



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

Gnó an tSeanaid - Business of Seanad	123
Nithe i dtosach suíonna - Commencement Matters.	124
Flood Relief Schemes Status	124
Water Quality.	127
National Dementia Strategy	130
Respite Care Services	133
An tOrd Gnó - Order of Business	135
Road Traffic (Amendment) Bill 2019: First Stage.	147
Vacancy in Seanad Membership: Motion	148
Blasphemy (Abolition of Offences and Related Matters) Bill 2019: Order for Second Stage	148
Blasphemy (Abolition of Offences and Related Matters) Bill 2019: Second Stage.	148
Blasphemy (Abolition of Offences and Related Matters) Bill 2019: Committee Stage	163
Gnó an tSeanaid - Business of Seanad	165
Blasphemy (Abolition of Offences and Related Matters) Bill 2019: Committee Stage (Resumed) and Remaining Stages	165
Wildlife (Amendment) Bill 2016: Report Stage	168
Visit of Saudi Arabian Delegation	182
Wildlife (Amendment) Bill 2016: Report Stage (Resumed).	183
Relationships and Sexuality Education: Statements	192

SEANAD ÉIREANN

Dé Céadaoin, 25 Meán Fómhair 2019

Wednesday, 25 September 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 Michelle Mulherin that, on the motion for the Commencement of the House today, she proposes to raise the following matter:

The need for the Minister of State with special responsibility for the Office of Public Works, OPW, and flood relief to provide an update on the provision of permanent flood defences for Crossmolina, County Mayo.

I have also received notice from Senator Pádraig Ó Céidigh of the following matter:

The need for the Minister for Housing, Planning and Local Government to make a statement on the quality of water in bathing areas, particularly Galway Bay.

I have also received notice from Senator Kevin Humphreys of the following matter:

The need for the Minister for Health to make a statement on funding for dementia services.

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

The need for the Minister of State at the Department of Health with special responsibility for disability issues to make a statement on the reopening of Annalee View Respite Care Centre, Cootehill, County Cavan.

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

The need for the Minister for Agriculture, Food and the Marine to make a statement on the inclusion of cattle underpasses in the targeted agriculture modernisation scheme.

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

The need for the Minister for Education and Skills to make a statement on the provision

of home tutor hours for children with autism spectrum disorder.

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

The need for the Minister for Agriculture, Food and the Marine to make a statement on the eligibility criteria for the 2019-2020 hardship grant, particularly the rules relating to off-farm income.

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

The need for the Minister for Transport, Tourism and Sport to make a statement on the upgrade of the N16 road in Sligo.

I have also received notice from Senator Maura Hopkins of the following matter:

The need for the Minister for Health to provide an update on plans for the site of the former St. Brigid's Hospital in Ballinasloe, County Galway.

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

The need for the Minister for Agriculture, Food and the Marine to make a statement on the consultation process undertaken by his Department following applications for aquaculture licences in a special area of conservation.

Of the matters raised by the Senators that are suitable for discussion, I have selected those raised by Senators Mulherin, Ó Céidigh, Humphreys and Gallagher and they will be taken now. The other Senators may give notice on another day of the matters they wish to raise.

Nithe i dtosach suíonna - Commencement Matters

Flood Relief Schemes Status

Senator Michelle Mulherin: Cuirim fáilte roimh an Aire Stáit. I thank the Ceann Comhairle for selecting this matter for discussion. The delay in progressing and delivering flood defence works in Crossmolina is unacceptable. People living in the town are frustrated, angry and afraid, there having almost been another flooding incident on the last weekend of August. The history of the problem long predates the Minister of State's time in office. I am sure he will tell me it is an environmental issue and that further investigation is needed. Does he not agree that the length of the delay and the manner in which the matter has been dealt with by the OPW and consultants is not acceptable? The Minister of State has visited Crossmolina and shown empathy with the people there. That gave them hope that he will cut through the red tape surrounding this project, which somebody needs to do.

When it comes to the OPW, it is a case of Nero fiddling while Rome burns. It has taken no action other than the implementation of a minor pilot project which saw the installation of flood gates on some buildings. The flood defence works for Crossmolina come under the Government's capital investment programme for 2016 to 2021. Given that the money is there for the project, why has it not progressed? The town was flooded in 1989, 2006 and in November and December 2015. There was a serious danger of flooding on many other occasions. The

25 September 2019

flood gates have helped but their impact is limited. Now the people of Crossmolina are facing another winter afraid that the flooding will recur.

People are so upset about the delay in the works because they are in a situation where they cannot get insurance and cannot sell their properties. I know of a man who cannot sell his flood damaged home or get money to refurbish it and has now received a letter from the local authority notifying him that the property constitutes a derelict site. The proposal is to build a channel upstream between Nephin Mountain and the town, but that is not what was originally proposed. In 2012, the OPW had Ryan Hanley undertake an environmental impact assessment, EIA, which resulted in a scoping document being published in July 2014. The proposal was that walls would have to be constructed on either side of the river and the bridge would have to be raised somewhat. There followed the catastrophic flooding in the town in November and December 2015. We were then told that the walls could not be built because they would interfere with the integrity of the bridge. After going back to the drawing board, the bi-channel solution was brought forward.

At a meeting of the Joint Committee on Climate Action last October attended by the Commissioners of Public Works, including Mr. Maurice Buckley and Mr. John Sydenham, I asked for a commitment that we would not face into this coming winter without the works being done. They assured me that an environmental impact report had been completed in May 2018 and they expected construction to begin in the summer of this year. That has not happened. Why are the flood defence works in Crossmolina being repeatedly delayed because of environmental issues?

Minister of State at the Department of Public Expenditure and Reform (Deputy Kevin Boxer Moran): I thank the Senator for raising this matter. I welcome the opportunity to provide an update on the progress being made on the proposed flood relief scheme for Crossmolina. I would like to say at the outset that I fully appreciate the frustration of the local community and Senator Mulherin at the delays that have arisen on the project. I assure the Senator that these delays were due to legitimate technical issues that needed to be fully and properly examined.

The main outstanding technical issue relates to finalising the design for an additional in-stream flow-control structure. This is required in order to minimise the environmental impact of the diversion channel on the River Deel. The required assessment of the ecological and environmental constraints associated with the in-stream works that would be required for the proposed flow-control structure are now nearing completion, which will allow the detailed design of the project to be completed. The project team is ensuring that any tasks that can be progressed in parallel with the above environmental assessment are prioritised in order to minimise any programme delays. It is anticipated that the detailed design and preparation of the relevant documentation should be completed to allow the proposed scheme to be submitted to the Minister for Public Expenditure and Reform for formal confirmation before the end of the year. Following confirmation and tendering, it is anticipated that the scheme will progress to construction in the second half of 2020. Once the proposed scheme is confirmed, the OPW will contact landowners directly to provide information and advice prior to construction commencing.

As the Senator knows, I completely understand the stress that the threat of flooding causes. I am as anxious as anyone to ensure that the Crossmolina scheme is brought to construction stage and completed as quickly as possible. We must ensure, however, that we are delivering a

scheme that adheres to all legislation, including Irish and European environmental legislation. As I am sure Senator Mulherin can appreciate, the delivery of a robust scheme that meets these standards and the needs of the local community is complex and cannot be rushed. Any breach of our obligations under Irish and European environmental legislation could halt the scheme and result in further delays.

The option of dredging in the River Deel has already been given serious consideration as a measure to alleviate flooding in Crossmolina. While various dredging options have been examined, it has been found that dredging on its own would not reduce flood levels sufficiently to prevent flooding of properties in the town. Dredging on the scale required to avoid flooding would also have a serious adverse impact on the Jack Garrett bridge and would be very difficult to justify on environmental grounds given the protected status of the river. The most feasible solution is to proceed with the planned channel diversion option.

As the Senator is aware, both the OPW and Mayo County Council, working in collaboration with the local flood action group, have been proactive in implementing interim flood protection measures in Crossmolina pending the construction of the permanent defences. These include individual property protection, IPP, and a number of minor works schemes. I am advised that floodgates have now been installed in more than 100 properties under the IPP scheme.

The OPW has demonstrated its commitment to providing whatever interim protection measures it can and I assure this House that the OPW will continue to work constructively with Mayo County Council and the local flood action group in this regard. As a person who has visited the town, Crossmolina is a priority for me. The Senator said at the outset that a great number of floods have taken place in the area over the years. Since I became responsible for the Office of Public Works, I have prioritised Crossmolina. I have been working with the Minister, Deputy Ring, other Deputies, and the Senator all that time. We went down there and displayed the scheme. It is a €10 million project. The flood scheme includes a diversion of 1.3 km. It is not simple mathematics. Sometimes in politics we listen to those on the outside, where everyone has the answers, but when we get into the detail to make sure that everything is correct, we must ensure that every scheme in which the OPW is involved leaves the place in a hell of a lot better condition than it was found. No scheme has ever breached. We have always worked in conjunction with the local authorities and local groups.

People in Crossmolina have been in contact with me. The Senator is right when she says that there was nearly flooding again a few weeks ago. I was on the phone to the Minister, Deputy Ring, and Deputy Calleary all night outlining the levels and heights. I apologise that I did not send the Senator a text in that regard. I feel the concern of those people just as I feel the Senator's concern today. I assure the Senator that I am doing everything I can.

An Cathaoirleach: That was a very solid response so the Senator should not take too long. I do not think there is too much more to say.

Senator Michelle Mulherin: While I do not doubt the Minister of State's sincerity in this matter, I do not think this is acceptable. Even if it will only provide some relief, the river should be dredged. An environmental impact report was published in May 2018. There has been more environmental investigation since, including hydrological and geological investigation. A balance must be struck between the people on one side and habitats and wildlife on the other. The balance is not being struck. It will be of no comfort to people if their properties are flooded this winter. I ask the Minister of State to look at dredging again. It is not a total solution for

25 September 2019

the longer term; I accept that. I have spoken to the National Parks and Wildlife Service and it explained that it could be done in a sensitive way in light of the special area of conservation status and the presence of the freshwater pearl mussel in the river. I was told that this could all be accommodated but the OPW did not want to go for it. The OPW has not stepped up to the plate. It gave me commitments, which I presume it does not do lightly. It told me that the environmental work had been done and dusted by the end of May. It is now moving on to detailed design. It is going on and on. Will the OPW make up its mind? It has been going on way too long for the people of Crossmolina. It is totally unacceptable and unbelievable that people are being paid for doing this standard of a job.

Deputy Kevin Boxer Moran: I totally disagree with the Senator.

An Cathaoirleach: We have gone over time. The Minister of State was very detailed in his first response but I will allow him a supplementary response.

Deputy Kevin Boxer Moran: I want to respond. It is very unfair of the Senator to criticise my Department. We are working closely with the county council and all Members. It is easy to come in here and start roaring, shouting, and giving out. That might be a Facebook trend. I have put people first in everything I have ever done in this House and I will continue to do so. I have to adhere to the law and take cognisance of environmental studies. I was in Crossmolina in May publicising the scheme. It does not happen overnight. One cannot click one's fingers and make it happen. There is a process to which we must adhere. I am doing so, but I am going to deliver. Plenty of people have sat here, talked about Crossmolina, and done nothing. I am delivering. The Senator has to give us the extra time to make sure it happens. I do not want people's properties flooded. I never have and never will.

Water Quality

Senator Pádraig Ó Céidigh: Gabhaim buíochas leis an gCathaoirleach as ucht an deis a thabhairt dom labhairt ar chúrsaí uisce i gCuan na Gaillimhe. I dtosach báire, glacaim buíochas leis an Aire Stáit as teacht anseo. Tá dhá rud le rá sula dtosaím. Beidh deireadh seachtaine againn ar an gCeathrú Rua i gConamara do Theachtaí Dála, Seanadóirí, Airí agus gach duine eile faoi cheann coicíse nó trí seachtaine. I would love to see the Minister of State, the Cathaoirleach and everybody in both Houses there learning spoken Irish for the weekend. It will be good craic but I will give one warning: anyone who speaks a full sentence in English will be sent home. That stands for everybody. That is coming up soon. I hope everyone can make it.

Sea swimming is becoming more and more important as a sport. There are facilities for training throughout the country. It is essential that we have clean water for sports, food, and recreation. I come from Galway and the area of Galway Bay. An issue has come up on a number of occasions in Galway, which I will share with the Minister of State over the coming two to three minutes. I hope to get his feedback on it. The European Environment Agency and European Commission published a report on European bathing water quality in 2018. Some 71% of our bathing waters were deemed excellent, but this summer we saw many swimming bans, particularly in Dublin. Beaches were closed in Dublin. The most recent closure affected eight beaches. These beaches were closed to swimmers because of dirty water. I believe the cause of the Dublin beach closures was a number of sewage spills from the Ringsend treatment plant.

In May or June of this year Galway City Council prohibited swimming off beaches at Sil-

verstrand and Salthill and issued a warning about the Grattan Road beach in lower Salthill after elevated levels of bacteria were detected. The most recent beach closure occurred from 28 August to 4 September, just a few weeks ago. No definite cause was outlined for the source of the elevated level of bacteria in our waters. We need to have confidence in the quality of our waters, especially from a health point of view. The Environmental Protection Agency, EPA, states in its 2018 report on bathing water quality in Ireland that ongoing research will help it to understand further how it can protect and improve bathing water quality. This is very much work in progress. We need to understand fully the source of the contamination in our water, which we currently do not.

I will pay particular attention to bathing waters in Galway as I ask the Minister of State a couple of questions. Every day, throughout the year, I see people swimming and diving off Blackrock in Salthill. It is a fantastic amenity. I know that the Minister, Deputy Murphy, spends time sea swimming himself. Perhaps the Minister of State does also, but I have seen some photos of the Minister doing so while I have not yet seen any of the Minister of State. I am sure he probably jumps in now and again, as do I. Given the number of cruise ships visiting Ireland in 2019, does the Minister of State know what volume of wastewater and sewage was discharged into Irish waters? Who monitors cruise ships in Irish waters for compliance with environmental regulations? If we have an authority or a body doing that, what is the frequency and depth of this monitoring? Other countries have legislation in place requiring that cruise ships be routinely tested to meet clean air and water standards and a tax is levied on each cruise ship passenger to pay for the programme. Has a cruise ship operator ever been fined by Irish authorities for causing pollution?

I support and promote tourism but there is a balance to be struck. There is potentially a black hole or lack of clarity in this regard. Many people in Galway are concerned by the fact that the closure of Salthill beaches often coincides with the presence of cruise ships off Galway Bay. This issue was raised in Galway City Council a couple of times. Councillor John Connolly, who has highlighted it, is particularly concerned about the number of no-swim notices and advisory notices warning about water quality in the city. Councillor Donal Lyons has also raised the issue. This is a concern for people in Galway and I suggest it may also be an issue for people in Dublin who regularly swim in the sea. I would value the Minister's feedback on it.

Minister of State at the Department of Justice and Equality (Deputy David Stanton): Gabhaim buíochas leis an Seanadóir Ó Céidigh as ucht an t-ábhar seo a ardú inniu. I thank Senator Ó Céidigh for raising this issue today and giving me an opportunity to discuss the quality of our bathing water, specifically in Galway Bay. The Minister for Housing, Planning and Local Government, Deputy Eoghan Murphy, sends his apologies for not being here.

The Environmental Protection Agency reports on bathing water quality every year. In general, Ireland has high standards in this regard. Some 94% of our bathing waters meet the required standard and almost 86% are either good or excellent. High quality bathing waters are a fundamental natural amenity and I acknowledge the work of the many people who contribute to keep them at such a high standard. We must continue this good work to protect the water quality at our beaches. We must take action, where necessary, to put an end to any causes of pollution and ensure that people who swim have the information they need on water quality in their local area.

The bathing water regulations have resulted in more water quality testing and public information than was previously the case. The Minister has designated 145 bathing waters. Of

25 September 2019

these, five have been evaluated as poor, including three sites in Dublin Bay, one in Clifden, County Galway, and one on Lough Ennell in County Westmeath. The Minister remains concerned by ongoing issues at these five locations. While he recognises that the root causes may often be complex, the issues must be addressed as a matter of priority.

Focusing on County Galway and the beach at Clifden, Galway County Council has found there are a number of sources contributing to the water quality issues there, namely, the sewer network, septic tanks and storm water overflows from the wastewater treatment plant. Until recently, Clifden was discharging raw sewage. Irish Water has built a new sewage treatment plant at Clifden and is continuing with further works on the sewer network. This will improve water quality. Galway County Council is continuing to work to inspect and reduce the impact from householders' septic tank discharges.

In the Galway Bay area, specifically within the urban environs, the city council has issued prior warning notices ahead of heavy rainfall and posted temporary bathing prohibition notices. These notices are precautionary measures and are designed to protect people. Water quality is tested regularly at Galway Bay beaches and, in the main, is found to be excellent.

The local authorities in Galway are working closely with all stakeholders, including Irish Water, to ensure necessary improvements are delivered. In that context, it should be noted that Irish Water is preparing a drainage area plan for Galway city, which will help determine what upgrades are necessary to the sewer network. The Minister has asked the Department to work with the Environmental Protection Agency and the local authorities to examine ways of enhancing further the communication to bathers regarding potential water quality issues, including effective early warning systems in the event of weather alerts.

I have taken note of what the Senator has said with respect to discharges by cruise ships. I do not have any information to hand on that matter but I will ask the Minister to make inquiries and answer the queries the Senator has raised in that regard. I agree with his remarks on the importance of bays and waterways for sport and recreation purposes. As Minister of State at the Department of Justice and Equality with responsibility for youth justice, I encourage more people to use the waterways, beaches and sea for sailing, swimming and all other such recreation purposes.

Senator Pádraig Ó Céidigh: I thank the Minister of State for his comprehensive response which I very much appreciate, particularly the points he made regarding water quality. We are doing well but we could do much better. The Minister of State highlighted the work of Irish Water in Clifden. As he will be aware, I had a long engagement related to Irish Water a couple of years ago.

I would very much appreciate the Minister's feedback on the issue of cruise ships because it is a concern. From a recreational point of view, Ireland is becoming a more outdoor society, with rivers, lakes and the sea becoming more relevant to us. The environmental and health aspects are fundamental to this. However, this matter is also important from a tourism point of view because Ireland is seen as a green country in more ways than one. The more work we can do to maintain that, the better it will be for all of us. Gabhaim buíochas leis an Aire Stáit as ucht teacht isteach.

Deputy David Stanton: On the Senator's point regarding cruise ships, my guess is that the matter falls under the regulations and controls governing cruise ships. We will get the relevant

information to the Senator.

Investment in wastewater infrastructure is prioritised in the Irish Water strategic funding plan, with capital expenditure on wastewater projects expected to be in the region of €1.9 billion between 2019 and 2024. These planned upgrades and improvements will make a significant contribution to improving water quality.

While local authorities are, where relevant, working closely with Irish Water to ensure infrastructural improvements are delivered, there are many other sources of pollution that are outside Irish Water's remit, including sewer misconnections to contributing streams, septic tanks, agriculture, wildlife and dog fouling. All of these issues must also be taken into account and addressed.

National Dementia Strategy

An Cathaoirleach: I understand the Minister of State at the Department of Health, Deputy Jim Daly, will take the next Commencement matter.

Deputy David Stanton: The Minister of State is otherwise engaged and sends his apologies. I will take this matter.

An Cathaoirleach: That is fine. At least we have a Minister here to answer.

Senator Kevin Humphreys: I welcome the Minister of State, Deputy Stanton, to the House. In case he is not aware, this is world dementia month during which we are trying to raise awareness of the number of people suffering from dementia and, unfortunately, the lack of supports for them in Ireland. There are currently 55,000 people diagnosed with dementia in Ireland and 4,000 people are diagnosed with the disease every year. It is forecast that 115,000 people in Ireland will suffer from dementia in 2036. While we have had a national dementia strategy in place since 2014, little progress has been made other than in identifying the issues that need to be addressed. I have served on the all-party group on dementia in these Houses seeking a better service and more supports. Unfortunately, I feel that we have failed because we have seen no significant improvement for dementia sufferers, their families and carers over the past three years.

Dementia is an ignored condition. Those who have it and their families are ignored and care is very much a postcode lottery. There are nine dementia advisers serving 11 counties. The Minister of State, Deputy Stanton, represents Cork where there is one dementia adviser serving the whole county. The Minister of State will be aware of the distances that must be travelled in County Cork. He may have come across the dementia adviser service, which provides vital supports and also signposts for families the services they can knit into. In many cases, this enables families to keep a loved one at home for a much longer period.

The solution to the problem is not nursing home care. It is to try to keep family loved ones at home for as long as possible. I will not go into the financial impact of providing nursing home care for dementia sufferers but it is substantial.

11 o'clock

On many occasions, that care can be provided at home but the people who provide it are

not being supported. The Minister of State does not have responsibility for this area but I wish to express my deep disappointment on behalf of the all-party committee regarding the fact that there has been absolutely no progress over three years. On several occasions during that period, it has been flagged to members of the committee that we would see progress “this year” but, unfortunately, “this year” has never come. There has been increase in the number of dementia advisers and no targeted intervention in respect of home care packages. We asked for targeted packages for families who have children with Down’s syndrome, particularly as 88% of these children develop dementia. It is with deep disappointment that I say that no progress has been made

I ask that the Minister of State take the message back to the Minister, Deputy Harris, and the Minister of State, Deputy Daly, that we expect progress in 2019. We do not expect everything in that one year but we expect an incremental increase in services provided to the more than 50,000 sufferers and their families, as well as a pathway to proper services for the projected 115,000 sufferers by 2036. The Department of Health and the Central Statistics Office, which is responsible for compiling the census, have flagged these numbers. We need to get ready and ensure that those sufferers will have access to a proper service and that their families and carers will be supported.

Deputy David Stanton: I thank Senator Humphreys for raising this matter and I acknowledge his sincerity and interest in the area, as well as the work he has done. The Minister of State, Deputy Daly, wanted to be here but he is currently before the select committee and sends his apologies.

As a response to the increasing number of people with dementia, the Government launched the Irish national dementia strategy in 2014. The Senator is correct that more and more people are presenting with dementia, possibly because people are living longer. The strategy seeks to enable people with dementia to maintain their identity, resilience and dignity by recognising that they remain valued, independent citizens who, along with their carers, have the right to be fully included as active citizens in society. The Understand Together campaign has raised public awareness of dementia and has promoted the inclusion and involvement in society of those with dementia. Some 459 people with dementia have benefited from dementia-specific intensive home care packages, while thousands more have availed of standard home support services. The HSE’s national dementia office is working to implement the national dementia strategy and provides in the region of €12 million in annual funding to organisations delivering dementia-specific respite, home care, day care, cognitive stimulation therapy, social clubs and supports for family carers. The HSE also provides €400,000 per annum to support the dementia adviser service operated by the Alzheimer Society of Ireland.

A primary focus of the strategy is the improvement of community-based services for people with dementia and their families and carers. To this end, a number of key measures in the strategy are currently supported with dormant accounts funding, including: a national network of memory technology resource rooms; post-diagnostic supports; a dementia diagnostic service for people with intellectual disability; the national roll-out of a dementia training programme for HSE home care staff; the development of dementia resource centres; and community support projects for people with dementia.

The national dementia office and the Alzheimer Society of Ireland have collaborated on a project to map dementia-specific community-based services across the country. This project is one of a series of data collection measures by the national dementia office which aim to support

the future development of services and supports for people with dementia. The national dementia office is also progressing initiatives to improve dementia care in acute hospitals. These include training in dementia and delirium care, the appointment of several clinical nurse specialists in dementia and the embedding of dementia and delirium pathways into existing services. These initiatives aim to enable healthcare professionals in acute settings understand the specific needs of people with dementia, while creating an environment that is less disorienting and stressful for people with dementia.

The level of funding available for the Department of Health in 2020 and the quantum of services to be provided by the HSE, including supports for people with dementia, will be considered as part of the Estimates and budgetary process and national service planning. As these deliberations are ongoing, the Minister is not in a position to outline plans for 2020 at this time.

Senator Kevin Humphreys: I do not want to get angry. I had skin in the game because I saw my mother with dementia in the last years of her life. I have seen the real impact it has on families. The Minister says that, five years after the dementia strategy was launched, we are funding initiatives from dormant accounts funding but we need mainstream funding. It has to be planned and we cannot go, cap in hand, begging for funding every year. We need a planned, integrated approach in order to give dementia sufferers and their families the dignity of which the Minister spoke.

I am sorry the Minister is not here because we have had endless meetings with him on this. Dormant accounts funding does not allow us to plan a long-term service or to plan an integrated service for sufferers of dementia, their carers and their families. We - and I include myself in this - have failed people with dementia and their families. I will not stop raising this issue, inside and outside this House. Senator Kelleher and I will continue the battle and we will not let any Minister for Health, from any political party - including my own - allow what is happening to people with dementia, their carers and their families to continue. It is a national disgrace.

An Cathaoirleach: Unfortunately, it is also close to my door but I cannot comment from here.

Deputy David Stanton: I acknowledge what the Senator said and I believe all of us have experience of this. Good friends of mine are also affected and we all agree with what the Senator said. I commend him and encourage him to continue fighting. We will work with him on it. The national dementia strategy matches with much of what Sláintecare aims to deliver and has a strong emphasis on creating a whole-of-community response to dementia. Sláintecare seeks to steer the future direction of health provision and the Minister is pleased to say that the continued implementation of the national dementia strategy is included in the Sláintecare action plan for 2019. Dementia is not a simple health issue. It is also a social issue and involves everyone, from families and friends to business and the wider community. We all have a responsibility to remove the remaining stigma surrounding dementia and to create a society that embraces people with dementia. Individuals, businesses, organisations and communities have been encouraged to take steps to create welcoming and supportive communities for people with dementia and the Minister is heartened to see that more and more attention is being paid to dementia and the needs of people living with it.

The Government is providing a range of supports to promote the inclusion of people with dementia in our society. I appreciate that there are over 55,000 people in Ireland who are already living with dementia and that an average of 11 people develop dementia every day. As a

25 September 2019

result, there is a high demand for supports. The Minister of State, Deputy Daly, is committed to improving the range and quality of services available.

An Cathaoirleach: The Minister of State is not the line Minister for this issue and I am sure Senator Humphreys will find other methods of raising the issue in this Chamber from time to time. If I can, I will allow him to do so.

Senator Kevin Humphreys: I will do that. I thank the Cathaoirleach.

Respite Care Services

Senator Robbie Gallagher: I wish to raise a matter relating to Annalee Respite Care Centre in Cootehill, County Cavan. This time last year, Annalee Respite Care Centre was forced to close its doors because of an oil leak in the building. As a result, for 12 months there have been no respite facilities for families in Monaghan and Cavan. The situation is causing great hardship for many families in both counties. The issue shines a light on the chronic lack of childcare facilities available to families in Monaghan and Cavan and it highlights the chronic need for a separate facility for children. Ideally, we should have a childcare facility for adults and a separate facility for children.

We all know that being a carer is a tough, 24-7 and 52 weeks of the year job. These people are totally dedicated to the people they look after and many times it is at the expense of their own health and well-being. Surely it is not too much to ask of society that these family carers are given a short break, a chance to carers to recharge their batteries and a bit of time to themselves. Families in counties Cavan and Monaghan deserve that right as much as those in any other part of the country.

As I said, the ordinary man on the street would find it difficult to understand why a simple oil leak in a building has not been rectified after 12 months. Why is it taking so long to put the building back into commission? Why have the carers in counties Cavan and Monaghan not been given an interim facility that would accommodate their needs? I am sure the Minister of State will agree that is simply not good enough. I am sure that if there was an oil leak in a business or in the Minister of State's family home that the premises would not be vacated for more than 12 months. Nobody should be. There are questions to be asked and I am hoping the Minister of State might answer some of them. When will Annalee View be up and running again? What is the story with the promised interim facility? When can the carers expect that facility to become available?

We all agree carers do an excellent job. The least we can do, as a society, is provide them with a short break away from their full-time roles.

Deputy David Stanton: I thank the Senator for raising this matter which I am taking on behalf of my colleague, the Minister of State, Deputy Finian McGrath, who, unfortunately, is unable to attend. If I do not have all the answers to the Senator's questions, I will ask the Minister of State to provide them directly to him.

This is a very important issue and I have been given the opportunity, on behalf of the Minister of State, Deputy Finian McGrath, to outline the position in regard to the provision of respite services in counties Cavan and Monaghan. The Government's ongoing priority is the

safeguarding of vulnerable people in the care of the health service. It is committed to providing services and supports for people with disabilities that will empower them to live independent lives. Respite services are an important part of the range of services that support people with disabilities and their families. As part of the ongoing service provision, this year the HSE will provide more than 182,500 respite nights and 32,662 day respite sessions to families in need across the country. The need for increased respite services is acknowledged and the HSE continues to work with all service providers to explore various ways of responding to this need in line with the budget available.

In 2018, there was a significant improvement in respite. An additional €10 million was provided to fund 12 new respite houses. That is one in each HSE community healthcare organisation, CHO, area, plus an additional three houses in the greater Dublin area to respond to the very high demand for respite from the area. All 12 houses are now fully providing additional respite for families in need.

With respect to respite services in counties Cavan and Monaghan, the Minister of State, Deputy Finian McGrath, has been informed by the HSE that respite services within Cavan-Monaghan disability services are currently provided as follows. The Annalee View respite centre caters for both adults and children with moderate to severe intellectual disability and associated medical conditions. It has the capacity to provide 910 adult respite beds per year. Unfortunately, due to an environmental issue at the centre, the HSE is unable to facilitate respite at this time. However, a new proposed property for respite in Cavan town has been identified. All documentation for the new proposed property for respite has been submitted to the Health Information and Quality Authority, HIQA. The HSE awaits confirmation of registration from HIQA.

Steadfast House respite centre in Carrickmacross, County Monaghan, currently facilitates service users from Annalee View respite centre in Cootehill, County Cavan, during the closure and will provide overnight respite to individuals, as soon as possible. Steadfast House respite centre provides 840 respite bed nights per annum.

Cavan-Monaghan disability services currently offer a day service at the weekends for children and adults. Additional home support is available upon request and alternative respite is being explored.

St. Christopher's disability centre, Cavan, on average provides 730 adult respite beds per year. The Minister of State, Deputy Finian McGrath, has been advised that operational capacity at St. Christopher's is operating as normal. He wants to assure the House that the Government is committed to providing a range of accessible respite care supports for people with a disability, and to supporting their families as best as possible.

Senator Robbie Gallagher: I thank the Minister of State for his response and appreciate that this is not his brief. I am disappointed the Minister of State, Deputy Finian McGrath, is not here to address this issue but I understand he may have other commitments. I have two questions and I would appreciate if the Minister of State, Deputy Stanton, would pass them on to the Minister of State, Deputy Finian McGrath. On what date will Annalee View be operational again? It is imperative that we get that information and I ask that the matter is treated with more urgency. An interim facility was due to be commissioned. Due to the fact that Annalee View is not available, what is the current situation with the interim facility?

25 September 2019

An additional separate respite service for children has been promised. The Minister of State, Deputy Finian McGrath, indicated that he is looking into that. I ask for a progress report on that service. I would appreciate if greater urgency was attached to this issue than has been the case to date. It is the least the carers of counties Cavan and Monaghan deserve.

Deputy David Stanton: The Minister of State, Deputy Finian McGrath, is very much aware of the importance of access to planned respite which ensures people with disabilities receive opportunities to socialise. It facilitates families to receive a break from caring, preserve the family unit and provide stability. Respite services are an important part of a range of services that support people with disabilities and their families, and is crucial in helping to reduce family stress. Short breaks can also provide an opportunity for individuals to meet new people, widen their social circle and gain new experiences.

The need for increased respite services is acknowledged and the HSE continues to work with all service providers to explore various ways of responding to this need in line with the budget available. The additional funding that was provided last year for alternative respite services continued in 2019 and remains a high priority for the HSE. Every effort is being made to support families as best as possible. Joint working is currently active between the Annalee View respite service and the second respite service for adults with an intellectual disability within counties Cavan and Monaghan. Steadfast House respite centre in Carrickmacross, County Monaghan, will provide overnight respite to individuals, as soon as possible.

I will certainly pass on the Senator's queries to the Minister of State, Deputy Finian McGrath, and ask him to respond as soon as possible with answers.

Senator Robbie Gallagher: I thank the Minister of State.

An Cathaoirleach: I thank the Minister of State and the Senator for their brevity. That concludes Commencement matters.

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

An tOrd Gnó - Order of Business

Senator Jerry Buttimer: The Order of Business is No. 91, motion 7, regarding a vacancy in the membership of Seanad Éireann, to be taken without debate on the conclusion of the Order of Business; No. 1, Blasphemy (Abolition of Offences and Related Matters) Bill 2019 – Order for Second Stage and Second and Subsequent Stages, to be taken at 12.45 p.m. and to adjourn not later than 2 p.m., if not previously concluded, with the contributions of group spokespersons not to exceed ten minutes and those of all other Senators not to exceed six minutes on the debate on Second Stage, and Committee Stage and Remaining Stages to be taken immediately thereafter; No. 2, Wildlife Amendment Bill 2016 – Report and Final Stages, to be taken at 2 p.m. and to adjourn at 4 p.m., if not previously concluded; and No. 3, statements on the report of the Joint Committee on Education and Skills, entitled Report on Relationships and Sexuality Education, to be taken at 4.30 p.m. and to adjourn at 5.30 p.m., if not previously concluded, with the contributions of group spokespersons not to exceed ten minutes and those of all other Senators not to exceed six minutes.

Senator Gerry Horkan: I thank the Leader for outlining the business of the day. I apolo-

gise that I was not here yesterday for the Leader's response. I had to meet a delegation who were over with the French ambassador. I do not like it when I am not here to listen to the Leader's response and I am sorry I was not here.

Senator Jerry Buttimer: In fairness, it is not Senator Horkan's form.

Senator Gerry Horkan: I do not like doing it and I am sorry that I did. I have a couple of points today. I would like at some point for us to have a discussion about the cost of rent, particularly in Dublin. Kennedy Wilson is almost boasting that it is making more money here than it does in Los Angeles, and figures show that 55% of the take-home pay of some Dublin dwellers is now going on rent. It is something we have talked about previously, but property prices have risen significantly. It is difficult for people to get on the property ladder. People trying to buy a house are spending so much on rent that they are not able to save for a deposit. We need to have a look at that.

I would also like us at some point to bring in the Minister for Education and Skills, Deputy McHugh, to talk about history as a core subject. There is a suggestion that history is being removed as a core subject at junior cycle level. This particular Minister may be more favourable to bringing it back as a core subject but we have not heard him say that and he has not done it. I would like us to have a discussion on that matter, sooner rather than later.

I would also like us to bring in the Minister for Health on the issue of hospital consultants. We heard at the weekend that there is a significant shortage. I note the Minister for Health, Deputy Harris, was not able to attend the conference. Apparently, he had a diary clash. There is a serious shortage of hospital consultants. The figures are there. There are outlined. Between 2015 and 2017, 700 specialists left Ireland to work in Australia, Canada and the United States. Pay parity, equal pay and so on are part of that. The figures now show that 1 million people are on waiting lists for outpatient appointments. It is important that we bring in the Minister to let us know what he is doing.

Finally, I want the Leader to bring in the Minister for Housing, Planning and Local Government as a matter of urgency on the issue of political donations. There was much talk yesterday about how parties were being funded. I would draw the Leader's attention to an article by Mr. Colm Keena in *The Irish Times* on Friday last, the headline of which was "Legal question over €1.6m left in will to Sinn Féin". The article reads, "The key line [saying it was a will] in a solicitor's offices in Cootehill, Co Cavan, in 1997, says that he is leaving the money to the "political party in the Republic of Ireland known at this time as Sinn Féin." We need to have a discussion as to what is and is not permissible and what is not permissible and whether the Standards in Public Office Commission, SIPO, may have been asked to investigate that. While that is a particular case, I would like to bring in the Minister as a matter of urgency to discuss political funding and whether that kind of donation is within the rules in this jurisdiction.

An Cathaoirleach: I call Senator Lawless.

Senator Billy Lawless: Sorry, I was distracted.

Senator David Norris: By the lovely ladies on the balcony.

Senator Jerry Buttimer: From Waterford.

Senator Billy Lawless: It is great to be back in this beautifully restored Chamber. I say

25 September 2019

well done to all involved. The workmanship has been superb. Originally, this was the ballroom of Lord Leinster's townhouse. If the Cathaoirleach will excuse the pun, let us not dance around the issues today and get straight to the point.

Senator David Norris: Hear, hear.

Senator Billy Lawless: I welcome the recent publication by the Government of the Thirty-ninth Amendment of the Constitution (Presidential Elections) Bill 2019 to pave the way for a referendum allowing Irish citizens living abroad to vote in presidential elections. We are nearly there. Many of us have waited 15 years, if not more, for this referendum to be put to the people. While I do not want to pre-empt any formal announcement from the Government, most of us who were advocating for this change recognise that we may have to wait a little longer before the question is put. We have had many referenda in this country that have ended up being debates about issues far removed from the subject of the referendum. We do not want these errors repeated with this vote.

Brexit uncertainty and the looming Brexit deadline of 31 October make the prospect of a campaign in advance of a previously earmarked November date a distraction. Brexit has the potential to become wrongly interwoven in a referendum campaign that should be about empowering our diaspora community, expanding our global reach and broadening our nation's identity. For this reason, I would support a short delay in the holding of this referendum and the Government would be wise to provide for such a delay. We have the legislation in place and we are ready and ambitious for our country. I firmly believe the Irish people want to harness and support their emigrant friends and families so that they too can have a say as to who sits at the head of our State.

Senator Rose Conway-Walsh: Senator Horkan should note that the difference between donations made to Sinn Féin and the Fianna Fáil Party is that donors to Sinn Féin do not benefit. In this case, the donor is deceased. In contrast, the beef tribunal proved there were direct correlations between the amounts of money given to Fianna Fáil and the decisions that were made.

Senator Gerry Horkan: No, there were not.

Senator Rose Conway-Walsh: It is important to put that on record. If others would like to donate to Sinn Féin in their wills, we have very important work to do.

Senator David Norris: Before you shoot them.

Senator Michael McDowell: Tell that to Freddie Scappaticci.

Senator Jerry Buttimer: Senator Conway-Walsh should elaborate on her party's donation policy.

An Cathaoirleach: There is no latitude being given today.

Senator Rose Conway-Walsh: I was addressing Senator Horkan. I know this is likely to keep him awake at night.

Senator Jerry Buttimer: He might not be the only one who is awake at night worrying.

An Cathaoirleach: Allow Senator Conway-Walsh to continue. She has been on her feet for one and half minutes and she has another 90 seconds remaining.

Senator Rose Conway-Walsh: I want to raise the important issue of valproate, which I have raised in the Chamber many times. Pregnant women were prescribed Epilim when people knew what its impacts were. The Minister promised us a report on this matter last March and we have still not received it from the relevant group. Will the Leader ask the Minister where that report is? Will he also ask him why the historical information on licensing that we seek and require has not made available either through the freedom of information process or any other source? Could that information be made available? A child in this country should not be treated any differently from a child in France. Compensation has been provided to children in France who were impacted by this drug in the same way as it impacted on Irish children. Nothing will ever make up for the disabilities these children are suffering.

An inquiry into this matter is coming to an end in Britain. We need an independent investigation into this issue. We have had enough cover-ups in this country. This is far too serious an issue. Families have been left with children with disabilities as a result of being prescribed a drug, the impacts of which I am certain were known to many people in this country. I want to know who knew what and when.

Senator David Norris: Arising from what I said yesterday, I ask the Cathaoirleach, as Chairman of the Committee on Procedure and Privileges, to send me a short note detailing the progress that has been made in removing Standing Order 41. I am afraid this matter is caught in a kind of Sir Humphrey tangle. It was referred to the Dáil committee as a courtesy as the Dáil committee has no jurisdiction over the doings of this House with regard to its Order Paper. We have consistently had complaints from every side of this House about this aspect of our work. This is one area that can be reformed by this House. Yesterday, we had statements on the report of the Seanad reform implementation group. This is one thing we can do ourselves. We do not need to wait for the Government or the Dáil. We can do this and the Dáil committee can then cope with the consequences. That is the way life works outside Sir Humphrey's domain. I ask if the Cathaoirleach would be kind enough to send me a little report to see how we can advance this important matter and at last get one little bit of reform into this House.

Senator Gabrielle McFadden: The recommendation of the National Council for Curriculum and Assessment, NCCA, that history remain an optional subject, a matter also raised by Senator Horkan, bothers me greatly. The Minister for Education and Skills has received the review which he is considering very carefully. History gives us a sense of perspective. Diarmaid Ferriter, who is a professor of modern history, has said we cannot lose this subject and if we do so, the children of the future will not be equipped to be able to understand where we are now and how we got here. That is important because we need to be mindful of the State we have and how we got here. We need to make sure children in the future do not go through what some people in this country went through in the past. We will not be able to do that unless children study our history.

History also gives children the opportunity to have an opinion and engage in discussion in class. It gives people an interest in general knowledge and politics, which is very important. I urge the Minister not to accept the recommendation and to make history a compulsory subject up to junior certificate level at least. That is vital. As many people as possible should engage with the Minister and encourage him to stand up on this issue in which I think he believes. It is vital that everybody has the opportunity to study history. When I was a youngster in the 1980s I went to the UK and I was shocked by the level of knowledge among young people about their history. I remember having a conversation about partition and how it happened, the differences between the North and South of Ireland and figures such as Michael Collins, De Valera and

Lloyd George. People of the same age in the UK did not know who Lloyd George was. We do not want that here; we do not want to dumb down our curriculum. It is vital we keep history as a compulsory subject, at least at junior certificate level. I ask the Leader to invite the Minister to the House to discuss this issue.

Senator Victor Boyhan: I thank the Leader for including on the Order Paper a motion I submitted on the by-election process. I can move the motion at this juncture if that is in order, as it is to be taken without debate. Is that in order?

An Cathaoirleach: If the Order of Business is agreed, I will call the Senator to move the motion.

Senator Victor Boyhan: I will do so at that point. As the motion is to be taken without debate, I had better speak on it now. I take this opportunity to point out that the idea behind this proposal is to get the by-election process in place. The issue of who the candidate will be is not a matter for me or for the Seanad. It is a matter for others, the political parties and the Independents, to decide who they may or may not put forward. I want to be clear about that. I am not endorsing any candidate, whether from a party or an independent. Senator McDowell and I proposed the motion, the purpose of which is to move forward the process. It is ultimately a matter for the Minister for Housing, Planning and Local Government to sign the order. I acknowledge it is the prerogative of the Minister alone to consider this matter and he has up to 180 days to discuss it. We are not, as some people have suggested, moving a writ. All we are asking is that the House pass a motion calling on the Clerk of the Seanad to inform the Minister of a vacancy on the agricultural panel created as a result of the successful election to the European Parliament of the Green Party Senator, Grace O'Sullivan. It is right and proper that we proceed to have this by-election as quickly as possible within the constraints of the regulations and the Minister's prerogative. The issue of candidates is exclusively and wholly a matter for the political parties. If they wish to run a candidate, that is their decision. How to deal with that within their own parties is another challenge for them, rather than for us.

Senator Maria Byrne: I express my exasperation about what is happening at University Hospital Limerick where 80 people were waiting on trolleys for beds yesterday. I thank the Minister for Health, Deputy Harris, who came down for a surprise visit during the summer. On the day in question, there were 68 people on trolleys awaiting treatment. It is an area about which I am very concerned because, although we are not yet in the winter months, there are large numbers of people waiting on trolleys. The staff at the hospital work really hard in very difficult circumstances and I pay tribute to them. Something must be done. A special case will have to be made. A number of hospitals in the region were closed down and everyone within their catchment areas has been directed to University Hospital Limerick. While there are areas of expertise being opened up in Ennis Hospital, such as the area of cataract treatment, we have to look at ways to bring all the units together to reduce waiting lists and the numbers of people waiting on trolleys.

I was not here yesterday but I know that concerns were raised about Lyric FM and, perhaps, the jobs associated with it. Although it is run from Limerick, the station is listened to across the country. I add my support to the calls to keep Lyric FM.

Senator Pádraig Mac Lochlainn: I will place on record a profound failure of policing in my home county of Donegal. I have agreed with the victim's family that I will give this brief account. There is a long-established housing development in a town in Donegal. A number

of years ago, two persons moved into a house in the development, one of whom, a man, has a long criminal record and has been convicted of dealing drugs many times. The other person, a woman, also has convictions for dealing drugs. The local community and residents in the housing development believe that these people continued these activities until recently. A very serious and terrifying incident took place last June. The man in question walked into the green area in the housing development and waved an axe around. He approached a pensioner and threatened to kill him and other residents and to burn them out of their homes. He was taken before the courts and released on bail. In fairness to An Garda Síochána, it opposed bail. It had made arrests previously. My serious difficulty is that I have met residents of that housing development in recent times and they are absolutely terrified of this man. Last Sunday night, a pensioner was violently assaulted. He was treated for a broken nose and broken cheekbone and received 15 stitches to a serious wound in his face and three staples to the back of his head. He was viciously and violently attacked and then left for dead. Even though everyone in the development knows that the criminal in question was responsible, he was not arrested that night. When I asked gardaí the following day - and I have not named any person - why this person had not been arrested, I was told that there was not enough evidence. We should be thankful that the family of the victim had CCTV footage which captured this violent assault. This information has to be placed on the record.

An Cathaoirleach: I must admonish the Senator. Sometimes by mentioning particular areas and particular incidents a person can be identified. As far as I know, this man has not been convicted of anything so the Senator must be very careful. This could work in his favour in a court of law.

Senator Pádraig Mac Lochlainn: All I can say is-----

An Cathaoirleach: Bí cúramach.

Senator Pádraig Mac Lochlainn: -----that I have seen incontrovertible video evidence. I accept the guidance of the Cathaoirleach. I will wrap up. I thought long and hard before I decided to read this into the record. The whole community in the area in question is asking why this criminal thug, who violently assaulted a pensioner, has not been arrested. The pensioner in question was taken to a Garda station yesterday. His family took him to the station where gardaí were too busy to take a statement. We are now 72 hours on from this incident. The victim has not been questioned and nobody has been arrested. People in this development are living in terror. They have acted in good faith until now. They have put their trust in the Garda and, at times, it has had their back. This Chamber has to be a place where we can speak truth and say what is happening in our communities and on our streets. I took this opportunity with great reluctance. I thought long and hard. I will present this transcript to Garda Commissioner Drew Harris. I will ask him and the Minister for Justice and Equality to urgently review the handling of this case from last Sunday until now and to speak to the family in question and the residents of the development about their experiences. I thank the Cathaoirleach for his patience and for this opportunity.

An Cathaoirleach: We should always remember that this Chamber is not a court of law. We have to tread warily on matters that are *sub judice* and which have not yet been dealt with.

Senator Anthony Lawlor: Could we have a debate on the HSE's capital plan? We would like an outline of the projects included within it and the timeframes for completing them. I refer in particular to a project at Naas General Hospital, which is in my local area. The hospital has

25 September 2019

been seeking an endoscopic unit. The project is part of the plan but we would like details on when it will commence. Could we have a debate with the Minister on the HSE capital development plan?

Senator Frances Black: I welcome my colleagues back to the House. I am delighted that we are back in session. I look forward to the busy months ahead. I arrived back in Dublin yesterday from Oslo, Norway. I had been invited to meet parliamentarians and the Norwegian foreign affairs committee about my Control of Economic Activity (Occupied Territories) Bill 2018 which, having passed fully through the House with fantastic support, is now before the Dáil for consideration. The week beforehand I was in Santiago, Chile, also meeting human rights organisations, trade unions and members of the Chilean Parliament, who showed great interest in the Bill and our work on this issue in Ireland. It is fantastic to see this interest and support around the world. Many other countries have also invited us to visit. The attention being paid to Ireland as a leader on issues of human rights and international justice is inspiring. I come back to this session more determined than ever to see this Bill pass its final stages and become law.

However, as many of my colleagues will know, one of the biggest challenges in doing so, and indeed in passing many other Bills, is the Government's use of the money message device to veto Bills that have won the support of a majority of Deputies and Senators. Senator McDowell has spoken at length about the extremely dubious legal grounds for this, as have experts in constitutional law from Trinity College Dublin and the National University of Ireland, Galway. I hope the Government is paying attention to these warnings. I have put a lot of time into this issue over the past few months as I feel it is something we badly need to address if our Parliament is to function properly. The Constitution does not hand the Executive an absolute veto over Parliament but, incredibly, that is what is coming to pass. I know the relevant committees on Dáil business and reform will be examining this issue in the near future. I offer my full support for that process. We can fix this quite easily if there is political will to do so.

Senator Michael McDowell: I echo what Senator Black has just said. In these Houses, the provisions of Standing Orders and the Constitution regarding money messages are being blatantly abused. We look across at what is happening in the UK Supreme Court where somebody has had to intervene to prevent the Executive effectively overriding the will of the democratically elected houses of the UK Parliament yet we seem to be frozen in inaction when confronted by the same issues. I will say two things with regard to the Bill.

12 o'clock

It has been suggested by a number of people in the Israeli Government, including Mr. Netanyahu, and a number of their keen supporters here in Ireland, who are by no means representative of the entire Jewish community in Ireland but are ardent Zionists - I will not mention any names - that somehow there was something anti-Semitic in that legislation. There was not. There was not a shred of anti-Semitism in it. The great majority of liberal, decent people of the Jewish religion in Israel, America and in other places recognise that the annexation of the West Bank is nothing to do with anti-Semitism, it has everything to do with Zionist imperialism, as it was reflected by the utterly cynical and totally wrong and dishonest behaviour of Prime Minister Netanyahu in trying to swing the last few votes out of his electorate by claiming that he was going to annex even more of the Palestinian territory in defiance of international law. We, in these Houses, have a right and a duty to protest against that. We have a right to call on our Government to stand up unequivocally for what is right and to make it very clear to those people

who are still in office in Israel, despite the fact that they have lost the support of the people at the recent election, that annexation of Palestinian territory, whether it is supported in the White House or in certain quarters around the world, is against international law and that the removal of people and the use of those territories for economic gain is in breach of international law and that it should not be tolerated.

A suggestion was made yesterday in a debate in this House by Senator Norris, who became voluble on the subject, on whether the money message provision was invoked to stop printing. If one looks at yesterday's transcript, one will see he was concerned about this. The money message provision was invoked on the basis that to make regulations, to type them out and put them on a computer screen somewhere and to promulgate them would involve expenditure. That is a disgrace. It is a real mark of disgrace and dishonour on this Government, that it would think of doing that. The use of Civil Service time and a Minister's time to put a signature on a piece of paper generated within an office is no more an appropriation of the public revenues than anything, no matter how trivial, could be. The time has come for us to be honest in this House and to say the Government must stop this charade. The Government is a minority one and I fully accept there are difficulties in keeping control of public expenditure when it is in a minority position, but using the money message procedure in bad faith to frustrate the will of the Members of these Houses to protest against and to make illegal the importation into Ireland of goods manufactured in the occupied territories is a shameful act, the responsibility for which lies firmly at the feet of the Taoiseach, Deputy Varadkar, and the Tánaiste, Deputy Coveney. They should be ashamed of themselves.

Senator Máire Devine: I was alarmed by the report on climate action at the weekend and also by today's report from the EPA on premature death due to pollution, which is said to be at 1,100 and climbing, according to the latest statistics from 2016. Across the EU alone, the figure is up to 700,000 deaths per year, which is a significant amount. The problem is that we have lower levels than those specified in EU regulations, so our air quality passes the test. However, it does not pass the more strict World Health Organization test. Stations are recording mainly in rural areas but the deaths are caused by airborne pollutant particles in urban areas from diesel, coal and fossil fuels. As a result, many people are dying prematurely and there is also an impact on the health service. Going forward, we know that climate action will impact much more on public health. I would like the Leader to invite the Minister to address climate change. I am a member of the Joint Committee on Climate Action and we are addressing transport, but we are still buying diesel buses and allowing oil to be drilled offshore. I accept there is a commitment to stop that, but we must act a lot more quickly. Yesterday, I asked the Seanad Committee on Procedure and Privileges, CPP, to consider inviting Greta Thunberg to address this House. Today, she became a recipient of the alternative Nobel prize. She is leading the climate action awareness strike and is embarrassing us into doing something for her generation. We cannot leave them behind. I urge the Leader to consider putting the matter on the agenda. Yesterday, I asked the Leader to ask Greta to address these Houses.

Senator Marie-Louise O'Donnell: I spent the morning listening to the Irish Medical Organisation, IMO, make its pre-budget submission. What it had to say is quite frightening. This morning, many Senators spoke about hospitals and primary care centres in their areas and they spoke about the health of their communities, villages and towns. We need to start taking the IMO very seriously, especially what it is telling us about public health. I doubt anyone would be able to define what we mean by public health. It links directly into what Senator Devine spoke about in terms of atmospheric pollutants and disease prevention before we get to a hospi-

25 September 2019

tal at all. It was very interesting listening to the IMO members speak about vacancies for consultants, non-registered hospital doctors, specialist registrars and the doctors and nurses leaving the country. I am not just talking about consultants, it goes right down through the chain. It has to be dealt with through communication. It is fascinating that people are on their phones and they are not even bothering to listen to me. Sometimes, I do not know why we should open up the House again-----

Senator Gabrielle McFadden: We are multitasking.

Senator Marie-Louise O'Donnell: No, the Senator is not multitasking at all. This place is supposed to be one where people speak and are listened to and there would be reflection, discourse and argument. One might even change one's mind because of what one heard across the House. One might believe something to be true but when the facts were presented on the floor of the House one might change one's mind. We might as well be talking to the new curtains. I do not suggest people should be listening to me, but I would show respect by listening to other Senators when they get up to speak. However, I will get back to the point I was making to the Leader. We need the Minister for Health to come in here as a matter of urgency to find out about how we are going to tackle the problems, which trickle right down to the territory of every Member and to each town and village in the country. It would be very interesting to hear how people define public health because we do not have a definition and we are not even paying attention to it at any level. I ask the Leader to invite in the Minister. I have been shouting for that for months.

Senator Aodhán Ó Ríordáin: Anybody who has an interest in politics or who has engaged in politics anywhere in the world will have found yesterday a particularly disturbing day, observing what is happening in the United States and in the United Kingdom, which we would all regard as being too great democratic institutions. On one side of the Atlantic, proceedings are being undertaken to potentially impeach a President, the charge being that he has asked a foreign power to investigate a political rival. In the United Kingdom we have the Supreme Court ruling that the Prime Minister broke the law in suspending Parliament. In those two countries it seems that politics is in a very dangerous and disturbing place, where any amount of middle ground discourse is almost impossible. Previously, there seemed to be an ability for people to find common ground in the centre of two opposites but now Brexit has become a religion. What Trump is trying to achieve in the United States has a similar type of religious zeal to it. Considering that these two great countries influence so much of what is good in democracy, I worry when I see what is happening. While we have been rightly critical of our own political system and institutions for so long, I am thankful that we seem to have been doing reasonably well recently, especially facing Brexit on 31 October. A dark turn was taken a number of weeks ago, however, when Members of these Houses were engaged in whipping up sentiment at public meetings in certain parts of the country using half-truths, mistruths and very poisonous language to try to get cheap votes, cheap rounds of applause and cheap support on the back of particularly vulnerable people.

I spent time as a Minister of State under the previous Government. The reason I have changed my view on the very existence of this House was because of how everybody here at the time and since has come together with one voice to speak on the issue of direct provision. What happened in Oughterard was a disgrace on the political side. We have an opportunity in this House to stand together and show a different side of Irish politics. I encourage the Leader to facilitate this discussion and ask the Minister of State, Deputy Stanton, to come to the House to discuss the matter again. I acknowledge he has been here on numerous occasions to do so

but it is incumbent on us to show a different side of Irish politics and the type of leadership needed rather than opting for the debased politics we see in the United Kingdom and America. The people of Oughterard have been let down terribly by the type of rhetoric used. We have chance to step into the space as a collective and show a little more leadership than was shown in that instance.

Senator Alice-Mary Higgins: I echo that request. If the Minister of State, Deputy Stanton, is to be invited here, he might also address the issue of Ireland needing a new national action plan against racism. We used to have one as part of our infrastructure of equality and inclusion. Indeed, we used to have a national body to address the issue. I would like the Minister of State to address those topics when he speaks.

I wish to speak specifically about the proposal on the Order of Business to take the Wildlife (Amendment) Bill today. Report and Final Stages of the Bill, which is possibly misnamed as it had many negative implications for wildlife across the country, are to be taken today, just weeks before the climate committee is due to discuss the future of peatlands. The Bill has already passed through the Dáil, where there was what I regarded as an extraordinary extension of its scope at the last minute, not only to cover raised bogs but also blanket bogs. We are to conclude our consideration of the Bill before the climate action committee is to hear from Bord na Móna, the ESB, officials from the Department of Communications, Climate Action and Environment, experts from UCD, Earth Matters and the National Park and Wildlife Service, and the peatlands strategy implementation group. A comprehensive set of experts will be presenting on how we should manage our peatlands when the relative legislative document, which allows for the de-designation of what are currently protected areas, will have passed through the houses. It seems extraordinary that this would be the case. It behoves the Minister and, I hope, the Leader to consider removing the legislation from the Order of Business at least for one month until the discussion, findings and expertise of the committee on this issue can be factored in. This Bill has had a long journey to this point. One more month, which would allow for proper consideration and reflection, would be appropriate. I am concerned that the Bill, by its nature, has become somewhat dated. It did not, on Committee Stage, include any reference to climate change, carbon sequestration or any related matter, all of which are deeply important to our peatlands and the decisions we make on their protection or non-protection. I propose an amendment to remove the Bill from the proposed Order of Business.

An Cathaoirleach: The amendment was not too clear to me. I am sure the Leader will address it.

Senator Frank Feighan: I propose an amendment to the Order of Business, namely, that No. 13, the Road Traffic (Amendment) 2015 Bill, be taken before No. 1. The Bill will make it a legal requirement to restrain a dog in a secure fashion when travelling in a vehicle. I hope my colleagues will support my proposal to amend the Order of Business.

An Cathaoirleach: Both proposals must be seconded by somebody who has not spoken already. Those are the rules, unfortunately.

Senator Diarmuid Wilson: I second Senator Feighan's amendment.

An Cathaoirleach: Senator Higgins can always oppose the Order of Business by another method if she cannot have her proposal seconded.

Senator Alice-Mary Higgins: I hope the Leader will consider my points regardless.

25 September 2019

An Cathaoirleach: The Senator has another mechanism to protest, by way of calling a vote at a later stage.

Senator Jerry Buttimer: I thank the 16 Members who contributed to the Order of Business. Senator Marie-Louise O'Donnell might have believed we were not listening to her but I was actually reading the IMO document submitted by those I met this morning so I could give her a response.

I advise Senator Horkan, the acting leader of Fianna Fáil, that Minister of State, Deputy English, will be here tomorrow to discuss housing. I would certainly be happy to allow for the debate on rents. It is an important issue.

Both Senators Horkan and McFadden raised the view of the National Council for Curriculum Assessment on history. It recommended no change to its optional status. As with the two Senators, I hope the Minister will keep history as a core subject. It is important, notwithstanding the 24 outcomes of learning attached to the junior cycle reform programme, four of which relate history, to acknowledge the importance of history to our curriculum. Obviously there has been a movement towards science, technology, engineering and maths, STEM, subjects in recent years but, having been a teacher, I am very much of the view that history is a critical and pivotal subject on our curriculum. It is about reflecting on, recognising and remembering our past but also about understanding our future and moving forward. Are we seriously to say to young people that, at the ages of ten, 12, 13 or 14, their sense of belonging and place has ended and that they are no longer to be inquisitive about the world? I hope the Minister will retain history as a core subject.

Senators Horkan and Marie-Louise O'Donnell raised the issue of the IMO briefing. I was struck this morning by the presentation we received on the issue of public health. I was reading the report we received because consultant status in community and public health needs to be addressed as a matter of urgency. As said to me this morning, it is about the critical voice being heard on status within the health profession. The Senator is correct that people would not be able to answer the question as to what public health is. It is a matter we could have a discussion on. I have asked the Minister for Health to come to the House. The IMO briefing this morning, not only on vacancies but also on progression, public health and the two-tier pay scale, is important. I will be happy to bring the Minister to the House in the coming weeks to have that debate.

Senator Horkan also referred to political donations. In keeping with my good humour since my return, I will not engage in a political row with the Senator or Sinn Féin over who got what from where and how. We have SIPO, an independent body, and it is important that it should do its business and that everybody should comply with the rules and regulations regarding political donations. I will be happy to arrange a debate on that as part of political reform.

Senator Pádraig Mac Lochlainn: That is a very good point. Well said.

Senator Jerry Buttimer: I thank the Senator.

Senator Gerry Horkan: That is what I was seeking.

Senator Jerry Buttimer: Senator Lawless raised an important issue, which was also raised by Senator Ó Donnghaile yesterday, regarding the Thirty-ninth Amendment of the Constitution (Presidential Elections) Bill 2019. There is merit in his suggestion of a postponement or delay

in the referendum. There is a need to have an in-depth, detailed discussion on the matter so we can have an informed campaign. Senator Lawless is absent because he had to attend another briefing, but I wish to pay tribute to him. I was in Chicago during the summer and met many people from the political world in the United States. The esteem in which he is held for the work he is doing is to be commended. I saw it at first hand so I pay tribute to him this morning as well.

Senator Conway-Walsh referred to the drug, sodium valproate. As Members will be aware, the European Medicines Agency has restricted its use in recent years. The Senator said it is a serious issue and I agree with her. The HSE held a conference earlier this year and has put in place a patient communication and support structure. Epilepsy Ireland is working with the HSE and a specialist paediatrician consultant has been appointed in Crumlin hospital to deal with medical diagnosis of foetal valproate syndrome, but the matter has to be addressed further. I suggest that Senator Conway-Walsh table a Commencement matter on the issue as well.

The issue raised by Senator Norris is a matter for the CPP. I will let the Cathaoirleach reply to it if he so wishes.

Senator Boyhan outlined the rationale for tabling the motion, which is understandable. I accept it and will not be opposing it.

Senator Byrne raised the issue of trolleys in University Hospital Limerick. She has been a champion in the House of the trolley situation in UHL. The Government is investing in Limerick but I would welcome a debate on why people are on trolleys. To be honest, I believe a political game is taking place at one level with regard to people on trolleys. Patients are being used in some cases so I would like to have a real debate about waiting times on trolleys in hospitals. The Senator also raised the issue of Lyric FM, which we discussed yesterday.

Senator Mac Lochlainn raised the very sensitive matter relating to Donegal. While it is an operational matter, and I appreciate the Cathaoirleach's comments, I understand the Senator's frustration and the exasperation of the residents. The joint policing committee in Donegal could be used as a means of highlighting the matter. In addition, the community safety fora, which are in Cork and I presume they are in Donegal, can be used. Residents who have legitimate concerns about anti-social behaviour, thuggery and criminality can have their voices heard and I defend the Senator's right to come to the House to lead that. However, it is an operational matter and I am not familiar with the case.

Senator Lawlor referred to the HSE's capital plan. I will be happy to invite the Minister to the House to discuss the €2 billion to be spent over three years which will provide 480 new beds and see 30 new primary care centres and 58 community nursing units built.

Senators McDowell and Black raised the Control of Economic Activity (Occupied Territories) Bill 2018. The Tánaiste and Minister for Foreign Affairs and Trade, Deputy Coveney, has articulated his views on the Bill in this House and the Lower House. Both Members expressed their views on the money message. I refer them to Articles 17 and 28.4 of the Constitution. I will be happy to have that debate at any time. Senator McDowell as a former Cabinet Minister and Attorney General knows well that some Members of the Houses, and I am not saying it is so in this case, put forward Private Members' Bills that impose inordinate spending on the Exchequer. It is the prerogative of the Government to expend money.

Senator Michael McDowell: Not this Bill.

25 September 2019

Senator Jerry Buttimer: I did not say it about that Bill.

In response to Senator Devine, I have not read the EPA report on climate change, but I will be happy to arrange a debate on it. Regarding Greta Thunberg, it is a matter for the CPP to make that decision. It is not my decision.

Senator Máire Devine: I ask the Leader to put it on the agenda.

Senator Jerry Buttimer: I will be happy to have a discussion on the matter at the CPP.

Senator Máire Devine: I thank the Leader.

Senator Jerry Buttimer: I share the sentiments expressed by Senator Ó Ríordáin on the issues in Oughterard and the language people use. Ours is an island nation of welcome. Many of our people have travelled across the world and we accept and welcome people here as a safe harbour. Direct provision has been in place for more than 20 years and all of us understand the frustrations with it and the need to change the system. As politicians, however, we have a duty of care in how we represent and what we say. Inflammatory language must be condemned out of hand. Equally, there is a job to be done by the Government and State agencies to engage with people in any planning, be it for direct provision, health or whatever. There is a need for proper consultation. However, the language used in Oughterard is unhelpful. We should all be mindful of what we say. We all live in the community and are of the community. People are coming to this country for a variety of reasons, be it fear of persecution or for reasons to do with race, religion and political opinion. I welcome people to my offices every day, regardless of where they are from or who they are.

I will not accept the amendment proposed by Senator Higgins. The Wildlife (Amendment) Bill 2016 has been before the House for a long time and it must be progressed.

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

An Cathaoirleach: Senator Higgins has proposed an amendment to the Order of Business, "That No. 2 be deleted from the Order of Business." As there was no seconder, it must lapse.

Senator Feighan has moved an amendment to the Order of Business: "That No. 13 be taken before No. 91, motion 7." That was seconded by Senator Wilson and the Leader has indicated he is prepared to accept the amendment. Is that agreed? Agreed.

Question, "That the Order of Business, as amended, be agreed to," put and declared carried.

Road Traffic (Amendment) Bill 2019: First Stage

Senator Frank Feighan: I move:

That leave be granted to introduce a Bill entitled an Act to provide for an offence of driving with an unrestrained dog on board certain mechanically propelled vehicles; for that purpose to amend the Road Traffic Act 1961 and to provide for related matters.

An Cathaoirleach: Is there a seconder?

Senator Jerry Buttimer: I second the proposal.

Question put and agreed to.

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

Senator Frank Feighan: Next Tuesday.

Second Stage ordered for Tuesday, 1 October 2019.

Vacancy in Seanad Membership: Motion

Senator Victor Boyhan: I move:

That the Clerk of Seanad Éireann send to the Minister for Housing, Planning and Local Government notice of a vacancy in the membership of Seanad Éireann occasioned by the election to the European Parliament of Senator Grace O’Sullivan, a member elected from the Oireachtas Sub-Panel of the Agricultural Panel at the General Election for Seanad Éireann, April, 2016.

Question put and agreed to.

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

Blasphemy (Abolition of Offences and Related Matters) Bill 2019: Order for Second Stage

Bill entitled an Act to abolish the offences of blasphemy and blasphemous libel; to amend the Censorship of Films Act 1923 and the Censorship of Films (Amendment) Act 1925; to repeal certain provisions of the Defamation Act 2009; and to provide for related matters.

Senator Martin Conway: I move: “That Second Stage be taken today.”

Question put and agreed to.

Blasphemy (Abolition of Offences and Related Matters) Bill 2019: Second Stage

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

Minister of State at the Department of Justice and Equality (Deputy David Stanton): It gives me great pleasure to be with Senators to present the Blasphemy (Abolition of Offences and Related Matters) Bill 2019. It is always a privilege to come before this House to advance new legislative proposals, and I am particularly happy to be here today to propose legislation that is intended to give effect to the outcome of a referendum to amend the Constitution.

Senators will recall that until late last year, Article 40.6.1^o.i of the Constitution specified that the publication or utterance of blasphemous, seditious or indecent matter was an offence which should be punishable in accordance with law. Senators will also recall that in early autumn of last year, this House approved the Thirty-seventh Amendment of the Constitution (Repeal of offence of publication or utterance of blasphemous matter) Bill 2018. The proposal in the refer-

endum Bill was not brought forward in a vacuum. Over the years, there have been a number of reports in which the constitutional reference to blasphemy was considered. All of those reports recommended that it should be deleted.

Following the passage of the Bill, a referendum was held in October 2018 on the proposition that the reference to “blasphemous” should be removed from the Constitution. That proposal was approved by the people in all 40 constituencies, and by 64.85% of voters nationally, in the referendum which took place on 26 October last. The Bill was signed by the President on 27 November 2018. During the progress of the Bill and in the course of the referendum campaign, it was made clear that the implementing legislation would be advanced as quickly as possible. Subsequent prioritisation of Brexit-related projects in early 2019 resulted in a slight delay. I thank the Members of this House for their co-operation in making the necessary time available for us to deal with the Bill at this time.

The legislation before us is short and technical, which reflects the outcome of the referendum in October last. Its Title, the Blasphemy (Abolition of Offences and Related Matters) Bill 2019, describes in precise terms the purpose and intent which underlie this five-section Bill. It is important to bear in mind the policy of the Bill has already been settled by the referendum result and that the legislation simply gives effect to that policy choice. At the time of the publication of the Thirty-seventh Amendment of the Constitution (Repeal of offence of publication or utterance of blasphemous matter) Act 2018, the Government also agreed to the publication of a general scheme to implement the consequential legislative changes required if the referendum proposal was agreed. The key element in that scheme was the repeal of the statutory offence of blasphemy which is contained in the Defamation Act 2009. That scheme does not vary materially from the Bill before the House today with one point of difference relating to section 1.

Section 1 is an avoidance of doubt provision which aims to make it clear that the common law offences of blasphemy and blasphemous libel no longer exist. This section is included on foot of advice from the Attorney General that, notwithstanding a view that such offences did not survive the enactment of the Constitution, it is desirable to include such a provision.

Sections 2 and 3 provide for the deletion of the reference to “blasphemous” in section 7 of the Censorship of Films Act 1923 and section 3 of the Censorship of Films (Amendment) Act 1925. These amendments are not strictly necessary to implement the referendum result but they were included in the general scheme to remove all references to blasphemy in primary legislation.

In terms of historical background, surviving records from the Irish Film Classification Office do not always give a detailed reason for the initial prohibition of particular films. Accordingly, it is not clear how much usage has ever been made of these sections. According to a search of surviving records since 1968, only ten titles have been prohibited on grounds of blasphemy, sacrilege or heresy, or where offence to religious convictions was cited as a reason. The last such prohibition was in 1981 and it was successfully appealed in the same year.

Section 4 repeals sections 36 and 37 of the Defamation Act 2009. These provisions were included in the 2009 Act following the judgment of the Supreme Court in the case of *Corway v. Independent Newspapers* in 1999. That case referred to a cartoon featuring a priest holding the holy sacrament whose point was to suggest that politicians were moving away from following the views of the Roman Catholic Church on social issues such as the availability of divorce. A private individual whose religious convictions were offended by the cartoon sought to institute

a private criminal prosecution for blasphemy against the newspaper. The possibility of individuals taking private prosecutions for blasphemy was afterwards abolished by the 2009 Act.

In the Supreme Court judgment, the late Mr. Justice Barrington considered the framework of the Constitution which stated in Article 40(6) that “the publication or utterance of blasphemous matter is an offence which shall be punishable in accordance with law” while also guaranteeing freedom of conscience, the free profession and practice of religion, as well as equality before the law for citizens of different religious beliefs or of no such belief. The judgment underlined that the Constitution did not define what this offence of blasphemy involved. The common law offence of blasphemy, which the drafters of the Constitution seemed to have had in mind, was bound up with historic ideas of an established church and an established religion. The court held that it was difficult to see how such an offence could have survived the adoption of a Constitution that guaranteed freedom of conscience. The Supreme Court concluded, therefore, that in the absence of any constitutional or legislative definition, it was impossible to say of what the offence of blasphemy consisted.

Sections 36 and 37 were later included in the Defamation Act 2009 in an attempt to define an offence of blasphemy which could be consistent with the Supreme Court’s judgment in *Corway*. Section 36 sets out the elements which characterise this new statutory offence of blasphemy, requiring grossly abusive or insulting statements that are intended to cause outrage to a substantial number of adherents to a religion, as well as providing a defence where a reasonable person would find genuine artistic, literary, political, scientific or academic value in the statements. Upon conviction, a person is subject to a fine not exceeding €25,000. Section 37 provides powers for the Garda Síochána to enter premises and seize blasphemous statements following a conviction under section 36.

The Government previously signalled its intention that sections 36 and 37 would be repealed in the event that the constitutional amendment was agreed to by the people. We are fulfilling that undertaking today.

Section 5 is a standard citation and commencement provision. The offence of blasphemy created by the 2009 Act is quite difficult to prove. There appears to have been no prosecution to date. The last recorded State prosecution for blasphemy in Ireland took place in 1855. Even then, it resulted in an acquittal. However, that analysis misses a more important and fundamental point which was clearly underlined by the outcome of the referendum on this issue. It is that criminalising blasphemy, with the risk of a chilling effect on free expression and public debate, has no place in the Constitution or the laws of a modern republic. Ireland is a country of increasing diversity and the right to express differing viewpoints in a forceful and critical manner is a right to be cherished and upheld.

The removal of references to blasphemy from the Statute Book is not an attack on belief nor is it intended to privilege one set of values over another. It is a simple acknowledgement that the meaning of the concept of blasphemy is unclear and that the concept is rooted in a past where fealty to the State was conflated with fealty to a particular religion.

There is also the international dimension. It may seem abstract to devote time to abolishing an offence which has not been prosecuted in practice but not when several countries actively prosecute charges of blasphemy. Those charges can carry severe penalties, including terms of imprisonment, physical punishments and even the death penalty. They have also been applied in a discriminatory manner to justify the persecution of dissidents or of religious minorities.

25 September 2019

Such countries justify those regimes by referring to the continuance of blasphemy as a criminal offence in Ireland. That is a disturbing reality, and I am happy to propose a Bill which will address it.

The criminalisation of expression alone is not something which we should stand over. It is, of course, a different matter if that expression is geared towards inciting hatred or violence. Where that is the intention, the criminal law must indeed come into play. I acknowledge that the abolition of the offence of blasphemy is, on the face of it, a relatively small step. Nonetheless, it is both an important symbol and a tangible expression of our status as a modern and democratic society where free speech is valued and where multiculturalism is embraced.

I commend the Bill to the House.

Senator Ned O’Sullivan: The Fianna Fáil Party will support this legislation.

On 26 October 2018, citizens voted overwhelmingly - 64.85% - in favour of removing blasphemy from the Constitution. In 2009 the then Fianna Fail Minister for Justice and Law Reform, Dermot Ahern, stated that as a republican his personal opinion was that church and State should separate and that he favoured abolishing the offence of blasphemy. However, the economic climate at the time ruled out the proliferation of referenda that we have these days. It is good that it has come to fruition now.

With this Bill, we are putting into effect the wishes of the people. Ireland was just one out of seven countries in Europe where blasphemy was an offence prior to the referendum. The Constitution had provided that the offence of blasphemy was punishable according to law and provided that a person could be liable upon conviction for a maximum fine of €25,000.

Why should we remove blasphemy? Freedom of expression is the cornerstone of democratic society. Any constraints on it must be clear and limited. This is not the case with Article 40. The provision does not protect non-believers and elevates religion over other forms of discrimination. Ireland has changed immensely since the 1937 Constitution was promulgated. The most recent census figures in 2016 show that no religion is the second largest category of respondents after Roman Catholic, accounting for 9.8% of the population.

Autocratic regimes have cited Ireland as an example of blasphemy laws when creating their own stringent limits to freedom of expression. Indonesia is one of several Islamic states which cited Ireland’s blasphemy legislation in support and defence of its own. Irish blasphemy law was cited as an authority in support of Indonesia’s constitutional court decision to uphold its law prohibiting blasphemy in 2010.

We must draw attention to the Government’s failure to legislate against hate crime. Hate crime legislation has the potential to protect deeply-held religious beliefs far more effectively than blasphemy laws ever could. Effective hate crime legislation would ensure that all religious groups are protected from incitement without unduly constraining freedom. In 2016, Fianna Fáil introduced the Criminal Justice (Aggravation by Prejudice) Bill. It has cross-party support and passed Second Stage. It has undergone pre-legislative scrutiny but the Government has not issued a money message pursuant to Article 17.2 of the Constitution. This is needed for the Bill to proceed further. The Republic of Ireland is one of a small minority of EU countries which does not have legislation to deal with hate crime. The Bill’s provisions have been supported by all the eminent relevant bodies, namely, the Law Reform Commission, the Constitution Review Group, the report of the special rapporteur on freedom of religion and belief, the report of the

Oireachtas Joint Committee on the Constitution, the Venice Commission and the UN Human Rights Committee. The Convention on the Constitution voted 61% in favour of removing blasphemy from the Constitution.

1 o'clock

They were more ambivalent on legislative provision, with only 50% voting for legislation to protect against incitement to be included. That is something of an anomaly.

All present know of the most celebrated cases in which blasphemy charges were laid. Twelve people were killed in the office of *Charlie Hebdo* as a result of the publication of a satirical cartoon depicting the prophet Muhammad. Stephen Fry did us all a great service when he was interviewed on “The Meaning of Life with Gay Byrne” television programme some years ago. Although it did not convince me, it was the most cogent argument in favour of atheism I have ever seen. Stephen Fry was entitled to make that argument. The frankness with which he addressed the issue was somewhat shocking and I can understand why people of deep belief may have been upset, but that upset pales into insignificance against his right to express that opinion. The programme was a landmark in many ways and he is to be thanked for that.

I could go on, but I think we are all on the one hymn sheet. It is to be hoped that the Government will expedite what needs to be done in regard to hate crime. If it does, we will be with it all the way.

Senator Michael McDowell: I will not oppose the Bill, but I will make some passing remarks on it because there are certain consequences of its enactment which deserve to be, at least, considered or noted before we give it the nod through the House. One of the most cogent arguments for its adoption is the fact that legislatures across the world point to Ireland as a reason to have blasphemy laws in their jurisdictions which are much more severe in terms of consequences for ordinary individuals. I am a liberal and have no problem with people mocking the religious views of others if they so wish. It has been part of society on these islands for a long time. Popery and Protestantism were the subject of mutual abusive remarks for many years at the highest and lowest levels of public discourse. The utterance of words directed at one side or the other through the centuries was not and is not the problem. Senator O’Sullivan pointed out that we may have to look at hate crime in the context of scrapping the laws of blasphemy. For instance, I have no interest in protecting the Book of Mormon from ridicule or satire or according the protection of religion to Scientology, for example, which does not merit any protection in a rational society.

Senator Martin Conway: Hear, hear.

Senator Michael McDowell: The Government, perhaps with a view to ushering through the blasphemy referendum, failed to carefully consider the remainder of the Constitution. As Senators know, Article 44 was amended to remove the special position of the Roman Catholic Church and references to various other denominations, including the Jewish denomination. The inclusion of the reference to the latter domination was quite a progressive and enlightened measure for a Constitution adopted in 1937 in light of native anti-Semitism in Ireland and prevalent anti-Semitism across Europe at the time and not just within the Nazi ideology. Article 44.1° of the Constitution as it currently stands provides:

The State acknowledges that the homage of public worship is due to Almighty God. It shall hold His Name in reverence, and shall respect and honour religion.

25 September 2019

The Constitution still contains a provision that “the homage of public worship is due to Almighty God” - presumably the Christian God referred to in the Preamble to the Constitution - and states that “It shall hold His Name in reverence, and shall respect and honour religion.” Does a state respect and honour religion if it allows unrestricted assaults of the most insulting kind on religion?

An interesting definition was included in the Defamation Act in response to comments by the Judiciary regarding the difficulty of prosecuting for blasphemy in the absence of its definition. Section 36(2) states:

a person publishes or utters blasphemous matter if— (a) he or she publishes or utters matter that is grossly abusive or insulting in relation to matters held sacred by any religion, thereby causing outrage among a substantial number of the adherents of that religion, and (b) he or she intends, by the publication or utterance of the matter concerned, to cause such outrage.

A complete defence to prosecution was provided in cases where it is possible to prove that “a reasonable person would find genuine literary, artistic, political, scientific, or academic value in the matter to which the offence relates”. In other words, one would have to be able to prove that the utterance or publication was for the purpose of argument, etc. Under the Bill, a gratuitous attack on another person’s religion, without reasonable foundation in political or moral discourse or elsewhere and based on an intention to cause offence to the adherents of that religion, would be legalised. Such an attack would involve an intent to cause offence and outrage without a reasonable basis for so doing, such as trying to promote debate and so on. A person such as myself may query whether Joseph Smith ever had a Book of Mormon, whether the Angel Moroni ever appeared to him and whether that religion is based on a fraud, or assert that L. Ron Hubbard, the founder of Scientology, is a complete fraud. One can make cases such as those for the purpose of argument, as happens on a frequent basis. However, I am referring to a person doing something designed to cause outrage. For example, one may seek to offend Catholics by publishing material designed to cause outrage and involving associating footage of a Mass with lewd, indecent or revolting aspects of human behaviour. Under the Bill, that would be legalised. It is not sufficient for Senator O’Sullivan to state that this can be dealt with under legislation relating to hate crime. If I publish something appalling about the act of transubstantiation as it is understood by Catholics, combine it with lewd or filthy material and put it up on advertising hoardings around the country and my intention is to offend and cause deep distress among Catholics, I would be committing an offence under the existing law. However, doing so would not be an offence if the Bill is enacted unless it could be proved that it was an attempt to cause hatred against Catholics, which is quite different from shocking them to their core and causing them to be upset to the marrow of their bones.

I am a liberal who is in favour of freedom of speech and the right of anybody to mock and deride vigorously the philosophical and religious views of others. However, this Bill goes a little further than that. I do not have to bring a placard or a draft of a hoarding into the House to show how one could put something up that is designed simply to offend, disgust and antagonise. It would not be an attempt to incite hatred but rather an attempt to show contempt for, rubbish and insult a particular view without involving hatred. Perhaps it is time for Article 44.1° of the Constitution to be repealed. To reiterate, it states:

The State acknowledges that the homage of public worship is due to Almighty God [capital “A” and capital “G”]. It shall hold His Name [capital “H” and capital “N”] in rever-

ence, and shall respect and honour religion.

That was clearly inserted as a Christian provision, not one representing Scientology or any other religion. Would we be wise at this stage simply to say that there is nothing wrong whatsoever in setting out to disgust people and having no protections for the persons who are disgusted? I acknowledge the difficulty in making that case. If we look at the preamble and various portions of the Constitution, it still has what was once described by the Judiciary as the character and flavour of a Christian and democratic society. That is not necessarily a bad thing.

An Leas-Chathaoirleach: The Senator is making very interesting points. However, I must warn him that he is in injury time. I thought we all accepted that regardless of religion, there is but one God.

Senator Michael McDowell: I do not have much more to say. I do not care what a person's religious opinions are. I do not care whether a person is a militant atheist or agnostic. My position is that we should not enshrine in law a right to disgust other people on a matter of such centrality to their personality while Article 44.1° remains in the Constitution. I do see that the other side of this coin is Charlie Hebdo. Discrimination between practitioners of various religions is a problem. My view - I say this very carefully - is that the failure of many prominent people in Islam to distance themselves from the death penalties being handed down in certain countries to Christians accused of blasphemy is a black mark against those people, whether they reside in Ireland or elsewhere.

I do not intend to oppose the Bill. I emphasise, however, that in getting rid of what is in the Defamation Act, we are stating categorically that it is henceforth lawful to disgust other people for the purpose of disgusting them and without any other excuse except for the pleasure of attacking their religion gratuitously in the most insensitive way. I wonder whether that will be a positive step forward. My view is that there must be some counterbalancing legislation that does something about community relations rather than simply taking out the scalpel and removing all protections for religion, especially in a context where Article 44.1° of the Constitution is retained.

An Leas-Chathaoirleach: The Senator has highlighted what may be an interesting contradiction in the Constitution.

Senator Martin Conway: I welcome the Minister of State, who is a regular visitor to the House. As I was overseas yesterday, I missed the first day of the new Seanad term. I commend all involved in restoring the Chamber to its natural beauty. The historical parts of Leinster House are looking very well. It is good to be back home in the old Chamber where many good laws were passed over the years.

As spokesperson on justice, I am honoured to steer this legislation through the House on behalf of the Fine Gael group. It is one of those unique Bills whose content was decided by the people in the referendum that was held last May. All we are doing is putting into effect their decision. I listened carefully to the points made by the two previous speakers. Senator McDowell raised some of the same well-articulated concerns during the debate on the referendum Bill. The reason we are here is to point out where there may be challenges and difficulties. With his immense legal expertise, Senator McDowell's contribution must receive due consideration. I hope that in devising future legislation, the counterbalance he articulated will be taken into consideration.

25 September 2019

I agree with Senator O’Sullivan, always a man of wisdom in these matters, on the need for legislation to deal with hate crime. He is absolutely right that we need stronger, tighter and more effective provisions to deal with such crime. I am a member of the Oireachtas Joint Committee on Justice and Equality, where next week representatives of the social media companies will speak to us about what they are doing to deal with cyberbullying, cyber harassment and cybercrime, and their immense responsibility to ensure people’s freedoms and integrity are protected. There is a bible of work to be done in this fast-moving area. Every week there are new social media websites, apps and other ways of communicating. There are platforms where messages can be posted for a few seconds before disappearing. That is the type of nonsense we are seeing. As legislators, we must try to keep up with developments and ensure people’s privacy, decency and integrity are respected. The Leas-Chathaoirleach is Chairman of the Seanad Public Consultation Committee, which does fantastic work. It might consider examining the issue of hate crime and what we can do as legislators to protect people.

As the Minister of State explained, this Bill is largely technical, its purpose being to give effect to the decision of the people in the referendum. It was a massive endorsement of reform, with 86% voting yes. The only referendum in recent times that was passed by a larger margin was the proposal for the removal of Articles 2 and 3, which was almost unanimous at something like 90%. It is good that we are dealing with all Stages today so that the Bill is done and dusted.

An Leas-Chathaoirleach: Time permitting.

Senator Martin Conway: It is another incremental step in the direction of modernising the Constitution and making it reflective of our society as it is today.

Senator David Norris: I speak from the point of view of a believing, churchgoing Christian. I go to St. Patrick’s Cathedral and to St. Bartholomew’s Church in Clyde Road, where I sang in the choir as a child every Sunday for holy communion. I am not an militant atheist and I am not trying to wreck the Christian context of this country. However, I believe also, as strongly as I believe in my religion, in the separation of Church and State. We have heard that 10% of the Irish people in the last census identified as atheist, and there are Muslims - those of Islamic faith - and Buddhists. A substantial section of our population do not necessarily believe in Jesus Christ and the invocation of the Trinity in the opening of the Constitution, which means nothing to them or is offensive to them. That should all be removed. As a believing Christian, I believe it appropriate to remove all those references, including the one in Article 44.1 of the Constitution which states that we acknowledge the homage that is due to God Almighty, and so on. Those are inappropriate, in my opinion.

To look at it this way, the great dean of St. Patrick’s, Jonathan Swift, would be absolutely banged up on a blasphemy charge for *A Modest Proposal* and for his various diatribes on religion. The great dean, Jonathan Swift, would be up in court if we maintained this legislation.

There have been a series of reports that concluded that we should get rid of blasphemy. A referendum went through and was approved by people in all 40 constituencies. However, I have to correct my good friend, Senator Martin Conway, that it was not 88% but 64.5%, so it was not as overwhelming as might at first have been thought.

In my opinion, God - if one believes in God - is well able to look after himself or herself. The Garda Síochána is not needed to provide protection for God. It is absolute nonsense. However, it does damage, and there is no question or doubt about that. I was here when the Fianna

Fáil Minister, Dermot Ahern, was speaking about this and refusing to remove blasphemy. I argued that if we continued it, and if we re-enacted this Bill, which is what he was about, within a very short space of time, some of the Islamic countries would turn to us and say, “You accuse us of harassing, torturing and killing people on an offence of blasphemy, and look at Ireland, in the middle of 21st century Europe, it is introducing its own blasphemy legislation”, and they would be followed by Indonesia. These are places where the most terrible revenge is wreaked on people, simply for being Christian, which they regard as blasphemous. I thought it was politically very counterproductive.

I am glad to see film included. I remember when “The Life of Brian” was banned in this country for blasphemy, which was ridiculous. It was a thoughtful, wonderful, marvellously comic investigation of the situation in which the wrong person was chosen as Jesus. It was a wonderful film. I would hate to think of that being got rid of again.

With regard to “The Book of Mormon”, I have been visited by the Mormons and I have always tried to be courteous to them. However, when they told me that the Holy Ghost had flesh and bones but no blood, I suggested an immediate transfusion for the poor old boy. I suppose I could have been done for blasphemy under that. The one really good thing about “The Book of Mormon” is that it shows so reassuringly that God is still speaking the English of the King James Bible, which is so reassuring to those of us of the Anglican faith.

There are also other issues. I remember when *Gay News* was banned and we used to distribute it through the Hirschfeld Centre. It was banned in Britain as a result of a prosecution taken by Mrs. Whitehouse and our copies were seized at the airport. Therefore, I have direct experience of the operation of this kind of legislation.

I speak from the situation of somebody who is a believer. I am not frightened by blasphemy coming out. There are other ways of dealing with this. If a grave offence is being committed by some public act of blasphemy, we have breach of the peace legislation which can cover that quite easily. I am not so despondent as Senator McDowell, despite his very wide legal experience, about the question of hate crimes. I would strongly support Fianna Fáil in the introduction of legislation on hate crimes. That seems to me to be a practical and efficient thing, and it might get rid of some of the worst excesses. However, I honestly do not think this country is boiling over with people who want to desecrate the communion, hold black masses, blackguard the holy family and all of that. It is just not Irish. I am quite confident this Bill is a good thing and I will be thoroughly supporting it.

Senator Rónán Mullen: I was listening to Senator McDowell’s remarks before leaving my office and I was very impressed by everything he had to say, particularly in the way he pointed to the incoherence between the constitutional change that the Government went to great efforts to bring about and the remaining existing provisions in the Constitution. He is warning about absolutely gratuitous attacks on religion now being facilitated by this. His point was very wisely delivered in the context of his very liberal concern to protect and guarantee free speech.

I was also struck by what Senator O’Sullivan had to say in regard to hate crimes. I might take this opportunity to say that I do not believe legislation on hate crime is at all a solution to the kind of problems we are facing. There is real confusion in people’s minds when they seek to criminalise the motivation for crime. It is the action that is criminal. The motivation might very well go to sentencing, but it is cultural solutions we need in order to tackle the hatred that underlies certain crimes. There is a real confusion in significant parts of the cultural establish-

ment about this issue.

Was what happened to Mr. Lunney in recent days, one of the most brutal things to happen in the history of this State, and something that make us all sit up and think about what is happening to our society in a way that may or may not be connected to with the decline in religious practice - was what happened to him a hate crime? Was it any less serious for not being a hate crime of the kind that some people would like to define in this country? We need to be very careful when we fail to make the distinction between the motivation and the action.

Today, the Seanad is again devoting time to an issue which is so divorced from the concerns of ordinary people, so totally irrelevant to their daily lives, as to almost reduce what we are doing in these Houses at this moment to the level of a joke. It was the widely respected former Chief Justice, Mr. Justice Keane, who said in 1991 that a referendum to remove the blasphemy provision would be a time wasting and expensive exercise, and he was correct. After wasting millions of euro on a referendum to abolish a dead letter constitutional provision last October, we are now devoting our time to abolishing a number of dead letter legislative provisions which flowed from it. Why? I think it is the intention to provide more politically correct red meat to the now-dominant cultural elite in this country. I can see no other good reason all of this is happening. There is no significant cultural mischief that is being addressed here.

Senator David Norris: What about Pakistan and Indonesia?

Senator Rónán Mullen: I was about to say that I do accept there is a certain legitimacy to what the Minister of State said in regard to other countries invoking Ireland's law. However, the logical and sensible thing to do is not to endorse their point of view by pretending that our law was ever the same as theirs, but to take every opportunity in diplomatic fora to condemn them for making such bogus comparisons. It is an intellectual and political weakness that fails to see that distinction.

The abolition of the offence of blasphemy has been packaged by the Government as if it is some great advance for human freedom, correcting a serious injustice. The Minister of State, Deputy Stanton, introduced the Bill in the Seanad and seemed to suggest that the existing blasphemy law had made Ireland an international pariah. I do not believe that. It ignored the fact that there has not been a prosecution for blasphemy in this country since we gained our independence, the most recent prosecution having been in 1855 when we were still part of the United Kingdom.

The provision on blasphemy was rendered a dead letter in 1999 in the Supreme Court decision of *Corway v. Independent Newspapers* in 1999 when a private prosecution, referred to by the Minister of State, was thrown out. A 2017 report by the United States Commission on International Religious Freedom found that our laws on blasphemy were among the least restrictive in the developed world.

Sections 36 and 37 of the Defamation Act 2009, which the Bill proposes to repeal, were deliberately drafted to effectively ensure that no prosecution could ever be brought. The then Minister for Justice and Law Reform, Mr. Dermot Ahern, openly admitted that this was its aim. This did not stop many Senators, particularly in the Labour Party, from making outlandish claims that those sections would open the door to a slew of prosecutions. I doubt that any of those Senators, if they are still with us - I know one of them is - will now acknowledge that they were entirely wrong.

In summary, the laws on blasphemy, as they existed, have never impinged, even in the slightest way, on any Irish person. In spite of this, we have spent millions of euro and wasted much Oireachtas time in an effort to abolish them. We should think about what is going on in our country when those are the kind of political priorities we have.

The Bill before us proposes to repeal two sections of the Defamation Act. I had understood that a statutory review of that Act was under way. Such a review was announced in December 2016 and I am not aware of any conclusion having been brought to that process, although I may be wrong in that regard. Perhaps the Minister of State will clarify that point. Could the Government not have waited until the conclusion of that process and removed sections 36 and 37 at that stage? With no prosecutions in 150 years, was it really so urgent to proceed with the amendment now?

There are other aspects of the Defamation Act which need to be amended. I am aware that a lacuna was exposed in section 23 of the Act in two recent cases of the Court of Appeal, *White v. Sunday Newspapers Limited* and *Higgins v. Irish Aviation Authority*, both of which were heard in 2016. Those judgments require that damages in cases where an offer of amends had been made be assessed by a jury and not by a judge, causing additional cost and clogging up the jury list in clear contravention of the intention of the Act. The Government has not addressed that issue, yet it is now rushing through this amendment to the Act on an entirely separate matter.

Last year, I stated that I saw no reason we should not have purely symbolic words in our law which recognise religious practice and expression but which pose absolutely no threat to pluralism and free speech. We could have left the general provision against blasphemy in our Constitution. I say that somewhat in the spirit of what Senator McDowell was saying. While not in any way wishing to put words in the Senator's mouth, he was clearly saying that we need to protect a civility in our discourse in society and that there is a value in having some nod in the direction of the undesirability of blasphemous commentary, but with due regard to the almost always overriding imperative of protecting free speech. This issue has nothing to do it with free speech. We have no problem with legislation that prohibits certain other statements being made outside of religious contexts. In the Prohibition of Incitement to Hatred Act 1989, for example, we clearly acknowledged that speech is not to be unlimited. Perhaps the Minister of State can explain the reason we can support that legislation while, at the same time, rushing this irrelevant legislation.

In 2013, the Convention on the Constitution proposed that the proscription of blasphemy should be replaced with a new general provision which would ban incitement to religious hatred, whereby all religious denominations should be given equal protection. Not surprisingly, the Government ignored that suggestion. Religious freedom is considered a fundamental right protected in international human rights law across the world. There is rarely any discussion of Article 18 of the Universal Declaration of Human Rights in these Houses because the mere acknowledgement of any right to religious freedom in this time and place and in this cultural establishment would be a no-no and would run contrary to a certain national self-image that is being promoted, namely, that Ireland is now a new, liberal, tolerant, post-religious society. Whatever about a desirable secularism and a healthy separateness between the business of the churches and the State, which we would all support, there is a difference between being a modern, secular, tolerant, pluralist society and being an anti-religious society. That is what many people seek to turn Ireland into.

Senator David Norris: Not me.

25 September 2019

Senator Rónán Mullen: I am certainly not referring to Senator Norris. The people who seek that outcome are undermining Ireland's future and opening up a future where populists will thrive because there will be no desire-----

An Leas-Chathaoirleach: The Senator is well over his time.

Senator Rónán Mullen: -----to reflect on our heritage and on the things that bind us and have bound us in the past, for good or ill. The only policy that seems to satisfy some people these days in relation to religious practice is one of erosion and denigration. This is the problem of people scratching an itch. There is a certain itch about religion and faith that people feel they have to scratch. Unfortunately, they should not be scratching it at the expense of the taxpayer and wasting so much time in the process.

Senator Ivana Bacik: I welcome the Minister of State, Deputy Stanton, to the House. I am delighted to express my support and the support of the Labour Party Senators for this Bill.

I listened, not exactly with surprise, to the previous speaker. I was disappointed that so much of Senator Mullen's input was devoted to saying what a waste of time this all was. The waste of time was the introduction in 2009 by the then Minister for Justice and Law Reform, Mr. Dermot Ahern, of a new statutory offence of blasphemy.

Senator David Norris: Hear, hear.

Senator Ivana Bacik: That was the waste of time, which Senator Norris and I opposed when we argued that its introduction was pointless. We further argued at that point for the removal of the constitutional offence. The referendum was necessary to tidy up what is the foundational legal document of the State. As I think Senator Mullen will agree, the text of the Constitution matters. Having gone through all of the consultations, which Senator Ned O'Sullivan and others spoke about, it is very important that we move to hold the referendum. This legislation is now necessary to give effect to the desire of the people who voted by a majority of 64.85% to remove the offence of blasphemy. I was involved as one of the political representatives on the Constitutional Convention in 2013, which also recommended the removal of the offence of blasphemy. It should never have been in the Constitution and should certainly not have been enacted into statutory format in 2009. This is a long overdue measure to give effect to the will of the people on this issue.

I do not believe that any one in this House is anti-religion. I am certainly not anti-religion and I believe very strongly in the need to ensure freedom of religious belief. As with freedom of expression, this freedom is important in any modern pluralist state. I spoke recently on this at an event with Archbishop Eamon Martin. We had something of a disagreement on the role of religion in the public sphere in that the archbishop seemed to suggest that politicians should be beholden in some way to religious institutions in bringing forth political views. I spoke very strongly in support of the separation of church and state because that separation enshrines religious freedom for individuals. If we start to give a dominant position to one religion in our laws or foundational documents, that would clearly be at the expense of people of other religions and none. That is a very dangerous position to be in and one we see in theocracies around the world.

We may also ask what tangible effect the text of a constitutional document or the existence of a statutory of blasphemy has. I have come from an excellent symposium in Trinity College this morning on diversity and inclusion in the workplace which we ran with the law school of Trinity College in conjunction with Matheson lawyers. The symposium heard powerful and

poignant testimony from individuals who have come out as LGBTQ, including one woman who was the first person in Ireland to make a workplace gender transition. We heard very poignant testimonies about the chilling effect that laws that were discriminatory against LGBTQ people had on them and on the conditions in their workplace and how proud they were of an Irish society that is now much more inclusive. One woman, a senior executive, spoke about how proud she is to live openly as a gay woman in Ireland but how fearful she was on a recent holiday to a country which did not enshrine the same freedoms in law for gay people. We have to remember the tangible effect that laws can have, even if no prosecutions are brought. The existence of laws on the Statute Book have a chilling effect.

On Culture Night, the Minister of State's Department in its offices on St. Stephen's Green organised an excellent exhibition on the history of censorship in Ireland and I was delighted to go into it. One might ask what impact censorship laws have. For a long time they had a very chilling effect on freedom of expression in this country not only for authors whose books were banned but for anyone who sought to speak about sexuality, women's sexual expression or reproductive rights in this country. Laws have a chilling effect. It does not need prosecutions or convictions to feel that chill. No one knows that better than my dear friend and colleague, Senator Norris, who was so brave for so long in standing up against laws that were discriminatory and that had that chilling effect. I wanted to put that on the record.

As I said previously about the referendum of 26 October last year, the continued presence of the offence of blasphemy in the Constitution was not tenable in a modern democratic state. Any one who reads the history of it will know it is a medieval crime. It has no place in the Constitution or on the Statute Book of a modern republic. The change, as others have said, was one that was recommended for a long time, by the Law Reform Commission back in 1991, by the expert Constitution Review Group in 1996, and by the Constitutional Convention in 2013. My only regret about the referendum is that we did not also delete the other similarly anachronistic offences referred to Article 40.6.1o.i of the Constitution relating to seditious or indecent matter. I put this on the record when we were debating the referendum Bill. My only quibble with the referendum is that we should have taken the opportunity to delete those other references which are also there in the article.

Senator Michael McDowell: Correct.

Senator Ivana Bacik: A constitution is no place - I speak as a criminal lawyer - to declare acts to be criminal offences. That is a matter for statute and for legislators. Those anachronisms should be deleted also. Again, text matters. They may not be in use nor prosecuted every day nor anything like that, but they should not be there in our Constitution, just as the references to women's place in the home should no longer be there. I know the Minister of State is aware of that also.

There are three crucial reasons to welcome this legislation. First, this is outdated, and I have explained that with respect to the origins of blasphemy. Anyone who looks at the history of the use of blasphemy offences will be aware of that, particularly when we have a Republic that is, as it should be, premised on the separation of church and State. We have a long and shameful history of collusion between church and State authorities that has manifested in the oppression of women and children from disadvantaged backgrounds, notably in industrial schools, Magdalen institutions and so forth. As we have seen in recent votes, not only in the blasphemy referendum but in the referenda on marriage equality and repeal of the eight amendment last year, we have, thankfully, moved or are moving out of that era, but we still see dominant position for

25 September 2019

religious instruction in our schooling system. Today, I was proud to support Education Equality which is seeking the moving of religious instruction to at least the end of the school day in our school system so that children of minority faiths or no faiths do not feel discriminated against within the school day. That is an ongoing issue where we see 90% of our primary schools still under the patronage of different religions and predominantly under Catholic patronage. We have not moved fully out of an era where we have undue breaches of the doctrine of the separation of church and State.

The second reason is that the blasphemy offence is not only outdated but also unnecessary. It is an undue encroachment on free speech. Others have spoken about the growing recognition that blasphemy is an obsolete offence across Europe. The third reason, which is important, and I will finish on this point, as others have trespassed on colleagues' time and I will not do that-----

An Leas-Chathaoirleach: That is why I am being lenient with the Senator.

Senator Rónán Mullen: It is good to have one virtuous Senator.

Senator Ivana Bacik: I thank the Leas-Chathaoirleach and am indebted to him. Blasphemy law is dangerous and others have spoken about this. The continued existence of not only a constitutional but a statutory offence since 2009 here has been used in other jurisdictions where we have seen people of minority faiths, especially those who are Christians, being oppressed, abused or suffering terrible physical danger as a result of the continued existence of blasphemy laws and regard being had to our legal system as a justification. Others have spoken about that. It was another key reason I spoke strongly against that change in 2009 by the then Minister, Dermot Ahern, and why I am so glad to see us finally repealing sections 36 and 37 of the Defamation Act in this important legislation and giving effect to the very important vote of the people by more than two thirds last October to delete this anachronistic, outdated, medieval and dangerous offence from our Constitution.

An Leas-Chathaoirleach: Having heard all the speakers, I must say: "Long live the Seanad".

Senator Ivana Bacik: We can all agree on that.

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

Minister of State at the Department of Justice and Equality (Deputy David Stanton): I agree with the Leas-Chathaoirleach that the debates in the Seanad are always very constructive, thoughtful, useful and welcome. I sincerely thank the Members present for their considered contributions and their views on this Bill in particular. I thank everybody for their co-operation in making extra time available to deal with all Stages of the Bill today.

Deputy Ned O'Sullivan rightly raised the issue of hate speech, hate crime and racism. As usual, the Senator's contribution was insightful. It is important to remember that the Prohibition of Incitement to Hatred Act 1989 already prohibits threatening, abusive or insulting conduct that is intended or likely to stir up hatred against a group or persons on account of, *inter alia*, their religion. The Department of Justice and Equality is carrying out a review of the 1989 Act to identify how it can be improved and made more effective in a modern democracy. As part of this review, a public consultation process will open up shortly to gather views on how our legislation on criminal hate speech can be updated to ensure it works effectively. The issues to be examined in the consultation will include the limits it is appropriate to place on freedom

of expression when it comes to hate speech; the forms of hate speech that are serious enough that they should be criminal offences; whether the list of protected characteristics included in the legislation should be changed; whether the existing legislation is adequate to deal with on-line communications; and whether the requirement to prove intent to stir up or a likelihood of stirring up hatred should be altered. In addition, under the Criminal Law Act 1997, any person who aids, abets, counsels or procures the commission of an indictable offence shall be liable to be indicted, tried and punished as a principal offender.

Separately, the Department is also undertaking research into hate crime and examining approaches taken in other jurisdictions. The research results are expected at the end of this year and will also help to ensure that hate crimes are addressed effectively in this jurisdiction. I thank the Senator for his interest in this issue and for raising it.

The Defamation Act was mentioned on a few occasions in the debate. The particular Bill before us proposes the repeal of the two sections of the Defamation Act 2009 that provide for an offence of blasphemy. Those sections were expressly excluded, from the beginning, from the statutory review of the Defamation Act, which was mentioned in the debate also, because they deal only with the offence of blasphemy and the Government had already committed to holding a referendum on the constitutional reference to that offence.

The Department of Justice and Equality is completing the review of the Defamation Act. I understand the review has undergone some delay due to other urgent legislative reforms and a number of important judgments of the Supreme Court, the Court of Appeal and the European Court of Human Rights, which had to be taken into account. However, extensive work has been done and the review is being finalised. The Minister, Deputy Flanagan, has indicated its completion as a priority for him and for the Department. He expects a draft report with options for reform to be submitted to him in the coming weeks with a view to his bringing forward proposals for legislative change to Government in early course. The review is addressing all the issues raised in submissions made to it, including the role of juries in High Court cases and the level of awards made.

The objective set for the Defamation Act review from the outset is to ensure that our defamation law strikes the right balance between protecting an individual's good name and privacy and protecting the right to freedom of expression, taking account of the vital role in our democracy played by a free and independent press. I am sure Senators will agree these are important issues in a complex area of law, and the review will also draw on experiences of reform in other jurisdictions.

I listened to what Senator Bacik said about diversity in the workplace. I visited a number of workplaces recently and I am glad to say many businesses and companies recognise the importance of diversity in the workplace in all its aspects. They go so far as to say it not only makes for a better and happier workplace where people can be themselves and where they are recognised for their different abilities but it also impacts positively on the bottom line for companies. They recognise that and an increasing number of companies have diversity committees and subgroups extolling, championing and recognising diversity. That is to be welcomed.

I listened very carefully to the point made by Senator McDowell. I thank him for his thoughtful contribution to the debate, which is important, but I believe we can agree that current blasphemy law is not working. It has not proved in practice to be a proportionate or a satisfactory response to the concerns the Senator raised, so I am glad he is supporting the legislation.

25 September 2019

I refer to the importance of calling out racism and hatred for what they are when we come across them. Part of my role concerns asylum seekers, refugees and all that space. There are tens of millions of people displaced across the world. We are doing our bit here as best we can to support people who come here looking for protection and to support refugees also. We should be doing more and we can debate that on another occasion. I would be very concerned if people were to use religion as an excuse for not supporting people who come here for protection or were to make statements such as “This is a Catholic country for Catholic people” or “This is a white country for white people.”

Senator Ivana Bacik: Hear, hear.

Senator Martin Conway: Hear, hear.

Deputy David Stanton: We should call that out for what it is. I welcome the recent support of, and remarks by, certain religious figures who have called that out for what it is and expressed their disgust that in some instances people have used religion as an excuse for not helping people who badly need our help and support. I encourage more people from all spheres of society to call out such behaviour for what it is because we cannot allow it to take root here. There are very evil and dangerous forces trying to gain a foothold in our country. I ask all Senators to stand up, be brave and identify and condemn racism and intolerance at every opportunity. I commend the religious figures who have done so and ask that more people do so. We must start preaching about love, not hate. I thank Senators for their time.

Question put and agreed to.

Blasphemy (Abolition of Offences and Related Matters) Bill 2019: Committee Stage

Section 1 agreed to.

SECTION 2

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

Senator Michael McDowell: I wish to reflect on the remarks made on Second Stage of the Bill in the context of what it will do. I wish to emphasise that I indicated that I will support its passage and that it needs to be supported in the circumstances I outlined. Senator Bacik raised the issue of whether the inclusion in the Defamation Act of the two sections dealing with blasphemy was necessary. I wish to remind the House that I brought forward a Bill in 2006 or 2007 which did not include such sections. As then Minister for Justice, Equality and Law Reform, I was of the view that it was unnecessary for a statute to contain such provisions because if the Constitution stated it was an offence and the Judiciary stated it was unprosecutable as a result of vagueness, that was as far as needed to be gone. It had to be punishable in accordance with law. In the absence of legislation dealing with the matter, the law would be that it would be for the Judiciary to determine a punishment and that would be the end of it.

I concur with Senator Bacik’s remarks on the amendment made to the Constitution. The reference to the publication or utterance of indecent matter was left in the Constitution without being defined. God knows that what was indecent ten, 20, 50 or 100 years ago is radically different from what is indecent now.

Senator Rónán Mullen: It would be difficult to define what is indecent now.

Senator Michael McDowell: If blasphemy was worthy of removal from the Constitution on the grounds of vagueness, indecency was certainly not something which could be criminalised on the same basis. I completely agree with Senator Bacik on that point.

I agree with the remarks of the Minister of State regarding the conflation of religion and other political agendas. There is an entity named the National Party which constantly flirts with a toxic mixture of catholicity and reactionary politics which I decry. There are people who ideologically believe that there is a moral international right of migration. It is reasonable to state that economic migration is not to be confused with genuine use of the 1954 convention on refugees. We should be very careful before coming down with hammers and meat cleavers on people who perceive a difference between economic migration and asylum seeking in the strict sense of the term and just dump them all together into one basket. There is a difference. My comments in this regard are-----

Senator David Norris: Not relevant.

Senator Michael McDowell: -----not meant as encouragement to anyone but, as the Minister of State raised the issue, I wished to underline the fact that some people are ideologically blind to the distinction between asylum seeking and economic migration and they are entitled to that view. It is a legitimate view. They view the nation state and everything else as opposed to the great international order to which they aspire. I fully understand and intellectually respect their point of view, although I do not agree with it. Let us not just rush one way or another like the Gadarene swine-----

Senator David Norris: They rushed one way - straight over the cliff. Senator McDowell needs to brush up on his Bible studies.

Senator Rónán Mullen: The animal rights people would not be too happy.

An Leas-Chathaoirleach: I ask Senators to be conscious of the clock.

Senator Michael McDowell: I wish to make clear that I do not believe the Defamation Act should have included the blasphemy provisions. When I was Minister for Justice, Equality and Law Reform, I acted according to that view.

Senator David Norris: Very good. End of story.

Senator Michael McDowell: I do not regret the absence of these sections from the Defamation Act. If we are in the business of having a civil and tolerant society, there cannot be absolute licence to outrage others for the purpose of outraging them. Senator Norris may be correct that the way to deal with such matters would be through breach of the peace powers. It may be that an elaboration of the law with regard to behaviour leading to a breach of the peace is the only way to deal with it. We should be conscious that what is involved is not hatred; it is contempt. I will say no more on the Bill. I support its passage.

Senator Rónán Mullen: I wish to comment on the section in light of the remarks of Senator McDowell. There is a delicious irony in his reference to the Gadarene swine. I am reading a book on a related issue by Tom Holland. It is impossible to escape religious cultural inheritance, as the Senator's comments showed.

25 September 2019

On the issue of whether statutory provision for an offence of blasphemy ought to have been made, it is almost as though it is open to us to see whether the lacuna that will be created by the legislation will be abused and lead to the possible mischief of which the Senator is fearful. As I stated earlier, Labour Party Senators were wrong in making dire predictions about the possible effects of the relevant sections of the Defamation Act. If the provisions of this Bill are abused, we could then discuss what amending legislation might be necessary to address any mischief that might emerge.

An Leas-Chathaoirleach: As it is 2 o'clock, in accordance with Standing Orders I invite the acting Leader to make a proposal. I hope Senator Mullen does not have much more to say.

Senator Rónán Mullen: I have a little more to say.

Progress reported; Committee to sit again.

Gnó an tSeanaid - Business of Seanad

Senator Martin Conway: I propose that, notwithstanding the Order of Business, remaining Stages of the Bill adjourn no later than 2.30 p.m., if not previously concluded, and Report and Final Stages of the Wildlife (Amendment) Bill 2016 be taken on its adjournment or at 2.30 p.m, whichever is the earlier.

2 o'clock

An Leas-Chathaoirleach: Is that agreed? Agreed.

Blasphemy (Abolition of Offences and Related Matters) Bill 2019: Committee Stage (Resumed) and Remaining Stages

SECTION 2

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

An Leas-Chathaoirleach: We will resume with Senator Mullen on section 2.

Senator Rónán Mullen: I will be brief. The point I was making is that it will be open to us in the future to see if any mischief emerges from the new changed situation. I had no problem with the existing constitutional provision because it was so harmless but I have some sympathy with the idea that in its absence, one might have kept the legislation, since it was already there, and doing no harm but in some way signalling the respect that is due to people's religious beliefs. One can argue it both ways: that the constitutional provision without the legislation would have been adequate; or that the legislation without the constitutional provision would have been adequate. The question Senator McDowell is raising for us is whether in the absence of any constitutional reference or any legislative prohibition whatsoever on blasphemous matter we are exposed to a situation of unnecessary, intentionally injurious, extreme attacks on religion, in a way that is neither civil nor conducive to proper public debate, or at least that is my understanding of what he said.

I refer to what the Minister of State said. Anything that involves the invocation of reli-

gious singularity or anything that seeks to identify this State, this nation, with any one religion, to the exclusion of expressions of solidarity or acts solidarity with people of other faiths or none would be very bad indeed and I commend the Minister of State 100% on what he said. However, the single most abused, tortured, attacked and persecuted group in the world today are Christians. We do not talk enough about that. This is not put Christians above Muslims, Yazidis or people of no faith. If someone is persecuted for being gay in a country, we should condemn that and act in solidarity with that person. It is not nothing that the vast majority of people in the world today who are persecuted are Christians. Within the Christian faith, there have been abuses by Christians-----

Senator David Norris: These blasphemy laws are used to target these Christians.

Senator Rónán Mullen: It can and does occur today. It is not nothing and it is no accident that the single most targeted people in the world today for religious persecution are Christians.

Senator David Norris: Using blasphemy laws.

Senator Rónán Mullen: Not only blasphemy laws.

Senator David Norris: But mostly.

Senator Rónán Mullen: It needs to be said that there is a risk in this country, because of a certain allergy to religion within the cultural elite, that not enough would be said and done to call out persecution of Christians where it occurs. I have always said that when it comes to migration policy, we should have a structured but generous approach, and we should not distinguish between people of faith, *per se*, but if Christians are suffering particularly, if there is a situation where Christians do not go into refugee camps for fear of what might happen to them there, if one has a situation where the first people to Europe's borders are those with resources and strength and are relatively strong compared with much more oppressed and weaker people of religious minorities, including Christians, it is legitimate for us to seek out where the need is greater. It is legitimate for us to be mindful of our own Christian heritage in showing solidarity with those people. That is not the same thing as suggesting that this country is a Christian country to the exclusion of all others. We need to be mindful that Christians are particularly getting it in the neck in the world today. Due to the culture that now dominates in our country, there might be a certain nervousness in the highest places to name what is happening to Christians. We must warn against that as well which is a point on which the Minister of State may probably agree with me.

Minister of State at the Department of Justice and Equality (Deputy David Stanton): I do, absolutely.

Acting Chairman (Senator Maria Byrne): I thank the Senator and call Senator Higgins.

Senator Alice-Mary Higgins: In naming different discriminations, it is not necessarily useful to go to anything that might be construed as a hierarchy of who should be considered, and so forth. There are different debates on which groups are targeted or persecuted at different times, in different areas and in different ways, be it by the law or in other different forms of oppression. In different places, different groups have been targeted. In each of these individual instances, we talk about the groups being targeted and why this is so. The overall framework under which we operate, which is the international framework, is the principle of human rights, which incorporates religious freedom. One of those human rights principles is the right to

25 September 2019

freely practice one's religion. Rather than focusing on this group or that group and whether we have an interest in or alliance with a group, the important thing and most globally useful thing, both to those Christians who are being persecuted in certain areas of the world, to Muslims and to the Rohingya people, for example, in Burma, is to bear in mind and continue to use our international UN human rights frame, as our reference point. That is something we need to be cognisant of, under and within which we need to be cognisant of the protections of the rights of those of all faiths and those of no faith, covering the full spectrum of the rights of humans.

I did not intend to come in on the debate but I wanted to at that point. The Minister of State spoke very eloquently in addressing the issues of hate, which I realise is separate, relates to other legislation and is not relevant to this, but I appeal to him - this is an appeal I have made a number of times - for us to reconsider a national action plan against racism, which may also include issues of religious intolerance, and to look at how that might be addressed. These are issues which should be addressed not only in terms of the crime of hate-speech but the active promotion of harmony, understanding, engagement and the protection of the rights of all, which we previously had under the National Consultative Committee on Racism and Interculturalism, NCCRI, the national committee, the advisory group which I was a member. That was a really appropriate and often very positive mechanism for promoting harmony, understanding and engagement and protecting the rights of all. This was a useful frame that we had previously. Will the Minister of State consider that as part of how we address these issues, going forward, since we are now changing the law?

Deputy David Stanton: On that last point, that is under active consideration. I thank the Senator for her support and her ongoing commitment to this area, which is something we are taking very seriously. I hope to be in a position before the end of the year to come here to present some ideas and proposals in that whole area, which is of great importance.

On the international dimension, which I mentioned at the tail-end of my submission earlier and has been mentioned by a number of Senators, that if this legislation saves one life internationally, by other jurisdictions not being able to reference it, it is worth it.

Senator Martin Conway: Hear, hear.

Senator David Norris: Hear, hear.

Deputy David Stanton: Just one.

Question put and declared carried.

Section 3 agreed to.

Amendment No. 1 not moved.

Section 4 agreed to.

Section 5 agreed to.

Title agreed to.

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

Wildlife (Amendment) Bill 2016: Report Stage

Acting Chairman (Senator Maria Byrne): I welcome the Minister of State, Deputy Kyne. I ask the Acting Leader to move that the Bill be recommitted in respect of amendments Nos. 2 and 40.

Senator Maura Hopkins: I move that the Bill be recommitted in respect of amendments Nos. 2 and 40.

Acting Chairman (Senator Maria Byrne): Is that agreed?

Senator Alice-Mary Higgins: Pardon me?

Acting Chairman (Senator Maria Byrne): The Acting Leader moved a motion and I asked whether it was agreed.

Senator Alice-Mary Higgins: What motion? Sorry, I could not hear.

Acting Chairman (Senator Maria Byrne): That the Bill be recommitted in respect of amendments Nos. 2 and 40. Is that okay?

Senator Alice-Mary Higgins: Yes.

Acting Chairman (Senator Maria Byrne): In respect of other amendments, I remind Senators that on Report Stage a Senator may speak only once, except the proposer of the amendment who may reply to the discussion on the amendment. On Report Stage, each non-Government amendment must be seconded.

Amendment No. 1 in the names of Senators Higgins and Ruane arises out of committee proceedings. Amendments Nos. 1, 5 to 7, inclusive, 9, 13 and 36 are related and may be discussed together by agreement.

Senator Alice-Mary Higgins: We have not seen the list of groupings. Has it been circulated?

Acting Chairman (Senator Maria Byrne): I will request the list for the Senator.

Senator David Norris: For all of us.

Senator Alice-Mary Higgins: What grouping did the Acting Chairman propose?

Acting Chairman (Senator Maria Byrne): Amendments Nos. 1, 5 to 7, inclusive, 9, 13 and 36.

Senator Alice-Mary Higgins: Amendments Nos. 9, 13-----

Acting Chairman (Senator Maria Byrne): Amendments Nos. 9, 13 and 36 are related and will be taken with amendments Nos. 1 and 5 to 7, inclusive.

Senator Alice-Mary Higgins: Amendments Nos. 5 and 6 are not related.

Senator David Norris: I think we should take them all separately.

Acting Chairman (Senator Maria Byrne): It is amendments Nos. 5 and 7.

25 September 2019

Senator Alice-Mary Higgins: Amendments Nos. 5 and 6 are related to each other but they are not related to amendment No. 7.

Acting Chairman (Senator Maria Byrne): Would the Senator like to have them discussed separately?

Senator Alice-Mary Higgins: If possible.

Senator David Norris: All of them should be discussed separately.

Senator Alice-Mary Higgins: I think so. I ask that they be taken separately.

Acting Chairman (Senator Maria Byrne): They will be because we will take each amendment as it comes. Does the Senator want to speak on them together or separately?

Senator David Norris: No, separately.

Senator Alice-Mary Higgins: I would be happy to speak on them separately. I would prefer that if possible.

Senator David Norris: Yes, separately.

Senator Alice-Mary Higgins: I will agree to speak on amendments Nos. 5 and 6 together because they are related but the other amendments should be taken separately.

Acting Chairman (Senator Maria Byrne): The Minister of State's notes are all based on the groupings, that is the only thing. There may be some repetition.

Senator Alice-Mary Higgins: I am sure we can come back to points and I am sure we may not need to go into them in the same length when issues arise.

Acting Chairman (Senator Maria Byrne): I call on Senator Higgins to move amendment No. 1.

Senator Alice-Mary Higgins: I move amendment No. 1:

In page 3, line 5, after "of" to insert "raised".

This amendment relates to one of the core issues in the Bill. There was a lengthy process under way and aspects of it have become outdated, for example, the previous process on consultation and review on developing the Bill was with regard to raised bogs. That process predated the strong focus we now have on climate change. On Monday, the Taoiseach was making statements on how he hopes Ireland will have a reputation for deep environmental concern. In this regard, it is unfortunate the debate on the Bill is taking place at the same time as the Joint Committee on Climate Action is meeting. More crucially, we are taking Report and Final Stages weeks before the committee is due to consider the future of our peatlands and to hear from Bord na Mona, experts on sustainable energy, the National Parks and Wildlife Service on the national peatlands strategy and experts from UCD and elsewhere. On the one hand, a process is under way in respect of climate change and consideration of our peatlands while, on the other, a Bill that will make quite radical changes to the usage of our peatlands is going through weeks before that discussion. As a result, the Bill will not be informed by the discussions that will take place at the Joint Committee on Climate Action.

This is directly relevant to the amendment because it relates to the question of process. There was a process - with gaps - which, in some senses, became outdated but there was a process for raised bogs. There was consultation and a review by the Peatlands Council. Action has been taken, documents have been published, opinions have been circulated and environmental assessment has been carried out. In the context of blanket bogs, no such process has taken place. However, at a late stage in proceedings in the Dáil, blanket bogs were added to the Bill. We have had a 12-year process for the raised bogs and, effectively, no process for blanket bogs but they will be opened for de-designation under the Bill in the same way as raised bogs.

It is important to take amendment No. 1 separately because it relates to the fundamental purpose of the Bill. I am simply saying that while I disagree with the Bill, at least let us insert the word “raised” and make it clear that it does not apply to all bogs. Let us be clear that, under the current formulation, it applies effectively to all bogs in Ireland, with raised and blanket bogs being the main concerns. It is wide open. Let us at least narrow the scope of the Bill to its original policy intent, which is based on some kind of process, and insert the word “raised” in the title.

There is particular concern about blanket bogs because we know they have a particular vulnerability when it comes to drainage. The environmental concerns relating to them are different. Such bogs perform different environmental work. The process of the original review was to ensure that new raised bogs would be designated. There was public consultation but in any of the engagement with the public, there was no mention of the potential de-designation of blanket bogs.

I will highlight one particular issue regarding blanket bogs. The diversity of habitats and the communities of plants and animals are quite different. The Minister of State has given some acknowledgement later in the Bill to the question of biodiversity and the idea of a review. Does the Minister of State at least not agree we should be looking at a full biodiversity review of blanket bogs before we proceed with including them in the legislation?

I will deal with my concerns on carbonation later when there will be opportunities to discuss them. The Minister of State added blanket bogs to the Bill at a very late stage and perhaps he might consider putting forward separate legislation appropriate to blanket bogs and narrowing the scope of this Bill. I also appeal to Fianna Fáil because it was a Fianna Fáil amendment that widened the scope. Given the environmental concerns that Fianna Fáil and its leader have expressed, will they support a narrowing of the Bill to limit its impact to the question of raised bogs? I put all of these issues with regard to consultation, transparency and environmental assessment to Fianna Fáil in this regard. This is why I want the amendments taken separately.

I am speaking about the wording in the Title. It is a symbolic point. Later, I will move amendments on very meaningful and impactful points on de-designation. I hope that even at this late stage Fianna Fáil may consider supporting amendments to remove blanket bogs from the Bill. This is one of the reasons I want the amendments to be discussed separately. This amendment is with regard to a symbolic point regarding the purpose of the Bill but later we will come to the question of what can and cannot be de-designated and that is an important point.

The Peatlands Council was established 12 years ago based on recommendations in the Quirke report, which outlined a plan for managing raised bogs. So all of that consultation I mentioned, including the foundation documents on which the consultation was based, came out of a report which was specifically based on a premise of dealing with raised bogs. Again, that is a huge expansion and I think it will be one that will stand as a great shame for Ireland

internationally if we allow blanket bogs to be dedesignated without due process. I know there is a subsequent process that the Minister of State will suggest happens around designation. It is an inadequate process and certainly not comparable to the process that is under way for raised bogs.

Senator David Norris: The Bill as it is phrased is fairly general in its introduction. It states: “An Act to provide for review of bog habitat.” It does not specify raised bog, blanket bog or any other kind of bog. As I understand it, Senator Higgins’s intention is to exclude blanket bogs and concentrate the impact of this Bill entirely on raised bogs. Am I correct in that?

Senator Alice-Mary Higgins: To clarify, my amendment would limit the effect of the Bill to raised bogs.

Senator David Norris: Yes, so it is excluding blanket bogs.

Senator Alice-Mary Higgins: Exactly. It narrows the focus.

Senator David Norris: I understand that. I would welcome a little more explanation on that, as to why that is necessary, because I caught some echoes of the Senator’s concerns but they did not seem to be central. If it is possible, I would like to have a greater explanation of why Senator Higgins wants to exclude blanket bogs and simply refer to raised bogs. She did say, through the Chair, that there were certain differences and I presume that is where the argument lies. I wonder if Senator Higgins could specify that and why there should be a distinct, separate treatment of blanket bogs.

Senator Fintan Warfield: I am happy to support amendment No. 1. My understanding is that blanket bogs were not part of the public consultation, which is the consultation that has brought us to this point and the proposed legislation. It undermines somewhat the process of the public consultation if we suddenly make seismic changes to the scope of the Bill with no consultation having been completed. As a result, I have no reflecting data on the need for an extension to blanket bogs. In comparison, we have 12 years of data and submissions that relate to raised bogs. Has the Government thought this through? Has it considered the environmental impact in the same way that it has done with raised bogs? It seems a little suspect that blanket bogs were not included in the Bill, as proposed, and now that they have been included in the Dáil the Government has reignited its interest in the legislation. As of now, I support amendment No. 1.

Minister of State at the Department of Culture, Heritage and the Gaeltacht (Deputy Seán Kyne): I thank the Senators for their comments. As they know, the proposed change that was passed by the other House came from a comprehensive committee discussion going back some years and which was subsequently brought forward by amendment to the Dáil when it was decided to include blanket bogs with raised bogs as part of the legislation.

As Senators are aware, the main objective of the 2014 raised bog natural heritage areas, NHA, review was to look at how the network contributes to our conservation objectives for raised bog habitats, while avoiding impacts on the traditional rights of landowners and turf cutters and minimising the costs arising from compensation payments. Reconfiguration of the raised bog network, which this Bill will facilitate, is based on sound scientific evidence and will have a positive impact on the network.

The Wildlife (Amendment) Bill 2016, as initiated, has been amended in Dáil Éireann and

now provides for the Minister for Culture, Heritage and the Gaeltacht, at his or her discretion, to conduct a review or reviews of the blanket bog natural heritage areas network as well as to continue and complete the 2014 review of the raised bog natural heritage area network. The Bill now gives the Minister the power to conduct a review or reviews of the blanket bog natural heritage areas at some point in the future without obliging the Minister to do so. Such a review of the blanket bog natural heritage areas would not be done in a vacuum. It would involve public consultation and would not necessarily lead to proposals for the dedesignation of blanket bog NHA sites. Those are principles and criteria in the Bill to guide a Minister conducting a review and in making decisions such as the carrying out of a strategic environmental assessment, public consultation and linking the achievement of nature conservation objectives for blanket bog habitats to the favourable conservation status of the habitats. As set out in the Bill, the heart of any future review would be nature conservation in terms of maintaining bog habitats at, or restoring bog habitats to, a favourable conservation status.

The ministerial amendments are to provide that when the Minister for Culture, Heritage and the Gaeltacht dedesignates all or part of a natural heritage area by making an order to amend or revoke a natural heritage area, the Minister will inform the general public of the notice or of the making of the order, place an advertisement in a national newspaper and publish it on the Internet. The Minister will also cause a copy of the notice or a copy of the order to be sent to the Oireachtas committee whose remit encompasses natural heritage. The Bill already provides that an amendment of the making of a natural heritage order to amend or revoke a natural heritage area order will be placed in a local newspaper and copies of the order will be sent to various Ministers, public bodies and defined owners or occupiers of the land. The proposed amendments will facilitate the widespread dissemination of the making of an order to amend or revoke a natural heritage area order in order to dedesignate all or part of the site of a natural heritage area. Therefore, I will not be accepting amendment No. 1.

There would be public consultation for any blanket bog review before any decision would be taken regarding dedesignation. While the discussion heretofore has been about raised bogs, it has not been done in isolation from blanket bogs. I have been at plenty of meetings in the heart of Connemara, which has a predominance of blanket bogland. This has been in the public consciousness as long as issues concerning raised bogs. It has been the feature of a number of meetings, consultation and engagement between Department officials and turf cutters in those areas. The inclusion of blanket bogs as part of the legislation makes perfect sense. We have had a review of the raised bogs and this will allow for consultation and designation or dedesignation of blanket bogs within strict criteria such as strategic environmental assessments and public consultation. It makes perfect sense in terms of the nature and spirit of what we are trying to do. Let us not forget, it is not just about dedesignation, it is also about designation. We want to put a greater emphasis on the State-owned lands, which are easier to manage, which are in public ownership. That is something many turf cutters wanted. They feel there is an undue burden on the small guy, as it were, and that the State is negating its obligations in terms of the land blocks it has. Designation is as important as dedesignation in the context of this review.

Senator Alice-Mary Higgins: Designation is not just as important as dedesignation, designation is more important if we are to in any way address both the ecological collapse that we are facing, on which we have seen endless reports and endless evidence, and environmental and ecological damage that has been done in Ireland and on a wider scale and also with our climate change and carbon targets. We need both feet moving forward. That is my concern, not the question of designation mentioned by the Minister of State. I welcome the designation of new

bogs. My question is on dedesignation. I do not believe we can afford to take steps backwards, and if we are taking such steps backwards they need to be taken very carefully.

From what the Minister of State has mentioned in his speech, I hope he intends to accept my amendment No. 8, which is coming up shortly. That would help. The Minister of State mentioned public consultation, environmental impact assessment and strategic environmental assessment. That is exactly the language in my amendment No. 8, but it is not in the Bill. The strategic assessment and all of those wonderful things we are supposedly going to do before we go near our blanket bogs are not there. That is not in the Bill. One can go right ahead and de-designate a bog simply based on criteria one sets out later which, as we will see, do not include any of those things. The Minister of State talks about the credibility of these processes and what will happen, particularly with blanket bogs, but there has been no public consultation to answer the key concerns. We could talk about blanket bogs and levels of difference and dangers in terms of subsidence and all of the rest compared with raised bogs, but the key difference is that there was a public consultation and environmental review in the case of raised bogs. There was a national discussion in that regard. I have no doubt that there have been discussions and possibly extensive lobbying on the blanket bogs issue by those who would like to see certain blanket bogs, especially in their own areas, de-designated. That is not the same as an environmental impact assessment or a formal public consultation which allows for all of the experts and stakeholders, which includes everyone on this issue, to have their say and provide an input. It is unfortunate that the Bill does not provide for public consultation or environmental review at this point. Again, I regret that the opportunity is not being taken at this point at least to narrow the focus of the Bill to something more manageable.

I cannot speak about all of the terrible consequences that may come from de-designation of blanket bogs because we have not done the reviews and the data and research are not there. I am sure I will have the opportunity in years to come to speak about the damage the ecological devastation that has been done through de-designation, but I do not feel I will take any satisfaction in that.

I hope the Minister of State will accept amendment No. 8 when we come to it, as his speech seemed to suggest he might. I am sorry that he and I are not in agreement on amendment No. 1.

Amendment put:

The Seanad divided: Tá, 11; Níl, 25.	
Tá	Níl
Black, Frances.	Burke, Colm.
Conway-Walsh, Rose.	Burke, Paddy.
Devine, Máire.	Buttimer, Jerry.
Higgins, Alice-Mary.	Byrne, Maria.
Humphreys, Kevin.	Coffey, Paudie.
Kelleher, Colette.	Coghlan, Paul.
Ó Donnghaile, Niall.	Conway, Martin.
Ó Ríordáin, Aodhán.	Craughwell, Gerard P.
O'Donnell, Marie-Louise.	Daly, Paul.
Ruane, Lynn.	Feighan, Frank.
Warfield, Fintan.	Gallagher, Robbie.

	Hopkins, Maura.
	Horkan, Gerry.
	Lawless, Billy.
	Lawlor, Anthony.
	Leyden, Terry.
	Lombard, Tim.
	Marshall, Ian.
	McFadden, Gabrielle.
	O'Donnell, Kieran.
	O'Mahony, John.
	O'Sullivan, Ned.
	Reilly, James.
	Richmond, Neale.
	Wilson, Diarmuid.

Tellers: Tá, Senators Alice-Mary Higgins and Lynn Ruane; Níl, Senators Gabrielle McFadden and John O'Mahony.

Amendment declared lost.

Acting Chairman (Senator Gerry Horkan): Amendments Nos. 2 and 40 are related and amendment No. 2 is consequential on amendment No. 40. These amendments may be discussed together by agreement. Is that agreed? Agreed.

Bill recommitted in respect of amendment No. 2.

Government amendment No. 2:

In page 3, line 6, after “orders;” to insert “to provide for arrangements concerning biodiversity;”.

Senator Alice-Mary Higgins: Are we speaking on amendments Nos. 2 and 40?

Acting Chairman (Senator Gerry Horkan): Yes. Does the Minister wish to speak?

Deputy Seán Kyne: The proposed amendment amends the Long Title the Bill so it would read: “An Act to provide for review of bog habitats; to further provide for making, amendment and revocation of natural heritage area orders; to provide for arrangements concerning biodiversity for those purposes to amend the Wildlife (Amendment) Act 2000; and to provide for related matters.”

On amendment No. 40, on Committee Stage I indicated that I intended bring an amendment or amendments to the Bill on Report Stage relating to the introducing a biodiversity duty, which would place a requirement on public bodies to embed biodiversity in carrying out their

functions so as to promote the conservation of biodiversity. Senators rightly referred to the importance of biodiversity in nature conservation and the proposed amendment follows on from the National Biodiversity Action Plan 2017 to 2021 and the national biodiversity conference held in February. The plan recognises that biodiversity can only be maintained or restored by complementary actions by a wide range of sectors whose decisions and actions have a profound influence on the natural environment. It is proposed to insert a new Part, Part VA in to the Wildlife (Amendment) Act 2000.

Within Part VA, section 59A sets out definitions for “the Agreement”, namely, the 8 March 1999 agreement between the Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland establishing implementation bodies, “biodiversity”, taken from the UN Convention on Biodiversity, “guidelines”, “National Biodiversity Action Plan”, “plan, programme or strategy”, “public body” and “relevant Minister”.

Section 59B provides that every public body, as set out in section 59H, will be required, in the performance of its functions, to have regard to: a plan, programme or strategy prepared by the Minister for Culture, Heritage and the Gaeltacht and approved by the Government concerning the promotion of the conservation of biodiversity or part of a plan, programme or strategy concerning that promotion; the objectives and targets in a national biodiversity action plan; and guidelines prepared by the Minister, providing practical guidance to the public body concerned or all public bodies, in relation to a plan, programme or strategy or meeting the objectives and targets of a national biodiversity action plan. This requirement on public bodies will apply from the date of the publication of a notice of the publication of the plan, programme or strategy, national biodiversity action plan or guidelines or an amendment of any of them. In practice, the Minister publishes plans and strategies from time to time. Examples include the National Peatland Strategy 2015 and the National Raised Bog Special Areas of Conservation Management Plan 2017-2022. Recent national biodiversity action plans were published in 2011 and 2017. Guidelines, such as guidance on Article 6 of the Habitats Directive, have also been issued by the Minister on an occasional basis. The requirements in this Part of the Bill would apply only to future plans, programmes and strategies.

Section 59C sets out the timelines for the preparation and publication of a national biodiversity action plan and guidelines and the means to be used to publish same and similarly with regard to a plan, programme or strategy and guidelines. It also provides that the Minister for Culture, Heritage and the Gaeltacht will publish a notice of the publication of a national biodiversity action plan and guidelines or amendments to them in *Iris Oifigiúil*, a national daily newspaper and on the website of his or her Department not later than four weeks after publication and, similarly, for a plan, programme or strategy.

Section 59D provides that the Minister for Culture, Heritage and the Gaeltacht may consult, as he or she considers appropriate, with public bodies and the public during the preparation of a plan, programme or strategy, national biodiversity action plan or guidelines or an amendment of any of them. The Minister will consider observations or submissions received during consultations before completing the preparation of a plan, programme or strategy, national biodiversity action plan or guidelines or an amendment of any of them.

Section 59E provides that, at least eight weeks before he or she publishes a plan, programme or strategy and guidelines under section 59C(1) or a national biodiversity action plan and guidelines under section 59C(4), the Minister for Culture, Heritage and the Gaeltacht will give notice in writing to public bodies of his or her intention to so publish.

Section 59F provides that, not later than 18 months after the date of publication of a plan, programme or strategy and guidelines or a national biodiversity action plan and guidelines, and not more frequently than once every 12 months thereafter, a public body shall prepare and submit a report to the Minister for Culture, Heritage and the Gaeltacht specifying: measures adopted by the public body for the purpose of compliance with section 59B(1); and progress made by the public body in the performance of its functions in accordance with that subsection. Where a public body is prescribed under section 59H(2), its first report shall be submitted to the Minister not later than 18 months after the date following that prescribing, of publication of a plan, programme or strategy and guidelines or a national biodiversity action plan and guidelines.

Section 59G allows for the Minister for Culture, Heritage and the Gaeltacht to give a direction to a public body requiring it to adopt measures for the purpose of compliance with section 59B(1). The Minister will consult and agree the terms of the direction with the Minister who performs functions in connection with the public body, before giving a direction. He or she must also consult the public body and, where the public body was established by the agreement, the Minister for Foreign Affairs and Trade before giving a direction. The Minister for Culture, Heritage and the Gaeltacht may amend or revoke a direction. The same consultation procedures, as for giving a direction, apply. A public body must comply with a direction given by the Minister.

Section 59H(1) sets out the public bodies which will be required to promote the conservation of biodiversity. These public bodies are those that it is considered have functions that have or may have a bearing on matters concerning biodiversity or are in a position to promote the conservation of biodiversity. In addition, the Minister for Culture, Heritage and the Gaeltacht may prescribe a body, other person, company, organisation or group to be a public body where the Minister is of the opinion that any of them has functions that have or may have a bearing on matters concerning biodiversity or is in a position to promote the conservation of biodiversity. Before prescribing a body, other person, company, organisation or group to be a public body, the Minister must: obtain the consent of the Minister who performs functions in connection with the public body; consult the body, other person, company, organisation or group; and, where any of them was established by the agreement, consult the Minister for Foreign Affairs and Trade.

Senator Lynn Ruane: These are positive amendments to the legislation. I have questions relating to what happened with the wetlands in Tallaght last week. To what extent will this amendment prevent what happened in Tallaght from happening in the future? The statement from the local authorities was not satisfactory and did not show that they cared very much over how hurt people were by what happened. I watched the progress of the conservation effort and the efforts to preserve the biodiversity of the wetlands, in which Collie Ennis was especially involved. In the days before their destruction, we had written to local schools to try to get them involved in understanding the biodiversity of the site. I was honoured that Collie asked me to reach out to the schools to help in an education process around the site but we have no real idea where it will go now. I have not had time to go through each section of this amendment. As they are only coming through now, I guess we can treat them as if we were on Committee Stage and I ask the Minister of State to give us more information. The amendments mention strategies and action plans but will there be regulations protecting sites such as the Tallaght wetlands? Will they make it illegal to destroy conservation areas such as this, or will there just be guidelines?

Deputy Seán Kyne: The loss of the wetlands was very regrettable. I saw the before and after pictures and an investigation is taking place within the Department into what happened. I cannot say who, what, why or when in answer to the Senator's questions but the impact is very noticeable from the pictures. Given the interest in schools and other places, it is a shame that this loss of habitat happened. Grants used to be given to drain wetlands under agriculture development programmes but those days are long gone. The biodiversity strategy in this plan is to be welcomed in terms of protecting such areas.

Areas designated as national heritage areas, NHAs, or special areas of conservation, SACs, are generally larger areas so it is unlikely that the area in Tallaght would have been earmarked for such a designation. However, local area plans for county councils should recognise areas of amenity and habitat and give them specific protection. We need to engage with all local authorities so that these areas are designated and the authorities are aware of their significance.

Senator Paddy Burke: Amendment No. 40 is a huge amendment. Will it be enacted straight away? If the Bill is passed, it will have to go back to the other House to be passed into law. Is it the case that the full effect will not come into being until the Minister so prescribes which could be years after the Bill is enacted? In Castlebar, where there are three lakes, the mink have killed all the swans which come back to those lakes. There is an infestation of mink. Could this amendment resolve this? It is a serious issue as hundreds of swans have been killed by these mink. Will the Minister be bringing forward regulations around this amendment on an ongoing basis? How will it proceed when the Bill is fully enacted?

3 o'clock

Deputy Seán Kyne: I thank Senator Paddy Burke for those comments. The Department carries out mink control in the most important areas for ground-nesting birds, including in County Mayo. If the Senator gives my officials the names and locations of those lakes, we can ask the local rangers to investigate the issue.

The Senator is right to state that the amendment is comprehensive. The Act shall come into operation on such day or days as the Minister for Culture, Heritage and the Gaeltacht may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions. If secondary legislation is required in order to ensure that the provisions of a Bill are enacted, that can take time. I know of a Bill passed in 2017 that has yet to be implemented because secondary legislation is required. If there are comprehensive issues within the area of biodiversity or if secondary legislation is required, then that will take some time.

Senator Alice-Mary Higgins: I welcome these amendments, which reflect the outcome of the conference on biodiversity and the debate that has been taking place in the context of biodiversity. It is very positive to see that translated into action. A question arises as to how that comes into effect and how it will be implemented. How can we ensure that this will become practice in each public body? The Minister of State mentioned possible different implementation dates for aspects of the legislation. My colleague spoke about the heartbreaking destruction visited upon the Tallaght wetlands recently. Senator Kelleher and I spoke when the Gearagh woodlands in Cork were devastated by the ESB during the clean-up after Storm Ophelia. This was one of the oldest of ancient woodlands in Ireland. As I look through the public bodies, there is a litany of situations that have arisen whereby if there had been a biodiversity imperative or a requirement for that consideration, perhaps the body involved might have taken

a different approach.

How will the consideration of biodiversity be taken on board by these bodies through their strategies and plans in dealing with situations such as happened with the clean up after Storm Ophelia? Road safety concerns were discussed during the proceedings relating to the Heritage Bill. It would be good to know that attention will be paid to difference in practice in how this rolls out. We should not simply have a document that sits on the shelf on each of these bodies, but that there is a review of practice in each of them. I know those public bodies make a report to the Minister under section 59F. I hope we will have the opportunity to engage and look comparatively at those reports.

This is very positive. I have a few concerns. The Minister is required to publish the plan “Not later than 36 months after the coming into operation of section 59B”. Three years seems a long time given the current rate of biodiversity loss. We are in the middle of what has been called the sixth mass extinction, with 200 species becoming extinct each day. Research this year indicates that humanity has wiped out 60% of mammals, birds, fish and reptiles since 1970. Experts have warned us about this. The assessment is that 85% of habitats are reported as being in unfavourable status or condition and 46% of habitats demonstrate ongoing and declining trends. This has been echoed by bodies such as BirdWatch Ireland in local specific research in Ireland. For example, we know that wintering water birds have declined by 40% in the past two decades. There has been an acceleration of ecological collapse, environmental damage and biodiversity loss. In that sense, I would prefer if it was 12 months rather than 36 before we look to our first plans. I hope that Departments and individual public bodies are not allowed to drag their feet on these actions. Obviously, this is Report Stage so we will not have an opportunity to amend the section. However, I will support the section and the Minister of State’s proposals.

I ask him to address a concern I have over section 59D, which states, “The Minister may consult as he or she considers appropriate with public bodies and the public during the preparation of a plan, programme or strategy”. I know flexibility is needed, but is it envisaged that the Minister might not feel he or she needs to engage in such consultation? I feel it is too broad and seems to leave it almost entirely to the Minister’s discretion. I imagine that certain bodies such as the National Parks and Wildlife Service should definitely be in consultation with the Minister on this strategy.

The Bill provides for the designation of new public bodies. The amendment states that the Minister may prescribe a body, “where the Minister is of the opinion that the body, other person, company, organisation or group has functions that have or may have a bearing on matters concerning biodiversity or is in a position to promote the conservation of biodiversity.” Are they public bodies for the purposes of this section of the Bill and therefore this Act? The question of the definition of public body came up in another Bill. For example, a private company may be on contract to the State for three or five years. It is appropriate that it should be held to the standards of public bodies in executing any services it may be executing at the behest of the State. At the same time, it is still different from a public body. We would not want a company contracted by the State that is determined to be a public body based on the function it performs for the State to be able to categorise itself as a public body in the context of slightly different functions it may also be performing.

Deputy Seán Kyne: Regarding section 59D, I assure the Senator that the Minister is fully intent on public consultation. The wording is legalese, but it is fully envisaged that there will be full consultation on all plans and strategies done within the Department. The amendment

contains a full list of the public bodies and includes a planning authority within the meaning of the Planning and Development Act 2000. The amendment states, “The Minister may, for the purposes of this Part, prescribe a body, other person, company, organisation or group ... to be a public body where the Minister is of the opinion that the body, other person, company, organisation or group has functions that have or may have a bearing on matters concerning biodiversity or is in a position to promote the conservation of biodiversity.” That is positive and if additional bodies, companies or individuals are not listed there, they can be designated by the Minister.

The legislation requires public bodies to report to the Minister specifying the measures adopted and any progress being made. It will require local authorities to plan ahead better in terms of managing nature in order that they might prevent actions such as those which occurred in Tallaght through better planning. The duty will also require publication of the new biodiversity plan which is unlikely to be done before 2022. We will work to bring that forward if possible. We have in place an excellent biodiversity plan up to 2021. If it can be resourced, full implementation by all sectors will substantially address the threats to nature as set out by the Senators.

As I told the House before, in past the State actively promoted the removal of biodiversity through the promotion of agriculture. There were grants to drain wetlands or remove hedgerows or walls. We have done an about turn on that. Through our membership of the European Union and so on, we recognise that we have a responsibility to protect and enhance biodiversity on our farms. Ever since the introduction of environmental programmes in the early 1990s, such as the rural environment protection scheme, REPS, the agri-environment options scheme, AEOS, and other schemes, it has been about recognising biodiversity and enhancing it, ensuring that we plant more trees and hedgerows, maintain landscape features such as stone walls and hedges which are a requirement under all the farm payments. Satellite technology means that they know if anything is interfered with so there is an onus on farmers and landowners to ensure that biodiversity is enhanced. The reviews of bogs is about designating those which are worst impacted and unlikely to be rehabilitated while allowing for the designation of other areas to enhance the overall area of habitat in the State, with particular reference to State lands.

Senator Alice-Mary Higgins: I suggest that under dedesignation, that the constituent bodies of the National University of Ireland and their grounds be part of the biodiversity habitat. They are some of the more extensive natural grounds in some areas. I was proud to launch the sustainability strategy for NUI Galway which has put in a wildlife walk along the river banks where much of the land is owned by the university, and ultimately public land. It is not listed as one of the key categories but they are important land and natural space owners in many of our cities and towns and it is important to include them.

The role of protection is important, and thank the Minister for acknowledging that, but it is also about recognising that land which is not being used for a specific economic activity is not empty space. That is a fundamental shift. For years there was a mindset that green space that was not serving a clear and specific human function all the time was somehow empty space. It is wonderful that people can visit such spaces and that, for instance, children in Tallaght could visit the wetlands, but even if we never visited them, those spaces including green and wild spaces perform incredibly important work in sustaining our environment and the biodiverse life on our planet. It is important that there is a huge shift in mindset. I commend these amendments in terms of biodiversity and hope they become part of a shift in perspective in the way we engage with the diversity of life on our island.

Deputy Seán Kyne: I am advised that the national universities are not public bodies, nevertheless they have a very important function to play in biodiversity. I will discuss this with officials as they have an important role. It is a fair point that there may be lands that may not be farmed actively, some owned by the State or State bodies or are private owned by them, which are zoned for future development where there would be the removal of habitat to development. I saw a case on social media today where that had happened in a part of Dublin county. Those points are valid and I will discuss what can be done on this with officials.

Amendment agreed to.

Bill reported with amendment.

Acting Chairman (Senator Gerry Horkan): Amendments Nos. 3 and 20 to 28, inclusive, are related; amendment No. 21 is a physical alternative to amendment No. 20; amendment No. 22 is consequential on amendment No. 21; and amendments Nos. 24 to 27, inclusive, are consequential on amendment No. 23. Amendments Nos. 3 and 20 to 28, inclusive, may be discussed together by agreement. Is that agreed?

Senator Alice-Mary Higgins: Sorry, I did not think there would be groupings at this stage.

Acting Chairman (Senator Gerry Horkan): The groupings were circulated.

Senator Alice-Mary Higgins: Is it amendments Nos. 3, 20 and 28?

Acting Chairman (Senator Gerry Horkan): No, the grouping was amendments Nos. 3 and 20 to 28, inclusive.

Senator Alice-Mary Higgins: Okay, that is fine.

Acting Chairman (Senator Gerry Horkan): It is agreed. Does the Minister of State wish to speak to amendment No. 3 and Nos. 20 to 28, inclusive?

Deputy Seán Kyne: I will speak to No. 3 and Nos. 20 to 27, inclusive.

Acting Chairman (Senator Gerry Horkan): The grouping I have is amendment No. 3 and Nos. 20 to 28, inclusive.

Deputy Seán Kyne: My speaking notes for this grouping are for Nos. 3 and Nos. 20 to 27, inclusive.

Senator Alice-Mary Higgins: It is possible that some of the Minister of State's speaking notes on that were incorporated into his comments on the last amendment.

Government amendment No. 3:

In page 3, lines 12 to 14, to delete all words from and including "Section" in line 12 down to and including line 14 and substitute the following:

"Section 16 of the Act of 2000 is amended—

(a) by the substitution of the following subsection for subsection (1):

"(1) Where the Minister is of the opinion, having regard to subsection (6)(a), that any land forms, or is part of, a natural heritage area, or, is satisfied under

section 18A(5)(a) that a natural heritage area order should be made, the Minister shall publish or cause to be published in *Iris Oifigiúil*, in a national newspaper, in at least one newspaper circulating in the locality in which the land is situate, and on the website of his or her Department, a notice in the prescribed form of the Minister's intention to make an order designating the land as a natural heritage area.”;

(b) by the insertion of the following subsection after subsection (1):

“(1A) The Minister shall cause a copy of the notice published under subsection (1) to be sent to the Committee appointed by either House of the Oireachtas or jointly by both Houses of the Oireachtas to examine matters and make recommendations in relation to natural heritage.”.

Deputy Seán Kyne: I propose these amendments in response to amendments proposed on Committee Stage by Senators Higgins, Ruane and Kelleher. The amendments provide that when the Minister for Culture, Heritage and the Gaeltacht publishes a notice of his or her intention to make an order designating land as a natural heritage area or when the Minister dedesignates all or part of a site as a natural heritage area by making an order to amend or revoke a natural heritage area order, the Minister will, to inform the general public of the notice or of the making of the order: place an advertisement in a national newspaper; and publish it on the Internet. The Minister will also cause a copy of the notice or a copy of the order to be sent to the Oireachtas committee whose remit encompasses the natural heritage.

The Bill already provides that an advertisement of the notice of the Minister's intention to make a natural heritage area order or of the making of a natural heritage area order will be placed in a local newspaper and copies of the notice or order will be sent to various Ministers, public bodies and defined owners or occupiers of land.

The proposed amendments will facilitate widespread dissemination of a notice of the Minister's intention to make an order designating land as a natural heritage area and of the making of an order to amend or revoke a natural heritage area order in order to dedesignate all or part of a site as a natural heritage area.

Senator Alice-Mary Higgins: I thank the Minister of State for engaging on this matter. It relates to amendments I put forward on Committee Stage with my colleagues and I thank him for putting forward this proposal. I refer to amendments Nos. 20 to 22, inclusive, and amendment No. 28, which I put forward. I will not speak to those amendments as they arise but I will probably withdraw them, as I believe there is a strong overlap between them and those proposed by the Minister of State.

I have one concern on amendments Nos. 5 and 6 which relate back to this grouping. My amendments Nos. 5 and 6 relate to certain provisions around transparency, publication, information, consultation with relevant other Ministers and so on that are currently set out in section 18 of the Wildlife (Amendment) 2000 Act which do not seem to apply to the new section 18A which the Minister is trying to insert. I refer to section 18(4)(a) of the Wildlife (Amendment) Act which states:

(4) Where the Minister proposes to amend or revoke a natural heritage area order—

(a) the Minister shall publish, or cause to be published, in the *Iris Oifigiúil* and in at

least one newspaper circulating in the locality in which the land to which the order applies is situate a notice of the Minister's intention to do so.

Section 18(4)(a) is improved upon in the Minister of State's amendment, and I welcome that the Minister has taken on my suggestion of including an online publication and a national newspaper. It is a positive step. However, section 18(4)(b) of the Wildlife (Amendment) Act 2000 also provides that the provisions of subsections (2), (4) and (5) of section 16 should apply. Those provisions mean the Minister is required, for example, to consult other Ministers in related areas, including the environment, and to ensure appropriate maps are provided, with sufficient information on any area that might be de-designated. A number of transparency measures are added.

There is a little concern. If the Minister of State is able to accept either my amendments Nos. 5 or 6, those additional requirements would be dealt with under the existing section 18. The Minister of State has proposed to remove the reference to this section only. If the Minister of State allows section 18A to be subject to the same criteria as section 18, it would be fine. However, amendment No. 4, relating to publication and suitable notice, does not fully balance or replicate all the provisions under the current section 18. It improves one of them but omits other elements. I know this is quite complicated but these are quite dense and interlocking parts of the legislation. I apologise but-----

Acting Chairman (Senator Gerry Horkan): We are dealing with amendments Nos. 3 and 20 to 28, inclusive, but I will allow the Senator to continue as I take the point about amendments Nos. 5 and 6, etc.

Senator Alice-Mary Higgins: This is what those amendments relate to. They relate to the publication in *Iris Oifigiúil* and local papers. The section 18 provisions relating to transparency include those and some other elements. I thank the Minister of State and I acknowledge that there is a very strong and credible attempt to engage and increase transparency in one aspect.

Debate adjourned.

Visit of Saudi Arabian Delegation

Acting Chairman (Senator Gerry Horkan): I am sure Members will join me in welcoming members of the Shura Council of the Kingdom of Saudi Arabia, led by H. E. Dr. Mu'addi bin Mohammed Al Mathab. On my behalf and that of all my colleagues in Seanad Éireann, I extend a very warm welcome to them and good wishes for a very successful visit to Ireland. I understand they have been here since last weekend and will depart on Friday. I wish them a very pleasant stay. They are very welcome to our Chamber and Parliament.

Wildlife (Amendment) Bill 2016: Report Stage (Resumed)

Debate resumed on amendment No. 3:

In page 3, lines 12 to 14, to delete all words from and including "Section" in line 12

down to and including line 14 and substitute the following:

“Section 16 of the Act of 2000 is amended—

(a) by the substitution of the following subsection for subsection (1):

“(1) Where the Minister is of the opinion, having regard to subsection (6)(a), that any land forms, or is part of, a natural heritage area, or, is satisfied under section 18A(5)(a) that a natural heritage area order should be made, the Minister shall publish or cause to be published in *Iris Oifigiúil*, in a national newspaper, in at least one newspaper circulating in the locality in which the land is situate, and on the website of his or her Department, a notice in the prescribed form of the Minister’s intention to make an order designating the land as a natural heritage area.”;

(b) by the insertion of the following subsection after subsection (1):

“(1A) The Minister shall cause a copy of the notice published under subsection (1) to be sent to the Committee appointed by either House of the Oireachtas or jointly by both Houses of the Oireachtas to examine matters and make recommendations in relation to natural heritage.”.

Minister of State at the Department of Culture, Heritage and the Gaeltacht (Deputy Seán Kyne): Before the Minister dedesignates a natural heritage area site, there must be a strategic environmental assessment and public consultation. In addition, the 2014 review has already been subject to public consultation and landowners have been informed of that review.

With regard to these proposed changes, we want to make the process as transparent as possible and it is why we have agreed to the Senator’s suggestions. The Senator is correct in saying what she describes is somewhat complicated and we want to ensure transparency continues across any of our proposed changes. I am led to believe that is the case but we will certainly ensure it is the case before it goes to the other House.

Amendment agreed to.

Acting Chairman (Senator Gerry Horkan): Amendments Nos. 4, 8, 10 to 12, inclusive, 15 to 18, inclusive, 35 and 37 are related. Amendment No. 12 is consequential on amendment No. 10 and a physical alternative to amendment No. 11. The amendments may be discussed together by agreement. Is that agreed?

Senator Alice-Mary Higgins: It is not agreed. There are a number of different matters in the amendments as read out. I do not agree with them being taken together.

Acting Chairman (Senator Gerry Horkan): My understanding is the grouping was put together on the basis that all the amendments deal with carbon sequestration and that general area.

Senator Alice-Mary Higgins: No. There are a number of topics and not all of them-----

Acting Chairman (Senator Gerry Horkan): Does the Senator wish to propose a different grouping?

Senator Alice-Mary Higgins: I propose that the amendments be taken sequentially.

Acting Chairman (Senator Gerry Horkan): For example, amendments Nos. 10 to 12, inclusive, could be taken together.

Senator Alice-Mary Higgins: Amendments Nos. 10 to 14, inclusive, are related and I am happy to accept that grouping.

Acting Chairman (Senator Gerry Horkan): Perhaps we could take amendments Nos. 10 to 12, inclusive, as amendments Nos. 13 and 14 were not in the proposed grouping.

Senator Alice-Mary Higgins: As I understand it, amendments Nos. 13 and 14 will fall if amendment No. 11 is successful.

Acting Chairman (Senator Gerry Horkan): I propose we deal with amendments Nos. 10 to 12, inclusive, as a group and others individually.

Senator Alice-Mary Higgins: Certainly. I am happy with that.

Acting Chairman (Senator Gerry Horkan): We will start by dealing with amendment No. 4.

Senator Alice-Mary Higgins: I move amendment No. 4:

In page 3, between lines 14 and 15, to insert the following:

“(2) Section 16(6) of the Act of 2000 is amended by the insertion of “for its role in carbon sequestration, or in respect of pollination” after “features” where it firstly occurs.”.

This relates to carbon sequestration. I am hopeful the Minister of State will be able to accept this amendment. I acknowledge that he has taken on board the concerns I raised with carbon sequestration in bog habitats and it is reflected to an extent in amendment No. 11, although there are other issues. Bogland covers 3% of the Earth’s surface but it contains 33% of our carbon. It is one of the densest and most important areas of carbon sequestration. In the limited time we have to take meaningful action to reduce our carbon output in Ireland and collectively on the planet, one of the most important principles needs to be keeping carbon in the ground, where possible. As I said, land that is holding carbon is doing something of great value.

Aside from the environmental importance, it is also doing something of great value economically. We are looking at immense fines and economic costs. I am very sorry to miss the debate in the Joint Committee on Climate Action, which I joined recently, because it is happening at the exact time of this debate. I have said that I deeply regret that this Bill is being pushed forward before the climate committee has the opportunity to discuss the future of peatlands. In the debate taking place right now in the climate action committee, Fine Gael and other Government representatives will be talking about the importance of the value put on carbon. It is a significant cost and we must consider the importance of what some call a carbon tax but what I would call the pricing of carbon. Similarly, it is vital that in our other areas of policy, like this Bill, we put a value on carbon, its storage and how we ensure we are not facilitating unnecessary and dangerously excessive emission of carbon. I have spoken about a twin crisis many times, taking in the ecological and climate crises. They are deeply entwined. One relates to the storage of carbon and the other relates to pollination and the massive decline in our bird and insect population. Our pollinators are vital to every form of agriculture in the country. I have made these arguments to the Minister of State and I have seen some reflection of them in the

first part of Government amendment No. 11, which proposes to add a reference to carbon sequestration in section 18A. However, it does not look to add a reference to carbon sequestration to section 16(6) of the Act of 2000, which refers to the detailed scientific reference document the Minister of State and others will use to determine whether an area should be designated as a national heritage area. Section (6) states:

The Minister, in publishing or causing to be published a notice under subsection (1), shall have regard to whether, on the basis of the scientific advice available to the Minister at a particular time, the area is worthy of conservation by virtue of its special scientific interest for one or more species, communities, habitats, landforms or geological or geomorphological features, or for its diversity of natural attributes.

This is a very strong section but it was written in 2000 before we knew the importance of carbon sequestration and pollination and they had been widely accepted. It would simply bring section 16(6) up to date if the Minister of State were to accept the amendment and we were to add the phrase “or for its role in carbon sequestration, or in respect of pollination”. The amendment would simply add these criteria to the scientific and environmental factors to be considered. Those factors sit very well alongside issues such as species preservation, landform and habitat.

Adding pollination and carbon sequestration to this list would be a substantial signal for the Minister of State to send and it would not affect in any way the rest of the operation of the Bill. The Minister of State has provided that in his decisions on specific natural heritage areas he plans to consider carbon sequestration. It will not affect the immediate practice of the Minister of State but it will bring the law up to date in this regard. I hope the Minister of State will be able to accept the amendment. We may part ways on amendment No. 11 but amendment No. 4 is very practical and well-intentioned.

Deputy Seán Kyne: The note is with regard to the grouping so I will speak on amendment No. 4. I cannot accept it at this stage but I see there is merit in what Senator Higgins is saying. I will ask the Department to look at it and check with the Office of the Parliamentary Counsel to see whether it can be made in the Dáil amendments, in which case it would have to come back here. I see where the Senator is coming from and there is merit in what she is saying but I need to get it checked out.

Senator Alice-Mary Higgins: Would it be possible to accept the amendment and if it needed to be changed that could be done in the Dáil and be brought back here?

Senator Fintan Warfield: I add Sinn Féin’s support to the amendment. It should be a matter of threshold for policy in this area that we manage the carbon sequestration of the State and that we have tangible data on its loss. For too long, the State has formed policy without regard to the cumulative impact on our environment. The carbon storage of peatlands in this regard is not something we should easily trade off, in particular where the cutting is at a faster scale than regeneration. This will not affect those who cultivate their plots for personal use. We only need to look at the recent High Court decision to dissolve regulations to take large-scale peat extraction outside of the Irish planning regime because it contravened European environmental law. Furthermore, in July the European Commission indicated it would take action against the State for continued failure to ensure peat extraction is properly assessed for environmental impact as required under EU law. Considering this, there needs to be a common thread in the legislation that acknowledges the carbon neutralising resource our peatlands provide and what impact any

unjustifiable removal may have that is outside the allowance of peat extraction for household use as agreed with turf cutters.

Deputy Seán Kyne: I will accept the amendment. I hope it does not have to be changed in the Dáil or make bad law. I see where the Senators are coming from. If it does need to be changed-----

Senator Alice-Mary Higgins: I will understand.

Deputy Seán Kyne: -----I hope that people understand.

Senator Alice-Mary Higgins: I thank the Minister of State very much for accepting the amendment.

Amendment agreed to.

An Cathaoirleach: The Minister of State is very facilitating. Amendments Nos. 5 to 7, inclusive, 9, 13 and 36 are related and may be discussed together by agreement.

Senator Alice-Mary Higgins: Will the Cathaoirleach say that again?

An Cathaoirleach: Amendments Nos. 5 to 7, inclusive, 9, 13 and 36 are related and may be discussed together by agreement.

Senator Alice-Mary Higgins: We discussed this at the beginning of the debate and chose to discuss them separately with some exceptions.

An Cathaoirleach: Amendment No. 1 was not included in the group.

Senator Alice-Mary Higgins: Amendment No. 1 was originally in the group. We would prefer to discuss the amendments separately. Earlier, I indicated that I am happy to discuss amendments Nos. 5 and 6 together because they are directly related. They are on quite a different issue from the other amendments.

An Cathaoirleach: We will take amendments Nos. 5 and 6 together.

Senator Alice-Mary Higgins: I move amendment No. 5:

In page 3, to delete lines 15 to 17.

I do not believe this is intentional but an inadvertent issue has arisen. Amendments Nos. 5 and 6 deal with concern about the language proposed to be added to section 18 of the original Act. Adding the phrase “in this section” will narrow the impact of the protection applied by section 18 to any process of review. It would ensure the protections and processes of the review outlined in section 18 would not extend to section 18A.

The core of the Bill is the introduction of a new section 18A that sets out the process for the designation or dedesignation of areas of natural heritage and peatland. There is an inadvertent danger, that can be addressed either by accepting amendment No. 5 or amendment No. 6, that section 18A would be missing the usual protections on process. To clarify what these protections are, at present section 18(4)(a) of the Wildlife (Amendment) Act 2000 sets out a number of provisions on publication where a Minister proposes to amend or revoke a natural heritage area order. The Minister of State addressed, replicated and, in fact, improved on these in his

amendment with regard to publication and transparency and I welcome the fact he included engagement with the relevant committee. These are two very positive steps that replicate successfully section 18(4)(a) of the Wildlife (Amendment) Act 2000.

Section 18(4)(b) relates to the provisions of subsections (2), (4) and (5) of section 16 of the same Act and states they must apply to any proposed amendment or revocation of a natural heritage area order. This is not replicated elsewhere in the Bill. Section 16 of the Act states the Minister shall “seek the observations of the Minister for Agriculture, Food and Rural Development, the Minister for the Environment and Local Government, the Minister for Public Enterprise, the Minister for the Marine and Natural Resources, and such other Minister of the Government as the Minister considers appropriate in the circumstances”. This is a very important provision. It states that prior to an order for a natural heritage area being revoked that the Minister would have to consult with other relevant Ministers. I consider the Minister for Communications, Climate Action and Environment, for example, to be crucial whereas others might regard the Minister for Agriculture, Food and the Marine as such. If the Minister for Culture, Heritage and the Gaeltacht were to seek to de-designate a natural heritage area or revoke an order of protection, he or she would be required to seek observations from the Ministers under section 18. If we do not include section 18A, however, the new orders that are made will not require him or her to consult other relevant Ministers. It is significant.

Other provisions are missing, such as a requirement that there be access to a map showing the area outlined. I have made such provisions in amendments Nos. 2, 4 and 5. It should also be required that the notice be sent to a Garda Síochána office. A number of other important parts of the process are not provided for in the Bill and will not apply to the orders made under it, but the crucial omission relates to consultation with Ministers. I am concerned about that. I hope that section 18A will be included, as proposed by amendment No. 6, in order that both sections 18 and 18A will be covered. I presume that was the policy intent. Otherwise, it may be decided to remove the words “in this section”. I believe that amendment No. 6 is the clearest because it does not run the risk of any wider application but simply extends the provisions from section 18 to section 18A.

I realise that the omission may have been inadvertent because the Bill concerns all the various Acts and how their various sections intersect. I would hate if we were to lose progress, consultation or the level of transparency that currently exists under the new and, one hopes, better laws.

Deputy Seán Kyne: Section 18A has its own provisions for environmental assessment, public consultation and dissemination of information to the public, the Oireachtas and Ministers. Any proposals to dedesignate would be subject to consultation with the public and Ministers. The matter is catered for, therefore, in the sections of the Bill as initiated. I do not believe there is an issue because the consultation is already allowed for and required.

Senator Alice-Mary Higgins: The Minister for Communications, Climate Action and Environment, for example, will no longer be consulted. In section 18A there is an explicit exclusion of that Minister. It provides for, “any other Minister of the Government that the Minister considers appropriate” but moves from a requirement to consult the Minister for Communications, Climate Action and Environment to no longer having a requirement to consult him or her.

Deputy Seán Kyne: It includes any other Minister.

Senator Alice-Mary Higgins: It specifies the Minister for Agriculture, Food and the Marine, and the Minister for Housing, Planning and Local Government. The omission may have been inadvertent.

Deputy Seán Kyne: The section allows for any other Minister whom the Minister for Culture, Heritage and the Gaeltacht considers appropriate. It depends on the application in question. It also includes the Environmental Protection Agency, whose input would be important when an order is being made under the section.

Senator Alice-Mary Higgins: What about a provision in respect of the publication of maps?

Deputy Seán Kyne: Any information that is required to ensure that Ministers, Departments, public bodies or State agencies are fully knowledgeable of the intent of the order will be provided. If that includes maps, they will have to be provided. We need to ensure that the relevant body or agency knows exactly what is intended in the order being made to provide for designation.

Senator Alice-Mary Higgins: It is regrettable there are some inconsistencies or a lack of specification but I understand that the Minister of State has indicated the intention to address some of the issues.

Amendment, by leave, withdrawn.

Senator Alice-Mary Higgins: I move amendment No. 6:

In page 3, line 16, after “section” where it secondly occurs to insert “or section 18A”.

Amendment put and declared lost.

Senator Alice-Mary Higgins: I move amendment No. 7:

In page 3, lines 23 to 26, to delete all words from and including “and” in line 23 down to and including line 26.

The amendment will not interfere with the completion of the Minister’s review of raised bog habitats. The 2014 review of raised bog natural heritage areas is under way and I would not presume to interfere with the completion of an existing review. Instead, the amendment seeks to delete the provision to allow for a new review of a natural heritage area which, in the widest sense, could include blanket bogs. I do not specify blanket bogs but simply try to confine the Minister’s reviews to those of raised bog habitats. Such reviews are subject, as I previously outlined, to an appropriate 12-year review process, which covers all the issues we discussed such as a public consultation, an environmental review and an appropriate assessment. It goes back to the fundamental issue that where an appropriate long-term process is in place, I accept that the legislation arises from the process, although certain factors, such as pollination, biodiversity and carbon sequestration, have arisen since that period of review. I do not believe, however, that the Minister should conduct new reviews in respect of the dedesignation of new natural heritage areas.

The Minister of State will speak to the fact that he also intends to designate natural heritage areas but the Minister already has that power and it is not added anew in the Bill. Rather, the Bill will give the Minister the power, through the review, to dedesignate areas that are now peat-

land, bogland or blanket bog, of which there is so much throughout the west, as the Minister of State acknowledged. The vast amount of blanket bog does the incredible work I outlined. We are only beginning to learn about its ecological significance, while carbon sequestration is an area under investigation. It is premature for the Minister to be allowed to consider the dedesignation of peatlands apart from those already covered in the previous review.

The effect of the amendment is to remove section 18A(1)(b). The rest of the section will stand but the scope of section 18A will be confined to bogs that have been considered under the 2014 review of raised bog natural heritage areas.

Deputy Seán Kyne: Unfortunately, I cannot accept the amendment. A future review of a natural heritage area will not be carried out in a vacuum. It will involve public consultation and will not necessarily lead to proposals for the dedesignation of natural heritage area sites. There are principles and criteria in the Bill to guide the Minister in conducting a review and making decisions such as carrying out a strategic environmental assessment or a public consultation linking the achievement of nature conservation objectives for bog habitats to a favourable conservation status. As set out in the Bill, at the heart of any future review will be nature conservation in respect of maintaining bog habitats at a favourable conservation status or restoring them thereto.

I believe there is enough protection in terms of the requirements for public consultation and strategic environmental assessment not to accept the amendment, as suggested.

Amendment put and declared lost.

Senator Alice-Mary Higgins: I move amendment No. 8:

In page 3, line 29, after “section.” to insert “Any review shall include terms of reference, environmental strategic assessment, environmental impact assessment and public consultation.”.

The Minister of State stated repeatedly today that any review under this Bill, any review of this Act or any review on national heritage areas that are part of our blanket boglands will have a strategic assessment, an environmental assessment and public consultation. I have highlighted that this Bill does not provide for that. It does not contain any reference to a required public consultation, an environmental impact assessment or an environmental strategic assessment. Indeed, a review does not have to contain terms of reference. None of these measures is contained in the Bill. I understand the Minister may wish that such measures would be taken, but my concern is that the legislation does not provide for them. The Minister of State says we will not designate a blanket bog because there has been no scientific analysis; there has been no proper public consultation; there has not been an environmental assessment; we do not know the impact on bird life or on the Birds Directive; we have not considered the ecological species and what it will do in terms of pollinators not just on those bogs but in terms of pollinator pathways; we do not know what the impact will be; we do not know what the levels of carbon sequestration will do; and we have not considered its impact overall on our national climate targets. We have not considered what the consequences will be.

The thing I know that is being considered is the compensatory payments we may have to make to people who are not allowed to cut turf on a site. That cost pales in significance to the many factors that are at play here. There is a real dearth of information. The Minister of State told us repeatedly that there will be strategic impact assessments and public consultation but

right now the process in this Bill for the dedesignation of a national heritage area in a blanket bog and in a raised bog is the exact same. I will read the Minister of State's version of the process. It states that the Minister will conduct a review and consider factors such as potentially considered carbon sequestration in selecting the most suitable bog habitats to cease to be designated as a national heritage area. The Minister will consider the restoration potential, the national, regional, local economic and social and cultural needs, the recreational and sporting needs and environmental criteria. The environment criteria the Minister will consider in respect of blanket bogs means the conservation of the blanket bog taking into account a comparison made between the area, range, habitat structure, function and ecological features of that blanket bog and those of one or more than one other blanket bog. Right now all the Minister of State is promising to do is to compare a bog that he is about to dedesignate with another bog. That is it. There is no environmental impact assessment, there is no public consultation and there is no strategic environmental review. However, there is a comparison between that bog and another one.

If the Minister of State accepts my amendment, and I hope he will, it will significantly strengthen the credibility of not just the Minister of State, in terms of the statements he has made in the House, but the credibility of the Government. We see the Taoiseach speaking about his hopes for Ireland as a green country. It would strengthen our credibility if, when we are making significant decisions around the dedesignation of what are currently protected areas, we would have an environmental impact assessment. The Taoiseach said he wants Ireland to be known as a "green county" because of how it responds to "the climate and environmental challenges facing our planet". We have a real opportunity here to ensure that in this one area of policy and this one specific area of decision-making, we will respond to the environmental considerations and assess them. That is the reason I ask the Minister of State to accept this amendment which states that any review he conducts will contain an environmental strategic assessment, environmental impact assessment and public consultation, as he said it should. Accepting this amendment will strengthen the legislation and the mandate and will add far more credibility to any decisions that he or a subsequent Minister will make under the proposed legislation.

Deputy Seán Kyne: Section 18A(4) states:

The Minister shall, in relation to the effects on the environment of the proposals arising from a review under subsection (1)—

(a) carry out an assessment, including public consultation, under the European Communities (Environmental Assessment of Certain Plans and Programmes) Regulations 2004 (S.I. No. 435 of 2004), and

(b) if it is required carry out any other —

(i) screening for an assessment, or

(ii) as the case may be for an assessment, including public consultation.

This section takes into account Senator Higgins's concerns, as expressed in her amendment.

Also any proposed review must have terms of reference before it takes place. This is also done for the 2014 review of the raised bogs. What the Senator is asking for is already covered under section 18A(4), which includes public consultation and environmental screening.

25 September 2019

Senator Alice-Mary Higgins: On the effects on the environment of a proposal arising from a review under section 18A(1)(a), is the Minister of State saying, because it will be an assurance if it is the case, that in respect of the decisions he makes on designation and dedesignation, he will be abiding by this? Does this section apply only to the reviews of raised bog? Does it apply to the general reviews because the Minister of State has given himself a number of scope in terms of what might be review? Does this specifically apply to the dedesignation process?

Deputy Seán Kyne: Yes.

Senator Alice-Mary Higgins: Besides an assessment in regard to the certain plans of the European Communities regulations, does that incorporate a consideration of the Birds Directive and the Habitats Directive? Usually the provisions of an environmental impact assessment will incorporate a wide scope of factors. I refer to the European Commission environmental assessment of certain plans and programmes regulations.

4 o'clock

Will it incorporate the birds and habitats directives and environmental impact assessments, including, for example, the impact in regard to climate? I may well be assured that this is provided for in another part of the section. If it does apply, that would be useful and would address some of my concerns.

An Cathaoirleach: Time is against us, but I will allow the Minister of State to clarify the issue before we adjourn the debate.

Deputy Seán Kyne: The requirement to carry out any other screening or an assessment is covered under section 4(b). There is provision or an assessment, including public consultation, which would cover the areas mentioned by the Senator.

An Cathaoirleach: I remind Senators that we are on Report Stage. We have had a lengthy debate on this issue already and the Minister of State has clarified the issue in so far as he can.

Deputy Seán Kyne: By way of further clarification, it relates to blanket and raised bogs.

Senator Alice-Mary Higgins: I accept the Minister of State's clarification but I would prefer if it was stated in the legislation that it is required rather than that it will be done, if required. I will not press the amendment but I will come back to some of the related issues at a later stage.

Amendment, by leave, withdrawn.

Debate adjourned.

An Cathaoirleach: I ask the Acting Leader to move the suspension of the House.

Senator Paddy Burke: I propose that the House suspend until 4.30 p.m.

An Cathaoirleach: Is that agreed? Agreed.

Sitting suspended at 4.05 p.m. and resumed at 4.30 p.m.

Relationships and Sexuality Education: Statements

Acting Chairman (Senator Diarmuid Wilson): I welcome the Minister, Deputy McHugh, back to very familiar surroundings and ask him to make his contribution.

Minister for Education and Skills (Deputy Joe McHugh): The Acting Chairman has gone to great lengths, even painting the place for my arrival. I appreciate that.

Acting Chairman (Senator Diarmuid Wilson): Yes. We have left no stone unturned.

Deputy Joe McHugh: It is good to be back here. I presume the Senators are well settled in at this stage.

I thank the Joint Committee on Education and Skills for producing this report on relationships and sexuality education, RSE, which addresses a significant matter and one which Members know my Department has moved to address. I welcome this opportunity to listen to the views of Members on this important and timely report. I also wish to acknowledge the organisations and individuals who contributed to the work of the committee, as well as the dedication and diligence of teachers throughout our schools, and the work that has been undertaken so far towards making relationships and sexuality education fit for Ireland's young people. I acknowledge the Chairman, Deputy O'Loughlin, and her team of officials, a couple of whom are present, for the work they have carried out in this regard.

The House will be aware that the National Council for Curriculum and Assessment, NCCA, is currently carrying out a review of RSE on foot of a request from my predecessor. I have asked the NCCA to consider the committee's report as part of that review. The NCCA review involves an examination of the curriculum at both primary and post-primary levels, including an examination of the experience and reality of RSE as delivered in schools and how the RSE curriculum is planned and taught.

The NCCA review comprises a number of dimensions, namely, a desktop review of recently published research-studies, consultation with individuals and organisations working in this area, and an online survey to gauge the views of students, parents, teachers, etc. The NCCA is also working directly with schools to examine the experience of RSE in the classroom, which is a core part of the review. The review by the NCCA, which took place between June 2018 and March 2019, addresses the key issues raised in the joint committee report. The committee's report has contributed greatly to the evidence gathering process for the NCCA review.

The NCCA is currently engaging in consultation to ensure that the findings and the related draft advice is reflective of the views of students, schools and parents. This consultation process is open until 25 October. I would encourage people and groups to continue to use that mechanism and the opportunity of consultation to have their views heard. I emphasise clearly that no decision has been taken at this stage. I repeat, because I am aware from different groups that there are fears around quality and what will be contained in this curriculum, that no decision has been made. I am sure that when we are finished this process, whatever decisions are made will be delivered in an appropriate way to students in different classes in the various demographics.

I expect to receive the NCCA's completed review before the end of the year. It is very appropriate that the time is now being taken to carry out a major review of how we educate our young people about relationships and sexuality. Issues such as consent, contraception and sexuality need to be taught in a way that not only acknowledges our changing society but also addresses issues that arise in society which indicate a lack of understanding of these areas. It is vitally important that our education system prepares our young people for life in an Irish society

25 September 2019

that values each individual's sexual orientation, respects decisions regarding contraception and understands consent.

We all recognise that relationship and sexuality education in this country must be fit for purpose and meet the needs of young people today in modern Ireland. It is important that topics in social personal and health education, SPHE, and RSE are dealt with in an age-appropriate manner at all levels. There is much uncertainty about what is currently taught in relationships and sexuality education in schools. Schools are obliged to teach all elements of the relationships and sexuality education curriculum and no element can be omitted on the grounds of school ethos or characteristic spirit. Every student in our schools has a right to access information about sexual health, relationships and sexuality.

We should acknowledge the commitment of our teachers and recognise their professional expertise in dealing with a difficult topic. I acknowledge the extensive resource materials prepared by a number of organisations to support implementation of the curriculum in areas concerning RSE. This includes the HSE, the Gay and Lesbian Education Network, GLEN, and the sexual health crisis pregnancy programme.

There are some excellent resources available to teachers to support them in delivering the RSE curriculum. The Talking Relationships, Understanding Sexuality Teaching, TRUST, resource developed by the HSE may be used to supplement RSE at senior cycle. This resource focuses on consent through the following topics: loving relationships, intimacy, assertive communication, understanding boundaries, communicating boundaries, without consent, and when sexual assault becomes a reality.

The development of the LGBTI+ youth strategy is a key commitment for the Department of Children and Youth Affairs in the programme for Government and also makes a contribution towards the Government's broader commitment to continue to strive for full inclusion of LGBTI+ people in Ireland. The Department of Education and Skills is inputting to that process.

We must also acknowledge the role that parents play in the education of their children. The RSE provided in our schools, coupled with education provided at home by parents, is associated with the best outcomes for students.

Senator Robbie Gallagher: Cuirim fáilte mhór roimh an Aire go dtí an Teach seo tráthnóna. A number of my colleagues and I are members of the Oireachtas Committee on Education and Skills which does much work on a wide range of issues. The committee undertook some work recently on the sexual health and relationship education curriculum for schools and youth organisations. The committee sought submissions from groups and individuals and subsequently held a number of meetings at which these stakeholders were invited to give evidence.

The current RSE and social personal and health education, SPHE, curriculum was introduced, as the Minister will know, in 1999. Most people would agree that curriculum does not reflect the Irish society we live in today. For that reason, it was felt that the curriculum was inadequate and this was an appropriate time to review it. The increased use of smart phones and access to social media platforms expose our young people to all sorts and it is important that they are properly informed and advised as they travel through life's journey.

We must acknowledge, as the Minister did in his contribution, the work of our teachers who are currently working within the current curriculum and it is important that we acknowledge them for what they have done in that regard. It is very important that our young people are

properly informed of all issues and the Minister has listed a number of them. It is important that we make sure they are as well equipped as possible, that they have respect and understanding for all the categories the Minister listed in his contribution. It is timely that we are having this conversation.

I also noted from the Minister's contribution that no decisions of any kind have been made and it is important to make that point. Parents are the prime educators of children and it is important that, whatever agreed policy or platform we ultimately produce at the end of this process, the vast majority of all the stakeholders buy into it if it is to be successful. That is also important.

I look forward to further discussions in this area and it is vitally important that whatever programme we ultimately end up with will inform our children to have respect for all sorts of individuals who they may encounter in their lives, that we have tolerance and that our young people are properly educated and guided through life's journey as they encounter it.

Senator Paul Gavan: The Minister is very welcome to the House. As one would expect, Sinn Féin welcomes the findings and recommendations of this report on relationships and sexual education. It has been 20 years since the curriculum was last updated. We have heard time and time again from students, staff, parents and stakeholders that the RSE curriculum is woefully outdated and that provision of sexual education is inconsistent, unvalued in many circumstances and undermined by the lack of priority given to it by schools, the Department and the infrastructure we have in place in this State.

We all know what must be done. Our children deserve the best relationship and sexual education with which we can equip them. The Department has been remiss and negligent in its duties in updating key information, allowing the curriculum to become increasingly out of date as the years went by. We are therefore concerned that many key recommendations from this report and the review conducted by the National Council for Curriculum and Assessment, NCCA, will go unheeded. It is imperative that the State implements and enforces every recommendation made by the committee. There is ample talk of guidelines and little talk of rules. We must guarantee consistency and accuracy in the information provided to students and the provision of RSE across the nation. It is apparent from the NCCA's review that RSE is being delivered, in their words, with "considerable variation across schools in terms of what is being taught, how it is taught, who teaches it and the time allocated to it".

We must, with no hesitancy, pursue the uniformity of relationship and sexual education. We must ensure that the curriculum is up to date, scientifically accurate, not weighted down by superstition, and taught professionally, by professionals, with ample time allocated for it. It was a key recommendation by the Committee on the Eighth Amendment, of which I was a member, that relationship and sexual education be overhauled comprehensively and that it be delivered with consistency and accuracy regardless of ethos. Everyone is entitled to their own religion, but not their own facts. It is therefore of great importance that the Minister and Department, with great courage and self-confidence, pursue the immediate renovation of relationship and sexual education across this State. This will involve challenging powerful vested conservative interests and enforcing rules, not recommending guidelines. It will also involve ensuring that every principal and board of management know their duties and that schools are adequately resourced for the successful provision of a new RSE programme. We know that conservative principals in schools are an active blockage in applying the current guidelines. We need rules because guidelines will not work.

25 September 2019

In the short term, this means departmental guidance and continuing professional development for teachers, staff, and external providers. This means that the Department must make RSE one of its key priorities in the year ahead. There is no excuse for not being able to roll out a reform of RSE by the next school year. Anything less will represent a failure by this Government to take young people and their education seriously. Every child deserves the facts and a comprehensive education. This programme must be student-centred, holistic, inclusive, and age and developmentally appropriate and must not insulate students from facts. It should involve a whole-school approach and staff must be adequately prepared for this. There must be specialist training for educators. This is absolutely crucial.

In the long term, a successful reform of RSE must involve the prioritisation of reform to SPHE. RSE and SPHE must be combined into a single consistent and deliverable subject. This must be supported by broader curriculum redevelopment. Furthermore, it must be bolstered by the accreditation of SPHE at post-primary level and the development of post-graduate qualifications indicative of specialist training.

We must not forget the whole-society approach. Over the past century, RSE has been seriously undermined by a lack of fact-based education, a refusal to properly educate on the behalf of some, a negligent and lethargic Department, and a complete failure to address the democratic deficit in our education system that stems from continuing church control of much of our schooling.

I want to finish, if I may, with a quote that was brought to my attention this week from James Warren Doyle, a Roman Catholic Bishop of Kildare and Leighlin in Ireland in the 1800s. He was active in the anti-tithe movement. A campaigner for Catholic emancipation, he was also an educator, church organiser and the builder of Carlow cathedral. He said, 200 hundred years ago:

I do not see how any man wishing well to the public peace, and who looks to Ireland as his country, can think that peace can be permanently established, or the prosperity of the country ever well secured if children are separated at the commencement of life on account of their religious opinion.

Yet now, some 200 years later, the vast majority of children are still separated on the basis of religion and let us call it out, it is that continuing church dominance that has been a roadblock to progressive RSE education in this country. I hope the Minister has the courage to tackle that in the time he has remaining in his term.

Senator Maria Byrne: I welcome the Minister here today. I would like to pay tribute to the education committee and the stakeholders who came before the committee as witnesses and contributed to the report which we presented to the Minister. Quite a lot of work went into it. People were very emotive in what they had to say and spoke very openly about what they would like to see included in the report and there was an overall will from the committee that everybody deserves the right to the facts and to be educated about sexual relationships. It is all about students' futures. I know the NCCA is working on its report at the moment and is looking at the recommendations that the committee put together, and certainly it will be coming back to the Minister.

Senators Gavan and Gallagher have referred to some of the things that happened at the committee. It would be important that there would be consistency across schools, and that what is

taught in one school should be taught in all schools, both at primary and secondary level. Is there going to be a programme, or has the Minister any thoughts - he may not be able to answer today - about whether this should be a consistent programme across or whether it will be up to each school to take guidelines and put together their own programmes? It is very important that teachers receive guidance once the report is formulated and the Minister has decided what changes should be made to it. It is important that teachers, as Senator Gavan said, be put on a training course on how to educate students in terms of their future.

One key term in it is “age appropriate”, and that is a huge thing, because some children at a lesser level in primary school need to be gradually taught things as they grow up. I understand that schools are compelled to have six classes a year. Maybe that number needs to be looked at in terms of whether it needs to be increased or whether it is sufficient.

A lot of good points came out of the committee report and an awful lot of work went in to it. I hope that the NCCA will read in depth and in detail what came out of the committee findings. People were queuing up to give their contribution because 20 years is a long time and we have had an awful lot of changes in Ireland. There have been so many referendums that have passed here that put forward our future and the different changes. The Minister referred to many of those changes and it is so important that these are reflected in whatever comes out.

I compliment the Minister on the fact that he is to look at this. Does he think he will have some recommendations before the end of the year? Once the recommendations come out, will they come back to our committee? It is important that we would have an input or comments or whatever on recommendations. It is good that we are moving forward in a positive light and people will not be left in the dark. It was a subject in schools that for many years was not spoken about and, in some schools, as was referred to, was brushed under the carpet. While I believe that everybody has the right to it, we must also support school principals and boards of management, and that is why I would recommend that teachers be put on a course or training or whatever.

Senator Lynn Ruane: I thank the Minister for coming to the Seanad today. I am delighted we are finally getting a chance to debate this really important report from January by the Joint Committee on Education and Skills, a report that I was delighted to contribute to, along with other Deputies and Senators.

As the mother of a child of schoolgoing age who had to remove her from the classroom while particular agencies came in to give sex education, it was something that was really important to me. Also, I have given talks over the years in different spaces on the role of sex positive parenting and teaching our children to be able to engage in negotiated positive sexual experiences without feeling a huge shadow of shame, guilt or like they are doing something wrong because of misinformation that they received in school.

This report on reforms to relationships and sexuality education in Irish schools came about as a direct result of ancillary recommendation No. 3.20. by the special Joint Committee on the Eighth Amendment of the Constitution, of which I was also a member, which called for a thorough review of this area in light of the clear and documented evidence presented to us that showed objective and factual sex education has a clear role in reducing rates of unintended and crisis pregnancies. I am glad that this was the catalyst for our work as it very much placed our examination of sex education reform within a human rights and reproductive rights framework, and it placed the best interests of children and students at its heart, a perspective I feel was re-

flected throughout our report and recommendations.

The Irish record on sex education is poor. Due to the widespread religious patronage and involvement of religious orders in the delivery of our State education system, most historical sex education experiences of people in Ireland were delivered with a Catholic ethos, which, unfortunately, was moralistic, inaccurate and had an unrealistic focus on zero tolerance abstinence. It cannot be overstated just how important getting this area right is for our kids, schools and the future of society. Giving children factual, objective and complete information on how to manage their romantic and sexual relationships will determine how they approach these relationships and each other for their entire lives. As a result, our national policies and their implementation have to be robust, comprehensive and, insofar as possible, the same in every school in the country.

In the report we took a modular approach over four meetings that spanned May to July 2018. The report was written with the intention of supporting the review under way in the National Council for Curriculum and Assessment, which conducts detailed policy and curriculum work and which, I acknowledge, published a draft in this area before the summer.

We took a broad perspective throughout the report of focusing on the importance of objective and factual information, independent of the ethos of the school, and for age and developmentally appropriate methods to be used. We wanted to ensure that discussions of sex education were not just made in terms of risk and disease but were also a positive framing of sex, so that sexual experiences would also be possible and encouraged. We also wanted to broaden the focus to be beyond just the biological aspects of sex education and to be on the importance of psycho-social approaches, where students would not just be taught solely in biological terms about sex but be taught to deal with issues like identifying abuse in a relationship, dealing with the break-up of a relationship, or supporting a peer in crisis. We made it clear that the connection with related mental health issues needed to be made, such as anxiety, body image, body dysmorphia, confidence, eating disorders, and addiction, as well as focusing on the positive framing of good mental health.

A consistent theme from witnesses was the need for sexual consent to form an integral part of all sex education reforms, as well inclusivity of all types of relationships, sexual orientations and gender identities within the curriculum. In addition, crucially, we heard strong evidence on school ethos being cited by schools as justification for not providing factual information or for delivering the curriculum outside of best practice. We also heard compelling testimony on the sex education needs of children and adults of those with an intellectual disability and how they are often seen as eternal children devoid of sexuality. We also heard about their rates of sexually transmitted infection, STI, contraction and the massive inadequacies in their sex education currently.

We made 24 really important recommendations to the Minister for Education and Skills and the National Council for Curriculum and Assessment to inform reforms in this area. We made recommendations on curriculum reform, implementation and delivery. A broader whole-school approach is required to change the culture within our schools.

In terms of curriculum reform, we recommended that the social, personal and health education, SPHE, curriculum, in place since 1999, was in need of significant change and that a new curriculum was needed to reflect the significant changes that have taken place in this country over the past 20 years. We recommended that a new curriculum should be gender equality-

based, inclusive, holistic, creative, empowering and protective of children's interests and needs. We recommended the creation of a purpose-built RSE module in teacher training to encourage specialisation and professionalisation of this area, and that those with an intellectual disability be included, represented and accounted for.

To reflect the significant support for LGBT equality in the marriage referendum, our recommendation No. 8 reads that the curriculum should be fully inclusive of sexual orientation, gender identity and the spectrums thereof, and those LGBT relationships should be represented without distinction as to their heterosexual counterparts. We also recommend that consent, pornography and reproductive healthcare form integral parts of the new curriculum.

In terms of the delivery of the subject and implementation of a new curriculum, we heard considerable evidence in this area. As many will be aware, many schools will contract external providers to come into the school to teach RSE.

5 o'clock

As we discovered, however, there is zero regulation of these providers, and what they teach, by the Department of Education and Skills or the HSE. Many of them are offshoots of religious orders and teach RSE with a Catholic ethos. This leads to inaccurate and moralistic information being given to children. We need these external agencies to be well regulated and to teach to an agreed and standardised curriculum. This needs to happen immediately and the Department must intervene in this regard. In addition, the report is now out of date because it was published nine months ago. We were not able to make recommendations regarding the upcoming Department of Health scheme for free contraception and the need to provide long-acting contraceptives. We were also not able to comment on the pre-exposure prophylaxis, PrEP, programme that is being planned to combat HIV and the need to make the drug available free of charge in a community setting. We endorse these two schemes and commend the Minister on introducing them.

The other main recommendation regarding the implementation and delivery of new and current curriculums has been well debated. It relates to how the religious ethos of a school affects the content and delivery of RSE. As we are aware, more than 90% of State primary schools have a Catholic ethos, which can serve as a real barrier to comprehensive and objective sex education. Section 9 of the Education Act 1998 allows for health education to be given to students "having regard to a characteristic spirit of the school". This provision has been cited as giving schools scope to deliver religious perspectives on sex education, which is at odds with agreed and international best practice. The 14th recommendation in the report calls for the Education Act 1998 to be amended so that ethos can "no longer be used as a barrier to the effective, objective and factual teaching of the RSE and SPHE curriculum to which every student is entitled".

The report calls for these legislative amendments to be made by the end of 2019, which is three months from now. I note that the autumn legislative schedule has no primary legislation signposted for this area. I have to ask, therefore, what progress the Minister and his Department have made in implementing this recommendation. I also note that a Bill introduced by Deputy Coppinger is being blocked. The Deputy's Bill has the express aim of making the legislative amendments the joint committee called for and it is being blocked by the extremely dubious use of the money message mechanism. If the Minister does not have his own primary legislation, how can he continue to justify blocking this Private Members' Bill which has cross-party

25 September 2019

support in the Dáil? The idea that curriculum reform in this area would incur a cost on the Exchequer is indefensible given that the NCCA is already doing exactly this body of work using funds allocated by the Dáil. I hope the Minister will allow that Bill to proceed to Committee Stage before the Christmas recess.

Children in schools across the country deserve a standardised and objective experience of the new RSE curriculum, one that is largely similar to the curriculum taught in the school down the road. Until the Education Act 1998 is amended, this will simply not be possible. As legislators, we have a pressing responsibility to ensure this is the case.

The joint committee's report is progressive and radical in its scope and important for the future of sexual education for Irish children. Sexual education is not just a class in school. It is part of realising one's own identity and how we can relate to each other. It also has a role to play in tackling issues concerning gender equality, sexual assault and many other areas. I thank all members of the joint committee community and the witnesses who contributed to our work. I hope this report is being taken seriously in the Department and look forward to its implementation.

Acting Chairman (Senator Diarmuid Wilson): I thank Senator Ruane for giving an example of precise timing. Her contribution lasted exactly ten minutes. I ask Senator Mullen to bear that in mind.

Senator Rónán Mullen: Cuirim fáilte roimh an Aire. I agree with 50% of what Senator Ruane just said. When she says that sexual education and relationships and sexual education should always be accurate and condemns inaccuracy I agree with her 100%. When, however, she speaks about education being delivered in a way that is moralistic, I ask myself if she is talking about values and whether by "moralistic" she means anything that disagrees with her set of values. Does she believe that only her set of values should imbue what is taught in schools? While the term is an unpleasant one, it seems to me that education of any kind cannot but be moralistic in the sense that it cannot be divorced from the values that have to accompany the facts.

I will take the example of abortion. A significant number of people in this country, including parents of schoolgoing children, believe that abortion ends an innocent child's life. Many people will send their children to Christian schools, but not just Christian schools, in the expectation that, along with solidarity with the poor and homeless, collections for people in the developing world and important discussions about climate change, that their children will be taught that it is unjust to take away the life of an innocent child, even if the law of a particular country in a particular time and place allows it.

When I was going to school I do not think I learned about the White Rose movement in Germany. Its members were a bunch of amazing students who stood up against the might of Hitler and distributed leaflets in Munich University. I visited the museum dedicated to honouring their memory. Those students paid for their actions with their lives. They had values of inclusivity and respect for the dignity of human life which meant that they could not obey and support the law then in force in the country. That is an area of political and social endeavour that we are only beginning to discuss in this country. It is called conscientious objection and concerns what a person has a duty to do when he or she believes that the laws of the state do an injustice. Listening to Senators Byrne and Ruane, I would be very frightened for the future of the minorities in this country who have a different view when it comes to certain values. I even

wonder whether those proposing change are terribly interested in a full and bald statement of the facts. If we are going to talk about abortion, will children be told how abortions take place? Will they be told about how late term abortions take place and about how, sometimes, abortionists cut the vocal cords of the late-term babies so that they are not heard to cry? Will that be part of the new factual reality we are going to get in what people want to call “objective education”?

Make no mistake about this; everybody has values but people’s values differ. I have no hesitation in saying that the values I support might well be minority values in this country on certain issues at this time. It is not, however, as small a minority as others might think. Many parents would be deeply concerned, and there is growing concern, at the drift of at least some of what came out of the joint committee. I refer in particular to the willingness to talk about modern views on gender and identity as though we all agreed on what that loose term “modern” must mean. I also noted the emphasis on teaching RSE and SPHE objectively and factually, as though it were possible to divorce the facts which are spoken of, hopefully in age-appropriate ways, from the values that underlie those issues in the way that I discussed regarding abortion.

What about the issue of gender identity? Many parents are concerned at the push to impose a particular view on that issue in advance of the science. Many people believe there is no credible basis for stating that children are non-binary. That might be a controversial thing to say but many parents in this country would agree with what I have just said. They would be able to point to the absence of scientific evidence on many of these issues that people are now pushing as if they were settled. Let us take, for example, the issue of a child whose gender identity is different from his or her objective sexual identity as identified at birth. Are we going to be allowed a discussion about whether a child who experiences that disconnection might grow out of it in some cases? If the science were to show that would sometimes be capable of happening, would we be allowed to talk about that in schools in science class or would that offend a new prevailing ideology?

We need to be careful not to replace what was seen as one narrow ideology which prevailed in the past with another that is perhaps just as intolerant, and perhaps even more intolerant. Senator Gallagher stated he supposed parents are the primary educators. I noted the use of the word “suppose” as it was very powerful in this case. I do not want to speak for the Senator for whom I have great time but I took the words “I suppose” to mean that we are not really meant to talk about this issue. I say that because at the root of this is a desire to impose something on parents.

I have great respect for the Minister. I do not believe he stated that children are primary educators. When I hear it said that external providers of RSE instruction should be regulated by the Department of Education and Skills, what that means seems clear. It means that people are out to impose a one-size-fits-all view of human relationships and sexuality, backed up by the State and the most influential people in it at this time. That is not pluralism. It is not acceptable. It is certainly not in keeping with the provisions of the Constitution, which accords to faith communities the right to establish schools and hospitals. When the Minister talks about the characteristic ethos of schools as though it is some kind of block on progress or factual education, he does a great disservice to the quality of education provided in faith-inspired schools. That education is factual but recognises that one cannot divorce facts from values. Senator Maria Byrne stated that what is taught in one school should be taught in another. I am very frightened for parents and children if that is the kind of dictatorial approach to be taken.

Certainly there must be changes in the area of patronage so that the now diverse views on

all of these issues can be taken into account and reflected in the types of schools available to parents. People should never feel obliged to send their children to schools which are imbued with a certain ethos - an ethos which has supported much of what we understand as good values in our country, on everything from care for the environment to solidarity with the poor, although we never talk about that. Whether parents believe in solidarity with the poor or survival of the fittest, it is by all means their prerogative as parents to determine the values their children are brought up with and should encounter in schools. They should certainly have access to schools which reference those values and teach in their light. When politicians claim that every child should be subject to the same set of values they are engaging in a dictatorial grab for children's hearts and minds, over and above the wishes of their parents for values that by and large they are very comfortable with. I refer to values around respect for the dignity of each human person and fundamental principles around the sanctity of life, the importance of marriage and so on.

I plead with people not to dress up their desire for control of the future as some desire to make RSE and SPHE objective and factual. That is a euphemism for what many people are really looking for, which is to impose a new set of values. I do not really care if they are the majority values in this country, because the test of a civilised modern society is the space it allows for minority views. Those people should be honest and say they are unhappy with the values that underlie the education given to children in these areas, which, by and large, is factual. They should be democrats and accept that they do not have the right to control everybody's mind. They must accept that taxpayers, who are parents, are the first authority in determining who educates their children and according to what view of life.

Where I will support them is in saying that nothing taught in school should ever be anything other than purely factual. I actually support the provision of information about matters with which the characteristic spirit of the school might not be comfortable. I strongly support the right of the school not to leave a vacuum of values when it comes to talking about things as fundamental to personal happiness as a person's sexuality or issues of reproduction. Take the issue of consent. We all agree that consent is really important and we need to get it across to young people that sexual relationships should never take place without established consent. However, most parents would be very dissatisfied with the tendency to talk about consent as though it is the only thing that matters. Many parents want their children to be taught to respect members of the opposite sex and perhaps to delay sexual activity until they have found the loving partners with whom they want to bring children into the world. Some people may sneer at those values. That is their prerogative. However, it is not their right to impose a set of values on people who disagree with them for their own ideological reasons.

I will conclude by saying that tolerance is a two-way street. There is a certain speaking out of both sides of the mouth in saying that we must not frighten the horses and nothing is decided here yet. Everything the Minister says leaves out the very fundamental consideration that we must have diversity in our education system and we must allow education according to the values proposed by schools insofar as they are supported by the parents who send their children to them.

Senator Joe O'Reilly: The Acting Chairman might indulge me by allowing me to welcome to the Gallery Ms Hannah Ferguson, a graduate student from California and a very interesting young woman who is studying dance and English.

Acting Chairman (Senator Diarmuid Wilson): I hope she got an appropriate Member of the Houses to work with.

Senator Joe O'Reilly: She is receiving the highest form of tutelage.

Acting Chairman (Senator Diarmuid Wilson): Obviously, that is in the office of someone other than Senator O'Reilly.

Senator Joe O'Reilly: The House might imagine who that might be.

Acting Chairman (Senator Diarmuid Wilson): Ms Ferguson is very welcome.

Senator Joe O'Reilly: I welcome the Minister. I was meeting an Irish Farmers Association, IFA, delegation earlier, but I am not surprised to hear my colleague, our educational spokesperson, Senator Byrne, say that the Minister indicated that he will be proactive in getting these recommendations adopted and the necessary changes made in to ensure an effective process of teaching right across the country in respect of this sensitive area of education.

I have noticed something in society which, thankfully, stretches across all faith groups and none. We all tend to take a romantic view of the past and of our childhoods and youth. I have sensed across all religions and none that there is a much more kindly and sensitive Ireland now and a much greater tolerance of difference. That is wonderful backdrop to what we are discussing. I sense a greater tolerance of difference, including physical and mental handicaps, differences of view and differences of sexuality. In short, everything. It is a wonderful Ireland that is emerging. That does not preclude people from having religious personal values, but that is a great core value emerging in contemporary Ireland. I really sense that. Of course, we need to build on it, but it is a good thing.

I am delighted and very proud to inform the house that my youngest son has started primary teacher training at Marino Institute of Education, an excellent college. I looked at his timetable last Sunday when he was home for the weekend. I asked if I could see it because I was interested. I saw that a whole section of his day is devoted to SPHE. The Minister will be pleased with this and I am sure he was instrumental in encouraging it. A holistic education covers all aspects of the human condition. That accounts for a couple of hours in three or four sessions a week. I presume that will only last until Christmas and then another module will commence. It is very encouraging that it is there and that it is being done in a very modern way. I am happy to record that fact and I congratulate the teacher training colleges on it.

I agree with Senator Ruane that having a good SPHE programme in schools is crucial to preventing crisis pregnancies. I am sure that Senator Mullen, who makes the valid point that everyone has their own values, would agree that it is very important that young people are informed and educated in their development in a way that will reduce the number of crisis pregnancies. I believe this is happening and that, if we get and implement the reforms the Minister is introducing, it will accelerate.

It is also important that the education system incorporates LGBT rights and gender equality, especially in light of the recent referendum results. I do not believe anybody in the Chamber disagrees with this as it has to be a facet of a modern education system. Emotional development is really important and people need to be developed in a holistic way to understand the principle of consent and to have respect and regard for other people. They should be emotionally developed so that they have self-confidence and approach the world in a healthy fashion. The areas of personal confidence, mutual respect and consent need to be developed.

Senator Mullen made his point well that we all come to this with our own values. We re-

spect all values and schools mirror their own values. I do not think that, when our spokesperson, Senator Byrne, suggested standardisation she precluded people from having their own values. My interpretation is that a standardised curriculum, available in all schools, would provide the necessary factual information and emotional support but that people would bring their own values from home into the ethos of the schools. I commend a standardised programme, such as Senator Byrne suggested, to the Minister. It should be holistic and include physical health and mental health as one cannot teach sex education in isolation from the holistic development of a person. It is an exciting and wonderful thing that we are discussing this and it has to happen in every school in the land. There has to be standardisation to the extent that no school or teacher is allowed to be immune from it, or allowed not to follow through on the policy completely. It can be married to Senator Mullen's well-made point that we all come to these things with our own values.

I commend the Minister on getting a lot done in this area. This should be taught in teacher training colleges. I believe it is being taught in the colleges but there should be in-service training as it is a sensitive and difficult area. There should be a link with the home and with parents so that there is continuity. I ask the Minister to allow the home to follow up on the programme. We may think other things are more important but we will not have a more important discussion this week.

Acting Chairman (Senator Diarmuid Wilson): I offer my best wishes to the Senator's son, Seán, who is a very fine young man. He will be following in very good footsteps in the teaching profession.

Senator Catherine Noone: When the Joint Committee on the Eighth Amendment of the Constitution sat, there was a lot of discussion on the highlight issues but the ancillary recommendations were fundamental. In order to prevent unwanted pregnancies, there is a huge role for sex education. I said at the time that we needed to drag sex education into the 21st century and this is a very serious effort to do that. The social, personal and health education, SPHE, curriculum was published in 1999 but Ireland has moved on at a rapid rate since then. I have spoken to the Minister about this on a number of occasions and I am pleased that the task of updating how we teach sex education is in his hands. As colleagues said, it is important to involve parents in the process insofar as it is possible, in order to make it as holistic an experience for children as it can be. There should be no taboo about sex and it should be a normal part of life. Some time ago, there would not have been any discussion on this subject in either the Dáil or the Seanad so the fact that we are speaking about updating how we impart knowledge to youngsters in this area is very positive.

Minister for Education and Skills (Deputy Joe McHugh): I thank the Members for their contributions. I enjoy being in this House because it provides a space for an in-depth examination and critique of many subjects and this is a very important area. I value everybody's contribution to the debate. Senator Mullen said nothing had been decided and that is the case. There will be a consultation process until 25 October and this evening's contributions will form part of that. When the then Minister, Deputy Richard Bruton, initiated this he tasked the NCCA with completing the report, which it will do so that, at the end of the year when I hope it will be finalised, we will be able to see where we are.

I take on board other people's opinions and that includes parents' fears. Parents hear different things but, ultimately, it boils down to three very important words, namely, value, respect and understanding. Irish society should value each individual sexual orientation, respect deci-

sions around contraception and try to understand issues such as consent. These words were part of our core curriculum when we went through school and all these words were in use at my Loreto school in the 1980s, as were dignity and compassion. Society is rapidly changing but we can still hold on to and harness what is dear to us in our value-based system.

Resources have to follow and Senator Byrne referred to training in this context. Whatever decision is made, resources will have to follow. I came across a piece of research recently which showed that just one in three of the young people who were interviewed felt their parents listened to them. One out of ten felt politicians listened to them, which reflects a stark reality and seems to be the inverse of the situation in the 1960s, 1970s and 1980s. There is a very close relationship between parents and young people, one which has moved into a space of mutual respect. Even at this late stage, I encourage parents to use the consultation mechanism to make their viewpoint heard on this very important decision before 25 October. We will be in a position to have a report from the NCCA at the end of the year.

I have taken note of a number of contributions and viewpoints. The message reflected in all of them is that this issue is complex and requires much more than one silo effort in the area of sexuality education. It also relates to mental health and the serious anxieties young people experience in the world we live in. We have to grapple with that and take this much further. Consent starts with self-respect, respecting oneself, and then showing respect for other individuals. We have to do much more work around building capacity and empowering the cumas of the individual and student. Teachers have worked through that over the past two decades and are in a completely different place now. We have discussed curriculum change but a lot of good work is being done in secondary and primary schools around empowerment and capacity building. We are on that journey together.

The contributions made tonight will be included in the consultation and I am sure the NCCA will listen closely to the views expressed in this discussion. We cherish inclusivity and believe we live in a pluralist society. If there are people who feel their voices are not being heard in this debate, I encourage them to continue to make their voices heard. We will see what the NCCA comes up with at the end of this process.

Acting Chairman (Senator Diarmuid Wilson): That concludes statements on the report on relationships and sexuality education by the Joint Committee on Education and Skills. I thank Senators and the Minister for their contributions.

When is it proposed to sit again?

Senator Joe O'Reilly: At 10.30 a.m. tomorrow.

The Seanad adjourned at 5.35 p.m. until 10.30 a.m. on Thursday, 26 September 2019.