from the homemaker's scheme, which allows for top-ups to State pension payments for those taking time out of the workforce to care for their children. The previous Government claimed to have protected the State pension but this would seem to indicate that the latter is clearly not the case. Many thousands of pensioners have seen their pensions cut

dramatically and have lost out on substantial sums of money as a result of that decision. Under the old system, if a person had an average of 20 contributions a year, he or she would be entitled to €228.70. After 2012, this dropped to €198.60, a cut of over €30 per week. Those entitled to a full pension were unaffected but large numbers of those who had been in line for smaller pensions lost out. On average, retired workers have lost more than €1,500 per year but women took the biggest hit, widening the already unequal pension gap.

I call on the Deputy Doherty, as a woman and as a Minister, to consider this issue and the unfairness relating to it and to restore fairness to women who have done the State great service, as I am sure she would agree, and deserve much better.

Minister for Social Protection (Deputy Regina Doherty): I thank the Cathaoirleach for his kind words. It is an honour to be in this House. This is my first time here as a senior Minister and I am very privileged to attend.

I thank Senator Gallagher for raising this issue. He is aware that I was only given the brief for my new role a week ago. I am currently being briefed on the entirety of the Department's brief and amalgamating the role of responsibility for employment into the new Department of Employment and Social Protection. My statement on this matter is factual in so far as it reflects the current position. I will read it into the record of the House and we can then perhaps have a brief discussion on my ambitions in this area.

There are several ways to qualify for a State pension. The rate of payment under the State pension contributory scheme is related to contributions paid over the years into the Social Insurance Fund and credited contributions where applicable. As such, those with a stronger attachment to the workforce and who have paid more into that fund are more likely to be paid at a higher rate than those who made lesser contributions during their working life.

Since the contributory pension was introduced in 1961, the yearly average contributions test has been used in calculating the level of pension entitlement. The total contributions paid or credited are divided by the number of years of working life from a person's entry into insurable employment up to the year prior to his or her reaching State pension age. There are a number of criteria which must be satisfied in order to qualify for a contributory pension, whether at full or reduced level. These include that the person must be aged 66 or over and have paid at least 520 contributions. Payment rates are banded. For example, a person with a yearly average of 48 contributions will qualify for a full pension, whereas a person with a yearly average of 40 will qualify for a pension at the 98% rate. A person with a yearly average of only ten contributions will still qualify for the minimum rate of €93.20. There is a misconception among some that the yearly average approach is unique in paying a higher rate of contributory pension to those with less significant gaps in their record. However, all contributory pensions operate on that basis, with the objective being to reward those who contribute most frequently to the fund which pays for those pensions.

The homemaker's scheme, which was introduced in 1994, makes qualification easier for those who took time out of the workforce on caring duties that many people undertake in respect of children or elderly parents. It allows for up to 20 such years in the period since its introduction to be disregarded when the yearly average is calculated, thus making it easier to qualify for a higher rate of payment. Those with insufficient contributions to meet the requirements for a State pension contributory may qualify for a means-tested non-contributory State pension, the maximum personal rate for which is €227. Alternatively, if a person's spouse has

a contributory pension, he or she may qualify for an increase for a qualified adult, amounting to up to 90% of a full-rate pension, which by default is paid directly to him or her.

The national pensions framework proposed that a total contribution approach should replace the yearly average approach. Under this approach, the rate of pension paid would more closely reflect the total number of contributions. The position of those who have gaps in their records is being carefully considered in developing this scheme. It is expected that this approach to pension qualification will replace the current one from 2020 or thereabouts. Following completion of the actuarial review of the Social Insurance Fund later this year, a refined total contribution approach proposal will be developed. Following a consultation process, I will submit a proposal to Government seeking the review and a new approach.

The current band rate applying to the State pension were introduced from September 2012, replacing the rates introduced in 2000. The revised rate bands reflect the social insurance contributions history of a person more closely, although alternative payments are available for those with small additional means. It is estimated that to revert to the previous bands would cost at least €60 million in 2018.

We are all aware that we do not have the money to do everything we want to do, so we have to be very careful. Having said that, in my primary job as a Deputy, one of the most contentious issues that comes across my desk and one that I have not been able to resolve in the last number of years is this particular issue, particularly for people who do not reach the minimum threshold of the ten credits. That is because of the averaging from the beginning and the end. I assure Members that this is a priority for me. I do not know how I will fix it yet, given the amount of money that would be needed to do exactly what we would like to do, but I can provide 100% assurance that this is a priority. It is not fair that people who have an average of nine weeks get nothing whereas those with an average of ten weeks get €93. The system that we have should mean that if one pays into it one should be paid back, even on a sliding scale. The only commitment I can give is that I am going to do my level best to bring that review and the changes that we had anticipated making, which are projected into 2020, will be a priority for me. I will be looking at it to see what options are available to me to address this issue as soon as I can.

Senator Robbie Gallagher: I thank the Minister for outlining that. I am heartened by her contribution and I look forward to having her back to this House at a later date, when hopefully the unfairness of the scheme can be addressed. I have every confidence that she will do that.

An Cathaoirleach: I normally do not make any interventions from the Chair but something crossed my mind as a former Deputy myself. In a situation where a person has the 9% and does not qualify for the minimum, would the Department refund the 9% contribution they have made? In other words, if one contributes 9% does one get nothing back? It might be something on which the Minister could reflect.

Deputy Regina Doherty: I am probably speaking out of turn but it does seem to be incredibly unfair. I made representations for a particular lady in the last number of years. She worked in the UK for two years when she was younger and gets a pension cheque from the UK every week and yet we will give her nothing. There is an anomaly there and we certainly will be looking at it.

An Cathaoirleach: I wish the Minister well. I hope it is not as difficult as turning the *Titanic*, but I wish her well.

Order of Business

Senator Jerry Buttimer: The Order of Business is No. 1, the Recognition of Irish Sign Language for the Deaf Community Bill 2016 - Committee Stage, to be taken on the conclusion of the Order of Business and to adjourn not later than 2.45 p.m., if not previously concluded; No. 2, the Petroleum and Other Minerals Development (Prohibition of Onshore Hydraulic Fracturing) Bill 2016, changed from the Prohibition of the Exploration and Extraction of Onshore Petroleum Bill 2016 - Second Stage, to be taken at 3 p.m. and to be adjourned not later than 5 p.m. if not previously concluded, with the contribution of group spokespersons not to exceed eight minutes and all other Senators not to exceed five minutes; No. 3, Private Members' business, the Mental Health (Amendment) Bill 2016 - Second Stage, to be taken at 5 p.m., with the time allocated to the debate not to exceed two hours and; No. 4, Private Members' business, the Central Bank and Financial Services Authority of Ireland (Amendment) Bill 2014 - Second Stage to be taken at 7 p.m., with the time allocated to this debate not to exceed two hours.

Senator Catherine Ardagh: Today, I wish to raise two short issues. First, it is with great regret that I rise again today to raise the issue of the Garda Commissioner. We have learned that the irregularities in Templemore are much more severe than we originally thought. We learned yesterday that the Garda Commissioner has confirmed there is reasonable cause to suspect fraud has been committed regarding Garda bank accounts connected with the college. What is most alarming is that there is a genuine concern amid the revelations that senior Garda officers are involved in the alleged fraud. GSOC will investigate the matter at great cost to the State, as it will have to engage forensic accountants.

We understand due process must be afforded to individuals. However, as was pointed out yesterday, the timing of the investigation being handed over to GSOC is suspect, and allowed the Commissioner to hide behind a shield when it came to answering relevant and simple questions tabled by my colleague, Deputy Marc MacSharry. There are also more questions raised by the Comptroller and Auditor General, Seamus McCarthy, about potential irregularities which he felt should have been notified to him sooner. It seems that certain members of the Garda are living by their own laws and they are in their own little fiefdoms showing total disregard for the rule of law that they are duty-bound to enforce and to follow themselves. I call on the Leader to ask the Minister to come into the House to address this matter.

The second issue I wish to raise a related one. My colleagues in Sinn Féin might be able to explain the comments made by their deputy leader yesterday asking the Commissioner what type of clout she felt she held as a woman. I cannot understand that question. It was absolutely and completely inappropriate and they might be able to shed more light on it.

An Cathaoirleach: It is not appropriate to ask another party or party leader about what happened in the other House. Senator Ardagh might find another way to address the matter.

Senator Catherine Ardagh: My apologies. I extend the sympathies of the Fianna Fáil Party to Bernadette, the wife of Mr. Thomas Power, who died during the week in an ambulance on his way to Cork University Hospital. Mr. Power was only 40. He was due to be a first-time father and he passed away, as we know, because there was no specialist cardiac facilities in Waterford. I wish to amend the Order of Business to call on the Minister for Health to attend

the House today to address this matter.

I also wish to put on the record my disappointment that yesterday the Taoiseach, Deputy Leo Varadkar, nominated only three women out of 19 Ministers of State. It is pretty outrageous that in the 21st century he seems to have absolute disregard for women.

Senator Victor Boyhan: I rise to address one issue here today. First, I congratulate all the Ministers of State who were appointed yesterday. In particular, I congratulate Deputy John Paul Phelan who has been appointed Minister of State with responsibility for local government. He has been specifically delegated to deal with local government. That is important and I acknowledge-----

Senator Paul Coghlan: And reform.

Senator Victor Boyhan: Local government and reform. If I am allowed finish I will get to the reform, which Senator Coghlan will be particularly interested in. That is important. I am delighted that Senator Coghlan should remind me of the reform element of the Minister of State's brief. What am I going to say?

Senator Paul Coghlan: I would not like Senator Boyhan to forget.

An Cathaoirleach: Senator Coghlan should please not interrupt.

Senator Victor Boyhan: Senator Coghlan will certainly remind people. I would appreciate if the Leader could organise for the Minister of State, Deputy John Paul Phelan, to come to the House to discuss local government, and in particular greater devolved powers and subsidiarity to local government, to empower it as it represents local communities and local citizens to make decisions in local communities.

Last year we had a very interesting engagement with the previous Minister, Deputy Simon Coveney, on the work, conditions of employment, remuneration and support of local councillors. There is no maternity leave or sick leave for local councillors. Would one believe that? The area is crying out for reform and it is an issue on which we should have a discussion. We hear much debate about remuneration. I wish to put on the record here again that county councillors in this country receive €16,500 before tax for what is a seven-day per week job. I do not want to rehash all this now but I ask the Leader to organise for the new Minister of State with responsibility for local government and reform to come in here and engage with us, which I know he will, and I have high hopes for him, so that we can discuss this with him and come up with some real, practical suggestions for local government reform and mechanisms for greater support of councillors across the 31 local councils.

Senator Rose Conway-Walsh: I want to address the issue covered in the all-day session of the Committee of Public Accounts yesterday and I want the new Minister for Justice and Equality, Deputy Charles Flanagan, to come to the House to debate this important issue. It is now a regular occurrence to see the Commissioner of An Garda Síochána appearing before the committees of the Oireachtas, which in itself is a scandal. While I welcome the fact that the head of the police force is available to Members of the Parliament seeking answers on behalf of citizens, those answers have to be forthcoming. Most of the reports in the media this morning about yesterday's hearings stated that there was an increase in the use of management speak and evasive language in response to very direct questions. A colleague of mine went as far as to describe Commissioner O'Sullivan as being a "hostile witness". Anyone looking at the interac-

tions yesterday could only come to that conclusion.

This morning it was commented that up to five years ago a Garda Commissioner's account would be accepted without question. I suppose it is good that people are starting to question these things. They were never questioned and certainly were never questioned under Fianna Fáil. However, it now seems to take hours of committees' time to get answers to the most basic questions. The Comptroller and Auditor General should have been told of the financial irregularities as soon as the Commissioner had suspicions of the wrongdoings in July 2015. Instead she waited more than a year. She is the Accounting Officer for An Garda Síochána and she failed to report financial irregularities. The Commissioner should have admitted that error yesterday. Instead the issue remains unresolved due to her evasive answer in which she described her decision not to inform the Comptroller and Auditor General as reflecting her mindset at the time. Come on. Some of the language being used by the Commissioner is absolutely an insult to the intelligence of the people of this country.

We are facing into the start of the public hearings of the Charleton inquiry shortly. The public and politicians have lost confidence in Commissioner O'Sullivan already. More revelations and contradictions in evidence can only lead to what most people accept as the inevitable, namely, the Commissioner needs to go. The new Taoiseach now has an opportunity to sort out this mess by dismissing the Commissioner so that we can get to the truth of this matter. It cannot be likened to other situations. We have been calling for this for months because we knew how it was going to pan out. How many more days will we wait? How many more sessions, where the menu of the day is fudge, will we wait? To every direct question that is asked of the Minister, we get a fudge of answers. This is an absolute nonsense that must stop and the only way it can stop is for the Commissioner to go at this point.

Senator John Dolan: I wish to raise a good story this morning. Last Friday evening, for one reason or another, a lady who is deaf made a wrong calculation and missed her bus from Parnell Place bus station in Cork to Dublin. The staff and someone who works closely with me came across the situation. The lady was quite distressed but the staff and the Bus Éireann duty inspector behaved in a wonderful and person-centred way. They were not able to accommodate her on another bus that evening but they spoke to their colleagues in Iarnród Éireann and organised for her to be brought to Kent Station just in time for the train leaving for Dublin. Why am I telling that story? I am telling it because it is an example of people getting on with their public sector work and duty in a person-centred manner. They understood that the woman was distressed and that there were issues around her deafness and, between the two public transport services, did the decent thing and made it happen for her.

There is a bigger story in this and another way of telling it. We can say that people did the decent thing and what anyone should do. The fancy language for that is about cultural change. One of the things that needs to happen in terms of the UN convention and public services generally is that this mindset needs to operate all of the time across our Departments and public bodies. Even as a Tipperary man, I am very happy to be thankful for the good grace of the people in Cork and for what they did. It is good to underline it in terms of policy. People who think about policy and planning services need to think about people who have differences or different disabilities.

Senator Paul Coghlan: I welcome all of the good news stories. It is understandable if people, given their position in opposition, want to play them as bad news stories. We totally understand.

I agree with much of what my colleague opposite, Senator Boyhan, said about the enlightened appointment of Deputy John Paul Phelan as Minister of State with responsibility for local government and reform. I agree that the Leader, in early course and when it is convenient, might arrange to have him in here for a debate with us on all of the issues and many questions that arise regarding local government. We have some crazy situations, as the Cathaoirleach well knows, in the deep south west. Having electoral areas covering three peninsulas, as in one case, and nine-seat and ten-seat areas is madness. People cannot be expected to cover that area. I accept that these councillors receive a meagre and paltry pittance for what is a six-day or seven-day job. They are front-line troops. Unlike us, they are the representatives-----

Senator David Norris: They are the Senator's electors.

Senator Paul Coghlan: Yes, but they are the representatives of the people to whom people go in the first instance. Whether it is an issue about a pothole, maternity benefit or any other kind of benefit or allowance, they get the request in the first instance. I, therefore, look forward to that important debate. We know that there are many issues involved in reform but let us tease them out here. We can have a worthwhile debate on the issue. I look forward to the Leader agreeing it in early course.

Senator Terry Leyden: I second Senator Ardagh's amendment to the Order of Business. I ask that the Minister of State, Deputy Moran, would come to the House to speak on when the report on the re-opening of five more Garda stations will be presented. A total of 95 were closed in 2013. It may be a matter for the Minister for Justice and Equality or for the Taoiseach-----

Senator David Norris: The Minister for tourism.

Senator Terry Leyden: -----or a matter for the Minister, Deputy Ross, who pulled off a great stroke. Stepside Garda station was one of the 95 closed on 31 January 2013 and is the only one that will be re-opened in some shape or form through this interim report that was taken out of context. Other Garda stations such as that in Rush were closed but are not being re-opened. Only one specific station concerned the Minister, Deputy Ross, who is a great stroke politician. We have to admire his ability. There is nothing consistent about him but inconsistency; there is no doubt about that.

Senator Paul Coghlan: Senator Leyden always admired him when he was in this House.

Senator Terry Leyden: The point is that I wonder where the Minister, Deputy Naughten, was. He reminds me of the dormouse in "Alice's Adventures in Wonderland". The Senator might know-----

Senator David Norris: He was in the teapot.

Senator Terry Leyden: Thank you very much. He was in the teapot.

An Cathaoirleach: Please address the Chair.

Senator Terry Leyden: The point is that the Minister was present when the decision was made to appoint Máire Whelan as a judge of the Court of Appeal, which she had not even applied for, but he did not know it was happening. Then the Minister, Deputy Ross, gets a decision to open Stepside Garda station. Garda stations in Ballintubber, Ballyforan, Ballyfarnon, Knockcroghery, Shannonbridge and Tarmonbarry were all closed at the same time, but not one of them is proposed to be re-opened. I call on the Minister, Deputy Naughten, in respect of

this. In particular, Tarmonbarry, which is between Dublin, Westport and Castlebar, is a crucial and strategic location to apprehend criminals on the way to and from Dublin - where most of them come from. It is on the very location, and I am not sure if everyone knows this particular location-----

(Interruptions).

Senator Terry Leyden: This was closed under Senator Feighan's watch, by the way.

An Cathaoirleach: Please conclude, Senator.

Senator Frank Feighan: Was I the Minister? Thanks for elevating me.

An Cathaoirleach: Senator Feighan, please.

Senator Terry Leyden: The Minister, Deputy Naughten, could have also made a precondition around reopening the local accident and emergency, which he did not. I am calling on----

An Cathaoirleach: The Senator cannot raise a second issue.

Senator Frank Feighan: We will not get into that.

An Cathaoirleach: Senator Feighan's interjections are causing a delay. The Senator will respect the Chair. I presume he does not want to speak.

Senator Terry Leyden: I am calling on the Minister to demand that this report be presented to the Oireachtas and to identify Tarmonbarry as a strategic and crucial location. I further demand that he follow in the fine example of representational politics set by the Minister for Transport, Tourism and Sport, Deputy Ross, a man who has led the way against stroke politics. Let us follow him and get something done for Roscommon because it has been neglected by the Minister this long time-----

An Cathaoirleach: The Senator is well over the limit. I call Senator Ó Clochartaigh.

Senator Trevor Ó Clochartaigh: Go raibh míle maith agat, a Chathaoirligh. Tá ceist fíor-tromchúiseach tagtha chun cinn le seachtain anuas maidir lenár gcuid imirceach thall sna Stáit Aontaithe agus an dream atá le díbirt amach as na Stáit Aontaithe. I am raising the issue of the undocumented Irish, particularly the case of a Donegal man who has been living in Boston without being fully documented. He also appeared on an RTE "Prime Time" programme in March. His arrest and detention has sent shockwaves through the Irish community in the United States. I visited Boston at Easter and spoke to Mayor Walsh who told us that he was concerned that if people were to be picked up on legal misdemeanours of any kind, it would be very difficult for him as mayor to intervene and try to help them in their situations. It was never expected that the immigration, the ICE as it is known, would be knocking on people's doors and taking them out of their houses. It would appear that this man will be deported to Ireland. He has been living in the United States for quite a long time and has family and commitments there. I know that the Irish community there is very concerned as to what this will mean for the rest of the community in Boston.

I congratulate Deputy Ciarán Cannon for being appointed Minister of State at the Department of Foreign Affairs and Trade with special responsibility for the diaspora and international development. I would appreciate if we could have a debate with the Minister for Justice and

Equality or with the new Minister of State about what contacts their Departments have with the authorities in the United States, what supports are being made available to the Irish community there and what can be done to try to help alleviate this situation, which is very concerning for many Irish citizens abroad. B'fhéidir go mbeadh muid ábalta díospóireacht a bheith againn arís faoi na gnóthaí seo sula mbeidh briseadh an tsamhraidh againn.

Senator Frank Feighan: On the issue of gardaí and the opening of Garda stations, I do not think that politicians should try to influence Garda operational decisions around the country.

Senator David Norris: Hear, hear.

Senator Frank Feighan: I would very much prefer to see a Garda in a squad car or on the beat than sitting in a Garda station effectively having tea. Things have changed with modern communications. It is much better to have gardaí out and around the place. I have seen it in a few areas where people were complaining that a Garda station was closed.

Senator Lorraine Clifford-Lee: I do not know any gardaí who have the time for tea.

Senator Frank Feighan: What they did not realise was that no garda had been in that station for the previous four years. In Stepside I think crime actually went down when the Garda station closed. The same was true in County Roscommon where some stations closed and the gardaí allocated the resources themselves. I do not have any say in that and thankfully the days are gone when I could ring a Garda station asking for the time of day. Thankfully we no longer have political interference in the affairs of the Garda and on how it disperses its manpower. That is a good thing. We have to look at the figures. From what I read in the newspapers last week, crime actually came down in Stepside.

Senator Lorraine Clifford-Lee: Then why is it the only one that they have announced is reopening?

Senator Terry Leyden: What about Tarmonbarry?

An Cathaoirleach: Address the Chair, please.

Senator Frank Feighan: I do not want to get into that, a Chathaoirligh.

An Cathaoirleach: I think the Senator has made his point.

Senator Lorraine Clifford-Lee: The Senator should ask his party colleagues why it is the only one. What about north County Dublin where crime has increased?

Senator Frank Feighan: Garda management should look at that and allocate gardaí throughout the country where it sees fit.

Senator Terry Leyden: Boyle Garda station was half closed.

Senator Frank Feighan: My grandfather was one of the first to serve in An Garda Síochána. It should be taken out of the political system and allocated to the Garda.

Senator Keith Swanick: Everyone is aware that, according to the WHO, half of all users of tobacco will die from it. The tobacco industry is no friend to anyone and most definitely not to the people who are, unfortunately, addicted to the product. The Senators will recall that I have been campaigning for some time on the incredible situation whereby the State held invest-

ments in some of these tobacco companies through the National Treasury Management Agency, NTMA, and the Ireland Strategic Investment Fund, ISIF. Thankfully, through exposing this in the Seanad and with support from all sides of the House and from the Minister for Health, Deputy Simon Harris, changes were made last December that saw the NTMA divest itself of all tobacco investments.

Through research and through information supplied to me I recently uncovered that other State and semi-State agencies are still investing money in the tobacco industry. These are under the remit of the Minister for Justice and Equality, Deputy Charlie Flanagan, to whom I wrote last week. His predecessor, Tánaiste Frances Fitzgerald, did not act on my correspondence on this though I wrote to her on a number of occasions over the past few months.

The first organisation in question is the Charities Regulatory Authority that administers the charity investment fund on behalf of 410 charities. They have confirmed to me that the value of this fund was approximately €38 million. They have also confirmed under questioning from me that they have invested part of this in the tobacco industry. It raises the question as to whether these 410 charities know that they are investing in the tobacco industry. Are any of these charities related to health? I have asked the Charities Regulator if they have informed the charities how they are investing money on their behalf. I await a response.

The second organisation in question is the Courts Service. It invests huge sums of money, approximately €1.675 billion, on behalf of wards of court and children under 18 who have received significant rewards. I wrote to the CEO of the Courts Service three weeks ago and have had no response to date. I have written to the chairperson of the investment committee of the Courts Service, Justice Peter Kelly, to point out that it is unconscionable that money for wards of court and money awarded to children, often arising from serious medical or health issues, be invested to prop up the balance sheets of global tobacco giants.

This is an absolute joke. I propose to move a motion in this House in the near future and I hope that it would have unanimous support. I ask the Senators to send a strong unanimous message supporting motion 22 on the motion paper today and I formally propose that this be taken before No. 1 on the Order of Business.

Senator David Norris: I understand that the Cathaoirleach has very kindly given me private members' time next Wednesday. This was unexpected but it is very democratic and I am grateful to the Cathaoirleach and of course to the Leader----

An Cathaoirleach: The credit must go to the Leader. I have only a small function in that regard.

Senator David Norris: The Cathaoirleach is the Lord's instrument. I thank the Leader very much indeed. It is a very healthy sign of the new politics that we are always hearing about but that never seems to happen.

Senator Jerry Buttimer: It is all take, no give.

Senator Paul Coughlan: The father of the House is always correct.

Senator David Norris: Perhaps the Cathaoirleach could advise me as to the correct form of words as I have only just heard this, but I would like to seek leave to introduce the National Housing Co-operative Bill 2017 in my Private Members' time. This is a very important mea-

sure and I hope that every member of the House will stand up on this issue. With Allied Irish Banks geared to sell off a great number of distressed mortgages and with the vulture funds poised to take these over, we have a situation where we could potentially have 200,000 people out on the streets. We cannot deal the couple of thousand we have there now. What will we do if there is an avalanche of homelessness? I would like then to move that the National Housing Co-operative Bill be taken.

An Cathaoirleach: As far as I understand from our learned Clerk that Bill is not currently on the Order Paper. We will check it out and come back to the Senator. We will see if it can be put on the Order Paper.

Senator David Norris: I did send it and we also sent it to the Bills Office.

An Cathaoirleach: We might be able to answer the Senator tomorrow morning and we can let him move it then.

Senator Michelle Mulherin: I bring to the attention of the House a mistake on the part of An Post in its operations and procedures as regards joint savings accounts, particularly a special joint status that operated heretofore. As the Cathaoirleach probably knows, savings accounts were operated on an agency basis by An Post on behalf of the National Treasury Management Agency, NTMA. Owing to An Post's interpretation of procedures to safeguard individuals from being exploited in the case of joint accounts, there was a misinterpretation of rules. Since 6 June 2016, people who already had joint accounts or have included someone on his or her account - this often happens where, for example, someone has a mobility problem because of being elderly or ill and cannot get to a post office to withdraw money, so someone else's name is also put on the account to withdraw on his or her behalf - have found that An Post is refusing to pay out money unless both parties are present, citing a change in rules by the NTMA.

This matter was brought to my attention by an older man who was sick and found that, when he placed his wife on his account, she could not withdraw money. He was not able to go to the post office. I am glad to report that the issue has been resolved recently, as I understand that quite a number of people in a similar situation had also been affected. Following a tightening of procedures, the upshot is that people with joint accounts can appoint one person to withdraw money. This will be an ease for many people who are incapacitated. I am pleased that An Post has set out the procedures for its post offices in order that everyone is clear and the ordinary saver can be facilitated.

Senator Paul Gavan: I welcome the news that the Committee on Education and Skills will recommend an end to the so-called baptism barrier. This good news is long overdue. I was disappointed that on the Commencement this morning, the Minister confirmed he did not propose to introduce any change on the matter of religious denomination on Committee Stage of the Education (Admission to Schools) Bill. This is a missed opportunity. The country we live in today is different from the country of 60 or 70 years ago. One in five parents baptise children to ensure that they gain entry to a school and 45% of those who identify as non-religious are young people who will have children in later years. We need legislation that reflects society, which the current law does not.

It is bizarre. In Limerick, we had to wait six months to get a headmaster appointed to my children's school because the Catholic bishop was not ready to appoint someone to the inter-

view committee. In this day and age, I, as a republican, cannot understand why the Catholic Church still controls 96% of national schools. If we believe in republican principles, it is up to us all to work towards a true separation of church and State.

On the basis of the Minister's reply this morning, I call on him to attend the House for a debate on this important issue. It is high time that we embrace true equality and republican principles. It is high time that we get rid of this baptism barrier.

Senator Paul Coghlan: Republicans are in favour of-----

An Cathaoirleach: The Minister, Deputy Bruton, outlined to the Senator's colleague, Senator Warfield, his reasons for not being able to facilitate a change. I believe they were constitutional reasons. Senator Gavan is entitled to press his issue, but it was debated at length this morning.

Senator Ned O'Sullivan: I am invading the territory of my colleague, Senator Swanick, but almost exactly 200 years ago, a medical practitioner called Parkinson gave his name to a disease we all know so well. In those days, it was called general palsy. In the 200 intervening years, little has been achieved medically in terms of a cure, although major strides have been made by medical practitioners and neurologists in the area of treatment and medication. An important conference organised by the umbrella Parkinson's disease support group is currently being held over a number of days. There was an interesting article in the *Irish Examiner* during the week and I am glad to say that it was written by someone related to me.

Home help and follow-up services are most important for Parkinson's disease sufferers. Given we have an ageing population, neurologists are predicting that the number of sufferers will increase almost exponentially during the next ten years, so there is an even greater need for backup staff, particularly Parkinson's disease nurses, who do fantastic work in the house and on the road by calling to patients and helping them through difficult periods.

I have referred to a significant imbalance in the allocation of Parkinson's disease nurses in Munster compared with the rest of Ireland, in particular Dublin and the wider east coast. The discrepancy is almost as much as 4:1. The next time that the Minister for Health attends the House, will the Leader ask him to consider this situation and try to redress the imbalance? This important service is growing more important every year. I hope that the Minister will be able to throw some light on the matter.

Senator Paddy Burke: At some stage in the near future, will the Leader invite the new Minister of State at the Department of Transport, Tourism and Sport, Deputy Griffin, to the House? I congratulate the Minister of State on his new portfolio and wish him well.

Senator Paddy Burke: Hear, hear.

Senator Paddy Burke: The Leader might invite him to the House to discuss how we might expand the country's tourism product. We have great products - cycling, fishing, golf and walking - and it is much easier and cheaper to pursue them in Ireland than in any other country in Europe. For instance, Ireland is probably the cheapest place in the world to play golf. The accessibility and number of golf courses make it easy for people to play, but we are not promoting golf enough. We have some great golfers the length and breadth of the country. Cycling, walking, fishing and hill climbing are other activities. Accessing our greenways, mountains, rivers and lakes is easy for people who like those activities.

Will the Leader invite to the House the new Minister of State after he gets his feet under the table in order that he might provide an outline of where our tourism products are heading?

Senator Paul Daly: I second the proposal by my colleague, Senator Swanick, to amend the Order of Business.

From the outset of Brexit, we in Fianna Fáil have been advocating the need for a Minister for Brexit, which is something that was never recognised by the Government. I welcome that, in the new Cabinet, the Minister for Foreign Affairs and Trade, Deputy Coveney, has also been given special responsibility for Brexit. With that in mind and in light of a number of facts - the Brexit scenario is, as we are all aware, an ever-changing playing field, there is political volatility in the UK and the negotiations on Article 50 have commenced - will the Leader request the Minister to address the Seanad on what his tactics will be? The Government has an action plan for Brexit, but many aspects have changed even since its publication and I wonder how fruitful it will be now. Sooner rather than later, I would appreciate it if the Leader arranged for a full debate between the Minister and all parties and none on the important issue that is Brexit.

Senator Jennifer Murnane O'Connor: I congratulate my colleague, Deputy Phelan, who got his junior Ministry yesterday, and call on him to attend the Seanad to address the serious issue of local councillors and the commitment given by the former Minister, Deputy Coveney. I was very concerned to read in the newspaper that a survey had been carried out by UNICEF according to which one Irish child in five lives in a household in which no adult is employed. That is very serious. Also, one Irish teenager in 11 is not in school or work. The report further states that 18.3% of Irish children are living in relative income poverty. Ranking 17th out of 41 countries, 17.9% of Irish children live with an adult who is food insecure. We have come in here for months on end and heard that there was a great deal of work out there and that the country was coming back on track. Even at the housing meeting I was at from 9.30 a.m. this morning, one could see the number of people who are still homeless. I then read this today in the paper about children who are still hungry and insecure. We must address this situation, because it is a very serious one. I will be highlighting it with the Minister again. I would like to have the Minister of State, Deputy John Paul Phelan, come to the House to speak about the commitment the previous Minister, Deputy Simon Coveney, had given to local councillors.

An Cathaoirleach: I call the Leader to respond. By way of clarification, I note that when he was outlining the Order of Business, he said that item No. 1 would be taken at 12.45 p.m. I understood that it would be on the conclusion of the Order of Business, which might be sooner. Is that the position?

Senator Jerry Buttimer: No, it is 12.45 p.m.

An Cathaoirleach: That is fine, once I am aware of it.

Senator Jerry Buttimer: I thank the 16 Members for their contributions this morning. I neglected to say it yesterday, but on behalf of all Members, I pay tribute to our colleague and friend, Maureen Kilkenny, who has retired from the Oireachtas one stop shop. On occasion, we pay tribute to ushers, staff and Members who retire. Maureen was always available, willing, supportive and helpful to all Members and staff and we wish her a happy and peaceful retirement. We thank her for her years of service, friendship, good humour and the banter when one walked into her office. As Senator Feighan said, she is a Roscommon woman as well, which is all good.

I begin by responding to Senators Ardagh and Conway-Walsh on the Garda Commissioner and the ongoing issues in Templemore. An examination is ongoing and it is important that we get to the bottom of it. All of us who are involved in Irish life are concerned about the revelations we have seen. Each of us wants to see a new regime emerge in An Garda Síochána. We cannot but be disappointed and concerned at the findings of the internal audit committee report. We recognise the need for change within An Garda Síochána. There is a disagreement regarding the role or future role or who should be the Garda Commissioner, but I have said in the past in the House and repeat that the removal of a single person does not necessarily lead to the reform we want. There must be significant cultural change within An Garda Síochána and just removing the Garda Commissioner will not necessarily bring about that change of itself. There is a commission on the future of policing and Senator Conway-Walsh referenced the Charleton report. All of that is being carried out as we speak. What we agree on is that reform is necessary and that change must take place. Co-operation must be forthcoming from all parties in regard to the issues outlined. I sit on a number of policing fora in Cork. As such, I note that it is also important to recognise that huge work is being done by members of An Garda Síochána to which we need to pay tribute and acknowledge.

Equally, Senators Feighan and Leyden raised the issue of the closure of Garda stations. We can have a political back and forth about what was closed under Fianna Fáil, what was closed under our Government and what is happening in the North with Sinn Féin in government, but that will serve no purpose. What we must do is ensure we have a Garda presence in our communities which prevents crime. I hope, certainly, that the civilianisation of An Garda Síochána will be expedited by the new Minister for Justice and Equality with the Policing Authority so that we see more gardaí freed up for the beat, more patrol cars and a higher level of visibility on the ground. By the same token, I hope for the opening of Garda stations where people can go to get forms signed or passports stamped, which is not necessarily the work of gardaí themselves. We need to see a complete modernisation of the way in which the force does its business. Having listened to the Chair of the Policing Authority in Cork last Monday, I am confident we will see a fast-tracking of the civilianisation of An Garda Síochána. I record again that it was the last Government and this one which reopened Templemore and restarted recruitment which was stopped on Fianna Fáil's watch. We are now recruiting more gardaí. I accept that every community wants a Garda station and more gardaí, but we must ensure we have a presence which is about preventing crime and working with local communities.

Senator Ardagh referred to the appointments of Ministers of State yesterday. I remind her that 22% of Members of the Thirty-second Dáil are women while in Fine Gael, 45% of our female colleagues are Ministers or Ministers of State. That is 26% of Cabinet members and 21% of Ministers of State. Of the 11 Fine Gael Deputies who are women, six hold ministerial office. When one adds the two who chair Oireachtas committees, it is a pretty good record. I accept that we would all like to see more and that we need to reduce the barriers to women becoming active participants in elected politics who can be appointed to office as Ministers and Ministers of State. We accept that there is a need for more women but to be fair to this Government and the last, we have made huge reforms to encourage the greater participation of women in politics. It is something we should encourage. Rather than criticise, we should welcome the appointment of six of the 11 Fine Gael Deputies as Ministers or Ministers of State as well as the further two who are chairpersons of high profile Oireachtas committees.

Having regard to the Senator's proposed amendment to the Order of Business, I note that the Minister for Health, Deputy Simon Harris, is not available today. I hope to have him in either

tomorrow or next Tuesday and will liaise with the Senator if she is happy to do so. I accept fully and agree about the issue of the cath lab for Waterford which Senator Murnane O'Connor raised yesterday. I note the commitment in the programme for Government to carry out an independent clinical review and that was done under the chairmanship of Dr. Niall Herity. He reported back and made his recommendations. This morning, however, I offer again my sympathies to the Power family, which is where our thoughts should be at this time. We can argue the political issue after and it is a point to which we will come back. I am happy to have the Minister come in tomorrow or Tuesday, although it is most likely to be next Tuesday.

Senators Boyhan, Paul Coghlan and Murnane O'Connor raised the issue of the appointment of Deputy John Paul Phelan as Minister of State with responsibility for local government. I congratulate him on his elevation and appointment. He comes with a vast experience of local and national politics, having served in both roles with distinction, including as a Member of this House. It is important to reconvene the Seanad's all-party group on local government to address councillors' pay and conditions and to include the issue of local government reform. I would be happy to have the Minister of State come to the House. The issues raised by the three Senators are important.

Senator Dolan referred to the story of a lady last Friday in Cork which epitomises what is good about our public services and those who work in them. A person in obvious distress was assisted by members of Bus Éireann and Iarnród Éireann who should be complimented and thanked for the work they have done in this case. It went beyond the call of duty on one level but is also, as Senator Dolan, said only to be expected. I am tempted to say it is what we do in Cork anyway. We are very hospitable and friendly people. On a serious note, people who work in the bus station at Parnell Place and in Kent Station are exemplary and they put customer service at the centre. Senator Dolan is right about where we need to go. I agree 1,000% on that cultural change and the mindset that should operate when dealing with people with disabilities. I would be happy to invite the Minister to come to the House to discuss that matter and the issue relating to the UN convention.

In response to Senator Leyden and as I said to Senator Feighan, the Minister of State at the Department of Public Expenditure and Reform, Deputy Moran, is not responsible for the Garda stations. I think that is the responsibility of the Minister for Justice and Equality, Deputy Flanagan.

Senator David Norris: Deputy Ross.

Senator Jerry Buttimer: Deputy Ross is the Minister for Transport, Tourism and Sport. I know that some people are using Deputy Ross as the bogeyman of the Government. As we know, all politics is local. It is important to consider the collective as well as the individual and the local, but the national must take precedence.

Senator Trevor Ó Clochartaigh: All at a political stroke.

Senator Jerry Buttimer: Senator Ó Clochartaigh is well able to use stroke politics himself.

Senator Trevor Ó Clochartaigh: In what way?

Senator Jerry Buttimer: Clientelism is alive and well in Irish politics.

Senator Trevor Ó Clochartaigh: The Leader needs to clarify that.

Senator Paul Gavan: The Leader needs to withdraw that.

Senator Trevor Ó Clochartaigh: The Leader should withdraw that statement.

An Cathaoirleach: The Leader should not take the bait.

Senator Jerry Buttimer: Clientelism is alive and well in Irish politics.

Senator Trevor Ó Clochartaigh: On a point of order, a statement was made about my character and I would like it to be withdrawn.

An Cathaoirleach: That is not a point of order.

Senator Jerry Buttimer: I will clarify it.

Senator Trevor Ó Clochartaigh: I am asking the Leader to withdraw the statement.

Senator Jerry Buttimer: I am not accusing the Senator-----

An Cathaoirleach: The Leader should try to refrain-----

Senator Jerry Buttimer: I will clarify it. I am not accusing the Senator-----

Senator Trevor Ó Clochartaigh: The Leader said I am well used to stroke politics. I have never been involved in stroke politics in my life.

Senator Jerry Buttimer: I accept that. I was not saying that. I apologise. I did not mean that and the Senator knows I did not. I was referring to clientelism. That is alive and well in Irish politics. That is the point I was making. The Senator is very good-----

Senator David Norris: One thing about Sinn Féin members is that they work very hard on the ground.

Senator Jerry Buttimer: The Senator is very good at clientelism himself in terms of the way he comes in and represents his people. That is the point I was making.

Senator Trevor Ó Clochartaigh: That is very different to stroke politics.

Senator Jerry Buttimer: I accept that and I was not trying to say anything else as the Senator knows quite well. I accept the point he makes and that was not my intent.

Senator Frank Feighan: Strokestown is not just a town in Roscommon.

An Cathaoirleach: The Leader should avoid being baited and concentrate on his response.

Senator Jerry Buttimer: Sensitivity is very high.

Chonaic mé an clár mar gheall ar an bhfear i mBostún agus tá díomá orm go bhfuil sé le cur ar ais go hÉirinn. Beidh mé i mBostún i gcomhair an summer. Tá a fhios agam gur bhuaile an Seanadóir leis an Mayor Walsh. It is disappointing that an Irish person has been deported and it is a source of concern. I will be in Boston during the summer and I hope to meet members of the Irish community dealing with the issue to which the Senator refers. I congratulate Deputy Cannon on his appointment as a Minister of State at the Department of Foreign Affairs and Trade with special responsibility for the diaspora and international development. I will be

happy to invite him to the House.

I will be happy to accept Senator Swanick's amendment in respect of the Bill he proposes. I congratulate him on the work he is doing in respect of tobacco. He is working with all of us to make Ireland a tobacco-free society. There is a need for change in the way we vest funding in tobacco companies where there is a dividend. The Senator recognises the changes that have been made and, to be fair to the former Ministers, Senator Reilly and Deputy Noonan, they have worked to bring about that change. The Senator deserves credit in respect of the matter he raises. It is disappointing that he has not received the responses he, as a public representative and as a medical practitioner talking about the public health issue to which this relates, deserves. I am happy to accept the amendment.

An Cathaoirleach: Senator Swanick has moved an amendment regarding motion No. 22. It is not a Bill. Is the Leader agreeing to that?

Senator Jerry Buttimer: Yes I am agreeing to that.

In response to Senator Norris, as Leader of the House, I always try to work with all people. Sometimes the street is one way and that is alright but in this case I am happy to facilitate the Senator.

Senator David Norris: I really appreciate the Leader's decency.

Senator Jerry Buttimer: The Senator might spread the word in that regard to other people. It is a two-way street.

Senator David Norris: Yes, I have always held that the Leader is a very decent and able politician.

An Cathaoirleach: It is not wise for the Leader to be looking for accolades in the Chamber.

Senator Jerry Buttimer: I was not looking for accolades. I was getting a point across.

Senator David Norris: It is important that he is a good fisherman.

Senator Jerry Buttimer: Exactly. Senator Mulherin raised the issue of An Post savings, the NTMA and the protection of people. That is a matter of serious importance and I would be happy for the Minister to come to the House to discuss it.

Senator Gavan raised the issue of the baptism barrier and the response of the Minister for Education and Skills to the committee this morning on the matter. He gave a lengthy reply to Senator Warfield, making the point that he believes it is unfair that parents who might not otherwise do so feel pressure to baptise children in order to gain admission to their local schools. At the end of his reply, as the Senator says, the Minister indicated that he will not make a change but that he has not had a chance to consider the report in detail. He said he has reviewed the conclusions and recommendations. The committee has recommended that the relevant legislation, the Equal Status Act 2000, be amended to the effect that no child will be denied admission to a State-funded school. However, the Minister is not going to change that. He did say, however, that he is committed to reforming the role that religions play in the school admissions system. That is positive. I hear the Senator's words and I thank the committee for its report. We have a bit of work to do yet and it is important to engage with Equate Ireland and other groups. For each one who is for what the Senator wants to achieve, there is another who is against it. It

is important to have that debate and to see some action.

Senator Ned O’Sullivan mentioned Parkinson’s disease and the need for GP, home help and community interventions and supports. The Senator is right that supports are needed. There are discrepancies in supporting many illnesses. He is right to highlight it and I would be happy to have the Minister come to the House.

Senator Paddy Burke mentioned the new Minister of State with responsibility for tourism. I congratulate Deputy Griffin on his appointment. Senator Burke is right that we have a tourism product which we must continue to market around the world, particularly because there has been a decline in the number of visitors from the UK since the Brexit referendum. The Senator mentioned the competitive nature of our golf tourism product. I will be happy to invite the Minister of State to the House.

Senator Paul Daly continues the great Fianna Fáil line that we should have a Minister for Brexit. Senator Davitt was very eloquent yesterday in asking that Deputy Enda Kenny be appointed Minister for Brexit. The Taoiseach has given the new Minister for Foreign Affairs and Trade, Deputy Coveney, the task of being the lead Brexit Minister.

Senator Paul Daly: He was listening to us.

Senator Jerry Buttimer: He must have been. I am glad to hear that. I will be happy to invite the Minister for Foreign Affairs and Trade to the House. He is in the North today engaging in talks and I wish him and all the parties involved in that very important task of getting power sharing restored in the North good luck.

Senator Murnane O’Connor referred to the number of children in poverty. It is important to recognise that more people are at work now than in a decade. The Senator can shake her head but that is a fact. I accept that there are people in poverty, on low pay and unemployed and there are people we need to lift out of that cycle of poverty. The best way to do that is to get people on the live register working and to have activation measures to ensure no child is left behind. As somebody who worked in myriad jobs before coming here, I am very much aware of the need for early intervention and I would be happy to have the Minister for Employment and Social Protection come to the House.

Senator David Norris: Do I understand that the Leader is happy for me to introduce the Bill?

Senator Jerry Buttimer: Yes I am.

Senator David Norris: Everything is in order.

An Cathaoirleach: It is not on the Order Paper printed today so maybe tomorrow.

Senator David Norris: I understand it will be tomorrow.

An Cathaoirleach: The Senator will have to move it again tomorrow. I cannot accept something that is not on the Order Paper. If it is on the Order Paper tomorrow, I will allow the Senator move it again.

Senator Ardagh has proposed an amendment to the Order of Business, “That a debate with the Minister for Health on the adequacy of cardiac services in Waterford be taken today.” Is the

amendment being pressed?

Senator Catherine Ardagh: No. We are going to accept the Leader's offer for the Minister to come in on Tuesday.

Senator Jerry Buttimer: I am endeavouring to get him to come in tomorrow or Tuesday. Is the Senator saying Tuesday?

Senator Catherine Ardagh: Tuesday is fine.

An Cathaoirleach: Senator Swanick has proposed an amendment to the Order of Business, "That motion 22 be taken before No. 1." The Leader has indicated he is willing to accept this amendment. Is that agreed? Agreed.

Order of Business, as amended, agreed to.

Sitting suspended at 12.30 p.m. and resumed at 12.45 p.m.

Recognition of Irish Sign Language for the Deaf Community Bill 2016: Committee Stage

SECTION 1

Question proposed: "That section 1 stand part of the Bill."

An Leas-Chathaoirleach: Does the Minister of State wish to say a few words?

Minister of State at the Department of Health (Deputy Finian McGrath): Yes, thank you a Leas-Chathaoirleach. In speaking to amendments Nos. 1 to 3, inclusive, and 13 taken together, if you do not mind, regrettably----

An Leas-Chathaoirleach: Sorry, we are dealing with section 1 first.

Deputy Finian McGrath: Section 1, okay, fair enough.

Senator Ivana Bacik: There is no list of amendments. There is a grouping list but we do not have a list of amendments.

An Leas-Chathaoirleach: I thought we had a sheet. Do we not have a yellow sheet?

Senator Ivana Bacik: There are none out there on the desk.

An Leas-Chathaoirleach: There are.

Senator Ivana Bacik: I think my colleagues will confirm there are no amendment lists left out there.

An Leas-Chathaoirleach: My goodness. We will ask the ushers.

Senator David Norris: That is quite true, but we have the emailed list. Nobody is sure if they have been withdrawn by the Government.

An Leas-Chathaoirleach: Hold on. There are printed yellow sheets. We had better check that out. While we progress that matter, is it agreed that we suspend for five minutes? Agreed.

Sitting suspended at 12.52 p.m. and resumed at 12.57 p.m.

An Leas-Chathaoirleach: Has everybody got lists of amendments?

Senator An Leas-Chathaoirleach: No.

An Leas-Chathaoirleach: Sorry there are two Senators without amendments.

Senator Ivana Bacik: I do not think it is just two Senators, with respect. We have a grouping list and we have the Bill itself, but we do not have the numbered list of amendments.

Senator David Norris: I do.

Senator Ivana Bacik: Senator Norris appears to have it.

An Leas-Chathaoirleach: Other Senators have and I have. They are on the way to the House. I call the Minister of State on section 1.

Deputy Finian McGrath: I am grateful for the opportunity to deal with the Recognition of Irish Sign Language for the Deaf Community Bill 2016. I am disappointed that despite the best efforts of my advisors and officials, consensus could not be reached on the amendments necessary to ensure that the Bill is practical and reasonable on the one hand, and delivers something of real value to the deaf community on the other. I thank my colleagues and Fine Gael Senators for their support on this issue. We sat down with people and tried to resolve differences.

I would like to say a few words that apply to all the amendments and indeed to every section of the Bill. I promise that my further contributions will not be as long. I ask the indulgence of the House to make this statement now to show clearly where I stand.

This is not an issue on which the House should divide along party-political lines. We should not send an imperfect Bill to the lower House. I outlined my serious concerns with elements of the Bill on Second Stage and indicated that it would require substantial amendments. We have prepared the text of the Government amendments and have shared these with the Senator and also with representatives of the deaf community whom I welcome to the House for this very important debate. These have now been drafted and I have decided not to present them formally until we achieve consensus.

They address the problematic issues with the Bill, which are as follows: the establishment of a scheme for the provision of Irish Sign Language classes to families, guardians and children who are deaf; the provision by the State of a minimum annual quantum of hours for the provision of interpretation services in addition to the provision of Irish Sign Language interpretation while availing of statutory services; the drafting by all public bodies of individual Irish Sign Language action plans every three years; the establishment of a new public body to be known as the Irish Sign Language council; the establishment of a statutory registry of Irish Sign Language and deaf interpreters; the establishment of a register of Irish Sign Language teachers; and the creation of a new criminal offence to allow for the prosecution of a person who is not registered as an interpreter and who provides interpretation or teaching services for remuneration or reward.

I o'clock These provisions are either unnecessary in legislation or are an onerous and disproportionate approach to the provision of the services for users of Irish Sign Language and should be deleted from the Bill.

21 June 2017

The model of a scheme to be prepared by each public body appears to be based on the approach adopted in the Official Languages Act 2003. It has proved difficult in practice for customers to know what is and is not available from individual public bodies in terms of Irish language services. As there are some 85,000 persons who speak Irish on a daily basis, and up to 5,000 if one includes family members as users of Irish Sign Language, the appropriateness of the language scheme model is not very clear.

It should also be noted that quality assurance of translation and interpretation services in Irish and other languages is on the basis of non-statutory accreditation and industry standards, and the case for a statutory register of interpretation for Irish Sign Language interpreters is obvious. Creating a criminal offence of offering to be a sign language interpreter when the real problem is a lack of people who actually provide the service seems particularly inappropriate. That is the problem I have with some of the suggestions in the debate.

The Government's approach to amending the Bill is to keep and strengthen the three key features that need to be included in the legislation. That is what I want. When I met members of the deaf community yesterday, I said of course I recognised Irish Sign Language and respected and listened to the rights of all people who are campaigning on this issue.

I am focused on three very simple objectives. I want to ensure the recognition by the State of Irish Sign Language and ensure the statement that users have the right to use it is retained. I want to place a duty on public bodies to provide Irish Sign Language interpretation at no cost to the user when access to statutory entitlements is sought by a person. The third objective is to provide a clear statutory right to use Irish Sign Language in court proceedings. These are the kind of rights I am talking about. The rest of the Bill is, I feel, unnecessary. In some cases, it is actually counter-productive and some parts should be deleted.

In response to the concerns raised by the deaf community, the commitments relating to Irish Sign Language in the national disability inclusion study have been strengthened. In two weeks' time, I will launch a national disability strategy, of which item 1 is Irish Sign Language. Another issue raised yesterday was employment for people with disabilities, which is item 2. I will come back to the House on that matter.

In addition to actions provided for the extension of the Irish Sign Language, remote interpretation services will be extended to evenings and weekends and I support this Bill in order to ensure that all public bodies provide Irish Sign Language users with free interpretation when accessing or availing of statutory services.

There is a new action which ensures that the sign language interpreting service, SLIS, will be resourced to increase the number of trained sign language and deaf interpreters. A quality assurance and registration scheme for interpreters will be established. There will be ongoing professional training and development provided for interpreters. I am trying to introduce these services and implement the right to access them.

I have also asked for a business case and funding requests for the above items, and the provision of a minimum annual quantum of hours for the provision of the interpretation services, in addition to the provision of Irish Sign Language interpretation when availing of statutory services. I will consider these as favourably as I possibly can and I understand that these business plans are on the way.

I very much regret the Bill is being progressed in this way. We should not be dividing on

party political lines. We should not pass an imperfect Bill, where Senators lose control of its progress and cease to be part of the discussion on the substantive issues. I ask that the House not finalise Committee Stage today or until we have consensus. If that is not agreed, I may bring amendments to each section of the Bill and its Title on Report Stage. If that is acceptable to the Leas-Chathaoirleach, I would like that to be taken as a formal notice that I do not need to repeat the point on each individual section.

An Leas-Chathaoirleach: I will certainly not allow the Minister of State to make such a Second Stage speech on each section. I remind Senators that we are on Committee Stage, and are dealing with section 1. I allowed the Minister of State some latitude; I did not realise what he was going to get into. Section 1 deals with the Short Title and commencement. I will take Senator Daly first.

Senator Mark Daly: I welcome the Minister of State to the House. Section 1 refers to the definitions of the meaning of communication and language. Section 3 deals with what State bodies are included in the Bill. Deafness is not a party political issue.

Senator Niall Ó Donnghaile: Hear, hear.

Senator Mark Daly: Deafness is a civil rights issue.

An Leas-Chathaoirleach: I do not want a debate on this.

Senator Mark Daly: We are not having a debate.

An Leas-Chathaoirleach: We are on section 1.

Senator Mark Daly: Sections 1, 2 and 3, which we-----

An Leas-Chathaoirleach: When I come to section 2-----

Senator Mark Daly: I am doing them in groups. Group 1 deals with sections 1 to 3, inclusive, and 13.

An Leas-Chathaoirleach: No, the amendments are grouped. Section 1 stands alone on Committee Stage.

Senator Mark Daly: Okay. I will deal with section 1.

An Leas-Chathaoirleach: Do not worry, you can come in on section 2.

Senator Mark Daly: I thought the sections were grouped.

An Leas-Chathaoirleach: No, we are on section 1. There are no amendments on section 1. Your amendment is on section 2.

Senator David Norris: Just pass it and get on with it.

An Leas-Chathaoirleach: Senator Daly, you will speak first on section 2 because it is your amendment.

Senator Mark Daly: Okay.

An Leas-Chathaoirleach: I will deal with section 1 and then call on Senators.

21 June 2017

Question put and agreed to.

SECTION 2

An Leas-Chathaoirleach: Amendments Nos. 1 to 3, inclusive, and 13 are related and may be discussed together by agreement. Is that agreed? Agreed.

Senator Mark Daly: I move amendment No. 1:

In page 6, line 13, to delete “means of communication” and substitute “language”.

In regard to the comments of the Minister of State, amendments Nos. 1 to 3, inclusive, will shorten the preamble and we are trying to achieve a Bill that works for everybody, especially the deaf community. We are concerned that the Government did not propose amendments because it talked about them being put in-----

An Leas-Chathaoirleach: They were late. They will have to be introduced on Report Stage.

Senator Mark Daly: They were not late. They were circulated yesterday.

An Leas-Chathaoirleach: I understood from the Clerk that they were late for taking today on Committee Stage.

Senator Mark Daly: No, they were not.

An Leas-Chathaoirleach: That is the information I got.

Senator Mark Daly: They were not late.

An Leas-Chathaoirleach: The Bills Office did not get them until today, unfortunately.

Senator Mark Daly: Amendment No. 1 is about the means of communication and language and amendment No. 2 is about the substitution of “Republic of Ireland” for “the State”, with which we agree. The Minister of State also put in that wording, but the amendments were never put forward. We will finalise the Bill today. The Minister of State said he does not wish to state on every section he will put in the amendments that were deleted by the Department, including the amendment we put in and which was ruled out of order by the Chair. If the Minister of State had put it in, it would not have been ruled out of order.

An Leas-Chathaoirleach: I did not rule anything out of order.

Senator Mark Daly: We got a letter today stating that amendments Nos. 4 to 7, inclusive, and 10, of which three were Government amendments, had been ruled out of order.

An Leas-Chathaoirleach: The amendment we are dealing with now is in order.

Senator Mark Daly: If the Government had put them in, they would not have been ruled out of order.

An Leas-Chathaoirleach: We are on amendment No. 1, which is in order.

Senator Mark Daly: Okay.

Senator Joan Freeman: I might be out of kilter.

Senator David Norris: You are, but-----

Senator Niall Ó Donnghaile: A number of us are operating without having the list of proposed amendments. I echo the comments made by Senator Mark Daly. I do not think this House will divide on a party-political basis; it will divide on the basis of those who are for this Bill and those who are opposed to the proposed Government amendments. That is how this House should operate. It would be quite easy to simply dismiss a very informed, comprehensive piece of work by Senator Mark Daly and other stakeholders and organisations representing the deaf community in Ireland, but if what the Senator has alluded to happened in terms of the trajectory and mechanics of how the amendments to this Bill have come about and why Fianna Fáil-----

An Leas-Chathaoirleach: The amendment is in order.

Senator Niall Ó Donnghaile: I accept that this amendment is in order.

An Leas-Chathaoirleach: We are dealing with amendment No. 1 to section 2.

Senator Niall Ó Donnghaile: We will come to the other amendments.

An Leas-Chathaoirleach: Senator Ó Donnghaile will be able to speak on each one of them.

Senator Niall Ó Donnghaile: Go raibh ceád míle maith agat. I wish to reiterate on this amendment and the others that Sinn Féin's position on the Bill has been clear for a long time. We support the Bill, as proposed. We will support some amendments and oppose others. I look forward to further discussion and for the Minister of State to provide the rationale for why the Government felt it had to submit amendments in the nature and fashion it has done.

An Leas-Chathaoirleach: We will deal with the amendments one by one. I call Senator Norris. We are dealing with amendment No. 1, section 2.

Senator David Norris: I thought we were dealing with the group of three amendments.

An Leas-Chathaoirleach: Yes, amendments Nos. 1 to 3 are inclusive and No. 13 is related. Those ones may be discussed together.

Senator David Norris: Yes, so we are dealing with all of those. I very much welcome the fact that there are members of the deaf community here today and also that they have a signer. It is significant that in Seanad Éireann a signer was permitted whereas in Dáil Éireann that was not. That is a considerable advantage for the Seanad.

An Leas-Chathaoirleach: We were always tolerant.

Senator David Norris: Absolutely. One hundred percent. Otherwise I would not have been here 30 years ago. With regard to the amendments being ruled out of order, first, the Government proposes amendments and it creates a charge on the Exchequer just the same as anybody else. It is quite extraordinary. In any reform of the Seanad one of the cardinal issues to be resolved should be an amendment to remove this ban on the Seanad creating a charge on the Exchequer. Why on earth should we not? We are professional people. We are reasonable politicians. We have a very good view of the economy. We did a hell of a lot better than Dáil Éireann in terms of the financial crisis so I think we should amend the Constitution to enable

Seanad Éireann to bring about a situation whereby it can create a charge on the Exchequer. I have had amendments ruled out on the basis that it would create a charge on the Exchequer to print the amendments. It was as daft as that. I am not challenging the ruling of the Leas-Chathaoirleach.

An Leas-Chathaoirleach: We would have to amend Standing Orders. It is Standing Orders that state only Government amendments can impose a charge on the Exchequer.

Senator David Norris: Thank you very much a Leas-Chathaoirligh. Then let us do it. I would let us do it.

An Leas-Chathaoirleach: It is a matter for Standing Orders.

Senator David Norris: Let the call go out from this meeting of Seanad Éireann that we immediately change the rules. We are not nincompoops. We are quite capable of acting responsibly in creating a charge.

An Leas-Chathaoirleach: I am afraid that is not quite relevant to this amendment.

Senator David Norris: But it is very germane to the amendments.

An Leas-Chathaoirleach: Yes, of course. I am sure Senator Norris will find another way of pursuing it.

Senator David Norris: The Minister of State made some very helpful introductory remarks. I regard him as somebody who is very well motivated in the area of disability. He is one of the best qualified people. He has been involved and committed in this area long before he was a Minister and I salute him for it. He recited a number of things that he did not like in the Bill, or that he thought were inappropriate, such as the establishment of a scheme, the quality of hours, Irish Sign Language in public bodies, and the new public body, namely, the Irish Sign Language council, among others. I am not sure why he is against them but I agree with him that it is daft to create a criminal offence. It is a waste of time. I ask Senator Mark Daly not to propose to table the amendment again.

The Minister of State outlined the three features of the Bill which the Government supports and they are absolutely crucial. They include the recognition by the State of Irish Sign Language; the ability of people who have difficulties with hearing to have access to Irish Sign Language when dealing with public bodies and the right to have a sign language interpreter in court. Without that, one is deprived of one's fundamental rights as a citizen.

With regard to the amendments, the first one is a technical one. It just deletes "means of communication" and substitutes "language". That is much better in my opinion. I think that should be accepted straight away. It is a language. When one says "means of communication" one is reducing its status. Language is 100% right. I really did enjoy amendment No. 2. Little did I think I would ever see the day when Senator Mark Daly would delete "the Republic of Ireland", and I welcome it. This is a significant move in Irish political life.

Senator Mark Daly: For the benefit of the House, in the Constitution it is "Ireland".

An Leas-Chathaoirleach: He did not realise he was masquerading.

Senator David Norris: I do not know whether he is masquerading or not. Amendment

No. 3 deals with the definition of those bodies that are involved, namely, Departments of State, local authorities, the Health Service Executive, universities and so on and so forth. Again, that is a useful list but it is not exhaustive. This is the problem we always deal with when we have these kind of amendments which tabulate bodies and exceptions and so on and so forth. We are always told by the Government that it is not exhaustive. One could just stick in at the end “and any other bodies so regarded”.

I will support the amendments. It would be better if the House did not divide. Perhaps the Minister of State could give us a timetable, for example, for how long the period of consultation will take. We are so used in the Houses of the Oireachtas to Ministers saying let us have discussion and reach a consensus, which means things get put on the long finger. I would certainly support the Minister of State if we have a definite term, if he could say it will take two weeks or three weeks or whatever it is. In the meantime, why does the Minister of State not introduce his amendments? It looks as if the debate will end in a vote so there may not be consensus but he should introduce the amendments and see where they go. People like me who are independent will take a view on it and if the amendments are reasonable we will vote for them.

An Leas-Chathaoirleach: They cannot be introduced until Report Stage. They were late for Committee Stage.

Senator David Norris: Yes, well I think it is a bit daft.

An Leas-Chathaoirleach: I am only following procedure.

Senator David Norris: I do understand that. It is a little bit daft that Government amendments are “late”. I cannot remember how many months ago it is since we discussed this Bill in the House but I do think there was plenty of time. I would encourage the Minister of State to continue his reasonable line. If no consensus is reached here today, and if he feels the Bill should not be made a political football then he should introduce the amendments, argue for them and see where we get to.

Senator Mark Daly: On a point of order, the Chair has outlined that the amendments were late. The Minister of State has outlined that he decided not to propose the amendments. Somebody has to tell us which is correct.

An Leas-Chathaoirleach: No, the Minister of State has stated that he will introduce them on Report Stage, and he cannot do it after Report Stage.

Senator Mark Daly: No, I am sorry, a Leas-Chathaoirleach. You outlined that they were late. The issue with this Bill is that a lot of the amendments we had tabled have been ruled out of order by the Chair, even though some of them were the same as the Government amendments. The Government decided not to table the amendments, knowing that by it so doing our amendments would be ruled out of order. That was a deeply cynical move.

An Leas-Chathaoirleach: This amendment is in order.

Senator Mark Daly: We have spent hours on the Bill. This Stage was supposed to be taken ten weeks after Second Stage. It is ten months later. We have exhausted ourselves.

An Leas-Chathaoirleach: The Senator can contribute later.

Senator Mark Daly: What the Minister of State has outlined-----

An Leas-Chathaoirleach: Senator Daly is being argumentative. I want to hear the Senators.

Senator Mark Daly: No, I am sorry-----

An Leas-Chathaoirleach: Senator Daly will have a chance to come in again.

Senator Mark Daly: I am sorry, but just on what the Minister of State outlined, what he did not address is that there is a broadcasting element in this. This will show how cynical this is. What we are introducing in the broadcasting element of this Bill is less than what is required of the broadcasting authorities and yet the Government wants it taken out. Why? If we are asking for less, why does it want to do that? It is because it has no intention of meeting the targets. The formal recognition of Irish Sign Language, which is in this Bill, which was ruled out of order by the Chair even though it is the exact same wording as the Government had proposed in its amendments, which were circulated to this House yesterday, and the amendments were never submitted because if we had all voted in favour of those amendments, Irish Sign Language would have been formally recognised. Why did they do that after ten months of negotiations?

An Leas-Chathaoirleach: Senator, when we reach that point you will have that opportunity to come in.

Senator Mark Daly: It is deeply disturbing for the deaf community-----

Senator David Norris: On a point of order-----

An Leas-Chathaoirleach: We are on section 2, amendment No. 1.

Senator David Norris: On a point of order, I must say that although I regard Senator Daly very highly, I believe there is cynicism on his part if he is suggesting that the Leas-Chathaoirleach of Seanad Éireann would not find Government amendments out of order because they clearly created a charge on the Exchequer. If such a move was attempted I and others in the House would point out that the Government amendments were creating a charge on the Exchequer and demand that they be ruled out of order.

Senator Mark Daly: If the Government put forward its amendments they cannot be ruled out of order.

An Leas-Chathaoirleach: Government amendments can.

Senator Mark Daly: The Government can put a charge on the State.

An Leas-Chathaoirleach: Government amendments can. Order now.

Senator David Norris: I beg your pardon.

Senator Mark Daly: I do understand it can put a charge on the State but-----

An Leas-Chathaoirleach: Listen, order now. We cannot have-----

Senator Mark Daly: -----but because ours are exactly the same as theirs-----

An Leas-Chathaoirleach: Senator Daly must obey the Chair. He cannot talk across the House.

Senator David Norris: Can the Leas-Chathaoirleach confirm what Senator Daly is saying? If the Government puts forward amendments that create a charge-----

An Leas-Chathaoirleach: The Senators have had ample opportunity and, with respect, I now want to hear from Senator Bacik.

Senator Ivana Bacik: I welcome the Minister of State to the House and I welcome our visitors to the Gallery. Like Senator Norris I am delighted we have a sign language interpreter with us today. It was also very good to meet yesterday with so many representatives from the Irish Deaf Society and the deaf community and to hear the concerns so many of them have about the potential watering down of the Bill through the Government amendments.

I wish to speak about amendments Nos. 1 to 3, inclusive. First, I want to clarify the issues around the amendments. Yesterday morning at 11 a.m. we were all circulated by the Leader's office with a proposed list of Government amendments. I have them here on my device. We could all see them and go through them and many of us met with the Irish Deaf Society, we heard their concerns about these amendments and came in here today understanding that those would be the amendments we would be debating. At 5.15 p.m. we were circulated with a numbered list of 13 amendments from Senator Daly. We now learn that quite a number of those amendments have been ruled out of order by the Leas-Chathaoirleach. It was really frustrating and unacceptable practice, with respect to the Leas-Chathaoirleach that we came into the Chamber, having been circulated with two sets of amendments, to find no amendments there and half an hour into a two-hour debate we are finally supplied with a paper list of amendments - and I thank the usher for passing it around - which turns out to be just Senator Daly's 13 amendments. There is a lack of clarity about what happened to those proposed Government amendments. If they have been withdrawn I am glad that they have been withdrawn. However-----

An Leas-Chathaoirleach: They were late.

Senator Ivana Bacik: I am concerned-----

Senator Mark Daly: They were not late.

Senator Lynn Ruane: They were not late.

Senator Ivana Bacik: We received them-----

An Leas-Chathaoirleach: They were late to the Bills Office. They are not relevant for this Committee Stage.

Senator Lynn Ruane: They were purposely late to the Bills Office, it is different than----

Senator Ivana Bacik: They were-----

An Leas-Chathaoirleach: Please do not talk across the House, I am ruling that they will have to be taken, if they are going to be taken, on Report Stage.

Senator Lynn Ruane: Perhaps we should have adjourned so they could have had time to put in their amendments?

An Leas-Chathaoirleach: No. It will be on Report Stage. We are on Committee Stage now.

Senator Ivana Bacik: Senators were circulated at 11 a.m. yesterday morning by the Leader's office, and we are grateful to the Leader's office for doing this, with a list of Government amendments that had been prepared and were dated the day before. There is a confusion and it is a matter of concern to hear that the Government proposed to introduce these on Report Stage when we will have less time procedurally to debate them.

An Leas-Chathaoirleach: We can hear the Minister of State about that in a minute.

Senator Ivana Bacik: I would like to directly ask the Minister of State about what the position of the amendments. It is a very important point. It is not just a procedural or technical matter; it is quite a substantive matter.

I shall now turn to the amendments and say that I support Senator Daly's three amendments. Amendment No. 1 is especially important. Senator Norris has already spoken eloquently about amendment No. 2 and the change of name from the "Republic of Ireland" to the "State" and I support that, and about amendment No. 3 which proposes to change the definition of a public body.

Amendment No. 1 proposes to change the phrase "means of communication" to "language". This is very important because we know from the Irish Deaf Society and from others that there are some 5,000 people in Ireland for whom Irish Sign Language is their primary or first language and for whom English is a second language. It is very important in this human rights and civil rights Bill that we would use the language of language when we talk of rights and entitlements. That point also underlies the entire ethos and purpose of this Bill. I commend Senator Daly for introducing the Bill and for the three amendments we are debating now. I ask the Minister of State again for greater clarity about what is the Government's intention around the amendments we were circulated with, and about which there is a great deal of concern among the deaf community.

Senator Colm Burke: In fairness, the Minister of State has outlined where he is coming from within the Government and his Department, and that is about the visibility and making sure that what is passed in the House can be implemented in full within a timeframe. The Minister of State has outlined the three key issues that he wants to move forward with.

With regard to the whole sign language area we need to set out a clear plan, setting out clear targets about what we want to achieve for the people who need to use sign language.

Reference was made to the courts. There are constitutional rights, and I have said this at a number of meetings. People have constitutional rights and if an interpreter is not available to deal with a case then a case cannot legally proceed. I do not care what ruling a judge may make, a case cannot proceed if the person to whom the case relates is affected because there is no interpreter there to interpret what is going on and what is being said. That constitutional right is there and it does not need legislation. If Senators want to put it into legislation then that is not a problem, but the right is already there.

I believe that the issue of clear targets in this context is an aspect that is missing in respect of the HSE and other public services. I have raised the issue previously about the role of disability officers in local authorities, which was introduced. I keep on raising the issue about disability officers in local authorities. When I put in a freedom of information request two years ago to a number of local authorities, each one of them had a different interpretation of the role of a disability officer. Some had the interpretation that their only role was around wheelchair access to

public buildings and other local authorities had the issue about making sure the disability officer was available to every person who had a disability to ensure they could access every service provided by the local authority. It is important, in the context of this debate on this Bill, to note that it is not only about legislation, it is also about setting out clear targets and a clear timeframe about introducing the changes that are required. We need to make those changes, especially around health services and public services.

Let us move forward on this issue. The Minister of State has made it quite clear that he is prepared to take on the proposals, not all of them, that he knows he can implement. This is why he looks for us to come to an agreement so that we all know that what is agreed to pass is achievable, rather than setting out in legislation something we know cannot be achieved. It is extremely important that there is agreement by all sides on this. It is fair enough that people are pushing forward this target. While there is no problem in making sure that it is an ambitious target we must make sure it is something that can be implemented and delivered within a reasonable timeframe.

Senator Trevor Ó Clochartaigh: Tá áthas orm a bheith in ann labhairt ag an bpointe seo ar an díospóireacht seo. I am very happy to speak in the debate on this Stage and I welcome the guests in the Public Gallery. It is not the first time they have sat in that Gallery and it is not the first time they have heard the same excuses being used again and again about Irish Sign Language. It is simply not good enough.

An Leas-Chathaoirleach: We are on section 2.

Senator Trevor Ó Clochartaigh: Absolutely, we are looking at amendments Nos. 1 to 3 , inclusive, to the section, and amendment No. 14. We have debated this issue on quite a number of occasions over the last six years. I was a Member of the previous Seanad in which Bills had been brought forward on Irish Sign Language so this is a little like Groundhog Day for the people in the Gallery who are listening to the debate today.

I am concerned about the procedural issues we have had around the amendments. The toing and froing on the amendments and the lack of clarity leaves a lot to be desired. It concerns me if it does not concern the Minister of State.

Deputy Finian McGrath: That is a misrepresentation.

Senator Trevor Ó Clochartaigh: Possibly, but I am concerned that-----

An Leas-Chathaoirleach: I shall call on the Minister of State to clarify in a few minutes.

Senator Trevor Ó Clochartaigh: I am just putting together the points I would like to see clarified.

An Leas-Chathaoirleach: He will in due course.

Senator Trevor Ó Clochartaigh: Senator Burke spoke about the proposals that can be implemented and the proposals that are achievable. This might be the crux of the issue here. When we look at amendment No. 3, it refers to the different State bodies and organisations, etc., that we look to to provide Irish Sign Language supports. This is a rights-based issue. Either people have the right to have Irish Sign Language recognised or they do not. If we are here as law-makers and saying that we will make the laws when we can put the resources in place, it is not going to happen. We have seen that in all kinds of disability areas, and the Minister of

State knows that. What we are here to do is to make the law, and the system has to follow and provide the services that people are due under the civil rights obligations of the State. To me that is the issue in this case.

The Minister of State said that he did not want a political football made of this issue. I would hope that he is not making a political football of it because he is telling us about an announcement he is going to make in two weeks' time. He mentioned that he is going to be launching his own policy issue. I hope that the reason the Government is opposing a number of the amendments and causing trouble over this Bill is not because the Minister of State wants the glory when that announcement is made in two weeks' time because that simply would not be acceptable.

I am also concerned that the Minister of State referenced the Official Languages Act. He might clarify that for me. Is he referring to Acht na dTeangacha Oifigiúla which deals with the relationship between the State and the Irish language? Can the Minister of State clarify what the connection he sees here is and what the issues are? The two issues should not be drawn into each other. A review of that Act is happening at the moment, so I would appreciate if he could clarify what he means.

I must apologise to the Public Gallery and the Minister of State because I have to be somewhere else later on so I will not be able to stay for all of the debate which is being taken by my colleague, Senator Ó Donnghaile. We must vote on these amendments. I believe there will be a majority in this House who will support these amendments. The Government can come back on Report Stage with its own amendments, but I believe that we will still have the numbers in this House to support the amendments that we deem appropriate. It is time we recognise the rights of the deaf community and the need for recognition of Irish Sign Language for them. The Government has to get behind this legislation, provide those resources and make sure that they are made available, rather than pretending that once they are available it will put the legislation in place. That is totally unacceptable. It is an excuse that is being used again and again, and it must be utterly frustrating for the people who are watching this debate.

Senator Colette Kelleher: I fully support amendments Nos. 1, 2 and 3 as proposed by Senator Daly. We are talking about language here and not simply a means of communication. It is about the respect that is owed to the deaf community. It is of critical importance that it be enshrined in legislation. That is not just semantics but a fundamental understanding of rights and the preferences of people who are deaf to communicate in Irish Sign Language.

Widening the group of public bodies covered by this legislation is very important because of the exclusion at all levels of members of the deaf community, from education, health care and the right to justice. It is really dispiriting to read. I note the correspondence from the Irish Deaf Society. The Government's proposal to delete large tracts of the Bill is deeply concerning, and the amendments, indeed. There is a danger that we will be left with a Bill with little substance. It would be a grievous error to eliminate vast sections of the Bill on the basis that they are otherwise provided for via the national disability strategy that the Minister of State talks about. We need to have these measures enshrined at last in legislation, and we will accept nothing less. If that means breaking consensus here we will. People have waited too long.

I would like Senator Freeman to be heard on this matter. There was a very unpleasant exchange earlier when she was asked to sit down and not speak, and I would like the Leas-Chathaoirleach to look at that.

An Leas-Chathaoirleach: I am calling Senator Freeman next on this section.

Senator Colette Kelleher: Good.

An Leas-Chathaoirleach: Senator Kelleher is wrong. That was irrelevant and she should not have said that. That was section 1. The Senator is incorrect. I am sorry.

Senator Colette Kelleher: I did not like the manner in which it was made.

An Leas-Chathaoirleach: Order, please. Senator Kelleher is reading something into what happened. She is wrong.

Senator Joan Freeman: I thank the Leas-Chathaoirleach, and also Senator Kelleher. She was trying to right a wrong. Senator Norris was quite rude and offensive a little while ago.

An Leas-Chathaoirleach: I do not want to get into an argument. We are on section 2 amendments.

Senator Joan Freeman: I absolutely support amendments Nos. 1, 2 and 3. I am really disappointed that the Minister of State is not accepting the Bill. I am full of admiration for Senators Daly, Swanick and Ardagh for the hard work that they have put into this Bill and the patience of the people here who have been waiting for this for so long. They must be feeling totally and utterly frustrated. On behalf of the Senators in my group, I want to say that we will continue to support this and all the principles of this Bill.

An Leas-Chathaoirleach: I have afforded the Senators latitude. Would the Minister of State like to clarify something at this stage? Apologies, Senator Dolan had indicated.

Senator John Dolan: I want to address amendments Nos. 1, 2 and 3, but before I do I want to make a remark. The sense of frustration has already been mentioned. I believe it has gone beyond frustration at this stage. The experience of how this sitting has gone today is most likely hurtful to the deaf community. That is my view, and people can hopefully speak for themselves.

An Leas-Chathaoirleach: It is not intentional, I assure the Senator.

Senator John Dolan: That is fine.

An Leas-Chathaoirleach: I am trying to follow procedure on Committee Stage.

Senator John Dolan: The Leas-Chathaoirleach is probably correct that it was unintentional, but there is an element of “he stepped in and she stepped out” on this paper or that paper.

An Leas-Chathaoirleach: I accept what the Senator is saying.

Senator John Dolan: We are talking about a group of people who day in and day out experience being outsiders in every simple thing they do.

I welcome the Minister of State to the House and all the folk from the deaf community, many of whom I have known over the years, and I welcome this Bill coming to the House.

With regard to language I see it again as a matter of insiders and outsiders. God knows we should know this. If people cannot have their own language they have very little as human beings. It goes to the core of people’s dignity. That is why this is a hot topic. I give that as an explanation as to why there is heat around this issue. The Minister of State mentioned the dis-

ability strategy that is to come before us. That strategy, which will be published in two weeks' time, was supposed to be published a year and a half ago. There is tardiness for all sorts of reasons, but it is people with disabilities of one kind or another that find themselves listening to reasons things cannot be done when they are things that go to the core of them as human beings.

Language is a cultural thing, and even in Ireland we change the language depending on what county we are in, in the sense that we have our own accents. The same beautiful expression must be there for people who are deaf.

On amendment No. 3 there is a correct, practical litany of the Departments, the local authorities, the HSE, the universities and institutes of technology and ETBs. These are the points at which people find the door slammed. That is why there is an insistence on having these matters dealt with. On that basis, I am happy to support these amendments.

An Leas-Chathaoirleach: Does the Minister of State wish to make some points of clarification?

Deputy Finian McGrath: I did not put forward any amendments because I wanted to achieve consensus first. Senator Daly took some of my draft amendments on which we were consulting and tabled them as his own. I find that odd. It is not the way to do business. We deliberately did not circulate the amendments because we had been consulting Senator Daly and the deaf community. We then delivered a shared copy of the draft amendments to all Members. In the interests of transparency and respect for Senators, we felt that all Members should see the draft amendments. That was my position. I was trying to get consensus and I was engaging with the deaf community, Gerry McGuire and my staff-----

Senator Mark Daly: They said the amendments were late.

An Leas-Chathaoirleach: The Senator was out of order.

Deputy Finian McGrath: I do not do stunts or misrepresentation. In regard to the amendments, amendment No. 2 is one of my own amendments-----

Senator Mark Daly: I know that.

Deputy Finian McGrath: -----that was shared with the Senator. As imitation is the sincerest form of flattery, I cannot logically oppose it-----

Senator Mark Daly: We like to flatter the Minister of State if we can.

Deputy Finian McGrath: -----but I am opposed to the Bill being handled in this way. I also reject some of the criticism regarding the civil rights issue. I am a strong supporter of civil rights, whether they be disability rights, the rights of the minority in Northern Ireland or international rights. Amendment No. 3 is again one of my own amendments that we shared with the Senator and which I cannot oppose.

Senator Mark Daly: The Minister of State has opposed another of them.

Deputy Finian McGrath: However, I notice that the text used in the amendment is an early draft in which we spotted a mistake, that being the inclusion of the words "following consultation with the Commission". That error was subsequently corrected. The "Commission" is the Irish Human Rights and Equality Commission, IHREC. The definition is taken from its Act

and the IHREC does not need to be referred to here. That phrase might be taken out on Report Stage. Otherwise, I am not going to oppose this group of amendments.

Senator Lynn Ruane: I know we are speaking to the amendments but this is the first time in the year and a half I have been in this House that I have been ashamed of how business is being conducted here. I do not think it has ever been heard of for a Minister of State to say that the Government would share draft amendments with every Senator and I do not think that was done in the name of transparency. It was done when it became very clear that the House would be divided and the proposed deletions of those very important sections of this Bill would not be made because this House was going to vote against the Minister of State's amendments. That is when it was decided to pull the amendments. I am absolutely disgusted. I do not want to stay here to keep debating this issue because it is fictional. We are pretending we are discussing a Bill when we are not. This Bill is about recognition but without the parts that will now be deleted on Report Stage, it is tokenistic because we will not have public bodies to prepare and implement action plans on Irish Sign Language. In the amendments sent to Senators, the Government proposed to delete that section. It proposed to delete the section providing for classes for the parents of deaf children. An amendment was proposed to the section permitting the use of Irish Sign Language in legal proceedings and the section providing for the making available of a sign language interpretational service. It was proposed to delete the section introducing statutory targets regarding the accessibility of television programmes. The Government intended to delete the section providing for the regulation of Irish Sign Language interpreters, deaf interpreters and Irish Sign Language teachers and for that purpose the establishment of the Irish Sign Language council and with this provide for the establishment of registers, continuing education requirements, offences, amendment of the Broadcasting Act 2009 and for related matters.

Recognition is not enough and if the Minister of State wanted to bring forward substantial amendments in order that we could produce something of value, he should have. It is not acceptable that he sits here today without doing what he said on the previous Stage he would do, which is to come back on Committee Stage with substantial amendments. He did not do that.

An Leas-Chathaoirleach: I understand the Senator is upset but I take it she is not impugning the integrity of the Chair.

Senator Lynn Ruane: I am not.

An Leas-Chathaoirleach: I thank the Senator. I wanted to clarify that.

Senator Mark Daly: I said deafness is not a party political issue, but a civil rights issue. This is an issue about the extreme marginalisation of a community and I thank the Senators who have spoken on this amendment and on other issues. I especially thank Senator Lorraine Clifford-Lee, who is sick, had an operation recently and came in to get this Bill passed. The Government withdrew its own amendment that we had also submitted with the exact same text, formally recognising Irish Sign Language. This is Committee Stage. In this country, this is where the changes are made. We cannot pretend we can agree on everything. That happens in China, where they agree on everything all the time because they have to. We have to say we can disagree. The place to make the Government's case for the amendments was in this House with its amendments. We are going to pass the Bill today through Committee Stage, I hope with the support of all Members. For the record, on Report Stage we will be submitting amendments again on every section. Perhaps the Clerk could clarify whether I have to say that as we go

through the sections or whether I can do so now. The Minister of State said he would be putting forward his amendments and I do not want to fall down on technicalities. God knows there are enough technicalities on this issue.

An Leas-Chathaoirleach: I am advised that as long as the subject matter is dealt with substantively on Committee Stage, it will be in order to table amendments on Report Stage.

Senator Mark Daly: To table amendments to each section?

An Leas-Chathaoirleach: Yes. They must also meet the other requirements of Standing Orders.

Senator Mark Daly: What we are left with are a few tiny technical amendments. The ones that have been ruled out of order-----

An Leas-Chathaoirleach: We are dealing with section 2.

Senator Mark Daly: Amendments Nos. 1 to 3, inclusive, and 13, and there is another one that has a charge on the State that the Government has left in for some bizarre reason.

An Leas-Chathaoirleach: I told the House that.

Senator Niall Ó Donnghaile: It is stroke politics.

Senator Mark Daly: It beggars belief that we are in this position after ten months of discussion and negotiations. We wanted to support some amendments the Government proposed but it did not table them and therefore we did. The cynical part of this is that if the Government had tabled them, they could have been included in the Bill. We tabled them, and because of that, the Chair has ruled, as is his right, that they are a charge on the Exchequer and they now cannot be included in the Bill. We have been here long enough to know that is cynical behaviour. In regard to sections 8 and 9, I appeal to colleagues to get this through Committee Stage and then we will sit down with them again. I have no problem sitting down with the Government again on Report Stage, which will be four weeks from today, and we will change the Standing Orders and the Order of Business to take Report Stage. If the Government would like to table its amendments, that is fine. If it does not want to table its amendments and it wants to kill it technically, we will bring the Bill into the Dáil and I guarantee it will pass. We will get it to Committee Stage in the Dáil also and we will get it past that Stage with the support of Sinn Féin and the Independents. To be here after ten months of engagement, debating what is left of the amendments and the Government not having tabled its own amendments because it could not reach consensus, is incredible. Three years ago, when this Bill was shot to pieces, no one asked us about consensus. That the Government has not tabled its amendments because of the argument that there is no consensus beggars belief.

Senator Niall Ó Donnghaile: I want to reiterate some of the comments that have been made in regard to the amendments and the contribution so far. There are very few of us in this Chamber who can bring the kind of forensic clarity that Senator Ruane can bring and she has called it right in regard to this Bill. I share the concerns of my colleague, Senator Ó Clochar-taigh, and others in regard to the back and forward nature of the amendments, whether in draft form or who they were shared with and why and so on. The amendments refer to the broader sentiment of the Bill. The Second Stage discussion of this Bill was probably one of the most positive and hopeful contributions I have heard in my relatively short time in the House. Sena-

tor Daly called it right when he said that the only consensus that was talked about then was the consensus to make this a reality and have Irish Sign Language recognised as a language of this State. We know it is formally recognised in the North along with British Sign Language. This is about more than the recognition of Irish Sign Language, although that is important and fundamental. While the two issues are not comparable in every aspect, I know what it is like not to have one's language of choice recognised or facilitated by the State apparatus. There is no merit in recognising simply for recognition's sake if the Government is not prepared to provide the necessary resources that will empower, enfranchise, embolden, facilitate and assist people who are deaf in our society.

Understandably, today's debate has been somewhat hot and heavy. Senator Mark Daly and others have made the correct point. There are competing views on this. The Minister of State has his view and that is as legitimate as everyone else's. It is not a bad thing to have competing views on legislation of this nature and this is the appropriate place for that. I look forward to continuing the discussion. For the people in the Gallery who have been here before, I am sorry we have to prolong matters. However, if today has shown anything, it is that the majority of Senators in this House are willing to turn what they, their loved ones and their community need into a reality.

Senator Ivana Bacik: I assure Senator Mark Daly that Labour will also support the Bill in the Dáil. Our understanding now is that amendments Nos. 1 to 3, inclusive and 13 were also proposed by the Government. I wish to raise a technical point that goes to the heart of this. As Senator Mark Daly is well aware, it is common practice to have a Government amendment that is also supported by individuals from other parties or from the Independent groupings. Why were these amendments not, therefore, presented to us as Government amendments? It seems strange that the Government would - in a fit of pique, perhaps - not present them to us as also being Government amendments. If they had been presented in this way, we could agree them and move on.

Senator Mark Daly: May I clarify something?

Acting Chairman (Senator Gerry Horkan): Senator Devine indicated she wanted to come in.

Senator Máire Devine: I have been listening to the debate. There is a sharp contrast between the mood today and that which obtained in November, when the entire House and the packed Gallery celebrated. There was a great sense of achievement. Today, for some reason - I imagine it is skulduggery, but I have not got my head around it yet - there is delay after delay. Let us get the Bill through to Report Stage and tackle the amendments then.

Senator Mark Daly: This is where changes need to be made to ensure the Bill is technically factually correct. The reason I submitted an amendment proposing in page 6, line 19, to delete "the Republic of Ireland" and substitute "the State" is because that is the correct reference in legislation. Although Senator Norris would point out that, of course, how I allowed for the Republic of Ireland to be dropped for the State, which is only 26 counties, to be put in is because this is what we do on Committee Stage - we make the Bill work legally. I put that in because Andrew Geary and the Irish Deaf Society legal team said we should put it in. Normally, that does not happen. We took what was the State's amendment and put it in. If the State were genuine about making this Bill work, even if we could not agree on everything, would we not ensure that the version of it we pass today correctly defines the State? Why did the Govern-

ment not submit that amendment? The Minister of State pointed out that he did not table any amendments because we did not have consensus.

Senator David Norris: We were told they were late.

Senator Mark Daly: The Government was going to allow this House to let a Bill move forward to Report Stage even though we were going to incorrectly define the legal parameters of the State. Does that sound like an Administration that wants to work with the deaf community in order to ensure that the Bill passes and is capable of working?

Deputy Finian McGrath: I wish to challenge some of the views presented. There is no difference between us in the context of recognising Irish Sign Language. The slight divergence is on how we are to get there. I support the principle of the issue. I did not withdraw the amendments. I say to Senator Mark Daly that the Bills Office does its own job and there was no Government or ministerial involvement with that office. It is outrageous to say that I intervened with the Bills Office. I had nothing to do with it.

Of course, I agree with the principle of recognition and with some of the comments about the resources issue. I am waiting for two funding requests from the deaf community business plans relating to interpretation services and important issues of that nature. I was trying to broaden the discussion, reach a consensus and get on with matters. It is as simple as that. No stunts are being pulled here. I am being upfront. I am trying to bring forward a Bill that I can get through the Oireachtas and that will deliver for people.

A number of Senators referred to resources. If we introduce legislation recognising Irish Sign Language, of course we have to put the resources in place. As I mentioned in my earlier contribution, in two weeks I will launch the national disability inclusion strategy. I am focusing considerable resources on that. That is exactly where I stand on the matter.

Senator David Norris: Will the Minister of State accept amendment No. 2?

Acting Chairman (Senator Gerry Horkan): I will chair proceedings if Senator Norris does not mind. He is more than welcome to volunteer to be the Chair some other time.

Amendment put and declared carried.

Senator Mark Daly: I move amendment No. 2:

In page 6, line 19, to delete “the Republic of Ireland” and substitute “the State”.

May I speak briefly on this amendment?

Acting Chairman (Senator Gerry Horkan): It was already discussed with amendment No. 1.

Senator Mark Daly: Amendments Nos. 2 and 3 are technical in nature. It should be borne in mind that amendment No. 2-----

Acting Chairman (Senator Gerry Horkan): The amendment has already been discussed.

Senator Mark Daly: -----would involve a charge on the State. Other amendments which it is alleged involve such a charge have been ruled out of order.

Amendment agreed to.

Senator Mark Daly: I move amendment No. 3:

In page 6, to delete lines 29 to 36 and substitute the following:

“(a) Department of State (other than, in relation to the Department of Defence, the Defence Forces) for which a Minister of the Government is responsible;

(b) a local authority within the meaning of the Local Government Act 2001;

(c) the Health Service Executive;

(d) a university or institute of technology;

(e) an education and training board established under section 9 of the Education and Training Boards Act 2013;

(f) any other person, body or organisation established—

(i) by or under an enactment (other than the Companies Acts) or charter,

(ii) by any Scheme administered by a Minister of the Government, or

(iii) under the Companies Acts in pursuance of powers conferred by or under another enactment, and financed wholly or partly by means of money provided, or loans made or guaranteed, by a Minister of the Government or the issue of shares held by or on behalf of a Minister of the Government;

(g) a company (within the meaning of the Companies Acts) a majority of the shares in which are held by or on behalf of a Minister of the Government;

(h) any other person, body, organisation or group financed wholly or partly out of moneys provided by the Oireachtas that stands prescribed for the time being (being a person, body, organisation or group that, in the opinion of the Minister, following consultation with the Commission, ought, in the public interest and having regard to the provisions and spirit of this Act, to be prescribed);”.

Again, this is a technical amendment on the broadcasting elements and targets. Those targets are less than those contained in the current Broadcasting Authority of Ireland strategy, which indicates the worth of strategies as opposed to legislation.

Acting Chairman (Senator Gerry Horkan): I am sure it is a valid point, but we will move on.

Amendment agreed to.

Section 2, as amended, agreed to.

Section 3 agreed to.

SECTION 4

Acting Chairman (Senator Gerry Horkan): Amendment No. 4 has been ruled out of

order by the Cathaoirleach as it would involve a potential charge on the Exchequer. Does Senator Mark Daly understand that?

Senator Mark Daly: I understand.

Amendment No. 4 not moved.

Question proposed: "That section 4 stand part of the Bill."

Senator Mark Daly: Amendment No. 4 has been ruled out of order, but the amendment that remains was drafted by the Irish Deaf Society and relates to the formal recognition of Irish Sign Language. The amendment that has been ruled out of order is exactly the same as the Government's amendment. The Government chose not to submit this amendment, which formally recognises Irish Sign Language for the first time in statute. I will read the wording into the record. This is the one the Government is not allowing to be put forward and did not put forward itself. If it had tabled this amendment, we would, of course, have supported it because it would formally recognise Irish Sign Language. If the Government had tabled the amendment, it would have involved a charge on the Exchequer. Under the rules of this House, it would then have been allowed to be passed. This is the worrying part.

This is the language the Government did not want to include even though it is its own language, but it did not table these amendments:

The State recognises the right of Irish Sign Language users to use Irish Sign Language as their native language, and the corresponding onus on all public bodies to provide Irish Sign Language users with free interpretation when availing of or seeking to access statutory entitlements and services.

While that is the wording of my amendment, it is - word-for-word - the same as that used in the amendment which the Government did not put forward. My amendment has now been ruled out of order. If the Government had put its amendment forward, it would have been allowed and would have passed, and we would have better language in the Bill. That is the purpose of Committee Stage.

The Minister of State said we could not reach consensus. We cannot reach consensus on everything but we all reached consensus on that and yet it is now ruled out of order because the Government did not put forward its identical amendment. I am disappointed with that, but the ruling of the Chair is the ruling of the Chair. I hope the Minister of State will introduce the amendment to which I refer on Report Stage.

Senator Niall Ó Donnghaile: I share that frustration. I do not question in any fashion the sincerity of the Minister of State, but he cannot say that he is for resourcing this recognition when there is something as fundamental as amendment No. 4 to section 4, which is essentially about providing recognition and resourcing. What is the point? Following up on Senator Norris's contribution, it is a ridiculous situation that Senators cannot propose something so modest but fundamental to the legislation.

Senator A: Hear, hear.

Senator Niall Ó Donnghaile: We cannot seek to argue sincerely. It is not credible to tell people that we are bringing legislation recognising Irish Sign Language, ISL, as an official language of the State through the House when we cannot ask for it to be resourced. No one has

gone into the specifics. Everyone appreciates that the legislation has a resource cost, but the decision ties the Seanad's hands behind its back. We must examine what we can and cannot do. I do not mean to be facetious, but I cannot get my head around this at all. I take Senator Mark Daly equally at his word. If the Government had tabled this amendment and let it form part of the legislation, it would not have been prohibited. That is a little indication and stretches my ability to take what the Minister of State is saying in good faith. If the Government had tabled this amendment as a fundamental ABC building block of the Bill, it would have empowered and resourced the legislation.

I appreciate the Chair's discretion on this matter, but the failure of the amendment to proceed, especially when Senators are working as diligently and comprehensively on this issue as Senator Mark Daly and others have worked in the past, is indicative of a broader problem as well as a broader culture that exists within these institutions.

Senator David Norris: The discussion on this amendment reinforces the idiotic and ludicrous situation that Seanad Éireann cannot create a charge on the Exchequer, yet the Government can use this House to create a charge on the Exchequer. That is lunacy, and it becomes worse when we realise that this is in our hands. I will make a direct appeal from this House to the Committee on Procedure and Privileges to examine this situation immediately and reverse it so that the Seanad can create a charge on the Exchequer. If it is an unreasonable charge, the majority of Members will be against it.

Acting Chairman (Senator Gerry Horkan): For the information of Members, according to a note for the Chair, amendment No. 4 in the name of Senator Mark Daly seeks to require the State to recognise ISL and to provide users of public bodies with free interpretation when accessing services. The provision of free interpretation would have the effect of imposing a charge upon the Exchequer and, therefore, in accordance with Standing Order 41, the amendment cannot be moved save by way of a Government amendment. It is the principle-----

Senator David Norris: It is ridiculous.

Acting Chairman (Senator Gerry Horkan): The matter has been ruled on by the Cathaoirleach. I am in the Chair at the moment, so it is not a decision for me. The rules are there.

Senator Mark Daly: For the benefit of Members, our amendment is exactly the same as the Government amendment-----

Senator David Norris: I know.

Senator Mark Daly: -----that was circulated yesterday, but the Government never tabled that amendment.

Senator David Norris: Will the Senator give a commitment that his party's Members will raise this issue of creating a charge-----

Acting Chairman (Senator Gerry Horkan): Please, Senator.

Senator David Norris: -----in the committee?

Senator Mark Daly: Absolutely.

Senator David Norris: Good.

Senator Mark Daly: For the benefit of Members, the Government's amendment had the exact same wording that has been ruled out of order. That is the disappointing part of this.

Senator David Norris: Let the record show that Fianna Fáil has given a commitment to examine at the Committee on Procedure and Privileges the question of creating a charge on the Exchequer. That is an important move.

Deputy Finian McGrath: I would like to address the issue of political cynicism. I am disappointed by Senator Mark Daly. I wanted to introduce this amendment and to achieve consensus. I wanted a wording that we all could agree. Personally, I think-----

Senator David Norris: We are agreed on it.

Senator Mark Daly: It is the Government's wording.

Deputy Finian McGrath: Could I make my point?

Senator David Norris: But we are agreed on it.

Senator Mark Daly: It is the Minister of State's wording.

Senator Martin Conway: A bit of ciúnas.

Deputy Finian McGrath: It is shameful that the Bill is being progressed in this way by Senator Mark Daly. I am disappointed and annoyed that he is making a party political issue out of it. Do not ever judge me on my support for the rights of all people with disabilities, including the deaf community. I will stand with them, but I am trying to get a Bill through the House and deliver on it. Regardless of what the Senator says, it will be delivered on by recognising ISL and supporting and resourcing services. I need common sense to get this through, not grandstanding and carrying on like this. The Senator is shameful and it is an appalling way to treat this issue. He should be more progressive and not let down the rights of the deaf community. I want to work with him. I wanted consensus, but that is not what is happening.

Senator David Norris: If the Minister of State agreed with this, there would be consensus on it.

Senator Mark Daly: This is the Minister of State's own amendment.

Senator David Norris: Why will he not support it?

Senator Mark Daly: This is about the formal recognition of sign language. We tabled this amendment. Had the Government tabled it after circulating it yesterday, it would have passed.

Acting Chairman (Senator Gerry Horkan): The Senator has made his point.

Senator Mark Daly: However, that did not happen.

(Interruptions).

Senator Mark Daly: This is not being party political. We are all agreed. This is the consensus that we have been looking for, but the amendment is not even being discussed.

Acting Chairman (Senator Gerry Horkan): The Senator has made his point effectively. Senator Mullen will speak next, as he has indicated. I will allow Senator Colm Burke to con-

tribute afterwards.

Senator Rónán Mullen: I was not present for all of the debate, so apologies if it has been made clear to others, but the Minister of State has referred several times to a lack of the consensus that he had been seeking. Will he give us details on where that lack of consensus lies?

Senator Niall Ó Donnghaile: Hear, hear.

Senator Rónán Mullen: Who is looking for X, who is looking for Y, and what is it that needs to be reconciled?

Senator Colm Burke: I agree with the Minister of State in the sense that if we want to progress this matter for everyone's benefit, it is important that we work together instead of trying to score political points. Long before Deputy Finian McGrath became a Minister of State, he was to the fore in highlighting disability issues.

Senator Martin Conway: Correct.

Senator Colm Burke: Senator Mark Daly's party was in power for 14 years-----

Senator Martin Conway: Longer.

Senator David Norris: Here we go. Who is making a party political point now?

Senator Lynn Ruane: What about this day?

Senator Colm Burke: -----and not a thing was done about this. I would say on this matter-----

Senator Mark Daly: I am sorry, but was the Senator here when the Government voted against this three years ago?

Acting Chairman (Senator Gerry Horkan): Senator Daly, please.

Senator Mark Daly: Was that the Senator or was that someone else?

Acting Chairman (Senator Gerry Horkan): Senator, resume your seat, please.

Senator Colm Burke: In fairness to the Minister of State and all parties in government, we want to progress this matter and deliver on every aspect that is passed by the House. It is important that we progress this issue, give ISL recognition,-----

Senator Niall Ó Donnghaile: Is the Senator opposing the amendment?

Senator Colm Burke: -----give it the legal status that it deserves and provide backup services. That is exactly what the Minister of State and the Department want to do.

Acting Chairman (Senator Gerry Horkan): If Senator Conway wishes to contribute, I will then allow the Minister of State to reply to Senator Mark Daly.

Senator Martin Conway: The Minister of State has put out his hand looking for consensus. It is easy-----

(Interruptions).

Senator Lynn Ruane: There is consensus.

Senator Mark Daly: We agree with the Government's amendment. The Government just did not table it.

Senator Martin Conway: Hang on one second. I have just got up. Only one sentence has left my mouth and the Senators are already heckling. Forget about it. That is hardly the way to do business.

Senator Niall Ó Donnghaile: Now, Senator.

Senator Martin Conway: I have always contributed in the House in a positive manner. This is my first time speaking in the debate, so the last thing that should happen the minute I stand is for all of the Senators to heckle me. What is the idea? That is hardly consensus or respect for people. It is disgraceful. I have always admired Senator Mark Daly for championing this issue. In the previous Seanad, I tabled a Private Members' motion on this issue. We debated it for two hours and it received consensus. The heckling of me has been disgraceful.

Deputy Finian McGrath: Senator Mullen asked what were the issues on which I wanted consensus. For reasons that I have outlined, I wanted to hammer out agreement on a number of issues - the establishment of a scheme to provide for ISL classes, the provision by the State of an annual number of hours of interpretation services, the drafting by all public bodies of individual ISL action plans every three years, the establishment of a new body known as the Irish Sign Language Council, the establishment of a register of ISL teachers and the creation - this was a cause of major difficulty - of a new criminal offence to allow for the prosecution of a person who is not registered as an interpreter but who provides interpretation or teaching services for remuneration or reward.

I wanted to discuss the Bill's provisions with people. They were either unnecessary in legislation or onerous and took an inappropriate approach to the provision of services for users of ISL, and they should be deleted from the Bill. I want to sit down and discuss these issues. We agree with the principle of the Recognition of Irish Sign Language for the Deaf Community Bill 2016. We agree with the resources, but I would like more consensus and support. I thought we could proceed in a more sensible and logical way. I want to ensure that when we bring the Bill to the Dáil, it is solid and also respects the rights of all people who are fighting for the Irish Sign Language issue.

Question put and agreed to.

SECTION 5

Acting Chairman (Senator Gerry Horkan): Amendments Nos. 5 and 6 have been ruled out of order for the same reason as amendment No. 4.

Amendments Nos. 5 and 6 not moved.

Question proposed: "That section 5 stand part of the Bill."

Senator Mark Daly: The amendment that has been ruled out of order is exactly the same as the Government amendment that was circulated but we have made additions to it. The

amendment specifically relates to court proceedings and we wanted to ensure it was technically correct. The Irish Deaf Society with its legal team drafted the Bill. When we looked at the Government amendment, we realised ours was better, so we tabled it. The Government also circulated that same amendment and never tabled it. Now it has been ruled out of order because it is a charge on the State. We all agree on it. There is consensus. The Minister of State states he wants to bring the best Bill that could work to the Dáil. It is a fundamental right that members of the deaf community would be able to ensure that they have interpreters in a court case in which they are involved. The Minister of State stated that the amendment we circulated yesterday was not up to scratch. We agreed and tabled an amendment similar to the Government amendment, however, the Government did not table its amendment and now our amendment has been ruled out of order because it is a charge on the State. A Government amendment would have been accepted and the legislation would be better.

We are talking about consensus, however, in the areas we have reached a consensus, the Minister of State has not tabled the amendments. That is disturbing. We will see how we get on on Report Stage.

Deputy Finian McGrath: I did not circulate the amendments because I was attempting to be respectful, get consensus and have agreement.

Amendment No. 5 deals with one of the three key elements of the Bill, that I consider needed to be retained, as I said earlier. It ensures the important recognition by the State of Irish Sign Language. The amendment states that a person may use Irish Sign Language in, or in any pleading in, any court. I am a strong supporter of rights.

Question put and agreed to.

SECTION 6

Acting Chairman (Senator Gerry Horkan): Amendment No. 7 in the name of Senator Daly has been ruled out of order as it is a potential charge on the Revenue.

Amendment No. 7 not moved.

Question proposed: "That section 6 stand part of the Bill."

Senator David Norris: I have written to the Committee on Procedure and Privileges asking it to reverse this decision. I am looking for support from every Member of the House.

Acting Chairman (Senator Gerry Horkan): I thank Senator Norris.

Senator Mark Daly: This is an addition to the provision of a sign language interpreter in court, which is in addition to what the Government proposes. However, the amendment has been ruled out of order.

Deputy Finian McGrath: Amendment No. 7 proposes to insert a new section that relates to the use of Irish Sign Language in legal proceedings. There is a reference to a presiding officer in this provision. It is not clear who this is in relation to in legal proceedings. Subject to legal advice, this provision does not appear to be necessary. Subsections (1) to (4) are enough to put the right person to use Irish Sign Language in court proceedings. I am not sure why the Senator sees to need to go further.

Senator David Norris: Amendment No. 7 is about communication for deaf children. It is not about the court.

Acting Chairman (Senator Gerry Horkan): We are dealing with section 6. Amendment No. 7 has been ruled out of order.

Senator Mark Daly: Amendment No. 7 deals with communications for deaf children. The Minister of State did not address the issue.

May I address that matter briefly?

Acting Chairman (Senator Gerry Horkan): Senator Daly may discuss section 6.

Senator Mark Daly: I am delighted that Mr. Andrew Geary is present in the Visitors Gallery because he has championed the cause of deaf children in education. This very comprehensive amendment, which has been ruled out of order, made it a requirement that the State would provide interpreters for children in education. Mr. Geary had to fight tooth and nail and had to go to court in order to get interpreters for his children.

Some who act as interpreters in the education system are not qualified for the role. We want to address this issue. Section 6 states:

The Minister shall, by regulations made under this section, establish a scheme for the provision of Irish Sign Language classes to—

- (a) parents, siblings, grandparents of a child who is deaf, and
- (b) other persons who serve *in loco parentis* or as a guardian to a child who is deaf.

Persons who serve *in loco parentis* would be teachers. We would need to tighten the section because at present the requirement is for the Minister to do so under regulation and there is no provision for when the regulations will be signed into law.

Senator David Norris: I speak in support of Senator Daly. I had a communication last year from a young woman who had been in school who did brilliantly in mathematics and failed in English. The reason turned out to be that she had an interpreter for the maths class but there was no interpreter for the English class. This illustrates perfectly the need to give people the opportunity to have interpreters in classes.

Deputy Finian McGrath: Section 6 is one of the sections that I propose to be deleted. My opening statement applies to this. I note that amendment No. 7 refers to the wrong Minister. The reference should be to the Minister for Education and Skills. I may, but only if we are able to achieve consensus and not otherwise, look at this section again on Report Stage. I have indicated to the deaf community representatives that I am willing to look at what we can include in the Bill on education issues and talk to my colleague, the Minister for Education and Skills, Deputy Richard Bruton, if that helps in achieving a broad consensus on how we move forward.

Senator David Norris: I am a little concerned that the Minister of State states that if we achieve consensus he will look at the Bill. That almost suggests that in defiance of the principle that if we do not kowtow to him, he will not look at it.

Deputy Finian McGrath: Apologies, I did mean it that way.

Senator David Norris: The Minister of State has placed on record that he did not mean it that way. I was surprised at the remark, but obviously it was inadvertent.

Question put and agreed to.

SECTION 7

Acting Chairman (Senator Gerry Horkan): There are two amendments in the name of Senator Daly to section 7. Amendments Nos. 8 and 9 are related and may be discussed together by agreement. Is that agreed. Agreed.

Senator Mark Daly: I move amendment No. 8:

In page 8, to delete lines 10 and 11 and substitute the following:

- “(a) 18,000 hours with a maximum of 60 hours per person per year by 2018, and
- (b) 36,000 hours with a maximum of 120 hours per person per year by 2020.”.

I ask colleagues to support this amendment.

Senator David Norris: Does this amendment not create a charge on the Exchequer?

Acting Chairman (Senator Gerry Horkan): The amendment has been reviewed already by the Cathaoirleach.

Senator David Norris: It must cost something to provide the number of hours. Are there wonderful volunteers from the deaf community who will provide up to 60,000 hours for damn all? Does this create a charge on the Exchequer?

Acting Chairman (Senator Gerry Horkan): The Cathaoirleach has already ruled that it does not.

Senator David Norris: I think we should have a round of applause for the volunteers who will do interpreting free of charge. *Bravo* Ireland, you are rearing them yet.

Acting Chairman (Senator Gerry Horkan): The amendment has been ruled on by the Cathaoirleach. It is accepted as a valid amendment. It can be voted down or accepted. We are dealing with amendments Nos. 8 and 9 together.

Deputy Finian McGrath: This does not need to be in legislation. I am waiting to find out how such a scheme might operate and how much it might cost.

Senator David Norris: A funding request creates a charge on the Exchequer.

Deputy Finian McGrath: I think the section can be deleted. The issue is how we provide funding and operate such a scheme. My opening statement applies. The word that I have been trying to use all day, is reaching a consensus. I will look again at this section on Report Stage.

Amendment No. 9 seems unnecessary. I am not clear how it adds anything to what is already in the section, which as I have said can be deleted. I am not opposed to it.

Amendment agreed to.

21 June 2017

Senator Mark Daly: I move amendment No. 9:

In page 8, between lines 22 and 23, to insert the following:

“(4) The Minister shall, within 12 months of the passage of this Act, make Regulations to provide for a scheme addressing this section and such ancillary matters as the Minister shall deem appropriate.”

Amendment agreed to.

Question proposed: “That section 7, as amended, stand part of the Bill.”

Senator Martin Conway: As the Minister of State gets his thoughts together I shall make a point about costs and money. This is a human rights issue so costs should be irrelevant. One cannot put a cost on human rights, accessibility to society and accessibility to State services. With due deference to the Acting Chairman, who is representing the Cathaoirleach, this matter should not be reduced to pounds, shillings and pence.

Senator David Norris: Hear, hear.

Senator Martin Conway: In many ways it was pounds, shillings and pence that destroyed this country in the early noughties.

Senator David Norris: Will Senator Conway support the removal of the provision from Standing Orders?

Senator Martin Conway: I would love to see it removed.

Senator David Norris: Good.

Senator Martin Conway: The Senator has made a fair point.

Acting Chairman (Senator Gerry Horkan): Senators should make their comments through the Chair.

Senator Martin Conway: Senator Norris makes sense every now and then.

Senator David Norris: I always talk sense.

Question put and agreed to.

SECTION 8

Acting Chairman (Senator Gerry Horkan): Amendment No. 10 has been ruled out of order as it involves a charge on revenue. I assume a similar point has been made multiple times already but does Senator Daly wish to comment?

Senator Mark Daly: The Minister of State can comment.

Acting Chairman (Senator Gerry Horkan): The Minister of State can go ahead.

Deputy Finian McGrath: Does Senator Daly wish to comment?

Senator Mark Daly: There is a consensus, Minister of State.

Deputy Finian McGrath: We have a bit of consensus, Senator Daly.

Senator Mark Daly: I concede so he should go first.

Deputy Finian McGrath: Yes.

Acting Chairman (Senator Gerry Horkan): There is a consensus that the Minister of State goes first.

Deputy Finian McGrath: Amendment No. 10 would have been identical to what the Government intends with the one exception - the use of the word "required". The standard in my amendment would be "all that is reasonable." We cannot impose an obligation on public bodies that is impossible to fulfil. I want to see it established in law that public bodies have a duty to provide free interpretation in the circumstances covered by the section. It makes no sense to put statutory bodies in breach of legislation when the reality is that there are not enough providers for the service. That is the real world. The amendment would not have been the right approach. We need to further discuss the matter. I hope we can again achieve some sort of agreement on this particular issue. To me, the use of the words "reasonable standard" on Report Stage is the sensible option.

Acting Chairman (Senator Gerry Horkan): Amendment No. 10 has been ruled out of order as it involved a charge on revenue.

Amendment No. 10 not moved.

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

Senator Colette Kelleher: I disagree with what the Minister of State has said. The watering down of a requirement on public bodies will mean that nothing will happen. Therefore, the section must be as strong as possible and I disagree with his proposal. I would like him to consider making the provision as strong as possible in order to help people who need access to supports and education.

I have read the briefing and learned that people who are deaf are ten times less likely to attend university. What if there is a weasel word or a get-out clause that allows a university or third level institution to say, "It was impractical," "We did not have the money," or "We would have liked to?" The use of the word "required" is about making sure that the pressure placed on the public body is as strong as possible so that a person can exercise his or her human right to education, health or any other thing.

Acting Chairman (Senator Gerry Horkan): I remind everybody that we have about 22 minutes left to get through about 22 sections. Some of the sections do not have amendments so we will probably get through them fairly quickly. In order for every Senator to have an opportunity to speak I ask everyone to keep their contributions as brief as possible. I call Senators Norris, Dolan and Conway, in that order.

Senator David Norris: I would like to comment on universities. I think that Trinity College is pretty good and has been for many years in terms of disability. I cannot speak for the other universities but I am sure that they are also pretty good.

I support the use of the word "required".

Senator Colette Kelleher: Yes.

Senator David Norris: The Minister of State referenced the situation where there may be a dearth of interpreters. The best way to amend that is to require State bodies to have them. Pressure will produce them. If there is no pressure then the situation will remain static and we will not have interpreters. I support the use of the word “required”. We should require. People have talked about human rights. Yes, if it is a human right then let us give it to people.

Senator John Dolan: In terms of the juxtaposing of “required” and “reasonable”, is the following reasonable? Let us assume two children in a family, who are approaching the age of 18, are sitting around chatting to their aunts, uncles or whoever who ask them where they will go next year. One of them will be able to make the normal reply that he or she is thinking of this college, that college or whatever. The sibling with a disability will be silent because of the gap between “required” and “reasonable”.

As much as €1.5 billion has been spent, just to take this issue, on third level education in Ireland. That is a lot of money. The problem arises for the person who is deaf or has any disability because it is the extra cost above the normal for everyone else that is looked at in the accounting, not taking that small number of people against the whole budget for that institution or for that sector. That is where the rub comes into play. The institution or the system will say that it costs too much for a person with a disability but it is a very marginal cost when compared with the whole €1.5 billion. That is the problem that the word “reasonable” does not reasonably get us over.

Senator Martin Conway: I see the logic in using the word “required”, to be frank. I would like a little more definition of a public body. For example, is Dublin Bus considered a public body? What happens if somebody gets on a bus that belongs to Dublin Bus? I have probably stretched this matter a bit. I would like clarity on exactly what is a prescribed public body before I sit comfortably with the word “required”.

Senator David Norris: May I be of assistance to the Senator?

Senator Martin Conway: Yes, please.

Senator David Norris: I believe it is defined in amendment No. 3.

Deputy Finian McGrath: It is defined in amendment No. 3. That is right.

Senator Martin Conway: The last thing we want is for the provision to become completely unworkable as it would not achieve a result.

Acting Chairman (Senator Gerry Horkan): I call Senator Bacik. I again ask people to be as brief as possible.

Senator Martin Conway: If we reject this provision then so be it. It is no big deal.

Acting Chairman (Senator Gerry Horkan): We would prefer to get it through, I think.

Senator Ivana Bacik: I shall be brief as other Senators have spoken very eloquently.

Section 8 was one of the sections that many of us engaged with the Irish Deaf Society and other representatives on, most particularly because immense concern was expressed that the section would not be watered down or diluted unduly. Certainly, the proposed ministerial

amendment that we saw, or the draft amendment, appeared to be of real concern in that it would dilute the provision.

It is important to note, and as Senator Norris has pointed out, a public body is clearly defined in section 2 of the Bill and, indeed, we have now amended the definition by way of amendment No. 3. It is quite a precise definition of a public body. It is important that section 8 is read in the context of the definition. I support the section as personally constituted.

Acting Chairman (Senator Gerry Horkan): We are trying to get through the business. Does Senator Colm Burke wish to make a contribution?

Senator Colm Burke: Senator Conway mentioned Dublin Bus. Paragraph (g) of amendment No. 3 reads: “a company (within the meaning of the Companies Acts) a majority of the shares in which are held by or on behalf of a Minister of the Government.” Therefore, a public body would mean that that is covered by the section.

Deputy Finian McGrath: I will make a couple of quick points. I understand there is a time limit.

Senator Martin Conway: There is plenty of time.

Deputy Finian McGrath: Senators Norris and Bacik have stated that the definition of a public body can be found in amendment No. 3 to section 2.

The use of the phrase “all that is reasonable” to meet a duty is not a get-out clause because every decision by these organisations is reviewable by the Ombudsman as well. We need to ensure that decisions are examined. Of course, I share the concern expressed and I have dealt with the matter. Senator Conway raised a transport issue. It is appalling that people with disabilities must still ring the night before to book public transport. We are trying to work on the issue. In fact, I raised the issue both with the Minister for Transport, Tourism and Sport and at the Cabinet meeting yesterday, and also the whole issue of employment.

Senator Kelleher raised the issue of unemployment among people in the deaf community. It is an appalling situation, and I agree with her 100%. Yesterday, I made the point at the Cabinet meeting that every single Department around the Cabinet table has a responsibility. There are highly-talented people in the deaf community and it is unacceptable that they are unemployed. The issue will form part of my national inclusion disability strategy.

Senator Martin Conway: Hear, hear.

Acting Chairman (Senator Gerry Horkan): I thank the Minister of State.

Question put and agreed to.

Sections 9 to 28, inclusive, agreed to.

SECTION 29

Question proposed: “That section 29 stand part of the Bill.”

Senator Mark Daly: I would like to briefly bring up a matter on section 29. The Minister of State raised the issue of penalties and this is an issue of concern. The reason there were penalties added to this clause is because there have been cases of unqualified people, sent and

21 June 2017

paid by interpreting services, going to hospitals, pretending to be interpreters and interpreting for people who are critically ill. The hospitals had been informed that they were not qualified interpreters and yet they continued to use them for months afterwards. The people were eventually stopped.

I do not want to see criminal sanctions. I would rather we had a system that worked, but I think it is important that there are consequences for people who pretend to be interpreters, especially in cases of life and death or in legal cases where people's liberty is at stake. I agree with the Minister of State that he might bring in an amendment at some stage. There have to be consequences for unqualified people pretending to be interpreters and putting lives at risk.

Deputy Finian McGrath: I take the Senator's point. We cannot have that situation. The positive way to deal with this is to have more interpreters, highly trained and highly regulated. It is as simple as that. That is my objective.

Question put and agreed to.

Section 30 agreed to.

SCHEDULE 1

Acting Chairman (Senator Gerry Horkan): Amendments Nos. 11 and 12 are related and may be discussed together. Is that agreed? Agreed.

Senator Mark Daly: I move amendment No. 11:

In page 18, to delete line 4 and substitute the following:

“2018 2019 2020 2021”.

Amendment agreed to.

Senator Mark Daly: I move amendment No. 12:

In page 18, to delete line 22 and substitute the following:

“2018 2019 2020 2021”.

I would like to make a brief comment on the issue of targets for broadcasting. As I mentioned already to Members, and I thank them for their support, the issue with broadcasting is that the current targets are not being met. The targets that we have put in this legislation are actually lower than the usual targets and the amendments that were sent around to Members yesterday proposed to take them out. We are asking for less.

Amendment agreed to.

Schedule 1, as amended, agreed to.

Schedule 2 agreed to.

PREAMBLE

Senator Mark Daly: I move amendment No. 13:

In page 5, to delete lines 17 to 28.

Amendment agreed to.

Preamble, as amended, agreed to.

TITLE

Question proposed: "That the Title be the Title to the Bill."

Deputy Finian McGrath: We may be proposing amendments on Report Stage to delete any sections not discussed.

Senator Mark Daly: We will also be putting forward amendments. I thank the Minister of State for coming into the House and I thank all the colleagues for their support. I thank those who spoke on the amendments and I thank Senator Martin Conway who has always been very supportive of the issue of sign language recognition in the past.

I and members of the deaf community and colleagues here would be delighted to engage with the Minister of State again to see if we can reach consensus. We may not agree on everything but we must try to get this through before the summer. We will then bring it into the Dáil and try to make sure that we have a Bill that works and that is practical and reasonable. I look forward to that debate and I thank the Minister of State for coming into the House and his officials for the many meetings. We have not agreed on some things but I think that we have progressed things a bit. We have a long way to go, however, to get this across the line as something that will work for the deaf community.

Senator Martin Conway: On behalf of Fine Gael and as the party spokesperson in this area, I commend Senator Daly. I absolutely defend him and I know that his heart is completely in the right place with this. We have spoken many times on it. It is quite generous of Senator Daly to allow one month to achieve consensus. I call on the Minister of State to play his role in achieving the necessary consensus as well because this is an extremely important human rights issue for many citizens in this country.

Deputy Finian McGrath: I thank the Senators for their contributions today and for the lively debate. I also assure members of the deaf community here today that while we have differences on different aspects of the legislation, there is unity on respecting rights and on recognising Irish Sign Language as a national language and as something that we are very proud of. I give the House a commitment that I will do my best at all times to work with Senator Mark Daly and all of the other Senators in the House that proposed the ideas. There is a broad consensus that we want the rights of Irish Sign Language users respected in this State. I am afraid to use the word "consensus" again because of the civil war but looking at the divergence of comments raised earlier on, it is good to have a good lively debate and a good row. Perhaps something positive will come out of it then at the end.

Question put and agreed to.

Bill reported with amendments.

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

21 June 2017

Senator Mark Daly: One month from today.

Report Stage ordered for Friday, 21 July 2017.

Acting Chairman (Senator Gerry Horkan): I thank the Senators and the Minister of State and I ask the Acting Leader to propose a suspension until 3 p.m.

Senator Martin Conway: I propose a suspension of the House until 3 p.m.

Acting Chairman (Senator Gerry Horkan): Is that agreed? Agreed.

Sitting suspended at 2.38 p.m. and resumed at 3 p.m.

Petroleum and Other Minerals Development (Prohibition of Onshore Hydraulic Fracturing) Bill 2016: Second Stage

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

Minister of State at the Department of Communications, Climate Action and Environment (Deputy Seán Kyne): I am very pleased to have this opportunity today to speak on Deputy McLoughlin's Bill on the prohibition of petroleum and extraction on the Irish onshore. I congratulate Deputy McLoughlin on having his Bill progressed this far. It is a considerable achievement for a Private Member's Bill to be debated in both Dáil and Seanad Éireann and I look forward to the progress of this, the first Private Member's Bill in this Government's tenure to proceed to enactment. The Bill has a clear focus, namely, to prohibit the use of hydraulic fracturing to explore for or extract oil or gas in the Irish onshore.

I would like to briefly reflect on the background of fracking in Ireland. As Senators may know, in 2011 three companies applied for licensing options to explore in onshore Ireland the possibility of extracting gas from tight shales by means of hydraulic fracturing. It was considered at the time that there was insufficient scientific evidence on which to base an environmental assessment as to whether this activity could be carried out in a manner that would protect the environment and human health. The Environmental Protection Agency, EPA, was therefore asked to carry out independent research to establish the potential implications in this regard and to make a recommendation as to the feasibility of fracking in Ireland. I am on the record as having raised concerns with regard to such matters as long-term well integrity, the potential release of toxic chemicals from the ground as a result of fracking and the significant and considerable potential implications by virtue of diverse housing that the use of this technology may have for people in rural communities. As I have already stated in Dáil Éireann, it has always been my view that consideration surrounding the use of new technologies should be scientifically examined and peer reviewed. The EPA-led joint research programme on the environmental impacts of unconventional gas exploration and extraction, which concluded in November 2016, has done precisely this.

Deputy McLoughlin's Bill proposes to prohibit exploration and extraction of petroleum in the Irish onshore due primarily to the concerns he has raised and those recognised and substantiated in the EPA-led research programme concerning the potential for this activity to cause pollution to groundwater and the associated potential impacts on human health, agriculture and tourism. Several amendments proposed on Report Stage of the Bill in the Dáil sought to extend the prohibition on hydraulic fracturing to the offshore. I want to make clear that none of the

issues of concern relating to hydraulic fracturing in the onshore apply to the offshore where hydraulic fracturing is used only as a technological mechanism in certain circumstances that do not occur routinely in conventional drilling.

There is no unconventional exploration of offshore Ireland such as that found onshore in the United States of America. Due to the high density of wells required and the cost of development of such reservoirs, this is not feasible in an Irish offshore environment. If a prohibition on hydraulic fracturing on the Irish offshore were to be included in this Bill, it would limit the operator's ability to assess and quantify any petroleum volumes encountered and would likely place Ireland at a serious competitive disadvantage with the international petroleum industry.

On Report Stage in the Dáil two separate issues were conflated, first, the concerns about the impact on communities and groundwater resources and second, whether the continuation of exploration offshore was consistent with our climate change obligation. With regard to the first concern, the EPA-led programme of research was clear in its findings with regard to the legitimate concerns of potential pollution of groundwater and air quality, not to mention the lack of an integrated bespoke statutory framework governing fracking. The prohibition being introduced by this Bill adequately addresses these issues.

With regard to the second issue raised, I wish to clearly establish that the energy White Paper aligns energy policy, climate action policy and exploration policy leading the transition to a low carbon economy by 2050. It is important to note, however, that there will remain a significant role for natural gas, for example, as a transition fuel. If Ireland manages to benefit from the level of offshore exploration in the Atlantic margin in terms of another hydrocarbon find, that could have a substantial positive impact on the Irish economy such as reduced spending on imports, increased Exchequer resources for services and investment and more opportunities for employment and business.

The prohibition of hydraulic fracturing offshore has not been considered in the context of the EPA-led joint research programme nor is there any scientific research of this type of which I am aware relating to the offshore, or indeed any grounds for concern in this regard internationally. The findings of the EPA-led research programme, together with Deputy McLoughlin's Bill have been scrutinised by the Oireachtas Joint Committee on Communications, Climate Action and Environment, which has supported the introduction of a statutory ban on onshore fracking in Ireland. There is separate Private Members' legislation tabled with regard to the potential to introduce a prohibition on hydraulic fracturing offshore. This would be a more appropriate vehicle for discussion of this matter when the appropriate research has been done and proper consideration of this matter has been undertaken. I commend Deputy McLoughlin's endeavours and wish him well with the progress of this Bill.

Senator Terry Leyden: I welcome the Minister of State to the House and wish him well in his new work, which is a continuation of what he has been doing for some time.

Senator David Norris: I take it we will be supplied with copies of the Minister of State's script.

Deputy Seán Kyne: They are being sent over. I do not have a private secretary because it is all new.

Senator David Norris: The Minister of State has no private secretary – does he have a car?

Deputy Seán Kyne: I just about have a car.

Senator David Norris: Excellent.

Senator Terry Leyden: There is always a bit of disruption when Ministers change although this Minister of State has not really been changed, he is continuing his work.

Senator David Norris: Congratulations.

Senator Terry Leyden: We are delighted in the west of Ireland that there is a Minister of State in the Galway area beside us in Roscommon. Indeed, his colleague as Minister of State, Deputy Cannon, has also been appointed, as has Deputy McHugh. There is also Deputy Naughten in Roscommon who is in the Cabinet. Deputy McLoughlin and his staff have worked very diligently on this particular issue over a period and should be commended.

It is very difficult to get a Private Members' Bill through without the approval of the Government. I have been trying for some time to progress a Bill on the registration of wills. It is very frustrating, to say the least. Governments come and go, and while one might be making progress with one Government, another Government then comes in and refuses to progress the Bill. The former Minister, Deputy Burton, declined to progress my Bill even though the late Brian Lenihan, in a previous Government, had agreed to the Bill. It is very frustrating, but in this particular case, Deputy McLoughlin, a Government Deputy, was requested to push this Private Members' Bill. All the other Deputies in Sligo-Leitrim were in favour of this particular legislation, as was a tremendous organisation called the Love Leitrim campaign. Mr. Scott Coombs from Manorhamilton, who is present, is a member of the legislative committee of that organisation. People such as Ms Mary Bohan, who is the outgoing cathaoirleach of Leitrim County Council, and all the members of Leitrim County Council have approved and supported the opposition to fracking in County Leitrim in that particular region, as did members of Roscommon County Council. I commend them on their opposition to fracking. People are anxious that this Bill be brought in as full legislation before the summer recess but I am quite confident, as I believe is the Minister, that this will be signed into law in the not-too-distant future.

Fianna Fáil supports this Private Members' Bill, the Petroleum and Other Minerals Development (Prohibition of Onshore Hydraulic Fracturing) Bill 2016, being brought before the House today. It legislates for the prohibition of fracking activities. Hydraulic fracturing, or fracking, involves pumping fluids into shale deposits at high pressure to shatter rock and release natural gas held within. Fianna Fáil opposes the use of the fracking technique in Ireland, as outlined in our energy policy paper published in April 2015. There are potential significant risks to our natural environment due to the pumping techniques and the fate of the fluids used in the drilling and fracturing processes. The possible risks to our drinking water from fracking are simply not acceptable, nor is the possibility of serious damage to our reputation as a high quality food producing nation worth risking. The quality of the water in the River Shannon and elsewhere could be at risk in this regard, and it would affect both our tourism and agricultural industries.

No commercial licences for fracking have been issued in the Republic of Ireland, and the Government is awaiting the outcome of the Environmental Protection Agency study, expected in late 2016, before deciding on definite policy. This Bill will ensure that this does not happen. Fianna Fáil has concerns about the independence of a two-year study into fracking because of the involvement of a consultancy firm, CDM Smith. This company has advised on exploration

and gas extraction projects in the United States and Europe and will work in conjunction with bodies including UCD, Queen's University and the British Geological Survey to compile a series of reports next year on fracking. France, Germany and Scotland have all banned fracking in response to these risks. We are not willing to subject our communities to any potential risk that could undermine the integrity of their water supply or the natural environment in which they live. As a result of these risks, Fianna Fáil is demanding a ban on all fracking activities in Ireland and supports the passage of this Bill, which ensures that this does not happen.

The Australian energy company, Tamboran Resources, had intended to commence Ireland's first exploratory fracking project in Fermanagh, but it is now suing two Departments in the Stormont Executive after its plans were rejected late last year. It is very important that the Government here, hopefully in conjunction with the Executive in the North which hopefully will be established in the next few weeks, will work together to ensure that there is joint legislation on both sides of the Border to prohibit fracking in the island of Ireland because if there is fracking in Fermanagh, it will affect resources here in the Republic.

Fracking has occurred in the United Kingdom and I understand it has created small tremors in different locations. Fracking in the United States of America is a completely different situation because of the vast size of that country compared with the United Kingdom, Northern Ireland or the Republic of Ireland. The technique that is used is very damaging, as are the chemicals used to extract the gas. It is not a particularly economic way of extracting gas. It is very damaging onshore. This does not prohibit drilling for gas offshore, which has been very successful.

The people of Leitrim mounted a very strenuous campaign, and I again commend the Love Leitrim campaign, which was a group representing people throughout the length and breadth of County Leitrim. It spearheaded this campaign to bring about this legislation, which has been approved and will be passed by this House today. I am really hopeful. Deputy McLoughlin and his staff are anxious that this Bill be passed by the summer recess. I am quite confident that this will happen because so much work has been done in the committee system. The Dáil's Select Committee on Communications, Climate Action and Environment has approved the legislation - I am a member of the joint committee - and it has gone through all Stages in Dáil Éireann. It will go through all Stages here and Fianna Fáil, as a party in the Seanad, is very enthusiastic. The credit goes to Deputy McLoughlin and I am delighted that a backbench Deputy and his staff have had the initiative to bring this Bill forward as a Private Members' Bill.

Senator Norris would agree with me that bringing a Private Members' Bill is a strenuous undertaking but he has had success in getting them passed through this House over the years.

Senator David Norris: The Senator has not been backwards himself.

Senator Terry Leyden: I have tried my best but it is frustrating. That is why I am delighted for Deputy McLoughlin. He felt that it was not moving fast enough but nevertheless, to bring it through the Dáil and through the Seanad as a backbencher without the backing of the Government it is an achievement. If the Government did not want this Bill, the Department would frustrate this as far as it could and it would never see the light of day. It is a particularly important occasion and is a very important issue. We have to protect the integrity of the green island economy with regard to our massive exports of food. It is also linked to our standing on nuclear power. We cannot allow a nuclear power station in Ireland because the dangers are so immense to our industry and tourism.

I commend this Bill to the House to be passed as soon as possible.

Acting Chairman (Senator Michelle Mulherin): Before we proceed, I acknowledge the presence of Deputy McLoughlin, the initiator of the Bill, here in the House. He is welcome.

Senator Terry Leyden: I did not realise that the Deputy was here. I am sure he has just arrived.

Senator Tim Lombard: It is a great pleasure to be here and I welcome the Minister of State and congratulate him on his reappointment to this very important role. This issue has been something that Deputy Kyne has been very much involved in. We are very aware of his knowledge here today.

This is important legislation and I acknowledge the presence in the Gallery of Deputy McLoughlin, who spearheaded this Bill and has really driven it on in the brief lifetime of this Government. It is an amazing legacy that 13 or 14 months into a new Government, this Private Members' Bill has gone so far and has arrived at this Stage in the Seanad. That is a tribute to the staff who work for Deputy McLoughlin and the ability of his office to ensure that this Bill is safely passed through both Houses.

Every county in Ireland has an interest in ensuring that this legislation is passed because it stamps out an issue that has been creeping in to some parts of this country and about which people were very concerned. Counties Leitrim and Roscommon were mentioned by previous speakers but other counties have been mentioned regarding the actual proposal. Exploration of oil and gas through this method is unfortunately not what we are looking for in Ireland. We have built ourselves on a green economy and on providing for our nation through more appropriate, sustainable means, be that through the solar, wind or wave industries. I would like to mention the research centre in Haulbowline in Cork, its great work on wave energy and the potential that is there for Ireland.

We do not really need this proposal and we do not need fracking the way it has been proposed. Fracking does not suit this country or this nation. In many ways, Deputy Tony McLoughlin captured that and put it in this Bill which he has now delivered through both Houses of the Oireachtas. This is a credit to Deputy McLoughlin, the staff and the Government, which listened to the debate on an important Private Members' Bill. That is what we wanted to see in our Parliament. We wanted to see the Members, whether an assistant Chief Whip or otherwise, bring legislation forward and through both Houses. That is what today is about. I hope the Bill will pass safely through this House today so that it can move forward to the next Stage. I propose that today. I fully back the proposal. This is appropriate legislation. Going forward, more legislation like this is important.

Senator Rose Conway-Walsh: I thank the Minister of State for coming to the House. I, too, acknowledge the work of Deputy Tony McLoughlin and his team on the Bill. I also acknowledge the huge work being done by communities throughout this country in putting this issue on the agenda. Sinn Féin is opposed to fracking on the entire island of Ireland. We also stand with communities that have real concerns about the impact upon their environment as a result of exploratory drilling and full shale gas extraction. Therefore, I welcome this Bill and its provisions which will see a total ban on onshore fracking in this State.

I have personal experience in my own area of how people are ignored, mistreated and disregarded when it comes to safety fears around onshore and offshore gas exploration. Although

fracking was not involved in the case of Shell at the Ballinaboy site, the treatment of local people who expressed concerns was appalling. Let no one be under any illusion. There are no benefits to allowing fracking in this country. We see that in terms of the Corrib gas project. I live beside it. We have unemployment of more than 30% in the area while billions of euro worth of our natural resources are taken out of it by private companies. We have not seen one red cent from it. We still have huge levels of emigration. People cannot get a job and the first people to be laid off the project were local people. Let no one be under any illusion. This is why I urge communities and counties to stick together and to stand together on this issue.

I welcome the Bill's passage through the Dáil and the all-party support that ensured this was the case. Sinn Féin also wants to impose a ban on offshore fracking and, therefore, to have our entire State fracking-free. Further work is needed to form more legally sound legislation, which unfortunately is outside the realm of this Bill. We hope to achieve it in a future Bill that we are currently working on. In the Dáil we withdrew our amendment regarding a ban on offshore fracking as we believe that it will require separate and more extensive legal change to ban offshore fracking. We want to create a legally firm ban on offshore fracking which will withstand the attempts of major vested interests to challenge it in the courts. Any simple one word amendment at this point will have the appearance of action and the reality of a legal challenge. We recognise that offshore exploration is a very different geological and engineering operation to that of onshore fracking. As we know, exploration is currently taking place off our shores. We tried to cater for this within the confines of this Bill but providing for these complex geological and engineering processes in legislation needs more extensive drafting. Technology around fracking is changing constantly. We need to ensure that legislation is drafted to encompass these changes.

Despite our concerns around offshore fracking, Sinn Féin sees the bigger picture with regard to today's Bill. We do not want to slow the progress of this Bill. We do not want to provide any fuel to any possible vested interests who oppose this Bill. Put simply, we do not want to see any possible delay to this Bill. As we know, it is vital that onshore fracking is outlawed completely and as soon as possible. The offshore fracking process is used occasionally on a very small scale to facilitate more conventional oil and gas drilling. This is happening at present. We are concerned here with a growing offshore fracking industry used to extract gas, as seen in the US. One large-scale operation exists at present but there is further drilling in place.

Water flowing back from fracked wells is cleaned up on large platforms near the well by filtering out oil and other contaminants. The treated wastewater is then dumped overboard into the vast expanse of the ocean. Dilution then supposedly renders it harmless, at least according to the companies. A treatment process is regulated by the US Environmental Protection Agency but in California critics led by the Environmental Defense Center have asked federal regulators to ban the practice off the west coast of America until more is known about its effects. We need to know the environmental implications of this type of offshore exploration on our environment. There is no legislation in place to prevent offshore fracking. Exploration can happen now and exploration companies will have free rein in operating in our oceans.

With the present Bill, we hope that this will progress as quickly as possible. We need this law in place. We simply need to outlaw what would be harmful to both the environment and people directly living in the areas affected. Sinn Féin supports this Bill and is clear and resolute about keeping Ireland, North and South, fracking-free. We hope this Bill will be enacted as soon as possible.

Senator Grace O’Sullivan: I am delighted to stand here today to support Deputy Tony McLoughlin’s prohibition of onshore hydraulic fracking Bill. I also congratulate the Minister of State on his reappointment and his new ministerial role and assure him that the Green Party is looking forward to working with him to ensure the future health and sustainability of our country and, indeed, our planet. I believe we are taking a small step in that direction today by beginning the process of passing this anti-fracking Bill in the Seanad.

That the Bill has made it this far is a testament to the hard work of community groups, farmers, local activists and organisations working to prevent climate change. In particular, credit must go to Deputy Tony McLoughlin and the activists of Love Leitrim, who are here in the Gallery today. They have worked extremely hard to see this through. They prepared the Bill, laid the ground work through their campaigns, engaged with farming, rural and urban communities across their county and beyond, and delivered a weight of public opinion, including the signing of a petition for this Bill by 11,000 citizens, in favour of getting rid of this dangerous, wasteful and polluting form of extraction before it gets a foothold here in Ireland. Friends of the Earth also deserves a shout out for providing the detail and research on the potential impacts of hydraulic fracturing and demonstrating that it has actually been at imminent threat of deployment. Its consideration of the climate impacts of the technology, which I will address shortly, are also on the agenda thanks to its work and that of others.

The Bill has enjoyed universal support as it passed through the Dáil, with not one vote against it at any Stage and that is very much to be welcomed. I expect and hope that it will receive the same reception here in the Seanad. We need to move quickly and decisively on this issue if we are to avoid getting locked into a wasteful and increasingly outmoded system that would be in contradiction to our international, European and ethical obligations. I can attest to the opposition to fracking in my party, the Green Party, and the Civil Engagement Group in the Seanad and, in particular, to that of Senator Alice-Mary Higgins, who could not be here today but was eager for me to express her support for the Bill.

Fracking, or hydraulic fracturing as it is more properly known, is in some way a siren song energy technology. We have seen it deliver low energy prices and fuels with an allegedly low climate impact in the US and elsewhere in a manner that also seems to boost energy independence. For the advocates of gas as a transition fuel, fracking seems a god send and a way to make home-grown gas in sparsely populated areas and further damage more polluting fuels like coal and oil. This approach has delivered some energy stability for the US during the recession, but at serious cost to local communities, rural and farming interests, and the long-term health of our planet. The process, when not done correctly, can lead to serious damage to our environment, including groundwater pollution, methane gas releases and even minor seismic events. When the process is done perfectly correctly, we see just how far from a solution to the energy crisis it actually is. At a time when climate change has led to record high temperatures across Europe already, here is an energy extraction technique that uses truly staggering amounts of water and energy in its extraction. We still do not have enough information on the methane release levels from fracking which, were they to exceed just a few percentage points, would make fracking as bad for our climate as coal. These are the aspects of fracking that the energy companies focus less on in their brochures as they visit the energy ministries across Europe. This is very far from a free lunch, and I am glad we are nipping it in the bud now before it wastes serious amounts of time in the Irish energy debate.

I will now address that debate and widen out today’s discussion to consider what exactly is Ireland’s energy strategy. We need to get serious about where we are heading as a country.

We are a signatory to the Paris Agreement and are part of the EU 2020 and 2030 energy and climate packages, which oblige us to boost our energy efficiency and renewable energy levels radically while slashing our emissions. While we were all united in our revulsion at President Trump's announcement this month of his intention to pull the United States of America out of the Paris Agreement, are we really serious about Ireland's commitments under it? The time for transition fuels like gas is over. I am not saying they did not play a role in reducing European and American emissions in the short term, but there have been a number of developments over the past decade that have rendered as semi-farcical the concept of installing expensive capacity and of engaging in costly and destructive exploration.

We now know that the current level of known reserves is massively more than we as a species can even contemplate touching. We can burn only between one fifth to one third of the remaining fuel that we know about before we would tip the Earth into an increase in temperature of a potentially catastrophic 2° Celsius or more. That means one thing: we must keep it in the ground. There must be no new exploration, no new mining, no new piping, no fracking and no shale oil - end of. The complex mathematics of the climate does not care about our political arguments against this, nor does it care about our convenience or our resistance to change. We simply cannot argue with the planet any more than we already have. These limits are natural, and it is time to stop speaking out of both sides of our mouths on this by signing a climate pact with one hand while the other hand cuts peat for power generation or signs another licence for oil exploration. We are at the stage now of risking accumulating massive stranded assets as the world moves on to a post-fossil fuel future. This means a real national mitigation strategy with teeth, and a plan for the massive deployment of renewables to replace our existing electricity and transport energy infrastructure. This means not approving the liquid natural gas terminal on the Shannon to import US gas extracted through fracking, lest we risk making hypocrites of ourselves and incentivising the global trade in fracked gas.

This brings me to the next, brighter part of the new reality, which is the final proper arrival of the renewable revolution. Renewable energy has sometimes felt like fusion power, always just 30 years away from being deployable. It seems as though we have been talking about solar panels and wind turbines and thorium reactors since former President of the United States, Jimmy Carter, was in office. What seems to have passed many of us by, however, has been the absolute global explosion in renewable capacity over the past five years. The first term of the Obama Administration alone saw more solar panels installed in the USA than in all other years combined. China is deploying immense amounts of solar capacity in its bid to cut the growth in its emissions. This is driving down prices and dramatically increasing efficiency. Solar power especially now puts out more electricity at much lower cost, so low that it can even compete with coal in certain areas.

The fossil fuel industry is dying and they know it. Some in the industry are trying to diversify, others to rent-seek through expensive government lobbying and engineering campaigns that create doubt around climate change. Others are trying to waste our time and destroy our environment by pushing new wasteful and expensive technologies to access fuel we cannot even burn.

I seek assurances from the Minister of State, Deputy Kyne, regarding the legal consequences of the EU-Canada trade deal, the Comprehensive Economic and Trade Agreement, CETA. We saw little resistance from the Government-----

Acting Chairman (Senator Michelle Mulherin): The Senator's time is well up.

Senator Grace O’Sullivan: This is an issue that is very important to my heart and I would like a longer time to debate it. The Bill is to be welcomed and I am delighted to see the Minister of State here today.

Senator David Norris: I share the previous speaker’s concern about CETA. This was debated in the House and the whole arrangement was discarded by Seanad Éireann, which voted against it. This was largely because of the court structures involved and the fact that commercial entities could sue. The public good, the public interest and the welfare of the people was regarded as less significant than the profit motives of the big international companies. In conjunction with my colleague, I want the Minister of State to give reassurance that the fracking companies could not use this mechanism to take on Ireland.

The fluctuations in the world oil industry have rendered fracking less significant than it was previously. We all remember seeing on television the people in Canada switching on their water and their tap bursting into flames. It was very interesting to watch it. Fracking is a very violent intervention in the natural world. The United States of America has its Environmental Protection Agency, which is a laugh. President Trump has installed as his Secretary of State the CEO of Exxon Mobil who was against the whole idea of environmental protection. Trump is a complete clown and he has no interest whatever in protecting the environment.

I welcome this Bill but I have certain reservations about it. The original Bill was introduced by Deputy Tony McLoughlin, and we should all be grateful to him for so doing. This Bill was sent for pre-legislative scrutiny to the Joint Committee on Communications, Climate Action and Environment, which spent a considerable time on it. The committee wrote a report for the Dáil suggesting various amendments and so on. What does the Government do? It produces its own Bill, completely ignoring the recommendations. The committee members might as well not have bothered doing it. That the Government completely ignored the committee’s recommendations is very worrying.

There are a number of aspects of the Bill that are difficult. The definition of “hydraulic fracturing” is narrow and weak. It allows for the possibility of the fracking industry developing new techniques that are not covered by this legislation. The definition of “internal waters” is inadequate. It does not cover service water or groundwater. There is a proposed sanction of a six month prison sentence for offenders, but where is the policing mechanism? There is no policing mechanism at all, which is also worrying. There is an absence of a definition of “land”. There is a very comprehensive definition of land in the EU habitats directive. Why could this not have been put into the legislation? Internal waters are listed but it does not specify groundwater at all. This is also worrying. Many people have lobbied me on this matter and they have raised these concerns. It is important we get the ban on fracking because without it, these operations will continue in places such as Leitrim, Roscommon, Sligo, Clare and other parts of Ireland. We must be very careful.

Climate change was mentioned. Today is a glorious day. It is heavenly and everyone is enjoying it but in Ireland, a small island in the north corner of Europe, we are enjoying Mediterranean temperatures. The year 2016 was the warmest year on record. A record temperature was recorded on both land and sea. It is wonderful for those of us who want to enjoy it but it is very worrying. As a result, the state of New York has banned fracking since 2014 because the US Department of Health and Human Services found that the risks associated with fracking were dangerous to people’s health.

The Sustainable Water Network, SWAN, in its report shows the risks of water contamination related to unconventional extraction techniques such as fracking. The report reads:

Due to the many documented impacts on water attributed to hydraulic fracturing for shale gas, combined with the absence of a coherent effective governance and regulatory framework for the industry in Ireland, it is the Sustainable Water Network position that hydraulic fracturing should not be permitted in Ireland ...

It is SWAN's view that the carrying out of hydraulic fracturing and other shale-gas activities in Ireland is not consistent with the achievement of good status for our surface waters or ground waters, nor with the prevention of deterioration in water status, and therefore should not be permitted in the context of meeting EU Water Framework Directive and Groundwater Directive objectives.

In terms of the question of spills and chemicals, the information that we have gathered already is extremely worrying. Research has found that “spills of additives and hydraulic fracturing fluids”, which are chemicals, “during the chemical mixing stage of the hydraulic fracturing water cycle have occurred and have reached and impacted drinking water resources.” We have direct evidence that the introduction of chemicals into this process has actually contaminated water sources. That is a very worrying point.

The research continues, “Spills were caused most often by equipment failure or human error.” This is a company with a complete lack of monitoring. It does not monitor the spills at all. How do we know where we are? I can tell what happened to the people of Bradford County, Pennsylvania.

Acting Chairman (Senator Michelle Mulherin): Time, Senator.

Senator David Norris: I am just finishing. The research continued:

In Bradford County, Pennsylvania, a well blowout resulted in a spill of approximately 10,000 gal (38,000 L) of produced water into a tributary of Towanda Creek [...] The largest volume spill identified in this assessment occurred in North Dakota, where approximately 2.9 million gal (11 million L) of produced water spilled from a broken pipeline and impacted surface water and groundwater.

That is an astonishing amount of water to lose. I cannot think of better arguments to reject fracturing in this country.

Acting Chairman (Senator Michelle Mulherin): As no other Members are offering, I call on the Minister of State to conclude.

Minister of State at the Department of Communications, Energy and Natural Resources (Deputy Seán Kyne) (Deputy Seán Kyne): I thank all of the Senators for their contributions here today on this important Bill. I also take this opportunity to commend Deputy McLoughlin on his work. As most speakers have stated, the local community groups, like the Love Leitrim campaign, in places like Leitrim, Roscommon and elsewhere have brought this to the fore. They have lobbied, campaigned and proposed that their local elected representatives at county council level would pass and agree motions at their local authorities. Obviously people have campaigned in the run-up to a number of elections, which has achieved widespread cross-party support. Indeed, I have not met anybody yet or certainly nobody has publicly stated

in either Chamber that he or she agreed with fracking or were supportive of onshore fracking, which is welcome.

I acknowledge that Senator Leyden from Fianna Fáil has expressed support for this Bill. Certainly, that support was reciprocated in the Dáil as well. I agree with his concern about the possible impact, were fracking to go ahead, on the River Shannon, our pristine waters and the impact on the environment. Again, he acknowledged the work of the organisation called Love Leitrim. The concerns that he recognised are raised in the EPA's research programme and by Deputy McLoughlin's Bill.

Tamboran's licensing option is no longer in place. No drilling activity was allowed under this option. With the enactment of this Bill, no licence to allow fracking can be granted. Indeed, there was a moratorium for a number of years when the former Minister, Pat Rabbitte, and Deputy Fergus O'Dowd were in office so, effectively, there was a ban. Subject to the passing of the legislation in the Seanad and signing into a law, there will be a legislative ban.

Senator Conway-Walsh raised the issue in terms of the entire island of Ireland. The matter has also been raised in the Dáil. I did undertake that if I was reappointed to my position, which I have been, and when the Northern Ireland Executive is up and running, and I hope that happens soon, I will raise the matter at cross-departmental meetings. I shall do so because I think it is important to put the views and wishes of Senators on the record in such fora.

Offshore fracking is not an economically viable technology in terms of Irish offshore, which is a very expensive activity. Drilling offshore involves very deep drilling. Using fracking as a primary methodology would make drilling offshore in Ireland prohibitively expensive. That said, I do not disagree with anyone's call for a debate. As Senator Conway-Walsh has said here and other Deputies have said in the Dáil, it is important that we maintain this Bill as it is in terms of prohibiting onshore fracking. We should debate offshore drilling again on another day. I believe we should go through the process of holding hearings in order to hear from all sides. We should have independent research carried out and go through the process at committee. I wish to acknowledge that the Senator's party, and that of Deputy Stanley, withdrew its amendment on offshore fracking to allow this Bill to progress.

Senator Lombard commended Deputy McLoughlin for bringing forward this important legislation. Senator Lombard said that it was important that the legislation goes through. I thank the Fine Gael Party for its work and support. I also thank Deputy McLoughlin for his work.

Senator Grace O'Sullivan mentioned the importance of all-party support, the Green Party's support and the support provided by local communities, and the fact that Ireland has signed up to the Paris Agreement. She pointed out that we are in transition to a low carbon economy. For the time being, natural gas and fossil fuels will play a part of the transition. We must speed up the change to renewables. We are anxious to see that happen but decisions must be made. At present Moneypoint runs on fossil fuels and is powered by coal. Moneypoint is reaching the end of its lifespan. Therefore, we must decide what will happen to such an important generator of power and electricity.

Issues relating to the research programme have been mentioned. They were scrutinised by the Oireachtas joint committee and, therefore, they were taken into account in terms of Deputy McLoughlin's Bill and welcomed by all parties in the Oireachtas. Deputy McLoughlin has produced a stand-alone Bill. We felt, as a Government, and on the advice of the Department,

that the best thing to do was to amend the existing legislation but ensure that the Bill formed part of that amendment. That is why the name of the legislation has been changed. We have ensured that the original words in the Bill's Title, concerning the prohibition of the exploration and extraction of gas, were retained. It was important to ensure that the word "prohibition" was retained. Existing legislation was amended to prohibit fracking onshore.

There will be a transition period for the use of renewables. That aspect has been clearly set out in the energy White Paper.

The Comprehensive Economic and Trade Agreement, CETA, cannot prevent a sovereign state legislating in the national interest. It should be noted that France has already declared a statutory ban on fracking and CETA has made no move against France.

On 31 January, Mr. Matthew Collins, assistant secretary, Department of Communications, Climate Action and Environment, attended a meeting of the Oireachtas Joint Committee on Communications, Climate Action and Environment. He stated:

The moratorium declared by Ministers on any fracking activities in Ireland has been in place since 2011 and continues. No applications have been approved.

It would appear that the State has not encouraged any investment in this regard. His opinion of the prohibition was that Ireland is entitled to regulate the area or activity in question without contravening CETA. That is the advice that we received about fracking but I have noted the concerns expressed by Senators.

Senator Norris has expressed his support for the Bill, which is welcome. He also touched on the whole area of CETA. The text of the Bill and the changes to the Bill have been agreed with Deputy McLoughlin, to ensure the prohibition is retained, albeit now as an amendment to existing petroleum legislation. The wording reflects his views and the recommendations made by the Oireachtas joint committee. I also know that he consulted with various local groups who were in agreement on the proposed changes.

The Oireachtas joint committee made four recommendations. First, the terminology of the Bill should be revised, which it was. Second, an enforcement mechanism should be included in the Bill, which it was. Third, any potential drafting deficiencies in the Bill may be best addressed during the Committee Stage debate in the Dáil, which they were. Fourth, the scope of the Bill should be expanded to take account of other activities. We provided clarification to people who had concerns about geothermal technology. The Bill takes into account the concerns that were expressed by the committee following the comprehensive research it undertook. That covers the points raised.

I thank the Senators for expressing their support for the Bill. I hope it will go through Committee and Remaining Stages in the Seanad next week and that we can deliver it to the President for signature. Again, let me thank Senators for their support for this very important Bill.

Acting Chairman (Senator Michelle Mulherin): I thank the Minister of State.

Question put and agreed to.

Acting Chairman (Senator Michelle Mulherin): When is it proposed to take Committee Stage?

21 June 2017

Senator Tim Lombard: Next Tuesday.

Committee Stage ordered for Tuesday, 27 June 2017.

Sitting suspended at 3.55 p.m. and resumed at 5 p.m.

Business of Seanad

Senator Jerry Buttimer: I move:

That the order of the House today in respect of No. 37, motion 22, be discharged.

Question put and agreed to.

Senator Jerry Buttimer: I further propose that we suspend proceedings until 5.15 p.m. I apologise to Members, staff, the Cathaoirleach and the officials but Question Time in the Dáil is running over time.

An Cathaoirleach: Is that agreed? Agreed.

Sitting suspended at 5.01 p.m. and resumed at 5.15 p.m.

Mental Health (Amendment) Bill 2016: Second Stage

An Cathaoirleach: I welcome the Minister of State, Deputy Jim Daly, back to the House. He is making a habit of it. The Minister of State is entitled to come in when he wishes. We usually have a few speakers and he can indicate to the Chair when he wishes to make his contribution. Some people wait for everyone to speak and others come in at the start but Senator Freeman and her seconder will be the first to bat off.

Senator Joan Freeman: I move: "That the Bill be now read a Second Time."

I send my warmest congratulations to the Minister of State, Deputy Daly, on his promotion. I am absolutely delighted and I look forward to working with him in the future, as I have done in the past.

I am grateful for the opportunity to debate the Bill, which has been co-sponsored by Senators Craughwell and Marie-Louise O'Donnell. I propose to speak about the effect of the Bill, historical attempts to end the practice of admitting children to adult units, the United Nations Convention on the Rights of the Child and the potential implications of my amendment.

The Bill has a very straightforward purpose, namely, to prohibit the admission of children to adult psychiatric units save in exceptional circumstances and to encourage a policy whereby children are admitted to child-appropriate units. I propose to do this by amending section 14 of the principal Act, which deals with admissions, by inserting a new section into that Act, section 14A, which shall provide that "No admission order shall be made in respect of a child under the age of eighteen to an adult inpatient unit save in exceptional circumstances where it is in his or her best interests to do so". I also propose to insert a further subsection under section 14A,

stating: “Where a child is admitted to an adult inpatient unit he or she shall be accommodated in an area separate from adults in an age-appropriate environment with age-appropriate facilities.”

I acknowledge that this is not the first time this proposal has been made and I am indebted to the findings of numerous Government reports and recommendations to which I will refer during the debate. Despite the recommendations of these reports seeking to end the practice of admitting children to adult units, the reality is that legislation is needed to implement this policy when HSE commitments to end the practice of admitting children to adult units and seeking to phase out the practice have simply not succeeded.

It is very important not to underestimate the effect of these admissions on the recovery process for children with mental health issues. The practice of admitting children to adult units has long been condemned by the State. The Inspector of Mental Health Services has aptly described the practice as “inexcusable, counter-therapeutic and almost purely custodial in that clinical supervision is provided by teams unqualified in child and adolescent psychiatry.” The thing is, children sometimes suffer irreversible consequences by being exposed to adults who may suffer from enduring illnesses where at times it could occur that an adult may have to be restrained because of his or her potentially aggressive and violent behaviour.

A further impact on children is that these adult wards are often staffed by adult psychiatric teams whose members have not received child-specific training. The subconscious effect of children witnessing adults with enduring illnesses is that this can have a devastating impact on their future because they are likely to imagine a similar fate for themselves. I have sought to introduce legislation to end the practice of admitting children to adult units because of a consistent failure on the part of the HSE - despite its previous commitment, by way of protocol, to phase out the practice - to simply end these admissions. The HSE’s historical attempts to end this practice illustrate that its *laissez-faire* approach is anti-therapeutic and abusive of our vulnerable and voiceless children.

The guiding policy document for mental health services in Ireland, *A Vision for Change*, was published in 2006. It sets out the direction for mental health services. It is an excellent document. It purports to describe a framework for building mental health services across the entire community and providing accessible, community-based, specialist services for people with mental illnesses. Eleven years have passed since the report recommended that the admission of children to adult units be scrapped in favour of admissions to child and adolescent appropriate units. A similar conclusion was drawn in a number of expert reports that reviewed the operation of the Mental Health Act 2001. Similarly, they recommended that the practice should cease. The 2001 Act was first reviewed by an expert reporting group in 2012 and, again, in 2014. Both reports recommended the use of legislation to implement the practices. The reports also questioned whether the Mental Health Act 2001 includes and complies with international human rights protections afforded to children under the UN Convention on the Rights of the Child. In 2014, the expert group’s report was published by the then Minister of State at the Department of Health, Kathleen Lynch, as mental health services were part of her brief. It recommended the insertion into the 2001 Act of a stand-alone section dedicated to children and including a number of provisions, one of which would state, “Services should be provided in an age-appropriate environment wherever possible” for children.

Both reports found that while the admission of children to adult units has declined in recent years, the continued practice was still unacceptable. The 2014 report reads, “Progress needs to continue to drive down admissions of children to adult units and to drive down waiting lists

and waiting times for certain child and adolescent mental health services.” As Senators probably know, there has been a slew of reports published which recommended that the practice of admitting children to adult units should end. Those reports were followed by a number of failed attempts to implement their recommendations. In 2007, a year after the implementation of A Vision for Change, the then Ombudsman for Children, Emily Logan, criticised the practice. She called for the implementation of the recommendations contained in A Vision for Change to proceed without further delay. She explained, in her capacity as Ombudsman for Children, that these and other issues had been raised with her office by children across the country. Now, almost 12 years later, the current Ombudsman for Children has made the same complaint.

The proposal to phase out the practice has also been unsuccessful. In 2009, the Mental Health Commission introduced an addendum to its code of practice in respect of the admission of children under the Mental Health Act 2001. The code of practice directed that no child under the age of 16 should be admitted to an adult unit after 1 July 2009. Not only was that not complied with but 12 months later, as many as 12 children under the age of 16 had been admitted to adult units.

An Cathaoirleach: Can Senator Freeman move to her right as her microphone appears to have a fault?

Senator Joan Freeman: Yes.

An Cathaoirleach: I thank the Senator.

Senator Joan Freeman: The Children’s Mental Health Coalition comprises 50 member organisations from a range of backgrounds and sectors. The coalition has previously submitted to the Department of Health - in its review of the Mental Health Act 2001 - that legislation should be enacted to end the practice and that children should only be admitted to such units in exceptional circumstances. Even then, such units must have child appropriate facilities. That is not happening in Ireland as we speak.

The programme for Government introduced in 2011 - some six years ago - contained a commitment to end the practice. In December 2011, the official code of practice relating to admission of children came into effect. The Government has stated that, apart from in exceptional circumstances “no child is to be admitted to the adult unit of a psychiatric hospital”. Once again, we have failed our children.

I hope I have clearly highlighted that the intention to end this practice is not recent. However, ending the practice is something we have not succeeded in doing. We have not merely failed to follow through on these promises domestically but we have also failed to fulfil our international obligations. Ireland ratified the United Nations Convention on the Rights of the Child without reservation on 21 September 1992. The convention aims to improve the lives of all children under the age of 18 through securing necessary changes in Ireland’s laws to protect those rights. Article 37(c) of the convention provides that “every child deprived of liberty shall be separated from adults unless it is considered in the child’s best interests not to do so”. Ireland has repeatedly failed in its obligation to comply with these very basic and fundamental human rights by confining children to adult units. We have seen a fluctuating trend of admissions to adult units in the past ten years. In 2013, there were 91 admissions of children under 18 years of age to adult psychiatry units, comprising 22% of all child admissions. While this number fell marginally to 89 in 2014, it increased once again to 95 in 2015. Despite having ratified the

convention, we are not complying with our obligations.

An Cathaoirleach: The Senator has one minute remaining.

Senator Joan Freeman: If we take a closer look at the reasons for these admissions, we can see that it is closely linked to two shortcomings relating to child and adolescent mental health services. First, there is a critical lack of inpatient beds in Ireland. Even more worrying is the chronic shortage of consultant child psychiatrists. Such psychiatrists are responsible for authorising these admissions. Theoretically, the number of inpatient beds in Ireland is 74. Two weeks ago, however, ten more beds in Dublin were closed and there cannot be any further admissions in respect of the 20 beds in Cork.

I shall speak briefly about the HSE, particularly as I have only one minute left. The HSE has communicated a hesitancy with introducing legislation because it has suggested that, rather than addressing the problem, it may result in a situation where children have no inpatient service at all in circumstances where there are no available child inpatient beds. I make two responses to that argument. First, the purpose of any legislation is to introduce policy that changes an unacceptable practice to achieve a higher standard of care and improve an existing practice that has been deemed inappropriate. The HSE stance shows a reluctance to increase bed capacity or to drive forward the much-needed intensive recruitment of child psychologists in Ireland. I emphasise that the rights and welfare of the child are central to this Bill and that I will ensure the implementation of the Act is rolled out compassionately and that the appropriate safeguards are in place to ensure a seamless transition.

I call on the Members of the House present to support the amendment in its present form. I thank the Cathaoirleach and fellow Senators for granting me the opportunity to speak about this important issue.

An Cathaoirleach: I thank the Senator. I allowed her an extra minute because I interrupted her twice. Senator Boyhan is next to speak, followed by Senators Feighan, Swanick, Devine and Kelleher.

Senator Victor Boyhan: I formally second the Bill. I thank Senator Freeman and acknowledge input of the co-sponsors of the Bill, Senators Craughwell and Marie-Louise O'Donnell. I warmly welcome the new Minister of State, Deputy Jim Daly, and wish him well in his challenging post.

This issue has to be about the rights of children and putting children at the centre in terms of care. Ideally, no child should be in any form of residential psychiatric care. There is no question of children having to be in adult psychiatric services. Senator Freeman referred to the 2006 A Vision for Change document. That is now 11 years old and its executive summary set out that the Government would cease the practice of having children in adult psychiatric services. That was the policy back then. There is no doubt that current Ministers have consulted that document. Will the Minister of State say how many designated children's beds there are for psychiatric services? Will he explain why many of these beds are shut down during the summer months? Beds that had been up and running in approved centres for children with expert, specialist child care psychiatric services are going to be closed this summer on the Minister of State's watch unless he can do something tomorrow or the day after to stop them being decommissioned. Against what is meant to be Government policy or its objective is to keep children out of adult psychiatric services, but children will be forced into them unless something is

done. We cannot have a situation where there are empty specialist beds for children in child psychiatric services but the excuse is that they are not available. They are available and must be funded and resourced. That is the job of the Minister of State or the Government and it is very important. Exceptional circumstances have been referenced. That can have many meanings. We cannot have a situation where there is bed capacity in the service but the Department of Health is going to close some of those beds for the summer. Is the Minister of State aware of that? He is new to his post but it is a very important issue. It is about prioritising things, allocating resources and putting facilities in place.

Senator Freeman has clearly set out the Bill. It is important. There may be other Stages on it. It might be helpful if the Minister of State could indicate if the Government will support this Bill. Clearly, it has made a decision. The Minister of State might be kind enough to share that decision with the House. Will the Government support this Bill or does it intend to oppose elements of it? It is an important Bill and we must always remember that it is about children and their safe and appropriate care leading to rehabilitation and ideally getting back to live with their families.

Senator Frank Feighan: As Seanad spokesperson on mental health, I sincerely thank Senators Freeman, Craughwell and Marie-Louise O'Donnell for their work on this very important issue. I welcome the Minister of State and offer him congratulations on his appointment. I wish him well in his brief, which is very difficult but one which he is well capable of handling. I wish him every success.

No Member of this House would disagree with the broad thrust of this Bill which is aimed at protecting very vulnerable children and young people. An amendment is proposed to the Mental Health Act of 2001, which has been the subject of many comprehensive reviews by an expert group established by the previous Government. I was a Member of this House in 2002 and this issue was part of my brief from 2002 to 2007. Sometimes we find ourselves in situations and experience a sense of *déjà vu*. It is incredible that we are still discussing this very difficult, complex, delicate and emotive subject. The expert group was made up of a cross-section of mental health professionals and stakeholders, including the Mental Health Commission, the Irish Human Rights and Equality Commission, the Irish Mental Health Lawyers Association and a service user representative. The group's final report contained 165 recommendations. It made 13 recommendations as to how our mental health legislation could be improved in relation to children. It included a recommendation that every child should have access to health services with the aim of delivering the highest attainable standard of child mental health and that services should be provided in an age-appropriate environment wherever possible. That is a recommendation that all Members strongly endorse. I have been to various facilities in Roscommon and have seen that sometimes people should not be there and young people should not be there. We were quite slow, as were the services and the service providers. Sometimes Members, as politicians, do not have all the solutions, but we are not equipped to deal with these very difficult situations. People within the services sometimes do not go beyond what they should do in providing these services. I thank the Senators behind this Bill for bringing it to the House. Sometimes we rely on service providers or people in Departments to lead by example, and sometimes that has not happened. Perhaps legislators have not led by example either.

The Government has said a number of issues in this Bill need to be examined further. The Government is certainly not opposing the Bill and I believe this debate yet again raises the need for appropriate inpatient psychiatric units for children and adolescents. As Senator Freeman

has pointed out before, there is protective legislation in England and Wales which provides that where a child is admitted or detained in hospital for treatment, the environment in the hospital must be suitable having regard to the child's age. This is very important. The Bill aims to address this situation in Ireland. Senator Freeman and her colleagues have rightly highlighted an issue which is repugnant to us all. The trauma to a child placed in an adult psychiatric ward must be truly horrific for both the child and his or her family.

While there are still challenges, it is good to see progress has been made. In 2008, there were 247 such child admissions to adult units but this decreased to 68 in 2016. However, all Members agree that one child admission to an adult unit is one too many. As I said, the Government has raised a number of issues with the Bill. Among them is the concern that the option to admit a child to an adult unit in exceptional circumstances should not be restricted by law. While best practice will always be to admit children to age-appropriate units, the Government's view is that the other option should not be restricted by legislation. It must also be remembered that the Mental Health Commission has a code of practice that specifically covers the involuntary admission of children to adult units. All such admissions must be fully explained to the independent regulator.

I would like to speak about adult admissions. In 2011, we had a very difficult situation in Roscommon. We had a €20 million development. We wanted to build an endoscopy unit at a cost of €8 million. A rehabilitation unit from Dún Laoghaire was going to be built as well. We were working in conjunction with the Mayo-Roscommon hospice to build a stand-alone hospice on the grounds of Roscommon hospital. As those who are familiar with the hospital will appreciate, we wanted to build all of these facilities together so that they could be accessed through the front door. The psychiatric services at the back operated virtually independently of the hospital. We said we wanted to build a brand-new facility out the back, where eight or nine acres were available. We understood that this would involve some inconvenience for a while. After six months, we could not get any agreement. There was no agreement. A brand-new facility would have been built on the right, but there was no agreement. We ended up having to build the endoscopy unit over the urgent care centre. We are now in planning to build the rehabilitation unit around the left side of the psychiatric services. We are building the palliative care unit around the other side. Five years later, people are now telling me that the psychiatric services are not fit for purpose. There is something fundamentally wrong. Nobody wanted to make a decision. We had to go ahead. This was a lost opportunity. Opportunities are being lost around the country. At the time, we could have gone straight out the back to build all the services. It would have cost much less and there would have been less hassle. That is the problem.

It is clear that there are many challenges. I would like to think that this Government will focus its efforts on ensuring enough mental health beds for children are available to meet the level of demand that exists. All of us have a duty and responsibility to safeguard our children and young people, especially our most vulnerable. As a public representative, I would like to send that message out again today. I would like us to do everything we can to ensure this happens. I thank Senators Freeman, Craughwell and Marie-Louise O'Donnell for their duty and vocation in bringing this Bill before the House.

Senator Keith Swanick: I congratulate the Minister of State, Deputy Jim Daly, on his appointment and welcome him to the House. I thank Senator Freeman for introducing this important legislation, which Fianna Fáil is happy to support. This Bill, which proposes to end the practice of admitting children to adult psychiatric units, legislates for what is already the stated policy of the HSE and the Department of Health.

The admission of a child to an adult ward can make the inpatient experience far more distressing for the child. It does not place the child in an environment that supports his or her recovery. The inappropriate admission of children and adolescents to adult inpatient units is undoubtedly a matter of significant concern. Resources must be brought to bear as a matter of urgency to provide for the community-based service and the age-appropriate acute care that would reduce such admissions.

My party colleague, Deputy Browne, also has a mental health (amendment) Bill in process. Thankfully, it has been allowed to skip pre-legislative scrutiny and go to Committee Stage straightaway. This is in part as a result of a commitment to give mental health a level of priority which has usually been reserved for physical health. That mental health issues are featuring on the legislative agenda of both Houses with such support is a demonstration of increased awareness of mental health issues on all sides of the House.

Senator Freeman's Bill is to be highly commended. I say that as a doctor who has worked in the mental health service in Dublin, St. Ita's Hospital and the NHS system in Wales. If this Bill is passed, it will create a statutory basis for ensuring the practice of admitting children to adult psychiatric units can no longer occur. Generally speaking, admissions are covered by section 14 of the Mental Health Act 2001. The Bill before the House intends to amend the 2001 Act by inserting new provisions to the effect that, "No admission order shall be made in respect of a child under the age of eighteen to an adult inpatient unit save in exceptional circumstances where it is in his or her best interests to do so", and that, "Where a child is admitted to an adult inpatient unit he or she shall be accommodated in an area separate from adults in an age-appropriate environment with age-appropriate facilities." That is very important.

Mental health advocacy groups have expressed concern that this Bill, as drafted, could have unintended consequences. We would like these matters to be addressed as the legislation proceeds. There is a risk that the simple provision of a legislative lever that prohibits child admissions could have the effect of overbalancing resources towards the provision of more inpatient beds in a reactive manner. The provision of a better-resourced, community-based mental health service, in conjunction with some preventive measures, could be expected to have the effect of reducing the need for inpatient beds overall. It is expected that improvements in community-based services, including a seven-day service and a 24-7 community-based crisis intervention service, would lead to a significant reduction in the number of inappropriate child admissions to adult units.

It is critical to build the capacity of the primary care sector to provide comprehensive mental health services, with a particular emphasis on providing crisis out-of-hours mental health supports in every community. Similarly, we must develop local alternatives to inpatient services, such as assertive outreach, early intervention in psychosis and other community-based incentive supports, in addition to family-centred supports. It is vital that we increase accessibility to specialist child and adolescent mental health services, including both inpatient and outpatient services where necessary, to avoid inappropriate child admissions to adult units. There is also a concern that the effect of the establishment of a law that allows child admissions to adult units in exceptional circumstances, as set out in the Bill, could be the opposite of the intended aim. This could happen if a legal basis for inappropriate admissions that does not exist currently is created. We will tease this out at later Stages.

I am aware that many Members of this House want their local child and adolescent mental health services to receive better funding and resources. There is a need for a considerable in-

crease in recruitment to community mental health teams. The HSE has admitted that it has just over half the staff it needs to operate such teams if it is to comply with A Vision for Change. One in four of the population of Ireland is under the age of 18. According to the HSE, there were 648 staff in the child and adolescent community teams at the end of 2016. This represents just over 54% of the staffing level of 1,195 that was recommended in the A Vision for Change policy document on the basis of 2016 population levels. Such insufficient staffing levels in our mental health services must be addressed with urgency. The inadequacy of current provision has the potential to pose serious knock-on effects.

While I understand that there are some problems with recruitment, I am sick and tired of hearing that the Government is doing everything possible in this respect, as I believe this is simply not true. According to the 2015 annual report of the Mental Health Commission, “there is still a most unsatisfactory situation whereby children are being admitted to adult units, there were 95 such admissions in 2015.” It should be noted that the Mental Health Commission’s code of practice, which has been accepted by the HSE, states that inappropriate admissions of children to adult units should not take place. Obviously, this has not translated into practice. There is a clear need for legislation to prevent such admissions. That is why I am supporting the Bill before the House.

Senator Máire Devine: I welcome the Minister of State, Deputy Jim Daly, to the House. I hope we can work collaboratively as we have done on the Joint Committee on Children and Youth Affairs. I congratulate Senator Freeman, who has vast experience and deep knowledge of the mental health landscape, and the two other Senators who are sponsoring this Bill. Pieta House’s community hub approach is in line with what my Sinn Féin colleagues and I have been advocating for. Local communities need to own the topic of mental health so that local people can be served. Mental health services need to be run by, on behalf of and for local communities. In this House, we should work as a team in supporting the lead Senator who has proposed a Bill as an idea or a first draft in amending or refining that legislation so that the best Bill possible can be produced for the good of the people of this island and, in this case, for the good of our children. This Bill is very well intentioned and highlights a serious problem which must be dealt with by the Government. No child should be placed inappropriately in an adult ward without additional supports.

It is important to note recent trends in the admission of children to adult units because we all know it is a real issue. Between 2015 and 2016, the number of children placed in adult units decreased and this is to be welcomed. However, I believe this improvement will be short-lived and we cannot be fooled into thinking that the problem is beginning to go away. I fear we are actually beginning to see a rise in the figures again this year. In the first four months of this year alone, 38 children were admitted to adult units. If that trend continues it will mean that more than 100 children will be admitted to adult units in 2017, which is a big increase on the 2016 figure of 68. In light of this, the legislation before us is more timely than ever.

I refer to a response to a parliamentary question tabled by Deputy Buckley on the availability of child and adolescent inpatient beds in 2017. The HSE stated there has been a 50% reduction in the availability of such beds in the Dublin region due to staff difficulties. This obviously is the capacity issue. UNICEF published a report on Monday which showed that Ireland’s 11 to 15 year olds are the second or third most likely out of the 37 countries surveyed to experience at least two traumatic mental health stresses every week. That is significant. What are we doing to our children? What are we doing to our society? Referrals to CAMHS have increased by 60% over the past six years. This is really heartbreaking stuff and we are cutting every service

to the bone. It cannot go on.

It is unacceptable to put a child in a psychiatric unit with adults. I say this on the back of 30 years' experience as a psychiatric nurse. In those 30 years, I have seen children being what is called specialed, which means that a staff member is with them at all times and is never more than an arm's length away in order to protect them in an adult psychiatric hospital. It is frightening for children and is a dangerous environment. They witness horrific situations that children should never witness. Indeed, it is hard enough for adults to witness them. They are isolated and traumatised before they even begin to try to address the reasons for their admission in the first place.

I am extremely concerned and have been vocal about the closure of the youth mental health beds in Linn Dara in my home constituency of Dublin South-Central. I challenged the Minister about it in this House a few weeks ago. It cannot be all about beds and I understand that. We need a community-based approach and I am a long-term advocate of the community well-being approach and of community hubs. That said, beds are also important and I am devastated that the reality on the ground means that Senator Freeman's Bill, if and when it is passed, will not be able to function.

Deputy O'Reilly tabled a parliamentary question on my behalf on 19 June. The reply she received says that the recommendations of A Vision for Change were based on population figures from the 2002 census, which was 3.9 million. The total recommended number of staff then was 10,650. The 2016 population is at 4.7 million and the adjusted staffing requirement is almost 13,000. We have seen a significant increase in our population in the last decade and a significant increase in our birth rate. I believe we are considered to be the youngest country in Europe. Overall though, when one looks at the statistics for the entire country, only 52% of whole-time equivalent posts in CAMHS are filled. That leaves unfilled 48% of posts. Where are we going and what are we doing? There is a 48% deficit in caring for our children, which is gobsmacking.

Sinn Féin supports this Bill but may seek to work with Senator Freeman to amend it slightly to offer more detail in order that the core premise of the Bill can be realised. I would like to flag the fact that we will offer more detailed criteria and definitions under which it may be acceptable for someone under 18 to be placed in an adult unit. We may seek to do this as the Bill progresses. We would also like to set time limits for finding a place for a child in a more appropriate setting. These contributions are intended to strengthen the Bill.

We will also call for a more cohesive and strategic approach from the Government to child and youth mental health overall. We need investment in the community, community ownership in community hubs and 24-7 access to care for our children. We also need to ensure that no child is treated in an adult centre and we are very happy to support Senator Freeman to progress this aim.

I ask the Minister of State to be both passionate and compassionate in his new role and to re-open the beds in Linn Dara, regardless of the cost. We can work with the Minister of State on this and the unions will work with him too. They have solutions. That would be a great statement of the Minister of State's intent. I ask him to be proactive and to reopen the 11 beds and not to fall back on the old reliable response about conducting a review. We are sick of reviews. We have reviews coming out of our ears. They do nothing but kick everything to touch.

An Cathaoirleach: I would like to acknowledge the presence in the Chamber of Deputy Pat Buckley, who has some expertise in this area. He is most welcome. I always acknowledge Members from the Lower House who come in to listen to our debates and show respect for our Chamber.

Senator Colette Kelleher: I would like to congratulate Deputy Jim Daly on being made a Minister of State. Cork has had a good week. I wish him well and advise him that we will be critical friends to him in his role as Minister of State.

I support the Mental Health (Amendment) Bill and congratulate Senator Freeman on it. She is a woman who really knows what she is talking about in this area. In that regard, we would do well to listen to her and to take note of what she is proposing and advising. The co-signatories to this Bill, Senators Marie-Louise O'Donnell and Craughwell, also bring experience and knowledge to this area.

Children and young people being incarcerated in adult mental health settings is simply not acceptable. A change to this situation is urgent and overdue. Reputable bodies like the Mental Health Commission, the Children's Rights Alliance and the Ombudsman for Children support the call for the ending of the current unacceptable situation in which significant numbers of children and young people - a total of 95 in 2015 - with serious mental health issues are admitted to adult psychiatric inpatient units. These children and young people are being detained, sometimes voluntarily, with adults who also have significant mental health issues. One does not need to be a psychiatrist, psychologist or social worker to know this is not good enough for some of our most fragile, troubled and sensitive children. That is why I am supporting this Bill. While I am clear and unequivocal in my support for this Bill, I believe that Senator Freeman and others should, as the Bill progresses, look at some of the practical implementation issues raised by the Department of Health and by Lucena's CAMHS consultants in their submission to the Seanad's public consultation which is currently under way.

This evening I would like to briefly put this Bill, focusing on the mental health and support of our children, in context. Children in Ireland today face many challenges as they grow and develop. Approximately 130,000 children live in consistent poverty; 1,200 children live in direct provision; Traveller infant mortality is 3.6 times higher than for the rest of the population; 170 children have been waiting more than a year for mental health services; 56% of LGBTI children have self-harmed; and 2,500 children live in emergency accommodation. This Bill rightly focuses on the unacceptable practice, which is part of the current hugely inadequate mental health system for children and adults, of detaining and incarcerating children and young people in adult mental health units due to a lack of alternatives.

On 29 June next, the Seanad Public Consultation Committee, of which Senators Freeman and Devine and I are members, will begin to examine the Irish mental health service for children and young people in depth. The committee received a record number of submissions, including from children who were directly affected, their often distraught parents, as well as from key organisations and academics.

6 o'clock o'clock We look forward to hearing directly from people, especially those directly affected, namely, the children, the young people and their families. Tonight, however, Members should also consider the effects of wider public policy failures on children's lives and on their mental health, well-being and ability to flourish. There are many policy interdependencies that affect children adversely and I will focus on a few of them tonight.

On the issue of housing and its failures, 2,500 children are living in emergency accommodation at present. The former Minister for Housing, Planning, Community and Local Government, Deputy Coveney, set the target of 1 July as an end-date for children living in emergency accommodation. On listening to the new Minister, Deputy Eoghan Murphy, talking this week about managing expectations in reaching the Government's targets, it seems likely that this deadline will be missed. Let us just think about the anxiety levels among those children living in such conditions. They have nowhere to play, to do homework or to cook a family meal, as well as no permanence or certainty, no long-term school place or community and no chance to make the friends who support one for life, as we all did. These friendships, family and community are critical for positive child development. As part of the framework for mental health and children's well-being, we must address housing as a matter of urgency.

We are also aware of the sky-high rates of mental ill-health among Traveller children and young people. The Traveller suicide rate is six times higher than that of the general population and according to Pavee Point, it accounts for 11% of all Traveller deaths. Suicide for Traveller men is seven times higher and most common in Traveller boys and men aged 15 to 25. We need to know when their housing crisis, which predates the one engulfing us all, will be addressed and their housing needs met to address the off-the-scale mental ill-health in that community.

We need to address the needs of the 1,200 children living in direct provision and the impact of such a life on their mental health. We need to consider the policy failure in this regard and the impact on children. We also need to consider policy failures for children and young people with disabilities, who experience very high rates of mental ill-health. The fact is that such children often fall between the silos of disability on the one hand and mental ill-health on the other, often getting support from neither system.

We need to consider the policy failures of our children leaving care and the impact that has on their mental ill-health. While some positive announcements have been made on after-care, which I hope are realised, too many children at risk await the allocation of a social worker and there is still no 24 hour, seven days a week cover.

Let us consider our failure to progress the public alcohol Bill strongly advocated by my Civil Engagement colleague, Senator Black. This was shamefully held up in this House, despite knowing as Members do how alcohol abuse by parents and carers causes such harm to children and to their mental health and well-being. The Government failed to act on the evidence put forward by its own Department of Health and lacked the courage to stand up to the powerful alcohol industry, again to the detriment of our children's safety and mental health.

Our levels of child poverty and our failure to act are shameful. I hope that the new Minister with responsibility for employment and social protection will act on the report that was published last week on helping lone parents return to work in order that they can support their children. Members should consider how educational policy failures have an impact on children in general, and on LGBTI children in particular. According to the former Minister's report last year, twice as many children in this population self-harmed, three times as many attempted suicide and four times as many experienced extremely severe stress, anxiety or depression.

I have a clear vision of what an Ireland that cherishes her children would look like. Each child would be a wanted child, with those of childbearing age having access to timely sex education and accessible and free contraception. We would have a family support programme like the Sure Start programme in the UK, with universal supports and early intervention easily

available on each child and parent's doorstep, especially supports that focus on children's early days, weeks and years, when so much happens developmentally. We would have a network of publicly-funded early education and child care and flexible working as a right for the parents of young children. We would have playgrounds and child-friendly places in every community, safe roads in the community in order that children can play outside and walk to school, schools open all year around with breakfast clubs so that no child need face the school day on an empty stomach, free school meals, after-school clubs, holiday play schemes and a welfare programme in every school, primary and secondary. There also would be accessible and free counselling, not just career guidance, as part of every secondary school, as well as counselling and welfare supports as part of every third level institution, particularly targeting young people in transition as they enter and leave. These are not pipe dreams. Such supports are commonplace in other countries across Europe and in places poorer than Ireland. I fought for this in the UK. My family had these supports available to us when I raised my children in a poor north London borough. I imagine that they have now, sadly, been dismantled by Tory cuts.

I too fully support the proposal in Sláintecare to ensure that mental health services in general and for children and young people in particular need to be adequate to the task and that the Children and Adolescent Mental Health Services, CAMHS, and others have the resources and the means to support children's mental health and well-being. Moreover, by also considering wider public policy on housing, Traveller accommodation, direct provision, disability, social welfare and other issues, we can prevent children getting ill in the first place. Our CAMH service should be a preventative and generalist one with greater focus on talking therapies including free and accredited psychotherapy, cognitive behavioural therapy, family therapy and art therapy, as well as community supports. I question whether it is necessary for it to be psychiatry-led. Medication and incarceration should be the very last resort and we should instead be understanding, cherishing, supporting and loving these, our most troubled and fragile children. The last place they should be is in an adult unit. We should do much more to make sure that they never get there in the first place, by doing all of the things specific to mental health but also generally in the community.

I thank Senator Freeman for bringing forward this measure and I heartily support it.

Senator Gerald Nash: I join in the general congratulations of Deputy Jim Daly on his appointment as Minister of State. I suggest that it is a description he will never tire of hearing. It is well deserved and I wish him every success. I know he will deliver in this role and if I have any word of advice for him it is that he not lose his humanity, his compassion and his hunger to deliver and that he not be afraid to make decisions, decisions I know he will stand over-----

An Cathaoirleach: And, most importantly, not to lose his seat.

Senator Gerald Nash: Absolutely. Do not remind me, a Chathaoirligh. I do not need to be reminded of that.

An Cathaoirleach: It happened to myself so I know what it is like.

Senator Gerald Nash: This is very progressive legislation and I hope it passes through all Stages in these Houses very quickly. It is the type of legislation behind which this House can unite and I hope that all shades of political opinion can assemble behind it. It really is critical. Senator Freeman herself deserves great credit for advancing this legislation. It is essentially about human rights. The Senator of course brings a huge amount of professional experience

to this debate and to forming this important legislation, as do many Members of this House. I often do not feel qualified to discuss issues like this, on a professional level at least. All of us who are public representatives, however - I have been a public representative of one description or another for 18 years now - have experienced where the gaps in services are in constituencies nationwide. Valiant efforts have been made, often in very difficult funding circumstances, to try to build up the architecture of services in recent years. The voluntary sector deserves great credit for spearheading some of the campaigns and some of the advances we have had in the provision of services to people with mental health conditions.

I also congratulate Senators Marie-Louise O'Donnell and Craughwell for co-sponsoring the Bill. It is really important that this House is spearheading an initiative to explore and examine CAMH services across the country and I know that this has been led by Senator Freeman with the support of everybody in this House. I cannot think of a better and more appropriate use of the time and energy of this House and its Members than doing a comprehensive analysis and talking to people affected by mental health conditions. These are the children and adolescents, their representatives and indeed their families, the people bearing the caring responsibility and the responsibility to support those in what are often very difficult circumstances indeed. It is important that we reach out to those who experiencing mental health conditions and have these conversations in our national Parliament. The symbolism of that is really important. We have started to talk much more openly about mental health conditions in this country, conditions that we would just not touch even a short number of years ago. That is something of which we can be proud. That does not mean that the job is done, however. A good place to start when we are talking about the provision of services for children and adolescents is the Bill. A lot begins from this kind of perspective. It is, frankly, disgraceful that young people experiencing mental health issues are often confined to adult mental health units which are entirely inappropriate for them in terms of their age and the conditions they may be experiencing. It often serves to traumatise further young people who are in very difficult circumstances.

I was a member of the Government which in 2015, to the credit of the then Minister, Senator James Reilly and other colleagues, ended the practice of detaining young offenders in adult prisons, something that was entirely unconscionable, . It is extraordinary and, frankly, unconscionable that in the Ireland of 2017, young people with health problems too often have to face the prospect of entering adult units and all that involves. One of the most vulnerable cohorts of our society is being exposed to experiences that society should not expose them to. This has to stop, and it can stop if the House and Government accept the Bill.

I am sure Senator Freeman and the other sponsors of the Bill will be happy to work with the Minister of State and his officials to finesse and nuance the Bill. I am sure that offer will be made and the opportunity will arise. We can all get onto the same page on this issue. It is of critical importance. We can seek to address the resource issues we all know exist.

Notwithstanding all that, it is important we accept that, albeit incremental, services have improved in recent years. In my constituency we have a large new mental health facility in Drogheda which my former colleague, the former Minister of State, Kathleen Lynch, was instrumental in delivering for the area. It moves people from what are often Dickensian conditions in outdated facilities into new facilities. There are more outreach workers to deliver the community-based response we need.

Of course, prevention is key. Ensuring those who need acute services are accommodated in appropriate facilities with the range of different services they need is essential. I have already

seen better outcomes from the types of services that have been delivered in my area in recent times. I appeal to the Minister of State to keep an open mind and ear in respect of the Bill and to work with Senator Freeman and the co-sponsors of the Bill to improve it if necessary.

Senator Marie-Louise O'Donnell: I congratulate the Minister of State. He is coming down with congratulations today, but I genuinely mean it because I worked with him on the Joint Committee on Education and Skills for a number of years. He is a very able, informed and definite personality. He knows where he wants to go. I do not think he will be put off course very quickly. I wish him all that is best in this Ministry. There is much he can do. This is a significant area for children and the elderly. Everyone is talking about Brexit, but no one wants to attempt to talk about how we age in Ireland, even though our population is getting older and over the next 25 years, 25% of us will be aged over 65. That is a debate for another day.

I congratulate Senator Freeman. The Bill is her gift and we are just co-signatories. She did the work and had the idea. She came from a professional, brilliant workaday background. She brought all that into the Seanad and onto paper in the Bill. I want to wish her much luck. The work was brilliantly done and comes from a central place in her. She knows what she is talking about and how things could be changed. It was her gift which we had the privilege of signing. It is very much her Bill.

The Bill states that to put young people in a mental health service for adults is inexcusable, counter-therapeutic and purely custodial. I wish to make a philosophical point. Many Senators have spoken to the Bill very well. As a society, we have forgotten the distinction between an adult and a child, and those stages have become amalgamated and enmeshed. There is what one would call a disappearance of childhood within society which we, as a society, have tolerated. There is very little difference in our music industry, humour, clothes and food. The language used in front of children or that which children use is not different. In terms of expectations, attitudes and reactions, there is an absence of boundaries between the adult and child which is part of the reason we do not stop and think about what we are doing to a young fractured child when he or she is put into adult environments.

Sometimes we ask who is the mother and who is the child, and tell people that mummy looks as young as a child. A woman who is aged 47 may look 18. A child who is aged 13 may look 23. The media industry, including film, video and television, has created a sense of knowledge and way of knowing around that.

There are adult themes for children. This is a completely different viewpoint, but it is not really because it feeds into our lack of distinction. I remember railing against the sale of the national lottery to build the children's hospital, but understanding why it was necessary in order to find €400 million. We have only now turned the sod on it and are still rowing about the project.

Members should look at television, film, books and fashion. Adults are now selling sweets in advertisements, using the voices of children. There is a constant absence of boundaries between the child and the adult, which is a way of advertising, selling and marketing. A child will now advertise a car or food. There is no differentiation. In looking philosophically at the arts and the use of media, what keeps coming back to me is the disappearance of childhood and the amalgamation of adults and children, creating mini-adults. That came into my mind because many Senators spoke to the Bill. Sometimes we forget that there is a major difference between a young child, a young adolescent, an adult and a young adult.

I gracefully and gratefully commend the Bill and Senator Freeman, because she brought it to the House. We had the privilege of being co-signatories. I wish her luck and will support the Bill. I would take the advice of colleagues that there is always something to be added and some space to be filled in. We have an open ear, given the appointment of a new Minister of State who certainly has an open and good mind. He is an educationalist as well as a wonderful foster father. There are three or four people on his team.

Senator John Dolan: I welcome the new bright and shiny Minister of State. I will leave it at that. He has the wind in his back in regard to one thing. The following statement was made by the Taoiseach when he announced his Cabinet last Wednesday: “As a Government, we are renewing our commitment to ratify the UN Convention on the Rights of Persons with Disabilities this year and to improving services available to people with disabilities”. We are dealing with one critical element of that.

I thank Senator Freeman and her co-sponsors, Senators Craughwell and Marie-Louise O'Donnell, who has just spoken. As someone in the other House said a number of years ago, I feel like my clothes have been stolen because I will not be as eloquent as Senator O'Donnell.

I want to start by saying a child is not a small adult. I was speaking to a paediatrician a few years about medication and I asked whether one simply halved the dose if the patient was a child. I was told that was not the case because the metabolism is different. Senator Marie-Louise O'Donnell was spot on. We should bring ourselves back 20, 30, 40 or 50 years and recall how we saw the world as children. How a child or a young adult sees the world is very different and that space is being shrunk now. It is meshing, as has been said. That is a core thing to recall in this discussion.

Senator Devine was very pointed when she talked about the things, without being too overt about it, that happen and can be seen in an adult psychiatric facility. One would not bring a child to see an over-18s movie. How does one then have them in a place where adults may be quite disturbed? We should be able to strip back the layers and say this is unconscionable.

Senator Kelleher has been very strong on community supports and I will not say too much more about it. Having good community infrastructure and supports both within the health sphere and beyond in education, etc., is critical. One wants to have the appropriate facilities for children and young people in terms of admission, but one does not want to need a lot of it. We want to head off as much as we can. It needs to be planned and appropriate.

In thinking about this since coming into the Chamber, I have been trying to imagine what it is like. I was thinking of being hospitalised due to polio when I was 11. I went to a hospital with a children's ward in it. The only thing I did not like was that there was also a school in it. The Minister of State, as a teacher, will forgive me for saying that. In a sense, that was a normalisation of it. All the staff and the things I saw around me were child and young-person specific. The orthopaedic surgeons may have also worked on the adult side, but they behaved in a way that was appropriate for children when they walked into that space. The man who delivered newspapers and comics, the porters and others did the same. The space will create or encourage the appropriate behaviour. Children can also help each other in their own ways. There is a sadness in it, but we also accept the importance of hospice care for children. We must likewise accept that there must be appropriate spaces and relationships for children and young people.

Young people, particularly teenagers, are not keen to be routinely in the company of their parents, even though they bankroll them and do a great deal else for them. How, then, should they be placed in an adult space in which people are going through very difficult times? If this was easy to solve, it would have been solved. However, it needs to come to an end. If we are to have anything left there for a while, it should only be exceptions. It is not acceptable and that has to be hammered home. It is what the Bill is about and we take it from there. I am hopeful about the new spirit the Taoiseach has brought to this issue and his support for ratifying the UN convention. This is one lovely piece of it. We are talking about people who have a lifetime ahead of them. Is that a lifetime where they can look back well on a place or situation which was difficult for them or will it be haunted by what happened?

An Cathaoirleach: I will call the Minister of State to speak next. First, however, I acknowledge the presence of Deputy James Browne in the Chamber who is holding a watching brief on proceedings.

Minister of State at the Department of Health (Deputy Jim Daly): I thank all of those Senators who have contributed to the debate. I thank them in particular for their very generous, effusive and kind welcome and words. I am not sure if I am worthy of all of what Senator O'Donnell said.

Senator Máire Devine: For how long it lasts.

Deputy Jim Daly: Only time will tell. I will enjoy the day that is in it because as time goes on the welcome may be somewhat lessened. We may get more adversarial but hopefully we will not. On a more serious note, I commend Senators on the quality of the debate I have listened to. It is no wonder the House is referred to as the Upper House because there was a very high standard of debate here today. I have been genuinely very moved and impressed by the quality and calibre of the speakers and the sincerity, collaboration and genuineness of their approach. I say "Well done" to each and every one of the speakers.

I congratulate Senator Freeman for taking on an issue as real and urgent as this one. It is something that means a great deal to many people. These are our most vulnerable citizens and we owe it to them to discuss in the Houses of the Oireachtas the issues that affect them and to be their voice. I say "Well done" to her for bringing this to the floor of the House. It is a very good day when we have conversations like this in both Houses and when we have discussed so freely and openly mental health and the challenges associated with it.

As the newly-appointed Minister of State with responsibility for mental health and older people, I am delighted to have the opportunity to respond on behalf of the Government to Senator Freeman's Bill. It is important to begin my remarks by saying that I fully accept that we must continue to do all that we can to reduce to the greatest degree possible the number of child admissions to adult psychiatric units. I do not doubt for a second that all Members of the House agree on that and on the proposals contained in the Bill. The debate on the Bill is not about whether we agree that we need to reduce these admissions, which is a given. What we need to consider this evening is whether the Bill can actually achieve the aim of reducing such admissions. Equally, we need to be mindful of any unintended consequences of the Bill. We must not allow our shared desire to reduce such admissions to reduce in any way the scrutiny to which we subject this Bill.

The Government is committed to reducing the number of child admissions to adult units

21 June 2017

further and, in that regard, significant progress has already been made. Such admissions were reduced from 247 in 2008 to 68 at the end of 2016. Of course, that does not mean the job is done. Again, I do not need convincing that we need to continue to do more to bring this figure down further. It is still 68 too many if they are inappropriately placed in care. My Department and the HSE are working hard on a continuous basis to improve the delivery of mental health services for children. These services have benefitted from the significant additional investment in mental health in recent years. The HSE's service plan for 2017 will further develop CAMHS as a priority, including better out-of-hours liaison and seven-day response services. Since 2012, around €140 million has been added to the HSE's mental health budget, which is an increase of around 20% between 2012 and 2017. The Programme for a Partnership Government also gives a clear commitment to increase our mental health budget annually, as resources allow, to expand existing services.

It is no secret that demand for services continues to exceed availability as evidenced through waiting lists for CAMHS. CAMHS is identified as a key service improvement project for the HSE and work has been ongoing to reduce waiting lists with a particular focus on those who have been waiting for more than 12 months. Some of the main contributing factors that are impacting on waiting times for CAMHS services are vacancies within teams as well as cases that are more appropriate to primary care and disabilities. There are well-publicised difficulties in recruiting certain categories of staff, including consultants and nursing staff. The HSE continues to make strenuous efforts to recruit such staff, including greater support for specialist training of consultants and the development of a nursing postgraduate training programme. The recruitment of 114 assistant psychologists has recently been approved by the Department of Public Expenditure and Reform, which is a significant step in reducing waiting lists for CAMHS. Introducing mental health expertise in primary care also has the potential to provide quicker access to mental health supports for families and children where difficulties have arisen and to prevent the development of more serious difficulties.

The question that must be asked is how the specific legislative changes proposed in Senator Freeman's Bill this will improve services for children. As I have already said, we are all on the same side in wanting to reduce such admissions and the motives behind Senator Freeman's Bill are well intentioned. On the face of it, the Bill seems reasoned and proportionate but my Department has some concerns over the possible unintended consequences of the Bill and it would be remiss of me not to mention these. I believe these concerns need to be considered in more detail with Senator Freeman and other interested parties before the Bill advances to Committee Stage and I know the Senator agrees with me on this.

In light of this I welcome that Senator Freeman has agreed that the Bill not progress to Committee Stage before 31 October to allow time for my Department to continue to work with her on the Bill. As I am new on the job, I will take that opportunity to work with the Senator to add some finesse. We need to address the concerns, as none of us wants unintended consequences. We can debate those rationally but that does not take from the spirit of the Senator's Bill in any way.

The aim of this Bill, which is to allow for the admission of children to adult units in exceptional circumstances only, is already existing practice. The Mental Health Commission has a code of practice for the involuntary admission of children and section 2.5 of that document sets out the procedures that should apply in circumstances where it is deemed necessary that a child be admitted to an adult unit, including the need for the approved centre to have appropriate policies and protocols in place and age-appropriate facilities.

The code also puts an onus on the commission to review the number of admissions of children to approved centres for adults from time to time. The commission comments on this in each of its annual reports, as well as providing specific commentary in relevant approved centre inspection reports. These requirements are in place specifically to reflect the importance attached to monitoring such admissions where they are deemed necessary.

The commission also requires consultant psychiatrists to explain exactly why they have admitted a child to an adult unit. For example, in addition to setting out the reasons for the proposed admission, the consultant must outline the efforts made to admit the child to an age-appropriate approved centre and he or she is required to confirm that no bed is available in an age-appropriate centre. He or she must also explain what alternatives were considered to admitting the child to an adult unit and why these alternatives were not deemed possible. Furthermore, information must be given on the length of time the child is expected to remain in the adult unit and on the plans to place the child in an age-appropriate approved centre. Finally, the commission must be notified of all such admissions.

There is no doubt, therefore, that existing admissions must only occur in exceptional circumstances and all such admissions must be fully explained to the independent regulator. Putting existing practice on a statutory footing, however, presents a number of problems. For example, there are concerns over the requirement to put the term “emergency circumstances” in primary legislation. This phrase would have to be clearly defined, yet the word “emergency” by its very nature is difficult to capture in all circumstances. On the one hand if the definition is too literal, there is a risk that some children may lose out while if it is too general, there is a risk that any circumstances can be considered emergency circumstances.

Previous experience would suggest that referrals to the courts could increase and that they could be left to make judgments in cases which are not easily defined. While no one would deny that people have an absolute right to go to court, there is an onus on the Legislature to ensure to the greatest degree possible that the law is based on sound principles and is not easily open to differing interpretations. This concern is real and needs to be considered further.

Arising from the possibility that putting the term “emergency circumstances” in primary legislation may add greater uncertainty to the admissions process, another concern is that consultant psychiatrists may reconsider referring a child for inpatient treatment if an adult unit is all that is available at the time. This potentially leaves a patient with a high clinical need open to the risk of delayed treatment or possibly no admission at all. As legislators, we should not be tying the hands of the medical profession and interfering with the clinical process.

While the rationale behind the Bill, as stated by Senator Freeman, is clearly to end child admissions to adult units, paradoxically the Bill as currently worded would for the first time actually legalise the practice of admitting children to adult units albeit in emergency circumstances only. The question must therefore be asked if this will be seen as a sign that such admissions, now being formally provided for under primary legislation, will in some minds standardise this process. This is the opposite of what the Bill intends to achieve.

A comprehensive expert group review of the Mental Health Act 2001 was published in 2015. The group made 13 specific recommendations as to how our mental health legislation relating to children could be improved, including, for example, the recommendation that a stand-alone section of the Act should deal with children. In addition, the group recommended including in the legislation a list of child-appropriate guiding principles which would include, for example,

that every child should have access to health services which aim to deliver the highest attainable standard of child mental health and that services should be provided in an age-appropriate environment wherever possible.

The group suggested that the latter recommendation be included in guiding principles that are intended to guide the interpretation of the Act rather than recommending that any specific reference to adult units be included in a section of the Act listing it as an absolute requirement. This is a key distinction for Senators to consider and I believe that proceeding on this basis offers a measured and considered approach to the issue of child admissions to adult units without tying the hands of the medical profession in clinical circumstances. I also think this suggests a way forward that Senators could see as a useful compromise.

It is also important to understand some of the reasons a child might be admitted to an adult unit. For example, such admissions may be deemed safer than referral to an adolescent unit located a considerable distance away, especially if drug or substance abuse is involved. In a small number of cases young people have been admitted to an adult unit due to their challenging behaviour and the impact that this may have on other young people in an adolescent unit. In other cases, the parents of the young person sought to have the admission to the local adult unit instead of a placement in an adolescent unit due to the distances that can be involved.

Quite a few issues relating to the text included in the Bill require clarification or amendment. Most significantly, it proposes amendments to section 14 of the Mental Health Act 2001. However, this section only deals with adults, not children. Section 25 sets out the procedures to be followed for the involuntary admission of children. These issues can be addressed prior to Committee Stage taking place.

In concluding my remarks this evening I ask Senators to bear the following in mind. We want children to receive treatment in age-appropriate units but we do not want to legally restrict the right of the medical profession in this regard. We all know that due to staff shortages, the Linn Dara facility was recently left with just half of its 22-bed complement operational. The core issue facing the Linn Dara facility, as we know, relates specifically to difficulties with recruitment and retention of mental health professionals. This, unfortunately, reflects wider health system issues. The problem in this case does not relate to funding availability and the HSE is intensifying its efforts on recruitment. In circumstances where staffing difficulties across the health services is an ongoing challenge, there are concerns that restricting the admission of children to adult units in exceptional circumstances on a formal statutory basis will reduce the services' capacity to meet the real inpatient needs of our children. That is why I wish to further discuss the details of this Bill with a view to incorporating the views of the expert group review of the Mental Health Act 2001. On the basis of these further discussions to take place, the Government will not oppose Senator Freeman's Bill.

That is the Department's view on the issues involved. It is its right, role and responsibility to do that. As Minister of State, I very much welcome the spirit of the Bill Senator Freeman has introduced. She and her colleagues have done considerable background work on it. I am very enthusiastic about working with her. We will take on board the Department's concerns. That is my role and responsibility. Through reasonable dialogue and compromise we can come up with a successful Bill from which future generations can benefit.

Senator Joan Freeman: I thank the Minister of State and all those Senators who took part in today's debate. I again thank those who co-sponsored the Bill, Senators Craughwell and

Marie-Louise O'Donnell, as well as Senator Boyhan who seconded the Bill today.

I have five minutes, but there is so much I want to say. There are a few really important things we need to understand. In 2012 we had an historic referendum when for the first time our children, who had endured a legacy of mistreatment and neglect, witnessed a change in the Constitution to protect them and recognise their voices. I hope the House will indulge me for a moment while I briefly read the first line from Article 42A, which states: "The State recognises and affirms the natural and imprescriptible rights of all children and shall, as far as practicable, by its laws protect and vindicate those rights."

We must continually ask our representatives whether the services the Government provides protect and vindicate the rights of our children. We must always ask if we are doing everything in our power to provide adequate services. Most of all, we must never look back if an emergency situation develops and wonder what we could have done better. Most of all, we must never look back. What if an emergency situation develops and we wonder what we could have done better? I have asked those questions of CAMHS and the HSE and I feel that we have not yet done all that is practicable to offer the highest standard of mental health treatment for our children. I hope that, in introducing this amendment, we can look downstream at the reasons these children end up in adult units. It is the "Why" that is most important in recognising the shortcomings and creating safeguards to stop these admissions.

I remind the House of some of the stark realities of our existing services. Ireland has the fourth highest suicide rate among our adolescents. Does the House know that 16 to 18 year olds do not exist in Ireland? The services for 16 to 18 year olds do not exist. There are 55 whole-time consultant child psychiatrists in this country. We have a population of well over 1.2 million children and we have 55 consultant child psychiatrists. What if they are out sick, on maternity leave or on holidays? Nobody sees those children. We have four inpatient units in Ireland for a population of 1.2 million children, and most of them are not working. Today only 44 beds are available. There are no out-of-hours emergency services which is why children end up in adult accident and emergency services.

I am looking forward to working with the Minister of State and I will work tirelessly. I will work all through the summer to help get to the Third Stage of this Bill. If we can work with the HSE to address these shortcomings, the necessity for the Bill will be rendered void. I hope that the Bill will focus all our minds on the needs of the child and his or her parents from the very first moment that they look to the State for assistance.

It has been said that Ireland is a good place to grow old in. Some have said that Ireland is a good place to grow up in. Sadly, for those vulnerable children who struggle with mental health issues it is not. However, today this is a small step and I hope it is the beginning of a process which will ensure that Ireland is a place where children can grow, develop and deliver on their full potential. An old Irish saying sprung to mind earlier today. Nourish the young and they will prosper; neglect them and they will fall. I hope that this Government and the Minister of State will begin to nourish.

Question put and agreed to.

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

Senator Joan Freeman: Next Tuesday.

21 June 2017

An Cathaoirleach: Is that agreed? Agreed.

Senator Máire Devine: Tuesday never happens.

Committee Stage ordered for Tuesday, 27 June 2017.

An Cathaoirleach: I also welcome to the Gallery Councillor Reape from County Mayo, her husband and some friends. They are very welcome. Deputy Dara Calleary is here as well. There is a lot of interest from the Lower House in these proceedings today.

Sitting suspended at 6.45 p.m. and resumed at 7 p.m.

Central Bank and Financial Services Authority of Ireland (Amendment) Bill 2014: Second Stage

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

Acting Chairman (Senator Robbie Gallagher): Cuirim fáilte roimh an Aire Stáit agus déanaim comhghairdeas leis fosta. The Minister of State at the Department of Finance, Deputy Michael D'Arcy, is very welcome to the House. I congratulate him on his appointment and wish him all the best in his new role. I call Senator Conway-Walsh to speak on the Bill.

Senator Rose Conway-Walsh: I thank the Acting Chairman. I thank the Minister for State for coming to the House. I congratulate him on his new role and wish him well.

I am pleased to move this Bill in the Seanad. My colleague, Deputy Pearse Doherty, brought forward the Bill and it received unanimous support in the Dáil. I hope it can win the same support in this House on Second Stage.

Central to the urgency of this Bill are the families waiting for it to be enacted and that is why we wanted all Stages to be taken tonight. However, we respect the fact the Government and other Senators have indicated they want to include amendments. I ask for co-operation in prioritising and facilitating the taking of the remaining Stages as soon as possible.

There are families watching and urging us to progress this Bill and put in place a timeframe for it to be passed. Some Senators probably have met families in their constituency offices who are locked out of the Financial Services Ombudsman's system. The lockout clause, the so-called six-year rule, is the main target for this Bill. It will remove the rule that a consumer cannot make a complaint against a financial institution, which is a deeply unjust one. Over the past five years 3,000 people have been refused because of the rule. That is the official figure but all sides accept the real figure is much higher. People know about the rule so do not apply. Alternatively, when they ring the office of the ombudsman, they are told about the rule and so they never officially apply. The bottom line is we must get rid of the six-year rule. We will get into the detail on later Stages about how that is to be done. Our side wants the greatest possible number of people to benefit from this change.

A limiting definition of a long-term product that lets people down should be resisted. In 2014, the Free Legal Advice Centres, FLAC, published its report entitled Redressing the Imbalance - A study of legal protections available for consumers of credit and other financial services in Ireland. Deputy Pearse Doherty engaged with FLAC to get its well-researched and

consumer-centred recommendations into law. The main aims can be found in the report. It is a tribute to FLAC that this Bill has won widespread support.

Senators might be aware that the Government has produced its own legislation. It is broader legislation that merges the offices of the Financial Services Ombudsman and the Pensions Ombudsman. We will get our chance to scrutinise that Bill at a later stage when it comes before us. Clearly, it is in the interests of all, especially consumers, that the two Bills are complementary. It is no coincidence that the Government's Bill has followed hot on the heels of Deputy Pearse Doherty's Bill.

I will now clearly address the sections of the Bill. Section 1 contains the definitions, as normal. Section 2 contains the definitions of long-term financial service. Sections 2 and 5 remove the six-year rule. The definition is critical because it determines what services and products can be complained about, even outside the old six-year rule. I am clear that the definition should not be limited by the inclusion of further qualifications, although the will of the House will decide on the final wording.

Section 5 lays out how the new rules will work. Instead of a blanket six-year ban on complaints, consumers will now be able to make a complaint within the six years or within three years of becoming aware of the breach. This model is used in Britain and Australia. For practical reasons, there will be a backstop of 2002 and a final cut off of six years since the product ended. The section is also very clear that the provision will be retrospective in nature. People in the past who turned away because of the six-year rule will be free to re-apply under the new rules.

Section 3 is a small amendment. It now means that the ombudsman will operate without undue technicality. This flows from the finding in FLAC's report that gives the ombudsman a clear legal mandate to operate informally. The courts could end up using this provision against the ombudsman.

Sections 4, 7 and 9 are consequent on each other. The substantive changes are as follows. While before the ombudsman was limited to three possible findings, he or she can now make four findings. Until now the ombudsman was limited to making a finding whereby a complaint was upheld, partly upheld or rejected. This narrow range of choices has meant that some consumers who had been, in effect, found against were still being told that their complaint had been partly upheld. This Bill allows for the four findings of upheld, substantially upheld, substantially rejected or rejected. The wider range allows for a more accurate result to be given to consumers.

Section 6 introduces a new method to encourage mediation as the primary tool of the ombudsman. I am glad to say that mediation has increasingly become the norm for the service. I wish to indicate that I am considering an amendment to this section to strengthen the focus on mediation further.

Section 8 increases the window in which consumers or, indeed, financial institutions can lodge an appeal with the High Court if they are not satisfied with a ruling of the ombudsman. Currently, there is only a 21-day window, but this Bill will increase that to 35 days. Ultimately, the court can make its own rules in this regard.

At this juncture I must point out that the original Bill contained changes in order that an appeal could be lodged with the Circuit Court. These sections were deleted on Committee Stage

in the Dáil. The conversation on access to justice is one we must keep bringing up and keep our eyes on.

I hope that all sides support this Bill. Let us recall that the title of the 2014 FLAC report is Redressing the Imbalance. If we pass this Bill, we will have achieved a real levelling of the playing field for consumers. I hope that it can be passed tonight and that we will be back as soon as possible to finalise it so that it can be enacted. I seek assurances from the Minister of State that the Government is genuine in its approach to this Bill and in its response to the urgent need to protect our citizens.

Acting Chairman (Senator Robbie Gallagher): I welcome Deputy Pearse Doherty, who has sponsored the Bill, to the Chamber. Tá fáilte romhat.

Senator Máire Devine: I welcome the Minister of State, Deputy D'Arcy, to the Chamber. I endorse the comments of my colleague, Senator Conway-Walsh, and welcome the Bill. I thank and acknowledge the brilliant Deputy Pearse Doherty for drafting this Bill and ensuring its progress to this stage.

Like many in the House, I have been contacted by a large number of people who wanted to share their stories and say how important it was that the legislation should not only pass into law, but do so as quickly as possible. I will share the story of Mary, a constituent of mine who updated me on the current payment protection insurance, PPI, situation. She only recently noticed that she was paying a large annual sum for her PPI policy, which ran from 2004 to 2017. It increased from €870 to €1,344 years later, a significant sum of approximately €17,000 in total during a time of austerity, cuts and attacks on working people and the poor. This €17,000 was badly needed in that household.

Mary and her husband believe that they were mis-sold the policy. Her husband is self-employed. Believing that it was compulsory insurance, they signed for it at the same time that they took out their mortgage. The Financial Services Ombudsman has been in touch with them since 2004 regarding the mis-selling of the PPI by the banks, but it looks like the office will not be able to act because of the six-year Statute of Limitations. Mary was aware that I would be addressing this Bill in the Seanad on 14 June, which was actually a while ago, and wanted me to consider passing it urgently so that the situation could be resolved for her and the many more people in the same situation.

We have had it up to our teeth with what the banks have done to this country and ordinary people. We have bailed them out and are still bailing them out. Our children's children will be bailing them out. Let us have equal rights for the citizens who own this country, not for the banks or speculators. I hope that the Minister of State will do right by the people affected by this issue. It is a small amount in some instances, but €17,000 is a large figure. It is like savings for people who do not have the means to fight the banks. The banks need to give back the moneys owed to those people from whom it was wrongfully taken in the first place.

This issue has been under discussion for some time, so the Minister of State is probably aware that the deadline in the UK has been pushed to 2019 because there are many cases that are still to be addressed because they fell outside the limitation ruling. Please, pass this Bill urgently. Mary is not alone. The moneys owed would make a major difference to people who are struggling to pay mortgages, struggling with negative equity and struggling to rear young families. We owe it to people like Mary to ensure that this Bill, which offers a way out of hardship to

many, is passed. I urge all Senators to support it and I commend my colleague, Deputy Pearse Doherty. Well done. Let us have a resolution to the greed of the banks and their mistakes.

Senator Trevor Ó Clochartaigh: Hear, hear.

Senator Kieran O'Donnell: I welcome my colleague, Deputy D'Arcy, to the House and commend him on his appointment as Minister of State with responsibility for financial services and insurance. Yesterday was a proud day for him and his family and I wish him well. We will not be too hard on him today.

Senator Trevor Ó Clochartaigh: Speak for yourself.

Senator Kieran O'Donnell: The spirit of bipartisanship.

Minister of State at the Department of Finance (Deputy Michael D'Arcy) (Deputy Michael D'Arcy): I was in the Seanad for long enough.

(Interruptions).

Senator Kieran O'Donnell: I acknowledge the presence of Deputy Pearse Doherty, who introduced this Bill. The Financial Services and Pensions Ombudsman Bill 2017 is complementary.

From reading the legislation, the key issue is the definition of what constitutes a long-term financial services product. I will speak from practical experience. Many ordinary people have approached Members about difficulties with various financial products that they bought. Recently, an elderly man - he was a good age - told me of how he had bought a life assurance product. He had assumed that it was an endowment product, in that it would effectively have an investment element, only to be told at the bright, young age of 93 that it was a term policy. By that stage, he had invested a significant amount of money in that section 60 policy. He went to the Financial Services Ombudsman.

Apart from what is being proposed in this legislation, we need to consider the issue of resourcing. We are regularly in contact with staff from the Financial Services Ombudsman. There is a resourcing issue and there are delays, but the staff are excellent.

Coupled with resourcing, an education and information campaign is also required so that the ordinary person can know precisely what he or she can get by approaching the Financial Services Ombudsman. In some cases where people are told to make submissions to the Financial Services Ombudsman, the level of evidence that they present is inadequate and, consequently, the decision that they receive is incomplete. We should examine this matter.

Senator Conway-Walsh referred to the retrospective nature of the legislation. It is something that I suspect has been examined by the Attorney General's office so as to ensure that it will work. We have often seen cases of a retrospective element not working. It is an important matter.

What I take from the Bill is the need to ensure that, where there are genuine cases of people effectively being misled on financial services products and becoming aware of that within three years, they are shown fair play. Under the current legislation, a six-year rule applies. The question is whether that statute is being - I will not use the word "abused" - worked by certain financial services providers. We want legislation to act in substance as it was intended to act.

Under the current six-year rule, though, that does not happen in many cases. The amendments provided in this legislation will go a long way towards remedying that.

Coupled with that, we must ensure that, when people make submissions to the Financial Services Ombudsman, they understand what information they need to provide and how the process works so that the examination by the officer who has the case - the Financial Services Ombudsman is going to be combined with the Pensions Ombudsman - will be efficient. Many cases drag on for an inordinate amount of time because the officers involved are trying to compile all of the information. Information on this fantastic service is needed.

I will address the issue under discussion. I note from the most recent debate in the Dáil that discussions were going to take place between Deputy Pearse Doherty and the Department about examining long term versus short term and so forth. The most important thing to get right is that the legislation works for the purpose it was intended, and that one does not create something of a by-product whereby there is an unintended consequence which would effectively lead to an increase in premium rates on annual renewed products like insurance. Flood insurance is something I feel very strongly about. In Limerick we have had major floods over a long period in my local area of Castleconnell and around the city in Corbally. Many people in those areas can no longer get insurance. They had flood insurance and their product was renewed on an annual basis and when they signed the renewal they were not aware that flood insurance had been removed. We should consider what we wish the legislation to do and identify the unintended consequences we want to avoid and marry those and effectively in order that we have a body of legislation whereby people coming into our offices, who are invariably people who are financially stretched, who bought products for insurance purposes, will be entitled to have their cases heard regardless of the length of time. I commend the Bill to the House. We will be supporting it. I look forward to the Minister of State's comments on same.

Senator Gerry Horkan: It feels almost like we are at a finance committee meeting between Senator O'Donnell, Senator Conway-Walsh, Deputy Pearse Doherty and a former member of the committee and newly appointed Minister of State at the Department of Finance, Deputy D'Arcy. I congratulate him. We will see him at a different side of the table at future committee meetings. I wish him the best of luck in his new role.

I welcome the opportunity to speak on the Central Bank and Financial Services Authority of Ireland (Amendment) Bill 2014, which Fianna Fáil will be supporting. However, we would not have supported the move to accelerate the passage of this Bill through the Seanad in one day, as to do so would have made a mockery of Seanad procedure and set a very poor precedent. Sinn Féin wished to push the Bill through the Seanad quickly in one day, but to be fair to Senator Conway-Walsh, she did take on board the concerns of Fianna Fáil and others and decided that only Second Stage would be taken today. We will support Second Stage and as a party Fianna Fáil has supported the thrust of the Bill and what it is trying to do. We know it is a genuine move by Deputy Pearse Doherty and his party in the Dáil and Senator Conway-Walsh and her Seanad colleagues. A lot of the time we work together fairly well on the finance committee.

The Financial Services and Pensions Ombudsman Bill 2017 is a Government Bill on the same issue, and it seems to be a case of one party wanting to claim a little bit of political credit over the other. That is understandable. Committee Stage of that Bill will be taken in the Dáil soon and it covers many of the provisions set out in this Bill.

On the back of the financial crisis and the consumer problems that followed, the Free Legal

Advice Centres, FLAC, issued a report on the financial protections for consumers of credit and other financial services in Ireland. Fianna Fáil published a similar Bill before the FLAC report that sought to strengthen consumer protection in the financial services sector. In an open market economy such as Ireland's, a healthy financial services sector and the provision of credit to consumers is essential. Deputy Pearse Doherty's Bill seeks to provide for the strengthening of the functions of the Financial Services Ombudsman, the consumer complaints procedure and related matters. Overall, we support the intention behind the Bill, as it extends the time limits for long-term financial services similar to section 51 of the Government's Bill.

In 2005, the Financial Services Ombudsman expanded the definition of "consumer". Companies with an annual turnover of less than €3 million and partnerships, clubs, charities and trusts were deemed consumers and could avail of the Financial Services Ombudsman, FSO, process. However, there were concerns with that arrangement. It was believed that the definition was too broad and used up valuable FSO time and resources and, second, that the Financial Services Ombudsman Council may have exceeded its power. The original Bill sought to address those concerns with the use of the term "commercial consumer" and that will be incorporated as part of the Government's Bill.

The Free Legal Advice Centres reported that there has been a lack of evaluation of the various components of the financial service complaints process in terms of effectiveness for consumers. They found a level of complacency in the process. With regard to the fact that many complaints involve alleged breaches of statutory rules, FLAC advised that the term "in an informal manner" should be amended to reflect that.

Currently, as has been indicated, the Act limits the time for a complaint to be made to six years prior so, in other words, any complaint that arrives into the office can only reflect something bad that happened within the previous six years. Senators Kieran O'Donnell and Devine outlined examples of where people bought a product thinking it was one thing but ten or 12 years later they discovered it was not what they thought it was. They want to make a complaint but because the original transaction was older than six years they were limited, as cases outside the timeframe cannot be investigated under the current process. Senator O'Donnell said he would use the term "abused" but it was not a case of the banks abusing the process but pointing to the clause in the law saying they do not have to do such and such. Let us ensure we change the law so that in future that get-out-of-jail clause, or whatever phrase one wishes to use, is no longer there. Let us make sure that people who have genuine complaints can have their complaint investigated and find out whether there is merit in their complaint. I am sure in many cases there will be and in other cases the complaint will not be valid.

The Bill seeks to loosen the situation by inserting another limit which would give consumers a three-year limit from the time they become aware or ought to have become aware of the consequences of the conduct - whichever of the two limits occurs later will be used. That will also be incorporated by the Government's Bill.

When the regulated financial service provider against whom the complaint has been made refuses to engage with the voluntary mediation process, this amendment would compel the provider to provide the FSO with convincing reasons for refusing to engage in mediation.

The Bill seeks to reflect more accurately the nature of the finding by expanding the finding categories. Current categories are: is substantiated; is not substantiated; and is partially substantiated in one or more specified respects but not in others. The new categories are: upheld;

substantially upheld; substantially rejected; and rejected.

I welcome this discussion and I hope we can reach agreement on the key issues involved in the Bill over which I am led to believe there is wide agreement. The Government has said for quite some time that it will review the six-year rule, and I hope that it can be done. I welcome the new Minister of State. I have no doubt he will bring a new energy and impetus to his role. He knows from his time on the finance committee, the banking inquiry and other fora the issues that are involved. I commend the Bill to the House. We are supporting it on Second Stage. Let us hope we can all work together for the benefit of all those people who are affected by the current rules.

Senator Victor Boyhan: I welcome the Minister of State, Deputy Michael D'Arcy, and congratulate him on his appointment. I will not go into great detail because Senator Conway-Walsh has eloquently set out the purpose of the Bill and I fully support it. It is important to say that the Bill was unanimously agreed in Dáil Éireann. I acknowledge the work Deputy Pearse Doherty put into the Bill. There is a new political maturity. From my experience in the Chamber in the past year if Sinn Féin does something there seems to be some resistance to it across the board and some reason to oppose it. I might have differences with Sinn Féin from time to time but-----

Acting Chairman (Senator Gerry Horkan): Senator Boyhan is sitting close to them as if he was one of them.

Senator Victor Boyhan: I am very happy to sit among them. They have an exceptional record in local government where I worked with them for many years and across the country, as I would with any other group. The bottom line is that we should talk about policy more than personalities. It is not about playing politics. Everyone in here has a mandate. We are elected by the people. Members of Sinn Féin are here. That makes a change from a lot of other people, who do not tend to be here when they propose legislation. That is for another day.

I acknowledge the work Deputy Pearse Doherty has done on the Bill. We are talking about a relationship between financial institutions and the consumer. The consumer has got a bad deal. There are not too many politicians here from other parties. Enough politicians have belly-ached in the other House about the raw deal for the consumer but many of them have done sweet damn all about it. It is important that this is good legislation. As for going on to the next Stage and tweaking the Bill, sometimes it is important that we accept Bills and the good faith of the people who put in the effort and presented a solid proposal to us.

Let us ask what the Bill will do in simple terms for the people we represent. I understand the Bill empowers the Financial Services Ombudsman to investigate complaints. That is positive. That is good. We have no reason to oppose that. Second, it places greater pressure on financial service providers to engage in the mediation process, because the record shows people have not been prepared to enter into mediation. We know that from our neighbours, families and friends who have found themselves in financial difficulties with the banks and there has not been willingness to engage. They may now be willing to engage with us because things have moved on a bit. The reality is that people are facing the inevitable. That has to be good. It allows for a greater range of findings on completion of an investigation. That has to be positive. It gives consumers more power. People should have a legitimate expectation when they go into a process that they can get something out of it and that is good. The Bill will also allow for an appeal to be taken to the Circuit Court rather than the High Court. I will not give a lecture to

people on a Bill that they have prepared and which they know better than I do. It will have my full support.

Senator Fintan Warfield: I welcome the Minister of State to the House and join with other Senators in congratulating him on his appointment to his new position. I wish him all the best. I welcome my comrade and colleague, Deputy Pearse Doherty, to the House.

I also welcome this Bill as the beginning of a change in the relationship between consumers and financial institutions. We must not forget that consumers are involved in this issue. As Senator Boyhan has alluded to, the Oireachtas is nothing without the people. Politics should always face outwards. Consumers are involved in this issue. In every other sector, the rights of consumers are defended. There is no reason banks and financial institutions, many of which were bailed out by hard-working taxpayers, should not face the same rigorous procedures.

The six-year rule and the change to it contained in this Bill are important because it is an urgent issue for many families, especially with the tracker mortgage scandal and the recently-revealed possibility of another wave of payment protection insurance schemes being mis-sold. This Bill will allow many people affected by such issues to have their cases heard by the Financial Services Ombudsman. Sinn Féin and I know of many families waiting for this legislation to be passed in order for them to be able to make a complaint about a bank or insurance provider, have their case heard by the ombudsman, seek redress and be compensated. Sinn Féin has been contacted by many people who have asked and pleaded that the Bill progress quickly. It must be remembered that, especially for mortgage customers, every month that passes without their case being heard is another mortgage payment, more bills and, sadly, for many, a further drift into financial hardship. This is the first Opposition Bill to be passed through all Stages in the Dáil for a significant period of time. The Bill will have an immediate impact for the 3,000 people who have been prevented from having their cases heard and the many more people who simply have not made complaints as a result of the six-year rule. I welcome the support expressed by Senator Kieran O'Donnell, that of the Government, Fine Gael and also Fianna Fáil.

Senator Trevor Ó Clochartaigh: Tá mé ag iarraidh cur leis an méid ata ráite ag mo chomhghleacaithe ó Shinn Féin. I welcome the Minister of State to the House. He was a great colleague when he was a Member of the Seanad, during which time he was not backwards at coming forwards when it came to having a go at the banks. He always said it as he saw it and I understand why he would be supportive of this Bill.

I congratulate my comrade, Deputy Pearse Doherty, and his team who have brought forward this Bill. It is a very practical Bill containing a very practical and necessary measure. There is a time element to this issue and I hope there will not be any procrastination in the Bill being brought forward because the relationship between banks and their customers is a David and Goliath situation. The banks have so much power at their behest, including financial power, legal power and so on, that consumers can feel very helpless when it comes to tackling them on any issues relating to mortgages or other financial concerns.

I was formerly a member of the Joint Committee on Public Service Oversight and Petitions, which met with the Financial Services Ombudsman in connection with this issue. He was frustrated by the Statute of Limitations limiting the cases into which he could look. That will be addressed by this Bill. The support from that angle is very important.

I welcome the support from all parties across the board and I hope that we will be able to

quickly progress the Bill. I look forward to the support of the Minister of State in that regard. Guím gach rath ar an Aire Stáit ina chuid oibre. Beimid ag sáraíocht lena chéile go rialta as seo amach, le cunamh Dé.

Minister of State at the Department of Finance (Deputy Michael D’Arcy): I thank all Senators for their good wishes. Senator Ó Clochartaigh is the only Member present with whom I served in the former Seanad. I got on very well with him and really enjoyed my time in this House.

The Government accepts the bona fides of the Bill. Our objective is to ensure that we put an appropriate Bill in place and the reason we do not want it going through all Stages is that we think it may be improved. If we can improve it, we will, because, in all likelihood, this could end up in court and the Judiciary, which are separate from the Legislature, could determine something other than what the Oireachtas determines. That can happen. We do not want it to happen. I want to ensure that we have the best possible legislation by the time we are finished.

I welcome Deputy Pearse Doherty to the Seanad. I worked well with him on the banking inquiry for two years along with my colleague, Senator Kieran O’Donnell. We are not shy in trying to put legislation in place to ensure that consumers are protected. Deputy Doherty’s Bill proposes to extend the time limits within which consumers can complain to the Financial Services Ombudsman about the conduct of financial service providers and to improve the consumer complaints procedure more generally. It is commendable that Deputy Doherty is motivated to improve the consumer protection framework in Ireland and there has been a productive debate on the provisions of this Bill as passed by Dáil Éireann.

As Members are aware, the Government also has a Bill dealing with issues in this area, namely the Financial Services and Pensions Ombudsman Bill 2017 which has also been progressing through the Houses of the Oireachtas. The Government’s Bill is more comprehensive as it deals with the amalgamation of the Financial Services Ombudsman and the Pensions Ombudsman, strengthens the procedures for consumer complaints in regard to these products and updates and modernises the two pieces of original legislation underpinning the two bodies. I support the intention behind the Sinn Féin Private Members’ Bill as its principles and ethos are mostly aligned with the Government Bill. There have been several debates on this issue and I am glad to hear that many of the Minister’s recommendations have been taken on board. In particular, the Government supports this Private Members’ Bill insofar as it extends the time limit for complaints in regard to long-term financial services, similar to the extension set out in section 51 of the Government Bill.

Section 3 of Deputy Doherty’s Bill amends subsection (4) of section 57BK of the Central Bank Act 1942, which now reads that, “The Financial Services Ombudsman [...] is required to act in an informal manner and according to equity, good conscience and the substantial merits of the complaint without undue regard to technicality or legal form”. The Government is now satisfied with the drafting of this section as it was modified after our earlier discussions at pre-legislative scrutiny and is in line with section 12(11) of the Government’s Bill.

Section 5 of the Bill deals with the amendment of section 57BX of the Central Bank Act through the extension of the time limits to complain to the Financial Services Ombudsman. Section 5 was amended in the Dáil and it reflects a similar provision in the Government’s Bill which extends the time limits for complaints regarding certain long-term financial services to six years from the date of the conduct complained of or three years from the date the complain-

ant knew or ought reasonably to have known about the conduct.

The new time limits for long-term financial services will apply to complaints made to the ombudsman about conduct that occurred during or after 2002 and the service in regard to which complaint is made must not have expired or been otherwise terminated more than six years before the date of the complaint. There has been a productive engagement between officials on both sides to seek to ensure that the sections on time limits in Deputy Doherty's Bill and the Government's Bill are aligned with each other and carefully drafted. I am satisfied with this aspect of the legislation and must thank the Office of the Parliamentary Counsel for its help in this regard.

However, section 2 of the Bill inserts a definition of long-term financial service as being, "a financial service where the actual or intended duration of the service is 5 years and one month or more". This is one area where the Government currently disagrees with Deputy Doherty's drafting of the Bill. The concern that the Government has about this definition was raised by then Minister of State, Deputy Eoghan Murphy, in the Dáil on Report Stage of this Bill. The Government is concerned that this definition of long-term financial service could include a wide range of policies or services that are subject to annual renewal. However, it is ultimately a matter for the courts to decide if annual policies are included in this definition.

For the avoidance of doubt, we have tried in our Bill to exclude explicitly annual policies from the definition of "long-term financial service". The cost of insurance is expensive as is well known and we have concerns that the Sinn Féin definition of "long-term financial service" could increase costs for insurance companies through extra record-keeping requirements and increased costs in insuring themselves against more claims and uncertainty about older policies. I am keen to avoid any potential misrepresentations and misunderstandings by copper-fastening a definition of "long-term financial service" which avoids passing to consumers the higher costs which may become embedded in the cost-bases of insurance companies into the future. For short-term financial services, consumers have six years to complain about conduct. This period should be sufficient for short-term financial services.

We will be proposing an amendment to the definition of "long-term financial service" in the Bill on Committee Stage. It is worth pointing out that, under the current regime, the EFSO will inform the Central Bank of any matter arising during an investigation which he feels is indicative of some pattern, for example, mis-selling, so that the appropriate regulatory action may be taken. The ability to make recommendations to the regulatory authorities will continue under section 18 of the new legislation. This is also intended to deal with cases which may fall outside the six-year rule as it would allow the Central Bank of Ireland to engage with providers in respect of wider issues. The recent Central Bank investigation and redress of €71 million provided to customers in respect of the mis-selling of payment protection insurance is a case in point.

Section 6 amends section 57CA of the Central Bank Act and reinforces the mediation procedures which should operate in the ombudsman's office. I am happy to note that Deputy Pearse Doherty has made changes to this section on mediation. The Private Member's Bill, as initiated, would have required a financial services provider to provide the ombudsman with convincing reasons for not going to mediation when choosing not to engage with the mediation process. I am glad Deputy Pearse Doherty has taken on board the Government's view that maintaining the voluntary ethos of mediation is important and that the focus should be on equipping the ombudsman with the power to promote engagement in the mediation process, which is now at

the core of the Government's Bill and that of Sinn Féin.

Section 7, amending section 57CI of Part VIIB of the Central Bank Act, changes the categories of determinations that the ombudsman can make. In the interests of more transparency, Deputy Pearse Doherty's Bill proposes to amend the categories of findings which may issue to a consumer following an investigation in relation to a complaint. The four new categories are: (a) is upheld; (b) is substantially upheld; (c) is substantially rejected, or (d) is rejected. Subsection (2) of this section details the reasons for which a complaint can be found to be upheld, substantially upheld or substantially rejected, whereas subsection (3) lists the recourse that the ombudsman is able to direct from the financial service provider. This is a reasonable update and modernisation of the original legislation which will bring more clarity to consumers. This will be a good outcome for the ombudsman's process but also for consumers and will be in addition to the publication of decisions as provided for in my Bill. Sections 4 and 9 are consequential amendments to update and restate the existing legislation and update the categories of findings.

Section 4 amends section 57BS of Part VIIB of the Central Bank Act and repeats the existing name-and-shame provision. It also updates the section with the new categories of findings set out in section 7 of the Bill. If three complaints about a regulated financial services provider are made to the Financial Services Ombudsman in the preceding year and if the ombudsman finds these to be upheld or substantially upheld, such a provider will be named publicly by the ombudsman. This name-and-shame provision is a relatively recent change in respect of the arbitration of financial services complaints and has also been maintained in the Government's Bill.

Section 9 restates section 57CP of the original legislation. The latter gives the High Court the power to grant injunctions in some cases and restricts this power in other circumstances. The only change, as far as I am aware, is updating the references of determinations of the ombudsman, which are amended under section 7 of the Private Member's Bill. Therefore, I have no views on this section.

Section 8, amending section 57CL of Part VIIB of Principal Act, increases the time consumers have to appeal a decision of the ombudsman to the High Court from 21 days under the existing legislation to within 35 days of the date of notification of the decision of the Financial Services Ombudsman. This timeline is similar to that proposed by the Government on Report Stage in the Dáil and is a measure that should help consumers.

I turn to the interaction between the Government Bill and the Private Member's Bill. It is important to point out that if the Government Bill is enacted, it will repeal Part VIIB of the Central Bank Act 1942, which sets out the provisions in respect of the Financial Services Ombudsman. Deputy Pearse Doherty's Bill amends that part of the 1942 Act so the Government's Bill, when enacted, will repeal the provisions this Bill is proposing to amend. This will be in accordance with the recommendations of the relevant committee during pre-legislative scrutiny. Furthermore, following the productive engagement during the development of Sinn Féin's legislation, the Government is willing to make amendments to its own Bill to take on board some of the new provisions that we agreed with during the passage of the Private Member's Bill. One such amendment, which we will make on Committee Stage, involves increasing the time to appeal a decision of the ombudsman to the High Court from 21 days to 35 days, as proposed in section 8 of Sinn Féin's Private Member's Bill, as passed by the Dáil. In addition to this amendment, I will also look at the range of categories of decisions that the ombudsman can make after an investigation. The increased range of findings will be a good outcome for the

ombudsman's process and for consumers and will be in addition to the publication of decisions as provided for in my Bill. As I said earlier, we will also return to the definition of "long-term financial service" on Committee Stage.

I thank the House for giving me the opportunity to deal with this complex Bill over a number of days. I have discussed the matter with staff in the Department of Finance and we are determined to get it right. I am sure the House will give us the latitude to provide the experience and knowledge to improve the Bill. That is why we objected to it going through all Stages this evening. I hope it will move quickly. I undertake to move it as quickly as possible. That said, we have got to get the definition relating to long-term products right. I hope the House will give us the opportunity to do that. We are facilitating the Bill on Second Stage and I look forward to any further comments.

Acting Chairman (Senator Gerry Horkan): I do not know if that was the Minister of State's first speech following his appointment. Certainly, it was his first speech in the Chamber. He stuck to his time brilliantly and was within 30 seconds of the limit, for which I thank him very much. Long may that continue. Senator Conway-Walsh will conclude the debate. She has five minutes.

Senator Rose Conway-Walsh: I thank the Acting Chairman and the Minister of State. From hearing the latter's response, we have more in common than divides us. I accept his bonafides that he recognises the urgency relating to the Bill and I am glad he mentioned days rather than anything else. I accept that he may have very genuine amendments in terms of long-term services as defined in section 2. Perhaps he might let us have the amendments as soon as possible so that we can get agreement on them. He will know from the finance committee that insurers will use this as an excuse to raise premiums in any event. However, that would be nothing more than an excuse. We can work in these protections using the insurance report. We should not allow the Bill to be delayed by the behaviour of insurers because other measures can be put in place.

I welcome and thank Deputy Pearse Doherty. I had forgotten he was once a Senator and, as such, can feel our pain sometimes.

Senator Máire Devine: He got out of here alive.

Senator Rose Conway-Walsh: One of the greatest causes of pain for Senators is the lack of legislation. This Bill presents the Seanad with an ideal opportunity to push forward legislation which was carefully prepared by Deputy Doherty and Declan O'Farrell in his office. I also thank Séamus MacFloinn for his input and all the others who contributed to the Bill, including those to whom the Minister of State referred. If minor tweaks are needed, they can be made quickly and in a collaborative manner. I also thank Senator Boyhan and Senator Horkan who is also a member of the finance committee.

This is an extremely important Bill because it places consumers who need protection front and centre. It is our job, whether we come from Mayo, Cork, Limerick or elsewhere - we cannot forget the Dubs, at least not before September - to introduce instruments to protect people. This is our opportunity to pass legislation that will make a difference in the lives of those who have been wronged by financial institutions. Members of the joint committee and others know that thousands of bank customers were robbed by being forced off tracker mortgage rates to which they were legally entitled. This group of consumers is still waiting for justice, which is a

21 June 2017

crime in itself. These are not victimless crimes and those who have been robbed of their money continue to wait. This practice has cost some people their lives and others their relationships and family life. The Bill seeks to make a minor change for thousands of people and we should not take it lightly.

The Bill provides us with an opportunity to facilitate justice for thousands of people. It has been scrutinised and many people have made an input into it. I commend Deputy Doherty on showing the leadership and courage to stand up to the financial institutions and tell them that we, as legislators, are no longer prepared to let this happen on our watch. Let us finalise and enact the Bill. Time should never be a barrier to justice. Our only focus is on providing the legal instruments to protect the rights of people dealing with financial institutions.

The Bill will send a clear message to financial institutions that we are no longer willing to accept their behaviour and that where matters need to be put right, they will be put right collectively. Deputy Pearse Doherty showed leadership in drawing up this Bill, to which many others also made an input.

Acting Chairman (Senator Gerry Horkan): I thank Deputy D'Arcy for his attendance in the House for the first time as a Minister of State. I also thank Senators for their contributions to the debate.

Question put and agreed to.

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

Senator Rose Conway-Walsh: Next Tuesday.

Committee Stage ordered for Tuesday, 27 June 2017.

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

Senator Kieran O'Donnell: At 10.30 a.m. tomorrow.

The Seanad adjourned at 7.55 p.m. until 10.30 a.m. on Thursday, 22 June 2017.