

SEANAD ÉIREANN

Dé Céadaoin, 14 Feabhra 2018

Wednesday, 14 February 2018

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 Catherine Noone that, on the motion for the Commencement of the House today, she proposes to raise the following matter:

The need for the Minister for Health to introduce the loop medicated isothermal amplification test in Irish hospitals.

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

The need for the Minister for Health to review the decision to close the Rosalie unit in Castlerea, County Roscommon.

I have also received notice from Senator John Dolan of the following matter:

The need for the Minister of State with special responsibility for disability issues to outline when a new statutory scheme will be established to replace the abolished mobility allowance scheme.

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

The need for the Minister for Transport, Tourism and Sport to consider St. Tiernach's Park, Clones, County Monaghan, for inclusion in the large scale sport infrastructure fund.

I have also received notice from Senator Victor Boyhan of the following matter:

The need for the Minister for Health to confirm if the 12 hospital beds at the National Rehabilitation Hospital, Dún Laoghaire, are now open and fully available for rehabilitation services.

I have also received notice from Senator Rose Conway-Walsh of the following matter:

The need for the Minister for Health to review the HSE decision on access to Versatis

patches pain medication.

I have also received notice from Senator Neale Richmond of the following matter:

The need for the Minister for Education and Skills to provide an update on Ballinteer Educate Together national school, Ballinteer, Dublin 16.

Of the matters raised by the Senators suitable for discussion, I have selected those of Senators Noone, Swanick, Dolan and Gallagher and they will be taken now. I regret I had to rule out of order the matter submitted by Senator Richmond on the ground that it is a repeat of a matter taken on 8 November 2017. The other Senators may give notice on another day of the matters that they wish to raise.

Commencement Matters

Infectious Disease Screening Service

Senator Catherine Noone: I thank the Minister of State for coming to the House to take this debate. I would like the Minister for Health to oversee the introduction of the loop mediated isothermal amplification, LAMP, test in hospitals. The test can provide results detecting the presence of meningitis within an hour, dramatically reducing the time taken to produce a result under the current system. This would allow for life-saving treatment to begin much sooner than currently possible. There are 200 cases of meningitis in Ireland annually. Of these, 10% of patients die, 10% suffer major disabilities such as brain damage or amputations and 33% suffer some form of after-effect. Ireland has one of the highest rates of meningitis in Europe. A child suspected of having the disease is subject to a blood test, the result of which is returned within 48 hours. Consequently, some children at serious risk can be sent home with a disease that could kill within a matter of hours. The LAMP test was developed in Queen's University Belfast. It is a test for meningitis, the result of which is returned within an hour, and it has the potential to save numerous lives every year. It is diagnostically as accurate as the current method but it is much quicker and more straightforward for any hospital with a laboratory. A significant cost would not be incurred and it has been trialled over the past few years by the NHS. It is a no-brainer and I would love to think it will be introduced in Ireland because we have one of the highest rates of meningitis.

Minister of State at the Department of Health (Deputy Jim Daly): I thank the Senator for raising this important matter and for the opportunity to outline the thinking of the Department and the HSE in this regard. Meningitis is defined as inflammation of the meninges, which is the lining around the brain tissue, and this can be caused by bacteria, viruses or, rarely, fungi. When testing for meningitis, a sample of cerebrospinal fluid must be taken, which is then examined for white cells that fight infection and subjected to certain culture and molecular tests. The aim of these tests is to identify the specific organism causing the inflammation. There are two reference laboratories in Dublin where testing is carried out - the Irish Meningitis and Sepsis Reference Laboratory at Temple Street carries out bacterial testing and the National Virus Reference Laboratory provides the viral testing service.

There is a move currently in laboratories to test for a greater number of organisms at the same time. These broader tests provide a number of benefits. They have quick turnaround times that can provide results in approximately two hours and they can be performed in the local hospital laboratory without the need to send samples to the reference laboratories in Dublin. The Irish Meningitis and Sepsis Reference Laboratory supports the introduction of tests for meningitis in each hospital that provides an acute emergency service. There has also been significant progress in research into the use of biomarkers for diagnosing sepsis at the time of presentation. An advantage of these biomarkers is that they are not specific to a particular organism and, therefore, have the potential to detect sepsis due to any invasive bacterial infection.

The Senator referred to one particular commercial testing system, namely, the LAMP HiberGene system. This system can be used to test for two particular organisms in cerebrospinal fluid, namely, meningococcus, and group B streptococcus. As the Senator said, this system has a quicker turnaround than the broader systems I have mentioned. However, it only tests for a very restricted range of bacteria that can cause meningitis and will not identify other causes of meningitis such as pneumococcus and E. coli. The system also does not detect viral causes of meningitis or other viruses that may cause encephalitis, that is, inflammation of the brain. Consequently the other tests must still be carried out to ensure that the correct diagnosis is made. Otherwise, there is a danger that the wrong treatment would be applied with potentially catastrophic consequences.

Finally, I would like to talk about the introduction of immunisation against meningitis into the childhood immunisation programmes in recent years. Every child receives the meningococcal B vaccine at two, four and 12 months of age; the meningococcal C vaccine at six and 13 months; and a booster dose in the first year of secondary school. These vaccines have had a real impact, leading to significant decreases in these forms of meningitis.

An Cathaoirleach: This is a very important topic. Does Senator Noone wish to ask a brief supplementary question?

Senator Catherine Noone: Yes. I was brief enough in my initial remarks in any event. I welcome the move towards testing for a greater number of organisms at the same time and towards a quicker turnaround, which obviously is of double benefit. I have to take as read what the Minister of State tells me about the test to which I am referring being more restricted in what it tests for. I hear where he is coming from in that regard.

In his final comments, the Minister of State referred to vaccinations. This is a matter of very serious concern generally, particularly as there is a great deal of unnecessary scaremongering about certain vaccinations in this country. It has been shown that there has been a reduction in the number of children being vaccinated for meningitis and for HPV, which causes cervical cancer. That is a much larger issue. This is obviously a system to detect meningitis when it occurs, but there is a way to prevent it occurring. We are so lucky to have these vaccines. It is a very serious issue that people are being misinformed and that there is a lot of misinformation about vaccinations. In many respects it is probably more important than detecting it. Obviously, we want a good system of detection. If, however, we have a way of preventing it, surely that is the only show in town. I encourage members of the public to inform themselves before considering not having any of these vaccinations because we are so lucky to have them and children need to get them. I thank the Minister of State.

An Cathaoirleach: The Senator is making up lost ground now. She is stealing a bit of time.

I call the Minister of State to conclude.

Deputy Jim Daly: I think we are okay. There is no question regarding the final point. I agree with the Senator on that.

Long Stay Residential Units

Senator Keith Swanick: I have asked the Minister of State here today to discuss the planned closure of the Rosalie unit in my home town of Castlerea, County Roscommon. A public meeting about the threatened closure of this health facility took place on 8 February. To say that family members of the residents are upset would be an understatement. The unit was previously threatened with closure in 2015 but, following public protests, this plan was reversed. The protests were organised by angry family members who then numbered more than they do now. The cynic in me would suggest that the embargo placed on new admissions since September 2016 was introduced in an effort to minimise the voice of protests which would come once the closure was announced. In an interview last week, Tony Canavan said that the reason this is arising as an issue is that the numbers in the unit have drifted down to a low level and that is because there has not been any new admissions to the Rosalie unit since September 2016. There could not be any new admissions because there was an embargo on admissions. When pressed on the fact that this was because an embargo had been placed on new residents, Mr. Canavan disagreed with the use of the word “embargo”. That is, however, what we must call it. It is an absolute disgrace.

The unit at Áras Naomh Chaolain is currently home to 14 elderly high-dependency residents with mental health conditions including advanced Alzheimer’s. It was developed as a specialised psycho-geriatric unit with capacity for 25 people. It is not the same as a general nursing home. I am very familiar with it. I grew up 300 yd. or 400 yd. down the road from it. I am very familiar with the area and my cousin works in the unit.

Fears that the centre would be closed were allayed in July 2015 when then Minister of State at the Department of Health, Kathleen Lynch, told a deputation from Roscommon there were “no plans to close it and there will be no such plans.” For the families of the residents, this offered some relief. That has now been shattered. These patients and their families have been told by the HSE that there is adequate accommodation available in Ballinasloe, County Galway, and Castlebar, County Mayo. I am not sure if the Minister of State is familiar with the hinterland around there but it is an hour’s journey from Castlerea to Castlebar or an hour and a half on the train. There is no main direct route to Ballinasloe from Castlerea. There is a road but it is terrible. There is no direct rail link or bus route. It would take at least an hour and a half for families to visit their loved ones in such units. These sorts of excuses are totally unacceptable. Uprooting these people, changing their routines and putting them in new settings different from those they are used to is an absolute disgrace. This unit is their home. I totally disagree with this move. I fell very passionately about it. We in Ireland pride ourselves on having an innate sense of nature. This is not nature. It is terrible. It would not happen in the Minister of State’s own home town. This is a political decision and it can be reversed. I urge the Minister of State to deal with it as a priority.

Deputy Jim Daly: I thank the Senator for the opportunity to clarify some of the facts surrounding this story. I heard the interview to which the Senator refers on local radio, I have read lot of the commentary and I have heard the views of many of the Senator’s colleagues and

public representatives on this issue. The HSE has confirmed that no decision has been taken to close the Rosalie unit. The focus of the executive over recent times has been, and remains, on meeting the needs and best interests of the current residents of the unit. The 2006 document, *A Vision for Change*, sets out a comprehensive policy framework for the development of mental health services. It broadly recommends a move away from the traditional institution-based model of care to a more patient-centred, flexible and community-based service, where the need for hospital admission is greatly reduced while still providing inpatient care as appropriate. This Government has prioritised the reform and resourcing of our mental health services in line with *A Vision for Change*.

On the recommendations in the report, staff and service users are represented on the review group that authored it. The HSE has advised that a consultant psychiatrist and the chair of the review group have also been appointed to oversee the implementation of the report's recommendations. The executive has advised me that capacity exists within the Creagh suite in Ballinasloe to accommodate psychiatry of later life patients who have complex continuing care needs. This is an approved centre under the Mental Health Act 2001, which has recently been extensively renovated and modernised to the highest standards. However, the executive has advised that there is no current proposal to move the residents to this facility. I convened a meeting with local public representatives and the HSE on 24 January last in Leinster House. A key outcome of this meeting was a commitment by the HSE to fully engage with residents and their families regarding the Rosalie unit. The chief officer of community health care organisation area 2 met residents and their families on 8 February. In addition, I had discussions yesterday evening in Galway with the HSE about the Rosalie unit and I will be visiting it on 27 February. In conjunction with the executive, I will continue to closely monitor the development of all community-based mental health services in the Galway-Roscommon area, including those provided at the Rosalie unit. The unit, part of Áras Naomh Chaolain, is located in Castlerea, County Roscommon. As the Senator is well aware, it is a continuing care facility for psychiatry of later life patients.

Senator Keith Swanick: The Minister of State mentioned the 2006 policy document, *A Vision for Change*. He also mentioned that a move away from the traditional institution-based model of care is in train. This is not an institution. This is the residents' home. I have worked in St. Ita's Hospital and I have worked in psychiatry. I have worked in different units all over the country. This is the patients' home. Their families are used to visiting them there. To call this unit an institution is a misnomer and misleads the public. The Minister of State refers to *A Vision for Change*. At a public meeting held in Castlerea last week, Dr. Charles Byrne, a retired psychiatrist, said that the plan to close the unit violates *A Vision for Change* guidelines which stipulate that there should be 30 beds per 300,000 population. The population in Roscommon is aging and there are more than 2,000 patients in the Roscommon region with dementia. This is a callous act that violates people at their most vulnerable, because of their dementia and their cognitive impairment. These people have no voice and they probably have no vote, but I guarantee that their family and their supporters do and they will not be silenced on this issue. Nor will I. It is something about which I feel very passionate and I urge the Minister to ensure that this unit remains open.

An Cathaoirleach: The Minister of State has said that he will visit it and that there are no plans to close it.

Deputy Jim Daly: I thank the Cathaoirleach; there are no plans to close it and I do plan to visit it.

Senator Keith Swanick: Despite everything else.

Deputy Jim Daly: I will clarify some things for the Senator in the interest of being helpful. The decision not to admit any further patients to this unit was a clinical decision taken by those practising in the area. It was not taken by HSE management or by a politician, whether it was myself or my predecessor. The admissions stopped.

Senator Keith Swanick: It was taken to silence the advocates for the patients. That is why it was taken.

An Cathaoirleach: The Senator has had his chance. It may be the case that never the twain will meet. Perhaps when the Minister of State visits it, Senator Swanick might meet him there.

Senator Keith Swanick: I would be delighted to meet the Minister of State that day.

Deputy Jim Daly: I want to clarify a point that is important for the record of the House. The admissions were stopped on the basis of clinical best practice and by practising clinicians.

Senator Keith Swanick: That was convenient at the time.

Deputy Jim Daly: I have no problem coming in here to answer questions but the Senator will have to listen to my replies.

An Cathaoirleach: Allow the Minister of State to answer the question.

Deputy Jim Daly: The Senator will have to listen, this is a two-way process. The commitment I want to give to the House, to the Senator and others who are concerned about this, is that my top priority is the residents of the Rosalie unit. It will not be a politician that will dictate the future of that unit or these people, or any HSE management, it will be dictated by clinical best guidance and what is in the best interests of these patients and the residents of the Rosalie unit. That is what I will be guided by, not politics or HSE management. I will take the best clinical advice and ensure their rights are protected and upheld.

An Cathaoirleach: Senator Swanick feels very passionately about this matter in his home town or village. It might be helpful if he meets the Minister of State when he visits on 27 February.

I know there is a lot of passion involved but the Minister of State has to respond.

Mobility Allowance

Senator John Dolan: I thank the Minister of State, Deputy Jim Daly, for coming before the House on this matter. This scheme was abandoned or abolished by a decision of the Government in February 2013. I am concerned it has taken so long to address it. I will focus on three areas. In recent weeks, there was a letter from the Minister of State, Deputy Finian McGrath's, private secretary following a presentation that he made to the Joint Committee on Public Petitions last October.

The point was made there that it is not possible to provide an estimate of how many persons would currently be eligible for the payment of the mobility allowance if the scheme had not closed. I find that amazing because I asked the Oireachtas Library and Research Service which

contacted the HSE and I have come up with my own estimate. An estimate can be challenged but when one looks at the drop in the number of people in the scheme since it was closed and looks back at the pattern prior to that, I estimate probably up to 900 people have lost out over the past five years since the scheme was closed to new entrants. The Minister of State has been very strong about telling us that none of the people on the scheme has lost out and that they still have it but the people who would ordinarily have been coming onto the scheme, where others died or moved onto other things, have not been catered for. It is not acceptable by any means and the Department has not put enough effort into it.

At that committee meeting I asked when the Department had been first contacted by the Ombudsman. Deputy McGrath told that meeting in October that it had been in 2011 but a report undertaken by the Ombudsman includes several appendices. One, appendix 3 on page 31, is a letter from the chief investigator in the Office of the Ombudsman on 3 February 2009. There was a response to it three months later from the director of the disability and mental health division in the Department. Later that year, both the director general of the Office of the Ombudsman and, finally in November of that year, the Secretary General of Health became involved. Something is going wrong if a Minister of State at a committee does not know the basics of when the Department was communicated with in writing. On that occasion, I also asked why, in 2013, the Department did not put that scheme on a statutory footing. The response I received on 24 January 2018 was that it was not possible to place the then mobility allowance scheme on a statutory basis given the finding that the schemes were in breach of the Equal Status Act. If one reads the Equal Status Act 2000, on page 20, section 14 outlines certain measures and activities that are not prohibited. It simply states: "Nothing in this Act shall be construed as prohibiting (a) the taking of any action that is required by or under" and goes on to outline these, of which the first subsection is "(i) any enactment or order of a court."

In 12 days, it will be five years to the day since the Government abolished this scheme on equality grounds. A simple procedure could and should have been put in place to copper-fasten it as a statutory scheme pending the advice of the Ombudsman, which was to make sure that people over 65 were included - thankfully, people are living a lot longer now.

11 o'clock That was not done. At the committee in October, Deputy Brendan Ryan asked the Minister whether there was any funding in this year's budget and he said there was not. We still do not have the legislation and I have no sense or hope that this legislation will actually go through this year. We will then be into the seventh year without dealing with something that was regarded as urgent while ordinary people around the country are losing out.

Deputy Jim Daly: I am happy to provide an update to the House on progress on the health (transport support) Bill since the closure of the mobility allowance and motorised transport grant schemes in 2013. In February 2013 the Government decided to close both the mobility allowance and the motorised transport grant schemes following reports of the Ombudsman in 2011 and 2012 regarding their legal status in the context of the Equal Status Acts. Since the closure of the mobility allowance scheme, the Government has directed that the Health Service Executive should continue to pay an equivalent monthly payment to the now 4,133 individuals, then 4,700, pending the establishment of a new transport support scheme.

A review group on transport supports for people with disabilities, which was chaired independently, was established in 2013. Membership of the review group comprised representatives of Government Departments, the National Disability Authority and stakeholder organisations, including the Irish Wheelchair Association, the Disability Federation of Ireland and the Centre

for Independent Living, among others. Informed by the work of that group, the Government decided in May 2013 that new statutory provisions would be established to provide individual payments to people with severe disabilities who require additional income to address the cost of their mobility needs.

The Government also decided at that time that the details of the new statutory provisions should be worked out by an interdepartmental group to be chaired by the Department of the Taoiseach. The interdepartmental group comprised representatives of Departments and the National Disability Authority. On foot of the work of the interdepartmental group, the Government decided in November 2013 that the detailed preparatory work required for the scheme and associated legislation would be progressed by the Minister for Health in consultation with other relevant Ministers on a priority basis.

In line with the Government decision, the Department of Health has been working to develop legislative proposals for a new transport support scheme. The Senator will be aware that A Programme for a Partnership Government acknowledges the ongoing drafting of primary legislation for a new transport support scheme to assist those with a disability to meet their mobility costs. A general scheme and heads of Bill was completed in draft form and has been subject to detailed legal examination, given the complex legal issues which arose in the operation of previous arrangements. In December 2016, this draft general scheme and heads of Bill was circulated to other Departments and was the subject of consultation between officials in the Department of Health and the Department of Public Expenditure and Reform.

The House will appreciate that it has been necessary to estimate both the numbers likely to qualify for payment and the likely overall cost of the proposals. I can confirm that work on the policy proposals for a new scheme is at an advanced stage. The legislative proposals for the scheme seek to ensure the following: there is a firm statutory basis to the scheme's operation; there is transparency and equity in the eligibility criteria attaching to the scheme; resources are targeted at those with the greatest needs; and the scheme is capable of being costed and is affordable on its introduction and on an ongoing basis. It is hoped to bring a revised general scheme and heads of Bill to Government shortly in seeking Government approval for the drafting of a Bill for the new transport support payment. The health (transport support) Bill is on the list of priority legislation for publication in the spring-summer session of 2018.

In the meantime, the Department of Health has maintained contact with the Ombudsman in regard to this matter and Department officials have recently met with officials from the Office of the Ombudsman. The Department has also had ongoing contact with the National Disability Authority on the issue.

Senator John Dolan: Go raibh maith agat. We have heard about the work that went on throughout 2013, culminating in the interdepartmental group that was chaired by the Department of the Taoiseach coming to its conclusion in November of that year and the recommendations to the Department of Health. We move down a few lines in the Minister of State's statement and, next thing, we are in December 2016. He then goes on to state, "The House will appreciate that it has been necessary to estimate both the numbers likely to qualify for payment...". That is interesting, given it is part of the engagement between the Department of Health and the Department of Public Expenditure and Reform, and I am sure there would be tensions there. However, the reply from the Minister of State states they could not estimate how many people have lost out on the current scheme, when there are 35 to 40 years of trends available and they know the number is going down each year. I find it puzzling that the Department

could not or would not tell us that real people have been losing out year by year on the current scheme. We are being told the Department of Health will provide comfort to the Department of Public Expenditure and Reform about the number of people who are likely to benefit from a scheme we have never seen and that has never been piloted.

This scheme was brought in back in 1979. At the time, we had never heard the language of “personalised budget”, “money follows the person” and all of those things, but that is precisely what it was - a simply administered scheme that people had to apply for and which was means tested. Someone got money into their pocket and they could use a variety of different methodologies to make it work for them. It is absolutely crazy and ironic that a Government - this was done by the previous Administration and we have had another one for almost the last two years - would abolish a scheme that was about what we are now told is the new policy. That is exactly what this was doing for over three decades. There was a very simple device at the time, namely, to put a clause or section into some other piece of health legislation and copper-fasten that until the changes were made.

Deputy Jim Daly: I fully acknowledge there has been a protracted period since the problems with the mobility scheme were first highlighted. However, there has been an unusual degree of complexity attaching to the issues. When the draft general scheme is submitted to Government, it will be a matter for Government to determine the precise policy which should underpin the general scheme. The Members of the House will appreciate that we cannot pre-empt the outcome of the Government’s considerations. Again, I appreciate the opportunity to update the House and to reaffirm the commitment of the Minister of State with responsibility for disabilities to the introduction of a new Bill as a priority. I want to again confirm that it is on the list of priority legislation for the spring-summer of 2018.

Sports Capital Programme

Senator Robbie Gallagher: I welcome the Minister of State, Deputy Brendan Griffin, and thank him sincerely for his attendance. As he is aware, many towns in the Border region suffered due to the Troubles in Northern Ireland and while, thankfully, that day is now very much in the past, it has left a devastation in many towns. For example, it is fair to say that, in County Monaghan, no town has suffered as much as Clones. Given its close proximity to the Border, Clones had many roads closed during the Troubles and, indeed, those that were open to those wishing to visit Clones were subject to military checkpoints and the delays that come with that. As a result, many businesses have suffered down through the years.

Thankfully, however, the people of Clones have kept the light on and they are fighting back, and they are a very resilient people. One of the shining lights, if I can use that expression, during all of the dark days has been St. Tiernach’s Park in Clones, where the Ulster football final is held every year. The first final dates back to 1906. On that day, Monaghan overcame the Gaels of Antrim to win the Ulster final in Clones. Since then, thousands of people have visited the facility every July for what is one of the great sporting occasions of the year. It is fair to say that it has been recognised by commentators the length and breadth of the country that no venue can match what Clones has to offer on Ulster final day. The Minister of State is a good Kerryman so might argue with that. Most neutral observers would say that because of the narrow streets and warm welcome the people of Clones offer to all visitors from Ulster and further afield on that day, it is a unique occasion and one to be experienced. I know Kerry is quite busy at that

time of year, but I would like to invite the Minister of State to this year's Ulster final so that he might experience this unique occasion for himself.

The Government has allocated €50 million to upgrade football stadiums throughout the country. I am making a case for St. Tiernach's Park in Clones. It is a fabulous facility capable of holding over 30,000 people, which is a sizeable amount. I understand it is the eighth largest stadium in the country. It needs refurbishment and the facilities it has to offer need a lift. I would like to make a strong case for the Minister of State to seriously consider St. Tiernach's Park for funding for an upgrade. It has the potential to become a regional centre.

Clones recently opened a new peace park which is a fantastic sporting facility that adds to the many things it has to offer. We now need some money from the Minister of State so that we can upgrade the facilities. It is not just that Clones will look after the people of Monaghan and Ulster, it can also cater for events that would attract individuals from across the entire country.

Minister of State at the Department of Transport, Tourism and Sport (Deputy Brendan Griffin): I thank Senator Gallagher. I very much appreciate him raising this important matter.

The venue in question is synonymous with everything that constitutes Ulster football. As the Senator said, the Ulster final is one of the great occasions on the football calendar. What is special about a facility such as St. Tiernach's Park is the fact it is a town-centre facility and it helps create a fantastic feeling and experience for people on the day of the final. I am very familiar with Fitzgerald Stadium in Killarney, which offers quite a similar experience. I was in Mullingar yesterday and visited Cusack Park. The point was made that it is also located near the town centre. These types of stadium give events an exceptional feel because they are located in the middle of towns, which benefits local economies and creates a festive atmosphere.

I visited Clones in September at the request of the Minister for Business, Enterprise and Innovation, Deputy Heather Humphreys, and was accompanied on the day by the Minister for Transport, Tourism and Sport, Deputy Shane Ross, and members of the Monaghan county board, the Ulster council and the árd stiúrthóir, Páraic Duffy. I saw first hand the situation there and agreed that there needs to be investment, in particular on the health and safety front. A number of other areas also require investment. This is something I would like to see go ahead.

We were brought to the Peace Link to see the fantastic facility that has been developed in very close proximity to St. Tiernach's Park. It is a very impressive and is an excellent facility. When one stands on the track and looks to the left, one can see that the Football Association of Ireland, FAI, is developing facilities for the area. Clones has a great opportunity to become a fantastic sports hub. Everything is within walking distance. We put funding into the area and want to do so in the future.

The most recent sports capital programme delivered €60 million throughout the country for over 1,800 successful applications. We know the funding requirement for St. Tiernach's Park is higher than the threshold for the regional or local sports capital programme. Projects like this and other projects which are seeking large investment from the State to be met, in most cases, with investment from sporting, voluntary or community bodies point to the need for a larger scale project scheme. That is why the Minister, Deputy Ross, and I campaigned for the introduction of a new large scale project scheme in the most recent budget.

We were able to secure €50 million which can be drawn down from 2019 to 2021. We are in

14 February 2018

the process of drawing up the scheme. We are considering all of the terms and conditions, how the scheme could be administered and what the best use of public money would be in respect of the scheme. It may be one which is suitable for St. Tiernach's Park at some stage. I hope to open the scheme in the coming months. It is something I am very anxious to see proceed because there are many facilities around the country which require large investment from the State. They are now waiting to progress their applications and I am keen to see those projects going ahead.

This is something I know is critically important in the overall scheme of things in terms of economics. What the State might invest in St. Tiernach's Park would be matched by the economy of this jurisdiction with one, two or three Ulster finals. The economics of the project make sense. As the Senator pointed out, we have to acknowledge that this area along the Border was devastated for over three decades during the Troubles and needs additional help even now, 20 years on from the Good Friday agreement. Catching up needs to be done in certain areas.

As Minister of State with special responsibility for sport, I want to be able to assist in whatever way I can. This matter is very much on our radar. As I said, when I visited the area in September with the Ministers, Deputies Heather Humphreys and Ross, I saw, at first hand, what needs to be done and how there is a compelling argument for the investment to be made. I know the project has the backing of the county board, the Ulster council and the árd stiúrthóir in terms of it being a priority for the GAA. We intend to pursue the project and find the correct avenue as soon as possible.

Senator Robbie Gallagher: I thank the Minister of State for his contribution, to which I was very heartened to listen. He made the argument for Clones very well. It has the potential to become a sporting hub, not just for County Monaghan but for the entire northern part of our country. One cannot underestimate the economic benefits that the Ulster final brings to a town like Clones. Local people have embraced with open arms the visitors who come to Clones on Ulster final day. It is a significant benefit to the business community and Clones needs a helping hand from the Government. I hope that the Minister will see fit to make an allocation so that the facility can be upgraded and we can promote Clones as a sporting hub throughout the northern part of our country.

Sitting suspended at 11.20 a.m. and resumed at 11.30 a.m.

Order of Business

Senator Jerry Buttimer: The Order of Business is No. 1, motion re the Fifth Report of the Committee of Selection, to be taken on the conclusion of the Order of Business without debate; No. 2, Telecommunications Services (Ducting and Cables) Bill 2018 – Order for Second Stage and Second Stage, to be taken at 12.45 p.m. and to adjourn no later than 3 p.m. if not previously concluded, with the time allocated to group spokespersons not to exceed eight minutes and of all other Senators not to exceed five minutes; No. 3, Planning and Development (Amendment) Bill 2016 – Committee Stage, to be taken at 3 p.m. and to be adjourned no later than 5 p.m. if not previously concluded; No. 4, Private Members' business, the Mental Health (Amendment) Bill 2017 [Dáil] – Committee Stage to be taken at 5 p.m., to be adjourned after two hours if not previously concluded and No. 5, statements on job losses at Kerry Foods, Carrickmacross, County Monaghan to be taken on conclusion of No. 4 and to conclude after 40 minutes, with the contributions of group spokespersons not to exceed five minutes each, time can be shared and

the Minister is to be given no less than three minutes to reply to the debate.

Senator Catherine Ardagh: I wish everyone a happy St. Valentine's Day. Holidays like this tend to make those who are alone feel a little more isolated and vulnerable. I commend Senator Swanick's call to set up a task force on loneliness and encourage all Members of this House to call on elderly neighbours or those living alone to wish them a happy St. Valentine's Day. Some people receive very little communication and a small gesture like this can go a very long way.

Many of us have raised the issue of divestment from church-run schools to Educate Together schools. This affects the Canal Way Educate Together school in Basin Lane. I have raised this in correspondence with the Minister for Education and Skills but no satisfactory solution has been reached. The school was established as a two-stream school and has been located in its current premises since 2014. Due to its success, there is an increased demand for places and the waiting lists are very long. Unfortunately, this demand has resulted in a severe accommodation problem. As a result, the school has been forced to offer only a single stream to new junior infants for the coming intake in 2018 and could have no space for a junior infants class in 2019. There is a clear and desperate need for further classrooms to be installed to adequately accommodate the needs of the local community and those of the parents who wish to send their children to these schools.

It has been brought to my attention that in this school, there is no special education teaching centre and it is reported that the school has only half the required number of toilets to meet the needs of the students. The lease on the school is so short that investment is difficult. This stems from a failure in the divestment process. Caveats placed on divested schools have been raised in this House. The Department of Education and Skills needs to examine Educate Together schools and the divestment process and act pragmatically to ensure that parents who wish to send their children to particular schools are allowed to do so, that these schools are facilitated and children are accommodated. We need to do this urgently because parents are waiting for places for their children in 2019 and they do not know if there will be room in certain schools.

Today, very important statements on Brexit are being made in the UK and in Europe. An independent study, published today by Copenhagen Economics, examined the impact of Brexit on Ireland. It finds that our economy will grow by 7% less than it would without Brexit in the worst-case scenario and by 2.8% less in the best-case scenario. We have already seen the consequences of Brexit. Senator Gallagher successfully amended the Order of Business due to the possible closure of a Kerry Foods plant in County Monaghan. Worryingly, the report also said that Brexit will have a negative impact on Irish wages for all skills groups. One scenario shows that real wages will be 8.7% below the 2030 non-Brexit scenario.

I welcome the new Brexit website, although it is quite late. I would like to see proper policy decisions for small and medium sized enterprises, SMEs and larger enterprises. I have a small business in Crumlin and have had no interaction with the Government on how to Brexit-proof my business. The Government needs to make practical efforts and policy changes to mitigate the possible losses that will accrue when Brexit goes ahead.

Senator Victor Boyhan: It is my understanding that the national planning framework must be approved by both Houses of the Oireachtas. There are differing views on this and I have spoken to several people about it. The matter was raised this morning at a meeting of the Oireachtas Joint Committee on Housing, Planning and Local Government. We were told that

both Houses are required to approve this plan. This afternoon we will debate the Planning and Development (Amendment) Bill 2016, which refers to the national planning framework and national planning regulation among other issues. It is important to get clarity on that. The Government has announced that it will launch this national plan in Sligo of all places. Hopefully there will be great news for Sligo.

Senator Frank Feighan: It is a lovely part of the country.

Senator Victor Boyhan: That is right. It will be launched on Friday yet it has not been approved by the Houses of the Oireachtas. I am not critical of the national planning framework. I support it. There is a lot of good in it, but I ask the Leader to engage with the Minister who is coming into the House to deal with the Planning and Development (Amendment) Bill later this afternoon. At the outset we might have a brief statement on the position from the Minister. Is there a requirement to place this plan before both Houses of the Oireachtas? We should not take the Members of the Oireachtas for granted. If that is the case, we need to do something about it but in the interest of clarity, I ask the Leader to organise for the Minister to make an opening statement on this particular matter when he comes to the House this afternoon.

Senator Paul Gavan: I raise the issue of the extraordinary statement on housing by the Minister of State, Deputy Michael D'Arcy, yesterday. I ask that the Minister would come into the House to allow us have a further debate on that. The Minister of State stated: "I know everybody always quotes the high-cost areas, but there are other places that are available for rent for a fraction of what's being quoted..." Obviously, he has some secret information of which the rest of us are not aware. We should invite the Minister of State to the House so that he can tell us where those fractional rents are for the people in Dublin, Limerick and Cork because it is clear that the housing strategy being pursued by the Leader's Government is failing badly. In Limerick, we had 15% rent hikes in the past year. I remind the Leader that when Sinn Féin brought forward proposals to contain rents, they were rejected by both Fine Gael and Fianna Fáil. As the Leader knows, Fianna Fáil solutions involve showering builders and developers with even more tax cuts. Basically, it is arguing for a bigger and better Galway tent.

This is a very serious issue and I will give the Leader an example of its seriousness. A woman aged 75 living on the Ennis Road came into our clinic in Limerick and explained that her landlord had put the rent up from €600 to €900. At the age of 75, that lady is now facing being made homeless. The Leader's Government had ample opportunity to tackle the outrageous increases in rents and it failed because Fine Gael and Fianna Fáil are part of a landlord coalition. That is not funny. Does the Leader think that 75 year old woman is laughing?

Senator Jerry Buttimer: Deputy Gavan is funny.

Senator Paul Gavan: I might bring him down to Limerick to introduce him to her.

Senator Jerry Buttimer: He makes one-dimensional speeches all the time.

Senator Paul Gavan: Whenever we discuss rents in this House, what we have is a series of accidental landlords who pop up and tell us how difficult it is to be a landlord. There is no mention of the people being exploited. There has been a 15% increase in rents in Limerick, and what has the Government done? It has sat on its hands and done nothing about it. It has failed people across this country. I will leave it at that.

Senator Maria Byrne: I wish to raise two issues to do with Limerick, but possibly more.

They are different issues. First, I congratulate the four students from Scoil Ide who won the Intel Mini Scientist Competition. They were up against 145 schools and more than 8,000 students. In terms of education, science, technology, engineering and mathematics, STEM, subjects are always being promoted. That was highlighted in those students' project, which was called RoboBall. It was humans versus the computer, but they coded the entire programme themselves.

Senator David Norris: Who won?

Senator Maria Byrne: It is a very positive development that the STEM subjects are being highlighted at primary school level.

On a different note, I had the pleasure of visiting Troy Studios in Limerick last Monday along with some of my colleagues where "Nightflyers", which will be released on Netflix in the summer, is being filmed. It is a very good news story in that more than 400 people are employed in Troy Studios. It is an up and coming film studio. It was pointed out to us that the height of the ceiling allows them to higher and lower the stage and the cameras. They sometimes have cameras that have to come in overhead. It is conducive, therefore, to making films such as this one. It was very interesting to see the way the set is put together because when one is looking at something that is supposed to be in the future, and it is a science-based film, it is as if the corridors extend for miles yet they are very short. It is amazing what they can do with imagery and special effects. I congratulate all those involved because it has given local employment to dressmakers, painters, carpenters and students, which is very much welcomed.

Senator Keith Swanick: I wish to raise the topic of the charity sector. We saw the alarming situation in Oxfam UK where the chief of operations in Haiti, Ronald Van Hauwermeiren, was relocated to Bangladesh after the natural disaster for admitting to having prostitutes in an Oxfam sponsored home in Haiti. That is a violation that occurs every day of the week but in the aftermath of a disaster, it is totally disgraceful. I ask the Leader to invite the Tánaiste and Minister for Foreign Affairs and Trade to the House soon to discuss the charity sector in Ireland and to ensure that the charities regulator has adequate resources to combat any activity that may be happening in our charity sector. I understand Oxfam Ireland has distanced itself completely from the activities of this gentleman who used to work for Oxfam UK. He has been moved on to another aid agency in Bangladesh. He was not sacked. He should have been sacked but to protect the reputation of the charity, his job was protected in that he was moved on to a different agency, which is disgraceful. I want to know if our charities regulator has the powers it needs to combat such activity? Are we depending on whistleblowers or undercover reporters to uncover such activity? I would like to Leader to facilitate a debate on this matter and invite the Minister to the House.

I add my support for comments made yesterday by Senators from across the House regarding female genital mutilation. I condemn in the strongest terms the comments of Dr. Selim from the Castleknock Muslim centre. Female genital mutilation is inhumane and barbaric. It is butchery that occurs every day of the week and there is no place in modern day medicine or society for such activity. I want to put on the record of the House that I totally condemn his statement on this and support the comments made by fellow Senators in the House yesterday.

Senator David Norris: Hear, hear.

Senator Gerard P. Craughwell: I congratulate PDFORRA on its successful case where

the European Committee on Social Rights has upheld the entitlement of members of the Defence Forces to collective bargaining. For some time now the representative bodies have been advising that while side deals are done by firemen, nurses, teachers and various other groups, they have been prevented from doing this so it is my hope that the Minister will embrace this recommendation and allow them full access to collective bargaining.

On a separate issue, the Leader and, in particular, Senator McFadden, were extremely supportive of the Defence Forces in terms of the Jadotville medals. I acknowledge in particular the work of Senator McFadden who engaged with me constantly prior to the presentation of the medals. Her affiliation to the Custume Barracks soldiers is something to be commended but now that we have gone this far, can we go the rest of the journey? There was an issue in Cork, the Leader's constituency, from May 1962 where, in a naval exercise, a depth charge blew up prematurely on the *LE Cliona*, causing severe injuries to four members of that crew. We have recognised the crew with a commendation but we have not recognised them with a medal.

We also have the ridiculous situation of a soldier who left the Defence Forces in December 2015, having served 44 years, and a recruit who joined in January of 2016. The man with 44 years service did not get a 1916 medal but the recruit got one. We are now finding those medals for sale on e-Bay. That is a disgrace.

We should recognise those who served on our Border over 40 years of the Troubles with some form of decoration or medal. In case anybody thinks I am vying for such an award, I would not qualify because I served on the Border for just two days.

Senator Catherine Noone: The Senator would qualify.

Senator David Norris: Maybe he would qualify for a little medal.

Senator Gerard P. Craughwell: British soldiers qualify for the General Service Medal if they spent three weeks in Northern Ireland. Irish soldiers who served for 40 years do not qualify for certain medals. Perhaps we could have a discussion on this matter someday, at the Leader's leisure.

An Cathaoirleach: The Senator qualifies to take his seat.

Senator Martin Conway: I would like to follow up on what I said here last week about the need for reusable coffee cups. I should have asked the Leader to write to the catering services in Leinster House. When I was in a Butlers coffee shop recently, I was delighted to see that a customer can receive a free coffee when he or she buys a reusable coffee cup. I think that is very positive. The Leader could suggest Butlers to the catering services as a source for these cups.

It is great that there is a renewed emphasis on encouraging people to stop smoking. Today is Ash Wednesday, a day on which we traditionally highlight the need for people to protect their health by giving up smoking. Much has been done in this country. To his eternal credit, Deputy Micheál Martin introduced the smoking ban in pubs, which was revolutionary at the time. Our colleague, Senator Reilly, accepted a Private Members' Bill that banned smoking in cars when young children are present. I think we should go a step further by banning smoking at bus stops, outside railway stations and within a certain distance of the front gates of schools, community centres and youth clubs. Vulnerable people and others should not have to contend with cigarette smoke when walking out the gates of public buildings. No parent with a child should have to pass a group of people smoking when walking out the gate of the school. I am

seriously considering introducing a Private Members' Bill that would ban smoking within a certain distance of schools, bus stops, hospitals and other community and voluntary facilities. We have achieved a lot through the introduction of no-smoking zones, but we still have some distance to go. I am delighted to inform the House of this proposal on Ash Wednesday.

Senator Grace O'Sullivan: I wish the Cathaoirleach and all Senators a happy St. Valentine's Day. On that note, I ask Senators to support the people of Waterford in their request for 24-7 heart care. Last Saturday, more than 2,000 people walked on the streets of Waterford to demonstrate once again their absolute desire, request and hearty need for 24-7 cardiac care in Waterford. The Herity report has been completely dismissed - it is a fudge - because the time it takes to travel from Waterford to Cork is much more than 90 minutes. I would like to mention something interesting that I discovered at a recent meeting. When we bring a car for its NCT, the diagnostics sometimes show that there are several problems with the vehicle. That is what is happening in Waterford. While we welcome the mobile catheterisation lab, all it provides are the diagnostics.

Senator Gerard P. Craughwell: Hear, hear.

Senator Grace O'Sullivan: When people leave the catheterisation lab after being told they have multiple heart problems, they are stuck on a waiting list. There is no modular lab. I ask the Government to provide a modular lab at University Hospital Waterford, in addition to the mobile lab, to deal with these problems. This would ensure people are not sent out into the uncertainty of being left on waiting lists without knowing when their hearts will be treated. This could happen today. Today, I will be asking the Minister for Health, Deputy Harris, to do whatever he can to secure not only a second catheterisation lab but also decent and proper care in Waterford. On St. Valentine's Day, I ask the Minister and all Senators to have a heart for Waterford.

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

Senator Máire Devine: Hear, hear. Poor Waterford.

Senator Frank Feighan: The news coming from Belfast is very depressing. It does not look like a deal will be done to reopen Stormont. It is quite obvious that a deal on an Irish language Act is effectively impossible. I suggest that we now have to look at other aspects of the matter. I remember moments in Irish history, such as the signing of the Anglo-Irish Agreement, the signing of the Good Friday Agreement, the visit of the Queen to the Republic and the visit of the President to the United Kingdom. We need another such moment now and, in that context, I suggest we need to look at the east-west relationship. It is obvious that the two main parties in Northern Ireland are not going to reach a deal to restore the institutions at Stormont. I would like to propose five solutions. First, two seats are available in the Seanad. There should be a unionist person sitting in the House. I think that would send out a signal of inclusion. Second, a unionist MP has never appeared before the Joint Committee on the Implementation of the Good Friday Agreement, which has been sitting since 2007.

Senator David Norris: I am a unionist.

Senator Frank Feighan: Nationalist MPs from Sinn Féin and the SDLP have done so. I think that sends out another signal. Third, there really should be an aspect of the Republic of Ireland looking at associations with the Commonwealth of Nations. This would send out a signal that we mean business. If we want to have an all-Ireland soccer team, we should be

able to compromise in these situations. Fourth, the British-Irish Parliamentary Assembly has provided huge opportunities to parliamentarians from Britain and Ireland and the North-South Interparliamentary Association has been meeting since October 2012. It has gone under the radar and unannounced that MLAs from the DUP have been sitting in the Seanad Chamber for the past five years. We have sat in Stormont. We meet every six months. We need to look at enhancing all of these good and positive things. Perhaps they have been done under the radar because it was politically correct to do so. We need to send out a signal that we have met and we will meet. Fifth, we must look at the east-west relationship. We must set up an Oireachtas-Westminster group, along the lines of the North-South Interparliamentary Association, to try to break this logjam. It will not be simple to break the logjam in Northern Ireland. I believe a new east-west committee between Westminster and the Oireachtas is needed to break the logjam.

Senator Aodhán Ó Ríordáin: When I raised yesterday the fact that five Educate Together schools have been told that their enrolment for September is being curtailed - each of them is being allowed to take in just 13 students - I was advised by the Leader to submit a Commencement debate request. I have done that and I hope the debate in question will take place tomorrow. I would like the Minister to come to this House to discuss the issue of multid denominational education in the context of three campaigns across the country that are looking for Educate Together status at second level. The campaign in Galway is being assisted by Councillor Niall McNelis and the campaign in south Kildare is being assisted by Councillor Mark Wall. The third campaign is in Dublin 13, which is my own part of the world. Parents feel very strongly about the continuum of education under this model of patronage. It would be good to have a debate in this House on multid denominational education in its totality, and Educate Together in particular.

Senator Feighan has made a solid suggestion in relation to the political impasse in Northern Ireland. Given that there are two vacant seats in this House, we could ask the Government to seek political agreement across all parties in the Oireachtas for the allocation of each of those seats, respectively to an individual from the unionist tradition and an individual from the nationalist tradition in Northern Ireland. I suggest that such a positive move would represent an imaginative response to the current impasse from this Chamber.

Senator David Norris: The nationalist position is represented by Sinn Féin.

Senator Aodhán Ó Ríordáin: I am of the view that it would attract good cross-party support in this House. What we have in the North is the failure of two extremes - extreme nationalism from the Sinn Féin side and extreme nationalism from the DUP - to come-----

Senator Máire Devine: Move along.

Senator Aodhán Ó Ríordáin: -----to a reasonable accommodation to get the Executive up and running again. I think Senator Feighan has made a reasonable suggestion. The voices of extremes are not doing the business. The people are being let down.

Senator Paul Gavan: Is it extreme to believe in marriage equality? Is that an extreme position?

Senator Aodhán Ó Ríordáin: Voices from the mainstream of Northern Irish society should be facilitated in this House, as they were in the past when people like Gordon Wilson were Members of the Seanad.

This is a viable suggestion and is worthy of consideration and support from across these Houses. I will say this much: it is remarkable that when one makes a reasonable proposition about moderate voices that want to advance-----

An Cathaoirleach: I cannot hear what the Senator is saying. There are other discussions going on in the Chamber.

Senator Aodhán Ó Ríordáin: It is remarkable that when someone in this House makes-----

An Cathaoirleach: The Senator's time is up.

Senator Aodhán Ó Ríordáin: -----a suggestion about having moderate voices that are progressive and want to advance the cause of the people of Northern Ireland, one gets shouted at by one of the extreme nationalist voices in this House.

Senator Jennifer Murnane O'Connor: I wish to address matters concerning the health service and the 7,000 children and adolescents who have been waiting for psychiatric services for a year, if not longer. This is a very serious issue.

Another issue I wish to raise is that of people coming to my clinics who are not being accepted into a doctor's practice. I have come across this issue recently. I know that if one has three refusals from a doctor's surgery, one can write to the health board and it will assign a surgery, but this is becoming a serious issue. Along with this, I read recently in
12 o'clock *The Sunday Business Post* an investigation revealing "a staggering rise in the use of sleeping tablets, painkillers [...] and antidepressants". It referred to "a silent epidemic". The investigation revealed a 1,000% increase in the use of certain addictive painkillers over the past ten years with prescription drugs. It is said this is being called the new Valium, with use having soared from 54,000 to 652,000 in the past few years. I have massive concerns about this.

Next Friday, I believe, will see the launch of the new 2040 national planning framework. With Senator Grace O'Sullivan we are fighting hard to get 24-hour cardiac services in Waterford, yet our health services are suffering. Every day we listen to the great job the Government is doing but we now have children waiting years for psychiatric assessment, people trying to get into doctors' practices and people seeking quality of life but instead taking sleeping tablets. What is the Government doing that it is not looking after the health of Irish citizens? I call on the Minister to come before the House to address this.

Senator Catherine Noone: I support Senator Swanick's comments about Dr. Selim. He is a Trinity College lecturer in Arabic and a spokesperson for the Clonskeagh mosque. I do not know how he is qualified to speak about medical issues, but his comments were absolutely disgraceful. RTÉ takes its role to provide balance a little too far in allowing someone like Dr. Selim speak about what is essentially the butchery of women. People have been working so hard around the world to combat the practice. Some 200 million women and children have had it performed on them. It is a violation of women. What this man has to say is an absolute disgrace, and I do not see the need for him to be given air time on this issue.

Senator Murnane O'Connor raised the issue of psychiatrists. There is a need to address the need for more psychiatric services for young people. I hear from friends of mine who are general practitioners that it is very difficult for young people to access psychiatrists. We should discuss this in the House because it is a very serious problem.

The main reason I stand is to raise the issue of folic acid. We all know folic acid is required to avoid neural tube defects, including spina bifida, and that 1,000 babies are born with spina bifida every year. Recent research has suggested that folic acid should be added to some staple foods in the UK, whether bread, water, milk or whatever else. There was a lot of lobbying against this because various studies were produced to show that excessive levels of folic acid could cause all sorts of harm. Much recent research shows that this is absolutely untrue and scaremongering at its finest. Despite huge awareness about folic acid among women, specifically that it is required if one is of child-rearing age, a surprising percentage of women do not take folic acid. It would be a very good idea for us to consider this. It was covered in the ancillary recommendations of the report of the Joint Committee on the Eighth Amendment of the Constitution, and the HSE was relatively receptive to the recommendation. I wish to raise it with the Minister in the House at some point soon.

Senator Brian Ó Domhnaill: Ba mhaith liom inniu an cheist faoin bád farantóireachta, nó an tseirbhís, go Toraigh a ardú. I wish to raise the issue of the ferry service to Tory Island, an island 9 miles off the north-west Donegal coast. The King of Tory Island, Ireland's last remaining king-----

Senator David Norris: Yahoo. Thank God we have one left.

Senator Brian Ó Domhnaill: Some of the residents of the island are visiting Leinster House today. They are currently gathering outside the gates of Leinster House to protest their shocking treatment at the hands of the Minister of State with responsibility for the Gaeltacht and his Department in the awarding of a contract for the ferry service to the island. This ferry service has operated for many decades. However, the tender is up on 31 March. Therefore, a new service must be put in place by 1 April.

It was recently tendered, but the tender did not include any specification regarding the vessel to provide the service, despite the requests of the island community, which numbers 119 residents. Therefore, the tender was awarded to a 42-year-old vessel which, the islanders maintain, is neither seaworthy nor safe. It is shocking. The Department and the Minister of State invoking taxpayers' money, then turned around and said they would give the residents a grant to build a new boat. This would take three years. Meanwhile, on 1 April 2018, there would be no service. It is shocking.

The Minister of State and the Department have thus far failed to recognise the concerns of the island community. Five or six families have said they will leave the island come 31 March if this is not resolved. This would take five or six families from a population of 119 people. The Government is talking this week about protecting rural Ireland and launching the national planning framework while at the same time presiding over shocking treatment and a tender process that is clearly neither efficient nor effective and does not represent value for money for the taxpayer. I therefore ask the Leader to call the Minister of State and Government Chief Whip before the House to explain what the hell is going on with this service because it is clearly not good enough. It is wrong for a Government Minister of State to go around willy-nilly allocating and promising money to build up people's hopes while the people whom he is trying to fool have their lives to live on an island 9 miles off our coast. It is totally unacceptable.

Senator Máire Devine: Well said.

An Cathaoirleach: It reminds me of a pre-Magna Carta Latin phrase, *contra proferentem*.

It is *contra regem*.

Senator Máire Devine: Senators Noone and Murnane O'Connor talked about the 7,000 patient waiting list for child psychiatry services. I want both of them to be aware that we do not need to diagnose those 7,000 children. They do not need to be placed on waiting lists to see consultant psychiatrists. We just need to include well-being in our treatment of our children. We need to protect our kids and not label them. If we had well-being communities, well-being hubs, if we just had the idea of well-being in schools and libraries everywhere, most of those 7,000 children on the waiting list would not have to-----

Senator Catherine Noone: I agree.

Senator Máire Devine: I just wanted to balance the debate.

Senator Catherine Noone: However, people will still get sick.

Senator Máire Devine: I know, but-----

An Cathaoirleach: Point well made. I call Senator Norris.

Senator David Norris: I call for a debate on transport. People often say, "I hate to say I told you told so". I want to say "I told you so" today. I campaigned for nearly 30 years for an underground railway system in Dublin. I got the late Dr. Garret FitzGerald to do the mathematics. Senator Leyden is nodding; he was here for that debate and contributed to it. Dr. FitzGerald demonstrated that it was impossible for a surface tram to carry the required number of passengers because neither the length nor the frequency of the tram could be increased because of the traffic congestion. Now Councillor Ciarán Cuffe says taxis must be removed from sections of Dublin and another councillor says buses must be removed in order to facilitate the tram. According to a report in *The Irish Times*:

Mr Cuffe was speaking after a new 55-metre Luas tram was forced to stop on the 45-metre O'Connell Bridge on Thursday. The tram stopped with its rear carriage protruding across a yellow box junction between O'Connell Bridge and the south quays.

The incident led to massive traffic jams all over Dublin. The trams were also full and could not take any more people. The trams flew past people in stations located all over suburban Dublin and left people absolutely stranded.

An Cathaoirleach: What was the Senator quoting, for the record?

Senator David Norris: I am quoting from the edition of *The Irish Times* of 9 February and the headline was that Dublin faces another Luas snarl-up.

I welcome the fact that it appears further sections of metro north will be put underground. I understand that there is still a possibility for an orbital underground railway system for Dublin that can be installed reasonably cheaply. I remember bringing over Professor Melis Maynar from Spain. He supervised the building of the Madrid and Barcelona underground system. He travelled here to speak to the Cabinet sub-committee. He showed how we could build an underground in a third of the expected time and at half of the cost. The Government at that time nearly did it.

Senator Gerard P. Craughwell: We could not have that.

14 February 2018

Senator Máire Devine: That would have been common sense.

Senator David Norris: The then Government lost their nerve at the very last minute.

Finally, I was really rather saddened to see all of the lovely trees on Molesworth Street uprooted.

Senator David Norris: Hear, hear.

Senator David Norris: I am not sure if a commercial company uprooted the trees. There has been a lot of office development. It is really astonishing that a commercial company can pull up a whole line of trees and leave blank spaces in the ground.

Senator Terry Leyden: I thought Senator Craughwell asked the Leader of the House to arrange for-----

Senator David Norris: I cannot hear what is being said.

Senator Terry Leyden: -----a delegation or deputation to come here to discuss an issue that was raised by my colleague and President to be.

Senator Catherine Noone: That could be anyone.

Senator Terry Leyden: I mean Senator Gerard Craughwell.

Senator David Norris: Senator Craughwell is laughing himself.

Senator Gerard P. Craughwell: I am not worthy.

Senator Jerry Buttimer: The Senator is not much of an hero.

Senator Diarmuid Wilson: He is an-----

Senator Terry Leyden: I can tell Senator Craughwell not to rely on that, dear boy. If he does he will be sitting outside of Áras an Uachtaráin and not inside. Let us be quite clear about that.

Senator Jerry Buttimer: I am sure Senator Leyden would appreciate the job.

Senator Terry Leyden: I am sorry but I am not in a position to do so.

An Cathaoirleach: I ask Senator Leyden to get back on track.

Senator Terry Leyden: Last Monday, 12 February, myself and my dear colleague, Senator Gerard Craughwell, attended a press conference convened by the Permanent Defence Force Other Ranks Representative Association, PDFORRA, at its headquarters. The conference was in recognition of the fact that the Council of Europe has recognised PDFORRA's submission to register as a trade union. The Government has opposed such registration. I remind the Government side that it was the late, great Brian Lenihan Snr. who brought about the recognition of PDFORRA and the Representative Association of Commissioned Officers, RACO, in the late 1980s. The measure resulted in these representative bodies, which are very active. To give this matter proper airing - I am sure Senator Craughwell will agree with me - it would be appropriate that the Leader arranges a discussion on this important issue. We have plenty of time but I cannot outline all of the intricacies of the matter. Basically, the Council of Europe committee has

stated that PDFORRA is entitled to be registered as a trade union with ICTU and to negotiate on behalf of its members. Senator Craughwell will agree with me that the pay and conditions for the armed forces is not in keeping with the demands placed on them and the risks that they take on behalf of Irish citizens.

I compliment Mr. Mark Keane, president of PDFORRA, Mr. Emmanuel Jacob, president of the European Organisation of Military Associations, EUROMIL, Mr. Gerry Rooney, former general secretary of PDFORRA and Mr. Gerard Guinan, general secretary of PDFORRA, on their work and commitment to this matter. I also wish to place on record that PDFORRA is part of the nominating body for Senator Craughwell and me and we have declared our interest in this matter. Senator Craughwell has been very active, as a former member of every defence force in Europe that I could fit in - definitely at least two of them - which is rather rare. He is an exception. What an achievement. He has survived both of the organisations, which is a great achievement.

Senator David Norris: They were both in the British Isles to coin a phrase.

Senator Terry Leyden: I hope that the Leader will consider my request to arrange a debate on this very important issue. One does not have the time to explain the intricacies of this direction or decision by the Council of Europe during the Order of Business.

An Cathaoirleach: The Senator is in very ebullient form.

Senator Terry Leyden: That is because I got my ashes this morning.

An Cathaoirleach: The Senator must be feeling the love of St. Valentine's Day.

Senator Terry Leyden: I thank the Cathaoirleach.

Senator Paul Coghlan: I support some of what Senator Feighan said here this morning. I had long thought that things were progressing satisfactorily. Certainly, the British-Irish Parliamentary Assembly does good and valuable work. I now think, however, that the Senator is correct. Given that the news from the North this morning is not encouraging, and from the DUP in particular, an east-west dimension would be well worth pursuing. It could be valuable because there are people short of enlightenment over there. In terms of Brexit, it is in our interest to have an east-west dimension and a proper all-encompassing free trade agreement between the UK and the EU. While the UK does not want to say whether it will be part of the customs union or the Single Market, whatever it is called it has to be negotiated. The UK must be reminded that there are more than legal niceties - obligations - to be complied with and observed in leaving as much as when joining. That aspect does not seem to have fully dawned on them. We await the speeches that will commence today with the UK's Foreign Secretary, Boris Johnson, to see what, if anything, they have learned. Hopefully, there will be some enlightenment. In the medium term, Senator Feighan's proposal to have an east-west dimension and link between these Houses and Westminster would prove valuable and might counter some of the forces over there that do not work in our interests. That does need to be countered.

Senator Diarmuid Wilson: I join with my colleague, Senator Brian Ó Domhnaill, and his comments on the dispute that has arisen about the Tory Island ferry. A company called Turas-mara has operated the ferry for more than 30 years. The company is owned by a former Fine Gael councillor, Pádraig Doherty, and I note that he had a dispute with the Fine Gael party. I hope that the current dispute is not payback time for him.

I know the Gweedore-Magheraarty area very well and it is one of the most beautiful parts of this country. I have used the excellent ferry service every year for the past 23 years. Tory Island is one of the last inhabited islands off the coast of Ireland and the ferry is the only way that the inhabitants of the island can get their much needed supplies. The ferry also provides an opportunity for locals to earn an income from tourism during the summer months. Thousands of tourists visit the island on an annual basis and they use the ferry. Turasmara has provided a new vessel for the trip and it is very safe. It may not be commonly known but the seas that surround Tory Island are among the roughest in the world.

Senator Máire Devine: Yes, they are vicious.

Senator Diarmuid Wilson: The sea can be very rough even though it might appear calm when one is onshore. I appeal to the Minister of State at the Department of Culture, Heritage and the Gaeltacht, Deputy McHugh, to come in here and outline his plans to resolve the ferry dispute. If there is one thing about the people of Tory Island and island people in general, let us remember that we are all island people, it is that we have a sense of right. Therefore, if something seems to be dodgy or not right then we have a tendency, quite rightly, to stand up to it.

I have a final question for the Leader. After the publication of the much talked about national planning framework in Sligo on Friday, will there be an opportunity for Members to debate it in this House? I agree with the contribution made by Senator Boyhan this afternoon when he called for both Houses to have an opportunity to discuss it and vote on the framework.

Senator Brian Ó Domhnaill: Hear, hear.

Senator Neale Richmond: I call on the Leader to ask that the Minister of State at the Department of Transport, Tourism and Sport, Deputy Griffin to come to the House. I made a similar call before Christmas with a view to discussing the sports capital grants. I believe a further debate on sports infrastructure on this island is required, both to provide for a healthy island but also to ensure that our tourist offering and our economic offering tied to sports is of the highest possible standard. In Dún Laoghaire-Rathdown, the constituency I have most familiarity with, we still have a national hockey stadium with an AstroTurf pitch which is not up to international standards due to a stand-off. University College Dublin has had to rely on private money to bring its athletics track up to scratch. There is a litany of such issues, including swimming pools which have not been opened or are lying idle. We need a frank and fair discussion about this matter, and I call on the leader to invite Minister of State, Deputy Griffin here as soon as possible.

Senator Aidan Davitt: I wish to discuss an issue which will cause serious concern, both inside and outside this House. It will have serious implications where I come from. I believe it is reflective of the tail-wagging-the-dog character of this limp Government.

Senator Jerry Buttimer: What is the Senator talking about?

Senator Aidan Davitt: Fair play to the Minister for Transport, Tourism and Sport, Deputy Ross, for reopening his local Garda station and closing pubs in towns and villages all over Ireland that he has never heard of. Good luck to the Boxer; he has a hard neck and is a good politician with whom I have served.

An Cathaoirleach: Is the Senator referring to Deputy Kevin Boxer Moran?

Senator Aidan Davitt: I served with him and we know each other on personal terms, and I was delighted when he became a Minister of State.

(Interruptions).

Senator Aidan Davitt: The Senators criticised Fine Gael earlier about mouthing off when people get to their feet, so I would appreciate a bit of courtesy for Fianna Fáil. We are keeping Fine Gael in a job with a bit of support now and again, so I would appreciate a bit of courtesy.

Senator Gerard P. Craughwell: The Senator is admitting to a coalition.

Senator Paul Gavan: It must be the Valentine's Day effect.

(Interruptions).

Senator Aidan Davitt: Deputy Moran is calling the shots to keep this Fine Gael Government in power, and at any cost, it seems. Heretofore, Tullamore, Mullingar and Athlone were gateway towns, a development which had been ignored by Governments for the past ten years. Those Governments were happy to appoint them as gateway towns, and to promise money that was going to lead to large scale development in those towns instead of in Dublin. That never happened. The Boxer has prioritised Athlone as a new city under the national planning framework proposal.

An Cathaoirleach: With all due respect, the Senator should refer to the Deputy as the Minister of State, Deputy Moran.

Senator Aidan Davitt: Yes, the Minister of State, Deputy Moran. I apologise.

An Cathaoirleach: It might be a local term but the Senator has confused people in this House. He is not at a boxing match.

Senator Aidan Davitt: The Minister of State at the Department of Public Expenditure and Reform, Deputy Moran, has prioritised Athlone as a new city under the national planning framework proposals. This is a scandalous decision made by senior Fine Gael politicians to keep that party in office. I would ask Fine Gael to look at itself in the mirror and ask what was so wrong with the previous arrangements in Mullingar, Tullamore and Athlone, apart from the fact that no money was put into them. I call on the Leader to speak to the Taoiseach and ask him to revisit this situation. The people of the midlands are not happy.

Senator Jerry Buttimer: I wish everyone a very happy St. Valentine's Day. I am delighted to be here on this wonderful day.

Senator Gerard P. Craughwell: I can feel the love.

Senator Jerry Buttimer: I am going to stay in this lovely mood for the next ten seconds anyway.

An Cathaoirleach: I will be the judge of that when Order of Business is completed.

Senator Jerry Buttimer: I thank all Members for their contributions to the Order of Business. I noted from Senator Noone that in Taiwan today love symbols have been put up on traffic lights. Perhaps we could start doing that around here as well.

I join with Senator Ardagh in agreeing with the need for all of us, as citizens of a republic and as residents of communities, to make sure that no person is isolated or feeling lonely today. The taskforce she has called for is a good idea. Perhaps we do not need a taskforce; it is a matter of all of us extending the hand of friendship and checking in on neighbours to make sure everything is okay. It is an important suggestion.

The issue of Educate Together schools, raised by Senators Ó Riordán and Ardagh, is important. I am not familiar with the Canal Way Educate Together school. The context is that the Government has committed, as per the programme for Government, to reach 400 multi-denominational schools by 2030. The world is changing. It is ironic that today is Ash Wednesday, and that those who are from a faith community can begin a spiritual journey today. As a society, as a Government and a State, we have to recognise that we are in a changing world and that families should be able to have choice in the education system. The Minister for Education and Skills, Deputy Bruton, is committed to this, and has announced plans to accelerate the provision of multi-denominational schools. We want to learn from the previous announcement under former Minister for Education, Ruairí Quinn, where ten schools transferred to multi-denominational patronage. On the five schools that Senator Ó Riordán referenced yesterday and again today, and which Senator Ardagh also mentioned, there is a need to ensure that the correct process is engaged in. It is important that certainty is provided to the teaching staff and parents, and that we can offer choice to all people who want to go to Educate Together schools. I am a firm advocate for and strong believer in Educate Together. I see such schools in my own city of Cork, where they are providing tremendous education to young people, in a different model from what we were used to as students and teachers. It works. We must learn from the mistakes of the past and deliver more multi-denominational and non-denominational schools. That is what the Minister is going to do. The Minister for Education and Skills, Deputy Bruton, will come to the House in the coming weeks. He is committed to it. He is finalising plans with education and training boards, ETBs, to commence surveys of preschool parents. It is fair to say that both this Government and the last Government have been committed to delivering on the Educate Together model.

The subject of Brexit is not going to go away. It is a very important topic. Senator Norris posed a very good, even jocose, question today, asking if it will ever even happen. That is a question that the British Government-----

Senator David Norris: I hope it does not happen.

Senator Jerry Buttimer: We hope it does not happen. Mr. Boris Johnson is today making a number of speeches, as are other members of the UK Government-----

Senator David Norris: He is speaking from both sides of his mouth simultaneously.

Senator Jerry Buttimer: I will not make any comment on that. The report Senator Ardagh mentioned, the Copenhagen Economics study, was commissioned by the Government, and the Government is already taking steps to ensure that the impact of Brexit is minimised. Therein lies the question: how will we know what the real impact of Brexit will be until we see the final outcome? The Tánaiste, the Minister of State at the Department of Foreign Affairs and Trade, Deputy McEntee, and the Taoiseach have been very strong across Europe, as was iar-Thaoiseach, Deputy Kenny, on the views of Government. The report commissioned by Government is there to guide and help us to prevent the worst from happening. It is important to recognise that the Government is taking action, despite what Senator Ardagh says. It has already taken steps

to prepare the economy. If one looks at budget 2018, we have the Action Plan for Jobs in the Department of Business, Enterprise and Innovation, a new Brexit website, the rolling out of the Brexit loan scheme worth up to €300 million, including the development of a longer-term loan scheme, and the announcement of a €25 million response loan scheme for the agrifood sector, along with the provision of a range of grants and incentives to businesses. I appeal to Senator Ardagh to bring her business to the local enterprise office to find out about these schemes and engage with them, if she has not already done so.

Brexit is important, and that is why this House supported the continuation of the Seanad Committee on the Withdrawal of the United Kingdom from the European Union engagement north, south, east and west. Senator Feighan referenced this as it concerns the North. That is important, and we will have an ongoing debate about Brexit in this House. It is important to ensure that Government is ready, and it is being proactive.

Senator Boyhan raised the issue of the national planning framework, as did Senator Wilson. I am happy to have a debate on the plan when it is published on Friday. In response to Senator Boyhan's direct comment, my information - and if I am wrong I am happy to stand corrected - is that no vote is required for the national planning framework plan. We certainly will have debate on the matter in the House. I have no issue with that. It was never intended that there would be a final vote on the development plan. There has been engagement and consultation with all sides of the House. Members of this House made submissions. The important point now, in the context of Senator Davitt's contribution on the national development framework and national plan, is to ensure that the regions benefit from such a plan with the investment that so many Senators call for every day. What we are doing in the national development plan is investing so that we can have opportunities for people to grow businesses and create jobs in areas outside of Dublin, be it in Mullingar, Athlone, Cork, Carlow, Cavan, Roscommon, Limerick or wherever. The national planning framework will incorporate Ireland 2040. It is an ambitious plan for our country and I hope that we will all get behind it, wear the green jersey and put aside the narrow focus of our parochial interests. The latter bedevilled Fianna Fáil in the past in the context of its national spatial strategy, which was a disaster. I think the Fianna Fáil Members would have to acknowledge that.

Senator Terry Leyden: It was a great success in Roscommon.

Senator Aidan Davitt: Money was not put into it. That was the problem. We had an answer.

Senator Terry Leyden: The Leader should come to Roscommon to see decentralisation.

Senator Jerry Buttimer: Senator Gavan raised the issue of housing.

Senator Terry Leyden: Is the Leader for real?

An Cathaoirleach: Allow the Leader to continue. The Leader should not allow himself to be baited.

Senator Jerry Buttimer: Senator Gavan raised the issue of housing. I was not laughing at the comment about the lady to whom he referred. It is disingenuous to say that I was.

Senator Paul Gavan: That is how it looked.

Senator Jerry Buttimer: The Senator knows well what he is doing. As the Cathaoirleach

said, I am not going to be baited by Senator Gavan.

Senator Paul Gavan: It is no laughing matter.

Senator Jerry Buttimer: It is no laughing matter. The Senator is correct. That is why this Government is committed to Rebuilding Ireland. That is why we are building social housing in all parts of the country. As I said to Senator Humphreys yesterday, I want to see every working family in our country housed. It is not about a cheap slogan or getting a headline from comments in the House. It is about investment. The comment which the Minister of State, Deputy D'Arcy, made yesterday was made in the context of there being differentials in rent prices-----

Senator Paul Gavan: A fraction.

Senator Jerry Buttimer: -----in different parts----

Senator Paul Gavan: That is what he said.

Senator Jerry Buttimer: -----of Cork, Limerick and Dublin.

Senator Paul Gavan: He is out of touch.

Senator Jerry Buttimer: With respect, the Senator is out of touch. He knows quite well that this is the case and if he does not, he should come with me to visit Cork.

Senator Paul Gavan: Excuse me-----

(Interruptions).

Senator Jerry Buttimer: I will invite him to Cork.

An Cathaoirleach: Senator Gavan made his point clearly earlier.

Senator Jerry Buttimer: Different rents are being sought in different parts.

Senator Aidan Davitt: They are building a road down to Cork for Senator Gavan.

Senator Jerry Buttimer: To be fair, that is the point the Minister of State was making. He was saying that different rents were being sought and charged.

Senator Paul Gavan: He used the term "a fraction".

Senator Jerry Buttimer: What we must do - and Senator Gavan must show his support for this - is increase supply and ensure that rent pressure zones do not drive people out of houses and that landlords are part of the process. Senator Gavan has an ideology that does not want-----

Senator Paul Gavan: I am a socialist. I do not believe in subsidising landlords.

Senator Jerry Buttimer: Yes, but the Senator does not want anybody-----

An Cathaoirleach: There should be no interaction across the floor.

Senator Jerry Buttimer: The Senator has a one-dimensional model, which is to build houses full stop. That is not happening anywhere in the world. Where it did happen, it failed.

Senator Paul Gavan: No.

Senator Jerry Buttimer: It did. That is the reality.

Senator Jennifer Murnane O'Connor: The rent pressure zones are not working. The report published yesterday shows that rents are increasing and that the rent pressure zones are not working.

Senator Jerry Buttimer: The report does not have the facts for the full year.

Senator Jennifer Murnane O'Connor: No, it does.

Senator Jerry Buttimer: Let us have it when we come back. If it has to be changed, I have no problem with changing it.

Senator Paul Gavan: Does the Leader have alternative facts?

Senator Jerry Buttimer: No. As Senator Gavan knows quite well, I deal in real facts. The real facts are that more houses are being built than last year and more people are being accommodated. Yes, we have an issue. I accept that. I have always said it. However, the matter cannot be solved overnight. The party - it could be his party's next coalition partner - beside whose members Senator Gavan is seated wrecked the-----

Senator Paul Gavan: I would hate to split Fianna Fáil and Fine Gael up on St. Valentine's Day.

Senator Jerry Buttimer: -----construction industry.

An Cathaoirleach: We will get back on track.

Senator Jerry Buttimer: I join Senator Maria Byrne in congratulating the students from Scoil Íde on their success in the Intel Mini Scientist Competition. I also congratulate those at Troy Studios on their success. It shows that there is innovation and creativity in the schools. We commend our teachers, the students and their families. With "The Young Offenders", we have witnessed the success of our film sector and here is another good news story.

Senator Swanick raised a very important issue about the charity sector and Oxfam in particular. I am not fully aware of the complete story but I read some of it and heard a little about it on Sky News yesterday. The Senator is right in making his points about the charity sector. I am glad that Oxfam Ireland has disassociated from the mother ship, if I can put it that way, in terms of what has happened.

Senators Swanick and Noone raised the issue of female genital mutilation or circumcision. I agree with them. As I said on yesterday's Order of Business, it is not a medical procedure. It is inhumane and barbaric treatment of women and it is wrong. We should all stand united in our condemnation of it and work to change the mindset of some people. I know others of the Islamic faith have a different viewpoint on the practice and we welcome that.

Senators Craughwell and Leyden referred to PDFORRA and the case in the European Union on the acknowledgement of its members' rights. I welcome that and congratulate PDFORRA. Mark Keane is a very fine person whom I know well. We all accept that there should be collective bargaining. That is important. I hope that as a consequence of this ruling the Department, the Minister and those in the Army and Navy will co-ordinate to implement the outcome. I am not familiar with the case of the *LÉ Cliona* which the Senator raised. He raised it in the House

and had spoken to me about it already. I am happy to meet him, talk about it and, as I said, take the matter to the Minister.

Senator Martin Conway raised the issue of reusable coffee cups. We all welcome any progress in that regard. On tobacco-free Ireland and Ash Wednesday, it should be the aspiration of all of us to have a tobacco-free Ireland and to encourage people to stop smoking. An old advertisement was played on “Morning Ireland”, the purpose of which was to try to encourage women to smoke. We should all work together to make sure that big tobacco does not recruit more young people, and young women in particular, to smoking because tobacco is dangerous and causes cancer. We should all stand united on that.

Senator Grace O’Sullivan raised the issue of the cath lab in Waterford. I know there was a protest last Saturday. I would be happy to have the Minister for Health, Deputy Harris, come to the House. A national review of cardiac specialist services is taking place. I know that the mobile cath lab in Waterford is continuing to operate and that Senators Grace O’Sullivan and Coffey have been very proactive on the matter. I would be happy to have the Minister come to the House to discuss the wider issue of health. I will come back to him on it because it is an issue which is prevalent on the Order of Business most days.

Senators Feighan, Ó Ríordáin and Coghlan referred to the North. I appeal to all of those involved in the talks to negotiate and reach an agreement. The impasse has remained for far too long, from last year’s elections up until now. There is a need for devolved government in the North of our country. I know that Senators Feighan and Craughwell were in Glencree yesterday. We need to ensure that we have a government to represent the people of the North at a very critical time in terms of the Brexit talks and in the context of the need for a devolved government in the North. There is a duty on all sides. Senator Ó Ríordáin is right. It is about meeting in the middle, whether on the proposed Irish language legislation or marriage equality, and about getting an outcome that is to the benefit of the people. I would say to our unionist friends in the North that there is nothing to fear from an Irish language Act. I would ask them to work with us to ensure that we can have our own language and culture preserved and protected. Equally, there is nothing to fear from marriage equality. I ask Sinn Féin to move with the unionists on certain issues. Let us have a government that can work for the people at a critical time.

I also join with Senators Ó Ríordáin and Feighan in their comments. Although we have no role in how Senators are elected to the House, we have been well served by unionist Members. I am thinking of people like Gordon Wilson, Sam McAughtry, Maurice Hayes-----

Senator David Norris: John Robb.

Senator Jerry Buttimer: John Robb, exactly. There is Senator Norris in the South, but I was thinking about Members from the North.

Senator David Norris: I am really a dual monarchist. Austria-Hungary was the model.

Senator Jerry Buttimer: I am not sure the Senator really is a queen.

Senator David Norris: I most definitely am. An empress.

Senator Jerry Buttimer: We can look at the method of electing Members as part of Seanad reform but, in the meantime, we have a vacancy and another is pending. I am sure there will be bargaining on what will happen in that regard. Perhaps there will not. The people will

decide in any event.

Senator Murnane O'Connor raised the issue of health and the report on waiting times which was released this morning. I am not sure if the Senator heard the response from the HSE on "Morning Ireland". If she had, she would have heard that the headline was not necessarily correct. Government has prioritised investment in child psychological services. I accept that waiting times are unacceptably high. Equally, parents are frustrated. However, let us make the situation quite clear. If one were to listen to the Senator's comments this morning one would think the Government was doing nothing, but the facts - and they are not alternative facts - are that €5 million extra was added to the budget and that 114 assistant psychologists and 20 staff grade psychologists are being recruited. That is being done as we speak.

Senator Jennifer Murnane O'Connor: Recruitment is the biggest issue. That is why people are waiting. It is the truth.

Senator Jerry Buttimer: The Senator did not say that in her contribution.

Senator Jennifer Murnane O'Connor: I did.

Senator Jerry Buttimer: She came in and castigated the Government for doing nothing.

Senator Jennifer Murnane O'Connor: Absolutely. I have been highlighting issues of mental health needs for months.

An Cathaoirleach: Senator, please. You have had your say.

Senator Gerald Nash: A lovers' tiff on St. Valentine's Day.

Senator Jerry Buttimer: I believe in giving the facts.

Senator Jennifer Murnane O'Connor: I am giving the Leader the facts.

Senator Jerry Buttimer: Senator Murnane O'Connor is giving alternative facts.

An Cathaoirleach: Let us move on.

Senator Jerry Buttimer: The reality is extra funding of €200 million was made available, with more staff being recruited.

Senator Jennifer Murnane O'Connor: It is a question of finding them.

Senator Jerry Buttimer: There we go.

Senator Jennifer Murnane O'Connor: They are not there.

Senator Jerry Buttimer: I wonder who drove them out of the country.

An Cathaoirleach: Senators can have a discussion outside the Chamber but not on the Order of Business.

Senator Jerry Buttimer: Senator Noone raised the issue of folic acid and the need for a debate around that. It is important that we have a general holistic debate on health because there are very pertinent issues that get lost in the dynamics of the Order of Business in the House, where Members raise the most visible issues although there are other issues that are

equally important. I will have that debate.

Senators Ó Domhnaill and Wilson ably represented the islanders of Tory Island in regard to the ferry service and the vessel that is required. I know the Minister of State, Deputy McHugh, has met with islanders and he has engaged on the possibility of a new boat. I am sure that will be brought to a successful conclusion. I am not sure what Senator Wilson was insinuating with his remarks about a former Fine Gael councillor but I am sure everything is above board and-----

An Cathaoirleach: I would be inclined not to delve into those issues, Leader.

Senator Jerry Buttimer: I was going to say that I will leave that for another day.

I would love to go on holidays with Senator Wilson, by the way. I think we would have a great time on holidays.

Senator Diarmuid Wilson: I do not know what our respective spouses would think of that.

Senator Jerry Buttimer: We could maybe get a caravan on the ferry in the summer.

An Cathaoirleach: We would then have a skipper and first mate.

Senator Jerry Buttimer: It is an important issue because the issue of the islands is important. It is about connectivity and about ensuring people can live, in this case, on Tory Island and be allowed to have that choice. It is a very important issue and I do not mean to be frivolous about it. The Minister of State, Deputy McHugh has been involved and met with the islanders, and I hope there will be a successful outcome.

Senator Devine raised the issue of well-being and she made a very good point - it is definitely St. Valentine's day if I am agreeing with Senator Devine. The whole issue of well-being is important and we are hoping to have it on the school curriculum. Perhaps the CPP could look at the issue of well-being for the Houses of the Oireachtas as well, because it is important. If one listened to the priest at Ash Wednesday mass this morning, he spoke about that need to be silent, to be reflective and to be at peace.

An Cathaoirleach: We could look at it for this Chamber as well.

Senator Jerry Buttimer: We could. I am doing my best today.

Senator Norris raised the important issue of transport and I would be happy to have the Minister, Deputy Ross, come to the House. The Senator has been a long-time campaigner on certain issues in regard to Dublin transport. The Government is investing but it is an issue that we need to have addressed. I will have the Minister come to the House.

I join with Senator Norris in posing the question of why the trees were knocked, demolished and destroyed as part of the building on Molesworth Street. I think it is appalling if it was allowed to happen as part of planning. Trees are our oxygen. They are part of our built environment and, in the Dublin street we are talking about today, they were part of and an addition to that street. I have not got the answer for the Senator but I think it is an important matter to raise.

I have given Senator Leyden a reply in regard to PDFORRA in that I responded to Senators Coghlan, Feighan, Ó Ríordáin in an overall sense-----

Senator Terry Leyden: We might have a discussion on it in due course.

Senator Jerry Buttimer: I would be happy to facilitate that. Senator Davitt raised the issue of the national planning and development framework.

An Cathaoirleach: We will not get into a debate on that now.

Senator Jerry Buttimer: I will not. I know Senator McFadden has been very involved in progressing and advocating for her area.

Senator Richmond raised the issue of tourism and sport, and the need for a debate on sports infrastructure. In light of the Rugby World Cup bid, that is certainly very opportune and I would be happy to have the Minister come to the House. Sport is a very important part of all of our lives but, equally, it is an attraction to bring people to visit, whether it is Dublin, Cork or Limerick. I would be happy to have that debate in the House at later date.

With that, I wish everybody a very happy St. Valentine's Day. Whether we celebrate the first day of Lent or not, I hope we have a very peaceful Lent. I wish everybody well.

Order of Business agreed to.

Committee of Selection: Motion

An Leas-Chathaoirleach: I move:

That the Fifth Report of the Committee of Selection be laid before the Seanad.

Question put and agreed to.

Telecommunications Services (Ducting and Cables) Bill 2018: Order for Second Stage

Bill entitled an Act to provide for the vesting in the Minister for Communications, Climate Action and Environment of certain legal interests relating to ducting and cables for the purposes of the performance of any of his or her functions for telecommunications purposes; to provide for compensation; to provide for certain obligations; and to provide for related matters.

Senator Jerry Buttimer: I move: "That Second Stage be taken today."

Question put and agreed to.

Telecommunications Services (Ducting and Cables) Bill 2018: 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): The Galway-Mayo ducting and cables telecommunications network is a vital piece of State infrastructure located in an area of strategic importance for transatlantic traffic and with the potential to provide significantly improved broadband services in an area of the country under-served by broadband. It is built. It is in use to a limited extent

to provide vital transatlantic connectivity for a multinational company. It is poised to meet its full potential and the Bill before the House is the key to the fulfilment of that ambition.

The Bill has two principal objectives. The first is to give rights of access to private lands through which the ducting and cables pass so that those managing the network, the MSE, or managed service entity, will be able to fully maintain and operate the network. The second is to minimise impacts to landowners along the route and to provide compensation and safeguards to those landowners arising from the use of their land. I propose to address each of these objectives in turn.

First, I will address the proposal to provide rights of access to all lands through which the Galway-Mayo ducting passes. In 2005, during the planning of the Galway-Mayo gas pipeline by Bord Gáis Éireann, BGE, now Gas Networks Ireland, GNI, my predecessor funded the installation of underground telecommunications ducting alongside the pipeline. The pipeline and ducting were installed between Ballymoneen in County Galway and the new gas terminal constructed in Bellanaboy County Mayo. Construction took place between 2006 and 2008. In 2013 Shell E&P Ireland Ltd, or SEPIL, proposed to install fibre optic cable into the duct and to gift this to the State. This process concludes in the first quarter of 2018. The ducting and cables traverse approximately 500 separate interests in land. GNI managed the ducting build and managed access to private lands for that purpose, and also for the laying of the optical fibre cable. GNI acquired access rights over the majority of the private lands but not all. While the network is built, it cannot be fully managed, maintained or upgraded without securing access rights to all lands along the full route of the ducting and cables.

Section 2 of the Bill is the section that provides the Minister, and consequently the MSE, with the necessary rights to enter lands for the purposes of running the Galway-Mayo ducting and cables network. These access rights are described in Schedules 1 and 2 and are limited to those which are necessary to properly manage the ducting and cables network for telecommunications purposes. They are subject also to the obligations contained in Schedule 3.

The access rights acquired by GNI on my behalf stand vested in me by virtue of section 2(2) while access to all other lands along and adjacent to the route are granted to me under section 2(3). GNI's rights stand protected by section 2(4), which ensures that GNI's other access rights over the lands, such as access to the gas pipeline, are unaffected, and also section 2(5), which releases GNI from any obligations entered into in regard to the access rights acquired by GNI on behalf of the Minister under subsection 2. Turning now to the matter of protecting landowner interests, sections 3 and 4 provide compensation and safeguards to landowners and ensure that any impacts arising from the presence and operation of the network are minimised. Section 3 provides for a claim for compensation by landowners in respect of any diminution in the value of their land arising as a consequence of the Minister's right of access to the land to tend to the ducting and cables. It provides all landowners along the route with the right to claim compensation on the same terms while also taking account of any moneys already paid as compensation by GNI.

Section 4 is broader in scope. It provides for a compensation scheme to be established in law to reimburse owners or repair damages caused by the MSE or others working on my behalf. This scheme also provides for landowners to be compensated for any such damages or any injury, loss or disturbance suffered by the owner and caused by the MSE or others in the performance of their duties. This scheme or any amended schemes will continue to operate for the entire lifetime of the ducting and cables. Section 4 also provides for regulations which set

out the rules to be followed by the MSE and others working on my behalf in order to ensure minimal disruption to landowners and so that they are given adequate notice when works are planned.

Other safeguards also exist. Section 7 requires a map of the route be deposited in my offices and made available for inspection by all interested parties. Section 8 ensures that information is given to all landowners and interested parties at least 28 days before enactment and including details of the legislation, the deposited map and how and where to make claims for compensation under section 3. Section 9 sets the procedures to ensure that all notices are delivered to the intended parties.

Tá an gás ó gháscheantar na Coiribe ina bhuntáiste don tír toisc nach bhfuil muid ag brath go huile agus go hiomlán ar ghás iompórtáilte. Ar an gcaoi chéanna tá feabhas tagtha ar sheirbhísí leathanbhanda i bpobail áitiúla a bhraitheann ar an infreastruchtúr teileachumarsáide. Tá ceantar na Gaillimhe agus Mhaigh Eo in áit lárnach do cháblai transatlantacha. Cuirfidh an Bille seo go mór le fás shonraí tráchtar thar an Atlantach. Chomh maith leis sin beidh muintir na tíre, eagraíochtaí na hÉireann agus eagraíochtaí ilnáisiúnta in ann rochtain a fháil ar sheirbhísí leathanbhanda ardluais in iarthar na hÉireann. Tá an cábla snáthoptaice curtha isteach. Chuir an Stát é ar fáil dúinn agus tá sé ag obair ar an mbonn bunúsach céanna. Mar gheall ar an mBille seo beimid in ann leas a bhaint as an infreastruchtúr, rud a bheidh cabhrach do theaghlaigh agus do ghnólachtaí Chontae na Gaillimhe agus Chontae Mhaigh Eo. Sa mhullach air sin, tá sé tábhachtach a lua go bhfuil forálacha sa Bhille a thiocfaidh le cearta úinéirí talún agus cónaitheoirí.

I am preparing to tender for an MSE to operate and manage the State owned Galway-Mayo telecommunications ducting and cables network via concession agreement. The Bill before the House is the missing piece in the jigsaw that will enable that tender to progress. Its enactment will ensure that the MSE will be able to gain the necessary access to the ducting and cables infrastructure to fully maximise the benefits of the network. Consequently, I commend this Bill to the House.

Senator Terry Leyden: I welcome the Minister of State to the House. I welcome the Bill and will not delay its passage through the House because it is a very important Bill. Is this a retrospective provision? The ducting is there but there was no legislative authority to provide it through private property, which is the norm. I understand that the gas network would have had legislative authority to lay its pipes. This was an additional idea to provide the ducting which I would fully concur with. The Bill does not seem to involve the purchase of private lands but the establishment of a right of way over private lands to maintain the ducting. I understand that €90,000 has already been paid in compensation to 500 farmers along that route. The Department is providing for €200,000 in further compensation. What exactly is the compensation for? If the pipes have been laid and backfilled was there much damage to the properties involved? I presume compensation was paid by GNI for the laying of the pipework.

In July 2017 Fianna Fáil introduced the Planning and Development (Rapid Broadband) Bill 2017, which provided a consistent and streamlined framework for the development and sharing of broadband infrastructure in Ireland. If enacted this Bill would make it much easier for operators to find and share existing broadband infrastructure, making it more convenient and efficient to provide services to areas not serviced at the moment by requiring new roads and buildings to have fibre optic ready ducting in place. The Bill would also help to bring Ireland's planning laws into the digital age and speed up the roll-out of broadband. I suggest that the Minister of State examine that.

There is quite a lot of ducting laid and I can never figure out exactly who owns what, where and when. Some years ago ducting was laid in a ring around Roscommon and connected up, whether to the Iarnród Éireann lines adjoining them or through the ESB I do not know. There is much confusion about this. The broadband connection to the Oireachtas provided to Members from a designated office in our areas comes through the Eir copper wire instead of fibre optic cable. I understand there is a fibre optic cable around Roscommon which would be more efficient.

I regard this as retrospective legislation which is not a very good idea. Somebody somewhere did not feel it necessary to have separate legislation for the ducting but when the matter was examined the question of compensation arose which could not be paid out unless there was legislation to allow the Exchequer to do so. I hope this does not create a precedent that would allow the Minister and Department to issue approval to private wind operators giving them rights over properties to bring electric power to the nearest major electricity infrastructure. That is one factor we have resisted in respect of the provision of wind turbines in our beautiful, scenic, tourism area. The developers would not have the necessary legislative approval to bring overhead wires over private property. That power rests with the ESB. I hope this is not a back door approach to allowing these rights develop for multinational companies to put pylons on private property with no political oversight. I welcome the Bill. Fianna Fáil supports it and wants to see it passed as quickly as possible.

Senator Colm Burke: I welcome this important Bill. In respect of wayleave agreements, and in particular access to broadband, it is important that where we do work of any description we should ensure that we also put in ducting for additional services that may be required in the future. When I was Lord Mayor of Cork city in 2003 and 2004 and we did major work on Patrick Street we insisted on an adequate amount of ducting being put in place, with agreements signed by all the utilities.

We invited them to put ducting in place so that the street would not need to be excavated again for a long period of time. It is important that ducting is put in place in any urban development. This is about providing an additional service along a gas line where ducting is already in place and the need for legislation.

When wayleave agreements are put in place it is important that we work towards making sure additional services can be planned for. We have not done that in the past and we now need to do so. Likewise, when we are building new road infrastructure we should also invite utility companies to discuss whether they want to install ducting in order to plan for the future. Local authorities or the National Roads Authority could install it, and recover the cost of same by granting a licence for the use of that ducting. We are not doing enough in that regard.

I welcome the Bill which is now getting over a legal issue that needs to be resolved. It is important that there is adequate compensation for those who have wayleaves going through their lands. It is not just the case that lands may be disturbed; once a wayleave is put in place there is also a restriction on the landowner in terms of what can be done on the land. A landowner cannot erect permanent buildings or may have difficulties in running other services through the land. That has to be taken into account. That is the reason the compensation element has to be put in place. It is important that recognition is given to that. People do not realise that wayleave agreements create restrictions and it is important that all utility companies make sure that landowners are consulted and take legal advice, and utility companies provide for the cost of that legal advice.

An issue which arises in respect of getting wayleave agreements is a difficulty with titles. I have dealt with a number of cases where estates have not been administered when a person is registered as an owner despite the person having been dead for 30, 40 or 50 years. That causes problems and delays in finalising the process because no one can sign a wayleave until a grant of administration has been taken out. A person working in a legal capacity has to sign the documents. We are not doing enough to make sure that when someone dies who is the owner of a property, the estate is administered and the proper legal processes are followed. This problem can cause delays with putting services in place because there are no legal agreements and the person concerned does not have title to sign the required documents.

I dealt with a case involving Iarnród Éireann going back to 1965. A number of people had died between 1965 and 2005 and we had to deal with seven different administrations while trying to sort out the legal issues before we could sign the documents and a final agreement with Iarnród Éireann. They are issues that arise from time to time. It is important that the Bill is passed, the necessary legal entitlements are put in place and there is adequate compensation for the people affected by wayleave agreements. I again thank the Minister of State for bringing the Bill forward to the House.

Senator Niall Ó Donnghaile: Cuirim fáilte roimh an Aire Stáit agus gabhaim buíochas leis as an reachtaíocht seo a lagadh os ár gcomhair. Tacaím leis an mBille ach, mar a bheadh an tAire Stáit ag dúil leis, tá roinnt ceisteanna agam ina thaobh agus cuirfidh mé iad anois.

We welcome the Bill and I have to ask why we are only now discussing using existing infrastructure for the roll-out of telecommunications. Sinn Féin has asked the Government to explore the possibility of progressing the national broadband plan, which I presume is a State broadband plan, through State ownership, given the disarray which exists in the procurement process. There is only one bidder left and this leaves the entire plan in utter chaos.

The effects of the decision to privatise the State company Telecom Éireann in the past has had a negative impact on citizens and telecommunications services. State ownership would have facilitated a less complex and possibly less expensive roll-out of broadband and broadband services. There are many possibilities open to the Government now to continue the roll-out of high-speed broadband, including gas lines, railway lines and main haul lines which have already been completed. All of these could be used to bring high-speed broadband to areas which in 2018 have no regular and reliable access to high-speed broadband services.

We have asked that the Government explores the feasibility of using existing State infrastructure held by the ESB for the future roll-out of broadband. I see in the briefing note from the Department that it is stated that Shell EP will gift fibre optic connection to the State in 2018. Who shouldered the vast majority of the cost of building the duct in the first place? Is this really a gift and will the State benefit? What impact will the Bill have on the national broadband plan? The programme for Government has a commitment to provide broadband to every house and business in the country - I presume it means State - by 2020. How will the Bill speed up that process?

Senator Michelle Mulherin: I welcome the Minister of State to the House. I also welcome the Bill which will formalise the situation in respect of fibre optic cables running from Killala to Galway. This was a very sensible move on the part of the Government, which was facilitated through Gas Networks Ireland. While the gas pipeline was being laid, ducting was also laid so that fibre optic cable could be placed within it. It means that the State or a company or agency

did not have to go back onto people's land. As a solicitor I am very familiar with the situation having dealt with many people whose lands were required for the purposes of wayleaves.

Wayleaves were originally granted for a gas pipeline and ducting. I assume that all land-owners have been compensated in respect of that part of the job which has been done and the Bill makes provision for any loss to land or disturbance which would occur in the future if the State or a company has to fix cables for any reason. I ask the Minister of State to clarify whether people will be compensated because clearly that is required.

The Bill is timely. I am glad the situation is being regularised. Wayleaves can be incredibly complex and can lead to all sorts of complexities in regard to land ownership, rights and entitlements as my colleague, Senator Burke, alluded to. It is best that everything is set out clearly, as envisaged in the Bill. We are at a point where the hot topic is balanced regional and rural development. The national planning framework will be launched on Friday. Ducting and fibre optic cabling is very practical for the economic development of the region.

Killala is the landfall point of a state-of-the-art transatlantic fibre optic cable from New York which connects to London and mainland Europe. There is a break out point in Killala, which means there can be access to the cable for a data centre or any other endeavour which requires access to fibre optic cable. We are looking for ways to grow our economy. The north and north west have particular issues in terms of a history of poor investment in infrastructure and they also lag behind in terms of job creation, which was identified in the draft national planning framework. There are plans to address this. However, this cable - and the connectivity it provides - offers a golden opportunity to create a technology hub in the area.

The Minister of State was in the House yesterday, as was the Minister, Deputy Naughten, to discuss the national broadband plan. In my county, there are six metropolitan area networks with very good broadband, although many isolated rural areas do not have broadband. There is a metropolitan area network in my home town of Ballina and quite good broadband. The biggest challenge, to which Senator Leyden may have alluded, is to bring fibre to premises because the fibre is there and there is a cost in that. The national broadband plan is ambitious in regard to bringing high-speed broadband to people's homes and premises but this cable presents an obvious opportunity.

The focus must also be on what the cable can deliver for this region because other regions do not have such a facility but we do and are looking for unique selling points. There is an appetite for that. There was all sorts of trouble with the data centre in Athenry in the Minister of State's county in terms of objections to planning permission. The matter is still not fully resolved. At the break-out point at the former Asahi plant in Killala, County Mayo, there is planning permission for a full data centre but we do not have one. I am not sure how that can be so when planning permission is cited as one of the key obstacles to the construction of such data centres.

The region has many selling points and I hope that the Minister of State, as a fellow representative from the west of Ireland, will bear that in mind at the many interdepartmental and intergovernmental meetings in terms of the whole-of-Government approach to and regional strategies for job creation. Something can be done with the opportunity offered by the cable but the progress from an idea to the actualisation of a benefit for the region must be kick-started. This can help to refocus interest and, it is to be hoped, investment in the region and we are ready, willing and able to snap up the resultant opportunities. I ask the Government to try to

facilitate that.

An Leas-Chathaoirleach: I call the Minister of State to conclude.

Minister of State at the Department of Communications, Climate Action and Environment (Deputy Seán Kyne): I thank the Leas-Chathaoirleach. I thank Senators for their contributions, questions and constructive input to the debate. Senators have recognised the importance and relevance of dark fibre and ultra-high-speed broadband to rural Ireland, particularly Galway and Mayo. I welcome the support of Senators and parties and look forward to consideration of the Bill on Committee Stage.

Senator O'Donovan raised the issue of costs and whether this is a gift to the State. In March 2013, Shell E&P Ireland Limited, SEPIL, offered to install the fibre-optic cable into the duct to a value of €750,000 and gift ownership of the cable to the Minister. SEPIL has spent far in excess of the €750,000 budget. Full acceptance of the network was delayed as the overground cabinets and associated infrastructure did not meet the agreed specification. However, handover arrangements are currently being finalised with a view to closing out the involvement of SEPIL in quarter 1 of this year. Some costs did accrue to the State. The Department of Communications, Climate Action and Environment paid Gas Networks Ireland, GNI, approximately €900,000 between 2005 and 2010 in respect of the costs to GNI of obtaining easement rights. This included compensation payments to landowners in addition to GNI's administrative and overhead costs. The Department frequently consulted GNI from 2006 to 2015 and understood that all easements were in place.

This matter also relates to Senator Leyden's question on retrospective provision. Concerns regarding the nature of the interest acquired by GNI were raised by the Office of the Chief State Solicitor in May 2015 and subsequently affirmed by counsel on behalf of the State. The uncertainty created by legal opinion concerning the nature of the deeds of easement resulted in definitive advice issuing from the Office of the Attorney General on 4 September 2015. That advice recommended that the Minister consider an amendment to section 72 of the Registration of Title Act 1964, which would have the effect of explicitly conferring on the telecommunications a deed of easement, the same legal effect conferred on the gas pipeline deed of easement by that section. The easement was subsequently passed as part of the Energy Act 2016. However, in the course of discussions with GNI between October 2015 and January 2016, it became clear that deeds of easement had not been executed in all cases. GNI advised that approximately 68 interests on land were not closed and, of those, at least 13 would necessitate recourse to some form of compulsory acquisition. The legal counsel for GNI advised that it did not have the necessary *vires* to exercise compulsory purchase orders for the purpose of securing the remaining easements on behalf of the Minister and the Office of the Attorney General advised that the arguments of GNI's counsel were compelling and could not be dismissed. The Bill has thus been brought forward on the advice of the Attorney General and in the context of advice regarding GNI and easements.

There has been some mention of the national broadband plan. This gas network is a very different proposition. As Senator Mulherin said, it made sense to lay down the ducting and allow for the fibre to be rolled out when the opportunity was there. The State has built the network and the tenderer is permitted to use the network and all of its assets under a concession agreement. The network will not provide access to individual premises but will deliver ultra-high-speed broadband and dark fibre services to businesses and telecommunications operators in the area. A high level of interest in the network will ensure that it can be operated at a profit

14 February 2018

and developing the network to its fullest potential will maximise those profits. By the end of quarter 1 of this year, the interest of SEPIL will be removed and the State will have control.

Senator Mulherin referred to issues of access and Killala. If the State has control and access, issues such as those can be considered in the context of any projects that might come to the area. She mentioned data centres but there are other issues in that regard, including grid connection, which is separate to what is provided for in the Bill. However, where there are opportunities-----

Senator Michelle Mulherin: Grid connection is already in place in Killala.

Deputy Seán Kyne: Adequate grid connection is required. Senator Mulherin knows the geography of her constituency better than I do but grid connection could be an issue for major projects.

Senator Leyden raised the issue of wind infrastructure. That is not the aim of the Bill, which purely addresses telecoms in regard to this specific project.

As regards compensation, €900,000 has been paid by my Department to GNI in respect of compensation payments to landowners in addition to GNI's administrative and overhead costs. The rights of landowners are hugely important because the State built infrastructure across private lands and the House will agree that those landowners deserve to be treated with respect and gratitude for their support, recognition and accommodation regarding this very important telecommunications infrastructure. The Bill, as drafted, meets that need.

I thank all Senators for their support for the Bill. I hope it will pass all Stages as soon as possible.

Question put and agreed to.

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

Senator Colm Burke: Next Tuesday.

Committee Stage ordered for Tuesday, 20 February 2018.

Sitting suspended at 1.20 p.m. and resumed at 3 p.m.

Planning and Development (Amendment) Bill 2016: Committee Stage

Acting Chairman (Senator Gerry Horkan): I welcome the Minister of State, Deputy English, to the House.

SECTION 1

Acting Chairman (Senator Gerry Horkan): As amendments Nos. 1, 11, 12, 16 and 52 are related, they may be discussed together.

Government amendment No. 1:

In page 5, to delete lines 21 to 23 and substitute the following:

“(2) This Act, other than Part 4 and Schedule 3 at reference numbers 12 to 18, and the Planning and Development Acts 2000 to 2017 may be cited together as the Planning and Development Acts 2000 to 2018 and shall be construed together as one.”.

Minister of State at the Department of Housing, Planning and Local Government (Deputy Damien English): Section 1 contains the standard provisions relating to the Short Title, collective citations, construction and commencement of the Act. Subsection (1), which was drafted for the version of the Bill before it concluded its passage through the Dáil, provided for the standard collective citation. This amendment proposes to insert
3 o'clock a new subsection to update the collective citation to indicate that this Bill, when enacted, and the Planning and Development Acts 2000 to 2017 may be read together as one. Amendments Nos. 11, 12, 16 and 52 are minor drafting amendments that propose to update the collective citation of the principal Act so that the term “Planning and Development Acts 2000 to 2018”, rather than “Planning and Development Acts 2000 to 2015”, will be used upon the enactment of this Bill.

Amendment agreed to.

Section 1, as amended, agreed to.

SECTION 2

Acting Chairman (Senator Gerry Horkan): As amendments Nos. 2, 17 to 22, inclusive, 49 and 51 are related, they may be discussed together.

Government amendment No. 2:

In page 6, to delete line 3 and substitute the following:

“Minister” means Minister for Housing, Planning and Local Government;”.

Deputy Damien English: The purpose of these minor amendments is to correct the definition of “Minister” in section 2 of the Bill. They clarify that in light of the changes made to the title of the Ministry and the Department since the publication of this Bill in early 2016, the correct reference is to the “Minister for Housing, Planning and Local Government”. Accordingly, I will move amendments Nos. 17 to 22, inclusive, 49 and 51 as they are reached during this debate.

Amendment agreed to.

Section 2, as amended, agreed to.

Section 3 agreed to.

SECTION 4

Acting Chairman (Senator Gerry Horkan): As amendments Nos. 3, 5, 6, 9, 10, 23, 47, 48 and 50 are related, and amendment No. 5 is consequential on amendment No. 6, they may be discussed together.

Senator Jennifer Murnane O'Connor: I move amendment No. 3:

In page 6, between lines 25 and 26, to insert the following:

“ ‘Strategic Transport Plan’ is a transport plan drafted by a transport authority;

‘transport authority’ means either the National Transport Authority or Transport Infrastructure Ireland as defined in the Dublin Transport Authority Act 2008 and the Public Transport Regulation Act 2009 as amended.”.

We have been in contact with the Minister of State and his Department on this amendment, which proposes that “transport authority” should be defined as “either the National Transport Authority or Transport Infrastructure Ireland”. As we have come to an agreement on the matter, I will withdraw the amendment.

Amendment, by leave, withdrawn.

Acting Chairman (Senator Gerry Horkan): As amendments Nos. 4 and 7 are related, they may be discussed together.

Senator Fintan Warfield: I move amendment No. 4:

In page 7, line 40, after “assess” to insert “and make legally binding determinations on”.

In supporting these amendments, I remind the House of what the Tribunal of Inquiry into Certain Planning Matters and Payments said in respect of the need for an independent planning regulator. In the relevant section of the tribunal findings, under planning, Judge Mahon stated:

Finally, with regard to enforcement, the tribunal is concerned that the recent changes to the planning system have resulted in an over-centralisation of power in the hands of the Minister for the Environment which is not subject to sufficient checks and balances. Consequently, the tribunal is recommending that the Minister for the Environment’s ability to give directions to Regional Authorities and Local Planning Authorities should be entrusted to a planning regulator. However, the Minister for the Environment should continue to play a key role in adopting the national spatial strategy and the national development plan.

I intend to call a vote on this amendment.

Acting Chairman (Senator Gerry Horkan): We are dealing with amendment No. 4 at the moment. Is the Senator pressing the amendment?

Senator Fintan Warfield: Yes.

Acting Chairman (Senator Gerry Horkan): The Senator has moved the amendment anyway.

Senator Victor Boyhan: I endorse what Senator Warfield has said. Clearly, the Mahon tribunal report made many recommendations, and we see some of those recommendations echoed with regard to the legislation. This is a really important opportunity for us to give effect to those recommendations in primary legislation. I am supportive of this amendment.

Deputy Damien English: Section 4 seeks to make the regulator’s evaluations and assessments of development plans and regional strategies legally binding. I understand the rationale behind this approach but I must reject the amendment. We discussed this matter in the Dáil also. The primary role of the office of the planning regulator, as set out in the Bill, is to evaluate and assess development plans and regional strategies, and to make statutory observations and recommendations on them. I do not believe it is necessary to amend the Bill to give the

planning regulator the power to make legally binding determinations, and I do not believe that is what the Mahon report required either.

The Bill provides that the planning regulator will be independent in carrying out its functions. As currently drafted, it provides the regulator with sufficient powers to make recommendations to planning authorities and regional assemblies on development plans and on regional strategies, and for those recommendations to have sufficient weight. The planning regulator can submit observations or recommendations to the relevant planning authority on draft plans and strategies. A planning authority is then required to notify the planning authority and state the reasons its plan has been made in such a manner as to be inconsistent with any office of the planning regulator observations or recommendations. Where the planning regulator is subsequently of the opinion that the development plan or regional strategy, as made by the relevant planning authority, does not set out an overall strategy for the proper planning and sustainable development of the area or region concerned, the regulator shall recommend the use of the ministerial direction powers in the Act to ensure that the plan sets out an overall strategy for proper planning and sustainable development, and shall submit a draft direction to the Minister of the day for issue to the planning authority concerned.

The Bill further provides that where the Minister agrees with the recommendations of the planning regulator in relation to a plan or strategy, he or she will issue a direction to the relevant local authority or regional assembly. If the Minister does not agree with the recommendations of the planning regulator, the Bill provides that he or she is required to explain the reasons for the disagreement and must lay the reasons before the Houses of the Oireachtas and publish them on the Department's website.

While the introduction of the regulator explicitly recognises the need for oversight of the planning system, the Government's goal in establishing the office is not to overlap with the criminal justice system or to replace democratic decision making, but to ensure transparency, integrity, consistency and quality outcomes within the planning system. I believe the existing Bill has sufficient provisions to make certain that the recommendations of the planning regulator are given due weight within the planning process and that the regulator will have the necessary powers to succeed in the execution of its function.

At the moment, those decisions are made directly by the Minister of the day and I, as the Minister of State, make those recommendations on a weekly basis and often on a daily basis. We judge development plans and local area plans and make those decisions, but not in a very transparent way. I do not have to come into the Houses of the Oireachtas to explain decisions or talk about them. Under this Bill, the regulator will do all of that and he or she will make all of those observations and do all that work on a weekly or daily basis. When it is required, he or she will recommend that the Minister of the day, who could be anyone from this House in the future, from any party, will then make a direction. That is a very clear and transparent process, which I believe achieves what the Mahon tribunal wanted it to achieve. If the Minister does not agree with that direction, he or she has to come to the Houses of the Oireachtas and explain why he or she does not agree. That is a very clear and transparent process, and it is a very good planning system. We have gone far enough in this legislation.

We have to have some democratic accountability. Senators, councillors, Deputies and Ministers are elected to make final decisions on issues. I do not believe that the Mahon tribunal requires that we go beyond that, but there is a transparency element to this. A planning regulator will do all of that work and issue the suggested direction to the Minister. We believe that is

sufficient and should give everybody the trust required in the planning system.

Amendment No. 7 seeks to grant the planning regulator an additional investigative function and while I acknowledge that it is well intentioned, I cannot accept it. In this regard, there must be clear lines of demarcation between the role of the planning regulator and other responsible bodies, particularly in the areas of corruption and planning decision making. In instances where there is any evidence relating to planning corruption or breaches of law, these are strictly a matter for investigation by An Garda Síochána. In the area of decision making on individual planning applications, the planning Acts already provide a clear hierarchy of decision making from the local authority to appeals by An Bord Pleanála and thereafter where matters are brought before the courts.

The Bill as drafted already has sufficient provisions regarding the investigation of complaints by the office of the planning regulator and ensures that these complaints can, where appropriate, be referred to more appropriate State authorities. Again, the regulator has the power to carry out the investigation and gather all the information, but then has to bring it to the next relevant authority to be dealt with thereafter. It provides proper channels to go through. There is no reason to reinvent the wheel.

The Bill provides that the planning regulator may at its own behest, or at the request of the Minister or on foot of a complaint received, carry out reviews and examinations to determine if a planning authority is carrying out its functions under the planning Acts. The Bill further allows the regulator to form its own opinion and make recommendations as appropriate to planning authorities and the Minister, and to other authorities if corruption or impropriety is discovered. That ability already exists for the regulator.

The Bill also provides that in relation to complaints made by any person to the planning regulator regarding a planning matter, it can refer the matter and any related documents to the competent authority, be that the Ombudsman, the Standards in Public Office Commission, An Garda Síochána or any other State authority, as required for appropriate investigation. That is the correct way to do business and, therefore, I cannot accept amendments Nos. 4 and 7.

Acting Chairman (Senator Gerry Horkan): Is Senator Warfield withdrawing amendment No. 4?

Senator Fintan Warfield: No. It should go to a vote. This is just another measure aimed at enhancing transparency.

Amendment put and declared lost.

Acting Chairman (Senator Gerry Horkan): Amendments Nos. 5, 6, 9, 10, 23, 47, 48 and 50 are related and may be discussed together. Is that agreed? Agreed.

Senator Jennifer Murnane O'Connor: I move amendment No. 5:

In page 8, line 4, to delete “and”.

Deputy Damien English: Amendments Nos. 10, 23, 47, 48 and 50 arise from previous amendments tabled by Fianna Fáil on Committee Stage in the Dáil which I indicated I was generally open to but could not accept as drafted.

Recognising the links between transport plans and overall planning objectives, I wanted to

explore the possibility of conferring on the office of the planning regulator a function regarding strategic transport plans. In seeking to achieve a similar objective, I acknowledge Opposition amendments Nos. 3, 5, 6, 9 and 23 which have been put forward by Senator Murnane O'Connor. I agree with the Senator and her party colleagues in the Dáil that it is appropriate for the planning regulator to have a role in evaluating transport strategies. It is vital that our strategic forward planning is cognisant of an inclusive and wider transport infrastructure. However, upon further examination of the issue by my officials, it was considered appropriate that any function conferred upon the office of the planning regulator in this regard must relate to a specific statutory plan. The only transport strategy we have referred to in the Planning and Development Acts 2000 to 2017 is the transport strategy, which is provided for in section 12 of the Dublin Transport Authority Act 2008. This Act regulates the work of the national transport authority and comes under the remit of the Minister for Transport, Tourism and Sport. Consequently, I am proposing to give the planning regulator a specific additional function to evaluate and assess strategic transport plans made by the National Transport Authority. This is in line with the original Fianna Fáil proposals in this regard. I hope the Senator can understand the clarity I am providing in this respect. Following consultation on this matter between officials from the Department of Housing, Planning and Local Government, and the Department of Transport, Tourism and Sport, it was agreed that the proposed role of the planning regulator would best be incorporated as a function in the Planning and Development Acts and also in the framework of the Dublin Transport Authority Act 2008.

Accordingly, I am opposing Opposition amendments Nos. 6, 9 and 23 in favour of Government amendments Nos. 10, 47, 48 and 50, which will achieve a similar objective in a cohesive manner that integrates with existing transport legislation. Specifically, amendments Nos. 10 and 47 will confer on the regulator the power to evaluate and assess strategic transport plans made by the National Transport Authority. Amendment No. 48 will amend the Dublin Transport Authority Act 2008 to make the office of the planning regulator a statutory consultee in the drafting of transport strategies as they occur under the Act. This means that in the future, the planning regulator's office will be consulted when a transport strategy is being developed by the National Transport Authority and the planning regulator will receive a draft of the plan at the same time as the Minister for Transport, Tourism and Sport. The regulator will then simultaneously issue a notice to the Minister for Transport, Tourism and Sport, and the Minister for Housing, Planning and Local Government stating whether the overall plan is consistent with planning policy. The regulator can also make recommendations for any amendments required.

While the ultimate authority to determine the transport strategy will continue to rest with the Minister for Transport, Tourism and Sport, in cases in which the Minister does not accept or fully accept the advice of the planning regulator, he or she will have to inform the regulator in writing of the reasons for such a decision and will also have to consult the Minister for Housing, Planning and Local Government before finalising the strategy. This will be in addition to the provisions in the Bill that already place the planning regulator as the reviewer of regional, spatial and economic strategies. As such strategies are drawn up in consultation with the National Transport Authority and Transport Infrastructure Ireland, they will already be cognisant of strategic transport plans and wider transport concerns. This will mean the regulator will have a double lock on strategic transport planning, initially as a consultee in the formulation of transport strategies and again as the reviewer of regional, spatial and economic strategies that incorporate transport strategies.

Amendment No. 50, which will be moved later, is a minor amendment that proposes to

update the legislation so that a reference to the “Dublin Transport Authority” is replaced by a reference to the “National Transport Authority”, as it is now known. I think most Senators will agree that these changes represent a positive development. People want to have full access when it comes to planning and transport. I hope the approach I am advocating is agreeable to the House.

Senator Jennifer Murnane O'Connor: I thank the Minister of State.

Acting Chairman (Senator Gerry Horkan): I remind Members that we are discussing amendments Nos. 3, 5, 6, 9, 10, 23, 47, 48 and 50. If Senators have comments to make on those amendments, they should offer to make them now. When the individual amendments are reached later in this debate, they will be deemed to have already been discussed.

Amendment, by leave, withdrawn.

Amendment No. 6 not moved.

Senator Fintan Warfield: I move amendment No. 7:

In page 8, between lines 15 and 16, to insert the following:

“(c) to conduct investigations into allegations of planning corruption, impropriety or negligence so as to make findings of fact which can be used by the relevant authorities to prosecute breaches of law. The Office shall have the legal power to secure any documentation and to call any witnesses which it deems relevant to the conduct of any such investigation.”.

Amendment put and declared lost.

Government amendment No. 8:

In page 8, line 34, to delete “and”.

Amendment agreed to.

Amendment No. 9 not moved.

Government amendment No. 10:

In page 9, to delete lines 3 and 4 and substitute the following:

“(v) in so far as relates to planning matters to which paragraph (f) relates,
and

(j) to evaluate and assess strategic transport plans made by the National Transport Authority in accordance with section 12 of the Dublin Transport Authority Act 2008 and to issue a notice as provided for by subsection (10) of that section.”.

Amendment agreed to.

Government amendment No. 11:

In page 9, line 16, to delete “Planning and Development Acts 2000 to 2015” and substi-

tute “Planning and Development Acts 2000 to 2018”.

Amendment agreed to.

Government amendment No. 12:

In page 9, line 22, to delete “Planning and Development Acts 2000 to 2015” and substitute “Planning and Development Acts 2000 to 2018”.

Amendment agreed to.

Acting Chairman (Senator Gerry Horkan): As amendments Nos. 13 to 15, inclusive, amendment No. 26 and amendments Nos. 31 to 33, inclusive, are related, they may be discussed together.

Senator Grace O’Sullivan: I move amendment No. 13:

In page 10, between lines 39 and 40, to insert the following:

“(iii) the Water Framework Directive,”.

This Bill proposes to insert a new section 31S into the Planning and Development Act 2000. The new section provides for various policies, objectives and requirements to which the regulator must have regard. This list already includes a number of EU directives. The purpose of amendments Nos. 13 to 15, inclusive, is to add the water framework, floods and air quality directives to that list. During the Dáil debate on this Bill, the then Minister, Deputy Coveney, undertook to do this on Committee Stage, but this did not happen. I am reintroducing these amendments in order to strengthen the Bill.

Amendments Nos. 31 to 33, inclusive, propose to include the same references in the proposed new section 20C of the 2000 Act, which lists the matters to be addressed in any successor to the national spatial strategy and the national planning framework. These three amendments require the successor to the national planning framework to address the water framework, floods and air quality directives, respectively. The then Minister, Deputy Coveney, also undertook to bring forward a text to this effect.

Amendment No. 26 requires that planning decisions and plans such as development plans, as well as any other decisions taken under the Act, are consistent with the national objective for transition to a low-carbon, climate-resilient and environmentally-sustainable economy by 2050. These amendments, when taken together, merely tie together existing Government obligations. They try to bring coherence to the Bill and ensure it addresses all existing EU and national objectives in a comprehensive manner.

Senator Kevin Humphreys: Many of these amendments are worthwhile. Amendment No. 14, which relates to the air quality directive, is especially important because of the need to protect air quality in our towns and villages. A high proportion of cars and lorries in Dublin city have diesel engines. Such engines affect air quality in city areas and have an extremely detrimental effect on the development of young people’s lungs and brains. It is very important for us to support the EU air quality directive as a counterbalance to previous legislation that has encouraged the use of diesel engines. I support amendment No. 14.

Deputy Damien English: I do not propose to accept the amendments proposed by Senator

Grace O’Sullivan. The Bill ensures the office of the planning regulator shall have regard to the policies and objectives of the Government, planning authorities and any other public authorities, the functions of which have a bearing on proper planning and development.

Section 10 of the Planning and Development Act 2000, as amended, provides that local authorities must take account of many of the directives and plans identified in these amendments when they are preparing development plans. Section 23 contains similar provisions with regard to the preparation of regional, spatial and economic strategies. By extension, the planning regulator will be required to have regard to all of these matters when evaluating and assessing development plans and regional strategies.

The Bill provides that when the planning regulator’s office is assessing and evaluating development plans, it shall address relevant legislative and policy matters relating to development plans, while taking account of the national planning framework and all relevant ministerial planning guidelines and policy directives. Consequently, I believe the provisions outlined in the Bill are sufficiently broad and comprehensive to ensure the planning regulator will have regard to all relevant policies and directives when assessing development plans and regional strategies. All the directives that are listed in these amendments will be part of that. Accordingly, I do not believe it is necessary to itemise in the Bill the myriad of plans and directives referred to in Senator O’Sullivan’s amendments.

Senator Kevin Humphreys: I support Senator O’Sullivan. I suggest it is common sense to mention the water framework, air quality and floods directives. Many Senators were councillors before they entered this House and have experience of how An Bord Pleanála interprets the phrase “shall have regard to”. I think the Bill is strengthened by specifically mentioning the floods, air quality and water framework directives. I support these amendments.

Senator Grace O’Sullivan: When I consulted Green Party councillors on this Bill, they recommended that these amendments should be proposed. Like Senator Humphreys, I do not see a problem with naming specific directives in order to strengthen the Bill. I would like to hear the Minister’s reaction to that.

Deputy Damien English: It is not a problem, but it is just not necessary. It is built into the process that these matters must be taken into account when any development plan, planning application or planning regulation is being considered. Where do we stop? There are many other relevant directives in addition to those that have been mentioned. We have discussed this in the context of the national planning framework. I have discussed it with the joint committee as well. It is assumed in all planning law that this has to be there. If we start itemising, where will we stop? If we highlight two or three directives, such as the water framework and air pollution directives, we might ignore others. They are all part of it. Any development plan or planning regulator must look at all government policies and directives that reference planning. This is just assumed in the Bill. It is very clear. There is no need to itemise the directives, and I understand there are many more than just the ones the Senator mentioned.

Acting Chairman (Senator Gerry Horkan): Is Senator Grace O’Sullivan pressing amendment No. 13?

Senator Grace O’Sullivan: I withdraw it.

Amendment, by leave, withdrawn.

Acting Chairman (Senator Gerry Horkan): Is Senator O’Sullivan withdrawing amendment No. 14 as well?

Senator Kevin Humphreys: On a point of clarification, the Senator will be able to reintroduce these amendments on Report Stage if she so desires.

Senator Grace O’Sullivan: I take the Minister of State’s response in good faith. If all these directives are implicit in the Bill, I am happy to withdraw these amendments.

Deputy Damien English: Again, the offer is open to the Senator, or any Senator, to sit down with us before Report Stage if he or she has any doubt or seeks further clarity. If the Senator does not believe me or if I cannot prove something to her, we will be here again to discuss it on Report Stage but I ask her to trust me on this. The directives are very well covered and the amendments are not needed. However, we are happy to meet with her and discuss the matter with officials-----

Senator Grace O’Sullivan: Based on what the Minister of State has said, I will withdraw the amendments and bring them to Report Stage.

Acting Chairman (Senator Gerry Horkan): The Senator reserves the right to bring the amendments back if she so wishes.

Amendments Nos. 14 and 15 not moved.

Government amendment No. 16:

In page 12, line 35, to delete “Planning and Development Acts 2000 to 2015” and substitute “*Planning and Development Acts 2000 to 2018*”.

Amendment agreed to.

Government amendment No. 17:

In page 25, lines 31 and 32, to delete “Department of Housing, Planning, Community and Local Government” and substitute “Department of Housing, Planning and Local Government”.

Amendment agreed to.

Government amendment No. 18:

In page 27, lines 37 and 38, to delete “Department of Housing, Planning, Community and Local Government” and substitute “Department of Housing, Planning and Local Government”.

Amendment agreed to.

Government amendment No. 19:

In page 30, lines 15 and 16, to delete “Department of Housing, Planning, Community and Local Government” and substitute “Department of Housing, Planning and Local Government”.

Amendment agreed to.

14 February 2018

Government amendment No. 20:

In page 32, lines 21 and 22, to delete “Department of Housing, Planning, Community and Local Government” and substitute “Department of Housing, Planning and Local Government”.

Amendment agreed to.

Government amendment No. 21:

In page 35, lines 18 and 19, to delete “Department of Housing, Planning, Community and Local Government” and substitute “Department of Housing, Planning and Local Government”.

Amendment agreed to.

Government amendment No. 22:

In page 37, lines 22 and 23, to delete “Department of Housing, Planning, Community and Local Government” and substitute “Department of Housing, Planning and Local Government”.

Amendment agreed to.

Amendment No. 23 not moved.

Section 4, as amended, agreed to.

Sections 5 and 6 agreed to.

NEW SECTIONS

Senator James Reilly: I move amendment No. 24:

In page 44, between lines 9 and 10, to insert the following:

“Amendment of section 2 of Principal Act

7. Section 2 of the Principal Act is amended by the insertion of the following definition:

“ ‘planner’ and ‘planning consultant’ means a person who is:

(a) a corporate member or fellow of the Irish Planning Institute; or

(b) a person who has been permitted access to pursue the profession of planner pursuant to Article 5 of S.I. No. 139/2008 - Recognition of Professional Qualifications (Directive 2005/36/EC) Regulations, 2008.”.

On Second Stage I addressed this issue and the opportunity the Bill presents to address a glaring deficiency in our planning law, that is, the lack of regulation of planners, or those who call themselves planners. The points I made at the time still stand: anyone in this House, or outside it, can legally refer to himself or herself as a planner. This has had highly detrimental consequences for many individuals and I believe such people calling themselves planners have

been responsible for some of the poorer planning errors we have had in the past. I am very exercised about this. Even though this Bill concerns a planning regulator and relates to matters that arose out of the Mahon tribunal, it is an opportunity to address this glaring deficit. People like to believe that the professional whose services they are availing of has the necessary qualifications and training. I think they would also be glad of a register and a council that ensured a proper code of ethics and that ensured that the standard in practice was maintained, planners having achieved the qualifications and training they should have, and glad of some element of continuing professional development, CPD, being involved, as there is in many other professions. If one of the issues in this regard is that there are people working in the planning sector who have great experience but do not have the standard qualification, I am sure that CPD and grandfathering could address that. I have not had the chance to talk to the Minister of State since last we discussed this issue on the floor of the House. This is a very serious matter and one that this Bill could address.

I have tabled a very simple, straightforward amendment as a first step in this journey towards a proper register and regulation of planners that would define what a planner is and who can call oneself a planner. It defines a planner as

(a) a corporate member or fellow of the Irish Planning Institute; or

(b) a person who has been permitted access to pursue the profession of planner pursuant to Article 5 of S.I. No. 139/2008 - Recognition of Professional Qualifications (Directive 2005/36/EC) Regulations, 2008.”.”.

I believe the amendment can at least start the first step of this journey. We would still have some way to go, and I understand the journey could be more complex, but I seek with this amendment to start that journey and send a message to people that those who would profess to be planners and who are not properly trained would need to get that training organised for themselves if they wished to remain in the planning profession. This is critically important now because at the end of this week we will see the launch of the national planning framework. Our capital plan will also be launched, with €113 billion to be spent. These are very welcome developments and show the very serious intent of Government to plot a way forward.

One big issue that arises out of these two documents is the need for brownfield sites to be used and for Dublin to go higher rather than spread wider. My view, as someone who lives in Fingal, is that Dublin needs to go higher and places such as Fingal need to develop as well. The Fingal development plan for the next five years has land zoned for 49,000 units. Many people living in Fingal who have young families wish and hope their families could live in the area with them. We have also mentioned Dublin Airport, which contributes €8.3 billion to the economy. One example of its potential is that it has four office blocks capable of housing 4,000 workers. These people will want to live near their workplace. I know I had Senator Grace O’Sullivan’s support when I spoke about short commuting distances. Why not live in the nice green, sandy-beached area of Fingal rather than in Dublin city if one works in Dublin Airport?

At a time like this we will need the innovation and expertise of well-trained planners, and they also need their reputation protected by a standard and a code to which they can allude and a qualification they can stand over, rather than having fly-by-night operators who are not planners calling themselves planners and bringing the reputation of the planners into disrepute. As I said, with high density in Dublin, we will need very clever, innovative approaches to providing green space and amenity space, and I have absolute confidence in our planners to do so. I do

not, however, have confidence in those who purport to be planners and who are not properly trained to do so. I cannot emphasise enough how critically important this is. I feel if it is not accepted, it will be a missed opportunity and we will be doing the public a disservice.

Senator Kevin Humphreys: I have great sympathy for what Senator Reilly is trying to achieve here. I must own up to a certain amount of hesitancy, however. I am not quite certain all planners should be required to be members of the Irish Planning Institute.

Senator James Reilly: The amendment contains a subsection (b).

Senator Kevin Humphreys: I am trying to be honest here, not trying to score points. I accept what the Senator is trying to achieve. I would like to see an element of consultation on the measure. What we need is good planning but what we have been through for a number of decades, certainly in the greater Dublin area, is a period of very poor planning. We also at one time tried to regulate architects, which is why I am a little nervous about doing this on the fly. I would like to see a consultation period. I would not like to see an endless consultation period because I believe we should achieve what the Senator is trying to achieve, but I would like to be certain we are putting down the right criteria in defining planners. Perhaps when he responds the Minister of State will make clear whether he is accepting the amendment or how we could go about strengthening it speedily. Like him I would like to see everybody living within 30 minutes of their workplace because it makes sense.

In recent years we have been able to get green spaces right and the influx of what I call the new Irish has shown us how to use our public spaces better. For many decades our public spaces were ignored and became areas of anti-social behaviour. When they are designed correctly, in the right location, they become a resource like a person's front garden and are used in that manner.

I am very much open to the idea but I would like a little more time to consult and educate myself on this. The Senator might withdraw the amendment and resubmit it on Report Stage. I may be in a position then to support it, when I have considered the proposal in more detail and consulted with planners who have qualifications to see if this is the right way to go. Everybody in the Houses wants to achieve what Senator Reilly wants to achieve. We just have to ensure we do it in the correct manner.

Senator Victor Boyhan: Senator Humphreys has covered much of what I was going to suggest. I welcome this debate and spoke to Senator Reilly about it. He elaborated on this proposal in greater detail at its previous outing. It is a good one.

Over many years on a local authority I saw people present themselves as planners. Some of them were qualified but some unqualified, who had been in the business for 20 or 30 years and are exceptionally good. It is not all about textbooks and letters after one's name. There are people coming up to retirement who have learned the trade and have a really good feel for urban structure and design and development. I do not always buy into academia. I buy into experience as well. I have come across many developers who have tried to get stuff over the line in local authorities. We see how our country has been messed up by planners and developers and with the co-operation of both parties in some bad development. There are also many good developments.

We saw this in the health sector when the Government tried to bring in regulation for physiotherapists. We need to consult with people. The Irish Planning Institute, IPI, has become a

very slick outfit in the past few years. It runs very good conferences. I took the time to look at its website today and I know some senior members of the organisation. It is a good organisation and is very responsible but I would not like to rule out other people. We need to have a short period of consultation to get a broad view of what the profession is thinking and how best to regulate it.

Deputy Damien English: I agree with much in the proposal and understand why the Senator is making it. I understand the observations of his colleagues.

However, I do not propose to accept amendment No. 24 tabled by Senator Reilly proposing the insertion of definitions of the terms “planner” and “planning consultant” in the Planning and Development Act 2000, as amended. He said it is a small step but while it might seem a small step in the writing of it, this would kick off a much larger process. Senator Humphreys touched on that. There is a process to go through if we want to achieve this. We have not had the chance in the past week to discuss this but even that week would not have been enough for us to get this dealt with. I understand what the Senator is trying to do and would support it because the idea behind this Bill is to bring more transparency into the planning system, to have much better planning and more people involved in the process, and observing the national planning frameworks, county development plans and regional strategies that we have all been involved in over the past two or three years.

Planning has improved considerably over the past ten to 15 years. We want to improve it again, to make it clear and transparent and to put trust into the system. That means that when people hire what they think is a planner or planning consultant they can be sure they are getting someone qualified to do the job. That trust is betrayed if that person does not have the required skills. We see that in other professions and we are dealing with it bit by bit in them, and rightly so. I support the Senator but am not ready to put this into this Bill.

The terms “planner” and “planning consultant” are not mentioned anywhere in the principal Act and, therefore, I do not see any useful purpose, or legal requirement, to include such definitions in the principal Act. I acknowledge that several submissions have been received in the Department seeking to define these terms and to regulate the planning profession. Whereas I recognise the role and qualities of professional planners in the Irish planning system, there are a series of questions that remain to be resolved, such as the potential for anti-competitive challenges from workers from other EU member states with professional planning qualifications and how the regulatory function will operate practically in terms of regulation, policing and funding. These are issues we have discussed with the relevant bodies over the past couple of years but there have not been any solid proposals in this area. We would need those and I would be happy to engage with the relevant authorities.

I addressed a conference at the IPI last week. A group of people in the room were members of the IPI and have expertise in planning. We need that and want it but there is a process to go through. Inserting this amendment would not do the process justice and would not be fair to the system. It would be wrong to do that.

When we discussed this last week I mentioned precedent. Senators Humphreys and Boyhan referred to the regulation of specific professional groups. I namechecked the architects profession last week as provided for in the Building Control Act 2007. Without having any further flesh on the bones as to how a register of planners would operate, I am not in a position to accept this. We went through a similar process with the architects and there are still unresolved

issues, years on.

If we are going to do this we need to do it the right way with proper consultation involving everybody. I would be happy to engage in that process and legislate or regulate for it later. There are quite a few fundamental issues that require further consideration and development in this regard. I want to proceed with caution in this matter for the moment. While we would all agree that it is something we want to achieve, we have to do it in a proper manner. I would not be in a position to take it on Report Stage. I and the officials give a strong commitment that we will engage on this and we can achieve it if we want to but that will take longer than putting it into this Bill.

Senator James Reilly: I thank the Senators for their contribution. I accept Senator Humphreys's bona fides on this. The second part of the amendment relates to "a person who has been permitted access to pursue the profession of planner pursuant to Article 5 of S.I. No. 139/2008 - Recognition of Professional Qualifications (Directive 2005/36/EC) Regulations, 2008." That includes very specifically the Royal Town Planning Institute, RTPI, and others.

I have consulted widely with the IPI and have spoken to the president of the RTPI who does not have any particular problem with this. The issue of EU equivalence can be covered off under that SI.

There will of course be problems. There always are. I accept fully what the Minister is saying about architects and the fact that anyone could use that term up to a couple of years ago and that problems arose subsequently. Unfortunately, to make an omelette one has to break a few eggs. We cannot continue to run away from it on the basis that we may discommode certain people. No one rule will always be fair to everybody but the greater good demands that we do something about this, that we have protection for the public and that we protect the name of planners as well. It is not a case of pulling the ladder up after them but there are the IPI, the RTPI and our European brethren with whom in many professions we have equivalence of certification and acknowledgement of their degrees. The one I know most about is the medical profession. That is not without its problems. People may have the required professional capacity but not the language, which can be a big problem in medicine. On the issue of regulating, policing and funding, we are not trying to reinvent the wheel. Again, we have plenty of precedence among the professions who are regulated by their council, who pay for that regulation by their subscription to the council, of which they must be a member in order to conduct their profession. Obviously the council polices the matter. The cost to the State will be negligible. I do not believe the Medical Council get any subsidy from the State that I am aware of, as it is funded by doctors themselves, even though there is a lay majority on the council now. I do not think any of those problems are insurmountable. I hear what the Minister is saying and I fully acknowledge it. At the outset, I said we had an opportunity in the Bill which has a specific purpose, to consider a different end. I reserve my position until Report Stage. I will consult further with the planners to whom I have been speaking as to whether we need to bring this amendment back.

Failing that, I am putting the Government on notice that I will bring forward a Bill, which I will seek to publish in due course, if we cannot make progress in the foreseeable future because I cannot think of a more important time for this to be done. As I have already outlined, and without reiterating what I said already, with so much building and development coming down the track and a wonderful opportunity to get things right, let us make sure the planners who are planning it are properly qualified and right.

I propose to withdraw my amendment and reserve the right to submit it on Report Stage.

Deputy Damien English: To be clear, because I referred to architects. I am not saying that we cannot do this because of problems with that. There is a precedent set so we can do this, but a procedure was followed there. It was not simply a matter of tabling an amendment; we must flesh out our proposals more.

If the Senator proposes to table an amendment on Report Stage or to introduce a Bill, that is fine but that those who are interested in doing so need to engage with the officials from the Department of Housing, Planning and Local Government and flesh it out. It is not teased out enough. I totally agree with Senator Reilly that it is fixable but we have to have detailed conversations and consultations. Let me be very clear, it is not that I am against accepting the amendment but I cannot accept amendments in isolation. It is not appropriate timing, because we need to do more work around it. We had engaged in that process but it has not been completed. More Members could be involved in that process and we could finish it out, however there is a bit of work involved.

There is no problem with introducing a Bill, but it would be better for those involved to engage with the Department in trying to initiate a Bill in a logical manner and achieve a result.

Amendment, by leave, withdrawn.

Acting Chairman (Senator Gerry Horkan): Amendment No. 25 is in the name of Senator Grace O’Sullivan. Is Senator Craughwell dealing with this?

Senator Gerard P. Craughwell: Yes. We will withdraw it and re-enter it on Report Stage.

I move amendment No. 25:

In page 44, between lines 9 and 10, to insert the following:

“Amendment of section 2 of Principal Act

7. Section 2 of the Principal Act is amended by the insertion of the following definition:

“ ‘satisfactory completion’ includes compliance of all houses with the Building Regulations.”.”.

Amendment, by leave, withdrawn.

Senator Gerard P. Craughwell: I move amendment No. 26:

In page 44, between lines 9 and 10, to insert the following:

“Insertion of section 2 into Principal Act

7. The Principal Act is amended by the insertion of the following new section after section 2:

“**2A.** Planning authorities, the Office of the Planning Regulator, the Government, and other public authorities in the exercise of their functions under this Act, shall ensure consistency with the National Transition Objective established in the Climate Action and Low Carbon Development Act 2015.”.”.

Amendment, by leave, withdrawn.

Section 7 agreed to.

NEW SECTIONS

Acting Chairman (Senator Gerry Horkan): Amendment No. 27 is a Government amendment. Amendments Nos. 27 to 29, inclusive, are related and may be discussed together by agreement.

Government amendment No. 27:

In page 44, between lines 18 and 19, to insert the following:

“Amendment of section 10 (content of development plans) of Principal Act

8. Section 10 of the Principal Act is amended by deleting subsections (1B) and (1C).”.

Amendment agreed to.

Government amendment No. 28:

In page 44, between lines 18 and 19, to insert the following:

“Amendment of section 11 (preparation of draft development plan) of Principal Act

9. Section 11 of the Principal Act is amended by substituting the following for subsection(1):

“(1) (a) Not later than 4 years after the making of a development plan, a planning authority shall, subject to paragraph (b), give notice of its intention to review its existing development plan and to prepare a new development plan for its area.

(b) For the purpose of enabling the incorporation of the National Planning Framework and a regional spatial and economic strategy into a development plan—

(i) where notice of a development plan review to be given in accordance with paragraph (a) is prior to the making of the relevant regional spatial and economic strategy, then notice of the review shall be deferred until not later than 13 weeks after the relevant regional spatial and economic strategy has been made,

(ii) where a development plan review referred to in paragraph (a) has commenced and a draft plan has not been submitted to the members of the planning authority concerned in accordance with subsection (5)(a) prior to the making of the relevant regional spatial and economic strategy, then the review process shall be suspended until not later than 13 weeks after the making of the relevant regional spatial and economic strategy,

(iii) where notice of a development plan review to be given in accordance

with paragraph (a) would, but for this subparagraph, be more than the period of 26 weeks after the making of the relevant regional spatial and economic strategy, then each planning authority concerned shall, within that period, either—

(I) give notice of a development plan variation in accordance with section 13, or

(II) give notice of a development plan review.”.”.

Amendment agreed to.

Government amendment No. 29:

In page 44, between lines 18 and 19, to insert the following:

“Amendment of section 11B (development plans for new administrative areas to be provided for) of Principal Act

10. Section 11B of the Principal Act is amended by inserting the following after subsection (1):

“(1A) Where a planning authority to which subsection (1) relates has not commenced the preparation of a development plan in accordance with this section before the initial making of the relevant regional spatial and economic strategy, then the reference in that subsection to ‘within 12 months of the making of regional planning guidelines that take into account the amalgamation of the administrative areas concerned’ shall be read as a reference to ‘no later than 26 weeks after the making of the initial regional spatial and economic strategy that takes into account the amalgamation of the administrative areas concerned’.”.”.

Amendment agreed to.

Senator Victor Boyhan: I move amendment No. 30:

In page 44, between lines 18 and 19, to insert the following:

“Amendment of section 13 of Principal Act

8. Section 13 of the Principal Act is amended by the insertion of the following subsection after subsection (1):

“(1A) The initiation of a variation under this section shall be a reserved function.”.”.

The Minister of State will be aware that I have been in touch with the Department of Housing, Planning and Local Government for a protracted period in seeking clarification on the role, power and right of an elected member in a planning authority, that is, elected councillors have the power to initiate a variation to a county development plan.

Clearly there are different practices across local authorities. There are a number of local authorities where councillors have initiated changes to the county development plans. There is a lack of coherence across the 31 local authorities in this matter. There was a case in Dún

Laoghaire-Rathdown County Council in which the manager and the executive sought clarification and decided to get an independent view. Every time one looks for a view, one gets a different view from somebody else.

There is some ambiguity about the role and the function of elected members in initiating a variation of the county development plan. I am talking about a variation as opposed to any other mechanism, for instance, if a number of members of a local authority wished as a group to vary their development plan to have regard for a number of protected structures or an architectural conservation area - I am giving those examples as being not too controversial - some local authority members have been told by their chief executive that they cannot initiate this process.

I believe fundamentally, and there has been a judicial review on similar matters, that the making of a development plan is the most powerful instrument of an elected member in a local authority. In many ways this takes up a lot of members' time, in terms of ensuring that it is followed to the letter of the law. Members will know from their experience in local government that councillors guard that power and are very proud of their county development plans. They put in an enormous work into the county development plans. I do not have a problem with the executive initiating change and having a variation to the county development plan but it is important that members have the power and the right to initiate a variation. I say that under very definite circumstances. It is to be about process. It is not just members willy-nilly making up some idea, but it is going through a long process of giving notice. It is a public system that is transparent. A variation in the county development plan requires public consultation, a planner's report, various amendments, teasing it out and coming back. The executive has a role, as do the elected members. I want both parties to have an equal role in this. That is important.

The Minister of State will be aware that in County Meath, there has been controversy about planning issues. The elected members have successfully initiated variations. The power is there and the ministerial advisers should be telling him that it has happened. I took on the task of going around a number of local authorities to find out how many variations took place in a number of local authorities, particularly in Dún Laoghaire-Rathdown, because it is the local authority I know best. Clearly I can see that variations were initiated by the executive but there were also variations initiated by the elected members. It is a question of how do we start the process, how does an elected member come to a local authority and start the process. That is where the problem lies. I think there needs to be absolute clarity that elected members have a role and a function about initiating a variation of the development plan. If the members do not have any power to initiate a variation, in effect once they sign off on the county development plan, they can do sweet damn all in terms of making changes. Plans evolve, as the Minister of State knows. Plans have to have regard for change in circumstances. That is what I am trying to achieve. I do not wish to weaken or dampen down the powers or the functions of the executive. I want to put the reserved functions of the elected members on an even keel with the executive functions which the executive holds.

Senator Kevin Humphreys: I am pretty much in agreement with Senator Boyhan. This is about strengthening local democracy and I support this amendment.

Local councillors take great pride in the development plan. Certainly on many occasions in Dublin City Council, local councillors had to go to An Bord Pleanála to keep the integrity of the development plan when the executive failed to do it. The prime example was when the then Jury's Hotel was given planning permission for an inappropriate development and local councillors had to appeal that decision to An Bord Pleanála, which then upheld the development

plan. Anything that strengthens local councillors in respect of planning is good. Anything that clarifies clearly the reserved functions of councillors, to allow councillors to initiate a variation of the development plan along with the executive is important. Five years can be a long time in terms of a plan for a city or town. There is a need for the elected members of the council to know their reserved function and that they can initiate a variation of the development plan, even though it is tightly regulated and ensures there is proper consultation during the process.

I thank the two Senators for tabling the amendment. It is common sense and supports the local councillors with their work on the ground.

Deputy Damien English: I do not propose to accept amendment No. 30 as proposed by Senators Grace O'Sullivan and Victor Boyhan due to its wording. It is important that there is a clear and robust planning rationale for embarking on a variation procedure in respect of a development plan. The current requirements in the Act recognise the fundamental role of elected members as decision-makers in this regard, which would be undermined by this proposed amendment as it seeks to permit the amalgamation of policy formulation with the decision process on policy. However, I know what the Senators are trying to get at.

It is important that we recognise the different roles of both elected members and the executive. Planning and local government legislation distinguishes between legal functions reserved for the elected members, on the one hand, and the executive functions of the executive on the other hand, and both are part of the planning authority's procedures.

The development plan variation and amendment process is intended to operate as a well-informed and open dialogue between the elected members and the executive regarding the wishes of the elected members on planning policy, in their local authority areas, and the legal responsibilities of the executive to advise the elected members of the council of their duties and responsibilities from a legal and technical perspective. Furthermore, there is a need to ensure that the integrity of the development plan and local area plan, as adopted by the elected members, is maintained and is not subjected to an ongoing review and change without the required level of technical examination. There is a danger that the overall coherence of the adopted plan will be undermined by piecemeal and frequent changes that would create uncertainty in the development plan process. I am not saying that would happen. I am saying that the wording of the amendment poses a danger and I am prepared to talk to the Senators in order to come up with a different wording. Both elected members and officials must work together in harmony. They must recognise their respective roles for the purpose of shaping the proper planning and sustainable development of the functional area of the relevant planning authority.

The actions involved in initiating a variation of a development plan include a number of steps such as: preparing for and undertaking a public consultation; reporting on the public consultation; and the subsequent preparation of recommendations for the members to consider further to the public consultation. From a practical perspective, the function under section 13 of the Planning and Development Act 2000, as amended, which governs variations to the development plans and local area plans, requires that reasons be stated for the initiation of a variation. The reasons must stand up to scrutiny from the perspectives of proper planning and sustainable development, consistency with the overall national policy and the regulatory framework for planning, and fair procedure.

I, therefore, oppose the amendment tabled by Senators Grace O'Sullivan and Victor Boyhan.

I do so on the grounds that their amendment could facilitate piecemeal and frequent changes to development plans and local area plans, which would give rise to and create uncertainty in the development plan process. I know what the Senators are trying to achieve with their amendment. I am prepared to discuss some other wording with them, which will also provide a clear definition. I am sure we all agree that we do not want a variation to become a regular occurrence as it would undermine the plans. It might also generate a legal doubt so it is best not to do so. I accept, however, that there might be a need to do so in certain circumstances.

In general, this process has worked quite well. It has been mentioned at a committee meeting that the process has not worked in a couple of cases. I am happy to meet the Senators to discuss the matter before Report Stage. We could review the cases that the Senators are aware of but that I am not aware of and try to agree on a new wording for the amendment. I cannot accept the current amendment because it does not achieve what they want. Perhaps we will not agree on a new wording and we will have to agree to disagree. Before the Senators decide to press their amendment I suggest that there may be time in the months ahead to discuss the matter and perhaps reach an agreement. I have sympathy with what they are trying to achieve with their amendment.

Senator Victor Boyhan: I do not have one issue with anything the Minister of State has said. I was a county councillor for many years and I have worked an awful lot with Fine Gael councillors, which is the political party to which the Minister of State belongs. I shall not withdraw my amendment. Instead, I shall go away, think about it and come back with the views expressed by members of his party. As I have told him, I have consistently been in dialogue with his officials for over a year who have continually told me that they will bring in guidelines. The last correspondence I received from them stated the guidelines will come in when the national planning framework is adopted. Will it? Is it a *fait accompli*? I have no difficulty with discussing this primary legislation here and now.

The variations that we have talked about have been, in many cases, initiated to facilitate the building of houses. The Minister of State has talked about the Government's policy entitled Rebuilding Ireland. He is not here in isolation but as part of a three-person ministerial team for whom I have respect. The Minister of State has said that it is okay for the chief executive of a local authority to initiate a variation but it is not okay for the members of his political party, or members of any political party or none to initiate a variation.

We have been lectured to and heard a lot of talk about devolving powers to communities and to the elected members of the Minister of State's party and other parties. However, when there is an opportunity to devolve power there is a reluctance to do so. I have no issue with what the Minister of State has said. I would like to read his speaking note but I think what he has said has been really positive. Of course there must be a process, analysis and a public consultation. Local authorities and planners are very familiar with the planning process and the statutory planning and public consultation process. They are all obvious things.

I want an open and transparent process. I want democracy and elected people to be empowered. There are controls in the form of a planning regulator and many of the Mahon recommendations have been adopted. All of that means we now have, hopefully, a cleaner, more open and transparent planning process than we have ever had and I thank all of the politicians who fed into that process. This Bill will go a long way to achieving all of that. What is the Minister of State and the Government afraid of?

In terms of the suggestion that elected members approach councils willy-nilly every day, there were approximately 14 variations in Dún Laoghaire-Rathdown County Council. Most of them were related to proper development and recognised an economic need. The variations were supported.

I promise the Minister of State that I shall do two things. First, I will home in on five local authorities, including Meath and Dún Laoghaire, and produce a printout within a week of every variation that has taken place in the past ten years. I will give him a list of who proposed the variations, their party affiliations, their reasons for the proposals and where they went to and confirm whether homes have been built on the sites, whether there has been economic activity on the sites or if the sites went dead. I will not do the work all on my own. I shall call on officials who work in some of the local authorities and see how they respond to my request for information. I shall tell them that I want to supply the Minister of State with a list in order that we can talk about this process on the next Stage. I hope that something can be worked out here.

As he will know, the Government cannot talk about empowering local government, devolving powers to local government and empowering local county councillors from all parties yet at the same time come in here and say, "We cannot let these fellas run amok." That is what I believe the Minister of State has said about this matter. I believe we already have an open and transparent system. He has talked about the matter and played a role in providing a good, open and transparent system. My colleagues and I have introduced a Bill that will address many of the anomalies and many of the recommendations made by Mahon. All of that is in order. What has anyone to fear from democratically elected members exercising their power to vary a county development plan through a very controlled and open process?

I thank the Minister of State for his response. I look forward to working with him and I hope to engage with his officials in the next ten days.

Senator James Reilly: I deliberately waited until the Minister of State had responded because I wanted to hear what he had to say. I found very little fault with what Senator Boyhan has said. We need more local democracy and we must reinforce and re-empower our councillors. Many of them have told me that far too much power has gone from their hands to the executive. I believe that we need to strike a balance. I could not disagree with a word the Minister of State uttered in terms of the fact that we need to be careful with the wording of the amendment. He has offered to meet the Senators to find a formula of words that can meet the requirements yet highlight the need for care, caution and reinforce the power of the locally elected and democratically elected representatives of the people.

Senator Gerard P. Craughwell: I want to add to what both of my colleagues have just said. In recent years the power of local authority representatives has been debased, which is wrong in every sense of the word. They know what is going on and, therefore, we should listen to what they have to say. I fully support my colleague, Senator Boyhan, and I really think the Minister of State should take this matter on board. I know Senator Boyhan will produce the evidence that he has promised to provide. Do we really need to push the matter to that level? Can we not take his word and accept the amendment? It is a relatively small change.

Senator Kevin Humphreys: I am quite encouraged by the response of the Minister of State. This issue must be addressed. However, one must consider how a development plan is dealt with in practice. I was first elected to a city council in 1999 and, as a new councillor, had to try to deal with a complicated development plan that was a foot thick for a city. That

plan was revised several times at each election. New councillors were coming in to deal with a major development plan and found it very difficult to grasp. The Minister of State is nodding in agreement so I presume he had a similar experience at some stage.

The amendment makes good common sense. Consultation will be better because it will deal with a variation of the plan. The process must be correct but the key issue in this regard is divining what councillors' responsibilities and powers are in regard to initiating a variation of the development plan. During my time on the council, managers often told me that they would love to implement a variation of the development plan in a particular area because housing development was required but because of the make-up of the council the manager would get his or her head chopped off and the variation would not be progressed. If councillors are prepared to show the leadership to initiate a variation of a development plan in order to allow homes to be built, in particular at a time when we so badly need homes, they must be facilitated to do so. However, proper controls must be in place.

Nobody wishes to undermine public consultation, proper scrutiny taking place or, most importantly, a role in the process for the community. There is now a totally different public attitude to this issue because people now understand the problems in regard to a city and the need for housing. They understand the problems of density and are far more open than was previously the case to consideration of a variation of a development plan, in particular when it is an improvement of the plan and one is rezoning from industrial to residential and wants to move from a brownfield site to building homes. We must empower councillors who are aware of such needs in local communities to be able to initiate that, as well as management.

The Minister of State should consider this amendment before the Bill goes to Report Stage. There is a sense that Senators wish to support the amendment and facilitate change. If the Minister of State can do the required work with Senator Boyhan before Report Stage, it would be of benefit.

Deputy Damien English: To put Senator Boyhan's mind at ease, he will not have to book a week's holidays to do all of this work. I acknowledge that he has been engaging with my officials on this issue for the past year. There will be sufficient time to discuss the amendment further as there are many amendments I wish to bring forward on Report Stage which I also wish to discuss with him. We have some work to do for Report Stage and there will be time in the coming weeks or months to tease out this issue and I will sit down with the Senator to do that because I understand what Senators wish to achieve in this regard and I am all for it. It is essential to ensure that is done correctly.

When I was a councillor, I very much valued my role and decision-making ability in regard to the development plan. That function and policy was reserved for councillors. I do not want councillors and the work they do in that regard to be undermined by potential difficulties that could not be envisaged by anyone present but could be caused by councillors making an error in wording or initiating a variation policy that does not add value. The key is to find a wording that ensures we do not have to review all of their variations and that if changes are made to these powers, they are not unintentionally abused. It does not bother me of what party a councillor who initiates a variation plan is a member because a correct decision is a correct decision. Councillors are well able to do their jobs but we could undermine the original process if we get it wrong and I wish to tease that out with Senator Boyhan. There is time to do so and I will commit my time and that of my officials to ensuring we get this right before Report Stage.

I do not expect Senator Boyhan to travel the country to do all of this research although I am sure his fellow Senators and committee members would not mind if he went missing for a few weeks. Perhaps he might want to do it after all.

Senator Victor Boyhan: I will take two weeks' holidays.

Senator Diarmuid Wilson: I agree with the sentiments expressed by Senators Boyhan, Humphreys and Reilly on this amendment. The Minister of State was a councillor, as was I. Councillors take their positions as representatives of their communities very seriously and would not initiate a variation to a development plan unless they thought it necessary. As the Minister of State is aware, councillors work on the ground every day of the week and know what is going on in their communities, which the executive may not know. I strongly support the thrust of the amendment. Councillors have to go before the people every five years to be adjudicated upon but the executive does not, which is another difference that should be taken into account in regard to this legislation.

Although it may not be relevant to this amendment, in December in the Lower House the Minister, Deputy Eoghan Murphy, indicated that he would bring forward an amendment on Committee Stage of the Bill in the Seanad to classify data centres as strategic infrastructure but I do not see any such amendment before us today and ask the Minister of State to enlighten us in that regard.

Deputy Damien English: I thank Senator Wilson for raising that issue. As I stated, there are some amendments on which we are still working and hope to bring forward on Report Stage. Those amendments will include the issue raised by the Senator. Some amendments on the vacant site levy that, as we announced, will go from 3% to 7% will be dealt with on Report Stage because they are not ready for today.

Amendments will also be brought forward to deal with a new classification of communications and data infrastructure in order to designate data centres and strategic infrastructure development in the seventh Schedule to the Planning and Development Act 2000, as amended, in particular having regard to the economic significance of data centres, as referred to by Senator Wilson and mentioned by the Minister in this House and the Dáil.

There will also be amendments dealing with the special costs rule set down in section 50B of the Planning and Development Act 2000, as amended by the Planning and Development (Amendment) Act 2010, in regard to judicial reviews of development consents requiring screening for appropriate assessment under the provisions of Council Directive No. 92/43/EEC on the conservation of natural habitats and wild flora and fauna, otherwise known as the habitats directive.

Other amendments will facilitate further measures to improve planning in strategic housing developments, as well as exemptions regarding forest entrances on public roads.

These amendments were referenced at committee, in the Dáil and during statements earlier today in this House and we will bring them forward on Report Stage. A range of amendments will be brought forward on those topics and will be fully discussed on Report Stage and, if agreed to by the Seanad, will then have to go to the Dáil for approval.

Amendment, by leave, withdrawn.

SECTION 8

Senator Gerard P. Craughwell: I move amendment No. 31:

In page 45, between lines 31 and 32, to insert the following:

“(f) consistency with the Water Framework Directive;”.

We are withdrawing this amendment on the basis that it will be resubmitted on Report Stage.

Amendment, by leave, withdrawn.

Senator Gerard P. Craughwell: I move amendment No. 32:

In page 45, between lines 31 and 32, to insert the following:

“(f) consistency with the Floods Directive;”.

Amendment, by leave, withdrawn.

Senator Gerard P. Craughwell: I move amendment No. 33:

In page 45, between lines 31 and 32, to insert the following:

“(f) consistency with EU Directives on air quality;”.

Amendment, by leave, withdrawn.

Acting Chairman (Senator Gerry Horkan): Amendments Nos. 34 and 35 are related and may be discussed together. Is that agreed? Agreed.

Senator Fintan Warfield: I move amendment No. 34:

In page 46, to delete lines 26 to 29, and substitute the following:

“(8) The government shall submit the final draft of the National Planning Framework together with the Environmental Report and Appropriate Assessment Report for the amendment and approval by each House of the Oireachtas, and only after that approval can the National Planning Framework be considered to be on a statutory footing.”.

This amendment would cause the Government to ensure that there is a vote on the national planning framework in the Dáil and Seanad before it is placed on a statutory footing. Sinn Féin has engaged with the national planning framework consultation process from the start and made two detailed submissions articulating our concerns about the draft plan. There were huge gaps in the last document in regard to the north west of the country and there is also much vagueness in regard to the North-South dimension of the plan. There must be a stronger all-Ireland dimension or focus, in particular in the context of Brexit and its impact. There is no emphasis on socio-economic disadvantage within the document and the drafters must be mindful of the potential socio-economic impact of planning decisions.

Sinn Féin has stated on the record that unless there is a significant change to the plan we will not be in a position to support it. It is unclear what the procedure is for putting the national planning framework on a statutory footing. This has not been done before and, as such, we believe that the Dáil and Seanad should debate and vote on this important document before it is

given a legislative footing.

Senator Diarmuid Wilson: I would like to speak about amendment No. 35, which is similar. That amendment would require the Government to submit the draft of the revised or new national planning framework, together with the environmental report and an appropriate assessment report, for the approval of each House of the Oireachtas before it is published.

I understand that the national planning framework is due to be announced this Friday in County Sligo. From the fact that it is being announced in County Sligo, I assume there is good news for Sligo, and I wish its people well. This is a plan that has been put together over a short period of time. Granted, there was time allowed for public consultation and submissions, but we do not believe that is sufficient. If the draft is anything to go by, many parts of rural Ireland, which is on its knees in many respects, will be closed down altogether. This plan involves the spending of €115 billion of taxpayers' money. I repeat, €115 billion.

Last October, we passed a budget of €60 billion, which was for a 12-month period, and both Houses of the Oireachtas had to vote. This is twice that amount, and the Government expects us as Members of this House, and our colleagues in the Lower House, to be satisfied with statements about what the Government will decide to do next Friday. For me, and for the members of my party, that is not good enough. This is the future of our families and the families to follow for many generations in this country. This infrastructure will be their future. There is an obligation on us to vote to approve or reject what the Government comes up with next Friday. This plan will spend €115 billion of taxpayers' money over the next several decades. The least we can expect is that both Houses of the Oireachtas could have a vote on whether it goes ahead or not.

Senator Victor Boyhan: I want to talk about the national development plan. At the very outset, I welcome it. We do not know the full and final detail of it, but we have had a lot of discussion. I am a member of the Joint Committee on Housing, Planning and Local Government. It has been discussed there. We had an exhaustive debate about it and people expressed their views and concerns.

As someone who travels up and down the country, I am keenly aware of provincial newspapers and their power. I go to the library here on a weekly basis and pull out the provincial papers, because I like to get a sense of what is going on. It is sometimes very different to what is said here. Spin of all sorts comes from all sorts of parties, welcoming all sorts of initiatives and the fact that they had a part to play in them. I was in Laois yesterday, and I picked up the *Laois Champion*. I was in Donegal a few days ago and I had another look there. I saw many of my lovely friends and colleagues here making all sorts of claims to fame on the basis of what they got in this national planning framework. That is very interesting.

I am also conscious that a confidence and supply arrangement sustains this Government. Can I give a little bit of advice, for what it is worth? I would love the Minister to come before both Houses of the Oireachtas. I think it would be a clever political move. Sometimes people do not really want the things they bark and shout about. I learned that in politics a long time ago. I do not know why the Minister has any fear. He should call off his Sligo gig next Friday, if necessary. Why not? It is only a gig. It is only a part of the PR machine, though that is an important aspect of any plan. I call on the Minister to move on. Bring it back into these Houses. Call a spade a spade. Put it up to them. Ask them to vote for it. I guarantee him that he will have overwhelming support.

If it was put to them that there was a vote of both Houses, the people who complain about the national planning framework would have a different song to sing. What I am saying is that I think it is a good plan. It is about time that we had a co-ordinated approach to planning and development, underpinned by proper capital funding that is open and transparent and spreads right across this country. That is really important.

I hope that is what is going to happen. I am not privy to the inner details of the national planning framework, but it makes sense to have an overall national planning framework for our country. I know that Deputy English is the Minister of State, but I do not know why this gig on Friday is not called off. I do not know why Members do not come into the Houses, have a final debate and call for a vote on it. Is it not better to have a ringing endorsement of the national planning framework? Is it not better to put it up to the parties that sustain the Government? I believe they will support it. That is a challenge, and it is something the Government should consider.

Senator Kevin Humphreys: I cannot endorse the plan as Senator Boyhan has, because I have not seen the plan. I have seen a draft plan.

Senator Victor Boyhan: That is what I said.

Senator Kevin Humphreys: I look forward to seeing the plan. I hope it is not a case of “one for everyone in the audience”. I hope the Government is not going to repeat the “Late Late Show”, or repeat the many mistakes of previous Governments. I can name them individually, but I will not embarrass anybody.

Senator Jennifer Murnane O'Connor: I refer to the last Government.

Senator Kevin Humphreys: The last Government brought this country out of bankruptcy.

Senator Diarmuid Wilson: Oh my God Almighty.

Senator Kevin Humphreys: Fianna Fáil Members will probably remember what they did. If they want to talk about the last Government-----

Senator Diarmuid Wilson: If Senator Humphreys wants to rewrite history-----

Senator Kevin Humphreys: There is no problem about rewriting history, because-----

Senator Diarmuid Wilson: Obviously. I can see that.

Senator Kevin Humphreys: I am quite proud of the role I played in government. I am proud of going into Government when there was 15% unemployment and leaving with the country heading for 6% and below. I refer to the collapse of the banks and the bailout, when Fianna Fáil Ministers said the troika was not in the country while its representatives were quietly going in the back door of Government Buildings. I recall the embarrassment they had to face in the national media. I have no problem in talking about-----

Senator Diarmuid Wilson: What about the future?

Senator Kevin Humphreys: -----what was done in the last Government. I will talk about the future now. Senator Wilson got up here and in many ways he threatened the Minister of State. He is a little bit like the boy who cried wolf. He will probably cause an election at some stage, because he will have to bring the Fianna Fáil-Fine Gael coalition down. Fianna Fáil is in

coalition with Fine Gael.

This is one of the most important decisions that will be made for the next several decades, on how taxpayers' money will be invested in this nation. They are big decisions. I agree that this should not be done as a gig or a PR event in Sligo. It should be underwritten by statutory legislation, and there should be a vote in both Houses. Senator Wilson is nodding in agreement. His party has the power to enforce that. He should not just nod. He should do it.

Senator Diarmuid Wilson: Senator Humphreys will have the opportunity-----

Senator Kevin Humphreys: Can I continue without interruption? I certainly do not want statements in this House in the coming weeks about the expenditure of hundreds of billions of euro in investment across the country. We want real decision-making. We talk enough about new politics, but we are not seeing it. We see a PR event in Sligo. We are not having a conversation about legislation and a vote in both of these Houses. That is why I strongly support the Sinn Féin amendment to this Bill. I hope Fianna Fáil will support the amendment, though it is a little bit like bolting the gate when the horse has galloped away, because the announcement will go ahead, and there is no underpinning legislation to force a vote in either of these Houses. Fine Gael and Fianna Fáil have deceived both Houses, and it is crocodile tears on the part of Fianna Fáil to say it wants a vote in both Houses. If Deputy Micheál Martin wanted a vote in both Houses, he could tell the Taoiseach to ensure that happens, but Fianna Fáil will not do that so we will have play-acting here that its members are really concerned. They are not. They are only interested in their own futures. I will support this amendment even though it probably will not achieve anything.

Acting Chairman (Senator Gerry Horkan): I call Senator Murnane O'Connor.

Deputy Damien English: She should make sure she mentions Carlow.

Senator Jennifer Murnane O'Connor: I am a Carlow woman. I am coming in on my own amendment. I am very surprised by the words of Senator Humphreys, who was in Government with Fine Gael for five years. All of a sudden, Fine Gael is not the issue and Fianna Fáil is to blame for this. I tabled this amendment. The Senator can see my name, Senator Murnane O'Connor, under the amendment but he did not clarify that it was in my name. My amendment states, "In page 46, line 28, after "approval" to insert "by vote"." We are not playing politics here. I do not know whether Labour played politics with the Minister of State's Government previously. I guarantee the Minister of State, Fianna Fáil or not, I will call for a vote on this today and I will look for the House's support. The reason I will do so is that I am so disappointed that an announcement was made that on Friday the Government would launch the national planning framework for 2040. My colleagues in Fianna Fáil and I are very disappointed by this because it involves so many years of infrastructure, housing and job creation. This is not party politics. This is about giving people in rural Ireland and the cities the quality of life they deserve. This is why I tabled this amendment calling for a vote. It must go back to the Dáil and the Seanad. I call on the Minister of State not to launch the plan on Friday. Let it come back into the Houses of the Oireachtas so we can vote on it. I hope Senator Humphreys got all that.

Senator Gerard P. Craughwell: I am sure the Minister of State has enjoyed the past few minutes, the little history lesson of who got what right when and how. I get tired coming in here listening to this nonsense. First and foremost, my colleague, Senator Boyhan, is correct. We will have statements in here over the next few days on the national planning framework. What

the hell is that about? It is a waste of time because the plan will already have been launched at that stage. Senator Boyhan, whom I trust when it comes to such issues, is impressed by the plan, and that is significant for me. What is insignificant is the “gig”, as he put it, next Friday. The gig should not go ahead. If we are to debate it in the House, let us debate it, vote on it, have it endorsed by the Oireachtas and take it out to the people and sell it to them.

I recently drove from Galway to Letterkenny down every back road I could find, through every village I could find, and I saw rural Ireland and where it is now. Let no one from any side of this House jump up and down and say what he or she did or did not do for rural Ireland because it did not fall into the state it is in today in a year, five years or ten years. It has been slowly degrading. I drove around the town of Mullingar last week and, my God, I have seen some disastrous places in my life, but Mullingar is in dire need of funding and support to bring it back to the proud town it once was. There is a beautiful Army barracks there that is open to the world but there are no soldiers in it anymore. One can go up along the west coast and through towns such as Foxford. Westport is a fantastic town, but anyone coming into some of the other towns in Mayo will see the state of them. Anyone can see the state of parts of Leitrim.

The plan is therefore needed and, in fairness to the Government, it has put a plan in place, but what the hell is wrong that the Government cannot bring the plan in here to the democratic heart of the country and allow a vote to take place on it? What is wrong with that? These statements are nonsense. They are a waste of time. People will stand up here next week and say with great indignation, “Damn this to hell,” and “Damn that to hell,” and “The Government did not do this and did not do that”. However, if the Government made them vote on it before it kicked off with the gig in Sligo, they would have very little to say. I get tired of the goddamn history lessons. We get it in here every bloody week. We have people shouting at us about trolleys and housing. Are they expecting all these things to materialise out of thin air? The Government is doing the best it can, but would it for God’s sake respect democracy, bring such plans to the House and let people who will shout their heads off next week about the plan do so before they vote on it? I agree with my colleague, Senator Boyhan. If Deputy Micheál Martin so wished in the morning, he could force a vote on this today, and that is the truth of the matter.

Senator Diarmuid Wilson: We will vote on it.

Senator Gerard P. Craughwell: Let us have it.

Senator Jerry Buttimer: I thought we were debating Committee Stage of the Planning and Development (Amendment) Bill. I have been watching the hypocrisy of Members regarding-----

Senator Victor Boyhan: That is an affront. The Senator cannot breeze in here and say that.

Acting Chairman (Senator Gerry Horkan): Hold on.

Senator Jerry Buttimer: I have been watching and listening to the hypocrisy of Members here discussing the launch of the national development plan next Friday, which is worth €115 billion. The Taoiseach is right: the Members opposite are terrified because this is good news.

Senator Jennifer Murnane O’Connor: We are all complaining. How can we all be wrong?

Senator Jerry Buttimer: There has been extensive consultation throughout the national

planning framework process. I inform Senator Murnane O'Connor that there were stakeholder events in June 2016 and two formal six-week phases of public consultation in February and March 2017 and October and November 2017, together with 40 regional events and workshops and four engagements with various-----

Senator Jennifer Murnane O'Connor: Which were badly attended, by the way.

Senator Victor Boyhan: On a point of order, may I clarify what is actually happening here? The Leader has just stormed in here suddenly-----

Senator Jerry Buttimer: I have not stormed in at all.

Senator Victor Boyhan: Will the Leader let me finish speaking? I just want clarification. What is happening?

Acting Chairman (Senator Gerry Horkan): My understanding is that the Leader is making a contribution on amendments Nos. 34 and 35.

Senator Victor Boyhan: We have different views. Not everyone criticised the plan-----

Senator Jerry Buttimer: I am not saying the Senator did. I heard his remarks on the Order of Business, to be fair, but I am entitled-----

Senator Victor Boyhan: I ask the Leader to clarify what he is doing.

Acting Chairman (Senator Gerry Horkan): Senator Boyhan might allow Senator Buttimer to continue.

Senator Jerry Buttimer: The Senator may have a viewpoint, to which he is entitled, and which I accept. I have a viewpoint and I want to create a proper debate with facts.

Senator Victor Boyhan: I agree with the Leader.

Senator Jennifer Murnane O'Connor: We are having a proper debate.

Senator Jerry Buttimer: I am amused-----

Senator Victor Boyhan: I support the plan.

Senator Jerry Buttimer: I understand that, and-----

Senator Gerard P. Craughwell: On a point of order, the Senator has said Senators were hypocritical. I would like him to point out who was hypocritical in what they said because I would love to know what I said-----

Acting Chairman (Senator Gerry Horkan): I remind Senator Buttimer-----

Senator Jerry Buttimer: I will not name names just to give the Senator a headline.

Acting Chairman (Senator Gerry Horkan): Senator Buttimer, Members should not-----

Senator Jerry Buttimer: I will not name names just to give people some amusement.

Acting Chairman (Senator Gerry Horkan): Senator Buttimer-----

Senator Jerry Buttimer: I am the calmest one of all in this debate at present.

Acting Chairman (Senator Gerry Horkan): Senator Buttimer did not identify anyone but he is out of order in accusing people of hypocrisy.

Senator Jerry Buttimer: We were told there was no consultation. Is that not correct?

Senator Diarmuid Wilson: Very little consultation.

Senator Jerry Buttimer: I am outlining through the Chairman-----

Senator Fintan Warfield: I said Sinn Féin has engaged in every stage of the consultation, in fairness.

Senator Jerry Buttimer: I am outlining through the Chairman the facts that Members opposite might not want to hear. It is incumbent on us, if we are to have a debate-----

Senator Kevin Humphreys: No one criticised the consultation.

Senator Jerry Buttimer: Senator Humphrey's contribution-----

Senator Victor Boyhan: The Leader just stormed in.

Senator Jerry Buttimer: I did not storm in at all.

Senator Victor Boyhan: We will let him read his speech he has got typed up.

Acting Chairman (Senator Gerry Horkan): Members are entitled to contribute to this debate whenever they feel like it, subject to the rules.

Senator Victor Boyhan: There is an order for that.

Acting Chairman (Senator Gerry Horkan): We are on Committee Stage and Members can speak as often as they want. That is the factual position.

Senator Jerry Buttimer: There are people here who know everything.

Senator Jennifer Murnane O'Connor: We have been discussing this for months in regard to the housing strategy, so we know what is going on in-----

Acting Chairman (Senator Gerry Horkan): I want to allow Senator Buttimer to contribute.

Senator Jerry Buttimer: There are people who profess to have knowledge on every subject and that is fair enough.

Senator Kevin Humphreys: The Senator should finish reading his speech.

Senator Jerry Buttimer: I advise Senator Humphreys that we have had 40 regional events and 1,000 submissions from the general public, including 150 from Members of the Oireachtas, so let us not say there was no consultation and participation.

Senator Jennifer Murnane O'Connor: We have had to extend the consultation-----

Acting Chairman (Senator Gerry Horkan): Allow Senator Buttimer to continue without

interruption.

Senator Jennifer Murnane O'Connor: I want to speak after him as I want to-----

Acting Chairman (Senator Gerry Horkan): The Senator is entitled to do that.

Senator Jerry Buttimer: The key point is that there was a draft plan and now we will have the final plan. Let us have perspective. When I hear Senator Murnane O'Connor say that Fianna Fáil is not political, who does she think she is coddling?

Senator Jennifer Murnane O'Connor: Excuse me-----

Senator Jerry Buttimer: The Senator is a member of a political party.

Senator Jennifer Murnane O'Connor: I did not say that. I was speaking about people's quality of life.

Acting Chairman (Senator Gerry Horkan): I will allow Senator Murnane O'Connor to come back in.

Senator Jennifer Murnane O'Connor: I ask the Leader to correct that comment. I said it is about people's quality of life.

Acting Chairman (Senator Gerry Horkan): I will let the Senator back in. Allow Senator Buttimer to continue without interruption.

Senator Jennifer Murnane O'Connor: I want the Acting Chairman to let me back in because I need to speak on this.

Senator Jerry Buttimer: We have a newly formed coalition against the national development plan who were out on the plinth this morning. How could they be against it when they have not even seen it?

Senator Jennifer Murnane O'Connor: The Leader wants us to launch it on Friday.

Senator Jerry Buttimer: If that is not being political, then the Senator can call me Davy, because that is being opportunist and political, which her party - as Senator Humphreys said and on which I agree with him - did for generations and look where our country ended up.

Senator Diarmuid Wilson: Thank you, Davy.

Senator Jerry Buttimer: The point is there was consultation and engagement. Let us not say there was not because there was.

Acting Chairman (Senator Gerry Horkan): I will bring in the Minister of State at this stage as we have had a round of the Members contributing and then I will bring in Senators Craughwell and Murnane O'Connor.

Senator Kevin Humphreys: Let us do the business and not-----

Senator Jerry Buttimer: Senator Humphreys is being personal again.

Deputy Damien English: I am scratching my head thinking where do I start with this. There are two different debates - there are probably ten different ones - going on here and I

will try to deal with both of them separately. I will try to separate legislation from this week's debate.

Acting Chairman (Senator Gerry Horkan): The Minister of State might deal with amendments Nos. 34 and 35.

Deputy Damien English: I will do that. I do not propose to accept amendments Nos. 34 and 35 relating to the adoption of the national planning framework, as tabled by Sinn Féin Senators and Senator Murnane O'Connor, respectively. As background to my opposing them, I remind the House that the objectives of the national planning framework are fundamental to the achievement of long-term economic, social and environmental sustainability for Ireland. A more balanced distribution of population and employment growth is considered essential to safeguarding the economy's growth potential and pre-empting the risk that economic growth would be seriously constrained by congestion costs.

The national planning framework is not about wins and losses for individual towns and villages. It is about the country and what is right for it.

Senator Jennifer Murnane O'Connor: It is about quality of life.

Deputy Damien English: Somebody has to make that decision at the end of the day and that is what governments are elected to do. They have to make a final decision. The legislation we are discussing in the context of these amendments refers to the draft legislation. I point that out in case people have not had a chance to read what is in the legislation. This relates to what is expected of future national development plan framework discussions. The legislation is not finished yet. The discussion will continue for a few more weeks or months, as we have a few Report Stage amendments to go through. We also have a few more meetings on it. Therefore, the discussion on it could continue for a bit longer. The current national plan was meant to be finished last November or December and it has dragged on a little longer than anyone would have hoped, albeit for the correct reasons. The two are not parallel, rather they are a little separate from the point of discussing legislation for now and for the future.

The legislation proposes that: "The Government shall submit the draft of the revised or new National Planning Framework, together with the Environmental Report and Appropriate Assessment Report for the approval of each House of the Oireachtas before it is published." It also states: "In preparing or revising the National Planning Framework, the Government shall have regard to any resolution or report of, or of any committee of, the Oireachtas that is made, during the period for consideration, as regards the proposed strategy or, as the case may be, the Framework as proposed to be revised." That is what is in the legislation.

What the Senators are asking for in these amendments is that the final draft would have to be voted on before it becomes a statutory document. I disagree with that proposal. It was never the intention in putting forward the legislation that this is what would happen. A formal vote on the final national development plan was never envisaged under this legislation, rather it was envisaged that all parties would have a formal opportunity to discuss and input into the drafting process. In drafting the current plan, that is what we did. This has been facilitated through a motion approved by both Houses of the Oireachtas referring the draft national development plan, published last November, to the Joint Committee on Housing, Planning and Local Government for its consideration and to submit a report to the Minister.

The two provisions in the Bill, as recommended by the Mahon tribunal, provide that we

would have the involvement of the Houses of the Oireachtas. That is what we are trying to do with this legislation. It is also what we have tried to do in the debate we have had during the past three years on the national planning framework to be launched this week.

Regarding Sinn Féin's proposal that the final vote on the draft of the national planning framework must lie with the Houses of the Oireachtas, this is a planning and consultation document that has been under consideration for the past three years and there is a danger we might never get it finished. That is why governments have to eventually make a decision. It is provided in law that the Government must consider the Houses of the Oireachtas. That is what we are proposing in law.

In the spirit of that legislation, we have during the past year made sure that we have involved everybody as much as we could in the planning framework strategy that has come through. We have done that. That is why we have had debates in this House, we have had discussions on the floor of the Dáil and both Houses passed a motion that the committee would do the detailed work on their behalf and submit a report. That has happened. The committee did that work in October. The Minister, Deputy Eoghan Murphy, and I went to that committee, as well as to other committees, and the rural affairs committee also had a discussion on this. We teased through draft national planning framework documents line by line for hours. The committees made reports which fed into the process. I can assure Senators that during the past few weeks and months all the recommendations from those committees, all the questions that were asked and all that discussion has been part of our finalisation of this legislation. That is what has happened during the past few months.

As referenced by Senator Buttimer, the final consultation with the public was held last September or October. More than 1,000 submissions were received, 150 of which were from Oireachtas Members, councillors, Senators and so on, people involved in local government and people from different parts of the country. All those 1,000 submissions, including the 150 I referenced, have been read and worked on to reflect what we are trying to do here.

Consultation is the cornerstone of what we are trying to do with this new national planning framework. That is what it is about for two reasons. One is the recognition of new politics and that is what we have been trying to do here. We have recognised that it is a good way to involve both Houses of the Oireachtas and the committees. Everybody has had their say and there have been numerous meetings. Anyone who has asked me or the Minister, Deputy Eoghan Murphy, for a meeting to discuss this has got it. There has been no shortage of that.

I went to local authorities and begged councillors of all parties to make submissions on this. A year and a half ago I asked councillors to get involved in this process. We had 40 regional events during the past two years. We asked people to get involved in this process because we want their involvement in it. The legislation we are debating, which the Senators want to amend, recognises the importance of having that involvement in future plans. We have recognised that in the plan we are working on and we will try to honour the spirit of the legislation, even though it has not gone through yet. We have achieved that by having discussions here and in the committee.

After the committee report there was a nine-hour debate on this plan in the Dáil during which 45 Members made contributions. I do not know the length of time it was debated in this House after that. However, the consultation we propose should happen in future legislation has happened in this context and I would like to see it happen in the future. However, the Sena-

tors' request that the final vote on the draft plan would lie with the Oireachtas would take from a Government doing its job, which is to make decisions on behalf of the country to implement plans.

I would cite the example of the Action Plan for Jobs, which most people said could never work and would not work. The Minister, Deputy Richard Bruton, brought it forward under the previous Fine Gael-Labour Party Government. It involved many actions, many Departments, a great deal of money and many changes. If that plan had been brought to both Houses for a final vote before it could have been implemented, would we have the jobs recovery we have? We probably would not. We had to implement that plan straight away and get stuck in. Like the housing plan, it was a five-year plan. Everybody said it could not work but it did work. It disappointed many people that it worked. It helped to facilitate the creation of over 240,000 jobs in this country during recent years. If that had to be approved by way of a final vote by both Houses before the then Government could have acted, I am not sure we would have made any progress on it. I doubt we would have.

With the national planning framework, Ireland 2040, we have involved everybody as much as we could but at the end of day somebody has to make a decision and that is what governments are meant to do. That is the reason I believe the Senators' amendments go a little too far. I understand what they are trying to do. I have discussed this with the Minister, Deputy Eoin Ó Broin; perhaps a future Minister - I meant to say the Minister, Deputy Eoghan Murphy.

Senator Kevin Humphreys: Perhaps a new coalition.

Deputy Damien English: We also had this discussion on Committee Stage. There has been a great deal of consultation on this plan. The legislation we are debating will ensure that the same consultation will take place under future Governments, regardless of who is in them. This Government has made sure we have honoured the spirit of it on this occasion by having that consultation. If the Acting Chairman will allow me, I will take a minute or two on this point as people have referred to the plan. I have heard people say that it will kill rural Ireland. I have watched rural Ireland. People mentioned Westport and Clonakilty. In some of those towns, rural Ireland is flying and in other towns it is not. However, it has been declining for a long period of 30 or 40 years, not seven or eight years, because there was no national plan to address the problem. I strongly believe the national plan which we will launch on Friday will help save rural Ireland. It will give many towns and villages a purpose and a reason to function, develop, grow their populations and secure investment in their areas. Similarly, it will strengthen our cities and our regions to compete on an international level. They will compete with one another but also on an international stage to win jobs and investment. That is what having a national plan is about. I have no doubt about it. I am a Deputy whose constituency covers rural and urban areas. It is very close to Dublin and suffers the consequences of that, as well as some gains from that. I have no doubt in telling this House that the Ireland 2040 national planning framework to be launched on Friday will - if implemented, followed and invested in - save rural Ireland and future-proof this country. Future-proofing this country is what it is about. It is not about every town or village. Some people have said it should not be like the "Late Late Show" where there is one for everyone in the audience, but it might become that if there was a final vote in the Dáil. It is correct that the Oireachtas, through the Dáil, Seanad and the committee, has an involvement in the draft and that it would have this in the future. It is very important that it has that.

There is some confusion on the spend of €115 billion. That figure is separate to the planning

framework that we will launch but they are being launched together because it is important that they are linked. While the Minister, Deputy Donohoe, and the Taoiseach will announce the commitment of taxpayers' money, it is also true that it will have to go through a budget every year too. It is not correct to say that we are spending €115 billion of taxpayers' money without any say on the part of the Oireachtas. It will go through a budget. Every year, we come into the House for the current and capital budget. If we are to implement the proposed national planning framework, Ireland 2040, along with the capital plan, it must come through these Houses every year in order for the money to be allocated each year to the various Departments. Those are the correct channels by which to spend money. Other national plans have been announced with a commitment of money. Other Governments have done so in the past, and rightly so, and the Oireachtas votes on them year-to-year with the money to be allocated.

On the commitment to regional balance, in order to get that growth again it must include cities, towns and villages and that those national decisions are made. Consultation is absolutely built in. The reason we had this consultation is recognising new politics and how we do our business here, which is beginning to work quite well. I would hate for it to be spoiled over the next week over silly, petty arguments. There has been consultation on this for a long number of years. Anyone who wanted to could feed into this. I sat in on the first advisory meeting on this. We made sure that every Department and agency sat around the table on this plan, bought into it and had a role. Previous plans did not have that and they failed. I think it will be a top-class plan because of the consultation and the involvement of all Departments, all political parties, all councils which wanted to and all regional assemblies, and I have sat through many of those, which meant they all had a chance to feed into this. Everyone's view was taken on board, including all the Departments, and they were all part of this, which is why it will be a top-class plan but we must stand behind it and invest in it, and that includes the decisions we make every year after it. I have seen plans in the past that did not have that consultation and involvement. The reason for this legislation is it ensures that plans of the future have this involvement and consultation. That is what it is about. This debate has been confused about what we are doing this week and next week too.

Acting Chairman (Senator Gerry Horkan): There are many speakers who wish to come in so I will allow the Minister of State back in later.

Deputy Damien English: As a final point, I note this House and the Dáil made a decision. The Houses asked a committee on Members' behalf to undertake a report and feed into it. That is what the House decided to do. Members voted on that and agreed to do it. I was at that committee, as was the Minister, Deputy Eoghan Murphy, along with many Members present. The committee did a lot of good work and submitted its report. Members have been directly involved in this process. They have been right in the middle of it and rightly so because we want the plan to be based on consultation, which it absolutely is.

Acting Chairman (Senator Gerry Horkan): I will allow the Senators to come back in at this point. Senators Murnane O'Connor, Craughwell, McFadden and Humphreys have indicated in that order. I remind Members that this debate will be adjourned at 5 p.m., so they have six minutes.

Senator Jennifer Murnane O'Connor: I thank the Minister of State for clarifying that. The Leader came in earlier and spoke about politics. It was announced that the 2040 framework plan would be launched on Friday. No one has seen it. We cannot debate something that no one has seen. That is the issue. As previous speakers have said, that is where we are coming from.

14 February 2018

The Government has made announcements about this €115 billion and this national framework plan, Ireland 2040. It has been in all the newspapers and on the radio, but when it comes to the Seanad or the Dáil, Members have not seen the plan. I will give the Minister of State credit where it is due.

Deputy Damien English: We are not debating it today.

Senator Jennifer Murnane O'Connor: We did not see the official plan.

Senator Paudie Coffey: The Senator saw the draft. The draft has been out for public consultation for weeks.

Senator Jennifer Murnane O'Connor: I know that there was consultation-----

Senator Jerry Buttimer: Well said.

Senator Jennifer Murnane O'Connor: -----because we addressed this at our housing meeting. The Leader can come back in later. We had public consultations. I attended all of them in my area. I was there when Carlow's submission went in. I know about the consultations. I also know it had to be extended because there was very poor feedback, which the Leader did not mention. Our meeting agreed that we would put it out again and go back. I did attend all the meetings. I have County Carlow's submission for it with me.

Senator Paudie Coffey: It is a national plan, not a Carlow one.

Senator Jennifer Murnane O'Connor: I represent everybody. It is about quality in life for everybody. It is a national plan.

Senator Paudie Coffey: Yes. For Carlow.

Senator Jennifer Murnane O'Connor: It should be put to a vote in the Dáil and in the Seanad.

Senator Jerry Buttimer: For what reason?

Senator Jennifer Murnane O'Connor: That is the way to go. The Planning and Development (Amendment) Bill 2016, as passed by Dáil Éireann, states: "The Government shall submit the draft of the revised or new National Planning Framework, together with the Environmental Report and Appropriate Assessment Report for the approval of each House of the Oireachtas before it is published".

The Minister of State has been very courteous in his dealings. Many amendments were moved today and the Minister of State has worked with Members in this regard. I want to give credit where it is due, such as with the transport authority. In fairness, he has been really good in his work on this but this issue is of great importance as it is a 2040 framework plan. We need to have it voted on in the Dáil. The purpose of my amendment today is to ensure it will come to the Dáil and the Seanad for a vote.

The Minister of State has worked very hard on this and I want to pay credit where it is due.

Senator Gerard P. Craughwell: The Leader should know that both my colleague, Senator Boyhan, and I were most supportive of the plan.

Senator Jerry Buttimer: On a point of order, I want to correct Senator Craughwell. I never criticised his contribution at all.

Senator Gerard P. Craughwell: That is fine.

Acting Chairman (Senator Gerry Horkan): That is not a point of order.

Senator Jerry Buttimer: I acknowledged that Senator Boyhan, to be fair to him-----

Acting Chairman (Senator Gerry Horkan): I will let Senator Buttimer back in but it is not a point of order.

Senator Jerry Buttimer: To be fair, I did not criticise Senator Boyhan or Senator Craughwell. Senator Craughwell assumes-----

Senator Michael McDowell: If the Leader repeats that, we will get to 5 p.m.

Senator Jerry Buttimer: To be fair to Senator Boyhan, on the Order of Business yesterday-----

Acting Chairman (Senator Gerry Horkan): We are not going to get into that.

Senator Jerry Buttimer: -----he spoke on the national plan and welcomed it.

Acting Chairman (Senator Gerry Horkan): Through the Chair.

Senator Jerry Buttimer: Senators should not say what I did not say.

Acting Chairman (Senator Gerry Horkan): Senator Craughwell to speak without interruption.

Senator Gerard P. Craughwell: When I finish, the Leader might extend time to allow further debate on this matter.

The bottom line is that I understand that if the Government had this debated in the House before it went to Sligo, it would have to cancel the brass band and switch off the media because there would be no big announcement.

Senator Jerry Buttimer: Does the Senator want the Army Band to do it?

Senator Gerard P. Craughwell: Absolutely. The Minister of State made an excellent point. There was bags of consultation. What would have been wrong with having the plan put before both Houses, albeit not next week when we will have statements until they are coming out of our ears, listening to people criticising it-----

Senator Jennifer Murnane O'Connor: Exactly.

Senator Gerard P. Craughwell: -----when it is too late? Anyone who has a criticism now will have a field day next week in this House. They might have one tiny piece to criticise but they will blow it out of all proportions. It is the wrong way to go about it. It should have been put before the House.

Anyway, the Minister of State should bear in mind that he has a couple of supporters in his corner.

14 February 2018

Acting Chairman (Senator Gerry Horkan): Senator Gabrielle McFadden was next. It is 5 p.m. and the order of the House was that this item was to be taken at 3 p.m. and adjourned no later than 5 p.m., if not previously concluded. I ask the Acting Leader to report progress.

Progress reported; Committee to sit again.

Mental Health (Amendment) Bill 2017: Committee Stage

Section 1 agreed to.

SECTION 2

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

Senator Diarmuid Wilson: I welcome the Minister of State, Deputy Jim Daly, to the House. I am speaking on this Bill on behalf of my colleague, Senator Swanick, who is unfortunately unable to be here this evening. It is great to see this Bill get to this Stage. It has passed all Stages in Dáil Éireann and was prioritised by the Joint Committee on Health. This demonstrates the appetite there is for change. I commend the work of our mental health spokesperson, Deputy James Browne, in this regard. He has overseen the passage of this Bill through Dáil Éireann, the establishment of a dedicated committee on mental health and the introduction of further Bills which will benefit those who suffer from mental ill health.

The Bill contains certain significant changes which strengthen the rights of people who are in hospital for mental health care. The Bill will also support the right of inpatients to make decisions about their own treatment by linking the Mental Health Act 2001 with recent law that affirms that everybody should be presumed to have capacity to make decisions. I wish to flag that we will be introducing an amendment on Report Stage to replace each instance of the word “patient” in the Bill with the word “person”. The reason for this is that under the Mental Health

5 o'clock Act 2001 a “patient” is defined as someone to whom an admission order relates. This excludes those who do not fall under an admission order. We reserve the right to introduce an amendment on Report Stage which will remove reference to section 3 of the Assisted Decision-Making (Capacity) Act 2015 and replace it with the same text as in section 3 of the 2015 Act. The reason behind this is that the reference to capacity as defined under section 3 of the 2015 Act means that section 2 could not commence until the 2015 Act commences.

Senator Joan Freeman: I would like to make a few short statements. I do not want to go into too much technical detail.

Acting Chairman (Senator Gerry Horkan): Is the Senator speaking on section 2?

Senator Joan Freeman: Yes. I also commend Deputy Browne and, indeed, Fianna Fáil for pushing the issue of mental health. As an aside, our Government seems to feel absolutely no embarrassment that the existing Mental Health Act 2001 is not compliant with either the United Nations Convention on the Rights of the Child or the UN Convention on the Rights of Persons with Disabilities. Fianna Fáil, Sinn Féin, Labour, the Green Party and Independent Members have so far been unwavering in supporting a positive mental health agenda and they should be

commended on that.

In a very fundamental way, this legislation supports the rights of inpatients to make decisions on their treatment by reflecting the policies of the Assisted Decision-Making (Capacity) Act 2015. The existing framework, whereby a person who has no capacity is nonetheless deemed to consent to treatment, is quite wrong both in law and as a matter of practice. This is an important amendment that respects the capacity of persons to have a proper say in their own treatment. The autonomous decision making of a patient is also given new protection in the child-specific provisions. It is important that the Deputy included these in the amendments. I have a particular interest in the amendment to section 25 of the 2001 Act, by which Deputy Browne proposes to include best interest principles where a child is admitted to hospital under a court order. As we know, there have recently been horrific cases of young people being admitted to hospital by court order with neither their autonomy or privacy rights being given full protection. This is the precise type of child-focused modernisation that is required by our Mental Health Act and I fully support it.

As the Minister of State is aware, we had a lively discussion here last week about the manner in which the Mental Health Act 2001 protects the rights of the child. Unfortunately, the Act is dramatically out of date. I think I am correct in saying that as few as one out of 160 recommendations from the expert review of the Mental Health Act 2001 were implemented. We still stand by the practice of admitting children to adult units in this country. I often meet GPs who say that this would never occur for a child with acute illness, for example, a kidney infection. Such a child would not be admitted to an adult unit and yet, in mental health care, the HSE will stand by this practice which its regulatory body has openly condemned. It is important that section 25 spell out the rights of the child which need to be considered by the courts when this kind of order is made. I also note that the adoption of the best interest provisions proposed by Deputy Browne would reflect and protect international human rights law and the necessity for children to have a say in their own treatment.

I congratulate Deputy Browne once again on this excellent legislation. I hope that these provisions can be reflected in what needs to be a more timely and better staffed mental health service.

Senator Máire Devine: I commend Deputy Browne and the Fianna Fáil Senators who are progressing this Bill through the House. I suppose this arose as a result of the Assisted Decision-Making (Capacity) Act 2015, where it has been three years but it has not been enacted. Nothing can happen in any shape or form. It is holding back not just mental health reform, but also other social policy areas. We want to kick it to touch and get this legislation enacted. I ask the Minister of State to give us some idea as to when that might happen because many other things depend on it.

I will outline some of the reasons for this Bill. Given that people are unable to make decisions, the decisions are made in their best interests. They are considered voluntary patients even though they have not given consent to being admitted voluntarily. From my experience, I am thinking about elderly people wandering aimlessly around psychiatric institutions, crying out, “Let me go home” and “Why is the door locked?”. They do not understand what situation they are in but know that they do not want to be there. Surely that is an infringement of their human rights.

This proposed amendment to the Mental Health Act would strengthen that area and make

14 February 2018

us, as professionals, listen and take seriously what those people are saying. We may say it could be dementia, or confusion. It could be a toxic chemical that is running around the brain at that time, but it is a very distressing state for patients. We need to listen to their cries and take them seriously instead of prescribing more medication to keep them quiet.

I ask the Minister of State to outline when the Assisted Decision-Making (Capacity) Act will be enacted so that we can plough on with reform that is people-centred and that takes into account people's wishes and needs.

Question put and agreed to.

SECTION 3

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

Senator Diarmuid Wilson: We reserve the right to introduce an amendment on Report Stage to this section of the Bill that would retain subsection 4(2) of the 2001 Act. The Bill currently proposes its deletion. This provides some degree of additional and more specific protection.

The Department of Health raised concerns over the relevance of subsections 4(3) to 4(6) of section 3 of the Bill, given that they are already stated in the 2015 Act. In response to its concerns, I wish to clarify that we strongly recommend retaining these subsections to reinforce the applicability of the 2015 Act in the mental health area.

Question put and agreed to.

SECTION 4

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

Senator Diarmuid Wilson: We will propose an amendment on Report Stage to this section of the Bill to include a separate stand-alone section setting out guiding principles to apply to children who are voluntarily admitted. The proposal in the Bill to include child-friendly guiding principles in section 25 of the 2001 Act currently only applies to involuntarily detained children. It is important that guiding principles apply to both involuntarily and voluntarily admitted children.

Question put and agreed to.

SECTION 5

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

Senator Diarmuid Wilson: On Report Stage, we will submit an amendment to remove reference to "voluntary patient". We will also submit an amendment to include a separate stand-alone section to address consent provisions for people who are voluntarily admitted. Legally, consent provisions for people who are voluntarily admitted should be addressed in a separate section of the Act.

Regarding the definition of "the highest attainable standard of mental health", we strongly recommend that the Department of Health refer to the Committee on Economic, Social and Cultural Rights, CESCR, General Comment No. 14: The Right to the Highest Attainable Stan-

dard of Health (Article 12) in regard to this definition. Those comments refer to sections 5 and 6.

Question put and agreed to.

Section 6 agreed to.

SECTION 7

Question proposed: "That section 7 stand part of the Bill."

Senator Colette Kelleher: I welcome the Minister of State back to the House to discuss mental health in Ireland. I support Deputy Browne's Bill, which takes some very positive and necessary steps to address some of the shortcomings in our mental health system and puts in place some constructive measures to improve it. Action is needed because we have failed to do certain things. Mental health reform has been a very useful guide to us.

The Bill gives more power to the patient, the person involved, and that is an important clarification to be made. Too often we talk about service users and clients, but we are talking about people. Having that written into the Bill is a really important language change.

The Bill targets the inherent deficiencies in the Mental Health Act, seeking to make our system more compassionate and more flexible, reinforcing a basic human right with the highest attainable standards of mental health and the right to the least restrictive care. It is almost three years since the publication of the report of the expert group on the review of the Mental Health Act and the Government has consistently failed to meet its own timeframe for publishing a general scheme of a Bill to update the 2001 Act in full. Under the existing Mental Health Act 2001, there is continued violation of human rights standards among people who are being treated in hospital for mental illness. Senator Devine outlined how that looks with people wandering around corridors, lost, not knowing how they got there and certainly not knowing how they can get out. Rectifying this is overdue and this is an opportunity to advocate for the amendment of the Mental Health Act 2001 in full. It seeks to give voice to those directly affected - voices sometimes weakened, often unheard or even silenced within the mental health system in the past.

It is good that this important Bill on mental health is being discussed and debated in the Seanad. The Taoiseach recently described this House as a place where courageous and outspoken things were said, a place which brought together diverse collections of men and women, poets and thinkers, specialists and innovators. It is the responsibility of this House, therefore, to speak out and to work on behalf of those who cannot speak out.

Last week, we had another important debate on mental health in the presence of the Minister of State, Deputy Jim Daly, when Senator Freeman introduced another important Bill on the care-----

Acting Chairman (Senator Gerry Horkan): I remind the Senator that this is Committee Stage and not Second Stage. I ask her to conclude at this stage. I do not know how much more she has, but it is-----

Senator Colette Kelleher: I wanted to highlight a letter I received about the response the Minister of State gave me, suggesting that I needed to watch my language because of the effect it might have on people accessing the system. The parents involved, who wrote that letter to

me and which I highlighted to the Minister of State, were very upset by his response. They said that instead of watching my language, we need to watch our children.

When we speak out in that way, whether on these matters or other matters, it is important to recognise that it is not personal; it is speaking out on a topic. We need to be courageous and outspoken. I felt it was important for me to relay their concerns today because I was speaking on their behalf rather than on my own behalf. They were very unhappy with the Minister of State's response, feeling that it shut down conversation and debate. They encouraged me to continue to raise those matters and speak truth to power even if power is not listening.

Question put and agreed to.

TITLE

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

Minister of State at the Department of Health (Deputy Jim Daly): I thank Deputy James Browne for introducing the Bill, which has passed through the Dáil. As I have stated previously in the House, I recognise and value the importance he and others in both Houses attach to the need for introducing these changes to our mental health legislation. While there were no amendments before us, I would like to apprise Members about the reason for that and my plans to amend the Bill on Report Stage but, before I get into that detail, I would like to make a few remarks.

It is incumbent on me to flag the amendments I wish to table. The Bill has three main goals. First, section 2 seeks to amend section of the Mental Health Act 2001 by updating the definition of "voluntary patient" to include the need for the patient to consent to admission. Second, sections 3 and 4 seek to amend sections 4 and 25 of the Mental Health Act 2001 by replacing the existing principal consideration in the Act of best interest with a number of principles, including, *inter alia*, the highest attainable standard of mental health autonomy, dignity and with due respect for the person's own understand of his or her mental health. Third, sections 5 and 6 seek to amend sections 56 and 57 of the Mental Health Act 2001 by linking more directly the issue of consent with section 3 of the Assisted Decision-Making Capacity Act 2015, which deals with a person's capacity to be construed functionally. The final two changes relating to best interest and consent closely mirror recommendations of the expert group review of the 2001 Act. The move away from the often paternalistic interpretation of the existing legislation best identified by the inclusion in the Act of the principal consideration of best interest is both necessary and welcome. We all want a scenario where in so far as possible individuals have the final say in what they feel is in their best interest and receive the best quality of service they need to reach the highest standard of mental health. This change will effectively move away from paternalism and place grater autonomy in the hands of the individual. However, when the analysis of the Mental Health Commission and my Department of the Bill's proposals is complete, I intend to revisit the list of adult guiding principles and it is likely that further changes in line with the recommendations of the expert group review will be proposed.

Deputy Browne sets out proposed guiding principles for children in section 4. I have concerns, as the principles are more adult-related and do not take account of the child-friendly guiding principles recommended by the expert review group. The commission is yet to give us its views on this but when they are received, I intend to discuss them further with the Deputy. In this regard, an important issue yet to be decided is whether "best interests", which will remain

for children, should be a principal consideration in revised mental health legislation, as it is in the current 2001 Act, or whether “best interests” should be one of the list of child-friendly guiding principles, all of which would have equal value and merit. The views of the commission will be key to how I intend the phrase specific amendments on Report Stage.

With regard to consent, which the Assisted Decision-Making Capacity Act 2015 was not in place when the expert group reported, nonetheless, what the Deputy is proposing is considered to be broadly in line with what the group proposed in respect of consent and capacity. In addition, the specific reference to capacity and consent, which is now likely to be included in revised legislation, requires further examination as to whether other changes relating to assessment of capacity and who can assess capacity in the context of the Mental Health Act 2001, notwithstanding the fact that under the Assisted Decision-Making Capacity Act 2015, only a court can determine capacity. How further amendments on Report Stage may be framed will depend on whether capacity can be assessed other than just through the courts as the Assisted Decision-Making Capacity Act 2015 would seem to suggest.

The first change relating to the need to specifically include consent in the definition of “voluntary patient” was fully accepted by the expert group and is a change I fully support. The definition of “voluntary patient” proposed by the Deputy, however, differs from the one recommended by the expert group. While the Deputy’s definition references the Assisted Decision-Making Capacity Act 2015, the expert group specifically spelled out a more detailed definition that did not reference the Act. The Department is waiting on the advice of the Mental Health Commission as to what the exact wording of the new definition should be. Furthermore, the Deputy proposes to amend sections 56 and 57 in Part 4 of the Mental Health Act 2001 and add provisions that specifically relate to consent and voluntary patients. Unfortunately, Part 4 of the Act only deals with involuntary patients and the inclusion of these provisions could fundamentally alter the nature of this Part. My Department is in consultation with the commission regarding the effects such a change might have elsewhere in the Act. The outcome of the discussions will help determine how we can best amend the Act to deliver on the aims of the Deputy in sections 5 and 6 of this legislation.

Finally, I would like to highlight one further significant issue regarding the Bill in respect of the amendment of the definition of “voluntary patient”. If the proposed changes to the definition are accepted, persons without capacity who need inpatient mental health treatment but who do not have a mental disorder will be unable to gain admission to a psychiatric hospital because they cannot personally consent. A new definition of “voluntary patient”, which includes the need for consent must commence only when other changes are introduced to allow patients without capacity to access treatment. There are no proposals to deal with this in the Bill and, on the face of it, this would be an impossible position for any legislator to defend. In this regard, my Department has separately launched a public consultation on draft legislation relating to deprivation of liberty with the final date for receipt of submissions being 9 March. It is intended that the new provisions will be included in the Assisted Decision-Making Capacity Act 2015. This is new complex legislation, which will also cover anyone who lacks capacity and is a resident in a range of health facilities, including nursing homes or facilities for persons with disabilities or mental illness. It is intended that the draft provisions, now published, will also apply to mental health facilities in circumstances where persons have mental health issues but are not suffering from a mental disorder and, therefore, cannot be involuntarily detained under the Mental Health Act 2001, nor can they be admitted as voluntary patients under the new proposed definition, as they lack capacity to give such consent. It is likely that the deprivation

of liberty provisions will go before the Oireachtas later in the year.

We must all be conscious as legislators that, in amending the definition of “voluntary patient” as proposed, without at the same time passing alternative legislative provisions to allow persons without capacity or a mental disorder to access inpatient treatment, we leave ourselves open to criticism that the measures in this Bill alone seek to introduce an incomplete proposal. In this regard, it is also important to mention that, while the proposed amendment relating to changing the definition of voluntary patient can be amended by the Oireachtas in the short term, any such change agreed by the Oireachtas also cannot be commenced until the decision support service, DSS, to be established under the Assisted Decision-Making (Capacity) Act 2015 is operational. This is because the draft safeguards contained in the deprivation of liberty proposals use the framework set out in the Act and envisage a role for the service and, therefore, before such provisions can be operationalised, both the Act needs to be commenced and the DSS needs to be in place. We have time available to us to ensure we properly scrutinise the text of this Bill and ensure it is appropriately drafted and is fit for purpose.

I once again thank Deputy Browne for introducing the Bill. I have asked him not to proceed to Report Stage until the Mental Health Commission and the Department have completed their analysis of the Bill. As the provisions cannot be enacted until the DSS is commenced, there is no impediment to the Deputy holding off on going to Report Stage until the final text of the legislation is agreed between myself and the Deputy. I do not envisage that this will take too long, but it is essential that this work be allowed to finish its course. I am supportive of the changes being proposed in the Bill and we are all in agreement here that the changes the Deputy proposes need to be made. However, I have outlined my concerns regarding certain aspects of the Bill and as the analysis and legal examination of the text has not been finalised by the Department and the Mental Health Commission, I will only be in a position to propose amendments on Report Stage. On that basis, the Government will not oppose the Bill but will table amendments on Report Stage.

Question put and agreed to.

Bill reported without amendment.

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

Senator Diarmuid Wilson: Next Tuesday.

Report Stage ordered for Tuesday, 20 February 2018.

Job Losses at Kerry Foods, Carrickmacross, County Monaghan: Statements

Minister for Business, Enterprise and Innovation (Deputy Heather Humphreys): I am disappointed by the announced redundancies at Rye Valley. Although the country as a whole is moving towards full employment, that does not make it easier for any person faced with redundancy. It also underlines that although the economy is performing well overall, there are challenges that require every company to make sure it is competitive and capable of satisfying the needs of its customers.

Kerry Group is Ireland's largest food company and a world leader in ingredients and flavour technologies. It has 132 manufacturing facilities across five continents and provides food and ingredient products to a wide customer base in 140 countries. With its headquarters in Tralee, the Group employs over 23,000 people worldwide. It operates two consumer food production facilities in Ireland, one of which is Rye Valley in Carrickmacross. Rye Valley is a major employer in the north east region. The facility at Carrickmacross currently employs 420 people and most of its sales are to the UK.

According to the company, the objective of the announcement is to improve the overall competitiveness of the site and to future proof it such that it can continue to operate effectively in Monaghan. The company envisages that after this process the site will be better prepared to continue to supply and sustain its commercial opportunities in the marketplace, where it currently has a strong position. The ongoing formal consultation process began a month ago. The company envisages that the redundancies will be achieved on a voluntary basis. I strongly urge the parties to continue their extensive engagement locally with a view to reaching a resolution to the satisfaction of employees and the company. I will work with my colleague, the Minister for Employment and Social Protection, Deputy Regina Doherty, to ensure that redundant workers are given the support they need to find alternative employment. I hope that having worked for the Kerry Group, which places emphasis on the professional development of its employees, they can quickly find alternative employment in the region.

My objective as Minister for Business, Enterprise and Innovation and as a local representative is to ensure that new job opportunities are created in the local area. As I said, the national economic picture is strong and, in fact, the number on the live register in Monaghan is down by 53% since 2012. However, I am very conscious that more needs to be done. One of the first things I did following my appointment as Minister was to meet with the CEOs from counties Monaghan, Cavan, Louth and Meath along with senior officials from Enterprise Ireland, the IDA and my Department to discuss how we can drive job creation in the region. I will be working with my Department and agencies to ensure there is an even greater focus on the Border and, in particular, on counties such as Monaghan and Cavan.

The north east-north west regional action plan for jobs is the key policy response for supporting employment growth in the region. The core objective of the plan is to have a further 28,000 people at work in the region by 2020. Sectors targeted as part of the Border plan include traditionally strong sectors for the region such as agrifood, manufacturing, engineering and tourism. Importantly, the plan has been embraced by public and private sector bodies in the region and over 90% of its actions are on track for delivery. In terms of impact, over 12,000 more people are in employment in the Border region since the plan commenced.

At agency level, Enterprise Ireland recently announced a 4% employment growth in its client companies for the Border region, which now employ almost 11,500 people. Knowing the considerable challenges that companies in the region are facing, Enterprise Ireland continues to engage on a one-to-one basis with established clients in County Monaghan. Across the period 2014-17, it has invested approximately €18 million in client companies in the county. Through partnership between Enterprise Ireland and local authorities, local enterprise offices supported 1,152 small and micro-businesses employing over 5,720 people in the Border region during 2016.

To keep this momentum going, in December last year I announced an allocation of €30.5 million in funding to support enterprise capability in the regions, with 21 projects from all

over the country receiving funding. Three projects from the Border region were successful: a regional food centre of excellence at Ballybay in County Monaghan, a network of three digital and innovation hubs, including one in County Cavan, and a new digital innovation hub and enterprise capacity building programme in County Donegal. In order to pursue this policy of growing new and exciting businesses across the regions, I look forward to launching a second call under the regional enterprise development fund in late March to allocate the balance of the €60 million earmarked for the scheme. If quality applications come in from the Border region for that scheme, they will be supported.

The period ahead will be a very challenging one for the employees who may lose their jobs. As I have outlined, all State relevant supports will be made available to them. The best response is to continue to invest in programmes and policies that generate new jobs and to assist those seeking work to be able to take up the available opportunities.

Senator Robbie Gallagher: I extend a very warm welcome to the Minister and thank her for taking time out of her busy schedule to come to the Chamber. I have no doubt that she is extremely disappointed to learn of the 31 proposed job losses at Kerry Foods in Carrickmacross, as am I. Our thoughts are with the workers and families affected. It must be a very difficult, worrying and stressful time for them as I am sure they all have financial commitments to which they must adhere. The Minister will agree that it is a huge blow for the town of Carrickmacross, in particular in light of the 150 job losses at the Bose factory in 2015.

Kerry Foods has cited the volatility of sterling as a result of Brexit as one of the main reasons for the proposed job losses. This is a very alarming development in view of the dependence on the agrifood sector in County Monaghan, of which the Minister is aware. We have a huge number of jobs in that sector and it is of critical importance to the area. All Senators have been warning for some time about the threat posed by Brexit and, unfortunately, the events of recent days once again highlight how real that threat is to the 31 workers faced with redundancy and the people of Carrickmacross. It is important that the Government stays close to major employers in County Monaghan, in particular those involved in the food sector, who are acutely at risk because much of their produce goes to the United Kingdom. We need to help them by making sure they get all the help possible to navigate their way through this difficult period and to find new markets, where possible. I am disappointed to have to say that the Government's record of attracting new employment to counties like Monaghan and Cavan is dismal. Earlier this week, I received the most recent IDA Ireland statistics regarding visits to both counties. I learned that in 2017, there was one visit to County Monaghan and there were two visits to County Cavan. In the last six years, there have been seven visits to County Monaghan and ten to County Cavan. I am sure the Minister will agree that none of us can be proud of this dismal record. I have been saying for some time that no part of our country is more exposed to Brexit than the Border counties. I am sure the Minister agrees with this. I call on the Government to create a special economic zone in the Border region because such an initiative is much needed.

There is no reason large companies cannot locate and flourish in counties like Monaghan and Cavan. A number of companies are already located in both counties. As the Minister is well aware, Monaghan Mushrooms is the largest exporter of mushrooms in Europe and the second largest in the world. Another company, Combilift, exports its products all over the world. Our deep exposure to Brexit is a cause of great concern. The Government needs to stay awake. We need to stay close to our existing employers to ensure they can navigate their way through these turbulent times. We must also focus on finding alternative employment. I am concerned that County Monaghan is over-exposed to the agrifood sector. I am heartened by the fact that

the Minister, who is new to this portfolio, is a Monaghan lady born and bred. I get great confidence from that. I wish her well in her new post as she tries to convince her Government colleagues that the Border counties have a special case that deserves to be listened to. I hope our day will come very shortly.

Senator Joe O'Reilly: I join other Senators in welcoming my constituency colleague, the Minister, Deputy Humphreys. We are happy to have her participate in this important debate. At present, 420 people are employed in Rye Valley. Most of the company's sales are in the UK. I am keen to put the level of employment in perspective. Of course it is always regrettable to hear about job losses. Our hearts go out to those affected. We stress the urgency of rectifying this situation. It is important to note that the 31 redundancies will take place on a voluntary basis and are not forced redundancies. We are not happy about the redundancies, but it is better that voluntary redundancy is being offered to people who might wish to retire for various reasons. Of course this is not what we want. I gather that the redundancies are needed to improve competitiveness.

Kerry Group is renowned for investment in, and the professional development of, its workforce. This means when these redundancies arise, this well-trained and skilled group of 31 people will be well placed to gain other forms of employment. I consider it important that any upskilling sought by these people should be available to them. All of the agencies, including the local education and training board, should be brought together to ensure any training needed by those who take voluntary redundancy to help them to get other employment is available to them. I urge the Minister to ensure all the agencies are there to help. I was impressed to hear her say she will be in contact with the Minister for Employment and Social Protection, Deputy Regina Doherty, to ensure active and personalised one-to-one support is available. I know such support has been available in the past in these kinds of situations. It is important that everyone is treated as an individual and met and dealt with personally.

If it is possible, even at this stage, for the jobs to be saved through negotiations, I urge all parties to engage. If there is any possibility to change work practices within the enterprise, for example, we appeal to those involved to facilitate this. If alternative employment can be secured, that is the ideal to which we would aspire. The north-west and north-east regional action plan for jobs, which includes a number of practical actions, is the key policy response on jobs in the Border region. The core objective of the plan is to have a further 28,000 people at work in the region by 2020. It places an emphasis on agrifood, manufacturing, engineering and tourism. The number of people in employment in the Border region increased by 12,000 between the first quarter of 2015 and the second quarter of 2017. Obviously, we want the Government to target its efforts in the Border region and we are delighted that we now have a Minister from the region to do that. The great news that 12,000 additional people are working in the Border region belies the notion that job creation is not spread across the regions.

In December of last year, the Department of Business, Enterprise and Innovation announced an allocation of €305 million for a number of initiatives, including a digital hub in Cavan and a food excellence and innovation centre in Monaghan. I congratulate the Minister on these great initiatives, which we welcome. We hope they will contribute to a solution to this difficulty. It is important to note that there has been a 4% increase in the number of IDA Ireland-backed jobs in this area. Some 12,500 people in the Border region are employed in companies that are supported by IDA Ireland. The local enterprise offices support 1,152 small businesses and microbusinesses, which employed more than 5,220 people in the Border region in 2016. Between 2014 and 2017, Enterprise Ireland invested up to €80 million in client companies in support of

enterprise capacity in the region. It is very important that this is the case. Again, there has been a 4% increase in jobs in the region.

I agree with my colleague, Senator Gallagher, that the matter of Rye Valley needs to be addressed and that the social protection aspects of this issue, such as the retraining of employees, need to be emphasised. We need to ascertain whether there is any potential for the situation to be resolved onsite and inhouse, for example through discussions between all the agencies, the unions, management and workers. If such potential exists, of course that is an optimum thing. We need to continue to focus on job creation. A great deal has already been achieved. There is a spread of jobs in the region. I am very happy with many of the announcements that have been made. We want to achieve more. We are very optimistic for the future of counties Cavan and Monaghan.

Minister for Business, Enterprise and Innovation (Deputy Heather Humphreys): I thank Senators O'Reilly and Gallagher for their contributions. I know the coming period is going to be difficult for the local workers at Rye Valley. As I have said, I will work to ensure all the supports of the State are made available to the workers affected by this. The best response is to continue to invest in programmes and policies that generate new jobs and to help those who are seeking work to be able to take up the available opportunities. There is no doubt that these policies are working. In 2012, there were 6,620 people on the live register in County Monaghan. Today, that figure has decreased by 53% to 3,105, which is a remarkable turnaround by any stretch. I take the point made by Senators that the number of IDA site visits to counties Cavan and Monaghan are too low. That is not a new problem but it is certainly one that I am determined to address. I know both Senators will support me in every way they can to address it.

Under this Government, the IDA has a strong commitment to increase foreign direct investment in each region by 30% to 40% including, of course, the Border region. In fairness to the IDA, it does absolutely fantastic work on a global basis in attracting investment to Ireland. I was at an event yesterday where 550 jobs were announced in two different locations by cutting edge international companies. The IDA does great work in attracting them into this country and while it will make every effort to show them the facilities outside of the city, they want to come to Dublin. To be honest, I would rather see them coming here than not coming at all. We need to say that very clearly. All foreign direct investment is very welcome and this is a wonderful country in which to do business. The chief executive of one of the companies said to me that the reason they are coming to this country is because of the highly-skilled workforce and the growing economy. They want to be part of the success of this economy. The company was emphatic about that.

Enterprise Ireland also had a record year in 2017. Enterprise Ireland supported companies employ 209,000 people and IDA client companies employ 210,000 people. Almost half of the new jobs created by IDA last year were outside Dublin. Some 64% of the new jobs created by Enterprise Ireland were outside Dublin. We are moving in the right direction. The latest figures from the CSO show that there are an extra 48,100 people at work in comparison to this time last year, with nine out of every ten new jobs being created outside Dublin. It is clear that a lot of good work is going on and that we are heading in the right direction.

I make no apology for standing here when we are speaking about a company in Monaghan and saying that I will have a strong focus on the Border region. I will be treating it as an area that deserves special attention through the different initiatives, the regional plans and the regional

development fund. As I have said, one of my first acts as Minister for Business, Enterprise and Innovation was to arrange a meeting with the four local authorities, Cavan, Monaghan, Louth and Meath and senior officials from Enterprise Ireland, the IDA and my own Department to discuss how we can drive job creation in the region and also to discuss how we can work on a collaborative basis. The food, mushroom, pig and engineering industries are all very strong in our area. It is a question of how we can support existing businesses and encourage new start-ups. The foreign direct investors are also looking for clusters and we have to show them the strength of what we have and that we have something special. I know we have that in counties Cavan and Monaghan, indeed right across the Border region. I am committed to that goal.

I have only been in the Department two months. Things take time, but I will be working towards that goal. My door will be open to anyone who wants to assist in driving that agenda. I understand that Brexit will present challenges but it will also present opportunities. I want to use this opportunity to say to our indigenous industries that they should get in touch with the local enterprise office and Enterprise Ireland. There are many supports out there to help them prepare for the risks that Brexit will present. They must identify the risks in their companies, mitigate for the risks by diversifying the markets and investing in research, development and innovation. One thing that has been found is that companies that invested in innovation during the difficult years of the downturn were the ones most likely to survive. Companies need to be Brexit ready and ensure they remain competitive. There are supports out there and I ask them to please use every opportunity to avail of the services that Enterprise Ireland in particular and the local enterprise offices have put in place.

I thank the Senators for raising this matter.

Acting Chairman (Senator Gerard P. Craughwell): I thank the Minister for that response. I wish her well in her portfolio, in particular with the difficulties in her own constituency.

When is it proposed to sit again?

Senator Joe O'Reilly: Tomorrow at 10.30 a.m.

The Seanad adjourned at 5.55 p.m. until 10.30 a.m. on Thursday, 15 February 2018.