



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

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SEANAD ÉIREANN

Dé Céadaoin, 30 Eanáir 2019

Wednesday, 30 January 2019

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

Machnamh agus Paidir.
Reflection and Prayer.

Gnó an tSeanaid - Business of Seanad

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

The need for the Minister for Health to outline the progress made in the delivery of the radiation oncology project in Cork.

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

The need for the Minister for Finance to make a statement on the proposal to put 23% VAT on food supplements, including vitamins and minerals.

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

The need for the Minister for Education and Skills to provide an update on the purchase of the new site for Gaelscoil Chionn tSáile in Kinsale, County Cork.

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

The need for the Minister for Agriculture, Food and the Marine to make a statement on the crisis in the beef industry.

I have also received notice from Senator Brian Ó Domhnaill of the following matter:

The need for the Minister for Communications, Climate Action and Environment to provide an overview of current Government policy on the post office network.

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

The need for the Minister for Transport, Tourism and Sport to consider implementing a BusConnects plan for public transport in Limerick city.

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I have also received notice from Senator Frank Feighan of the following matter:

The need for the Minister for Transport, Tourism and Sport to provide an update on the N5, Ballaghaderreen to Scramoge, project.

I have also received notice from Senator Gabrielle McFadden of the following matter:

The need for the Minister for Housing, Planning and Local Government to provide an update on the measures proposed to bring vacant dwellings back into use.

I have also received notice from Senator Michelle Mulherin of the following matter:

The need for the Minister for Communications, Climate Action and Environment to provide an overview of the application process for consents and licences by the energy regulator, the Commission for Regulation of Utilities, CRU; with particular reference to the application for a 45 MW high efficiency combined heat and power biomass fuelled power plant proposed on the Asahi site in north Mayo.

The matters raised by Senators Colm Burke, Victor Boyhan, Tim Lombard, Robbie Gallagher, Brian Ó Domhnaill, Maria Byrne, Frank Feighan and Gabrielle McFadden are suitable for discussion. I have selected the matters raised by Senators Colm Burke, Victor Boyhan, Tim Lombard and Robbie Gallagher and they will be taken now. Senators Brian Ó Domhnaill, Maria Byrne, Frank Feighan and Gabrielle McFadden may give notice on another day of the matters they wish to raise. I regret that I have had to rule out of order the matter raised by Senator Michelle Mulherin on the grounds that the Minister has no official responsibility in the matter.

Nithe i dtosach suíonna - Commencement Matters

Cancer Services Provision

Senator Colm Burke: I thank the Minister of State for coming into the House to deal with this matter. This question is on a very important issue, the oncology radiation services in Cork. As a result of the overrun in the cost of building the new national children's hospital, there is concern that other projects which were in the process of being provided with capital funding will be affected. One of these projects is this one in Cork. I tabled this Commencement matter to seek a clear indication that the project would not be affected. The delivery of the unit is essential for Cork and the southern region. It is in that context that I raise the matter. It is important that clarification be given at this stage.

Minister of State at the Department of Health (Deputy Catherine Byrne): I am taking this matter on behalf of the Minister, Deputy Harris. I thank the Senator for raising the issue of radiotherapy services in Cork and giving me the opportunity to update the House on the matter. Cork University Hospital is a designated cancer centre. Radiation oncology treatment is available at the hospital. The Minister would like to assure the Senator that the building of the new radiation oncology facility to meet the level of demand that will arise in the coming years is progressing as planned. The construction of the new facility is a key component of the national

plan for radiation oncology and its delivery will not be delayed arising from the costs involved at the new national children's hospital.

Radiation oncology treatment is available in four other public hospitals, namely, St. James's Hospital, Beaumont Hospital, St. Luke's Hospital and University Hospital Galway. Through a North-South joint initiative, radiation oncology services are available to patients from the Republic of Ireland, mostly from County Donegal, in the North West Cancer Centre in Altnagelvin Area Hospital in Derry. In addition, contracted services are available to public patients in counties Waterford and Limerick. Owing to the projected increases in cancer incidence arising from an increasing and ageing population, demand for radiation oncology services is expected to grow. New facilities are also planned for Galway and design work has commenced on a facility to house further radiation oncology capacity at Beaumont Hospital. Recommendation No. 22 of the national cancer strategy 2017 to 2026 highlights the importance of expanding capacity in Cork, Galway and Dublin in line with the national plan for radiation oncology.

Building work on the new facility in Cork is nearing completion and will be fully complete in this quarter. Many of the extra staff who will work in the new expanded service are already in place. It is expected that the facility will be fully equipped, commissioned and operational early in 2020.

The HSE's national cancer control programme, with oversight from the Department of Health, monitors the radiation oncology key performance indicators as agreed in the national cancer strategy. According to the most recent report of November 2018, 87% of referrals to radiation oncology units were offered an appointment within 15 working days. Projects such as that under construction in Cork will allow us to continue to provide quality and timely care for patients in the coming years.

Senator Colm Burke: I very much appreciate the Minister of State's reply. The only issue I want to raise is related to equipment. Given that the building is nearing completion, will the Minister of State indicate whether the equipment for the facility has been purchased? Has provision been made for the purchase equipment in the 2019 budget or will funding spill over into 2020? That is my concern at this stage. It is important that clarification be provided on the matter.

Deputy Catherine Byrne: I am unable to answer the Senator's questions on the purchase of and budgeting for equipment for the project. However, I will convey his concerns to the Minister for Health, Deputy Harris, and ask that his office provide direct answers to his questions.

Senator Colm Burke: It is important that a reply be furnished to me in due course. I thank the Minister of State for her assistance in the matter.

VAT Exemptions

Senator Victor Boyhan: I welcome the Minister of State, Deputy D'Arcy, to the House yet again. The issue I raise is the change to the zero rate of VAT for vitamins and minerals. I acknowledge that the Minister for Finance has clearly articulated the view that these are matters for the Revenue Commissioners in the first instance, rather than his Department or the Department of Health. I appeal to the Minister of State to have this matter reviewed on a number of

grounds, one of which relates to health. It does not make sense to charge a VAT rate of 13.5% on fast food such as burgers, chips and other greasy foods, particularly in the context of the national health strategy, when Revenue is prepared to impose a VAT rate of 23% on health supplements from next month onwards. I noted the Taoiseach's statement in the Lower House - I checked the record today - that he was not in a position to confirm the higher rate would apply to iron supplements or folic acid but that he would revert to the House on the matter.

I spoke to a number of general practitioners when researching this issue. My GP prescribes vitamin B12, folic acid and fish oils for patients. There are issues in that regard. I am not suggesting this for the benefit of those who are popping vitamins every day of the week. That is not right. However, GPs tell me that they are prescribing these vitamins and mineral supplements - let us not call them drugs - on which Revenue will charge VAT. One must ask what the Government can do about it. I presume that it may be possible to address the matter in a finance Bill or other legislation. Perhaps we should distinguish between cases where vitamins are prescribed and those where they are not. I would generally like these vitamins to be zero rated for VAT, as has been the case since 1972. I ask the Minister of State to consider with his colleagues whether we can set up a consultation process to engage on this matter with stakeholders.

As someone who lives near Gorey, the Minister of State will know how important provincial towns are. Supplement and health shops, in particular in rural communities, rely on this legitimate and legal business. We need to support them against the major multiples in the cities. This decision raises many issues for rural communities and rural traders. More importantly, there is substantial employment associated with the supplements industry and we need to be careful how we impact on it.

Minister of State at the Department of Finance (Deputy Michael D'Arcy): To address the Senator's direct request to me, the Department is reviewing this matter. That commitment was given by the Minister for Finance on Committee Stage of the Finance Bill in October last.

On a point of clarification, basic vitamins, minerals and fish oils are zero rated. The standard rate of VAT applies to food supplements. However, there is a Revenue concession which allows the zero rate to be applied to certain types of food supplements such as vitamins, minerals and fish oils. The practice of zero rating vitamins, minerals and fish oil food supplements has been applied since the introduction of VAT in November 1972 when the marketplace for food supplements was small. The concession meant that vitamins, minerals and fish supplements were treated the same as food for VAT purposes. However, since the 1970s there has been significant growth in the number and complexity of food supplement products on the market, most of which are not covered by the zero rate concession such as supplements containing botanicals and bioactive substances. While these new products apply at the standard rate of VAT, the growing variety of products in the market led to diverging views between Revenue and industry on which food supplement should be at the zero rate versus the 23% rate. Revenue issued eBriefs in 2011 and 2013 in an effort to clarify that only basic vitamins, minerals and fish oil would qualify for the zero rate. However, disagreement on the applicable VAT rate and queries on specific products continued.

The operation of the current concession has become problematic because of efforts by some businesses in the industry to exploit the concession to extend zero rating beyond the scope permitted by Revenue. Some businesses have challenged Revenue guidance and decisions on the VAT rating of products giving rise to serious concerns about compliance within the industry and unfair competition between compliant and non-compliant businesses.

The issue was raised during debates on the Finance Bill 2018. Deputies and Senators looked for clarity for the industry on the VAT treatment of food supplements and sought the retention of the zero rate for certain categories of food supplements. On Committee Stage the Minister agreed to ask his officials to address the matter in the context of the tax strategy group and also stated he would not interfere in any decision made by Revenue on the matter in the interim. Revenue published new guidance on 27 December 2018 concerning the rate of VAT that applied to food supplements, announcing its intention to apply the 23% VAT rate to most food supplements with effect from 1 March this year. It should be noted, however, that human oral medicines, including certain folic acid and other vitamin and mineral products licensed by the Health Products Regulatory Authority, will continue to apply at the zero rate of VAT. It is possible to retain these products at the zero rate because they qualify as oral medicines which are charged to VAT at the zero rate in Ireland under an historical derogation from EU VAT law. Infant foods will also continue to be zero rated.

I understand the concerns of industry in this matter. For that reason, independent of Revenue's decisions on interpretation, the Minister agreed to put in place a process that will conclude in the 2019 tax strategy group's paper to examine the policy choices in the VAT treatment of food supplements. As I stated in the Lower House yesterday, Revenue is independent of these Houses and the Minister has said he will not intervene with it. That is long-standing practice.

Senator Victor Boyhan: I thank the Minister of State for his detailed reply and welcome the decision to have the tax strategy group produce a paper on the matter. The recurring theme is that we need to look at alternatives. I recognise the independence of Revenue, but when we are charging 13.5% on fast foods and, at the same time, removing the zero rate from food supplements and vitamins, something is amiss and needs to be addressed. I thank the Minister of State for coming to the House.

Deputy Michael D'Arcy: There are thousands of products to be analysed to determine whether zero rating, a 23% rate or potentially a different rate should apply. This will depend on the advice of the tax strategy group. From speaking to the Minister for Finance, Deputy Donohoe, I know that a fair hearing will be given on this issue. I know that there are peculiar anomalies with food. As the Senator mentioned, products sold by unhealthy fast food outlets are at the lower VAT rate of 13.5%, while potentially healthy products that may be prescribed and really beneficial for people's health could be at the 23% rate. That will be a matter for the tax strategy group. As I said in the Lower House yesterday, I will certainly give this issue a fair hearing, as will the Minister.

Schools Building Projects Status

An Cathaoirleach: The next matter has been tabled by Senator Lombard and concerns a very important matter in his constituency.

Deputy Michael D'Arcy: I think it is your constituency also, a Chathaoirligh.

An Cathaoirleach: My constituency is now the Thirty-two Counties. I will not allow it to be diminished.

Senator Tim Lombard: I welcome the Minister of State and realise the Minister for Education and Skills, unfortunately, cannot be here owing to issues in County Donegal. In fairness,

he made contact about it last night.

I am calling for an update on the purchase of a site for a Gaelscoil in Kinsale. The Gaelscoil has been a unique and thriving part of our community for 11 years, during which, unfortunately, it has been housed in prefabs. One of these buildings had to be abandoned last year because of the condition it was in. It has been an ongoing debacle trying to secure a site for a permanent school.

Kinsale is a unique location. In the past ten years its population has grown by 23%, which is significant when we consider population growth nationally. The need for a permanent structure and site for the Gaelscoil has been talked about for over a decade. We have moved an awful long way along this path. We have identified a 5 acre site which the local authority, as the purchasing power, and the Department have agreed is suitable. Contracts were submitted to the Chief State Solicitor's office last October. We are trying to get the contracts out to start the process which is part of the Government's schools building programme. For that to happen, the roadblock needs to be lifted. We need to ensure the Chief State Solicitor's office signs off on the site in order that we can move on.

We have a unique population of students going to the school. We have 106 boys and 112 girls in the school. In this day and age, it is probably not appropriate that they should go through their childhood education in a prefab setting. We need to find a solution. The solution is to purchase the beautiful 5 acre site that has been identified. We need the Chief State Solicitor's office to remove the blockages in order that we can deliver the school for the people in the surrounding community of Kinsale.

I hope the Minister of State can give me some detail regarding what the Chief State Solicitor's office is planning to do and whether the matter can be moved forward. If not, perhaps he would speak to me afterwards about trying to move the project forward.

Deputy Michael D'Arcy: I thank the Senator for raising this matter. A new school building for Gaelscoil Chionn tSáile is included in the Department's six-year capital programme. The project is to provide a permanent school building for the Gaelscoil which is currently in temporary accommodation. In that context, the Department of Education and Skills has been working closely with Cork County Council under the memorandum of understanding for the acquisition of school sites, with a view to securing a suitable site for the school. Under the memorandum of understanding for the acquisition of school sites, local authorities assist the Department in the process of identifying and acquiring sites for the development of school accommodation. The first step in this process is the identification of suitable sites by the local authority. The identified sites are then technically assessed on a joint basis by officials from the local authority and the Department's professional and technical staff.

The Senator will appreciate the importance of a thorough appraisal of site options at this point in order to ensure the achievement of value for money and minimise the potential for any issue to arise during the planning and development stages. A number of site options for Gaelscoil Chionn tSáile were identified and thoroughly technically appraised for suitability by personnel from the Department of Education and Skills and Cork County Council. Arising from this exercise, the Department has been engaged in negotiations with the owners of one of the suitable sites identified at technical appraisal stage. The site in question is that on which the Gaelscoil is currently located in temporary accommodation. Negotiations have concluded and agreement in principle has been reached with the landowners on the proposed acquisition of the

site by the Department. Therefore, the site acquisition process has advanced to the conveyancing stage as draft contracts are being prepared and legal due diligence is being undertaken in respect of the proposed transaction. The acquisition of the site will enable the Department to progress the architectural planning process for the project. I assure the Senator that the school authorities are being kept apprised of progress in the advancement of the site acquisition and building project for the school.

Senator Tim Lombard: The Minister of State has updated us on the information that is in the public domain. Moving forward, it is about trying to get the contracts that have been with the Chief State Solicitor's office since last October signed. We have lost three or four months and need to get movement on the issue. I ask the Minister of State to make representations to the Chief State Solicitor's office to try to move the contracts forward. Having them signed would be a major step forward for the community of Kinsale that uses the school. If we get the project going, we will go through the building programme at speed. While this may seem like a small thing, it is a major roadblock and it would do an awful lot for us if it were lifted.

Deputy Michael D'Arcy: I will speak directly to the Minister about the matter and try to get officials from his Department to provide an update on where matters are with the Chief State Solicitor's office. The objective of the exercise is to move to the next stage.

11 o'clock

Beef Industry

Senator Robbie Gallagher: The agri sector is a vital part of the national economy, yet there are a number of serious issues for farmers, which means that many of those involved in the sector are at risk. There simply is not enough of a return on the investment made for some farmers. As the margins are too tight, many have to consider their future. This is a very serious issue in rural Ireland. There is the issue of oversupply and a drop in prices which, in turn, is leading to a crisis of confidence throughout the industry. During the week ending 20 January, the number of cattle processed by Department of Agriculture, Food and the Marine beef export plants totalled 36,656. During the same week in 2017 the figure was 33,256. Unfortunately, the slump in cattle prices before Christmas has continued into 2019, with many factories quoting unchanged prices. Farmers are struggling to have stock killed, with many having to wait weeks. Ultimately, the prices achieved are unsustainable. This cannot continue. We need a clear plan. What measures and additional supports are being developed and considered by the Minister of State to address the issue?

There are growing concerns about the viability of the agrifood sector. What help is being offered to those who need it most? The growing cloud of Brexit is also hanging over us. There is a distinct feeling of despair surrounding beef exports to the UK market, particularly in the event that there is a hard Brexit. Earlier this month it was deeply worrying and concerning to hear the president of the Irish Farmers Association, Mr. Joe Healy, warning that if the United Kingdom crashed out of the European Union, "We are facing ... [a] potential wipe-out of beef production in this country." According to Bord Bia, total Irish exports of beef in 2017 amounted to 556,000 tons, of which 51% with a value of €1.3 billion went to the United Kingdom. We need to know what plan the Government has to support all of the farmers who have invested so heavily in

their stock, their livelihoods and those of their families who need to know where they stand. They also need more detail of the aid packages the Government has stated it will demand from Brussels in the event that there is a hard Brexit. We also need clarity on the state of play for beef producer organisations. How does the Minister of State envision it panning out in the future?

The beef plan group has added its voice on the issue and been holding a series of public meetings across the country to seek support for the beef plan policy. It seems to be striking a chord with many farmers in rural Ireland. It has pinpointed what it sees as a lack of support from the market for a quality beef product as a major problem, as well as processors paying below the cost of production for such a product. It believes there is an oversupply of cattle in the market. To tackle the issue it has suggested removing mandatory stocking levels. It is aiming for the introduction of a programme centred on sustainable quality assurance instead of quantity driven policies. Such a measure should help to increase the price of beef. The group is also calling for incentives to be introduced which would see beef producers who exit the market switch instead to fodder production programmes and-or environmental schemes which, in turn, would create a greater balance in the sector.

Farmers are under severe pressure and their stress levels are extremely high. They need the Government to provide clarity for beef producers. How does it plan to tackle this issue in the next few months?

Minister of State at the Department of Agriculture, Food and the Marine (Deputy Andrew Doyle): As an active beef farmer I am very conscious that 2018, in particular, was a difficult year for the beef sector due to unprecedented weather events which resulted in increased input costs owing to fodder shortages. I am deeply committed to fully supporting and developing the beef sector. One of the unique strengths of the agrifood sector has been the shared vision for its sustainable development in Food Wise 2025. It is crucial that we all continue to work together. The Minister for Agriculture, Food and the Marine, Deputy Creed, has utilised the beef round table to highlight the need for stakeholders to recognise their inter-dependency and support the sector through an examination of mechanisms to add value along the supply chain and increase the strength of all links, including beef producer organisations. My Department is engaging extensively with stakeholders in beef producer organisations which have strong potential to strengthen the position of the primary producer in the supply chain. I firmly believe producer organisations have the potential to play a very important role in this area. My Department is continuing in its efforts to drive the potential of the scheme through engagement with an array of stakeholders across fora. It has rolled out a range of schemes as part of the €4 billion Rural Development Programme for the period 2014 to 2020.

The beef data and genomics programme, BDGP, is the main support specifically targeted at the suckler cow sector which will provide beef farmers with €300 million in funding during the current rural development programme period. The scheme is an agri-environmental measure to improve the environmental sustainability of the national suckler cow herd by increasing genetic merit within it. In addition to the BDGP, other supports available to suckler cow and sheep farmers under pillar 2 of the Common Agricultural Policy, CAP, include the green low-carbon agri-environment scheme, GLAS; the areas of natural constraint, ANCs, and knowledge transfer groups. Suckler cow farmers also benefit from the basic payment scheme, BPS, and greening payments under pillar 1.

The national farm survey data suggest suckler cow farmers receive support equivalent to approximately €500 per suckler cow on average. It is also envisaged that suckler cow farmers will

be the primary beneficiaries of the €23 million increase in ANC payments, in addition to the €20 million available under the beef environmental efficiency pilot scheme being announced by the Minister, which is why he has had to send his apologies to the House. The scheme is targeted at suckler cow farmers and specifically aimed at further improving the carbon efficiency of beef production. The Department is examining all appropriate measures to support the different sectors, including the suckler cow sector, in preparation for the next iteration of the CAP. We are committed to ensuring suckler cow farmers will continue to receive strong support under the next CAP. Such payments should support and encourage suckler cow farmers to make the best decisions possible to improve the profitability and the economic and environmental efficiency of their farming systems.

The development of markets for Irish beef was a particular priority for many of the trade missions in 2017 and 2018. The opening last year of the Chinese market to Irish beef marked the culmination of significant work over a period of years. The Department continues to prioritise efforts to gain market access to new third country markets and, equally as important, deepen existing markets for Irish beef products. I am deeply committed to ensuring suckler cow farmers will continue to receive strong support under the next CAP. My view is that such payments should support and encourage suckler cow farmers to make the best decisions possible to improve the profitability and environmental efficiency of their farming systems.

Senator Robbie Gallagher: I raise this matter because of the urgency attached to it. As he is involved in the farming business, the Minister of State fully appreciates the difficulties farmers face. There is a sense of urgency attached to this issue. With other farm bodies, the new beef group has put forward some proposals which are credible and should be explored if the sector is to have a future. I would appreciate it if the Minister of State gave them serious consideration as rural Ireland depends greatly on farmers doing well. If farmers do well, the local economy tends to do well also. Conversely, when that does not happen, we have a serious problem. The cloud of Brexit is hanging over us. It is a worrying and stressful time for farmers, particularly for those in Border areas. I would like to see the Government taking this issue very seriously and bringing forward proposals to help to alleviate the situation in which farmers find themselves.

Deputy Andrew Doyle: I thank the Senator and agree with him. In my opening remarks I made the point that it was important to realise there was serious interdependency. The beef sector, processors and markets are all very fine, but if one does not have a primary producing base, the members of which feel like they have a viable future, the whole system will fall asunder.

In terms of all of the suggestions made, we need to consider various systems, be they fixed price contracts or fixed agreement contracts with the processors for some or all of the producers in the establishment of producer organisations. In opening up the supply chain prices to scrutiny and explaining why each player along the chain must have so much of a margin, transparency is very important. In other countries transparency is beginning to be rolled out and have a positive effect.

I urge everyone to participate in the beef forum and round-table group because everything is solved, if it is to be solved, in discussions and reaching agreement. I mean an agreement that is honoured and not reneged on, something that is very important.

Sitting suspended at 11.10 a.m. and resumed at 11.30 a.m.

An tOrd Gnó - Order of Business

Senator Jerry Buttimer: The Order of Business is No. 1, Hallmarking (Amendment) Bill 2016 - Second Stage, to be taken at 12.45 p.m. and adjourned not later than 2.30 p.m., with the time allocated to group spokespersons not to exceed ten minutes each and all other Senators not to exceed five minutes each; No. 2, Companies (Amendment) Bill 2019 - all Stages, to be taken at the conclusion of No. 1 and adjourned not later than 2.30 p.m., if not previously concluded, with the time allocated to group spokespersons on Second Stage not to exceed eight minutes each and all other Senators not to exceed five minutes each, the Minister to be given not less than five minutes to reply to the debate and Committee and Remaining Stages to be taken immediately thereafter; No. 3, statements on housing, to be taken at 2.30 p.m. and conclude not later than 4.30 p.m., with the time allocated to group spokespersons not to exceed ten minutes each and all other Senators not to exceed six minutes each - time can be shared - and the Minister to be given not less than eight minutes to reply to the debate; No. 83, Private Members' business, non-Government motion No. 13 re housing for the elderly, to be taken at 4.30 p.m., with the time allocated for the debate not to exceed two hours; No. 4, Criminal Law (Extraterritorial Jurisdiction) Bill 2018 - Committee and Remaining Stages, to be taken at 6.30 p.m.; and No. 5, Judicial Appointments Commission Bill 2017 - Committee Stage (resumed), to be taken at the conclusion of No. 4 and adjourned not later than 9 p.m., if not previously concluded.

Senator Catherine Ardagh: Many of us on our way to the Seanad today, travelling in our cars, probably passed many nurses on picket lines. They are hardworking nurses who have braved the cold weather to fight for better pay and conditions. The facts before us are that nurses in this country are sometimes paid half of what their colleagues abroad are paid. In Australia, Canada, the Middle East-----

Senator Colm Burke: That is not true.

Senator Catherine Ardagh: Anecdotally, many nurses would say otherwise.

Senator Jerry Buttimer: Anecdotally. Let us base comments on facts.

An Cathaoirleach: Please allow Senator Ardagh to put her question.

Senator Jerry Buttimer: Let us have a debate on the facts.

An Cathaoirleach: The Leader will have an ample chance to come in later.

Senator Catherine Ardagh: Obviously, the facts are disputed, but nurses can produce evidence to show that they are-----

Senator Jerry Buttimer: The Senator said nurses received half the pay.

Senator Catherine Ardagh: Yes, because I have spoken to nurses who have said they are paid 50% less than their colleagues who work in Australia, yet they have the exact same qualifications. In some instances, Irish nurses are being paid 50% less than their colleagues working abroad who have the same qualifications. We know that before they even finish their degree and go out on their own, nurses are considering emigrating. We also know that the nurses we

currently employ in hospitals are overworked and stresses are beginning to be felt by patients.

We all have many anecdotes about how the health service is being affected. The other day I met a lady who told me about her experience. She went to hospital because she had a sore leg after falling off her bike. She ended up falling off a trolley and breaking a tooth because her concussion was so bad and the nurse in charge was on her own. It was not a case that the nurse had not looked after her properly but of the nurse in charge being completely stretched in every possible way to meet demands. I ask the Minister for Health to engage with the nurses in a meaningful manner to ensure the strike does not continue. We cannot have six days of nurses on strike. It is not helpful at all.

The second issue I wish to raise is related to anti-social behaviour and drug dealing on city streets. A technology company that has been in operation for 17 years has been forced to move out of the inner city area because of drug dealing and anti-social behaviour at the door of its premises. Such negative behaviour is not just confined to that area because when one walks from Christchurch to the Guinness Storehouse or Kilmainham Gaol, one frequently sees drug dealing. It seems to be done without any issue. There does not seem to be any fear of arrest or deterrent whatsoever. I ask the Minister for Justice and Equality to look at this matter. This is a tourist area which contains various distilleries, Kilmainham Gaol and the Guinness Storehouse and people are openly dealing drugs on the street. It is, therefore, a very serious matter. It affects the tourism industry and the communities living in these areas because it is just not nice to have people dealing drugs on one's doorstep.

The third issue I want to raise is one that is hugely concerning to all of us, particularly after the passing of the Brady amendment last night. Ultimately, we learned today that a hard Border would impact negatively on the economy. We have been told that if a hard Brexit occurs, there will be an increase in unemployment of up to 2%, which could be up to 50,000 people. The chat about renegotiating the backstop is very worrying. We wish the Tánaiste and the Minister of State with responsibility for European affairs, Deputy McEntee, the best. We are behind them 100%, but it is very scary, especially with reference to our preparedness. I have a small business and had no interaction with the Government in terms of help, support and how it will affect us; neither has the business community in Crumlin. I am a solicitor and can say the level of conveyancing has dropped. People and the markets in Dublin are very scared. People are not engaging in transactions at the same volume they did in recent months and I believe it is because of the significant fear about Brexit. There is a lot of fear among the business community, particularly if the UK crashes out. I ask the Leader to consider these matters and look forward to hearing his response.

Senator Marie-Louise O'Donnell: I will make one point about Theresa May. What happened last night was possibly the greatest example of renegeing in the history of politics.

I wish to take up what Senator Ardagh said about nurses. I look around at the nurses on strike, their reasons for doing so, the 262 consultant posts that have not been filled, consultants in hospitals who have not gone through the registered training programme and the lack of radiographers and occupational therapists. At the same time, I see an overrun of €1.7 billion on the national children's hospital project. The two do not compute. There is something very unstable about this situation. I am not blaming anybody, but there is something very unbalanced about all of it and the public is getting very tired of it.

I wish to ask the Leader about the Assisted Decision-Making (Capacity) Act 2015. I have

reached the age of an elder, even though I know that I look 37 years old. I am very conscious of how we treat elders. The Assisted Decision-Making (Capacity) Act 2015 has not been commenced and there is no reason sections 3 and 8 which involve advanced healthcare directives should not be commenced. I would like very much to see it happen because they give effect to the requirements of common law. I know that other Senators have worked on this issue and know the intricacies of it, but the fact that these sections have not been commenced gives rise to inappropriate assessments of older people being carried out based on the medical model which is not the total model and not the model that should be the end assessment. A person's basic human rights are involved. Áine Flynn was appointed director of the Decision Support Service in October 2017 and is currently working on setting up her office and putting systems in place. The HSE and the National Disability Association did a lot of work on codes of practice. The codes on advanced healthcare directives are at the final stage. However, there seems to be a lack of drive in the Government and Departments. I have now stood here three times and spoken about it.

As a breach of rights is occurring, I would like some explanation. I know that there are a lot of problems, but aging involves people's rights. People are being put into nursing homes who do not want to be there. They have rights in nursing homes. My mother is in a nursing home. I do not want to present myself as a visual aid example, but I am very conscious of elders in Ireland and how we treat them and wish to see their rights preserved in every way. This needs to come back in and we need to advance it because it is lying around, so to speak. People are in place to do it, but it has not been ignited and a certain activity is lacking. Things are happening with regard to Brexit and nurses are out on the street, but this issue is very important. I saw how many carers and nurses who deal with the elderly were outside the gates of facilities today on Roebuck Road and in other areas where homes operate. Could we, please, have the Act commenced or have a discussion about it?

Senator Colette Kelleher: I endorse the sentiments expressed and points made by Senator Marie-Louise O'Donnell. We very much need to progress the implementation of the Assisted Decision-Making (Capacity) Act 2015.

I refer to two recent reports of major significance for the Traveller community. The first contains the findings of the inquest into the Carrickmines fire tragedy which were published last week. As we know, ten people lost their lives in this fire. I acknowledge how difficult the process must have been for the families affected. It is worth noting and it was highlighted in an excellent article by Jacinta Brack of the Irish Traveller Movement in today's edition of *the-journal.ie* that in the year following the Carrickmines fire, three other fires occurred at halting sites in Ballyfermot, Limerick and Wicklow. Thankfully, there was no loss of life, but safety remains a major concern, especially on overcrowded sites. This matter has not been addressed adequately. I welcome the recommendations made in the report. It is important for all of us to know about them, take them on board and monitor Government leadership and action on them.

According to the Irish Traveller Movement, since the publication of the report of the National Directorate Fire and Emergency Management in September 2016, the threats to the safety of Travellers posed by substandard accommodation remain a clear and present danger. The number of Traveller families living in overcrowded conditions has risen and now stands at more than 1,000 families, an increase in excess of 150 since the report of the National Directorate Fire and Emergency Management was published three years ago. The impact in terms of the numbers of people affected is rising. The Irish Traveller Movement contends that there is a direct correlation between overcrowding and shared accommodation, which poses a fundamental

threat to the safety of Travellers.

Three years on, these threats have not been adequately addressed. According to the director of the Irish Traveller Movement, Bernard Joyce, there has been no national audit of Traveller fire safety measures since 2016 and no monitoring report on the completion of the programme from the first review. While some local authorities have worked towards fire prevention strategies, there is no audit of completion or fulfilment. The inadequate provision of accommodation for Travellers is at an all-time high. There have been other fires since 2015. The review of the Housing (Traveller Accommodation) Act under way must take into account overcrowding and the poor standard of existing temporary Traveller accommodation and its overuse for long-term stays. The dangers faced by Travellers living in overcrowded conditions remain. Will the Leader ask the Minister for Housing, Planning and Local Government to outline the measures being put in place to ensure tragedies like the one in Carrickmines never happen again?

I also ask the Leader to invite the Minister to respond to a European Committee of Social Rights report that was also published last week. The report found that Ireland had failed to redress violations in breach of the European Social Charter related to five grounds for Travellers, including insufficient provision and inadequate quality of Traveller accommodation, breaches involving the operation of evictions and the lack of legal aid for those threatened. In the light of both reports, will the Leader ask the Minister for Housing, Planning and Local Government to give us a full update on the Government's responses to the Carrickmines fire report, the European Committee of Social Rights report and the review of the Housing (Traveller Accommodation) Act that is in train?

Senator Rose Conway-Walsh: I wish to show solidarity with the thousands of nurses on picket lines all over the State and the thousands of patients and vulnerable persons who have had their operations, procedures and appointments postponed. In particular, I wish to show solidarity with and voice my support for those on the picket lines in places such as Castlebar and Ballina in my home county of Mayo. We must remember that many of these patients have waited months and years for operations, procedures and appointments. I know that the nurses on the picket lines today are really mindful of this. I call on the Government to intervene and resolve this crisis in order that the nurses can get back to what they are desperate and trained to do, that is, provide the highest standard of healthcare in a safe environment and that patients can receive the treatment they desperately need.

We heard about the elderly woman who was duped by a rogue trader into handing over money for tools that she had no need for whatsoever. As someone who lives in rural Ireland, I am appalled and angered by the rising level of crime. Every week people tell me their stories of being threatened, robbed and assaulted. They range from people like this woman being robbed in her own home to businesses being repeatedly robbed, sometimes by the same individuals, families or gangs. These crimes are being carried out, often during the day, by criminals who are sticking their two fingers up at their victims, including shop owners. At around 5 p.m. outside a funeral home in Castlebar last Friday, I witnessed a taxi driver trying to escape injury, while his attacker, accompanied by another man and a woman, kicked and smashed his vehicle while trying to punch and drag him out of the car.

I have two questions. Where are the gardaí and why do we not have enough of them to walk the streets to prevent such crimes? Above all, why do we have a judicial system that enables and facilitates these crimes by letting off repeat criminals?

Senator Marie-Louise O'Donnell: Hear, hear.

Senator Rose Conway-Walsh: They leave the courts laughing at gardaí and victims knowing that they are free to attack their victims over and over again. We have had 70 hours of filibustering and what I can only describe as time wasting on the Judicial Appointments Commission Bill in this House.

Senator Jerry Buttimer: Hear, hear.

Senator Rose Conway-Walsh: Will the Leader invite the Minister for Justice and Equality to the House for a full and frank debate on the issue of crime in regional towns and villages? It is unacceptable that we are spending so much time on that Bill, while leaving vulnerable businesses that are already struggling and individuals who are being threatened day in and day out. As legislators, we are doing nothing about it.

Senator Gerald Nash: I wish to speak in solidarity with the INMO nurses who are on strike. I visited the picket lines in Dundalk and Drogheda this morning. To say the determination of the nurses is very strong is not to put too fine a point on it. Those of us who have been involved in industrial action and the industrial relations process know that it is a big decision for any worker to withdraw his or her labour. There are implications, for example, lost income. For nurses, in particular, who take their jobs and roles so seriously it is a major decision to take. Unfortunately, the nurses in the INMO felt they had no option other than to take action. They are involved in a legitimate trade dispute that, unfortunately, shows no sign of ending. However, I firmly believe a way can be found within the parameters of the current public sector pay agreement to reach a negotiated settlement that would benefit the nurses without significantly impacting on the integrity of the overall public sector pay agreement.

We should not be in this position today, but a lack of imagination and lateral thinking has been shown by the Government side in its handling of the issue. It pains me to say it, but in the context of this and a range of other disputes, the Government has shown a tin ear in its approach to industrial relations. This issue can be fixed if the political will is there, but I do not detect it. A way can be found through the current pay agreement to address the nurses' concerns, while retaining the integrity of that agreement if imagination and lateral thinking are shown by the Government side.

As if we needed reminding, the events at Westminster last night reminded us of the existential importance of the retention of the backstop in the British withdrawal agreement from the European Union. In pandering to the extreme elements of the Tory Party's European Research Group, Prime Minister May has shown a willingness to throw Ireland under the proverbial bus. I stood in solidarity with my neighbours in Carrickarnon on the Northern Ireland-Republic of Ireland Border last Saturday. The message there was clear - communities on both sides of the Border, be they nationalist or unionist, did not want a hard Brexit or a hard border on this island. We spoke about solidarity with the nurses, but never before has the solidarity of the EU been more important for Ireland than in the retention of the backstop.

On Friday I will meet my colleague, the German Federal Minister of Justice and Consumer Protection, and an SPD member, Dr. Katarina Barley, who has requested to come to Ireland to discuss Brexit and the reality of life on the Border with residents from north Louth. I look forward to welcoming her. It is important that we use all of the channels, connections and networks available to us - Fine Gael is associated with the Christian democrat group and the

Labour Party is associated with the socialist group, the second largest political grouping in the European Parliament - to convince our European partners of the fundamental importance of retaining the backstop in protecting Ireland's interests, North and South, and the integrity of the Good Friday Agreement.

Senator Maria Byrne: I highlight the more than 35,000 nurses on the picket lines. As the Leader is well aware, University Hospital Limerick is in the news every day and has been mentioned in the House many times by various Senators. I call for sense to prevail and both sides to come together to reach a resolution. Going into the hard winter season, none of us wants to face continuous strikes. Sense needs to prevail and a solution needs to be found, as it is not right that so many people should be out.

I welcome the €200 million investment by Regeneron Pharmaceuticals in the region. On Monday it announced that it would create hundreds of jobs in the pharma sector in the mid-west. It is good news that the mid-west is being seen as a counterbalance to Dublin.

Senator Jennifer Murnane O'Connor: I give my full support to the nurses. I know how hard they work. They play a major role in people's lives from the time someone is a baby to when he or she dies. They do a great job and we should appreciate them. Everyone needs to get air. The Government must get together with the INMO, sit down and sort this out. The nurses deserve it. Nursing is a calling. It is important that we get this sorted for nurses.

I wish to discuss Safer Internet Day which is celebrated globally in February each year to promote the safe and positive use of digital technology for young people and inspire a national conversation. This year it will occur on 5 February. I raise this matter because we were appalled last week when we heard of the sharing of a video of a deceased person following a fatal crash on the M50. That the Garda had to issue a request shows how far we have sunk as a nation. We need to have the conversation that is called for on 5 February about what we can do in these cases. We need to debate the Internet and how to protect children from a world in which nothing is sacred anymore. I call for a debate on how to adjust current legislation so as to bring the full force of the law down on people for their blatant lack of humanity. While we cannot legislate for bad taste, we should be able to legislate against social media companies allowing instant sharing of such imagery before the authorities have even identified the deceased. I was shocked by what had happened and we need to address the issue. We need to have this conversation on 5 February to ensure this can never happen again.

12 o'clock

I will bring up this again again with the Minister.

Going back to the nurses, all of us here need to support the hard-working nurses today.

Senator Victor Boyhan: I thank the Leader and his office for sending a copy of today's proposed Order of Business. I acknowledge what I said yesterday. It is his prerogative and nobody else's to bring forward the proposed Order of Business for the day. It is our prerogative, as Members, to accept, amend or reject the Order of Business proposed. That is clear and I will not repeat it. It would be helpful if every Member of the House had the same piece of paper I have in my hand. I am aware the leaders have received it, but I call for every Member to have a copy of the Order of Business in his or her hand because it is important.

I propose an amendment to the Order of Business but before so doing, I must note I look

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forward to engaging in the debate on the Judicial Appointments Commission Bill 2017 today. It received a great deal of coverage in the media today, particularly in the printed media, but I am looking forward to being here. I propose an amendment to the Order of Business - of course, I have the benefit of having it in front of me - that in respect of No. 5, Judicial Appointments Commission Bill 2017 - Committee Stage (resumed), which is to be taken at the conclusion of No. 4 and adjourned not later than 9 p.m., there be an assurance, in the interest of the orderly operation of business today, that it would not be taken before 6.30 p.m. Alternatively, I seek confirmation from the Leader to that effect. I am happy to be here until 9 p.m., but it is a matter for Members. As I say, I am conscious that it is our prerogative, as Senators, to agree the Order of Business.

An Cathaoirleach: By way of clarification and to try to be helpful, No. 4, Criminal Law (Extraterritorial Jurisdiction) Bill 2018, cannot be taken before 6.30 p.m.

Senator Jerry Buttimer: What is the purpose of the amendment? I do not understand its purpose.

Senator Victor Boyhan: No. 5 is to be taken at the conclusion of No. 4 and adjourned not later than 9 p.m., if not previously concluded. I am happy, if I receive that assurance. That is all I need.

Senator Jerry Buttimer: I do not understand what the Senator is trying to propose.

An Cathaoirleach: In essence, the Senator is saying, if I am getting this right in my ceann, that the Leader will adhere to the proposal before us.

Senator Jerry Buttimer: The proposal in the Order of Business is quite clear.

An Cathaoirleach: I think so.

Senator Jerry Buttimer: It is very clear.

An Cathaoirleach: There is no amendment as such, if the Leader sticks to the-----

Senator Victor Boyhan: It is to seek clarification.

Senator Jerry Buttimer: It is to be taken at the conclusion of No. 4.

An Cathaoirleach: Yes, okay.

Senator Victor Boyhan: What if it is early?

Senator Jerry Buttimer: The Senator might do me the courtesy of listening for one second. If No. 4 finishes early, No. 5 runs into it.

Senator Victor Boyhan: That is the point I am making.

Senator Jerry Buttimer: We have always done that.

Senator Victor Boyhan: A Chathaoirligh-----

Senator Jerry Buttimer: On a point of order-----

An Cathaoirleach: At this stage, I want to proceed. The Senator has made a suggestion

which the Leader can accommodate and explain in his response.

Senator Michelle Mulherin: I welcome the positive news for the tourism sector in the figures published by the Central Statistics Office, CSO, which show that there was a record number of tourists to the country last year. There were approximately 10.6 million visitors, with significant increases from the North American market. This is important because tourism is a critical part of the economy. With this in mind, I ask that we invite the Minister for Transport, Tourism and Sport to the House, particularly to debate how we might keep the momentum going but also to debate the potential ramifications and proposals to curtail the operation of Airbnb. It is not an issue that we debate often. I believe Airbnb has played a significant role in encouraging tourists to come to the country and making accommodation available. There is a need for a full debate on the matter.

Obviously, Brexit is of grave concern, as is the potential further fall in the value of sterling arising from it and the spending power of visitors from the British market in coming here. I note that the increase in number of visitors from Britain this year was only 1%. It was one of the lowest growth figures for tourism, which is disappointing. The most important element, which I welcome, is the progress made and the level of growth in the tourism sector.

There are rural areas which are underdeveloped and have considerable tourism potential. The challenge for Tourism Ireland and the different agencies given the responsibility to develop tourism is to go to areas such as north Mayo which has considerable potential on the Wild Atlantic Way. Once one hits Westport, one is not as inclined to travel north of it. The Minister must ensure there is proper promotion of these areas that need a boost and put in proper tourism infrastructure, by which I mean tourist information offices. For example, in Ballina the tourist office is run on a shoestring and needs further support to be run in the professional manner necessary to support the region. These are pertinent issues because tourism is often one of the few alternatives for employment in rural areas. I ask the Leader to look at this as something with which we might deal in early course with the Minister.

Senator Máire Devine: As this is strike day, I am hardly going to talk about anything else. This morning I have been around in the cold but crisp sunshine to Our Lady's Children's Hospital, Crumlin, St. James's Hospital, both the Rialto entrance and James's Street entrance, and the Coombe hospital on Cork Street. I visited all three and plan to visit some more later.

I think back to 20 years ago. In 1999 I was part of a strike committee, the national nurses strike committee. It took us nine days and nine nights in a row out on the picket line to get the Government to eventually sit down and talk, to realise it needed to be proactive, to understand and work out how to retain, recruit and keep nurses in hospitals looking after the patients. This is the first day of the strike and there are many more planned. I hope it will not take as long - nine days and nine nights - for the Minister and the Department to come to their senses and sit down with nurses. The spirits are high. The public is behind them, despite the spin from Fine Gael and the fourth estate. Listening to RTE's Marian Finucane on Sunday and the different radio shows, it was the same old same old, but the public is 82% supportive in the latest poll. Certainly, there was support this morning, with neighbours coming out with tea and buns for the nurses on the picket lines. I hope there will be a resolution of this strike quicker than in 1999.

Senator Alice-Mary Higgins: Like many others, I visited the picket lines this morning in support of the nurses and midwives at Holles Street Hospital. The reason for the striking level of public support for the strikers is people understand this is not simply an issue for some work-

ers but about decent standards and safety for the nurses, front-line staff and patients. It is about ensuring the lifeblood of the health system - nurses - are able and supported to work in decent conditions. That is something that is important for every citizen. People recognise and are in solidarity with the nurses for that reason.

It is unfortunate that we have seen Brexit being thrown up as a reason for not taking action. We should note that it will not be acceptable to use this as the card repeatedly in areas of action. Unless there is a moratorium on increases in the cost of living, rent and the considerable costs nurses carry to live and work in towns and cities, one cannot ask them to continue to live on wages and work in conditions that are inadequate. The UK has been an issue in nursing because we have lost so many nurses to it. We have lost nurses to places all over the world because we are not addressing the decency of conditions they need. I urge the Government to take an active and creative role in seeking solutions and engaging. In fact, I wish engagement had been intensified in the past month. I go further and remind the Government that just a few weeks ago we commemorated the democratic programme of the First Dáil. We talked about the role of the Government in seeking co-operation from the governments of all other countries to determine standards of social and industrial legislation which consistently improves. We can engage with other countries such as Hungary. I note that another great advocate for workers' rights, Luke Kelly, is being celebrated today by the city of Dublin with the unveiling of two statues. He sang "School Days Over", "Springhill Mine Disaster" and "Joe Hill" and it is wonderful to see him being marked, in particular, in the year after his brother, another wonderful workers' activist, Mr. Jimmy Kelly, a great personal friend of mine and many others, passed away. It is a strong reminder of where people from the ground up stand on workers' rights. I commend Luke Kelly, as I commend the strikers.

Senator Colm Burke: I have waited to the end to hear all of the contributions, but it is interesting to note that not one contributor outlined from where the €300 million would come. What service do they want the Government to cut?

Senator Máire Devine: Take it from the budget for the national children's hospital. There is an extra €1 billion available.

Senator Colm Burke: The Government does not pay anyone. It is the taxpayer who pays and there is only a certain amount of money that comes in in taxation. I have met nurses who have returned from Australia, the United Kingdom, Canada and the USA and their biggest complaints about pay and conditions here fall under three headings, one of which is the level of taxation. One can earn up to £50,000 in the United Kingdom before reaching the higher tax rate. In Ireland the figure is €35,500. The second issue they raise is non-recognition of further education, one the Department and the HSE must tackle immediately. It is a key issue to be addressed in the context of allowances and time allowed. The third issue is overtime and hours owing, but it is not being followed through. In other words, it is not about overtime but about being given an allowance for hours owing, something which is not taken into account and about which a lot of nurses are very unhappy. Another issue is the huge deficiency in managerial skills in hospitals. I refer to the management of issues as they arise. One example I have come across in the past week or two involves nurses who have been threatened within emergency departments, with no sufficient action taken to provide adequate security for them. The people who cause these difficulties are attending to receive care or are the individuals who accompany them. They also have a responsibility. If we want people to work in front-line services, we must provide adequate security for them. I criticise management for failing to act appropriately in some areas. While there are issues which must be dealt with, there is also the issue of how it

will be paid for. The last thing we need is to see a recurrence of what happened in the years between 2000 and 2008 when there were consistent increases in salaries and wages which meant that when the downturn came, we were unable to manage. If one allows this problem to fester, it will spread across the entire public sector. It is something that needs to be dealt with.

Senator Keith Swanick: I highlight the global health crisis of septicaemia and sepsis which affects approximately 30 million people every year across the world and kills 9 million. In Ireland 3,000 people die from sepsis each year. It claims more lives than heart attack, breast cancer or lung cancer. It can kill a person within 12 hours, as the parents of Sean Hughes from Finglas, Joe and Karen, know all about. Sean was only 15 years old when he suddenly lost consciousness while watching television with his mother and recovering from a simple flu-like illness. Despite the best efforts of his father and paramedics to resuscitate him, he died later in Temple Street Hospital. His parents are calling for a nationwide awareness campaign to highlight the signs and symptoms of sepsis. I support them and hope I will get the support of the House in that regard also.

Sean's parents want the HSE and health professionals to formulate new protocols for the diagnosis of sepsis and the procedures used because it is important to pick up and treat this killer disease as soon as possible. It is being missed and people are dying unnecessarily. Karen and Joe did not know what sepsis was and are not alone. According to the Royal College of Surgeons in Ireland, it is estimated that only 28% of Irish people have an accurate understanding of what sepsis is. When one presents at an outpatients department or a GP's surgery, one often sees literature on public information campaigns such as the campaign on meningitis and the FAST campaign on the signs and symptoms of stroke. There is a need for a similar campaign to educate people about sepsis. A similar check list must be created to the ones featured in other campaigns. Sepsis can occur quickly. While one's immune system normally fights infection, it sometimes fails and people experience multi-organ failure and die as a result of sepsis. However, if it is diagnosed early, it can be treated easily with antibiotics. Anyone, however young and healthy, is at risk of dying from sepsis.

World Sepsis Day is 13 September. It is time to treat this issue with the seriousness it demands. We must ensure people are aware of what sepsis is, understand the risk factors and know how to combat it. By 13 September every household in the country should have been made aware of a disease which kills more Irish people than heart attack, breast cancer and lung cancer. I ask the Leader to arrange a debate on the issue in the near future.

Senator Tim Lombard: This morning I speak with frustration. It is a beautiful morning in Dublin, but there was a dusting of snow in Cork, as a result of which we experienced two and a half hour delays to get into the city from Bandon and Kinsale. Where is the winter maintenance plan? There was a major snow event last year, from which it seems we learned nothing. We are moving from January into February and may now be too late. However, we need the Minister with responsibility for local government to attend the House to explain what the priorities are. A dusting of snow in Cork has resulted in school closures and two and a half hour delays on major infrastructure in entering Cork city from Carrs Hill and Bandon, which makes no logical sense in the environment and society we are trying to build. I do not know how it could have happened again and where the winter plan went. Where is the plan for basic things like gritting and the salting of roads? It must be nationally led and a significant plan must be put in place. I am horrified by what I have heard has happened in Cork in the past few hours. The Leader is from that part of the world and knows what the issues are. He is very aware of the morning people have had there. We must have a real debate next week with the Minister with responsi-

bility for local government on what he plans to do about this issue in the next few weeks. If we do not, the country will grind to a halt if there is another fall of snow. It is beyond belief. Have we learned anything in the past 12 months? There will be a cold snap in the next few days and action is needed. We need to see exactly what is planned. What we saw this morning was a complete and unbelievable shambles. One could not have imagined that it would take people from Carrigaline and Kinsale two and a half hours to get into Cork city. This is fairyland stuff and one has to wonder what kind of society we are building. The Minister with responsibility for local government must attend the House to outline what we learned from last year's experience and set out what he changed as a result. It just is not working.

Senator Pádraig Ó Céidigh: Iarraim ar an gCeannaire cuireadh a thabhairt don Aire, an Teachta Heather Humphreys, chuig an Teach. The GDPR is becoming a major issue for small businesses in Ireland. It is a significant cost and significant risk for them, be they sole practitioners in services, solicitors, accountants and especially doctors and medics who are dealing with patients, as well as a lot of other small businesses. We should have a conversation or a discussion about it to see what we can do to facilitate small businesses. It is not that they are trying to avoid anything, but it looks like one big brush has come from the EU across all businesses, big and small. The SME sector employs more than 1 million people in Ireland - 98% of all businesses in Ireland are small and medium-sized businesses, particularly in rural Ireland - yet again it is the SME sector that is suffering significantly from this bureaucratic requirement in compliance with the GDPR. The compliance requirements on businesses that employ two, three, four or five people are very similar to those placed on large multinationals.

Senator Frances Black: I send my condolences to the people of County Donegal and the families of the four young lads who were tragically killed in a car accident this week. I cannot imagine the devastation and the heartbreak the families are going through.

I show my support for the nurses who are on strike today. Nurses are amazing. The work they do is beyond the beyonds. They are absolutely amazing. I will never forget when I brought my sister to the emergency department last year. It was like a war zone and I will never forget what I saw there. It really struck me, in my heart and soul, the actual level of trauma with which the nurses were dealing. They were almost in trauma themselves. At one point I asked a nurse to help my sister and the nurse could hardly hear me owing to distress and tiredness. I express my solidarity with and support for the nurses who are on strike today. I really hope the Government will sit down, listen and hear them and at last give them the respect they deserve.

I celebrate Luke Kelly, a wonderful man and one of Ireland's finest performers. It is wonderful to see him being celebrated at last. I congratulate his family and all those involved. I am aware that there will be celebrations tonight in Liberty Hall. I cannot make them, but there will be a fantastic number of great supporters there singing his songs in memory of him. It is a great day. We remember Luke Kelly today.

An Cathaoirleach: We all endorse what the Senator has said.

Senator Frank Feighan: Senator Mulherin has a point about Airbnb and *Booking.com*. I know first hand from my own town of Boyle where we do not have a hotel that over the winter and the summer many people stay in farmhouses and houses throughout the country. With all of the new apps and modern technology such as Google Maps, they are finding their way to country lanes. This is actually helping the tourism industry and many of the restaurants in the region and areas that do not have huge tourism infrastructure. While Airbnb is causing some

issues in Dublin, it has also helped the tourism industry in Dublin and especially throughout the country where we do not have that infrastructure. The amount of people coming to stay in these areas is absolutely magnificent.

Last night 370 Members of Parliament at Westminster voted to remove the backstop and replace it with we do not know what. It is extremely difficult and embarrassing and looks as though the United Kingdom is now negotiating with itself. This is all about uniting the Conservative Party. It is not about the United Kingdom, the EU and certainly not about the island of Ireland. The backstop in the withdrawal agreement was negotiated for two and half years and an invention of the United Kingdom negotiation team as part of the UK red lines. As David McWilliams quoted recently, it is less “Britannia rules the waves” and more like “Britannia waives the rules”. In a rules-based democracy this is very dangerous. I am aware that in the House of Commons and the House of Lords the vast majority of MPs and Lords are decent, honourable people who understand what is happening. It is now time for politicians to stand up and be counted. We are moving into a very difficult and dangerous phase in the next few weeks.

Senator Rónán Mullen: The situation in Venezuela is going from bad to worse. The leader of that Parliament has had his bank accounts frozen and been banned from foreign travel. We are seeing Mr. Maduro using the heavy hand to shore up his highly discredited regime. Venezuela is facing a humanitarian crisis which is endangering the lives of Venezuelans owing to severe food and medical shortages, as we know. Some 61% of the people in the country are living in extreme poverty. Owing to the massive shortages of necessary medicines, it is medical hell for anybody with a severe medical condition.

Last week I met representatives of the Venezuelan community in Ireland who gathered outside Leinster House. They want the Government to take a particular interest in their country’s crisis and the challenges facing their people at home and abroad. Some 3 million people have emigrated from Venezuela since 2014. The situation impacts not just on the Minister for Foreign Affairs and Trade’s brief but also on the Minister for Justice and Equality’s brief. The Venezuelan people in Ireland want the Government to recognise that Venezuela is facing a humanitarian crisis that is endangering the lives of Venezuelans owing to severe food and medical shortages. They want to see the Government implement the UNHCR guidance notes on the outflow of Venezuelans. That is where the Minister for Justice and Equality, Deputy Flanagan, comes in with reference to the particular needs of Venezuelans in Ireland due to the crisis in their country and their recognition and status within the country. They also want the Government to recognise Juan Guaidó, the president of the Venezuelan National Assembly, as the new and legitimate interim president, pending elections. They wonder what the hell Sinn Féin was doing in sending two members to be present at the inauguration of this bizarre person who has been running his country into the ground in the most bizarre ways. On this occasion it would be good if Ministers spoke for Ireland and we did not just wait for the EU to speak for Ireland. I would be very grateful to the Leader if we could receive some response from the Government in early course to this emerging and developing crisis.

An Cathaoirleach: I welcome and acknowledge Deputy Willie O’Dea and his guests in the Visitors Gallery. The Deputy is always welcome in this Chamber. It is nice to see the Lower House acknowledge and pay homage to the Upper House.

Senator Martin Conway: I too welcome Deputy O’Dea. If any of his guests is from south-east Clare, they are especially welcome.

An Cathaoirleach: There will be no canvassing.

Senator Martin Conway: I concur with Senator Mullen. Like many of us, last night I watched the Brexit deliberations on the BBC. In the middle of the shemozzle about Brexit, Orla Guerin - an Irish person and a wonderful journalist - was in Venezuela reporting on the campaign. The cameras showed the shops with absolutely no food and people, human beings, going through bins to try to extract something to eat. Ms Guerin interviewed a young family, comprising a single mother and six children who were starving. Anywhere the Government can intervene to try to help in that situation would be most welcome.

We had a very interesting day in the Seanad yesterday when the president of the GAA came to the Chamber. It was a great initiative. I made a proposal to have an all-party friendship group for Gaelic games. I plan on advancing this proposal and will email all Members next week seeking expressions of interest if they want to be part of the group. We will organise some meeting towards the end of February. It is certainly worth noting.

On Brexit and the effect on tourism, I commend those involved in the Cliffs of Moher visitor experience on an initiative yesterday that any new service level agreement with coach companies include a rule about going on to another fee-paying destination in County Clare, to be coupled with proof of an overnight stay. Any future coach operator will not receive a licence to drop off and pick up at the Cliffs of Moher unless it can demonstrate that its guests have stayed a night in County Clare and visited another fee-paying attraction. That is what I call joined-up thinking. That is what I call using a gold-plated tourism facility to support silver-plated and other tourism facilities in the region. That is where a giant of a facility can help smaller facilities and sustain jobs, particularly in the tourism industry, especially given the imminent threat of Brexit to that industry.

Senator Jerry Buttimer: I also welcome Deputy O'Dea and his visitors to the Gallery. I hope he does not come back as a Minister any time soon but he is always welcome to the Gallery. I thank the 19 Members of the House for their contributions on the Order of Business. At the outset I will begin by complimenting the Cathaoirleach and the staff of the Seanad and the Houses of the Oireachtas on the organisation of the visit of an t-uachtarán, Cumann Lúthchleas Gael. It was a wonderful occasion that showcased the work of Cumann Lúthchleas Gael but also highlighted the importance of allowing the Upper House to invite people of distinction to make an address. I commend all those involved on their involvement in the organisation of yesterday's event.

Ten Senators, including Senators Ardagh, Conway-Walsh, Nash, Byrne, Murnane O'Connor, Devine, Higgins, Colm Burke and Black, raised the issue of today's nurses' strike. On my own behalf and that of the Government, I will say we all respect and value the nurses who work in hospitals. They do a very difficult job, in many cases in very trying situations, in a very specialised and pressurised field. Significant recruitment has been undertaken in recent years, to the tune of 3,000 new recruits to the nursing profession. Nobody on this side of the House is contesting the value of the nursing profession and its importance in the delivery of a safe health system. However, the Government has a public sector agreement, to which the INMO signed up and agreed. There has been significant pay restoration for many public sector workers. If we breach the public sector pay deal for one organisation, there will be a knock-on effect. The Members opposite me will come in here every day the House sits looking for extra money for different areas and we will have a free-for-all. We benefit from collective pay bargaining. We respect the nurses and their right to go on strike. I have no issue with that whatsoever, but it is

important to recognise that the cost implication would be €300 million. As the Taoiseach said yesterday, it is about being fair to all other public sector workers and patients and affordability.

On my own behalf and, as the Leader of the House, on behalf of Government, I will say it is imperative and important that we resolve this issue. As Senator Colm Burke stated articulately in his contribution, there are significant points that need to be addressed with regard to recognising degree qualifications, taxation, posts of responsibility and so on. That can be done. It is disappointing on one level that the machinery of the State opted out on Tuesday evening when it has a role to play in the resolution of this matter.

Senator Máire Devine: Hear, hear.

Senator Jerry Buttimer: I hope the issue will be resolved. It needs to be resolved. Everybody wants to be and is supportive of nurses. The capacity for empathy shown by one side of the House this morning is shared across the House. We are in government. Members of the Fianna Fáil Party were in government for long enough. Sinn Féin has not yet reached those dizzying heights here.

Senator Rose Conway-Walsh: It will not be long.

Senator Jerry Buttimer: Sinn Féin walked out of government in the North and has not been back in two years.

Senator Máire Devine: We walked out of government in the North in seeking marriage equality and language equality for citizens. We did what we had to do.

Senator Martin Conway: There is actually a great opportunity in the North to be in government.

Senator Jerry Buttimer: It is a pity the vacuum in leadership in the North has not been filled.

Senator Máire Devine: By whom should it be filled?

Senator Jerry Buttimer: That is a job for Sinn Féin to do.

Senator Rose Conway-Walsh: It is. The Leader can join his mates down in-----

(Interruptions).

Senator Rónán Mullen: Westminster could do with the likes of Sinn Féin.

Senator Jerry Buttimer: Níor chuala mé an Seanadóir Mullen.

An Cathaoirleach: We will return to the picket line and leave these matters for another day. The issue of the nurses strike should not be overshadowed.

Senator Jerry Buttimer: The issue needs to be addressed. All of us stand with nurses in wanting the dispute to be resolved and in recognising and putting a value on the work they do. I hope this can be done in the short term because, as Senator Devine said, we do not want to go back to the days when Fianna Fáil was in power and we had nine days of disputes.

Senator Máire Devine: We also had nine nights.

Senator Jerry Buttimer: Senator Ardagh made a point about anti-social behaviour and drug dealing in the city. It is a matter of huge concern. I highlight for the Senator that her concerns might be better articulated to the Minister of State, Deputy Catherine Byrne, who has responsibility for drugs and the local drugs task forces and to the Minister for Justice and Equality through a Commencement matter. The local joint policing committee could also pursue the issue. We will have the Minister come to the House in due course to discuss the Senator's point.

A number of Members of the House, including Senators Ardagh, Marie-Louise O'Donnell, Nash, Feighan and Conway, raised the issue of Brexit. It is absolutely extraordinary that last night the UK House of Commons again voted to renege on a commitment made by the UK's Prime Minister. As a country and Government, we had an agreement which had been signed up to by the UK Government. Mrs. Theresa May advocated for the need for the backstop. We can read her speeches on the backstop. It is only in recent days that she seems to have changed her mind in order to facilitate and appease some of her own colleagues in the Tory Party. It is disappointing that she has done so. Ireland has been consistent in its position on protecting the interests of the country on an all-island basis. To see the Prime Minister vote against her own deal is disappointing. We have not seen an alternative from the British Government. We need to see it. I was heartened by the remarks of Donald Tusk, the Taoiseach and the Tánaiste last night and today. They said our position was not going to change. There is no such thing as a good outcome to Brexit. It is now incumbent on the European Union to stand with Ireland, but it is equally important that the British Government put forward an alternative, as it has not done to date. Doing this deal has taken two years. It is extraordinary. The best thing we can do now is to stand with the Minister, Deputy Coveney; the Minister of State, Deputy McEntee; the Taoiseach; and the European Union in working to ensure a resolution. We need a resolution of the issue of the backstop.

Senator Marie-Louise O'Donnell raised the very important issue of the Assisted Decision Making (Capacity) Act 2015. I will be happy to take up the matter of the commencement of sections 3 and 8 with the Department. The points the Senator made are very relevant.

Senator Kelleher raised two very important matters regarding the Traveller community. We were all appalled by the tragedy that took place in Carrickmines. We remember those families who are still in mourning today. All members of local authorities and all of us, as public representatives, should read the report on the inquest in Carrickmines because it has very far-reaching implications. We have a responsibility and duty, as elected public representatives, to represent all people, not just some. We should look at the recommendations related to new fire safety guidelines, fire safety champions and the positioning of caravans. We should not just cast it aside because of some people's perceptions of the Traveller community. Far from it; we should be absolutely adamant in ensuring the memorial we erect as a legacy arising from the tragedy is that we never have another Carrickmines. These are human beings and citizens of the country who deserve respect and who deserve to have and should have the arms of local government and the Government around them. I will be happy to have the Minister come to the House in that regard. On the matter of the report of the European Committee of Social Rights, I do not have the information about which the Senator spoke, but I would be very happy to have the Minister of State, Deputy English, come to the House to discuss the matter.

Senator Conway-Walsh raised the matter of rogue traders and crime. I concur with her in respect of rogue traders. There seems to be an epidemic of rogue traders throughout the country. I am a member of the joint policing committees of Cork city and Cork county. We have had reports on the issue. It is important that people be vigilant. Equally, it is important to note

that the Government is committed to Garda recruitment and has started a process in that regard. The programme for Government includes a commitment to have 15,000 gardaí by 2021. Last year the Minister for Justice and Equality put in place a process to recruit 800 new gardaí. The Garda College in Templemore has been reopened; resources have been increased to the tune of €600 million; while the overtime budget has been increased to €95 million. The Government is committed to implementing the report on the future of policing. However, I take Senator Conway-Walsh's point and hope there is greater on-the-beat activity by An Garda Síochána. I know that in Cork there is a commitment to community policing, with the recruitment of more community gardaí. While the Government is committed to doing this, it is important that it be recognised that, as citizens, we have a responsibility to report crime and be vigilant. I know of a number of people who have been the victims of rogue traders, which is both distressing and disturbing. I will take the matter to the Minister and have him come to the House to discuss it.

Senator Murnane O'Connor raised the issue of a safer Internet day. I hope all Members can play a role in making cyberspace safer and educating people on the issue. On Monday I attended the launch of the online bystander intervention by Dr. Louise Crowley at University College Cork. It aims to educate students on sexual and domestic violence prevention, while reducing its prevalence, with unwanted sexual attention. We all have a role to play in that regard, but information and education are also important. I will endeavour to arrange the debate in the coming weeks.

I join Senator Byrne in congratulating Regeneron on its investment in Limerick and the mid-west. The new jobs will be welcomed in the area. I thank all those involved in making this commitment.

Senator Boyhan raised the issue of the timing of items included in the Order of Business. From my understanding of the Order of Business today, the debate on No. 4 cannot start until 6.30 p.m. Accordingly, if No. 5 is to be taken at the conclusion of No. 4, it cannot be taken before 6.30 p.m. Senator Boyhan made the point that it was his prerogative to oppose the Order of Business. However, the job of Members is to debate and pass legislation. Unless we really want to do so, we cannot keep deferring the Judicial Appointments Commission Bill because it is a Member's prerogative to do so. I saw one anonymous quote from a Senator that it would be a fight to the death. That does not help. Every week I come into the House in a spirit of co-operation and endeavour to work with all Members. However, it is our job to pass legislation. As Senator Conway-Walsh correctly said, some of the behaviour in dealing with the Judicial Appointments Commission Bill leaves much to be desired. It is a poor reflection on this Chamber for those in wider society who are watching or listening to the debate and does not help our cause. We can disagree on many other points of legislation. Senator Mullen and I have often disagreed on many issues, but we do not hold up the business of the House. We engage in a proper process, but that is not happening with the Judicial Appointments Commission Bill and it is disappointing to see the behaviour of some Members in dealing with it. We should reflect on our role and the way we do our business. At one level, Members do not want to use the guillotine or sit late. When do they want to debate the Judicial Appointments Commission Bill? Will we absent ourselves because a Member cannot be here? The Minister was available this week. If I inconvenienced Members, I apologise. However, it is my prerogative to change the Order of Business.

As I said yesterday, the only legislation opposed on the Order of Business was the Judicial Appointments Commission Bill. All other amendments to the proposed schedule were agreed to. Some Members made requests to have Ministers attend the House and we will endeavour to

facilitate them. I am embarrassed about Senator Humphreys' requests, about which I have spoken to him. However, I honour commitments insofar as I can. If I cannot do so, I tell the Senator concerned. Our job is to debate legislation and we should do so. If we oppose a Bill, that is fine. However, we cannot hold it up indeterminably. In a previous Seanad the Cathaoirleach had the pleasure of debating the Harbours Bill, but he did not keep the debate going until the end of days. Instead, he let it go after a while. We need to get real about how we do our business. If Senator Boyhan has a difficulty with the times at which business is taken, he can talk to me about it and I will endeavour to work on it. I apologise if Members felt I discommoded them yesterday. However, I have an obligation on behalf of the Government to have legislation debated, passed and enacted. I will always work in a spirit of co-operation. Sometimes, however, we enter a cul-de-sac and there is no reciprocation.

Senators Mulherin and Feighan raised the important issue of tourism. I congratulate all those involved in doubling the number of visitors from North America in the past five years. Tourist numbers have broken the 10 million barrier for the first time. What is most welcome is the increase in business from North America, while European tourist figures are up by 9.5%. What is disappointing and a source of concern is that British visitor numbers increased by only 1%. It is important to recognise that the Minister of State, Deputy Griffin, is willing to debate the matter in the House.

I join Senators Higgins and Black in welcoming the celebration of Luke Kelly's life. I hope it will be a wonderful day.

Senator Swanick raised the important matter of sepsis. I agree with him on the need for an information campaign. I extend my sympathy to the families of those who died from sepsis to whom the Senator referred.

Senator Lombard referred to delays in Cork due to snow. I know that on Carrs Hill and Maryborough Hill there were unacceptable delays of two and a half hours for commuters. I have been told by Cork County Council that at 8 p.m. last night and 4 a.m. today its staff were gritting the main routes. Met Éireann issued a yellow warning alert for the Cork area. However, it is disappointing to hear that commuters were stuck in cars for two and a half hours. It is unacceptable that they were delayed for so long, given that the county council was forewarned.

Senator Ó Céidigh referred to the cost implications of the GDPR for small businesses. In some cases, it has added extraordinary costs for businesses. I will be happy for the Minister responsible to come to the House to discuss the matter.

Senator Mullen referred to the discredited regime in Venezuela. I feel like asking Senator Conway-Walsh to take this part of the Order of Business, given her close ties to Venezuela.

Senator Rose Conway-Walsh: I have never been to Venezuela. However, I believe in the right of countries not to have outside interference in their own affairs.

Senator Jerry Buttimer: The Senator had party colleagues there recently and might be able to speak for them.

Senator Rose Conway-Walsh: We should not be interfering.

Senator Jerry Buttimer: The point Senator Mullen made was about the humanitarian crisis and the need for this country to show leadership in that regard.

Senator Rose Conway-Walsh: We could have a debate about oil and gas too.

Senator Jerry Buttimer: To receive a more expeditious answer, it might be more appropriate to raise the matter in the Commencement debate.

Senator Conway made an important point about his proposal for an all-party friendship group for Gaelic games. I hope, however, that the friendship group will not be looking for tickets. As the Oireachtas has strong links with the GAA, I hope we can advance the Senator's proposal.

Order of Business agreed to.

Hallmarking (Amendment) Bill 2016: Second Stage

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

Acting Chairman (Senator Gerry Horkan): I welcome the Minister for Business, Enterprise and Innovation, Deputy Heather Humphreys.

Minister for Business, Enterprise and Innovation (Deputy Heather Humphreys): I am pleased to bring the Hallmarking (Amendment) Bill 2016 before the House. The Bill has passed all stages in Dáil Éireann and obtained cross-party support. The purpose of the Bill is to update and modernise Irish law relating to hallmarking. Hallmarking describes the administrative and legal system for ensuring articles of precious metals conform to legal standards as to the fineness of the precious metals and is one of the earliest examples of consumer protection legislation in Ireland. The legislation dates back to 1637 and provides that no article made from named precious metals can be sold in Ireland without it being assayed and hallmarked.

Currently, the primary legislation dealing with hallmarking in Ireland is the Hallmarking Act 1981 and covers articles made from gold, silver or platinum or alloys of gold, silver or platinum. Such precious metal articles must bear either an Irish hallmark, a hallmark of the international hallmarking Convention on the Control and Marking of Articles of Precious Metals, of which Ireland is a member, or an approved hallmark from an EU member state in order that they can be legally offered for sale in this country.

In addition to hallmarks, articles of precious metals commonly bear a sponsor's mark. This identifies the person who submits the article for hallmarking, that is, the person who made the article or who worked it into its finished state, or a dealer. As a result, the owner of an article can identify not just the fineness of the metal and the assay office that determined it but also the provenance of the article. The Company of Goldsmiths of Dublin oversees the Dublin Assay Office which is situated in Dublin Castle. The Irish Assay Office is an independent, self-funding, third party State-appointed test laboratory which assays and hallmarks items of gold, silver and platinum jewellery and plate articles, either manufactured in Ireland or imported. The mark of the Assay Office is the indication that the precious metal conforms to a certain standard of fineness and, therefore, assures the consumer that an article that states it is pure gold actually is pure gold. I record my appreciation of the great work done by the Assay Office. This was also recognised in Dáil Éireann by colleagues across the floor of the House.

Since the current legislation was introduced in 1981, there have been advances in the jewellery trade. Palladium has been recognised as a precious metal and there has been an increase in the production of jewellery made of mixed precious metals and a combination of both precious metal and non-precious metal. Under current legislation the Assay Office cannot legally hallmark palladium or articles made from mixed precious metals or multi-metal articles as the 1981 Act does not provide for this. The introduction of new Irish hallmarks to cover these new jewellery items would provide effective protection for consumers, increase consumer confidence in the fineness of the precious metal article and promote trade and economic activity for Ireland.

In recent times there has been a trend towards assay offices in other jurisdictions to either open assay offices outside their countries of establishment or to place officials in factories abroad in order to assay and mark articles of precious metals on site. This practice has been made for good business reasons, since it is easier for a manufacturer if the testing and marking are done in the factory where the product is made since the delivery time is shortened and the product can be packed for retail display at source. Compliance is also facilitated by having the testing and marking done before products leave the factory. The UK and the Netherlands have already chosen to take this route. In order to have the possibility to engage in such offshore assaying, were it to choose to so do in the future, the Assay Office made a request to the Department of Business, Enterprise and Innovation to amend the Hallmarking Act 1981 to legislate for such a provision. While it is my understanding the need for such offshore marking is not currently required and that the Assay Office does not intend engaging in such activity in the near future, legislating for the possibility at this stage is seen as a prudent way of ensuring the facility is open to it, if required. The Dublin Assay Office would be required to seek approval from the Minister for Business, Enterprise and Innovation before any such offshore activity by the Assay Office could take place under the Bill. The same prudent approach lies behind the proposed provision allowing for the possibility of the Irish Assay Office entering into an arrangement with another assay office to hallmark precious metals. For example, such a scenario might arise where the volume of articles of a specific precious metal might not justify expenditure on the assaying equipment for that metal by the Dublin Assay Office.

As the Bill is a technical measure, consultation with the European Commission and all other EU member states was required under EU law. No submissions were received from parties in other member states or the Commission.

I now wish to turn to the provisions of the Bill and briefly explain what each is designed to achieve. Sections 1 and 17 which provide for definitions, the Short Title and commencement, respectively, are standard legislative provisions, while sections 2 to 16, inclusive, are the core provisions of the Bill.

Section 2 provides for amendments to section 1 of the Hallmarking Act 1981 by making consequential amendments to that Act's definitions. Section 3 provides for an amendment to section 2 of the Hallmarking Act 1981 to enable the Assay Office, if it is approved to engage in offshore marking, to strike hallmarks outside the State and for articles bearing those hallmarks to be treated in the same way as articles bearing hallmarks struck in the State. Section 4 provides for an amendment to section 3 of the Hallmarking Act 1981 to allow for the making of regulations to prescribe different marks for hallmarks applied in Ireland and for those applied offshore.

Section 5 provides for a technical amendment to section 4 of the Hallmarking Act 1981 in relation to forged hallmarks. Section 6 provides for the addition of three new sections to the

Hallmarking Act 1981 to allow offshore hallmarking to take place if the Irish Assay Office chooses, at some time in the future, to engage in such activity.

Section 7 provides for a technical amendment to section 5(1) of the Hallmarking Act 1981 by adding palladium to the list of articles of precious metals for which it is an offence to apply a false trade description. Section 8 provides for a technical amendment to section 6(2) of the Hallmarking Act 1981 by adding palladium to the list of articles of precious metals qualified by the word “plated”. Section 9 inserts new sections 6B and 6C into the Hallmarking Act 1981 to allow for the hallmarking of multi-metal articles. Section 10 provides for a technical amendment to section 8 of the Hallmarking Act 1981 by adding palladium to the list of articles of precious metals to ensure every reference to gold or silver in an enactment specified in subsection (2) shall be construed as including a reference to palladium. Platinum has already been included in the definition in the 1981 Act.

Section 11 provides for an amendment to section 9 of the Hallmarking Act 1981 to allow the Irish Assay Office and a sponsor to make arrangements for the sponsor’s mark to be struck by the assay master or an authorised assay office in accordance with section 6 of the Bill. Section 12 provides for an amendment to section 12 of the Hallmarking Act 1981 to ensure that, in the case of additions to existing articles of precious metal, the added metal is of the same precious metal as the existing article. It also provides for technical amendments to definitions and provisions of offences for such cases. Section 13 provides for the inclusion of provisions on offences and penalties related to forged hallmarks. Section 14 provides for the inclusion of provisions to take account of offences by a body corporate.

Section 15 provides for an amendment to section 14 of the Hallmarking Act 1981 by providing for the Irish Assay Office to make charges, with the consent of the Minister for Business, Enterprise and Innovation, for hallmarks applied in any offshore assay office it establishes under section 6 of the Bill in the same way as it currently does for hallmarking in its Dublin office.

1 o’clock

Section 16 is a standard repeals provision and provides for the repeal of sections of the Plate Assay (Ireland) Act 1807 and section 13 of the Hallmarking Act 1981, the subject matter of both of which is now covered by section 13 of the Bill.

Jewellery is often an expensive commodity in the lives of consumers, particularly when people are buying engagement or wedding rings, for example. It is important that people be assured they are getting what they pay for, especially given the often very strong sentimental value attached to such items. The Bill aims to enhance consumer protection and strengthen consumer confidence in the proper hallmarking of articles of precious metal in respect of their fineness. I am pleased to be bringing a number of consumer-friendly Bills through the Houses of the Oireachtas. The Hallmarking (Amendment) Bill 2016 is another important aspect of that work. I look forward to working with Senators on Committee and Report Stages of this Bill and will be happy to reply to questions they may have.

Acting Chairman (Senator Gerry Horkan): I thank the Minister for her very comprehensive opening statement. I believe she will be back in the House to deal with legislation on gift vouchers on Thursday. Group spokespersons have ten minutes each other Senators five. They are maximum rather than target times.

Senator Aidan Davitt: It is great to have the Minister back here. I have a little practical

experience in this field through my auctioneering work. As I have a qualification in fine arts and antiques, I have an appreciation for what we are talking about. Fianna Fáil certainly supports the general principles of the Hallmarking (Amendment) Bill 2016 and will support its passage to the next Stage. Hallmarking involves putting official marks or a series of marks on precious metals such as gold and silver to ensure such metals conform to permissible standards of fineness of precious metals. The Bill also provides for the assaying and hallmarking in certain circumstances of articles of precious metals outside the State. In general, these legislative changes strengthen the regulation of hallmarking which benefits consumers as it assures buyers of the standard of the materials used in these articles. Ensuring, through quality assurance, that these metals and materials are of certain quality increases consumer protection in this area. It gives a certain assurance and guarantee to customers that they are buying what they think they are buying. That is the most important part of the Bill. On behalf of Fianna Fáil, I am delighted to commend the proposed changes and general purpose of the Bill.

Senator Pádraig Mac Lochlainn: The Bill is technical in nature. However, hallmarking is a very important process and it has been very interesting to learn more about it. Hallmarking is one of the oldest forms of consumer protection and has occurred in Ireland since 1637. As we know, the current laws on hallmarking require all goods of gold, silver and platinum to bear a defined, distinct mark, a pressed stamp on a piece of jewellery, or a hallmark, before they can be legally offered for sale.

The Hallmarking (Amendment) Bill 2016 proposes amendments to the Hallmarking Act 1981 that will give effect to three main proposals. The first is to add palladium, alongside gold, silver and platinum, as a precious metal that comes under the State's hallmarking regime. The proposal to add palladium to the State's hallmarking regime reflects the increasing popularity of that metal in domestic and international markets. The second proposal is to enable the Company of Goldsmiths of Dublin which oversees the Assay Office in Dublin to open assay offices outside the State where articles can be assayed by the company and have Irish hallmarks applied to them. The company is also to have power to enter into agreements with certain other offshore assay offices allowing them to assay articles and strike Irish hallmarks on them on the company's behalf. My colleague, Deputy Quinlivan, visited the Assay Office in Dublin Castle and was highly impressed by its set-up and the expertise of its staff. He told me that it was a very impressive, effective organisation staffed by people who had a deep desire to ensure customers were protected and Irish jewellery retained its very high reputation for quality. The third consequence of the Bill is to create new offences of applying forged hallmarks and selling articles that bear them. This is an important layer of protection for those involved in the industry.

Sinn Féin welcomes the Bill as it will bring Ireland into line with other countries and give assurance to buyers of the quality of Irish-made palladium jewellery. Most jewellery representative groups were happy with the provisions of the Bill, while just one group wanted weight exemptions included. After our own research and consultation with representative bodies, we concluded that no amendments for weight exemptions should be introduced so as to ensure the high quality of Irish products was maintained and protect consumers. Therefore, we are happy to support the Bill in its current form. The addition will bring Ireland into line with other signatories to the 1972 Hallmarking Convention and give Irish buyers articles made with the quality assurance of an Irish hallmark.

I thank the Minister for bringing forward the Bill. I thank the staff of the Assay Office for their important work in this area. The Irish Assay Office has been in operation for the past 381 years. I hope the changes contained in the Bill will continue to help protect the high quality of

Irish jewellery for many years to come.

Senator James Reilly: I will bear in mind the Acting Chairman's comment that ten minutes is a maximum, not a target.

Acting Chairman (Senator Gerry Horkan): It has worked so far.

Senator James Reilly: I would like to continue in that fashion.

I welcome the Minister. This is yet another Bill that is very straightforward and simple. While it is perhaps technical in nature, it is very necessary. It is about updating our laws. Some of the precious metals were not even discovered at the time of the original hallmarking legislation and certainly palladium needs to be included. I would like to comment on hallmarking as a consumer issue. It is very important that people be protected, get what they are paying for and can be assured that there is a standard ensuring what they are purchasing is what it purports to be and will stand the test of time. The Minister is absolutely right that Ireland is full of the history of wedding rings being handed down through the generations. They are of huge sentimental value and it is a tremendous disappointment if they are found not to be of the material they were supposed to be.

I do not intend to delay. The legislation needs to be updated and the Minister has taken a very common-sense approach. The fact that everybody here and those who work in the industry are in agreement is further evidence of the Minister's due diligence before bringing the Bill to the House. I commend her and the Bill.

Minister for Business, Enterprise and Innovation (Deputy Heather Humphreys): I thank the Senators for their support. They have all acknowledged that the Assay Office does wonderful work in Dublin Castle. I visited the office, as did Deputy Quinlivan. What they do there is amazing and if colleagues get an opportunity, it is worth a visit. It is full of history dating back to the 1600s. It is a great experience. I compliment them on and thank them for the great work they do.

Question put and agreed to.

Committee Stage ordered for Tuesday, 5 February 2019.

Companies (Amendment) Bill 2019: Order for Second Stage

Bill entitled an Act to amend section 343 of the Companies Act 2014; and to provide for related matters

Senator James Reilly: I move: "That Second Stage be taken now."

Question put and agreed to.

Companies (Amendment) Bill 2019: Second and Subsequent Stages

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

Minister for Business, Enterprise and Innovation (Deputy Heather Humphreys): I am very pleased to bring this short technical Bill before the Seanad. The purpose of the Bill is to complete a series of amendments to current legislation that will enable simplified procedures for all companies meeting their annual filing obligations.

Companies can have a maximum of nine months after the financial year end to prepare an annual return and the associated financial information. Currently, there is a two-step procedure for a company in filing an annual return with the Companies Registration Office. First, the company files the annual return 28 days after its filing deadline. Second, a further 28 days are allowed to complete its filing by uploading its financial statements and submitting a completed signature page.

The Bill will amend sections 343(2) and 343(3) of the Companies Act 2014 to amalgamate the two-step process and provide companies with a one-step 56 day period to complete the process of filing an annual return. This amendment will allow more time for filing the annual return and removes an administrative burden on companies by simplifying procedures in filing, making it easier for companies to meet their filing deadlines.

It is important to remember the purpose of asking companies to file annual reports. This is done because public filing by companies is an essential protection for other companies, suppliers and employees who rely on meaningful financial information. The *quid pro quo* is that when it comes to filing annual returns and financial statements, we must make it as straightforward as possible for companies. The law already allows companies up to 11 months to prepare and file financial statements. In 2017 we legislated to simplify and reduce the content of those financial statements for small and micro-sized companies. This year the Companies Registration Office is upgrading its IT system to make it even easier for all companies to file on time by moving to a process that can be done in a single step and entirely online.

The amendment contained in the Bill is the last piece of the legislative framework to support this simplified process. It will deliver a more efficient system for all companies in filing annual returns. The early enactment of the Bill will allow time for the CRO to make all companies aware in advance of the new procedures and the IT upgrade.

I commend the Bill to the House.

Acting Chairman (Senator Gerry Horkan): I thank the Minister for an equally comprehensive opening statement on this relatively simple and straightforward legislation. Group spokespersons have eight minutes each and other Senators five. Again, I must mention that the time allocation is a maximum rather than a target.

I call Senator Aidan Davitt to commence.

Senator Aidan Davitt: If the Acting Chairman, with his eminent accounting skills, is happy with the proposal, I am more than happy.

Acting Chairman (Senator Gerry Horkan): As Chair, I am neutral in all matters. I thank the Senator for his brevity.

Senator Pádraig Mac Lochlainn: This is a one-line Bill that seeks to change the period “28 days” to “56 days” in the Companies Act. The provision extends the period that a company

will have to file its annual returns with the Companies Registration Office. We welcome this change as it will give SMEs more time to conduct their administrative business which, as we know, can sometimes be an additional pressure on them. Therefore, we support the change.

Senator James Reilly: I congratulate the Minister on producing another piece of good common-sense and updating legislation to make life more easy for people who are self-employed and SMEs. I commend her and the Bill to the House.

Acting Chairman (Senator Gerry Horkan): Does the Minister have anything further to say following the conclusion of very comprehensive statements by three Senators?

Minister for Business, Enterprise and Innovation (Deputy Heather Humphreys): I thank the Senators for their support.

Question put and agreed to.

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

Sitting suspended at 1.15 p.m. and resumed at 2.30 p.m.

Housing Provision: Statements

Minister for Housing, Planning and Local Government (Deputy Eoghan Murphy): I am grateful to have the opportunity to come to the House to talk not only about the challenges we continue to face in housing provision but also some of the solutions and how they are bearing fruit and helping many citizens. It is a very important time to discuss the issue at the beginning of 2019. Rebuilding Ireland, the Government's action plan to deal with every aspect of the housing crisis that we face, has been in effect since the middle of 2016 and will last until 2021. This is an important year for the plan in continuing to provide for delivery and put in place supports for those who need our help. Many things need to be done as part of the plan because there are many aspects to the challenges we face in housing provision. We are rebuilding a housing sector that was broken at every part of the supply and construction chain. We are building it in a way that it will not be like what it was before but in a way that will protect and future-proof the sector from future shocks.

The most distressing aspect of the challenge we face is the damage being done to people living in emergency accommodation. Damage is being done to society and individuals and their families because they have to spend time in emergency accommodation. There are too many living in emergency accommodation. It is absolutely unacceptable that people still have to go to hotels for emergency accommodation. The whole purpose of Rebuilding Ireland is to bring about political and policy change and actual meaningful change on the ground in order that emergency accommodation will only ever be a very short-term response, family hubs are a first response and that no family will find themselves in emergency accommodation. Because of the housing shortage, we do have this today, but we are trying to correct the shortage as quickly as possible.

When we talk about solutions, whether for the elderly, those in emergency accommodation, persons who are paying too much in rent, young families and young couples who cannot afford

to buy a home, there is no point in discussing any of these areas unless we look, first and foremost, at the fundamental issue of supply. Before we talk about whether we should be using the housing assistance payment, HAP, to the degree we are, whether we are building enough social housing, whether we can bring forward cost rental quickly enough, when or how we should reform the rental sector, the use of hotels for those living in emergency accommodation, the right price of a home or the affordability challenge, we have to make sure new homes are being built. That is very important. We have to ensure, two and a half years into Rebuilding Ireland, it is correcting the fundamental problem in supply and the short answer is that it is. The fundamental problem of supply is being corrected very quickly. We are still awaiting confirmation of the numbers for 2018 in the CSO's new build numbers which we did not have at the beginning of Rebuilding Ireland but which we will because we had that piece of work done with the CSO. We will have the figures in the coming weeks. We will also have the figures from local authorities for the increases in the numbers of homes in the stock of social housing. We will have both numbers in February and I expect them to confirm that there was quite a dramatic increase in the supply of new builds during the course of 2018. A recent report from Goodbody, based on its tracker, shows that about 18,500 new homes were built during the course of 2018. If that is true, it is the highest number of new builds in nine years. That is not to be dismissed; it is very important.

The fundamental problem needs to be addressed if we are to look properly at things surrounding affordability, the cost of rent, getting people out of emergency accommodation and building enough social housing. If the delivery last year was between 18,000 and 20,000, as the Government was targeting, what I expect when I receive confirmation from the local authorities is that between one in four or five of the newly built homes was social housing. When was the last time the State did this? It is definitely more than a decade, if not two decades, ago. It is very important to recognise that fact, but is it enough? No, not yet. However, it is making a significant difference.

The other indicators we have such as the numbers of planning permissions and commencement notices indicate that what happened in 2018 was not a once-off. In 2019 the number of new homes built will be even higher again. The number of social houses delivered will also be higher again this year. The increase in supply is having a very real and meaningful impact in a number of ways. As reported on recently, the rate of growth in house prices is falling. In 2018 there was single digit growth, which was very welcome. This year the rate will be lower still.

The other tangible way it has an impact on people's lives is when those individuals living in emergency accommodation move into new homes and get the key to the front door. When I was in County Donegal recently, I had the opportunity to meet families who had moved from emergency accommodation, the rental sector or the housing list or who had been living in overcrowded accommodation. Just before Christmas they had received the keys to their new houses. In the first or second week of January I visited and already it was their home. They had their furniture and pictures on the fridge. They had made it their own place and had that warmth and security from which they could build a life, think about the future and their kids. They were so happy to be there. Others were just getting the keys and about to move in, but they were already thinking about what they should bring into the kitchen and the type of furniture they might want to have in their home. It was all very exciting for them. If we keep the people we are trying to help at the centre of our focus, we will be able to deliver the right solutions in the right way for them, solutions that will last. The worst thing we could do would be to offer solutions, homes to people, in an imprudent or unsustainable way and then find them back in a precarious position

or others in an even more precarious position in the future. We have a responsibility to do this in the right way. That is happening but not quickly enough, which is why I have to continue to drive and monitor Rebuilding Ireland, reform or change it, where needed, and maintain it as a priority for the Government.

On emergency accommodation, we are enduring a period of cold weather, with very low temperatures. The cold weather initiative is in effect. Some have been saying incorrectly that people have been turned away from shelters, but that is not the case. There is sufficient capacity in the system and we have extra outreach teams out. Some accommodation is not suitable to remain open during the daytime. Where that is the case, we transition people into day care centres and places where they do not have to be out in the cold during the day. It is important to do this because it is a vulnerable time when we have cold weather like we have now. Homelessness, when it comes to individual adults, is complex. Even when we have the worst weather imaginable such as Storm Emma, some people will still refuse to come inside. We will not stop going out with our outreach teams to help them because it is a priority for us to keep them safe at such a time.

The emergency accommodation numbers for December will be released later today and what we will see is that there has been a reduction, which is welcome. It would have been anticipated to a degree because it was the month of December. We will also see a decrease in the number of presentations and an increase in the number of adults because of the new beds we have brought into the system. While no increase is welcome, the people in question are now in the system, off the streets and receiving the care they need. We need to transition them into sustainable accommodation where they can be safe and secure. The overall number living in emergency accommodation is down, which is to be welcomed.

The Government priority is the provision of housing. Everything we do must have a tangible impact on people who are experiencing difficulties, be it high rent, homelessness, living in emergency accommodation or housing insecurity. Up to €2.4 billion will be spent this year on housing. That is the most money a Government has ever spent in a single year on housing and it will be put into helping people into new social housing. We expect the 2018 social housing figure to show an increase in stock of eight times what it was in 2015, the year before Rebuilding Ireland was launched. We have our hub programme which is looking after more than 500 families. On average, families are waiting about six months before we get them into a home, but they have all the care and support they need. We have teams regularly sourcing accommodation to ensure people can get out of emergency accommodation quickly and sustainably.

I talked about some of the families I met recently in County Donegal and the good work happening there. It is happening all over the country. I thank local authorities, housing bodies and all our partner NGOs which are doing much work in this area with the Government and taxpayers' money to help people. During the course of last year more than 25,000 tenancies were secured. Social housing solutions will have been reached thanks to taxpayer support and because it is a Government priority. However, while we continue to see landlords exiting the market, we will continue to have people presenting to emergency accommodation services, even though the social housing stock is increasing. That is why reforming the rental sector is so important. We know that rent controls are working from the data in the Residential Tenancies Board, RTB, quarter 3 report. However, we also know that they are not working evenly across rent control areas. I have legislation to strengthen enforcement of rent controls in rent pressure zones to protect renters. It will ensure there is a longer notice to quit period which will effectively be doubled to give people more time to source new accommodation. It will put in

place a rent register to ensure rent transparency and that people know what a fair rent is, as well as addressing student rents and other issues.

In this year's budget we increased mortgage interest relief for landlords to 100% because we need them. We cannot force people to be landlords, but we need them providing the service. We have to ensure that in everything we do, we avoid unintended consequences and strike a balance. How can we protect tenants further, while also ensuring we have landlords offering homes as accommodation? We know that we do not have the typical rental market one has in other European countries. We know that we are an outlier in that regard because 86% of landlords in Ireland own only one or two properties. Many of them are accidental landlords because we are still dealing with legacy issues dating from the financial crash. As we approach this issue, we have to bear in mind that we must keep potential unintended consequences in mind, while trying to strike a balance for both. That is why we are reforming the rental sector and giving increased resources to the RTB. Increasing its budget for this year by 67% is all part of the change management programme to make it a more robust regulator for landlord and tenant alike in the rental sector. We also want to see a cost rental sector. Last night in Inchicore I met the consultative group for the St. Michael's regeneration effort which has proposed a pilot project for a cost rental model for the first time. The model makes up 20% to 25% of housing in other European cities and provides security in renting. It shows the cost of rent in the coming five to ten-year time horizon and longer. We are working on it and I thank the consultative forum, which is important, for engaging positively last night.

We know that we have to address the issue of short-term lets in the rental sector. From 1 June there will be big changes in this area. We support home sharing when it means just that. If it is a primary residence, one can continue to let a room to tourists. Alternatively, one can let one's entire home to tourists, provided it is for less than the 90-day cap. However, if it is a second, investment or rental property in a high-demand area, it can no longer be used as a short-term let. It has to be used for people who are living and working in the area. That is what we deem to be the most appropriate use of the housing stock, particularly at a time when there is a shortage of housing. Obviously, carve-outs have been made for holiday homes. In many parts of the country home sharing makes a fantastic contribution to the tourism sector. The same can be said of executive lets. Where people are coming to work for longer periods, it is important that we have such facilities.

Affordability will be a key challenge for us. We saw how the rate of house price inflation has come down to single figures in 2018. It will come down again this year. The rate of rent inflation has also come down in rent pressure zones where it is working. In the 12 months to October last year, there were more than 50,000 house transactions. One in two of these homes was sold for less than €250,000. That tells us that affordability is a challenge, but in parts of the country only. In other parts the affordability challenge might actually be more on the builder's side in being able to obtain the necessary finance. That is why the Minister for Finance and I launched Home Building Finance Ireland earlier this week. It will ensure homes can be built in communities where there is demand and affordability is not necessarily a challenge on the buying side.

Home ownership should be an aspiration for everyone. If it is the choice people want to make, we have to tackle the affordability challenge. How do we do it? We should use public money to open up private and public land. The local infrastructure housing activation fund, LIHAF, will provide €200 million to provide 20,000 new homes, the majority of which will be social housing, affordable purchase and cost rental homes or eligible for a cost-related deduc-

tion because of the public investment made. There is the help to buy scheme which has helped over 8,000 families and individuals to put together the deposit to buy a new home. Rebuilding Ireland is not even a year old, yet half of the money made available for it has been drawn down. It is a three-year programme. In the first 10 months half of the funding has been drawn down by people to buy homes. We have the serviced sites fund, the largest affordability package introduced by a Government in over a decade which comes to €310 million. The first sites, worth €43 million, have been identified for the delivery of homes in 2020. The second call will be made to local authorities shortly.

The first board meeting of the Land Development Agency was held on Monday. The agency will bring forward sites in high-demand areas where there are already large State sites which are not being used efficiently. The first eight have been identified. We believe the appropriate use of public lands for the public good is to provide homes for everybody, as well as social and affordable homes that can be sold to people who cannot avail of subsidised housing schemes. At least 40% of homes on these lands will either be delivered through social housing or subsidised schemes. That will make a real impact, not just for the people who will get to live in these homes but also in moderating house prices in these areas.

This year we will put fewer people into homes using the housing assistance payment than we did last year because we are building more social housing. In 2021, the last year of Rebuilding Ireland, we will be accommodating more people in homes that will be part of a stock of social housing than we will be in the rental sector through the housing assistance payment. It is important that we achieve that rebalance in the life cycle of Rebuilding Ireland and drive it beyond it. The ideal is to have one in four or five homes built as social housing. That will help people on housing waiting lists and those who need our help the most. That is important, but it takes a little longer and can be more expensive. We must make sure we do not build sprawling housing estates without the schools, roads and community facilities they need. We must provide these in time together to ensure we will not strand communities. We have to make sure we are providing mixed developments. We want to use housing policy to support, not divide, communities. That is a key driver of Rebuilding Ireland. We have made other reforms such as of apartment guidelines to encourage a greater build-to-rent sector and make it more viable to build apartments by examining the number of units per core and the need for car-parking spaces to increase densities. We have also addressed lifting the height caps.

We have begun to reform transport infrastructure in large towns and urban centres because it does not make sense any more for sustainable and high-quality living. We are ensuring we have a fast-track process for planning, cutting red tape where we can to build larger sites more quickly and reducing our own approval process by cutting red tape in the Custom House. The four-stage process has been reduced to 59 weeks. We are also examining how we can reform the one-stage process in order that more housing programmes can be covered by that process, which is quicker than the four-stage process. There is also a new housing delivery office in the Department. The work the Minister of State, Deputy English, is doing with that office is important.

There are vacancy teams in each local authority. Although we know that vacancy is not the low-hanging fruit which we initially thought it was, we are taking in homes through the repair and leasing scheme which has been reformed and the buy and renew scheme. We have changed planning regulations for promoting above-the-shop living and there is the urban regeneration fund. Some €3 billion will be spent in the next ten years to ensure that as we build, we build sustainably in the right locations, thinking of the future in terms of climate change, transport

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times, commuting times, quality of life and people's health. As we build houses, we must ensure we build communities, places and homes, which is what we ultimately want to do and achieve, but it was not always done before.

We have never really had a properly functioning housing sector, either because not enough social housing homes were built directly by the State, there was not enough supply, there was too much supply or supply in the wrong places, or rents and the cost of a house have been too high. All of these problems have happened before and we have moved in cycles. We are now trying to break those cycles once and for all, which is at the heart of Rebuilding Ireland. While we have more to do, there are three years remaining in Rebuilding Ireland and my responsibility is to drive the plan to its conclusion and take all the additional steps we need to take, ensuring we are always driving delivery because without it, we cannot talk about any of the other solutions we need.

I thank Members of the Oireachtas for their input to date. Rebuilding Ireland was shaped in large part by the work done when the current Dáil was formed by the committee drawn from both Houses of the Oireachtas on the steps we needed to take. We have built on the back of that good work to build the Government programme and planned beyond it, through Project Ireland 2040, to ensure that as Rebuilding Ireland concludes, a new programme will continue the strong parts of Rebuilding Ireland that have been shown to work well.

I look forward to the contributions of Senators and welcome every contribution. Rebuilding Ireland is a plan that is working, but parts of it are not working as well as they should be. If people have ideas about where we can make improvements, I will listen and bring about those changes where I can, notwithstanding the fact that we need to be conscious of unintended consequences or that we need to ensure that at the heart of everything we do, we help, first and foremost, those who are most vulnerable in the best way possible.

Senator Jennifer Murnane O'Connor: I thank the Minister for his report. It is no secret that we are in the worst of times. Chaos and uncertainty loom next month because of Brexit, members of the health sector are taking to the streets and people are dying in towns and cities. Last week another homeless man was found dead in a derelict building in my county. My heart breaks for his family, to whom I send my deepest condolences. I am sorry for the families we have let down over and over again. We ought to hang our heads in shame that we stand here while thousands live in fear of another day in homelessness. While we are all working hard, there is a need for more resources and commitment because something must be done.

Fine Gael has overseen a crisis of unprecedented numbers of people without homes, rents surging to historic heights, home-building numbers tens of thousands behind where they need to be and 130,000 people in need of a permanent social home. All the while, another significant problem is emerging, namely, the Government has completely ignored the ordinary worker who cannot afford a place to own. Fianna Fáil has made significant progress in budget 2019, but the key is delivery. Since coming into power, Fine Gael has launched Construction 2020, Social Housing Strategy 2020, the Rebuilding Ireland action plan of 2016 and capital plans in 2012, 2015 and 2018. These separate plans exclude the numerous relaunches involved, which is more launches than homes built by local authorities in certain areas. I raise the issue because I have previously raised it with the Minister. This is 2019 and we need to ensure Rebuilding Ireland works, through its five pillars, on which we all have worked so hard. We do not need any more launches of plans; we need to ensure we have delivery. People are sick and tired of promises because promises are broken, patched up, reworded and broken again.

Last week a woman visiting my clinic told me that Irish Water had written to her to ask why she was using many gallons more water than a household of its size should. She replied that five adults in their 30s were back living at home with her because they had no other option as rents in Carlow cost almost €1,000 a month. She also has two grandchildren living with her and the house is very crowded. Her children are on the housing list but have been overlooked time and again and they cannot afford to get their own mortgage because house prices have risen to unaffordable levels. Figures given to us at one of our recent housing meetings suggested the average rent in Carlow was €750 a month, but it is actually €1,000 a month. The figures being given to the Department are so far off the mark that they are causing serious issues for people who are trying to rent a property. In December I called for a timeline on a review of social housing income thresholds, but I have yet to receive any correspondence on the issue. We are unwittingly excluding people who should genuinely qualify for social housing.

A family recently came to me for help. They were bringing home between €350 and €400 per week but did not qualify to be registered on Carlow County Council's housing list as they were earning above the income threshold, which is one of the lowest in the country, at €27,500. Our neighbouring counties' thresholds are between €32,500 and €34,000, which is unacceptable. It is unacceptable that people who work to try to make ends meet are told that they do not qualify for the housing waiting lists. I have raised the issue consistently and been told that it is being examined, but people in Carlow and, I am sure, other counties with low caps are caught in limbo because they do not qualify under the social housing income threshold but do not earn enough to afford a mortgage. They need answers as much as I do. Seven years have passed since the last review of the cap to qualify for local authority housing lists, which is unacceptable. I understand a new assessment was due last summer and there is an urgent need to finalise the review and increase the income eligibility limits for social housing in Carlow and, most likely, other counties. It is extraordinary that in the midst of a housing crisis the Government is denying accessing rent allowance and the housing assistance payment from many families who are under intense financial pressure.

I do not mean to repeat myself, but we are in an emergency. We need to consider the levels of unsustainable rents, people not qualifying for local authority housing lists and being unable to get a mortgage. The Minister spoke about mortgages - I acknowledge there has been an increase in the threshold for mortgages - but it remains hard to qualify and the matter needs to be re-examined. Even if one is a first-time buyer, one must have enough savings for a 10% deposit. Many people who come to my clinics do not qualify to go on the local authority waiting list; therefore, they pay €1,000 a month in rent and cannot save. They fall between the social housing income threshold and not earning enough to afford a mortgage. They are the hidden figures that are not accounted for. We need to seriously examine the matter.

The homelessness figures remain far too high and thousands of children are being scarred by the experience. The dispute over the exact number misses the point of the unacceptable scale of the problem. The Temple Street Hospital figures underline the scale and horror of the problem, but that is just one example. Many of the Department's figures such as those for housing, homelessness or the number of people who do not qualify for the housing lists are utterly wrong.

Fianna Fáil has shown it is committed to finding meaningful solutions to our role in the confidence and supply agreement and has not shirked leading criticism of the Government where it is at fault. Home ownership is slipping away from an entire generation as house prices rise by 13% per annum, whereas wages rise by only 2.5%. The rate of home ownership, at 68%, is at the lowest since 1971, while some households are one pay cheque away from living on the

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street, something we must admit. Some households have lost homes, family members, marriages or children through the crisis, but I do not believe the Minister understands what is happening, in particular to families crying out for help. Only €20 million was allocated to the affordable housing scheme in 2018, with no units delivered or regulations even signed off on. We produced a revamped scheme, worth more than €100 million per annum in the next three years, which will deliver approximately 7,500 units at an average price of €200,000 for ordinary income workers. There are too many workers who need to be able to access the market. They need an end to be in sight for all their hard work. We cannot be seen to help only the helpless.

3 o'clock

We need to help those who can help themselves but need access to affordable homes to do so. Affordable housing is a key aim of Fianna Fáil in the budget for 2019. We actively support home ownership and aim to launch an ambitious new scheme that will provide proper homes on State-owned land throughout the country. The investment in a new €100 million per annum affordable housing fund will construct at least 6,000 homes by 2021. It will quadruple the original allocated money per year from €25 million. This is contrary to claims by Sinn Féin which has made a mistake in its figures and counted the same money four times over.

Senator Rose Conway-Walsh: It is €67 billion.

Senator Jennifer Murnane O'Connor: Local authorities will be the key to turning the land into homes by working with other agencies to identify where affordable homes should be built. Local authorities would then take out a loan from the Housing Finance Agency to build the units, with a further average €40,000 to €50,000 subsidy per home directly from the Exchequer.

I have raised concerns about the housing assistance payment many times with the Minister. Today he spoke about rent pressure zones, with which I have massive issues. They are only in certain areas. Carlow does not qualify to have a rent pressure zone. The Minister needs to examine all local authorities. It is unfair that we have neighbouring counties such as Wicklow that qualify to have rent pressure zones. It is unfair on people living in the area that they are not given this opportunity. We also need to look at stability.

I am aware women's refuges are not within the remit of the Minister and that they are more a matter for Tusla and the Department of Health, but the Minister's Department needs to step in and examine what we are doing to help women's refuges. We are crying out for women's refuges in Carlow. On several occasions, I have made attempts to get funding for them. They used to fall within the ambit of the Department with responsibility for housing but were moved a few years ago. They need to go back to that Department. Every town in Ireland should have a women's refuge. It is very hard when I have women and families coming to me but I have nowhere to send them because Carlow does not have a women's refuge. The nearest one is in Kilkenny, but it is always full and the one in Waterford is the next nearest.

People are living longer and the Minister spoke about quality of life. We need to consider housing for people with disabilities and older people. We need to consider putting more money into extensions for the people concerned. Recently, much of my time has been spent trying to get bathroom adaptation grants, window and doors. We need to look more at these issues because we need to put more funding into them. Often, we take measures that seem to be solutions, but they do not work. We need to speak about what is being built in Ireland and address

the issue of building units that serve only one type of family. It is causing a massive issue in the system and should be addressed properly. We need brave ideas and action on this issue.

I believe the Minister has made progress. He has definitely bought and built houses, but while he has gone from one stage to another, there are people in between who do not make local authority housing lists and are trying to buy houses. There are also homeless people with no security and people such as the man who died in Carlow last week in a derelict building because it was the only place he could go. That is unacceptable. We need to ensure we do not lose another life. It is important that the Minister address this issue. I thank him for coming to the House.

Senator Victor Boyhan: I warmly welcome the Minister. I want to start by thanking some people because sometimes we get lost in all of the controversies and setbacks on housing. I thank the chief executives of the local authorities, some of whom are watching. Two or three days ago I made a request of them by email and can happily tell the House that 26 of the chief executives wrote back with data. That is positive and would not have happened a few months ago. In the email I stated the Minister was coming to the Seanad today and I am sure that helped things along. It is interesting that they are engaging. If ever housing is discussed in the Seanad or by the Oireachtas Joint Committee on Housing, Planning and Local Government I always make a point of contacting stakeholders such as the chief executives of the local authorities, the directors of housing and local authority members. I send them the live link because it is important that they know what we are doing. They will not hear it from anyone else. They can see it themselves if they wish and many of them tune in.

I also acknowledge the Minister's staff. I am a member of the Oireachtas Joint Committee on Housing, Planning and Local Government, as is Senator Murnane O'Connor, and we have a good strong working relationship with the Department. It is robust from time to time, but anyone who tunes in knows that it is a very constructive committee that works well with departmental officials, as the Minister will vouch for.

The time has come to have an independent correlation of all of the statistics. There is so much media spin about what are the issues, what the Department states and what someone else states and it is about time we had more updated facts for waiting times, housing delivery and on a range of issues. I want to share some information I received because it is interesting. Today, in Cork City Council's area 3,590 people are on the social housing list, while 89 adults and 89 children are in emergency accommodation. For Dublin City Council, the figures are 17,445 people on the housing list, with 2,428 people homeless. For Dún Laoghaire-Rathdown County Council, the figures are 4,524 people on the social housing list and 260 people registered as homeless. I could go on. We expect the numbers in these areas to be high. In Waterford 1,117 people are on the housing list, 1,830 people are in receipt of the housing assistance payment and 135 people are in emergency accommodation. It is important to get a sense of perspective on what the issues are. Let us see if we can look again at how we control the data in order that we can centralise them and have accurate data that have integrity.

Will the Minister outline why we see less output in the delivery of public housing on public land? I advocate public housing. I do not have a hang-up about who builds houses or where they are built, but it is important that we have good quality public housing, with social housing on social land. Throughout the country we have land that is not being used for the delivery of social housing. It is time to have an inventory of State lands. I know that the Minister is doing this. Recently, I had a very interesting experience with a property I acquired. I went to the Land Registry and other Departments to carry out land searches and learned an awful lot about land.

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I happened to meet an agent representing CIÉ. I did not tell him who I was, but I went out a lot wiser having spent half an hour with him. I asked him why he was there and he told me. I was encouraged by the fact that he was compiling an inventory of lands to make a more detailed return to some Departments. It encouraged me. There is a real need to look at the inventory of lands. We have land in the ownership of State port companies throughout the country. We also have local authority lands. From my experience of interfacing with a number of local authorities, I know that they simply do not know their inventory of lands. I know from looking at all 31 of the local government audit reports for 2017 that the auditors in the Department's local government auditing service in the Custom House have asked local authority chief executives to provide them with more detail on their property assets register. These are important connections that feed into housing and where we can get land.

We clearly need to roll out more public housing. We also need private housing and affordable housing. The Minister represents a Dublin constituency. Working couples in Dún Laoghaire, south Dublin, Fingal and Dublin city cannot afford to live there. People are now looking for jobs far outside the city to try to match work with their ability to pay for accommodation. This is not sustainable or satisfactory. It is an issue. I know that the Minister knows all of this, but I want to reiterate the points because they are important.

If the Minister has time, I would like to hear where we will go at Shanganagh Castle in Shankill. It is on State lands and its disposal was authorised by the former Minister for Justice and Equality, Senator Michael McDowell. That is going back some time. They are sitting in the ownership of Dún Laoghaire-Rathdown. I acknowledge that we are at a relatively advanced stage, but every time I ask where we are in relation to them, no one seems to be able to tell me. It is not acceptable that we should have to wait another year, possibly two years, before we see building on that land.

I would like the Minister to share some detail on the Central Mental Hospital - a very substantial piece of State land - and what might happen there. I would like, if possible at this juncture, for the Minister to talk about Thornton Hall. Can we get some land out of Thornton Hall for the delivery of affordable and social housing? These are issues of importance which need to be addressed. We must go back, as I stated, to the local authorities to find what we can do with them on building land. They tell me that they are willing and ready. They are keen to build properties. We need to be clear on the channel of funding and the expertise we can bring into play to deliver houses.

It is a massive task. It is one of the biggest political challenges of our time. Brexit, housing and health are the three key major challenges for the Government. The Minister does not underestimate them. I do not underestimate them, nor does any other Member. We must deliver housing for people. We delivered social housing in the 1930s, 1940s, 1950s and 1960s. It still stands today. It is important that we have this form of housing for people.

I thank the Minister for coming to the House. I do not doubt his absolute commitment to this task which is an unenviable one. It is difficult. I would like the Minister to finally touch on the issue of the national affordable housing scheme and the related regulations. I understand from the departmental officials that there is work ongoing on the necessary regulations, but we need to fast-track the scheme. We need to get it out into the public domain as quickly as possible because we want to assist people to own their own homes or rent homes. We want people to be in homes and happy and have good, sustainable communities. That will not happen overnight.

Senator Paudie Coffey: I welcome the Minister, Deputy Eoghan Murphy, back to the House and thank him for giving us an update from his perspective on where we are at with the Rebuilding Ireland plan. I believe it is important that we continue to have this engagement at policy level, from the Oireachtas right down to the local authorities, NGOs and every other stakeholder that can assist us in meeting the continuing challenge of meeting the demand for housing, for the young people who are on housing lists throughout the country. There are many young people in the Visitors Gallery to listen to this debate about housing. It is about the future of Ireland. It is about the future of citizens of the country and how they can acquire a house and a roof over their heads. It is important that the Minister continue in this engagement which I welcome.

It is disappointing to hear Senator Murnane O'Connor in her statement give no recognition to what is being done to address what was a property and an economic crash in this country. What we want are solutions and we need to recognise them. We need to identify barriers. The Minister asked us openly to identify the barriers and come to him with them. From the Opposition's point of view - I do not want to create a row - it seems that there is little understanding of what it took to rebuild Ireland's economy after the economic crash of recent years. It was a crash that caused deep fundamental damage, not only to the credit institutions but to the whole construction sector and the housing and property markets also.

The following are some of the barriers I see, to offer the Minister some solutions. If we are to meet the ambitious objectives of building so many houses in this country, which we have to do, we must address the skill shortages in the trades. If one talks to the construction sector, with which the Minister is engaged, it will state it is becoming increasingly difficult to recruit the craftsmen and women to build the houses that we so badly need. Across Government, we will need more initiatives to engage with the construction sector, schools and colleges, parents and the young people of Ireland to show them that there is a sustainable future in crafts and trades. I am a tradesman. I qualified as an electrician many years ago. Parents and young people are scared out of their wits to become involved in the construction sector owing to the damage, not only physical but also psychological, that has been done. I call on those in schools and colleges throughout the country to reconsider the trades because there are sustainable jobs provided we sustain the construction sector and we do not go back to the mistakes of the past when there was a boom-bust cycle. We can sustain a reasonable number of house builds per annum that will sustain good jobs and the crafts into the future. I make that point because some of it is being lost in the debate.

I recognise that in 2018 over 19,000 units were delivered in both the public and private sectors throughout the country. I also recognise that over €2.4 billion has been committed by the Government for housing in 2019. That is a substantial budgetary commitment to underpin the Rebuilding Ireland plan and strategy. As I said, we now need to focus on delivery.

Another barrier I want to bring to the Minister's attention is one I identified in my constituency in Waterford. Tramore in County Waterford is the second largest urban area in my county. There is a high demand for housing in the area and there are adequately zoned lands. The local authority is engaging positively with builders to get building on these lands. There is a big problem with the mains water supply and Irish Water. New water infrastructure is required to supply the houses on these lands. A decision was taken recently by the regulator who is responsible for setting the policy on connections to the water supply, whereby the first developer that applies for a connection to its housing scheme must pay the full cost of the water connection, which is making the whole scheme unviable. That would not be so bad if it was treated in the

same way as electricity where if future builders connect to the same supply, the first builder will be reimbursed for its investment in the mains infrastructure.

The problem I have identified is that the regulator has now stated the first builder pays the full costs, that subsequent builders can connect to the scheme and that for the first builder there will be no reimbursement. This is causing a blockage and a barrier. It is causing stalemate where all builders are standing back and houses are not being built. This is a real practical problem that has emerged in Tramore, County Waterford. It is something that has to be addressed. I ask the Minister to use his office to bring the stakeholders together. They include the departmental officials, the regulator's officials, perhaps representatives of the local authority and representatives of the construction sector. This is a problem that has emerged in Waterford and no doubt it will emerge somewhere else. The regulator which, I acknowledge, is an independent quasi-judicial officer, is inconsistent. As a public representative and somebody who worked in utilities for over 20 years with the ESB, the water service is being treated differently from other utilities. It is becoming a cost barrier to housing schemes being built, not only in Tramore but also in other areas where one will see further blockages. It is something the Minister needs to take up and resolve in order that we can get these builders onto sites and have houses delivered for the people who require them so badly.

The Minister identified the proposals and initiatives he has implemented to combat homelessness and, especially in this cold weather spell, the further initiatives to protect those who find themselves in need of emergency accommodation. I commend that work. I also commend the many volunteers in organisations and the NGOs that work with the local authorities to assist people in finding homes. It is a fundamental requirement for all of us to help people to get a roof over their head.

I wish the Minister well in his continued efforts to tackle this challenge. The statistics are there to be seen. As I stated, in 2018 there were 19,000 units built. We need to increase that figure. Substantial funding has been put in place. The numbers of planning permissions throughout the country for schemes and housing are way up on those of recent years. Rebuilding Ireland is working and we must stick to the task. We must identify the barriers and find the solutions. It is all about putting our shoulders to the wheel, whether we are policymakers, local authorities, regulators or the construction sector. Anybody who can influence the building of more houses must put his or her shoulder to the wheel. It is in the interests of all of us. It is a societal challenge and one we all must face in order that we can meet the needs of citizens. I offer the Minister my continued support for his efforts. He is making headway and getting there, as the figures show. We need to continue that work.

Senator Rose Conway-Walsh: I welcome the Minister. In 1999 leading academics in University College Dublin published the study, *Social Housing in Ireland: A Study of Success, Failure and Lessons Learned*. Twenty years on, it remains the benchmark contemporary study of social housing in the State. It contains in-depth analysis of the variance of social housing from the impact on the built environment, residents' quality of life, social order problems, relationships with local authorities and other agencies. The study found that politicians had widespread misconceptions when it came to social housing and its successes and stated policymakers "fail to recognise that non-provision of such housing would amount to greater failure for the less well-off".

In 2004 the National Economic and Social Council published the report, *Housing in Ireland: Performance and Policy*, which included the most detailed analysis of the State's housing sys-

tem ever produced. The report stated that at the time there was a need to dramatically increase investment in, and the output of, social housing owned and managed by local authorities and approved housing bodies. The report also strongly advocated the creation of a significant affordable cost rental sector for those intermediate households ineligible for social housing but unable to afford to rent or buy a home. Had this advice been heeded at the time by Fianna Fáil, the members of which are now trying to take the high moral ground in respect of housing in what is a bit like a black comedy, we may have averted a housing crisis or at least softened its blows.

Three successive Governments have published strategies. Fianna Fáil published *Delivering Homes, Sustaining Communities* in 2007; Fine Gael and the Labour Party published the *Social Housing Strategy 2020* in 2014; and, most recently, Fine Gael published *Rebuilding Ireland* in 2016. All three of these strategies seemed to be less detailed than, cognisant of and simply ignorant of the two major studies that had preceded them. What succeeded this was a modest output of social housing; an increasing reliance on subsidised private rental accommodation to meet social housing need; zero non-market affordable rental or purchase housing for intermediate households; and an increasing use of market-based financing mechanisms for delivering social and affordable housing. The consequences over the 14 years are indisputable: rising levels of social housing needed; ever greater levels of homelessness; and growing numbers of people locked out of buying or renting their own home. However, despite the clear conflict between ideology and expert opinion in that regard, we still do not answer the calls of what is glaringly obvious. Light-touch intervention, chronic underinvestment and over-reliance on a neoliberal market to sort a social issue have failed. In 2016 the Joint Committee on Housing, Planning and Local Government recommended that 10,000 social houses be built, with 5,000 affordable cost-rental homes. This call was again made in a Dáil motion passed by all Opposition parties and many Independents on 3 October which comprised the *Raise the Roof* campaign's demands.

The *Rebuilding Ireland* 2018 third quarter social housing building report showed that a total of 2,369 social housing units had been built across the State by the end of September, less than half of its meagre target. Failing to deliver sufficient social housing in the depths of the housing crisis has not only condemned those who are waiting to wait even longer but, as stated in the 2004 NESC study, the great benefit of having a larger public housing sector is that it stabilises the entire housing system, especially at times of shock. Alongside the obvious chronic underinvestment, the Government is also failing to make policy progress on issues that simply have an ideological irrelevance more so than any evidence base. Emergency measures to stop the flow of families into homelessness, including passing the *Focus Ireland* amendment to prevent buy-to-let landlords from evicting tenants when selling owing to mortgage distress, are relevant in this context and greater efforts to protect those at risk of homelessness owing to mortgage arrears, as well as stronger protections for tenants, including a rent freeze and refundable tax relief, must also be priorities. Low-hanging fruit policy measures such as the inclusion of student accommodation in rent pressure zones, Airbnb regulations, a robust vacant site levy and a deposit retention scheme are all forthcoming at a snail's pace in the midst of a crisis that needs affirmative action.

The right to housing which was recommended by the Constitutional Convention in 2014 has languished in the finance committee and been, ultimately, met with Government indifference. This is despite the right to housing being recognised in Europe in the constitutions of Belgium, Finland, Greece, the Netherlands, Portugal, Spain and Sweden and the legislation of Austria, France, Germany, Luxembourg and Britain. Around the world the right to housing is

included in 81 constitutions. Furthermore, the State has not yet ratified the optional protocol to the International Covenant on Economic, Social and Cultural Rights, which would establish a right to housing.

While we cannot expect leadership in this conversation from the Government, the Raise the Roof campaign is holding a conference today where the right to housing is its core demand. Will the Government continue to ignore the recommendation of the Constitutional Convention and the ratification of the optional protocol to the International Covenant on Economic, Social and Cultural Rights or could we have a conversation about the right to housing that would seek to help the most vulnerable who are lacking legal rights? Can we expect to see an improvement in social housing output, given the poor results of 2018? We are in the midst of a crisis and cannot under-deliver any further.

Some progress has been made in dealing with the pyrite issue with the Minister of State, Deputy English, but there are houses which are desperately in need of repair. If the Minister cannot deal with this issue today, perhaps the Minister of State, Deputy English, might come back to tell us what stage the work is at. The tardiness of the work, from start to finish, is not acceptable. I know people who know that their houses have pyrite but they cannot prove it without having the test and they cannot afford to pay for the test. Their mortgages have been taken over by vulture funds and they are very afraid of what will happen in the negotiations with the funds, given the fact that they have an asset with pyrite that is not worth the amount of their mortgage.

I also ask the Minister to have a look at the planning guidelines for planning permissions given by local authorities. A more holistic approach needs to be taken to planning permissions. That is not to say there should be unsustainable planning. We need to take into account situations where the rent families are paying has got so high they cannot afford it, meaning that they are in danger of being made homeless, but they cannot obtain permission to build on their own land. There needs to be flexibility. I am not talking about the reckless planning that obtained under Fianna Fáil. I seek sustainable planning permission that will take into account the needs of families in the housing crisis we face.

I am concerned about ever-increasing rents, not only in Dublin but also throughout the country. People are in fear of rents being increased or cannot afford their rent and are engaging with moneylenders and other sources of finance just to keep a roof over their heads. I ask the Minister to have a look at the HAP scheme and the RAS and the amount of money being spent on them, as well as on housing grants. I ask him to liaise with local authorities on housing grants in order to provide flexibility. In some cases, the wind is coming through the doors and windows and while they can have these fixed, they cannot have the roof done. It does not matter where the wind is coming in; the issue needs to be addressed. We need to increase the grants available to households, particularly elderly people and people with disabilities, in order that they do not have to stop when the work is only half done. Some flexibility and common sense, as well as a pragmatic approach, could solve many of these problems at local authority level.

Senator Michelle Mulherin: I welcome the Minister to the Chamber for our discussion on this important and varied issue which is experienced nationwide.

I wish to raise a number of issues that I am encountering on the ground in County Mayo. There is a shortage of housing in the private rental sector. People on the social housing list are finding it difficult to get private rental accommodation and rents are starting to increase. When

I look around, though, I see a large number of empty houses. Many are privately owned. What has been the effectiveness of the repair and lease scheme and the buy and renew scheme and how have they been put into action in counties such as Mayo? Thankfully, it does not have the same housing crisis as the large population centres, but many people are living in fear that, if they are put out of their current accommodation for whatever legitimate reason, they will have nowhere to go. All the time, they are waiting to be housed by the local authority. I see little evidence on the ground of the schemes' implementation. As has been well debated, if they were implemented, we could see renewal in areas where there was housing stock that needed upgrading. However, that is not happening.

What meetings has the Minister had with the chief executives of the local authorities? He has met them, but how are they being held to account? The Minister has described the significant amounts of money available for the delivery of social housing and other schemes, but there is no evidence of same.

Will the Minister review the maximum annual income bands under the social housing assessment regulations? In County Mayo a household of two adults and three children that exceeds €28,000 in income is not eligible for any housing support, including social housing. I am dealing with a couple who are just €24 above the limit. They are paying for everything. They are paying rent of €600 per month, which is probably modest by national standards but, given their income, is a significant amount. Their rent is being increased to €700 and they cannot find accommodation anywhere else. They are fearful that they will be out on the street. They do not want to come to the State seeking help, but they cannot get any support because of the limit. The sum they are allowed to earn is too low.

In the area in which I live there used to be a good mix of social housing. Council housing had people who were working, people who were unable to work for various reasons, older people, single parents, etc. Now very few people who are working or in a position to work are to be found in the newer social housing allocations, yet people on low incomes are hard pressed. The couple in question have been married for 20 years and never managed to get on the housing ladder. Now they find that they cannot even afford to pay rent. They did not set out to seek anything from the State, but we have an obligation to them. Such people should be catered for in our vision of social housing provision.

Regarding tenants buying out houses, there are people in receipt of certain social welfare payments that cannot be included in the calculation of their ability to repay a loan. This is despite the fact that, if they had a loan, they would be paying more or less the same amount as they are paying in rent to the local authority. It is a good policy to encourage people to buy their homes. There would be more investment and people would have a greater stake in their respective areas if they owned homes there. Will the Minister reconsider this matter? Genuine cases are being excluded.

I welcome the pyrite remediation scheme that was announced in the budget. However, the scheme and its funding were not welcomed by Sinn Féin or anyone else, even though it was the culmination of a lot of work. It was not-----

Senator Rose Conway-Walsh: A lot of work by a lot of parties.

Senator Michelle Mulherin: I will not take from that, but Sinn Féin does not even have the graciousness to accept when progress is made.

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An Leas-Chathaoirleach: Through the Chair, please.

Senator Michelle Mulherin: All Sinn Féin is doing is peddling misery.

An Leas-Chathaoirleach: I am not allowing interruptions.

Senator Michelle Mulherin: I am sorry, but I have the floor.

An Leas-Chathaoirleach: The Senator has less than a minute left.

Senator Michelle Mulherin: An interruption was made.

Senator Rose Conway-Walsh: I had to raise a point of order.

Senator Michelle Mulherin: The scheme is due to go before the Cabinet and I thank the Minister and the Minister of State, Deputy English, for all their work on it. It is important that the scheme be published, that we start tackling the problem and that houses begin to be fixed in order that people can know where they stand. Not all of the houses will be done at once.

I have a particular concern. Under the scheme available in Leinster which covers pyritic heave in foundations, no retrospective payments were made to householders. That is a general principle of newly established schemes. I brought the Minister of State to a house where a couple had needed to put their life savings into it because of a pyrite problem and their roof was in danger of structural collapse. They had a supervising engineer. Within the bounds of vouching that the works have been done and what the cost was, we must find a way to make some contribution. It would be unfortunate were we unable to accommodate such cases in some way. The number involved is not large, as not everyone's house was in so much danger that work had been necessary. In this instance, however, it was. I know of a couple of such cases. Before the scheme is published, this issue should be considered in order that the people who fall into this category are accommodated.

I look forward to the Minister's responses to the various issues I have raised.

Senator Kevin Humphreys: I welcome the Minister. We must put the housing crisis and where it started in perspective in order that we do not make the same mistakes again. I am evidence-driven. In the 2000s the idea was that the market would resolve everything and there was an over-reliance on rent allowance, which was an emergency measure that became a housing policy. Much of this dates back to when one of the Minister's predecessors, Mr. Noel Dempsey, lost that Ministry. He was progressive and piloted a scheme of 20% social and affordable housing in the Dublin docklands before rolling it out in national legislation. Unfortunately, it was unwound by former Deputy Martin Cullen when he took over that Ministry. That is the heart of the problem in the Dublin area because we lost the 20% of all houses that were built during the boom. The decision was influenced by the Progressive Democrats ideology of market-driven solutions. Market-driven solutions do not supply. When the recession hit, we did not have the social housing stock we should have had, which led to us having to depend on the rent allowance scheme. The story continues.

I wish to put in context the next part of my contribution. It is based on the work of the Oireachtas Library and Research Service, information on residential investment in all quarters during 2018, Hooke & MacDonald's investment report for 2018, Threshold's submissions to various committees and the Central Bank quarterly bulletins for 2017 and 2018. One of the reasons for going into this in such depth is I have met many young couples and individuals who

moved home after saving their deposits. They said they had looked forward to having an opportunity to purchase an apartment at 6 Hanover Quay in the Dublin docklands area where planning permission had been granted for 101 apartments. They had watched construction progress slowly but surely and looked forward to the apartments coming to the market. That project which comprised 120 apartments never came to the housing market because it was purchased by an investment fund for €101 million, with the price paid for some of the units above market value. This led me to other research which shows that 2,000 apartments were completed in the Dublin area in 2018. The final figure may be slightly higher because it was not available at the time. The sale prices indicate that in the majority of cases, planning permission was given for individual owner-occupiers, which means that the units were for the market. The sale figures for 2018 indicate that more than 75% of these apartments were sold to the build-to-rent sector, which means that only 25% of the units went to the market.

These findings led to further investigations. My initial expectation was that the build-to-rent market was buying these apartments at below market value because it was bulk buying. However, further research showed that the apartments were purchased above the market price. My conclusion was based on the investment yield which, at between 5% and 8%, strongly competes with yields in the market for office space. The funds also have preferential tax treatment with respect to rental income and capital gains.

There is an imbalance in the market. While we need professional landlords who can provide a good service, we must also ensure the market is regulated and balanced. Rents have an impact on home ownership and the pension fund individuals build up. Home ownership stood at roughly 80% in the 2000s. This has declined rapidly in the past ten years and now stands at 70%, with all indications suggesting it will fall further. The Minister often states we are moving towards the European model under which more people rent than purchase their home. What is the long-term impact of this for society and further financial risk? Obviously, pensions are at risk because if people pay between €2,500 and €3,000 in rent and retire at 67 or 68 years, their income will be reduced and they will be unable to meet their rental outgoings. That issue needs to be taken into consideration if we are moving towards adopting the rental model as the norm for society.

In 2018 almost €1 billion was invested in the build-to-rent sector. Is the Minister monitoring what is happening in that sector? I have analysed various documents such as those compiled by Hooke & MacDonald. Various investment reports indicate that €5 billion will be invested in the build-to-rent model in Ireland. Dublin is the leading location for such investment, but there is also significant investment in Limerick, Waterford and Galway. We need all types of markets, including the build-to-rent sector. However, young people who want to purchase their own homes and get on the property ladder are being excluded from the market. We must, therefore, introduce wide-ranging policies to address these issues, including pensions. We are sowing the seeds for another crisis in the residential property market and in respect of pensions because there is no joined-up thinking between the provision of housing and people's earnings as they retire, including the possibility that they will be unable to meet the rental demands they will experience.

A yield of 7% or 8% is a good investment, especially if preferential tax treatment applies. I can provide more detail on the research available on these issues, but, unfortunately, I do not have time to do so. As I stated, of 2,000 apartments built in the Dublin area last year, more than 1,500 were purchased by investment funds and young people were not given an opportunity to purchase them. Young people are being driven into the rental market because it is the only op-

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tion available to them as they start their adult lives.

When will the Minister publish legislation on short-term lets? The build-to-rent model is showing signs that it will have the same impact on the market as the short-term lets sector was having when I first raised this issue three years ago. While short-term lets will not fix the housing crisis, they could release a substantial number of units in urban areas to the rental market. I ask the Minister to carefully consider the matter and publish regulations or legislation as soon as possible.

On a local matter, namely, the proposed 3,500 housing units at Poolbeg west, the Minister's predecessor, the Tánaiste, took a hands-on approach to this development. I had hoped that by this stage there would be cranes and bulldozers working on the site. Unfortunately, the project is still tied up with An Bord Pleanála. The closing date for submissions was early January 2019. However, no agreement has been reached on the 900 social and affordable units. If the issue is not dealt with before An Bord Pleanála makes its decision, the Minister's negotiation position will be weakened. I urge him to increase his efforts and those of the local authority in that area and reach a deal on 500 additional units because the project will have an impact on the south-east side of the city in the availability of housing units. Many families living in three-bedroom units would be happy to downsize. If the development progresses quickly, it will have a range of positive impacts. I urge the Minister to get involved and ensure the negotiations on the 500 additional units are concluded.

I assure the Leas-Chathaoirleach that I am watching the time. I am about to conclude.

An Leas-Chathaoirleach: The Senator is in injury time.

Senator Kevin Humphreys: I have outlined the impact of the build-to-rent sector on the housing market in 2018. I hope the Minister will respond on that issue and also introduce legislation on short-term lets.

Senator Anthony Lawlor: I, too, welcome the Minister. This is my first contribution while he has been in the Chamber and I wish him all the best. He has a difficult portfolio, but, in fairness to him, there has been a major improvement recently. Lest I forget, Senator Murnane O'Connor reminds me of a goldfish because by the time she gets around the bowl, she has forgotten from where she has come. I will cite some figures for her. When Fianna Fáil left office in 2011, there were only 45 new home registrations in County Kildare.

Senator Jennifer Murnane O'Connor: That was eight years ago. The Senator keeps blaming Fianna Fáil, but he must take responsibility.

Senator Anthony Lawlor: Last year there were 795 new registrations in the county.

Senator Jennifer Murnane O'Connor: Did the Senator read my press launches?

An Leas-Chathaoirleach: We will not have interruptions.

Senator Jennifer Murnane O'Connor: The Senator needs to take responsibility now.

An Leas-Chathaoirleach: Interruptions are not allowed.

Senator Anthony Lawlor: Senator Murnane O'Connor seems to have forgotten that Fianna Fáil presided over the crash and the current problems.

Senator Jennifer Murnane O'Connor: Take responsibility now.

Senator Anthony Lawlor: Fianna Fáil presided over this crash-----

An Leas-Chathaoirleach: No interruptions are allowed, please.

Senator Anthony Lawlor: -----and the problems we have now that it seems to have forgotten about.

An Leas-Chathaoirleach: Please, Senators.

Senator Jennifer Murnane O'Connor: It is not our fault. Take responsibility. The Senator's party is in government.

Senator Anthony Lawlor: As I said, goldfish that go once around the bowl and then forget from where they have come.

An Leas-Chathaoirleach: Senator Murnane O'Connor has had-----

Senator Jennifer Murnane O'Connor: Not at all. Senator Lawlor's party does not know what it means to take responsibility.

An Leas-Chathaoirleach: -----her own contributions.

Senator Jennifer Murnane O'Connor: Senator Lawlor has to-----

An Leas-Chathaoirleach: I ask Senator Murnane O'Connor to respect the other Senators and the House. Senator Lawlor to continue, without interruption, please. I ask him to try not to be argumentative.

Senator Anthony Lawlor: I am just dealing with facts. I like to deal in facts-----

Senator Jennifer Murnane O'Connor: I have facts here too.

An Leas-Chathaoirleach: Senator Murnane O'Connor dealt with her facts and she can bring them up again on another occasion. Senator Lawlor to continue, without interruption, please.

(Interruptions).

An Leas-Chathaoirleach: Please, Senators.

Senator Anthony Lawlor: I must say what the Minister has achieved over recent years---

Senator Jerry Buttimer: I was in Carlow last weekend-----

An Leas-Chathaoirleach: Please, Senators. Senator Buttimer will have his chance.

Senator Jennifer Murnane O'Connor: Facts are facts. They cannot be changed.

An Leas-Chathaoirleach: Will the Senators, please, behave?

Senator Jennifer Murnane O'Connor: I do not know. He just-----

An Leas-Chathaoirleach: I want to hear just one Senator speaking at a time.

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Senator Jennifer Murnane O'Connor: We have-----

An Leas-Chathaoirleach: Senator Murnane O'Connor is consistently giving trouble to the Chair, whether it is me, the Cathaoirleach or whomever else. Will she, please, be quiet? Senator Lawlor to continue, without interruption, please.

Senator Anthony Lawlor: It is terribly difficult to swim against the tide. I understand that. I refer to some of the schemes I have examined. The Minister mentioned that the Land Development Agency, LDA, which has been allocated €1.25 billion, had its first board meeting last week. When is it hoped to see some progress in at least seeing planning applications coming forward from the LDA in respect of the land that it has? The Home Building Finance Ireland scheme is excellent. It gives an opportunity to people who cannot get loans from major institutions. The allocation in County Kildare has been used up. I understand the Minister has applied to the Department of Public Expenditure and Reform to see if he can get extra funding.

If there are funds available throughout the country, could the Minister move them around and perhaps give County Kildare some additional funds? The local infrastructure housing activation fund, LIHAF, scheme, brought in under the former Minister, Deputy Coveney, has been continued. How long does the Minister believe local authorities can have before they have to spend the money? That worries me. A couple of schemes in County Kildare were allocated funding under the scheme and that money has been allocated for some years now. I am concerned that there may be a time limit and that the projects may not go ahead. One of them happens to be for the development of recreational grounds in Sallins. It is an excellent project because it caters for all sports within the community, including GAA, soccer, etc.

I mentioned the Rebuilding Ireland home loans. The Minister has so many schemes it is difficult to keep up to date with them all. I want to ask a question about the Home Building Ireland Finance scheme which has had €750 million allocated. How soon can applications be processed? We all know that there are many small builders who are still burned from the crash and would love to get going on small sites throughout the country. The big developers are building on the big sites and under the big schemes, but there is also a need for smaller schemes. Will the Minister give us an update on the scheme?

I referred to the Rebuilding Ireland home loan scheme under a different name. We are bringing forward something else. What is it called? My head is gone. It is on the day we have the local elections. I refer to a referendum-----

An Leas-Chathaoirleach: The Senator is referring to the proposed constitutional amendment.

Senator Anthony Lawlor: The Leas-Chathaoirleach is right. We are bringing forward a proposed constitutional amendment in respect of marriage breakdown and divorce laws. There are people who cannot afford to wait for four years before they apply for a Rebuilding Ireland home loan. The Minister has explained to me before that people are entitled to access the scheme if they are divorced and have already bought a house between them as a couple under the first-time buyer's scheme. As we are going to bring in changes in the divorce laws - I hope the proposed constitutional amendment will be passed - perhaps that would make it possible for us to look at the time span. Perhaps some legal agreement may be drawn up or some legal covenant supplied to prove that two people are separated.

I would love to see more modular and timber houses throughout the country. There seems

to be something within the planning authorities that goes against the building of timber houses. They look very well in rural areas, in particular. Perhaps we could do something in that regard.

On the issue of town centre developments, I know that the Minister has made allowances for apartment size and densities. I refer now to heights in small towns. Many town centres have listed buildings and sometimes local authorities do not like the listed building being overlooked by new developments. I think that can be done tastefully also.

There is a problem in Kildare. It concerns the interpretation of the national planning framework and, in particular, guideline No. 19. It stems from a refusal by An Bord Pleanála in which there was a reference to national planning framework guideline No. 19. The local authorities have now taken it as gospel. I would like the Minister to give us his interpretation in order that we can have clarity on the issue. Perhaps there could also be some instructions in respect of An Bord Pleanála in order that the Minister's interpretation will be the one used by An Bord Pleanála and subsequently the local authorities.

The Minister has a difficult job. People have to understand that. We require 25,000 houses every year just to keep pace with what is needed. Last year, as Senator Coffey mentioned, we built 19,000 houses. We are starting from a standing start. There is a deficit of about 118,000 houses that we need to build just to cater for the need. The Minister has a major job of work ahead of him. As I said, there are many good schemes to incentivise people to build houses.

An Leas-Chathaoirleach: I thank Senator Lawlor. He has gone over his time.

Senator Anthony Lawlor: The Minister is trying to row back on the mistakes made in the past. I wish him well in the future.

Senator Jerry Buttimer: I dtus báire, bronnaim mo bhuíochas agus mo chomhghairdeas don Aire as ucht an méid oibre atá déanta aige. The Minister is passionate, understanding and delivering. He deserves our support and credit for what he is doing. This is not about trying to score political points, as some Members opposite always seem to be trying to do. This debate is about the provision of housing. Senator Murnane O'Connor always states the past is gone. She is right. We cannot live in the past, but we can remember and learn from it. I saw her leaflet in Carlow at the weekend. She was welcoming the budgetary provisions on housing. I am glad that she welcomed them.

Senator Jennifer Murnane O'Connor: I am sorry. I also complimented the Minister on the work he was doing.

An Leas-Chathaoirleach: I ask for order, please.

Senator Jerry Buttimer: Can I just say-----

Senator Jennifer Murnane O'Connor: No-----

An Leas-Chathaoirleach: I do not want the Senators talking to each other. I ask them to, please, address their remarks through the Chair.

Senator Jerry Buttimer: The Minister is correct in his analysis. We must increase supply and build. The housing problem will not be solved by gimmicks like rolling billboards or motions of no confidence in the Minister. That is not good politics. We must do what the Minister has outlined. What is important is what he spoke about in his remarks. I refer to policy change.

30 January 2019

All of us in our constituencies and offices deal with people every day of every week. I have come to the conclusion, rightly or wrongly but I think I am right, that we need to examine the cost base.

Let us take Cork City Council as an example. Family sizes are smaller and nearly half of the housing list is made up of single people. It is imperative, therefore, that we now recognise, as the Minister has done, that we know that there was not enough housing. As the Minister has started to do, we must put in place housing at prices that are affordable in order that people can buy them. The cost base is too high and we must examine that issue, whether that relates to the price of land, building materials or the market. That issue is not going away.

An analysis of the people who come into our offices, in many cases, and the different housing reports shows that the average traditional couple who used to buy or were able to buy are now either renting or in the social housing category. That was never the case before. We now recognise - the Minister has been a strong champion of this - the need for affordability and to allow people to have the option to buy through the help-to-buy scheme.

4 o'clock

That is critical. The help-to-buy scheme is one of the most important pieces of housing infrastructure we have put in place. I appeal to the Minister to extend it now, rather than wait for the next budget. We need to end the uncertainty about which we are hearing from back channels. The scheme is working and important for those who are trying to buy.

Affordability is an issue we need to tackle. It may not be popular to say it, but the Central Bank rules are very strict, possibly too strict. I know that we cannot go back to the past, but if we look at the limits the bank imposes on borrowers, we can see that it is fundamentally wrong. The Minister mentioned the housing market, stabilisation and possible declines in house prices, but we must always try to ensure prices are such that people can buy in order that we can see an increase in the numbers of those involved in the private housing sector. We need a strong private housing sector, regardless of whether it involves renters, first-time buyers or traditional couples who want to be able to afford to buy.

I do not think we can shy away any longer from the issue of the cost base in terms of the cost of land, VAT, affordability and the role of councils. The lack of private housing being constructed in the city of Cork is a source of worry. If we look at the 550 units being constructed, 400 are social housing units. Just 150 are private, which is an imbalance.

I commend the Minister on the work he is doing. He is very proactive and willing to listen. He engages on and understands the complexity of the matter. We need to see a streamlining of Rebuilding Ireland home loans. A report published this week showed that one in five loans had been approved by some councils, including Cork City Council and Cork County Council. I am not sure why that is the case. I know that the city and county councils have very good directors of housing services. I welcome the decision made by Cork City Council this week on Kinloch on the north side of the city. If we go through my constituency, we will see that houses are being constructed. If one were to listen to some Members opposite, one would swear that there was no digger, crane or cement to be found and no blocks being laid anywhere. The Minister has our support. Let us make sure we learn from the mistakes made by Fianna Fáil that affected the people it was supposed to represent. At least, we are trying to do it with honesty and integrity.

Senator David Norris: I will not detain the House for very long. I did not intend to speak

very much about this matter. In fact, I did not intend to speak at all, but then I saw an opportunity to do so.

I commend the Minister who is both decent and hard-working. If the Department of Health was described as Angola, I do not know how the Department of Housing, Planning and Local Government would be described because it is a poisoned chalice. The time factor is always an issue as people expect instant solutions. There is a housing crisis and they want to have it resolved by next year or in six months' time, but these things are accumulators. They take a long time and we must build them up. I place the blame on various Governments for not engaging in a public housing programme. I disagree completely with my good friend, Senator Buttimer, on the balance between private and public housing. He said one fifth of the houses being built were private. I do not care. It does not bother me in the slightest. What we need is a massive public housing programme. I remember the great estates. I am not partisan, but they were largely built by Fianna Fáil. Places like Crumlin-----

Senator Kieran O'Donnell: That is not true.

Senator David Norris: Is it not? I stand corrected. Who was responsible for what happened in Crumlin?

Senator Kieran O'Donnell: I am not talking about Crumlin. It is not true to say-----

Senator David Norris: Okay-----

Acting Chairman (Senator Gerry Horkan): I will let Senator Kieran O'Donnell in in the fullness of time.

Senator David Norris: I thought I was being corrected on a matter of fact, but I think I am correct in stating it was Fianna Fáil that built the estates in Crumlin and Drimnagh.

Senator Lawlor is from Naas and does not know what he is talking about. People should be housed, entitled to rely on a home and facilitated in that regard by the State. I am not entirely sure about inserting a requirement into the Constitution that every citizen is entitled to a home. That would bring about unnecessary legal complications and I am not sure it is the case.

There is still a lot of land hoarding and remarkably local authorities are among the chief culprits as they are sitting on enormous quantities of land. Why do they not use it? They know that there is a housing crisis, what is required and the history and track record in this area. Why do they not get up off their backsides and do it?

I think a bit of massaging is taking place with the homeless figures. I remember speaking in this House when the number of homeless people was about 2,000. I asked what would happen when it went up to 3,000, 4,000, 5,000, 6,000, 7,000 or even 10,000 and was laughed out of it. It is 10,000.

I do not know the ins and outs of what happens at senior level of the Judiciary and so on. I know that it is unwise and wrong for a politician to speak in detail about judicial appointments, despite the best, or worst, of intentions of my former colleague, the Minister for Transport, Tourism and Sport, but I was very sad to see the restrictions placed on the Master of the High Court, Mr. Edmund Honohan, such that he is no longer allowed to hear cases involving distressed mortgages and so on. That is shocking and I question why it has happened. The people of Ireland should be entitled to hear the reason Mr. Honohan is being prevented from hearing

these cases because he was one of the very few friends people with distressed mortgages had. So what if he interpreted the law leniently in favour of those with distressed mortgages? There are plenty of people who are prepared to look favourably on the banks, including various Governments that put the country in jeopardy financially by rescuing the European banks on the instructions of Mr. Trichet. It is a poor day for justice when a gentlemen of Mr. Honohan's standard is prevented from taking cases precisely because he takes a humane view. We need much more of a humane view to be taken in such cases.

Senator Kieran O'Donnell: I do not think anyone is entitled to say any particular group was responsible for the social housing programme in Ireland. The Administration at the foundation of the State started a social housing programme that was continued by successive Governments. One of the reasons we are where we are is that prior to the crash in 2007, the social housing programme had all but ceased. It had been subcontracted to the private sector. Since the foundation of the State, social housing has appeared in many incarnations. Some involved farmers providing plots to allow social housing to be built in rural settings. That is no more. A typical village might have been built by way of building a number of houses in successive years. That was normal and very practical. Some very large housing estates were built. In several areas of my city the estates were too big. Estates such as Moyross and Southill involved the construction of up to 1,000 houses in one area. We are where we are because State housing provision almost came to a halt under Fianna Fáil. We started the rebuilding programme in 2011 and are trying to catch up. Some 20,000 units were built last year. It is still a supply side issue. I wish to point to the positives, as well as the things that could be done slightly differently.

On the supply side, I ask that the analysis carried out by the Department be provided. In many cases builders and developers have stated it is not affordable to build houses at market rates. Has the Department carried out empirical research to determine at which level and price houses can be built such that builders make a return?

On affordable housing, many people, particularly young people, welcome the Rebuilding Ireland programme, but many of them are not getting the required level of funding. These are people in permanent jobs. Many young teachers and gardaí have come to me on this issue. What is the Minister's view on how the Rebuilding Ireland affordable loan scheme is working and so forth?

Reference was made to local authorities. The Land Development Agency is considering building affordable housing on public lands.

I refer to the level of due diligence carried out at departmental level regarding social housing building projects by local authorities. In some cases, the projects and their locations are not sustainable and the due diligence that should have been carried out on the projects on day one was inadequate. We want houses to be built, but we must ensure there are proper services in the areas in which house building is proposed. It is not about ticking boxes but rather ensuring sustainable development. I feel very strongly about the issues encountered by people who wish to avail of social housing and, obviously, the areas in which local authorities are considering development. That is a key element.

I have referred to the importance of supply and empirical work to determine the level at which there is a return for builders on building private houses. I asked the Minister for his view on how the Rebuilding Ireland affordable loan scheme is working and raised the issue of proper due diligence of social housing proposals put forward by local authorities. We need to build

social housing in a sustainable way. We must seek to reduce the time between an application being made and a JCB moving in on site to begin construction, especially in the case of social housing. The issues I have raised are practical examples of those with which I deal on the ground with constituents in Limerick city.

Senator Rónán Mullen: The Minister is very welcome. I thank him for coming to the House. One of the most unhelpful features of the debate on this issue is the continuing discrepancy between official Government statistics for housing and homelessness and the reality as experienced by voluntary groups on the front line. COPE Galway, an excellent organisation working with homeless families, has pointed to serious discrepancies. Official figures issued by the Department late last year indicate that 68 families and 154 children were homeless in the entire west region, comprising counties Galway, Mayo and Roscommon. However, COPE Galway carried out a census during the same period which showed that 86 families and 197 were living in emergency accommodation provided by COPE Galway or other providers. If there is a significant discrepancy such as that in Galway, is it happening elsewhere?

On social housing, the Government deserves the benefit of the doubt in regard to its efforts on this issue. People should not rush to judgment. However, I know of a voluntary body operating in Dublin which is very eager to progress a proposal to develop a small set of social housing units in the city centre. It would be built under an approved housing body, with Dublin City Council retaining the nomination rights in allocating the houses once completed. The proposal was originally made to the Minister and officials of Dublin City Council in January 2018. However, the voluntary body is concerned that there has been no progress since. It remains eager to progress the matter and develop the social housing units. In the light of the current situation, how is it possible for a proposal such as that not to progress in 12 months? There is goodwill towards the Government which faces a difficult challenge. The group remains very eager to progress the development. If I were to follow up privately and provide the Minister with the details, could action be taken on it?

The 4,000 Dublin City Council housing units which are vacant at any one time must be part of the problem. It is an extraordinarily high figure. Will the Minister provide more information to help us to understand it? At what point do people who refuse an offer of housing lose their place on a waiting list? Is this something that comes under consideration? How many people on the social housing waiting list have jobs? Do people enter into a discussion on the feasibility of moving location to where there might be available housing units? That is a fair question to ask. Obviously, one asks these questions with great sensitivity, but in the normal run of life, people must sometimes move house to work. Is this something that arises in the context of the Government's attempt to solve the problem? As I said, these are issues which must be handled with sensitivity and great respect for the person, but the taxpayer is entitled to know what conditionality and compromises are sought and can be made.

What are the views of the Minister on the use of prefabricated housing accommodation and its suitability as an alternative to traditional housing in many places? I was not present for his entire speech and apologise if he has addressed that matter. Does he agree that prefabricated housing can only be an acceptable solution if all of the ancillary amenities in terms of green space and access to important facilities are guaranteed and that there is due attention paid to the needs of families and young people, in particular? I would be grateful for the Minister's views in that regard.

Minister for Housing, Planning and Local Government (Deputy Eoghan Murphy): I

thank Senators for their contributions. I probably spoke for too long in my opening contribution which took more than 20 minutes, but I have taken 11 pages of notes and would like to reply to all Members.

Acting Chairman (Senator Gerry Horkan): The Minister will have one minute per page.

Deputy Eoghan Murphy: I will go with that. I thank the Chair. I came to the Seanad looking for solutions and positive contributions that might help in our ongoing work to fix the challenges we face in dealing with the homelessness crisis and housing shortage. I thank all Members who provided positive contributions, suggestions or ideas for things we could do.

Some Members have focused on the fact that there have been several announcements on housing. There have been several announcements because this is a complex issue. It requires a new finance bank for people who cannot get development finance from banks, affordable mortgages for those who cannot get them from banks and changes in apartment building regulations to encourage build to rent. It requires affordable purchase schemes to help people to buy their own home and new measures to ensure we are locking in a commitment to investment in social housing, regardless of what is happening in the wider economy. We should be focusing on the policy and solutions that have been put in place. I have spoken to Senator Murnane O'Connor about this as she is on the committee. She has said house prices are unaffordable once again. That is exactly the point; we have been here before. We have not had a properly functioning housing market in this country, or a properly functioning housing system, for decades. I am part of a generation that has been stung twice. The problem for those in my generation, when they were coming out of college and starting work, was that they could not afford to buy homes, even though twice the amount of homes needed were being built. Those whom we thought were fortunate enough to buy a home at the time were, within one year, living in ghost estates and stranded with no facilities. There were no local schools and even roads in estates were not finished. The people in question were plunged into negative equity. Other problems then arose and people lost their jobs. That same generation finds itself starting families while stuck in apartments that are too small and paying rents that are too high. We have to make sure, through everything we are doing, that we are protecting the generation of children who were here earlier to watch our debate from the mistakes made by previous generations and Governments. While I know that people are frustrated that this is not happening quickly enough, if we were to do things such as zone more land, make VAT changes and promote the building of three-bedroom semi-detached homes, we would only be building in mistakes for the future. We have to rebuild the housing sector in a sustainable way, ensuring we will have sustainable jobs in trades and construction, in order that we will not build too much in one year and then have to cut back massively in the next. Where would all of those people go for work? All of these things have to be addressed. We have to meet challenges as they arise.

On the rent figures included in the data, the Residential Tenancies Board has the most comprehensive data set because it has the actual numbers of rent registrations and the rent prices paid. That is where we get our data from.

I understand the frustrations on social housing eligibility. An additional buffer of €5,000 was inserted on foot of the review carried out in 2011. A new review is happening and being conducted by the Housing Agency. It has been made more complex by the shortage of housing and the unaffordable rents in place and other points of inflation elsewhere in the economy. We hope the review will be concluded as quickly as possible in order that the new levels can be put in place.

There has been an increase in the number of mortgages under the Rebuilding Ireland home loan scheme, which I welcome. Home ownership is changing. People are renting more frequently, but that is a function not just of the affordability challenge but also of the fact that people are going to and staying in college for longer, meeting their partners later in life, moving jobs more frequently, moving in and out of the country and having children later in life. Many are choosing not to take on the liability of home ownership, as it can be, or a large debt because they want to retain a degree of flexibility into their later years. We are seeing more people move towards renting and subsequently there is less home ownership. We must, however, make sure the aspiration to own a home remains for anyone who wants to make that economic choice. We have to make sure they can make it economically, in a way where they will not be making sacrifices such as losing time with their families owing to lengthy commutes.

I am still on my first page and have already gone way over time.

Senator Boyhan is on the committee and has expertise that not everyone in the Oireachtas has, as is clear from the engagement he had with local authorities before he came here today. He asked about the different statistics we used. We have moved to using the CSO figures to ensure we have an accurate figures for the numbers of builds. That is important. None of the figures for the numbers of planning permissions and commencement notices are in dispute; they are compiled and distributed. It is important that we do so. One of the primary functions of the Land Development Agency is to find public land on which to build public housing. It takes State land for that purpose.

The Rebuilding Ireland housing map is operational. For anyone who has not used it, one can cross the country and click on the coloured icons to see what is happening with that land in the provision of housing, the acreage, the numbers of homes that can be built and other facts. The Land Development Agency is doing its own piece of work with State land and has already identified eight sites. It is also working with Project Ireland 2040. Places like Waterford and Cork have to double in size, which will involve not just the use of State land but also private land for appropriate uses in the public interest. The Land Development Agency is in place to do that and should have been in place for the past 20 years. It was not, but it is now in place and it is going to make very important inroads, not just in dealing with the current shortage we are facing but also in future-proofing the housing economy, especially in the provision of land. The Central Mental Hospital site is one of the priority sites on the list of eight identified.

Senator Boyhan asked about Thornton Hall. I do not think the Land Development Agency will be looking at it immediately for housing provision. I believe it might be better used for a land swap with another State agency which might move its functions to the site. The Land Development Agency might then take that agency's land, which might be closer to the city and have infrastructure built, meaning that it could be used for housing.

Senator Coffey mentioned skill shortages, a very important issue. We are moving towards prefabrication and that type of technology, which means that we do not necessarily need the numbers of labourers or skilled staff we used to have. However, the numbers taking up apprenticeships are rising. The Senator is absolutely right to say that has to be done in a sustainable way to ensure the people concerned will have job security into the future and not have to emigrate like so many others have had to do or retrain in the future, something they may not want to do. We have engaged with the Construction Industry Federation as part of Project Ireland 2040. There is a construction sector group to ensure we are managing all of the capital investments that have to be made, not just in housing but also to ensure we will have people with the

skills required. It is also about trying to attract more women into apprenticeships, something I welcome.

The Senator asked a question about what was happening in Tramore. I will make an inquiry about the connections issue. The Commission for the Regulation of Utilities, CRU, is independent of the Government, but if there is something we can do to make sure people are not being put at a disadvantage in connecting homes to the water network, we will do so. From my last engagement with Irish Water, I know that it is dealing with a possible 130,000 new household connections to the water network. That figure demonstrates the amount of work that is ongoing to drive supply.

To respond to the points made by Senator Conway-Walsh, it is important to recognise that Rebuilding Ireland is being implemented. The Land Development Agency flowed from the recommendations made by the National Economic and Social Council, NESC, as well as from recommendations made by others. We have listened where previous Governments did not. There is nothing light-touch about the €2.4 billion being spent in the economy by the Government. It is the highest amount ever spent on housing by a Government in a single year. There is nothing light-touch about the 50,000 new homes being added to the social housing stock over a five-year period. There is nothing light-touch about the fact that between one in four and one in five new homes built last year and this year is social housing. The State is directly involved, correctly, in providing housing for its citizens. However, we need to do more than focus solely on social housing because the majority of people are not eligible for it. The majority, when putting together a deposit, trying to take out a more affordable mortgage, or even buying a home, can make a little help go a long way. Of course, we have to ensure we focus on delivery, of which it is very important that social housing be a big component, but affordability has to be at the heart of everything we do.

We have doubled the vacant site levy which will come into operation over the course of 2019. In 2018 some €300 million worth of land was subject to the levy. Rent reform legislation is progressing through the Dáil. I will deal with it in committee next week when I will discuss amendments to see if we can improve it in working together.

It was agreed by this Oireachtas that the right to housing would be debated, with other socio-economic rights, to determine whether it should be inserted into the Constitution. That debate will happen before the relevant committee, which was the decision of the Oireachtas. It is worth pointing out that where other countries have included a right to housing, either in law or their constitutions, they still have a problem with homelessness, which is a very complex challenge. My focus is on delivery, but I am more than happy for that discussion to take place and I am approaching it with an open mind. However, as the Minister responsible, my focus is on ensuring we are actually delivering on the ground.

I believe I have addressed all of the issues raised by Senator Conway-Walsh. I am aware that she asked questions about money. We will have announcements on housing adaptation grants and new money for them soon. On the amount of money being spent under the housing assistance payment, HAP, scheme, we will begin to reduce the number of people being supported in the rental sector. In the final year of Rebuilding Ireland we will put more people into the new stock of social housing than into new HAP scheme tenancies. That is the rebalancing that is happening. We had to rely on the HAP scheme because social housing provision had been outsourced to the private sector and if we did not rely on it, the number of people in emergency accommodation would be stratospheric. In doing so we are giving people the support they need

now, while recognising that in the longer term they will need social housing.

Senator Rose Conway-Walsh: I also asked about pyrite.

Deputy Eoghan Murphy: I will address that issue which was also raised by Senator Mulherin. We reached agreement in budget 2019 that there would be a scheme. When I was in County Donegal recently, I met a campaign group. The Minister of State, Deputy English, has done a huge amount of work in this area, as have Deputy McConalogue and Senator Mulherin. The Department knows what it wants to do under that scheme; it is just a question of dotting the i's and crossing the t's with the Department of Public Expenditure and Reform. We are very close to doing so. We have agreement on a scheme and once I can bring it to the Cabinet, we can announce the details.

Senator Mulherin made a number of other points to which I will return when I have opportunity to do so.

Senator Humphreys asked about a change to legislation in respect of short-term lets. It is a change to primary legislation, but it is very simple and can be made very quickly. The draft regulations are with the Joint Committee on Housing, Planning and Local Government, which has discussed them in an informal private session. Once we have agreement on the regulations from the joint committee, I will put them on standstill for 21 days before they take effect. The key is to remind everyone that from 1 June the law will change and people should get ready for that change now because we have given them ample warning.

I know that Senators had some detailed information on the build-to-rent sector which we can discuss at another time.

Acting Chairman (Senator Gerry Horkan): I must stop the Minister there because, in fairness, Fine Gael Private Members' business is scheduled and if he continues, it will eat into that time.

Deputy Eoghan Murphy: In that case, I will return at a later date if that is all right because many issues were raised and I would like to address them all.

Acting Chairman (Senator Gerry Horkan): I am sure the House would welcome that, but out of deference to the Minister's party colleagues, I do not wish to deprive them of their Private Members' time.

Deputy Eoghan Murphy: I would not like to get into trouble with them either.

Housing for the Elderly: Motion

Acting Chairman (Senator Gerry Horkan): The following motion relates to housing for the elderly, but I prefer to call them "elderly people" because that is the more correct phrase in current parlance. I welcome the Minister of State, Deputy English, and call Senator Reilly to move the motion.

Senator James Reilly: I move:

That Seanad Éireann:

noting:

- the excellent progress to date under the Rebuilding Ireland Plan;

- that Ireland's over-65 population increases by 20,000 every year and there are currently 638,000 people over the age of 65, and by 2040, we will have 1.3 million over the age of 65;

calls on the Government and the relevant Departments of Housing, Health and others to bring forward a comprehensive plan and policy guidelines:

- to offer options, including new capital funding models (private or public or both in collaboration), to encourage and facilitate the real effective delivery of bespoke housing options for the elderly (now defined as over 55);

- to establish a specific fund, possibly administered by the soon to be established bank, 'Home Building Finance Ireland', to provide funding to individual community co-op type companies, not-for-profit, cost-based elderly housing projects drawing from competitive sources such as the European Investment Bank which lends at 1%- 2% rates for community-based housing projects;

- to cover the full spectrum of needs from independent living, to low dependency and high dependency clients needing bespoke housing designed to their needs in appropriate locations close to local services if possible;

- to consider altering National Planning Regulations to bring in a specific designated zoning for reserved sites and flexible policy wording, in all county development plans for elderly housing (e.g. similar to specific zoning for reserved school sites);

- to collaborate formally with the service providers, Department of Health, HSE and others to provide the relevant services to the clients and, as appropriate, to keep over 55s and older, in their local communities and in independent living for as long as possible ;

- to review the tax regulations and alter them to encourage and enable persons living in large homes inappropriate for their current needs to downsize to bespoke housing for the elderly, by, for example, exempting bespoke housing for the elderly, both public and private from property tax charges, and examine the suite of current capital and other taxes to see if an incentive can be designed to encourage downsizing; the Royal Institute of the Architects of Ireland claim that in 2016 there were 900,000 homes that were not occupied as family homes;

- to ensure that private bespoke elderly housing would receive the same exemption from local authority construction planning levies, as long as the housing units, not-for-profit, are set aside in perpetuity as elderly housing;

- to consider the housing co-op model as a vehicle to deliver elderly housing for communities, particularly groups of persons who want to combine their resources to downsize from larger private homes;

and that these policy proposals would address the demand for all elderly housing, in-

cluding social clients now provided for by county councils and approved housing bodies (for example Fold, Alone, Sue Ryder to name a few) along with the larger cohort of private demand for persons who, for example, may wish to sell their existing large home and buy or rent long-term at affordable rates a bespoke elderly housing unit, so that elderly persons can find safe, secure, independent housing options in their local communities in clusters or in individual estates and continue to be active in their communities, avoiding the scourge of loneliness associated with inappropriate housing, particularly in isolated locations.

I dtús báire, ba mhaith liom fáilte a chur roimh an Aire Stáit, an Teachta English. I welcome the Minister of State and thank him for being present for the debate on the motion.

This issue has been around for quite some time. In 2014 I remember discussing the matter with the then Minister for Finance, Deputy Michael Noonan, to try to introduce some incentives for people who would like to move home as the houses in which they have spent their adult lives rearing children are far too large for their needs because their families have left. Many of them need some help because they are not wealthy. They are often asset rich - although many would argue that an asset is something that earns one an income and that, therefore, a home does not qualify - but they are cash poor. The issue has become more and more prevalent and the problem is that not only do the people concerned wish to downsize and find it difficult to afford to do so, but there is also a lack of availability.

The motion attempts to address many of the issues raised as a consequence of this situation in which many people find themselves. Some would like to be in a position to help their children to get on the property ladder or help their children who may be in negative equity and trouble with their mortgage. Many of the people to whom I have spoken find it difficult to maintain their large, old houses which are often cold and were built long before we had building energy ratings. One hears disturbing stories of older people living only in one room because they cannot afford to heat the rest of the house. We need to address the issue in an holistic fashion across Government and ensure smaller units are available for older people who would like to downsize. These matters are addressed by the motion.

The second recommendation made in the report produced by Deputy Bailey and the Oireachtas Joint Committee on Housing, Planning and Local Government speaks to the need for mechanisms to be developed to incentivise and promote the construction of housing options and residential care facilities located in town centres or central locations within easy reach of local services. That is critical. Many older people want to stay in the communities in which they have been living and do not want to move far away. They become less mobile and may prefer to drive less and instead walk to most facilities such as shops or cafes. That is better for the environment and the person because it is a healthier lifestyle.

On the substance of the motion, the first suggestion is for a co-operative model for pensioners who can sell their homes and downsize to elderly housing. There are currently approved housing bodies which do not have to pay any building levy, but I would like the Government to examine affording the same right to a co-op that would take this approach. As I have said to the Minister of State, this has been a problem for some time. I have a document from a meeting held in Skerries last week relating to a group of 50 people who want to help themselves, together and independent. Given that the group was set up more than 30 years ago to address the issue, the problem clearly did not arise last year or ten years ago but rather quite some time ago. We need to give such people help to help themselves, as Fine Gael Governments have been in favour of doing over the years.

A critical part of the suggestion is the need to have available affordable housing to which people can downsize. We recommend the establishment of a central building fund offering interest rates of between 1% and 2% to build the houses that can be subsequently sold or rented to people by lease. The money would be automatically remitted to the fund and available for future projects. If we get rid of the housing levy for houses built under the co-operative model, as I propose, it would save €10,000 per home on average. Furthermore, there should not be any property tax on these homes and there should be an exemption for elderly housing co-op dwellings. A part of the deal would be that on the demise of the individual or if he or she wanted to move home, the home would have to be sold back to the co-op for future use. Therefore, the stock would not diminish but would continue to increase. The residents could share in any increase in the home's value, but they would ultimately have to sell it back to the co-op. It would be critical to reserve sites in the centre of towns. As the Minister of State will know, in most local area action plans, sites are reserved for schools. Why, then, could sites not be reserved for housing of this type for older people?

We would also like the Government to examine the issue of inheritance tax and gift tax, purely in the context of money given to a child to get on the housing ladder or those who might be in negative equity and danger of losing their house. Some 638,000 people are above the age of 65 years in the country and that figure is expected to grow by 20,000 per year. As a result, the issue will not go away but rather will become more acute. The benefit to older persons is that this would offer them an option and incentives without placing an onus on them, while the benefit to broader society is that there will be communal arrangements such as a common room where a public health nurse could hold a clinic once a week, providing for passive surveillance of older people. They will all know each other and feel safe within the enclave. They will know if Johnny or Mary has not been out for days and if that is unusual, they can alert someone.

An interesting statistic from the Central Statistics Office is that 900,000 homes which are designated as family homes do not have a family living in them. This is a real, widespread issue and the potential benefits of addressing it are considerable. I know that the Minister for Housing, Planning and Local Government, Deputy Eoghan Murphy, and the Ministers of State, Deputies Damien English and Jim Daly, are doing much work and interested in a raft of potential measures. As the Government has welcomed suggestions, this is our way in the Seanad of making suggestions that have serious merit. From my experience as a doctor, I know that there is much research that shows that what predicts good mental health in older age is not so much being surrounded by family but rather having a strong social circle of friends. I will give a real-life example. Michael Caine spoke publicly about how he had bought his mother a brand new house, rather than the little place in which she was living and she had to move to the other side of London. After a year and a half she moved back because she was miserable; she missed all her old friends and all the places she was used to going to. It is real. We need to make sure the option is there for older people by ensuring two-bedroom units are available. They could be up to 1,000 sq. ft. As we acknowledge that older people may still want their family and grandchildren to come to stay, the units need to be built to a standard. The report to which I alluded earlier talks about a uniform build where the specifications reflect the demographic living in it such as the age of the person; therefore, plug sockets are higher up, cooking ovens and hobs are at the right height and there are no door saddles, to mention just a few. The units would, of course, be built to the highest of standards of building energy ratings. The environment wins again, but so too does the person who is living in the house since his or her energy bills will be negligible and he or she will have more disposable income. I hope the Minister of State will take all of this on board and that he will have some positive things to say about it.

I will conclude by saying I have always believed an overriding principle when it comes to any policy, that we should make the right thing the easy thing to do. I do not believe that currently the right thing is the easy thing to do for many people who find themselves in these situations. To further emphasise the demand for this proposal, I was walking into my surgery this morning when I was met by two constituents who were interested in this type of measure. On explaining it to them they were very positively disposed towards it. This may not be for everybody. Many people are very happy to stay where they are in their homes and we encourage that. It will, however, suit a lot of people. It will also allow a substantial minority of people who might otherwise go from where they currently are straight to a nursing home to remain independent for a much longer period. This would be to their benefit and that of the State.

Acting Chairman (Senator Gerry Horkan): I thank Senator Reilly. I believe the Senator's seconder is Senator Colm Burke.

Senator Colm Burke: I second the motion as proposed by my colleague, Senator James Reilly. This is a huge issue that we now face. It was brought home to me a number of years ago when I was calling door to door in an area. In eight of ten houses - one after the other - there was a widow or a widower living on his or her own in quite good three and four-bedroom houses. They were all holding on and not selling because they felt there was the issue of the cost of moving and so on. They also wanted to stay in their own local community but there was no alternative there for them.

It is extremely important when we are planning that we put in place the appropriate amount of housing for new couples who want to move into an area and the appropriate planning within the overall plans for retired or older people who want to downsize. That is not happening. It is not unusual to come across 100 or 200 houses all the same type and size in a housing estate. We are not engaged in any forward planning.

I come across another issue more and more and I am sure the Minister of State has also encountered it, where local authorities have to step into the breach to install downstairs bathrooms or shower facilities because these facilities are not available downstairs for older people. It is a huge problem and we need to engage in more forward planning in that regard.

We need to make housing co-operatives available or have some other mechanism in place for people to downsize without facing penalties. In Ireland we have a thing about ownership of houses and that one must own the bricks and mortar. Consider the United States of America, where if a person buys in an apartment complex, he or she buys a share in the complex, not the apartment itself. If there are 50 units in the complex, there are 50 shares and each person owns a share. If the person dies or wants to transfer the share, a valuation is put on the premises to see how it will be transferred. In Ireland we have a process with a lot of conveyancing, but in that example a company owns the overall complex and a person can buy a share. Senator Reilly spoke about co-operatives. We in Ireland seem to have moved away from co-operatives, but it was a very effective way of managing. It has certainly done well for the entire dairy sector. It was used somewhat in housing, but we have moved away from it. There are major challenges and we need to start looking at new ways of dealing with it.

I have a good example of there being no need for everybody to move into a nursing home once they become in any way incapacitated. I know a lady who will be 97 years old in February. She has been in a wheelchair for more than 12 years. This lady lives on her own in her own house because she never wanted to move into a nursing home. She is getting the supports

also, but if there are a number of people who have similar requirements, it is far easier to service those requirements if they live in close proximity to one another. Currently, one person may need a home help and the next person who needs the help is two miles down the road. People want to have all of the facilities.

In the area of Cork in which I live, Bishopstown, a huge number of people are looking to downsize, but there is nowhere for them to downsize to. We are looking at one project where a site has been identified with a pharmacy, a GP surgery, shops and many other services alongside it. That is the kind of facility we need where everything the person requires is in close proximity and he or she is not reliant on additional supports to live a normal life. We need to be innovative. We are doing a lot of building. There is good news this week that the number of new builds is up to 19,000, but let us not repeat what we did in the past 20 years where we put everything into one compartment and one design and that was it. We have not looked at different age groups and the housing requirements of people with a disability. When one considers the numbers of people who are being supported with disability benefit by the State, it shows the demands and why we now need to adjust housing policy accordingly.

I thank Senator Reilly for bringing forward the motion. It is very comprehensive. The Department should look at it and encourage local authorities to work with private investors because we may need a joint approach in some of these developments. Private companies would be very slow to become involved, but we need to make sure we can come forward with new ideas to deal with the issue. Reference was made to the growing number of people who are over 65 years of age. The number of those who are over 85 years is increasing even faster, in real terms, and will grow substantially in the coming years because people are living longer.

I ask the Minister of State, Deputy English, to take the proposals on board and carefully consider them and that there be consultation with local authorities on how we can bring forward positive solutions in that regard.

Senator Jennifer Murnane O'Connor: I welcome the Minister of State, Deputy English. We are very lucky that the Minister for Housing, Planning and Local Government, Deputy Eoghan Murphy, as well as the Minister of State have come to the House today. It is a good day because we have had a robust debate on housing. At the end of the day, we are here for the good of the people, including those who need houses. We may all have different views and blaming each other will not solve the problem, but I know that we will work together, as we have done as members of the Joint Committee on Housing, Planning and Local Government.

The Fianna Fáil Party broadly supports the motion which aims to provide specific accommodation for older people. While Rebuilding Ireland has missed several targets, it needs to be enhanced and resourced to tackle the distinct needs of several sections of society. We need to talk about what is being built and address the issue that we are building units that serve one type of family only. A core priority must be building units to allow older people to live independently and for as long as possible in their own homes. We need to plan for the future, not for today but for tomorrow. Tomorrow will be different from today. We need to lead, not react.

The demographic challenge in Ireland means that we need to put in place fit-for-purpose housing infrastructure to reflect people's changing needs. We need to create housing for all people, providing all types of accommodation, including the co-operative model that is so popular and successful in Scandinavian countries. The co-operatives must include any or all of those who wish to live in such housing. As Senator Reilly said, it would not be for everybody, but at

least if we can give people a choice, they can make up their own minds. The co-operatives must include everyone. They are not glorified retirement homes, in which some people want to live, but others do not want to live in them. The motion draws on Fianna Fáil's policy of promoting town centre based accommodation for older people and measures to incentivise downsizing, where appropriate. Older people should never feel pressurised into leaving the family home that they worked long and hard to buy. Taxation incentives to move should be accompanied by targeted accommodation in suitable areas in the community.

It is appropriate, as Senator Reilly said, that people should have a choice in deciding where they want to go. It is vital that the issue be approached sensitively and that we respect the fact that the size of a house is not the sole criterion in deciding whether one wants to move. There are many older people who like to host charity functions in their home, on which many charities rely. They may rule out moving to a particular home because of its size. It ignores the person's contribution to society. Therefore, we have to be careful about how we do it. The role older people play in the community should not be undervalued. The person has spent a lifetime in the area, still has a lot to give and should never be forced into relocating in an area in which he or she will not be comfortable and with which he or she has no connection. His or her role in the community and family connections should always be fully appreciated in Government policy. We need to create communities, not segregate people based on age, family dynamic or economics.

It is important that adaptation grants be fully restored and delivered in a timely manner to help older people to upgrade their family home in order to continue to live in it, if that is their wish. People are living longer and when it comes to helping older people and those with disabilities, affording them the opportunity to grow old and remain in their home is a central plank of Fianna Fáil policy. They face unreasonable waiting times for decisions that will impact on their lives. This essential grants scheme is mired in backlogs, with unreasonable waiting times for decisions on applications. The generations before us put us where we are today and we need to look after them as well as they looked after us.

The number of home care packages should be increased alongside the number of home help hours that are critical in enabling older people to continue to live at home. Long-term demand for care continues to grow and we now have a scandalous situation where 6,200 people are waiting for home care packages to be approved. From speaking to families all across County Carlow, I know that they are enduring great hardship in applying for and being granted home care packages.

The Part V requirement should be expanded to 20% of builds, with specific references to specialist accommodation, including town centre developments, placing such accommodation near crèches, etc., all of which are socially inclusive ways of engaging people through clever planning.

I recommend that there be formal collaboration with service providers, the Department of Health, the HSE and all other relevant bodies, particularly the councils. It is so important that all local authorities play a significant role in that regard. As I said, people are living longer; therefore, it is about quality of life. Rural areas do not have the infrastructure that is in place in Dublin. As those living in rural areas do not have access to the same transport services, one has to be very careful when a proposal such as this goes ahead. Overall, there are very good aspects to the proposals which have been made, but it must be remembered that some of us are based in rural areas. What I would see as a Member from a rural area is it being done properly. I would

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like to see a focus on the inclusion of small towns in the scheme. Older people in remote areas are living in fear because of robberies and break-ins. Therefore, we need to target those living alone in isolated areas who might not even have a family. It is up to the local authorities and the Government to make that connection and survey people living in rural areas and cities in order that we will be able to target them and not forget anybody.

This is an important motion. If implemented correctly, it could be very important for elderly people. We need to approach people and bring them to a meeting at which somebody will go through the options with them. Everybody needs to see if this proposal is suitable for him or her and if it is, it will be very valuable. If not, we will have to be respectful of his or her choice. I thank the Minister of State for coming to the House. I am in favour of the proposal. If it is approached in the correct manner, it will be very good for the older people of Ireland.

Senator Victor Boyhan: I welcome the Minister of State and thank him for his presence. I know that he has a great interest in this issue.

I thank Senator Reilly and the Fine Gael Party for bringing forward this proposal which is appropriate. I also acknowledge, as Senator Reilly did, the work of the Chairman of the Oireachtas Joint Committee on Housing, Planning and Local Government, Deputy Bailey, and Deputy O'Dowd who is a very active member of the committee and has shown a keen interest in this issue in his work on it. Senators Conway and Murnane O'Connor and I are also members of the committee.

To simplify the issue, it is about finance and planning. I want to deal with the issue of planning, to which there are a number of strands. The Part V provision has potential, be it at a figure of 3% or 4%, but it is important to consider where units are built. It is a great idea, but it has been done already by some of the religious congregations, co-operatives and approved housing bodies. There are some really nice examples of such developments. There are two or three in Sandymount that are particularly nice. I would not mind living in any of them. We should look at models of best practice. It is important that we do not have a load of private developers jumping on opportunities to throw up units to avail of tax breaks or exemptions from planning levies, on which local authorities rely. That is the reality when it comes to local government finance. Therefore, we must be very careful.

I am not in favour of building what are called special retirement complexes half way up a mountain or miles away in the countryside because elderly people want to engage in their communities. I live in an area where there is a very high rate of "empty nesters". I do not like that term, but there are a lot of single elderly people living in very valuable homes worth in excess of €1 million, €2 million and €3 million. However, they like where they live. They go to mass locally; their GP is up the road; and they go to the library. They have a sense of place and community and feeling secure is very important to them. It will become more important to us as we get older. People like familiarity and to be among their community and friends. They like to be near their GP, optician and local butcher. We like the sense of being recognised, valued and part of a community, which is innately human. As I said, what has been proposed is a great idea, but I would have some concerns about planning levies. Therefore, I suggest a reduced levy for co-operatives that are registered charities.

5 o'clock

I want to guard against what happened in the case of student accommodation. It has become

attractive to build student accommodation. Members know that developers are availing of tax breaks and throwing up student accommodation units. We know that three of these little student units can become apartments eventually. I am telling this House that within five years we will be told that some of the student units did not work and they will be converted to apartments and then sold. As the developers will have benefited from tax breaks, we need to have strict regulations and controls in selling on these developments. Senator Reilly raised this point which is really important.

It is an issue of planning. There are 31 local authorities, all of which have a county development plan. I can never understand the reluctance on the part of some councillors to exercise options that are open to them. It is open to councillors to vary them. Sadly, we did not get support from the other side of the House in varying the county development plan, but we did get some sort of a compromise that local councils could seek to have their chief executive bring a report within 30 days on the county development plan. Our regime and the Government support the idea that members cannot vary their county development plan if their chief executive does not agree to do so.

Yesterday we spoke to the Minister's other colleague about directly elected mayors. This and previous Administrations have empowered these powerful chief executives in the 31 local authorities to effectively block directly elected members from being able to vary the country development plan. I do not want to rehash that point because we came up with something with which I hope councillors are relatively happy.

Deputy Damien English: It is their plan in the first place.

Senator Victor Boyhan: Absolutely, but they cannot vary it. Under the legislation, will the Minister of State clarify for me that elected county and city councillors can request their chief executive to write a report on a proposal to vary the development plan, but if the chief executive does not wish to proceed, it cannot happen. That is a joke in terms of local government. We will be electing councillors again next May, but we are tying their hands behind their backs. Senator Reilly has this proposal, but if I were a councillor living in the administrative area of Dún Laoghaire-Rathdown and were I to go to my chief executive with a proposal to vary the county development plan to include at least one of these schemes and were the chief executive of the day to refuse, I would be goosed. That is not right. I fully support and will vote for this proposal.

The caveats are issues surrounding finance and empowering county councillors. When we leave here, let the local authorities proceed to vary their county development plans to make provision for this. This is an issue the Minister of State might address because it is an important point. I absolutely support it. Let the development be town based, whether in rural towns and villages, but I am not in favour of identifying old sites where, by ducking and dodging planning regulations, a developer can throw up chalets with minimal landscaping that we will be told that are wonderful for old people. We cannot and should not go there. I fully support the proposal otherwise.

Senator John O'Mahony: I support the motion and thank Senator Reilly for asking the Government to bring forward plans and policies to cater for Ireland's ageing population. He gives the figure in his opening statement that about 638,000 are over 65 years and increasing by 20,000 people per annum. I happened to come across a number of figures from the Parliamentary Budget Office today. It states that between 1996 and 2016 the increase in the population in

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the working cohort, that is, those aged 16 to 64 years was 67.4%, whereas from 2016 to 2051, it is projected that the working cohort will increase by 13.9%, while the population aged over 65 years will increase by 145.1% in that period. That is another figure to confirm and which is a tribute to our improving health. The health system gets a lot of criticism, but perhaps it is not as bad as we are led to believe. The idea of giving people an option of downsizing makes everyone a winner in many ways. A person may relocate or downsize to an area where the services, as Senators Boyhan and Reilly said, are actually beside them, whether it is the church, shops or the post office. That reduces the isolation of elderly people living in other areas and would be effective not just in Dublin, Galway or the big cities but would also be equally effective in the villages and towns. I have seen it in operation. Senator Hopkins is aware of such a development in the area around Ballaghaderreen where both of us live. Elderly people who were living on their own have come from rural areas into town. They can walk to the shop, the church and the GP. It is a good model. I will not go into the mechanics of co-operatives or anything else. I want to support the thrust of it. When I say everybody is a winner, I presume that when people downsize, they sell their house; therefore, housing is becoming available for larger families. It is a win-win. This model should be supported and I am glad to hear that there is cross-party support for it around the House.

Acting Chairman (Senator Gerry Horkan): I ask Senator Warfield to move amendment No. 1.

Senator Fintan Warfield: I move amendment No. 1:

To delete the first paragraph under “noting:” and substitute the following:

- the failures to date under the Rebuilding Ireland Plan by its inability to deliver sufficient output in social and affordable housing;”.

Senator John Dolan: I second the amendment.

Senator Fintan Warfield: I commend those who have brought the motion to the House. I know that it is coming from a good place and that it is well intentioned. The elderly are on the periphery of the conversations on the housing crisis. We often do not look at housing struggles through the lens of older people and there is an assumption that older people are mostly settled in their homes and that those homes were bought decades ago with mortgages that have largely been paid off. Focus Ireland highlighted last summer, however, that there had been a 40% increase in older persons’ homelessness. ALONE also outlined to the Joint Committee on Housing, Planning and Local Government last year that:

At present, 90% of all the older people in our housing are coming from homeless services, which traditionally was not the situation. There are approximately 35 older people for each house and 35 people over 70 years all trying to get into one house is not a good queue to be facing. When they try to obtain private rented accommodation in their 70s, they turn up, usually on their own and perhaps try to pay the rent with housing assistance payment, HAP. They are just not attractive to the private sector.

We can continue to have conversations in this House about how successive Governments could have acted sooner and appropriately on housing in recent decades, but I think that point is well established. It is simply political play-acting if we do not learn lessons from it. Our policymakers have known for some time that we have an ageing population, that society’s needs are adapting and that policy should adapt on that basis. This can only be achieved through im-

mediate action in improving housing stock but also creating the policies that can adapt to cater for an ageing population.

One thing that is absent from this debate is the Government policy on architecture. The last Government policy on architecture brought us up to 2015. As it is a responsibility of the Department of Culture, Heritage and the Gaeltacht, I wonder whether the Minister of State has any insight into the consultation on Government policy on architecture. I understand there is a consultation due shortly.

Senator Boyhan mentioned student accommodation. Universities are attempting to attract more international students because the State subsidy for third level education has fallen and these students are cash cows for universities. We can see an example of student accommodation popping up on James's Street. I have spoken to architects, not on that job, who have highlighted the need to future-proof student accommodation developments to ensure they are sustainable in the long term. That probably contradicts Senator Boyhan's comment on such buildings being quickly used for apartments. What if we wanted to use the student accommodation on James's Street for older people? That is where the importance of the Government's strategy on architecture comes in.

We also need to ensure the State offers incentives to downsize. This issue has been mentioned. It is important that people can downsize in their neighbourhoods and that when older people move to smaller units the units be future-proofed, which means providing adequate space for walking aids and wheelchairs, widened doorways and so forth. Future-proofing must also enable residents to retain independence, be safe and have access to amenities and communities that are important to them. While it may be idealistic to seek to have those needs met during a housing crisis, we need to have a robust series of measures to do it. What meets the needs of a cohort of elderly people might not meet the needs of everybody. There are also those with physical mobility issues or chronic mental health conditions such as Alzheimer's disease or dementia. We have benchmark models for this, however, including purpose-built villages for dementia sufferers, one of which has been opened in Limerick. There should be a review of how they could be rolled out across the country.

While Sinn Féin supports calls on the Government to prioritise housing for older people, we seek to amend the Fine Gael motion before we can offer it support. The first paragraph of the motion, as initiated, proposes that Seanad Éireann note the "excellent progress to date under the Rebuilding Ireland plan". Amendment No. 1 reflects our belief the House does not share the view that Rebuilding Ireland is making excellent progress. Neither I nor my party holds that view and I do not wish to endorse it. Rebuilding Ireland has failed to meet some very meagre targets. The Rebuilding Ireland 2018 third quarter social housing building report showed that a total of 2,369 social housing units had been built across the State by the end of September. That is not even half the targeted figure, which most experts agree falls short of the demands created by the crisis.

The second amendment proposes inserting a reference to the Credit Union Development Agency, which highlights community bodies that want to start funding streams to back social and affordable housing but that have been blocked from doing so. The Department of Finance should work with such bodies in that regard, but it is not doing so. Simply put, we are not prioritising community funding where we could be.

Amendment No. 3 proposes to remove the reference to tax incentives. It would be a bet-

ter use of the motion to call for a broadening of the housing adaption grant that would aid refurbishments in a downsized home. Tax breaks, as proposed in the motion, are broad. Our interpretation of this measure is that it would mandate the Department to bring in tax breaks that might eventually be turned into policies such as VAT cuts for developers. That would not ease the cost for the older person downsizing.

The fourth and final amendment references the report published in June 2018 by the Joint Committee on Housing, Planning and Local and Government entitled, Housing Options for Older People. The joint committee held two meetings on the topic of housing for older people and met officials from the Departments of Health and Housing, Planning and Local Government, representatives of the Royal Institute of Architects of Ireland, Age Friendly Ireland, ALONE and Age Action. Its report was agreed on a cross-party basis, as were its recommendations which appear to be in direct conflict with some of the proposals set out in the motion. As I noted, the committee report recommended a broadening of the housing adaption grant as opposed to a review of tax breaks for refurbishment purposes. Sinn Féin's representatives on the housing committee worked hard to come to a consensual view on this issue and I prefer to support that view rather than the proposals made in the motion.

Senator John Dolan: I welcome the Minister of State as we start a new year. I welcome and commend this initiative led by Senator Reilly and his colleagues. Senators Reilly and Colm Burke, in their own way, referred to three core issues, namely, home, place and relationships. If we cannot see these three elements coming out of plans, we might as well tear up the plans. The motion presents the idea of making trading up and down easier. Senator Reilly spoke about older people and the reduced ability or disability that come with old age. We cannot seriously talk about housing and community supports for older people without factoring in people's changing abilities, for example, people may become disabled or uncomfortable with being able to operate in certain ways. As people age, many will become disabled in one way or another. That has to be the bottom line and benchmark in design and planning.

Senator Reilly stated the right thing should be the easy thing to do. We have a real problem with making the right thing the easy thing to do. I will come back to that issue.

We are still in the eye of a major housing crisis. The Minister must avoid solving today's problem, critical and chronic as it is, by creating more problems in the future. It is easy to say that, but that has to be one of the guiding principles in dealing with today's chronic housing issue.

The motion notes the "excellent progress to date under the Rebuilding Ireland plan". In general terms, that is true, even though we are all frustrated that we have not yet seen light at the end of the tunnel. I have one comment, however, on the Rebuilding Ireland plan. On page 55 which refers to people with disabilities there are four paragraphs. I was highly critical of it at the time and want to rehearse that criticism now for a particular reason. We knew at the time that there were 3,319 people with disabilities on the social housing list. This figure was identified in the 2013 survey carried out by the Department. We did not have the 2016 figures, but they came out the following year. I do not have the exact figure for 2016, but it was around 4,600. As such, the figures were trending upwards. Rebuilding Ireland includes a great deal about processes, subgroups, meetings and stakeholders. A plan, the authors of which did not even have the good grace to state what we already knew, namely, that there were 3,919 people with disabilities on the social housing waiting list, was not facing reality or giving a sense that it would deal seriously with the issue of people with a disability. The motion goes on to call on

the Government and the relevant Departments of Housing, Planning and Local Government, Health and others to bring forward a comprehensive plan and policy guidelines. That is excellent because the matter is interdepartmental.

We are excellent with strategies and plans and all the rest. However, I seldom see a comprehensive implementation plan that deals with the critical areas that go across Departments. One exception was when we had the great unemployment crisis. Every Department was being whipped every day of the week about jobs, jobs and jobs. No matter the Department, it was under the whip to ensure we got jobs back and that we got people back to work. If we are to deal with the housing crisis, there has to be the same sense across a range of Departments.

I find it helpful to cover the full spectrum of need from independent living to low dependency and high dependency clients. That has to be welcomed.

The national positive ageing strategy is well regarded and we have had it for several years. It deals with a range of things. I am raising it now because the issue of implementation bedevils us all the time. I would love to see us passing fewer motions and giving less consideration to initiating legislation – this is almost heretical – but spending more time getting down and dirty about how plans are being implemented and legislation is working. It would be valuable for this House to spend a greater balance of our time doing so.

In 2002 the Madrid international plan of action on ageing was published. I am keen to name two objectives from it. One objective refers to the promotion of ageing in the community with due regard to individual preferences and affordable housing options for older persons. The second objective refers to improvement in housing and environmental design to promote independent living by taking into account the needs of older persons, in particular, those with disabilities. We have plenty of indications from Ireland and internationally on what we need to be doing. Article 19 of the UN convention relates to living independently and being included in the community. That is relevant. I will not say any more about it, but it is germane to and important for this motion. I tabled a successful motion in July 2016 on housing. Again, the issue of follow-up on these things arises. The motion was passed unanimously. Comprehensive plans and policy guidelines will not deliver without a whole-of-government approach that needs to be driven from the centre of government. Someone said culture ate strategy for breakfast. Our culture holds that if we write it down and have a plan, it will implement itself, but it does not.

The issue of people being able to live in a community and trade up and down is important. If we could crack this nut and have a better mix of housing and housing types in one community to enable people to trade up and down without penalty, it would be preferable. I live in a house that I moved into 19 years ago. It is a bungalow. The people who left it were in their mid-60s. They were able to move within 300 or 400 yards into a ground floor apartment. They are still hale and hearty. They go to the same church and have the same relationships and connections. That, as much as anything else, is keeping them right, hale and hearty.

Senator Maura Hopkins: Like other members, I thank Senator Reilly for putting forward the motion. It is certainly one I am happy to support. In my previous life before becoming a politician I was an occupational therapist; therefore, I am well aware of the challenges in housing and working with older people to facilitate living at home for the longest possible time. Like Senator Reilly in his general practice, I have encountered many people who have had to deal with discharge planning from hospitals. At such times, families and individuals may seek

more appropriate options in terms of housing, sometimes at a time of crisis. It is not as available as we need it to be for individuals following a stroke or those with cognitive issues, those at risk of falling or those with mobility issues. We also have many people who are elderly. As Senator Reilly pointed out, the need for the development of bespoke housing options is important in supporting the older population. As previous speakers pointed out, this model not only provides options for older people, it also alleviates the current pressures of which we are all aware in the housing sector.

It is important to emphasise repeatedly the issues in rural areas. Rural isolation is a reality in many rural areas. Many children have had to move away from rural areas because of employment opportunities. They are not around to support their parents or extended family members.

Obviously, a different debate altogether arises on the issue of rural transport. I am pleased that, within the context of the motion, Senator Reilly mentioned location as being a key factor. As Senator O'Mahony pointed out, I have seen at first hand the successes in terms of how supported housing models are working in reality. We have many examples, including the Society of St. Vincent de Paul houses in Ballaghaderreen, the Millrace retirement village in Ballinasloe and the wonderful Four Mile House at Kilbride Community Centre. We have seen that these projects can work in an excellent way to support older people to live with the greatest amount of independence possible. People there can access services and live with a good quality of life. That is what we should be aiming for in supporting older people.

Obviously, we need cross-departmental co-operation. Another part of the debate relates to the HSE. We have an intolerable situation where individuals in need of home help are being assessed as requiring home help, yet they remain on a waiting list. My point is that to deliver these housing models, we need cross-departmental co-operation. That is critical if we are serious about supporting people to live at home for the longest possible time.

They are the key points I wanted to make. The bigger point is that we know that there is no immediate fix to all of these issues, but, as Senator Dolan pointed out, we need a plan that is able to deliver. Certainly, the sentiments outlined in the motion could go a long way to ensure we support older people to live at home for the longest possible time.

Senator Jerry Buttimer: I welcome the Minister of State. I thank my colleague and friend, Senator Reilly, for tabling this important motion. I also acknowledge the work of Councillor Tom O'Leary on the motion, for which I thank him.

Earlier today we had a very good debate on housing and now, in tandem, we are looking at another aspect of housing. While many Senators have spoken about rural Ireland, the demand for housing in urban centres also has changed considerably through a combination of demographic and lifestyle changes as we are living longer. When he was the Minister for Health, Senator Reilly always spoke about people being treated close to home. In this case, the same applies to keeping people at home. The Minister of State is very familiar with this and I commend him on the work he is doing, particularly with local authorities.

People are now looking for sustainable apartment living rather than the traditional low density three-bedroom semi-detached homes. This presents a problem because the cost base is an issue for the viability of such projects. The important motion before us focuses on the new need for independent living, sheltered housing and downsizing and is about ensuring we plan and put in place a model for delivery. A comprehensive plan is required in order that we can keep

people in independent living.

Senator Dolan spoke about the jobs issue. The Action Plan for Jobs was successful because it focused minds at a time when unemployment was at 16%. It is now below 5%. The action plan for housing, Rebuilding Ireland, shows that the Government has allocated the highest amount of money for housing, at €2.4 billion, but we must deliver. Senator Warfield referred to student accommodation, about which Senator Ardagh also spoke on the Order of Business. It is being built because, as is the case with commercial premises, it is viable and, consequently, developers will build. We must address the cost base of construction because it is linked with the heart of the motion we are debating, which is offering housing options.

I welcome the decision of Cork County Council to create more sheltered housing as part of its development plan. The Ministers of State, Deputies English and Jim Daly, held a very successful housing conference at the end of last year on the needs of older people. At the time, the Minister of State used a good phrase. He referred to the need to enable older people to “right-size” with regard to their accommodation.

I am heading towards being over 55 years old. When I canvass and knock on doors, I see the number of empty houses of people who are in nursing homes or hospital wards for the elderly. I also see the number of older people who answer the door but who live in one or two rooms of their house. I would love the Minister of State to visit Lapp’s Court on Hartland’s Avenue. I know that he was in Kilmaley with the Minister of State, Deputy Jim Daly. They are models of independent living that we can recreate throughout the country and we must consider them.

Traditionally, the options have been nursing homes and county homes - in the case of Cork, we have St. Finbarr’s - or staying at home in a big ramshackle three-bedroom semi-detached house. In the earlier debate on housing I made the point that half of the people on the housing list in Cork city and county were single. We must address this need. I dare say, at the risk of incurring the wrath of some, that many members of the LGBT community are single or part of couples. We must build houses to meet this need also. We must look at the new plan to see how we can accommodate the needs of older maturing LGBTQ people, with the needs of married couples, widows and widowers who want to downsize.

I very much welcome the cross-departmental link between health and housing. The conference held last year was important. The cost of care for the elderly runs to almost €2 billion. Building on last year’s conference and supported by the motion, we can be innovative and creative. As Senator Reilly said, we can look for ways to incentivise. This is an important motion. It is one that plans for the future and sends a positive message. Every week we all hear from people on housing lists and who own their own home who tell us that they want to downsize. They all want to live in their communities and go to mass, the shop, the chiropractor, the grocery store, the doctor and, perhaps, amble up to the pub, although we are not supposed to be pro-drink. That is the model we need to have.

Senator John Dolan: Ambling up is okay.

Senator James Reilly: Staggering back might be a problem.

Senator Jerry Buttimer: Once people amble home also.

Last summer I visited a friend of mine in Philadelphia whose mother was living in an independent living apartment complex. It was fantastic. She had her own kitchen, dining room,

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bedroom, bathroom and sitting room in a complex supported by the suite of services required. To add to it, there was even a swimming pool. I am giving this as an example. We must be bold and imaginative. The motion does this and I commend Senator Reilly. I thank the Minister of State for being here and hope we can support the motion as tabled by Senator Reilly.

Acting Chairman (Senator Diarmuid Wilson): Most people I know try to make themselves younger than they are, but in his contribution the Leader was trying to make himself older than what he is. From my recollection and I know him for well over 30 years, his birthday falls on 18 March-----

Senator Jerry Buttimer: The Acting Chairman knows me too well.

Acting Chairman (Senator Diarmuid Wilson): -----and this year he will still have three years to go to 55. The Leader should not be too hard on himself.

Senator Jerry Buttimer: The Acting Chairman has aged well since we left college together. I have not.

Acting Chairman (Senator Diarmuid Wilson): I thank the Leader. My hair colour did not change.

Senator Maria Byrne: I welcome the Minister and compliment my colleague, Senator Reilly, on bringing forward the motion. I have had the pleasure of visiting both a private and a public venture in Limerick with the Ministers of State, Deputies English and Jim Daly. The private and public facilities have definitely learned from each other about ways to improve the lives of older people, particularly those aged over 55 years, towards whom both developments are geared. It has been a very innovative way to give older people security and quality of life. I will begin with the private home where people of all ages live. There was social dancing, drama classes, arts and crafts. The day we were there a table quiz was held. There is so much going on. Everybody there has a key to his or her own front door and the success of the project is down to the fact that people can cook meals in their own home if they wish or arrange to go down to the communal area and avail of the food available there. There is also a pharmacy, a local shop and a doctor within 200 yd. of where the facility has been built.

The public facility built by the local authority won an award for the building and the thought put into it. I compliment Limerick City and County Council on the amount of work it put into it. It built it in an area which had everything on site or very close by, which was very thoughtful. The facility encourages older people to downsize. They have a communal area in which they come together for classes or group activities and a tea or coffee area for visitors. There is security and a local nurse or doctor is available. A care assistant is on call for both facilities, which is very important because it has given great security and peace of mind to the older persons resident therein.

In the case of the local authority facility, there has been a land swap of sorts in that householders who may be widows or widowers living in a three or four-bedroom house have been encouraged to move to a one or two-bedroom unit in the facility. This has freed up some local authority houses for families. All local authority areas are experiencing the same difficulties, with lengthy housing waiting lists. The venture in Limerick is a concept that must be delivered in more areas of the country. Having health facilities, including a nurse, a doctor and so on, available in the facility is of great benefit, especially as people get older, as are activities involving well-being and mindfulness, as well as active retirement and other groups.

The men's shed initiative has been a great success in many developments and we are trying to encourage its further growth, with one of the housing association groups. It is positive to see its success replicated throughout the country.

I have been told by a person involved in building housing through a co-operative housing association that problems are often encountered in the planning system. Another person stated he or she had to jump through hoops in order to get a project in a rural area over the line. The project is a great success story, especially for the widows and widowers who were living on a farm and felt vulnerable and isolated and who have now moved into a development of 50 houses in a village. A significant amount of thought and work has gone into it. That is the way to go.

It is welcome that the Departments of Health and Housing, Planning and Local Government have come together on this matter because many issues which are the responsibility of these Departments are of concern to residents. It is important that we learn as we move forward and give people the quality of life they deserve. In addition, as I stated, these developments help to free up bigger houses for families.

Minister of State at the Department of Housing, Planning and Local Government (Deputy Damien English): I am not sure how much time the Acting Chairman is giving me, but as I have plenty to say, I ask him to warn me when I am close to exceeding my time.

Acting Chairman (Senator Diarmuid Wilson): I will limit the Minister of State to 15 minutes.

Deputy Damien English: I will try to respond to all of the points made.

I thank Senator Reilly for tabling this timely and worthwhile motion. We are working on a policy document in conjunction with the Department of Health and hope to complete it soon. This is an important issue and I thank the Senator for his work on it. As he stated, the motion gives us an opportunity to discuss the matter and put forward ideas and ask questions. It also offers the Seanad a chance to make suggestions for inclusion in our policy document which is almost finished. We have noted the contributions made by Senators, but if they have further thoughts or ideas in the coming days or weeks, I ask them to bring them to my attention. The departmental officials accompanying me, Mr. Derek Rafferty and Mr. Alan Byrne, love to receive submissions. We are very keen to ensure our document will contain the best ideas. My Department, with the Department of Health and others, has put a significant amount of work into putting together a document on which all are agreed and which will facilitate what we want to do. The motion is timely and I thank Senator Reilly for tabling it and all Senators for their contributions. I will respond to the contributions made and outline what we are doing. I thank the groups which have engaged with us in the past 12 months or more in putting together the policy statement we are hoping to bring forward on 27 February which will set out our plan on housing options for an ageing population.

The policy document is about planning and actually making it happen. As Senator Dolan stated, it is not just about putting plans on paper. I have seen plenty of plans during the years. The Senator tried to identify the plans that had worked and those that had not. Putting together a plan that will not be used is a waste of people's time. I am glad that the Senator recognised the Action Plan for Jobs as a plan that had worked. It took a whole-of-government approach backed by all members of the Government and had the agreement of all members of the Opposition. Some Oireachtas Members wanted to add to it, but the general agreement was that the

plan was feasible and that it should be implemented. Some did not believe the figures outlined in it were attainable, but the plan worked. I was involved in its formulation, with the then Minister for Jobs, Enterprise and Innovation, Deputy Bruton. It was a joy to work with him in that Department. Other Departments became involved in the plan and action was taken. Everybody had a job to do and the Taoiseach got everyone together every couple of months to ensure the plan was progressing. The action plan for housing takes the same approach and uses the same logic. For two and a half years we carried out a detailed analysis of what needed to be done and ensured it was delivered. In fairness, Senator Dolan agreed that, overall, the plan was probably working. I will return to the high-end figure for the number of people who are still homeless. We are exactly where we thought we would be in the delivery of housing in line with the Action Plan for Housing and Homelessness using the same logic and approach used in the Action Plan for Jobs. It takes a whole-of-government approach to tackling the issue.

Predictably, my Department takes the lead on the plan. Other key players are the local authorities, approved housing bodies, various funders and so on, as well as the private planning and construction sector. The Department of Health has an involvement and the plan is driven by the Department of the Taoiseach. The Department of Finance has advanced the required funding of more than €6 billion of taxpayers' money. The Department of Justice and Equality has a significant role, while other Departments help to feed into the plan and make it happen. Actions have been allocated to those involved and they meet every couple of months to go through the actions and ensure the plan is progressing. Senator Dolan was correct to say it is working. I can confirm that it is because it is delivering on its targets. The difficulty is that although it is delivering on the targets set, that is not sufficient to deal with the situation in which we find ourselves. That is why families are still living in emergency accommodation. The numbers have remained stubbornly high, in spite of the increased supply. I will return to that issue momentarily.

The action plan for housing has the right logic and is working. We are trying to formulate a plan along similar lines in the provision of accommodation for older people which will get all Departments to row in behind it and make it happen, but that will only happen if the plan is driven. A housing delivery team in my Department ensures delivery and drives our action plan for housing. When our policy document on housing for an ageing population is completed, we will put in place a similar body to drive its implementation. Since the Government came to power, there has been a new approach, whereby policy documents have been backed up by action plans and people made responsible for their implementation according to agreed time-lines. That is the only way to make it happen. That is why I must disagree with some of the suggestions made by Senator Warfield. We all know that there are outstanding housing issues, but a lot of progress is being made. We are on the right track and the trends are right. It is a five-year plan. At its outset, everybody stated they would be happy if we achieved a figure of providing 10,000 social houses annually. This year 10,00 social houses will be delivered. That could not happen in year one. We all might have liked that it would be possible, but it was not. However, the target will be reached this year. We are probably slightly ahead of target, rightly so, because we need more housing to be delivered. That is why the Minister, Deputy Eoghan Murphy, addressed the Seanad earlier today on the various parts of that delivery and probably highlighted the extra funding he had secured to exceed the targets because we recognise that more people need help and we are trying to provide it. We are trying to ensure we will deliver on our plans. It is important first to ensure the policy and plans are right, which is why we engaged in consultation.

Deputy Deering is in the Visitors' Gallery accompanying what is probably a team from Carlow. There was some criticism, probably led by Senator Murnane O'Connor, about rural Ireland being forgotten in the provision of housing and good projects. The motion relates to the whole of Ireland. The Government does not differentiate between cities or towns and rural areas when it comes to the provision of accommodation for older people. In fact, some of the best projects I have seen are in rural areas. One of the best I have seen is in County Carlow. I went with Deputy Deering to look at a very impressive project in a very small rural village. The community had come together as a parish and used funding from the Department to deliver housing for older people who were then able to move into the village. It is a perfect project and we are trying to facilitate more such projects. I believe Senators agree that it is something we must do. There are good examples of such projects in each of our counties. However, we want to scale up delivery, which is why my Department has worked with the Department of Health under the Minister, Deputy Harris, and the Minister of State, Deputy Jim Daly, to put together a policy document which will allow us to scale up delivery of good projects such as those and offer far more housing options and solutions for older people, while allowing them to retain their sense of place by giving them the choice to live where they want to live.

In case Senator Dolan has to leave I will say we have to have renewed focus on people with disabilities also. When we provide accommodation and allow for towns and villages for people who are ageing, it should cater for people of all abilities, including those with disabilities. I am very happy to focus on this issue in the Seanad and at the committee with the input of the Senator. Now that Rebuilding Ireland is delivering on overall supply, we should focus on the different aspects of that supply and aim to get the concentration of different types of accommodation right. I am happy to do this to ensure we have the conversation, through the delivery office, with all local authorities. We must ask them to make sure they provide accommodation for people with disabilities. We need the correct quantity and percentage. A certain percentage of the housing stock has to be ready and adapted for people with disabilities. We have to make sure we get it right and that we are providing the correct houses in the correct places at the correct time. We do not want to go back to the old system where we would start talking about such accommodation when someone needed it and plan it for three years later. That is not what Senator Dolan is asking for. We have to make sure we have the houses we need when we need them. I believe we can do that now.

We are aware of the trends and have made an analysis of the population and where people are based. There is no reason we cannot make sure we are getting the right housing stock delivered at the right time. Local authorities are once again delivering houses and have reassembled their teams, including planners and housing delivery units, and are now back in the business of delivering houses and housing solutions. They should always have been doing this, but for some reason it was stopped. I do not wish to delve into the history of it. They are delivering the numbers and we can now look at what is being delivered to ensure we have the correct amount of every type of housing we need. Central to this is accommodation for older people and people who are ageing.

Going back to where we started with Senator Reilly, it is absolutely essential that we have this motion. My Department welcomes, agrees with and supports the motion because we have been working in this way for the past couple of years. We are working on this policy, informed by key objectives underpinning it as expressed in A Programme for Partnership Government and pillar 2 of the Rebuilding Ireland Action Plan for Housing and Homelessness. We focused on this area and identified that we wanted to carry out a number of actions. The policy docu-

ment is part of it and we have an implementation plan to ensure it will happen. These aim to support older people to live in their own homes with dignity and independence for as long as possible and in doing so to examine the potential of targeted schemes to meet differing housing needs. We all want to achieve independence and allow people to remain in their homes for as long as possible. When that is not an option or does not suit a person's needs, we want to make sure people are able to right-size, as we call it, and move to more suitable accommodation. Ideally, that more suitable accommodation will be a couple of hundred yards up the road, whether in Swords, Skerries or Tralee or where other groups are coming together. It must be where people want it to be. Nobody wants to right-size or downsize to a house in another town or county. It does not suit people and nobody wants that. We do not want it either and are not trying to achieve it.

I like the phrase Senator Reilly used at the start of this debate. He said we should make the right thing to do the easy thing to do. That is exactly what we are trying to do. We are trying to make it easy to right-size. We have not always made it easy. Groups have come together to find a solution to this problem, but they get bogged down with rules, regulations, red tape, planning and funding issues. There are debates about which Department pays for things and people do not know where to go or what to do. This policy document seeks to break through all of that and make it easy. It seeks to provide simple logic in order that when a local authority or group of individuals in a private capacity such as a developer or an approved housing body seeks to deliver a project, there is a step-by-step approach in place which will allow it to be delivered quickly.

I have seen some wonderful projects during my travels all over the country. The Housing Agency has produced a document which highlights 19 of the best projects out there. Each had a different journey, long and slow and complicated in some cases, with red tape, rules and questions. We want to break through all of that. If a group decides to undertake a project, there must be logic it can follow and a plan it can access. There is a very good project in Inchicore which is going through that process. We have developed a toolkit from that project that everyone else can use. This means that if anyone wants to repeat this project elsewhere, it would be easy to do so. That is what my departmental officials have been working on in the past couple of years and thankfully it is close to completion.

We have been trying to think ahead, plan ahead and future-proof this country under the national planning framework to make sure we have the correct policies in place and the correct housing we require. The national planning framework is part of Project Ireland 2040. It is an overarching policy and planning framework for the social, economic and cultural development of Ireland. It is grounded on key demographic data to inform the broader policy context and long-term vision in addressing the needs of the population, including older people. Objective 30 of the framework provides that local planning, housing, transport accessibility and leisure policies will be developed, with a focus on meeting the needs and opportunities of an ageing population, with the inclusion of specific projections, supported by clear proposals in respect of ageing communities as part of the core strategy of city and county development plans. I firmly believe Governments have to deal with today's issues and try to fix them as quickly as possible but also to have an eye on the future and ensure we are planning for it. A number of Members said that while we were solving the housing problems of today, we might be creating problems for the future. We are trying to avoid doing so. Many of the problems in housing are due to the lack of planning and focused delivery on planning in key areas in the past, for example, where there should have been an analysis of population trends and the failure to manage the delivery of housing stock.

Rebuilding Ireland is not just a document about delivering houses. It is about delivering a sustainable housing construction sector. That means that a certain amount of particular types of housing unit is delivered every year and that amount is managed. We cannot go from zero units delivered one year to 90,000 delivered the next, then down to 16,000 or 17,000, back to 20,000 and down to 10,000. That is not a sustainable construction sector. People cannot make plans for this or assume that they will have a house in the future. One cannot assume, if one goes to college or does an apprenticeship, that one will find a job in a construction sector that operates in that way. There has to be a sustainable construction delivery plan to deliver a set amount of units every year. We believe that amount is between 28,000 and 30,000 housing units every year. In recent years we have put together a housing supply, both public and private, that was built on success. There is a pipeline of projects which will continue into the future and the Government is absolutely committed, on behalf of taxpayers whose money we are spending, to delivering 10,000 social houses each year from now on and up to 12,000 across all of the schemes. There is total capacity for housing of between 28,000 and 30,000 units per annum every year, based on the projections for the next 25 or 30 years. That is where we are at and what we intend to deliver. People can plan for that, set aside land for it and build for it. Local authorities can do their jobs to make this happen. If we stick to all of these plans and make them a reality, we will be able to provide the accommodation people need in the right place, at the right price and at the right time.

The ageing of the population, in common with other developed countries, will represent one of the most significant demographic and societal developments Ireland has ever encountered. The number of people over the age of 65 years is expected to increase substantially, reaching 1.4 million by 2040, or 23% of the total population. In the same period, the number of people aged over 80 years is set to quadruple. The implications for such diverse public policy areas as housing, health, urban and rural planning, transport, policing, the workplace and the business environment are considerable. It is prudent to plan carefully now to ensure our resources can be used to best effect for the whole population in the years ahead. The motion refers to the blend of social and private money, which some Members have also mentioned. Taxpayers fund a substantial amount of housing, but they cannot fund all of it.

When it comes to the provision of accommodation for people who are ageing, we want to achieve a blend. Senator Byrne touched on some of the schemes she has seen, both private and public. We want to achieve that too and allow for a mix of public and private money. By doing so we can achieve real scale, with real numbers in the system and real choice for people who can then decide to right-size or downsize within their locality.

These numbers are evidence of how much we have moved forward as a country. We are living longer and healthier lives, something we should celebrate. However, that also brings challenges in the housing and health spheres, in particular. It highlights the importance of developing a wider choice of appropriate housing options for older people suited to their needs. We are talking about options. I have heard the words “forcing” and “making” used in this context. We are not using any of those words. We want to give people the option or choice. Perhaps they would like to move, change their house, use their equity or downsize. They should have the option to do so within their locality. People do not want to hear the word “forcing” or “moving”. That is wrong and it is not what this is about. I want to be very clear about that. Other benefits accrue when a person decides to right-size. The existing house can be used for one’s family or it can be used by another family. We are talking about choice and options. Often, if we provide the correct options, it works well from a family point of view.

Planning policy requires, under section 94 of the Planning and Development Act 2000, that planning authorities must include a housing strategy in their development plans. It must include provisions to ensure any development being provided during the lifetime of the development plan must have a mix of housing types and sizes to reasonably match the requirements of different kinds of household, including the special requirements of older people and people with disabilities.

6 o'clock

We are going to make sure that happens. We are working with the local authorities to make sure they are doing it in their plans. I was not picking out Senator Boyhan with regard to who can vary what, but the development plan belongs to the councillors. It is their plan. Please do not be upset with the variations because it is the councillors' plan in the first place. If we are planning 20 or 25 years ahead, we should be getting the plans right. Yes, there is a mechanism in place, enabled by the Senator and others, to allow the variation conversation to take place, but I want us to get the development plans right in the first place. There is no point in councillors spending two or three years on a development plan and then a week later wanting to vary it. Get it right in the first place, think ahead for the long term and make provision for people of all ages and abilities or disabilities in the development plans.

Fundamentally, we are aiming to encourage and facilitate timely planning by older people and rebalance the care model away from residential care to supporting older people to remain living independently at home for longer. As all of the research clearly shows - many Members have referenced it - this reflects the preferences of older people and their advocates. It also makes sound economic sense. As I said, I compliment many of the groups which helped us with policy development. Over the years these groups helped to provide housing for older people and a lot of groups spend time advocating, putting policy together and feeding it to us. I thank them again for their expertise and making it available to us. It makes a lot of sense to us.

Varying levels of support will be needed to enable older people to continue living in their own homes and communities, including care needs, where appropriate. Older people are not a homogenous group and the policy statement will recognise the diversity and uniqueness of individuals. This goes back to giving people choice. The Minister of State, Deputy Jim Daly, is very clear about this and has brought the Department of Health with him on this journey. The Departments of Health and Housing, Planning and Local Government have had to change and develop their relationship to make this new policy statement work and be able to drive on with the changes we need to make it easier to happen.

It is also about supporting the development of housing and services on centrally located sites within the urban area and within rural areas and villages. The development of good quality, well connected, urban and village centres, with a range and choice of housing tenures and types, actively supports ageing in place. It allows older people to choose housing that is appropriate to their needs, which will help them to enjoy more active, healthy and socially connected lives and age confidently and comfortably within their community. This will help people to choose the most suitable home to meet their needs and enable them to right-size as they move through different stages of their lives.

Social isolation can be associated with a higher risk of death among older people. In that regard, the importance of social interventions and interaction is vital in ensuring the older population is adequately cared for and supported. Social interventions are based on preventive care

and support for older people and can substantially increase a person's quality of life. When we are trying to make policies for people who are ageing or people with disabilities, it must be remembered that they want to feel part of the community and we need them as part of the community; they have a lot to offer, be it in job creation with fulfilling jobs or contributing to the local community. People of older years might believe that as they are retired, they are no longer needed to work. It is about designing homes, villages, towns and cities that encourage such people to come out and become involved. An age friendly town or a disability friendly town is one that encourages people to come out, become involved and take part, but one has to believe it. That is why I ask local authorities to embrace our policy work also. That is what we are trying to achieve and it starts with people's houses and homes.

I am only one third of the way through my speech. Perhaps I might get a chance at a later stage to contribute further. I am aware that this is a motion that has been brought forward by Senator Reilly. We are going to bring forward a policy document in a few weeks. Perhaps we will get a chance to discuss it in the Seanad also. There have been many issues raised and discussed by Members and I would like to be involved in that discussion and have a chance to discuss them with them further. This is about giving people a choice; it is about planning ahead and it is about using properties and land in a good way. The local authorities are central to all of it in making it happen.

Senators referred to credit unions being blocked from putting money into social housing. I cannot be any clearer when I say they are not being blocked. Much work was done with the Central Bank to enable credit unions to invest their members' money into housing. That legislation and the regulations were passed nearly one year ago. It means setting up a special purpose vehicle. The Department has aided that process. We cannot set it up as it is not the Government's job to set it up. It has to be separate from the Government. Some credit unions are involved in doing it. As I understand some credit unions have set up a special purpose vehicle, they can now invest money in housing. They are waiting for housing bodies to express an interest in doing so. It is wrong to say they have been blocked, as that is not the case. It may have been the case in the past, but it is no longer the case. Other credit unions are trying to develop a new vehicle where they can also do it. The mechanisms are in place and the work just needs to be completed. Some of the work in which the Irish Council for Social Housing was involved is nearing completion and we should have it in the weeks ahead to make it open for use again.

There are many other issues on which I could touch, but I know that I am short of time.

Acting Chairman (Senator Kieran O'Donnell): No doubt the Minister of State will be back.

Senator James Reilly: I thank all those who contributed to the debate and the positive response. I thank the Minister of State for his comprehensive response and positive contribution on the motion.

I wish to make a few comments, to Senator Dolan in the first instance. This model could be modified further to deal with communities and individuals with a disability in providing co-ops to build appropriate accommodation. It could be in smaller amounts because we would not want to semi-institutionalise any group.

I assure my colleague, Senator Boyhan, that there is no opportunity to make a quick buck because the co-ops must be not-for-profit. As I said, when the house is sold, the money must

go back to the co-op. That is the only place to which it can be sold. If there is a lift in value, it can be shared between the individual seller or his or her estate and the co-op.

The Minister of State may be aware that there are 19 projects like this around the country but only one of them is private. There is a huge demand from people who do not need social housing - they can afford a house or they own a house - but they need an incentive and help to be able to help themselves. They want to be able to get into co-ops and I believe there is a huge appetite. Earlier I referred to a meeting that took place in Skerries which my colleague Councillor O'Leary attended and how long ago it was set up. They want to help themselves. They want the Government to give them a little help along the way, but they want to be independent and help themselves.

We mentioned various examples. There is an excellent one in Malahide that was done by Fingal County Council and the Society of St. Vincent de Paul. They cost around €165,000, which is real value and much more affordable for older people than what is regularly on the market. St. Michael's House in Dublin 8 is another great development. Even if we just consider the Fingal area alone, statistics show that there are 11,939 people over the age of 65 years. The figures for over 65s in the following areas are: Skerries, 1,299; Balbriggan, 1,271; Rush, 959; Lusk, 678; Donabate, 677; Swords, 2,827; Malahide, 2,476; and Portmarnock, 1,752. Although Fingal has a very young population, we have a big need for this type of housing also. We have an ageing population too. All of these older people want to stay in Fingal, near their families and friends, and be located near to amenities. As this has been well rehearsed by several speakers, I will not go over it again.

The Minister of State quoted what has been a great maxim of mine over the years - make the right thing the easy thing to do. The motion is about helping people to help themselves. It is going to take a pan-government approach. I was delighted to hear the Minister of State say that. It is not just about housing. It is also about health, social protection, the law and so on. It requires a whole-of-government approach and the drive from the Taoiseach's office to make it happen. There is a long, strong tradition in Ireland of the meitheal where people come together as a community to achieve something for the community. That is what the co-ops are about. They will be the meitheal, with people coming together to help themselves and design for themselves what suits themselves. It will not be the same in Dún Laoghaire as it is in Swords, Lusk or the Naul. For the benefit of Senator Murnane O'Connor who spoke of me as a Dublin representative, I am very much a Dublin representative, but I am from north County Dublin and live a couple of miles outside the Naul, County Dublin. I am acutely familiar, therefore, with what rural villages are like and the somewhat different needs they have. I appeal to all Members because we all have a duty in that regard to start on the way to achieve this as an idea primarily, rather than focusing on the five reasons it might not be done.

There is an advertisement in which a famous astronomer looks up at the sky and says he can see the stars because he has stood on the shoulders of giants. Older people built this nation and we need to reflect that fact. We must honour and recognise their contribution and, more importantly, continuing potential to offer more.

I will not support the Sinn Féin amendments. I regret that Senator Warfield alluded to playing tricks and games because the very notion of his amendments speaks to that.

(Interruptions).

Senator James Reilly: I have the floor; the Senator had his time. To those who recommend re-examining taxation on gift tax and other matters, if there are Senators who believe the widows of retired schoolteachers or gardaí are wealthy, they have an issue which they should address.

Amendment put and declared lost.

Senator Fintan Warfield: I move amendment No. 2:

In the first paragraph under “calls on the Government”, after “in collaboration” to insert “, such as models being proposed by the Credit Union Development Agency”.

Senator Rose Conway-Walsh: I second the amendment.

Acting Chairman (Senator Kieran O’Donnell): Is the amendment agreed to?

Senator James Reilly: It is agreed to. It aims to include credit unions, with which we have no issue.

Senator Fintan Warfield: Does Senator Reilly have the floor again?

Senator James Reilly: I was merely speaking about the agreement.

Senator Fintan Warfield: The Senator had five minutes.

Amendment agreed to.

Senator Fintan Warfield: I move amendment No. 3:

In the sixth paragraph under “calls on the Government”, to delete all words from “to review the tax regulations” down to and including “to encourage downsizing”.

Senator Rose Conway-Walsh: I second the amendment.

Amendment put and declared lost.

Senator Fintan Warfield: I move amendment No. 4:

After the eighth paragraph under “calls on the Government”, to insert the following:

“- to consider fully the recommendations of the report published by the Joint Committee on Housing, Planning and Local and Government, entitled ‘Housing Options for Older People’, published in June 2018;”.

Senator Rose Conway-Walsh: I second the amendment.

Amendment agreed to.

Motion, as amended, agreed to.

Sitting suspended at 6.15 p.m. and resumed at 6.35 p.m.

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Criminal Law (Extraterritorial Jurisdiction) Bill 2018: Committee and Remaining Stages

SECTION 1

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

Senator Michael McDowell: I note that the term “relevant offence” includes an offence under section 3 of the Non-Fatal Offences against the Person Act 1997 - assault occasioning harm. It is a wide category. Effectively, anything that is not a non-technical assault is an assault occasioning harm within the meaning of that Act. One consequence of stating it is a relevant offence, as will appear from the next section, is that a person who is accused of engaging in an assault occasioning harm will, in the circumstances described in section 2, be liable to be punished and convicted in Ireland in certain circumstances.

On Second Stage the Minister told the House that it did not apply simply to crimes against women, who are the primary object of protection under the Istanbul Convention, but also to men. I can see why that would be necessary, but we should try to confine the offences under section 3 to those involving domestic violence within the meaning of Article 3 of the convention. It states: “domestic violence shall mean all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim”. That narrows it down. However, if a fellow throws a punch in a pub in Brisbane at a person with whom he has no or never had a domestic relationship of any kind within the meaning of the Act, does that mean he can be arrested for it in Dublin and tried as if he had committed the offence in Ireland?

Senator David Norris: Where would he be tried?

Senator Michael McDowell: Here in Ireland. One of the problems with that is that if one is broadening criminal jurisdiction to cover such cases, the question which automatically occurs to me is choice of venue. Under the Criminal Law (Jurisdiction) Act 1976, there is provision for persons to opt for trial in Northern Ireland, for instance. In other words, there is the option of being tried in the place where the offence is alleged to have occurred. It seems strange to me that we do not appear to be giving any such right to opt to be tried in a foreign state under the Bill or to opt to have the matter investigated in a foreign state where the witnesses might be resident.

I fully support the Istanbul Convention and know exactly what it is about. I am concerned that any act of assault which involves harm, can include pain, loss of consciousness, a bruise or a mark will give rise to territorial jurisdiction in Ireland in respect of certain people. Is that a good idea? Will the Minister explain why he has cast the net so wide in respect of offences which are 1 million miles away from those covered by the Istanbul Convention?

Senator David Norris: With his usual frenzied intelligence, Senator McDowell has filleted out a rather curious little byway of the law. I agree with him as far as the question of examining the evidence is concerned. Surely the most appropriate place for the investigation to take place is where the crime took place. On the other hand, with regard to having the case in some place like Australia, for example, I do not see any reason the Irish taxpayer should be expected to pay the airfare for somebody to be tried in that jurisdiction. The investigation should take

place in Australia or wherever the crime took place, but I do not see any reason the trial cannot take place in Dublin.

Minister for Justice and Equality (Deputy Charles Flanagan): This is a short but nevertheless important Bill that we dealt with on Second Stage prior to Christmas. It is the final piece in the patchwork that will enable this country to sign the provisions of the Council of Europe convention on the prevention and combating of violence against women and domestic violence, known as the Istanbul Convention. The definition of “convention state” is clear in the Bill, namely, a state other than Ireland that is a party to the convention. The Bill deals primarily with combating violence against women and domestic violence. I hope Seanadóirí will assist in the swift passage of legislation and urge them accordingly.

Senator David Norris: The Minister did not answer Senator McDowell’s query. I was just wondering if he could do so, but I see he is not going to do so.

Senator Martin Conway: My contribution is an appeal. I echo in very forceful terms what the Minister outlined at the end of his remarks. This legislation is necessary to allow Ireland to meet its international obligations and ratify the Istanbul Convention. I sincerely hope all Members of this House will appreciate its urgency. Violence against women, as we all agree, is a horrendous crime. If there are small or technical elements in the legislation with which Senators have issues, I suggest they introduce an amended Private Members’ Bill in due course to sort them out. This legislation is to ratify our international obligations and support and assist women who find themselves in a violent situation. As legislators, we have a duty not to delay it. No amendments have been tabled on Committee Stage. If Senators were exercised about elements of it, they had the option of tabling amendments on Committee Stage. I appeal to Senators not to delay the Bill but to let it pass as quickly as possible.

Acting Chairman (Senator Kieran O’Donnell): We are a short time into the debate and everyone wants this legislation to proceed as quickly as possible. Is the question agreed to?

Senator Michael McDowell: I asked the Minister to explain why he was casting the net so widely in respect of section 3 of the Non-Fatal Offences Against the Person Act and have not received a response. I take the Minister’s point that this is important legislation. I also take Senator Conway’s point that it is important that it be put through quickly. I am just asking some questions about it. If the implication of the Minister and Senator Conway is that I am simply to say I have no objection, that we should just pass the Bill and that I should not contribute or ask any question about it because it must become law without any further discussion, so be it. I am not trying to delay the legislation. I would not have been here today were it not for the fact that other business was being taken and when I saw that the Bill was before the House, I started to read it. It was only at that stage that a number of aspects occurred to me as requiring a degree of explanation rather than simply acquiescing and rubber-stamping it.

Acting Chairman (Senator Kieran O’Donnell): Senator McDowell wishes to comment rather than to make amendments.

Senator David Norris: He might table amendments on Report Stage.

Acting Chairman (Senator Kieran O’Donnell): Does the Minister wish to comment?

Deputy Charles Flanagan: No, I think Senator McDowell’s motives are quite clear. Of course, he is entitled to make comments for whatever length of time he deems fit on the legis-

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lation. Whether he regards it as important or otherwise is immaterial to me. I will point out, however, that there is an exception in respect of section 2 of the Non-Fatal Offences Against the Person Act because it was deemed to be of such a lower order as not to be necessary to be covered under the international convention. Offences under sections 3, 4, 5, 9 and 10 are covered, having regard to their seriousness and the application of the extraterritorial jurisdiction.

Senator Michael McDowell: The remark made by the Minister in claiming that he has worked out my motive is deeply offensive. I would not have read the Bill were it not for the fact that I was engaged to come here this evening. I would not have had the opportunity because I had other things to do. I am just making the point that I am entitled to make short observations about the scope of a Bill.

Deputy Charles Flanagan: That is what I accepted. However, I know what the Senator's motivation is.

Senator David Norris: The Minister does not. How could he know? I would like him to explain to the House how he knows what Senator McDowell's motivation is.

Acting Chairman (Senator Kieran O'Donnell): Senator Norris should resume his seat.

Senator Martin Conway: It is interesting that Senator McDowell said he would not even have read the Bill and that he was here for other reasons.

Acting Chairman (Senator Kieran O'Donnell): Senator Conway must resume his seat.

Senator Martin Conway: I was making a point of order actually.

Acting Chairman (Senator Kieran O'Donnell): Please, Senators, this is a relatively straightforward Bill. Members are entitled to speak to the section. There is no issue in that regard. As Acting Chairman, I would like to see Senators behave in a civilised way in order that we can get through every aspect of the Bill. Can I take it that the Minister has dealt with Senator McDowell's question on the first section?

Senator Michael McDowell: Just briefly in regard to-----

Acting Chairman (Senator Kieran O'Donnell): I want it to be very brief. We need to move on.

Senator David Norris: Who are you to want it to be very brief?

Senator Michael McDowell: The Minister has partly dealt with it. Section 2 of the Non-Fatal Offences Against the Person Act deals with ordinary, simple assault. If the Acting Chairman pushed me aside-----

Acting Chairman (Senator Kieran O'Donnell): Please, Senator.

Senator Michael McDowell: If I am going to be trampled down here, we are going to have a very long debate.

Acting Chairman (Senator Kieran O'Donnell): The Senator is not going to be trampled down. He is entitled to speak. I asked him - I was being very fair - if the Minister had dealt with his question.

Senator Michael McDowell: He said section 2 dealt with a technical assault. If I push a garda or even put my hand on a garda and tell him or her to push away, that is an assault, even if no harm is done.

Senator David Norris: That is a very reasonable point.

Senator Michael McDowell: After that, if I give somebody a thump and it causes that person pain, it is a section 3 assault. That is the difference.

Deputy Charles Flanagan: It is covered.

Senator Michael McDowell: The point I am making is this. Was it necessary to cast this Bill so wide that every such incident anywhere in the world involving any Irish citizen or person who is ordinarily resident in Ireland would now become prosecutable in the Irish courts? I do not see why that is an unreasonable point to make and I do not see where the policy has been explained as to why that should be part of our criminal law.

Deputy Charles Flanagan: In accordance with the provision of mutual legal assistance in other jurisdictions, in the event of there being a more serious assault perpetrated by an Irish citizen abroad - I can think of a number of examples of such assaults - it is appropriate that such a trial can take place within this jurisdiction.

Senator Michael McDowell: I do not see why it is appropriate that an Irish citizen should be triable in Ireland on the charge that he or she threw a punch in Australia. I do not see why that should be the case and the Istanbul Convention to implement it in Irish law does not require it to be the case. I fully accept the point the Minister made on Second Stage because I took the trouble to read his speech, that it cannot be women only, particularly in this day and age, and that we have to consider domestic violence involving males also, male to male and female to female. I do think, however, that point is cast very widely and that the Minister should think hard about proceeding with this in its present state and at least indicate that he would on Report Stage entertain an amendment to narrow the scope of the definition.

Senator David Norris: Are we taking all Stages?

Acting Chairman (Senator Kieran O'Donnell): Yes.

Senator David Norris: That does not leave much time for the Senator's amendment.

Acting Chairman (Senator Kieran O'Donnell): We are taking all Stages, Committee and Remaining Stages, as set down in the Order of Business.

Senator Martin Conway: It was agreed to on the Order of Business and not voted on. It was agreed to.

Acting Chairman (Senator Kieran O'Donnell): Is the section agreed to?

Senator Michael McDowell: I am against section 1 standing part of the Bill, but I will not call a vote on it.

Question put and agreed to.

Section 2 agreed to.

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SECTION 3

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

Senator Michael McDowell: There are two aspects of the drafting of the Bill that I ask the Minister to consider. The phrase used in section 3(1) and (4), “the person shall be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the relevant offence concerned”, is infelicitous drafting. I think it should be “accused of the offence” rather than “guilty” of the offence.

Deputy Charles Flanagan: I have referred to the fact that because of the lower order of a section 2 offence under the 1976 regime, it is not considered appropriate that this Bill would apply.

Senator Michael McDowell: I am still not happy with that. The second point arises in section 3(5) and (6). Section 3(5) refers to, “Where a person, other than an Irish citizen, who is ordinarily resident in the State engages in conduct in a place outside the State that would, if the conduct occurred in the State, constitute murder or manslaughter”, but surely it should be murder or attempted murder or manslaughter. Surely the same should apply to 3(6).

Deputy Charles Flanagan: I would be happy to reflect on that matter. It was not in the original text. The issue has not been raised to date, but I would be happy to give it further consideration.

Senator Michael McDowell: I am not raising it as a major issue. I notice further on in the section that jurisdiction is conferred in respect of persons “ordinarily resident in the State”. Section (10) reads: “For the purposes of this section, a person shall be deemed to be ordinarily resident in the State if he or she had his or her principal residence in the State for the period of 12 months immediately preceding the alleged commission of the offence”. How will that be proved? What is the principal residence? How will it be proved that somebody had a principal residence in Ireland? If we are dealing with a non-Irish citizen, with which this section deals, how can we establish proof that the person is ordinarily resident in the State by reference to it? It seems that there should be a presumption that if a person is charged as a person “ordinarily resident in the State”, he or she is such a person rather than that the Garda would have to work out his or her principal residence, whether it was in the State, whether the person had a house in Crossmaglen or Torremolinos, an apartment in Dublin, or whatever else. If the Minister is going to make this workable, there should be a presumption that the person charged as a person resident in the State is so resident until the person shows otherwise. I cannot imagine how the Garda could in effect prove that a person had a principal residence for 12 months prior to an event. It would be very difficult to do that.

Deputy Charles Flanagan: I am satisfied, having regard to the seriousness of the offence, that there would be certain proofs required, one being whether the person was living in the State, had been living in the State or had established either residence or domicile in the State. I do not believe the content of the subsection is unduly onerous. In view of what Senator McDowell has said, however, if it is an issue that there have been areas of confusion in the procuring of evidence or otherwise, which I do not believe to be the case, I will certainly consider it further.

Question put and agreed to.

Sections 4 and 5 agreed to.

Schedule agreed to.

Title agreed to.

Bill reported without amendment.

Acting Chairman (Senator Kieran O'Donnell): When is it proposed to take the next Stage?

Senator Martin Conway: Now.

Acting Chairman (Senator Kieran O'Donnell): Is that agreed?

Senator David Norris: The Minister said he was going to give some consideration to matters raised by Senator McDowell. If we are going to proceed to Report Stage now, I do not see how he can.

Deputy Charles Flanagan: The matter can be dealt with in the Dáil.

Senator Martin Conway: It will be in the Dáil.

Senator David Norris: I understand. I appreciate the clarification.

Acting Chairman (Senator Kieran O'Donnell): The Minister has undertaken to deal with them in the Dáil. Is that agreed? Agreed.

Bill received for final consideration.

7 o'clock

Question proposed: "That the Bill do now pass." **Minister for Justice and Equality (Deputy Charles Flanagan):** I thank Senators for their support. I am now happy to proceed to the Lower House. A small number of issues have been raised. I will be happy to communicate directly with Senator McDowell if the House is of the view that this is deemed to be in order. The priority is early ratification. I thank Senators for their co-operation.

Senator Martin Conway: On behalf of Fine Gael Senators, I thank the House for its co-operation in dealing with this important legislation. I welcome the Minister's commitment to ratify urgently and deal in the Lower House with the concerns raised.

Senator Michael McDowell: I thank the Minister and Senator Conway for their most gracious remarks.

Senator Rose Conway-Walsh: I thank the Minister for his work on the Bill and everyone who has made a contribution to it. It is of great importance and we have waited many years to have it passed. I also take on board the expertise of Senator McDowell. If it would be useful, I would certainly support the Senator talking to the Minister directly to see what slight amendments could be made in the Dáil, but it is important that we pass the Bill today.

Acting Chairman (Senator Kieran O'Donnell): They were constructive contributions. Would Senator Norris like to comment in the same spirit?

Senator David Norris: No, only to say this a very important-----

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Deputy Charles Flanagan: In the spirit of the constructive contributions, I appeal to the Senator not to depart again.

Senator David Norris: I beg your pardon. Do people expect me to depart from Platform 12 and a half for Hogwarts? This is important legislation. I spoke effectively to the domestic violence and violence against women legislation and gained certain concessions in having amendments taken on board. I am glad that the House did not hold up the Bill. It is appropriate that Senator McDowell asked the questions he did and I am grateful to the Minister for saying he will give them consideration before presenting the Bill to the Dáil.

Acting Chairman (Senator Kieran O'Donnell): By way of comment, I have no doubt that the bipartisan approach taken to the Bill we have just completed will continue with the Judicial Appointments Commission Bill, the debate on which I await with great interest.

Senator Martin Conway: I foresee a swift passage.

Question put and agreed to.

Judicial Appointments Commission Bill 2017: Committee Stage (Resumed)

SECTION 40

Debate resumed on amendment No. 86a:

In page 28, to delete lines 23 to 25.

-(Senator Michael McDowell)

Acting Chairman (Senator Catherine Noone): Senator McDowell was in possession when progress was reported on the last occasion.

Senator Michael McDowell: I do not have much to add to what was said on the last occasion and do not intend to delay the discussion on this amendment any further.

Senator David Norris: We are only discussing amendment No. 86a. Is that correct? If so, I will reserve my comments.

Acting Chairman (Senator Catherine Noone): Amendments Nos. 86a and 86b are related and being discussed together.

Senator David Norris: I was wondering about that.

Acting Chairman (Senator Catherine Noone): I was in the Chair when progress was reported on the last occasion and said as much at the time. I simply needed to remind the House.

Senator David Norris: I will address amendment No. 86b which is the most crucial amendment. It revolves around the issue of constitutionality, a question Senator McDowell has raised on several occasions, as have I, in the hope the President of Ireland will refer this legislation to the Supreme Court. The question of the presumption of constitutionality is an important one and crucial to our role in the Houses of the Oireachtas. It seems the legislation plainly goes

against the Constitution that for those of us in Seanad Éireann to enact it would represent a derogation from our obligations and duties as Members of the Oireachtas. The presumption means that a court will presume the Oireachtas intended only a constitutional construction of any section of the laws that we, as legislators, enact. It seems to be a complete mockery that the Minister actually agrees with the intent of the amendments. He has said he agrees with the intent of the amendments tabled by Senators McDowell, Boyhan and Craughwell. Apparently, he agrees completely that the order of preference and ranking or recommendation given by the judicial commission in respect of appointment should be non-binding on the Government and will say as much on the record of the House, yet, despite the fact that he will actually say it in the House, he is apparently not prepared to legislate for it. That is an extraordinary lacuna. He says he agrees with the intent of the amendments and knows that they are correct, right and so on, yet he is not prepared to do anything about it.

The Minister has been at pains on a number of occasions to point out that 74 or 75 hours of debate have passed in considering the Judicial Appointments Commission Bill. That is absolutely true. It has been a marathon. That makes it even more extraordinary that during this marathon 74 or 75 hours of debate he has still to come up with amendments which he has told the House are necessary. I do not understand why he says he will introduce an amendment on Report Stage. What is so sacrosanct about Report Stage? Why can we not have it now?

Minister for Justice and Equality (Deputy Charles Flanagan): We may never get to Report Stage.

Senator David Norris: That is very hopeful.

Deputy Charles Flanagan: We may never get to it.

Senator David Norris: Would that not be wonderful?

Acting Chairman (Senator Catherine Noone): Can we stay on the point?

Senator David Norris: The Minister is making a very interesting point. If we do not get to it, would it not be more sensible to table the amendment now, rather than in some hypothetical future Report Stage debate? If the Minister is to be taken at his word, that he is amenable to addressing two specific concerns which have been raised and which he highlighted during the debate, I will outline them. Reference was made to the constraints on what an Attorney General might say or do and concerns about what the Government might be told, or know, or might not be told in certain circumstances or what it might not know, given the various interactions of key provisions of the legislation. That is the first point. The second relates to serving senior judges being required in any way to enter what will be a selection process and having this expressed in the Bill. It is incumbent on the Minister to give us sight of the amendments that are, according to him, supposed to address these concerns. The amendments must be drafted at this point, given the 74 or 75 hours of debate we have had. Thus, I wish to ask the Minister a series and wonder if he would be kind enough to answer them specifically point by point.

Acting Chairman (Senator Catherine Noone): Will the Senator, please, speak to the amendment? I want us to stay on point.

Senator David Norris: I am hardly going to talk about saucepans which are for another day entirely. These are the questions I want to put to the Minister about the amendments. Have they been drafted? If the Minister says “Yes” and that he intends to introduce them on Report

Stage, at what stage are they now? I note that he is shaking his head; presumably, therefore, they have not been drafted. Perhaps he might confirm whether that is the case.

Deputy Charles Flanagan: Why would I draft them while I am listening to the Senator eloquently make the case for the amendments?

Senator David Norris: The Minister has already agreed with Senator McDowell that they are necessary.

Deputy Charles Flanagan: I need to be convinced in order to agree with the Senator.

Senator David Norris: The Minister agrees with everyone in the House.

Deputy Charles Flanagan: It is a question of consensus politics.

Acting Chairman (Senator Catherine Noone): I cannot allow conversations like this to take place in the House. I would be grateful if Senator Norris made the points he has to make. I will then let the Minister respond.

Senator David Norris: Certainly, absolutely. The second point concerns the progress of the amendments. Do they have to be placed before the Cabinet to be approved beforehand? That is simply a technical question which I am sure, without any prejudice to anything, the Minister can answer. Do they have to be placed before the Cabinet to be approved? If that is the case, when does the Minister expect it to happen? At what point in the debate does he expect it to happen? Will he undertake to provide an advance copy of the proposed text of the amendments? He has acknowledged that the rationale underpinning their introduction stems from this debate in the Seanad and the matters raised by Senators. I am, therefore, looking for an advance copy of the proposed text of the amendments.

Acting Chairman (Senator Catherine Noone): We are discussing the two amendments tabled, not future proposed amendments.

Senator David Norris: It is all part of the context and could not be clearer.

Acting Chairman (Senator Catherine Noone): I understand the point the Senator is making, but we need to discuss these amendments tabled.

Senator David Norris: That is exactly what I am discussing. What I have been saying is that if these issues had not been raised by Senators, there would have been talk of such amendments during the course of the 74 or 75 hours of debate. That is something the Minister condemns, as does his colleague. I am not sure how I should put it, but I think it is the most neutral word I can find.

Senator Martin Conway: It is not a laughing matter.

Senator David Norris: Why, then, is Senator Conway chortling away? It is audible on the microphone. The Minister, Deputy Ross, excoriated this and called it an extraordinary waste of parliamentary time. He said he would not now indicate his intent to introduce any amendment on Report Stage. The Minister should publish his amendments if he is truly genuine about addressing the very obvious concerns that the Bill which, apart from being wholly objectionable, is without any basis in sound policy making interferes with the constitutional position. It is not sustainable for the Minister to tacitly indicate on Committee Stage that the Bill involves

potential constitutional issues and ask the Houses to pass it on Committee Stage when he acknowledges that subsequent amendments to address constitutional matters shall be required.

This is not about the price of milk or bread but about the impact of the Bill, as read. The Minister has firmly indicated that he accepts the concerns which have been raised and that constitutional issues arise. How can he, as a sworn officer of the Government and a Member of Dáil Éireann who has a stellar legal background, ask this House to accept a Bill to be read on Committee Stage when he knows there are constitutional issues surrounding it? The rules of Standing Orders when it comes to Private Members' Bills, both in the Seanad and the Dáil, state that if a Bill, as drafted, contains, in whole or in part, any objective which is unconstitutional, it does not get off the ground. It should be the same with this Bill. The same principle must apply when, on a particular reading of the Bill, the Minister has obtained amended or updated advices from the Attorney General to indicate that there are, in fact, some constitutionality concerns. That is what the Minister has indicated in the present case and scenario. He has indicated that he will address some of the concerns on Report Stage.

The Minister explicitly stated: "I have listened carefully, particularly in regard to the role, words and deeds of the Attorney General and what the Attorney General may or may not say and can or cannot do." This clearly is in direct relation to the amendment. These are clearly constitutional issues and the Minister knows that there are. If he was to propose Report Stage amendments, he would be addressing a constitutional issue concerning the Attorney General which he has acknowledged to this House is problematic. Our duty, as Members of the Houses of the Oireachtas, is, first and foremost, to ensure all legislation and every section therein is constitutional. The Bill cannot be read on Committee Stage if we all know, as the Minister has acknowledged, that it contains sections which at the very least are unconstitutional with respect to the Attorney General. That is my inference of what the Minister said and I would be very glad if he would clarify the matter.

Does the Minister agree that on 22 January 2019, the last occasion on which the Bill was before the House, he stated he had listened carefully, particularly in regard to the role, words and deeds of the Attorney General and what the Attorney General might or might not say and could or could not do? He said he would come back to this on Report Stage in a way that would allow us to progress the Bill. He is clearly indicating that the Bill cannot progress, as drafted, at least insofar as it affects the Attorney General, as to do so would be to knowingly pass a Bill which was unconstitutional. If that is not what the Minister is indicating, can he speak plainly as to why he believes a Report Stage amendment concerning the role of the Attorney General is necessary for the progression of the Bill?

Quite clearly, the deal with Sinn Féin ensures Fine Gael has a majority in the Seanad to pass the Bill, as it stands. Sinn Féin has evaporated, by which I am shocked. As there are only three of us here, I feel a quorum coming on. It is dreadful to think these pearls of wisdom are not being flung before artificial swine.

Notice taken that 12 Members were not present; House counted and 12 Members being present,

Senator David Norris: The Minister said he would listen carefully to the points made, principally by Senator McDowell but supported by me, about the situation regarding the Attorney General. If that is not what he is indicating, can he speak plainly as to why he believes a Report Stage amendment to the Bill concerning the role of the Attorney General is necessary,

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when it is quite clear that the Sinn Féin deal ensures Fine Gael has a majority in the Seanad? Can the Minister, or the Cathaoirleach, advise us on our duties when reading a Bill on Committee Stage? How can it be that we could agree that a Bill is read on Committee Stage when we believe it is repugnant to the Constitution? When the question is put to the House that the Bill pass with or without amendment, how can we possibly pass it? If we believe strongly that the Bill is unconstitutional in various of its elements, how can we possibly pretend that it is not? I do not see how we can. I am looking for advice from the Acting Chairman and the Minister. I do not know how it is possible. I really do not.

Acting Chairman (Senator Catherine Noone): There is a presumption of constitutionality about legislation passed by the Oireachtas.

Senator David Norris: I understand that. I thank the Acting Chairman for her helpful advice.

Acting Chairman (Senator Catherine Noone): As he knows, the Senator has the right to vote against any piece of legislation.

Senator Michael McDowell: There is no presumption of constitutionality about any Bill before the Dáil.

Acting Chairman (Senator Catherine Noone): There are mechanisms to question legislation after it has been passed. As I said, there is a presumption of constitutionality, unless found otherwise.

Senator David Norris: Both Senator McDowell and I have pointed to our grave concerns about the constitutionality of the Bill. I suppose it is just up to us to vote against it.

Acting Chairman (Senator Catherine Noone): The Senator is actively opposing and voting against it.

Senator David Norris: Yes, absolutely.

Acting Chairman (Senator Catherine Noone): That is all that the Senator can actually do and he is entitled to do so.

Senator David Norris: I see. I thank the Acting Chairman very much.

Acting Chairman (Senator Catherine Noone): Does the Minister wish to respond to amendments Nos. 86 and 86b?

Deputy Charles Flanagan: I merely wish to point out to Senator Norris and others that at no stage did I question the constitutionality of the Bill. At no stage did I agree with any of the Senators who raised constitutional issues. If Senator Norris asks me to speak plainly on that issue, I will. At no stage did I question the constitutionality of the Bill. What I have said, because I said it on a number of occasions, is I am committed to consider bringing forward Report Stage amendments. I am not going to bring them forward now; I am anxious to listen to Senators Norris, McDowell, Boyhan and others. I do not believe it is appropriate on Committee Stage for me to bring forward amendments prior to the debate having been concluded. I am and have been in listening mode.

In response to other questions raised by Senator Norris, yes, I do intend to seek Cabinet

approval. As regards circulating the text of proposed amendments, if any, before going to the Cabinet, the answer to that question is no, I will not do that. Should I receive appropriate Cabinet approval to table amendments, I would be happy to circulate them in the appropriate way.

Let me repeat again that I am amenable to addressing some of the concerns raised. If that is the objective of amendment No. 86b and I understand it is, I will return on Report Stage to see how best I can address some of the issues.

As regards general Report Stage amendments, if Senator Norris wishes to press me on that matter on this Stage, let me say the type of amendments under consideration are in areas such as senior appointments, section 44; the matter of inhouse practising barristers and their eligibility or otherwise; a general saver related to the constitutional function along the lines of amendment No. 86b that we are discussing, while there may be other drafting amendments of a minor nature. In the meantime, I am happy to listen to Senators, but in listening I urge Senator Norris not to misrepresent anything I may have said either tonight or on the last occasion. I think that is the least I might request.

Senator David Norris: I will do my best not to misrepresent the Minister. He is a little disingenuous when he denies all association with the constitutionality question and so on and so forth because it was specifically in response to these issues of constitutionality, raised by Senator McDowell and me, that he said he would come back on Report Stage in a way that would allow us to progress the Bill. He has just said he is certainly contemplating introducing something very similar to Senator McDowell's amendment No. 86b. Therefore, the Minister is addressing the constitutional issue, which is fine. I do not see why he does not introduce his amendment now, particularly if Senator McDowell has done all of the work for him and has tabled the amendment. It is a simple matter for the Minister to simply table the amendment. There is a certain amount of fudging, but I am glad to see that the Government is moving at least.

Acting Chairman (Senator Catherine Noone): It is normal procedure when an issue arises on Committee Stage for an amendment to be tabled on Report Stage, as the Senator probably knows better than I do.

Senator David Norris: I do not know anything better than the Acting Chairman.

Acting Chairman (Senator Catherine Noone): The Senator knows about certain things.

Senator David Norris: This is unusual in that we have had the Minister complaining about spending 74 or 75 hours debating this legislation, but it gives him plenty of time to table his amendments any time he wants. He is welcome to do so.

Senator Michael McDowell: To wrap up the debate on amendments Nos. 86a and 86b, they are related. Amendment No. 86b proposes a new section 41 which is designed to state clearly what seems to be the actual consensus across this House. Also, it seems now - I am happy to say and without exaggerating - at least not to be frowned upon by the Minister as a proposition. To me, central to the question as to whether the Bill should progress further is whether we are willing in this House to acknowledge that, contrary to the suggestions made by the champion of the Bill - I will not personalise it further - this does not interfere with the traditional function, right and duty of the Government, under the Constitution, to make its own decisions. The commission, just like the board that exists, is purely advisory. In those circumstances, I have nothing further to add except to welcome the fact that the Minister sees

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some potential merit in introducing some amendment on Report Stage to mirror the proposal contained in amendment No. 86b.

Amendment put:

The Committee divided: Tá, 8; Níl, 22.	
Tá	Níl
Bacik, Ivana.	Burke, Colm.
Boyhan, Victor.	Burke, Paddy.
Clifford-Lee, Lorraine.	Butler, Ray.
Horkan, Gerry.	Buttimer, Jerry.
Marshall, Ian.	Byrne, Maria.
McDowell, Michael.	Coffey, Paudie.
Norris, David.	Conway-Walsh, Rose.
Wilson, Diarmuid.	Conway, Martin.
	Hopkins, Maura.
	Lawlor, Anthony.
	Lombard, Tim.
	Mac Lochlainn, Pádraig.
	McFadden, Gabrielle.
	Mulherin, Michelle.
	Noone, Catherine.
	O'Donnell, Kieran.
	O'Mahony, John.
	O'Reilly, Joe.
	Ó Donnghaile, Niall.
	Reilly, James.
	Richmond, Neale.
	Warfield, Fintan.

Tellers: Tá, Senators Victor Boyhan and Michael McDowell; Níl, Senators Gabrielle McFadden and John O'Mahony.

Amendment declared lost.

Question put: "That section 40 stand part of the Bill."

The Committee divided: Tá, 23; Níl, 8.	
Tá	Níl
Burke, Colm.	Bacik, Ivana.
Burke, Paddy.	Boyhan, Victor.
Butler, Ray.	Horkan, Gerry.
Buttimer, Jerry.	Humphreys, Kevin.
Byrne, Maria.	Marshall, Ian.

Conway-Walsh, Rose.	McDowell, Michael.
Conway, Martin.	Norris, David.
Devine, Máire.	Wilson, Diarmuid.
Feighan, Frank.	
Hopkins, Maura.	
Lawlor, Anthony.	
Lombard, Tim.	
Mac Lochlainn, Pádraig.	
McFadden, Gabrielle.	
Mulherin, Michelle.	
Noone, Catherine.	
O'Donnell, Kieran.	
O'Mahony, John.	
O'Reilly, Joe.	
Ó Donnghaile, Niall.	
Reilly, James.	
Richmond, Neale.	
Warfield, Fintan.	

Tellers: Tá, Senators Gabrielle McFadden and John O'Mahony; Níl, Senators Victor Boyhan and David Norris.

Question declared carried.

NEW SECTIONS

Senator Michael McDowell: I move amendment No. 86b:

In page 28, between lines 25 and 26, to insert the following:

“Government’s function under Article 35 of Constitution

41. No provision of this Act affects in any way the function and duty of the Government, in advising the President on appointment to judicial office under Article 35 of the Constitution, to advise in accordance with its own judgment and preference the appointment of any person who is eligible to be appointed to such judicial office.”.

Amendment put:

The Committee divided: Tá, 8; Níl, 23.	
Tá	Níl
Bacik, Ivana.	Burke, Colm.
Boyhan, Victor.	Burke, Paddy.
Horkan, Gerry.	Butler, Ray.
Humphreys, Kevin.	Buttimer, Jerry.
Marshall, Ian.	Byrne, Maria.

McDowell, Michael.	Coffey, Paudie.
Norris, David.	Conway-Walsh, Rose.
Wilson, Diarmuid.	Conway, Martin.
	Devine, Máire.
	Feighan, Frank.
	Hopkins, Maura.
	Lawlor, Anthony.
	Lombard, Tim.
	Mac Lochlainn, Pádraig.
	McFadden, Gabrielle.
	Mulherin, Michelle.
	Noone, Catherine.
	O'Donnell, Kieran.
	O'Mahony, John.
	O'Reilly, Joe.
	Ó Donnghaile, Niall.
	Reilly, James.
	Richmond, Neale.

Tellers: Tá, Senators Victor Boyhan and Michael McDowell; Níl, Senators Gabrielle McFadden and John O'Mahony.

Amendment declared lost.

8 o'clock

An Leas-Chathaoirleach: Amendments Nos. 86c to 86e are related and may be discussed together. Is that agreed? Agreed.

Senator Michael McDowell: I move amendment No. 86c:

In page 28, between lines 25 and 26, to insert the following:

“Communication with person eligible for appointment to judicial office

41. No provision of this Act affects, limits or inhibits the right of the Government, or of the Minister or the Attorney General acting on the authority of the Government, to communicate with a person eligible for appointment to any judicial office with a view to establishing whether that person is willing to accept an appointment to such judicial office by the President acting on the advice of the Government.”.

This amendment seeks to insert a new section at this point in the Bill to state no provision of the Bill, when enacted, affects, limits or inhibits the right of the Government, the Minister, or the Attorney General acting on behalf of the Government to communicate with a person eligible for appointment to any judicial office, with a view to establishing whether that person is willing to accept an appointment to such judicial office by the President, acting on the advice of the Government. The purpose of the amendment is to make it clear that it frequently has been

the case that the Government has asked the Minister or the Attorney General to communicate with a person eligible for appointment to any judicial office to establish whether that person is willing to accept an appointment to such office by the President on the advice of the Government. There is nothing wrong with that if there is some celebrated barrister or solicitor who is eminently suited.

What can happen and does happen - from my experience, it happened on more than one occasion - is that, anticipating a vacancy in a judicial office, the Government, through the agency of the Attorney General or the Minister for Justice and Equality, goes to an individual to ask that person whether he or she would be interested in appointment to the office. That is done with a view, first, to getting the person to think about it; second, to indicating a willingness on the part of the Government to appoint that person in order that it would not be simply a suggestion that if the person was interested, he or she should put in an application and see how he or she would get on; and third, to selecting somebody who is well suited or else somebody whom the Government thinks might be shy about putting his or her name forward for appointment on the basis that it would require a good deal of effort to do so with no guarantee of success.

There is nothing wrong with such a procedure. In fact, it has produced some of the most eminent judges on the Bench. Some of the most senior judges on the Bench have been approached in this way. What worries me is that this practice would be phased out or regarded as improper because it has been suggested in the Bill, as constituted, that all applicants should submit their applications to the Judicial Appointments Commission and that canvassing will disqualify.

I presume the Minister does not have an objection in principle to acknowledging that this practice is perfectly legitimate and should not be excluded or prohibited in any sense by the passage of the Bill. If there is some principled objection to it, I would like to hear what it is, but as far as I am concerned, if the Government is thinking of making an appointment at this level, there is a certain reality to it all. Somebody has to think he or she is likely to be appointed if he or she responds positively to this invitation. That is good. An eminently qualified lawyer could be in a state of mind of wondering what to do with the rest of his or her career, whether to make an application to be a judge and, if he or she does so, what the Judicial Appointments Commission will make of the application, who else will be appointed with that lawyer and whether he or she wants to go down that road. It is entirely different, however, if the Attorney General of the day indicates that, on the authority of the Government, he or she is inviting the judge to consider accepting an appointment by the Government. I want it to be clear in section 41. The Minister agrees with me that this practice is legitimate and will survive the enactment of this legislation as he intends it to finally appear, if it is enacted. If there is a problem with it, I would like to hear what the objection to it is in order that we can work out the underlying aims of the legislation. If it is designed to discourage such a thing from happening, I have a big problem with it. It is most inadvisable and will end up producing an inferior outcome to that which is possible if this practice is admitted to be legitimate and it is made clear that it will survive the passage of the legislation.

Senator David Norris: On a point of order, are amendments Nos. 86c to 86h, inclusive, being discussed together?

An Leas-Chathaoirleach: No. I made it clear that amendments Nos. 86c to 86e, inclusive, were related and would be discussed together, by agreement. The Senator agreed to that proposal.

Senator David Norris: Thank you.

Deputy Charles Flanagan: I have already set out, in respect of previous amendments, the policy concerns I have about aspects of this process. I have underlined the Government's approach to the question of the promotion of judges and requirements generally for the promotion of judges to be administered by the commission in the selection and recommendation of persons in that connection. We have passed section 39.

I want to make it clear that the provisions of section 62 will apply in cases as the no canvassing provisions. The exercising of influence and the matter of improper influence apply to an applicant under section 39 or a person who may have expressed an interest under section 44. My intention is to retain the requirements of section 39, whereby any person, including a judge, other than for the post of Chief Justice and the two most senior presidential posts, must apply to the commission when he or she wishes to be considered. I have already indicated that further work needs to be done ahead of Report Stage in respect of the top three positions. Amendments in this respect will centre on section 44.

Under the new system, I do not envisage the type of channel of influence or expectation to which Senator McDowell referred. I do not believe there is a need for one, even in respect of what the Senator described as a celebrated barrister or candidate.

Senator Michael McDowell: It could be a celebrated solicitor.

Deputy Charles Flanagan: I do not accept that there is a need for a back channel, or even a front channel, as evidenced. I do not believe there is a need for one where a person can make direct representations in furtherance of his or her application. Accordingly, I am not in favour of the approach adopted in amendment No. 86c.

Section 39 must be seen as key. It provides that a person, including a person who for the time being is a serving judge or a relevant officeholder, who wishes to be considered for appointment to judicial office, will make an application to the commission. That application will be made in writing or in such other format as may be specified. For all appointments, other than the three positions envisaged under section 44, it is clear that the only method for entering into the process will be by direct application to the commission. Accepting amendment No. 86c would impact seriously and adversely on the Government's policy. It would cross in a real and significant manner the matter of the promotion of serving judges and how it is managed.

In spite of what Senator McDowell said, it is important that we move towards a much more transparent process, as described by Senators speaking in favour of the Bill. It is also something of a level playing field in the making of appointments, including appointments of people who might be serving judges either across the line or at what might be regarded as another lower court level. It is a fundamental tenet of the Bill that we are extending the remit enjoyed by the Judicial Appointments Advisory Board, JAAB, which has nothing to do with the elevation of serving judges as it is bypassed in the current system. I invite Senators McDowell and Norris who are dealing with this legislation on a line by line basis to agree with me that the current situation with the JAAB is less than satisfactory if a serving judge in any particular court wishes to be considered for promotion. "Promotion" is not a word that is entirely appropriate, but it is used in everyday language. It is about moving from one court to another. It can be called promotion or elevation. The fact that a process is lacking is in need of attention. However, it might easily be built-in by way of application. I remind Senators that we are moving towards

a reformed regime where we will have a more comprehensive and transparent process of selection, recommendation and nomination as happens in other jurisdictions. I do not accept that there is a need for the type of channel mentioned in the course of the debate.

Senator David Norris: I think the Minister has slightly misinterpreted our point. He spoke about canvassing and exercising improper influence. One has to take into account the direction of the communication. The communication actually comes from the Government, the Minister or the Attorney General acting on the authority of the Government. They communicate with-----

Deputy Charles Flanagan: Reverse canvassing.

Senator David Norris: I do not know as I have never heard of reverse canvassing. It seems odd to me. The Minister has said they must then apply to the commission. Even if the amendment were to be passed, a candidate would still have to apply to the commission, but that is not a real point. Does Senator McDowell have comments on the possible interpretation of his amendment as a form of establishment “you scratch my back” cronyism and so on? It could be held by commentators who object to the position taken by Senator McDowell and me that this is just the old boy network again or just people who are in the Government promoting their friends.

Senator Michael McDowell: A number of points arise from what the Minister and Senator Norris have said on amendment No. 86c.

First, it is becoming apparent that the Minister believes the terms of section 39 will be the sole method with which any judge can effectively be engaged at all in respect of an appointment. I believe that is the purpose of the Bill. What the Minister says does not shock me in the slightest or surprise me. I believe he believes section 39 is to be the sole and exclusive method for communication between the Government and eligible persons in terms of their appointment to the Bench. He raised the question of the prohibition on canvassing. I do not know whether the current regime in which one indicates to the Secretary to the Government that one is willing to serve in respect of an appointment amounts to canvassing. If the Minister thinks it does, that worries me even more.

I refer to a central aspect of the legislation if, as the Minister implies, section 39 effectively is an exclusive measure and that this and no other way is how one will become a judge and one will apply to the commission in the ordinary way. We will come to the consequences in later amendments. If it is the case that this is to be the sole means of becoming a judge, in the interests of what the Minister calls a level playing pitch among applicants, that has serious constitutional implications. I agree with him that the term “promotional” is an unfortunate piece of shorthand, especially in respect of the appointment of High Court, Court of Appeal and Supreme Court judges to either the next senior court or to a more senior position in their own court. I believe this issue is of fundamental importance. The amendment has been tabled to tease out the issue completely and flush out what the Bill is all about. If it is saying this will be the only way in the future that a judge can actually be made a judge at a different level or that an applicant can be made a judge and that the kind of communication to which I have referred and which has happened to the great benefit of the Judiciary and the State would be inconsistent with the Bill and that it would be inconsistent for that channel ever to be used in the future with the passage of this Bill, there is a very serious constitutional question.

This is the point I have made before. The Minister seems to think I am repeating myself *ad nauseam*. If he says and keeps pretending that nothing in this Bill prevents the Government from advising the President to appoint anybody who is eligible to a judicial position and if he keeps on using that tattered fig leaf as his constitutional defence, while also stating there can be no communication between the Government and any candidate and that the Government may not be aware of who has actually applied to the commission successfully or unsuccessfully, he is narrowing the scope of what the Government can do. He is really asking the Government to play blind man's bluff. If the Government sees three names in front of it and decides it does not like the look of them, what is it to do? Is it to tell the commission it did not think much of the commission's short list?

Senator David Norris: That might be a good idea.

Senator Michael McDowell: Then what is it to do? Is it to state it will make its own appointment, as it did not think much of those three? How will it make that appointment? Will it tap somebody on the shoulder and tell that person it intends to appoint him or her? Will it know whether an individual has already been appointed and rejected by the commission? We do not know because this is left deliberately vague, but we will be teasing out whether it is the case.

The Minister is saying his safety valve of constitutionality is that nothing in the proposed legislation interferes with the right of the Government to make appointments that are not recommended by the commission. That is almost meaningless because the Government will not know who is available, will not itself be able to explore who is available and will not be able to suggest to somebody who is not shortlisted that it thinks he or she is the man or the woman for the job and that it would like him or her, for instance, to be on the Supreme Court. If one keeps saying all of that to the Government, what is left of its constitutional right to make a non-recommended appointment? If the Government cannot even know with what cohort of people it is dealing and if it cannot know whether the person in question has any interest in being a judge, how is it going to exercise its right to make an appointment? That is the nonsense that lies at the heart of this legislation. It is based on one proposition, namely, there seems to be contempt for the proposition that the Executive in Ireland, under the Constitution, has rights and duties. One of the rights and duties the Executive has - I use the terms "right" and "duties" jointly - is to make the best appointment it believes is possible and open to it.

Senator David Norris: Hear, hear.

Senator Michael McDowell: That is the Executive's primary function. If it does not agree with the three names that come forward on some shortlisted basis from a commission, it is not merely entitled to reject them. It also can decide it can do better than that. What if it takes advice from the Attorney General, the Minister for Justice and Equality or whoever else and decides it could do better? What if it decides that Mrs. So and So is a highly qualified solicitor or barrister or that Ms Justice So and So is a very impressive member of the Bench and that it would like her to be on the Supreme Court or the Court of Appeal in preference to the three names it received? How is it to make that executive decision, which is its constitutional entitlement, duty and prerogative, if we circumscribe it all with hedges and camouflage to make it impossible for the Executive to know what has actually happened at the commission? How is it to do it? How can it possibly guess that Ms Justice So and So was an unsuccessful candidate and passed over or has been passed over for four successive appointments by this group, when it might ask why, in the name of God, is she not getting a recommendation? Perhaps it is because she is not interested at all. The Executive would not be entitled to know any of those facts. It

would not be entitled to know whether she is interested in the promotion. It is not entitled to know whether she has applied. It is not entitled to know how many times she has been rejected.

That is what this legislation is all about. If the people who are proposing the legislation can see no constitutional problem with that, in my view, they disrespect the function of the Government. We have a constitution. We have a Legislature which has constitutional functions. We have the separation of powers between the Legislature, the Executive and the Judiciary. One of the things that is enshrined in the Constitution is that the Executive is the body of people who bear responsibility, not merely on paper or as a rubber stamp for some commission but as a solemn obligation by reason of being elected members of the Government and Dáil Éireann and being part of the Executive, to exercise their collective judgment on the issue of who is or is not the best person available. The function simply cannot be delegated. It cannot be a subject of deferment or saying, "We don't know; these people tell us that this is the best person." That is not good enough. If the Cabinet believes the three people put forward for consideration are not the kind of people it wants on the Supreme Court, it is not merely entitled but, rather, duty bound to consider others whom it considers to be more suited for appointment to the role such as a stellar man or woman on the Bench-----

Senator David Norris: The Cabinet is not allowed to know who the people are.

Senator Michael McDowell: How can it consider those persons if it is not allowed to know who is interested in the position? The amendment aims to tease out the unconstitutionality of the intention of the Bill. As the Minister again hinted today, that intention is to ensure that, by reason of the prohibition on canvassing and due to section 39 which was forced through against my wishes, the only practical way in which somebody can be made a judge-----

Senator David Norris: Including reverse canvassing.

Deputy Charles Flanagan: That is not something we have heard of before.

Senator David Norris: I will try it tonight.

Senator Michael McDowell: -----will be by going through the appointments commission. In 2004 there was a very good reason for the Judicial Appointments Advisory Board, JAAB, process not being applied to serving members of the Judiciary, namely, that the Government did not have to heed the advice of the Judicial Appointments Advisory Board regarding the merits or demerits of a High Court judge seeking appointment to the Supreme Court. Rather, it could make up its own mind in that regard.

The problem with this legislation is that it does not simply provide that there be a short list. I would have no problem with there being a short list. Many people think the list submitted by the JAAB was far too long in some cases, although for most senior positions, it was not overly long according to my recollection, nominating between five and eight candidates on many occasions. The short list is not the problem. Rather, the problem is that we are faced with an attempt to reduce to almost zero the constitutional function of the Executive. One of the problems in that regard is that there is a tendency, particularly among legislators - we should be conscious of it - to think Executive discretion is wrong or suspect or that its exercise in the past has been unfortunate or suboptimal or that if the JAAB had been given the function of vetting the appointment of judges to promotional appointments, to use that terrible phrase, there would have been a better outcome. I reject such arguments. The Legislature has no business treading so firmly on the constitutional right of the Executive to make decisions of this kind. If the Minister

is happy to insert a safety valve, as he has in the Bill, to the effect that nothing in the Bill constrains the Government in how it exercises its role of advising the President on appointments to the Bench, but that is made almost useless by these circumscribing provisions, we are going down the road of taking from the Executive nearly all of its discretion.

The Minister and Senator Norris have discussed reverse canvassing. That is not what we are dealing with. The function of the Executive is to make its own decisions on matters such as appointing judges to the Supreme Court. Its function is to make its own decisions on the merits and demerits. It may take advice from whomever it chooses, but it is duty bound to exercise its judgment and do what it believes is best for the country and the Supreme Court in making such appointments. The unconstitutionality arises in that the reduction to the phrase “reverse canvassing” of a process whereby an envoy of the Government goes to a serving judge or an eminent solicitor or barrister to convey the wish of the Government that the person apply for the job and the suggestion that that circumvents openness, transparency and an even playing pitch puts those concepts on an equal par with the Executive’s right and duty to make the best decision it considers appropriate in respect of a particular appointment.

It is not open to this House to tell the Cabinet that criteria it may use are not good enough, that the House wants a system whereby everybody on the Bench who will be considered for promotional appointment must have been recommended by the judicial appointments commission and that the Government, even if retains its residual power on paper, should be rendered incapable of exercising that power owing to ignorance and statutory provisions. If that is the philosophy behind this legislation, let that be said. The Minister has effectively said it is the philosophy behind the legislation. Let that be made clear such that if the constitutionality of the scheme of reform, as the Minister calls it, is considered by the courts, it will be very clear why the Bill has been drafted in the way it is, why it contains its particular provisions and why certain amendments which sought to uphold the rights of the Executive in making judicial appointments were rejected.

I make no apology for tabling the amendment because it has done exactly as I had hoped, namely, it has drawn out the Minister on how he sees judicial appointments being made in the future. He does not hope they would all be made through the judicial appointments commission system. Rather, he is saying the provisions of the Bill are intended to ensure that that is the case. The corollary is that there will be no judicial appointments outside that system because it will be so difficult for the Executive to work out who is available and who is not, who was rejected and who was not and to exercise its own judgment in the matter. Simply, it will not be worth the candle.

If one wishes to cut off the means of communication whereby the Executive through its envoy, whether the Attorney General, the Minister for Justice and Equality or the Taoiseach, inquires of a person who may or may not be a serving judge as to whether he or she would accept an appointment to the Supreme Court, the Court of Appeal or another court, which is not reverse canvassing, one is telling the Executive that its power and discretion will be radically cut back to practically nothing or meaninglessness. That is what this concerns. That seems to be the admitted policy behind the Bill. I am not impressed by the suggestion it is a level playing pitch. This is not a game which has a level playing pitch. We are dealing with Executive discretion as to who should or should not be appointed to fill a vacancy in the Supreme Court. There does not have to be a level playing pitch between two people because the Executive may have a very clear view that it wants that person for that job and not one of three others whom it does not particularly want for the job. It could want a particular type of person or a person with

a particular outlook. A level playing pitch does not come into it.

This system is not transparent because as the Bill stands and subject to the amendments that have yet to be considered nobody will know who was successful or unsuccessful and who was rejected time after time. Nobody will know any of these things, least of all the Government, and the Government most of all will be kept in the dark on the issues. I have absolute rooted opposition to the policy the Minister has just enunciated and the philosophy that underlies the Bill. There is simply nothing wrong with the Government communicating with somebody to inquire whether he or she would accept a position in the Supreme Court. It has been describe as reverse canvassing. It is part of the function of the Government to make inquiries that will make its decision work. It is a necessary outcrop of having the discretion to appoint an eligible person to the Supreme Court to be able to communicate directly with that person and ask whether he or she is willing to take the position.

Senator David Norris: Hear, hear.

Senator Michael McDowell: One is on one side of this issue or the other. One cannot have it both ways. What worries me about the Bill - I do not want to attack the Minister personally or the Department - is that there is a certain cowardice in saying nothing prevents the Government from making its own choice but that it must do so in a fog of ignorance and a manner that prevents it from giving effect to its own preference by making inquiries which are a necessary adjunct to the discretion the Bill purports to preserve.

That is what I have to say about amendment No. 86c.

An Leas-Chathaoirleach: Perhaps the Minister might like to comment.

Deputy Charles Flanagan: No, I have dealt with this issue.

An Leas-Chathaoirleach: The matter has been dealt with and Senator McDowell and the Minister have made their position clear.

Senator Michael McDowell: We must also discuss the other amendments in the group.

An Leas-Chathaoirleach: Of course.

Senator Michael McDowell: We have dealt with that one.

An Leas-Chathaoirleach: Amendments Nos. 86d and 86e.

Senator Michael McDowell: I hope I will have no difficulty in persuading the Minister that amendment 86d is absolutely unacceptable. It states:

In page 28, between lines 25 and 26, to insert the following:

“Disclosure of identity of persons eligible for appointment to judicial office

41. Notwithstanding the provisions of *sections 27 and 28*, nothing in this Act renders it unlawful for the Attorney General to inform members of the Government of the identity of persons who are eligible for appointment to any judicial office and who have indicated a willingness to be appointed to such office by the President on the advice of the Government, including persons who have applied to the Commission for recommendation for appointment but who have not been recommended by the Commission for such appointment.”.

Sections 27 and 29 deal with confidentiality. If this amendment is not accepted, the Bill will be manifestly unconstitutional. If the Attorney General must sit on this body and see people being rejected time after time or being passed over in favour of others and he or she is prohibited from telling the Cabinet that Ms Justice Bloggs has applied four times and never featured on a short list selected by the commission, the Bill is, on yet another ground, manifestly unconstitutional. This, combined with the rejection of the previous amendment, would be a real canary in the coal mine. If we cannot have acceptance of the amendments, we know precisely what we are dealing with - an onslaught on the prerogative of the Executive under the Constitution.

Senator David Norris: This goes to the very heart of the Bill. It is absolutely ridiculous to suggest the Attorney General should be criminally liable for giving information germane to the discussion to members of the Government. It is ridiculous. It ties their hands. I cannot express strongly enough my opposition to what is in the Bill. We speak a lot about openness, transparency and accountability. Is the Government to be deprived of information that is necessary for it to make a proper and balanced judgment? It is the height of legislative absurdity.

Senator Michael McDowell: If, in respect of the Court of Appeal or the Supreme Court, the Government gets the same three names recommended to it on three successive occasions and does not like them, is it not entitled to inquire who is being passed over for those three people to be named and why the commission insists on putting those three people before the Government for nomination when the Government has already made clear through one decision that it is not impressed by them? If this is not possible, it underlines what I am saying about the onslaught on the Executive's discretion. If the Government cannot understand the true lie of the land in making its constitutional decision and have a 100% accurate picture of who is consistently being put forward on a short list and who is not and if it cannot ask why the people who are not being put forward are failing, what is wrong with them and why the commission keeps stating Ms Justice Bloggs and Mr. Justice Bloggs are people who will never appear on the short list, there is something radically wrong with the intended operation of the Bill.

Deputy Charles Flanagan: I refer to sections 27 and 28 because I do not believe we can read the amendments, in particular, amendment number 86d, without reference to the confidential information and the duty of confidentiality of certain proceedings and matters, as evidenced by sections 27 and 28 of the Bill that have been passed. In listening to Senator McDowell it seems this is about the role and function of the Attorney General and the manner in which the person in that office may be obliged or prevented from communicating with the Government or the Cabinet on the matter of the recommendations. It seems Senator McDowell is most concerned about the confidentiality requirements of the Bill and that those requirements imply the Attorney General will be unable to tell the Cabinet the names of the persons who have not been recommended by the commission. Previously, we heard an example of a situation where the Cabinet was minded not to appoint a recommended person and the Attorney General was asked about another applicant. I must repeat what I have said a number of times - it will not be lawful for the legal adviser to the Government, namely, the Attorney General, to advise the Government against the recommendations of the commission in the context of there being a better candidate, be it an exceptional barrister or a celebrated lawyer. The fundamental requirements of confidentiality are evidenced in sections 27 and 28. They make it clear that a member of the commission, except for the purposes of the Bill once enacted, shall not in respect of persons applying for judicial office disclose, among other matters, the proceedings of the commission. The Attorney General is a member of the commission and will presumably be participating fully in the deliberative process. As a member of the commission, he is bound by the same

statutory obligations as other members of the commission. It seems that the Bill is clear on these matters. Therefore, I am not prepared to accept the amendment.

Senator Michael McDowell: I listened carefully to what the Minister said, but I am absolutely mesmerised by what I did not hear and what I failed to grasp in what he said. Is the Attorney General to be free to inform the Cabinet-----

Senator David Norris: No.

Senator Michael McDowell: -----that someone has applied a number of times and been passed over?

Senator David Norris: Evidently not.

Senator Michael McDowell: The answer to that is either “Yes” or “No”. If the answer is “No”, as Senator Norris seems to think is the case, it only increases my worries and deeply held sentiment that the Bill is intended to have an unconstitutional effect. Imagine the Cabinet getting the names of three people on whom it is not keen for appointment and someone asking whether Ms Justice or Mr. Justice So and So would be better. The Attorney General could advise the Cabinet that Ms Justice or Mr. Justice So and So might be better. Before the Cabinet said “No” to the three, the Minister for Justice and Equality would presumably ask whether the person under discussion was remotely interested in the job. The Attorney General, however, would not be allowed to tell the Cabinet whether the person in question had made an application and been turned down a number of times, nor, since the Minister has rejected the last amendment, could the Attorney General tap that person on the shoulder and invite her or him to indicate whether she or he was interested, as that would interfere with the so-called level playing pitch.

I listened to the Minister’s disposition. It reminded me of F. E. Smith, Lord Birkenhead, when he was a cheeky barrister making a long submission before a particular judge. The judge was an irascible and impatient man. He told Mr. Smith that, having listened to him for an hour, he was none the wiser, to which Mr. Smith said: “None the wiser, perhaps, my lord but certainly better informed.” I now wonder whether I am in any sense informed as to whether the Minister is saying the Attorney General must keep it a secret from the Government-----

Senator David Norris: Of course, he is.

Senator Michael McDowell: -----that a particular candidate whom it is discussing has been rejected on a number of occasions and stands rejected from being shortlisted? I would just like to know. Rather than circling around the issue, I want to know the plain, simple, straight proposition. Is that what the Bill actually states?

Deputy Charles Flanagan: I thought I had made that clear. A reading of sections 27 and 28 makes it clear that members of the commission shall be bound by confidentiality. A member of the commission is the Attorney General. Therefore, the Attorney General will be bound by a similar stricture.

Senator Michael McDowell: Then I really despair of the Government. The Bill would not be in its present form and be populated with all of these unconstitutional provisions were it not for the enthusiasm of one member of the Government. The Minister who is guiding the legislation through the House is asking us to accept as a constitutional proposition that the Attorney

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General should be prohibited from informing the Cabinet whether a particular person whom it wants to consider for appointment as a judge has sought the position in question. Nothing could be more unconstitutional. Where does this House get the right to say to the Attorney General that he cannot do that? He is being placed on the commission - he would not be there were it not for the legislation - but, having put him on the commission-----

Deputy Charles Flanagan: He would be on the commission if it were not for the amendment-----

Senator Michael McDowell: That was the Minister's measure. The Minister put him on the commission. The Minister is now saying the person involved is to be circumscribed by a greater duty of confidentiality to the commission than by a duty of frankness and-----

Senator David Norris: Accountability.

Senator Michael McDowell: -----accountability to the people whom the Constitution states he is there to advise on matters of law and legal opinion. From where does this House get the right to tell an Attorney General what she or he can tell the Cabinet about what he or she knows-----

An Leas-Chathaoirleach: The Senator has discussed that issue already.

Senator Michael McDowell: -----about the availability of a person for judicial appointment when the Cabinet, because the three people put forward are not impressive, asks about Ms Justice So and So? We are now being told by the Minister that the Attorney General will be bound not to tell the Cabinet that the judge in question has applied a number of times, has never featured on a short list and, having applied on this occasion, has shown an interest. How can that be right? It is plain wrong and daft. If there were children listening to this debate, they would see how foolish that provision was. The excuse that this is being done in the interests of openness, transparency and a level playing pitch is fantasy. There is nothing open about it; it is secrecy. There is nothing transparent about the result at all since no one is entitled to know who is on the short list. There is nothing level about the playing pitch if the Government is entitled to appoint Ms Justice So and So to the Supreme Court but is to be deliberately kept in the dark about the fact that she wants to be appointed and has, on a number of occasions, sought appointment to the Supreme Court because the legislation prevents the Government from knowing this. With respect, that is a huge hole in the Bill.

It is 9 p.m. and we have not yet reached amendment No. 86c.

An Leas-Chathaoirleach: It is getting close to 9 p.m.

Senator Michael McDowell: I would be happy to report progress.

An Leas-Chathaoirleach: The Senator has some seconds left.

Senator Michael McDowell: Before I move on to amendment No. 86c, I emphasise the gravity of the admissions being made by the people who are promoting this draft legislation.

I wish to make a point that I have made a number of times.

An Leas-Chathaoirleach: I am afraid that time has run out. The Senator can save his point because-----

Senator Michael McDowell: It would fit in here very well. The Bill will damage the quality of the Judiciary if it is enacted in its present form. It will inhibit the promotion of the best judges.

Progress reported; Committee to sit again.

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

Senator Colm Burke: At 10.30 a.m. tomorrow.

The Seanad adjourned at 9 p.m. until 10.30 a.m. on Thursday, 31 January 2019.