



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

**DÁIL ÉIREANN**

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

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# DÁIL ÉIREANN

*Déardaoin, 18 Nollaig 2014*

*Thursday, 18 December 2014*

Chuaigh an Ceann Comhairle i gceannas ar 09.30 a.m.

*Paidir.*

*Prayer.*

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## Ceisteanna - Questions

### Priority Questions

#### Dairy Sector

1. **Deputy Éamon Ó Cuív** asked the Minister for Agriculture, Food and the Marine the steps he is taking to protect the incomes of dairy farmers in view of the sudden drop in the price of milk; and if he will make a statement on the matter. [48485/14]

**Deputy Éamon Ó Cuív:** As the Minister is aware, Teagasc is forecasting a drop of 50% in profits in the dairy sector next year. It also forecasts that the price of milk will fall to 27 cent a litre. This is particularly challenging for farmers with high borrowings. We need to know what the Minister is doing about this at national and European level.

**Minister for Agriculture, Food and the Marine (Deputy Simon Coveney):** I thank the Deputy for raising this important issue. Prices in dairy markets are impacted on by global events. We sell dairy products throughout the world, as well as in the European Union. Factors such as production levels in the United States, New Zealand, Australia and the European Union, on the back of very good harvests and quite good weather for the past two years, have meant that for the first time in many years supply has been increasing faster than the demand for and consumption of dairy products. On top of this, the embargo imposed on European countries by Russia has also impacted on the agrifood trade.

A combination of factors has resulted in Teagasc and others predicting that we may see a sharp reduction in dairy prices in the coming months, for which, of course, we need to plan and prepare. It is fair to say most people anticipate this will be a temporary price reduction, but we still need to prepare for it. At national level, I have met all of the banks to discuss the issue.

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Some dairy farmers did take on significant debts in planning for expansion and we have always said such debts should be on the basis of the price being 28 cent a litre and no more than this. That said, of course, some will be put under pressure. Banks need to show flexibility and have stated they will do so because it is in their interests to ensure farmers stay in business. We are working with Teagasc at an advisory level in working with dairy farmers to get them through a difficult pricing period.

At European level, the European Commission can use three tools under the Common Agricultural Policy - aid to private storage, export refunds and intervention pricing. This week the Council of Ministers made it clear to the Commissioner who happens to be Irish, Mr. Hogan, that the Commission should be open to using these tools in full as a way of stabilising markets in the new year, if necessary. It has already shown a willingness-----

**An Ceann Comhairle:** I will let the Minister back in again.

**Deputy Simon Coveney:** -----to use aid to private storage, from which Irish companies have benefited significantly.

**An Ceann Comhairle:** I ask Members to keep an eye on the clock because I do not want to interrupt.

**Deputy Simon Coveney:** Several Members asked the same question.

**An Ceann Comhairle:** I know, but I am obliged to stick to the time limit.

**Deputy Éamon Ó Cuív:** Absolutely agreed. We must recognise that this it is a world issue and the Minister need not spell this out. The one certainty in life at present is that there is total uncertainty. We knew from the very beginning that price volatility would always be a big issue. The Minister mentioned the ban imposed by Russia. That is the type of issue which happens out of the blue and cannot be foreseen, but it must be built into the calculations. At what level has the Minister proposed that European Union intervention, in all of its forms, clip in? Milk must be at a realistic price, well north of 27 cent a litre, as otherwise we will have a problem. At what level has the Minister proposed to the European Union that the market supports should clip in and begin to stabilise the market? There is no point in allowing a big crisis to arise and then finding it is too late to deal with it.

**Deputy Simon Coveney:** It is important that we do not talk ourselves into a crisis. The price in Ireland is still above 30 cent a litre. We are in a period during which many dairy farmers are in drystock farming and not as much milk is being produced. The key issues are anticipating what the price will be for milk in the spring and allowing co-ops to offload much of the produce they have in storage, whether it be cheese, butter or powder. To date, the Commission has facilitated the provision of storage assistance which has been very helpful. Ireland has drawn down 40% of the funding available at European level for the provision of storage assistance in the case of butter. We would like to see the provision of storage assistance expanded to include cheese. This was the case, but the Commission pulled back, largely because of Italy - it was a huge ask - which was not in the spirit of what we were trying to do.

On the intervention price, we have made it very clear that it equates to 21 cent a litre and that we cannot allow milk prices to reduce to this level. If we are to use an intervention price, it must be at a more realistic level, certainly well above a figure in the mid-twenties.

**Deputy Éamon Ó Cuív:** The Minister can sing it. There is another issue at European level. Now that the Minister has a good friend there - the Commissioner - perhaps he might take up this issue with him to get him to resolve it. The Minister knows that many farmers have a huge Damocles sword hanging over their heads in the form of the superlevy. This is an issue the European Union could tackle immediately. As a totality or unit, it is under the production limit and the quota.

**Deputy Simon Coveney:** Yes.

**Deputy Éamon Ó Cuív:** It is time for the Minister to get this issue sorted out in the European Union in which there is a new Commissioner, but the Minister might not have heard of him. He is a guy called Monsieur Hogan. He used to be Mr. Hogan or Minister Hogan when he was here. Perhaps the Minister might go and tell him to sort out the superlevy issue.

**Deputy Simon Coveney:** I have spoken to Commissioner Hogan about these issues on many occasions in the past couple of weeks. I am glad to say we speak regularly. The intervention I made this week, when I called for an open mind on the use of intervention measures, is on record. If this tool is to be used, there should be a realistic intervention price, as otherwise it will act as a price drag in reality. Nobody has been championing the superlevy issue more than me in the past two years. Anyone who has been following the EU debate will know that Ireland leads on it practically every time. The truth is that even though a majority of EU member states would like something to be done about the superlevy, we could not and still cannot get a qualified majority to agree at Council level. There is a particular eagerness to change butterfat levels, which would have helped to solve the problem. In effect, it would have given us an extra 1.5% or 2%. We are looking to do other things in the case of the superlevy. For example, we are trying to extend the repayment period over a number of years. This would make the cash-flow issues pertaining to the superlevy much more manageable. We are making good progress in that regard.

## **Milk Prices**

2. **Deputy Martin Ferris** asked the Minister for Agriculture, Food and the Marine to outline his views on the predictions of the Teagasc economics unit and the Irish Dairy Board of a lowering of dairy returns over the next year and the way he proposes to deal with this. [48483/14]

**Deputy Martin Ferris:** As this question is practically the same as the one the Minister has just dealt with, I will not dwell too much on it.

**Deputy Simon Coveney:** Yes. I can go into it in a little more detail.

**Deputy Martin Ferris:** The Teagasc economic unit and the Irish Dairy Board have predicted that milk prices could decrease to as little as 27 cent a litre. This would be unsustainable for many farmers. I refer to many of the smaller producers, rather than the highly intensive producers. How does the Minister hope to deal with the smaller producers who could go to the wall in such circumstances?

**Deputy Simon Coveney:** It is important to be accurate. Teagasc has stated it thinks the average price next year will be 27 cent a litre. Everybody is predicting that prices will get stronger at the back end of the year, but the price might fall below 27 cent a litre. On the basis

of what Teagasc is predicting, this might not be the bottom, but it might not necessarily come to pass. There has been a slight increase in some of the quoted milk prices in New Zealand in the past couple of days, from which I would not get too much encouragement, but we will see what happens. We will see quite a significant price change across Europe in January. However, we will wait and see.

It is not about whether one is a big or a small dairy farmer. Many of the bigger guys have taken on huge debt. While they might have economies of scale, they also have debt management issues. Many highly efficient small dairy farmers who are running very good family operations on 40, 50, or 60 milking cows have done well in the past couple of years. Deputies should not forget that farmers have seen the upside of price volatility in the past two years. The highest milk price ever seen was achieved during that timeframe. We are now potentially looking at the downside of price volatility. That is why we need to consider new pricing models for milk. This is already starting to happen in the industry. If farmers agreed to lock 40%, 50% or 60% of their milk into a medium-term pricing contract, that would take the peaks and troughs out of price volatility. It was very difficult to get farmers to do this in the past couple of years when prices were at an all-time high. They are certainly looking at doing it now. That is happening in grain markets also.

At a domestic level, we need to make sure the banks show the necessary flexibility to keep dairy farmers in business. Over a five year period practically every dairy farmer in the country will be profitable and running a good business. As I have said to Deputy Éamon Ó Cuív, we are pushing hard at European level for the Commission to be open to using the tools available to it. It will be very difficult to use export refunds because it is such an expensive approach. It is very unpopular outside the European Union because it is essentially seen as involving the dumping of produce. Any effort that can be made in terms of intervention pricing and aid to private storage can be of significant assistance in bringing pricing balance and a price floor to the market

**Deputy Martin Ferris:** I do not disagree with much of what the Minister is saying. All Deputies, including the Minister and me, have shared concerns about the effect of price volatility on weaker producers and smaller farmers. The past two years have been excellent for farmers. Dairy producers, in particular, have had a very good two years. The all-time high achieved earlier this year was a tremendous price for milk. The abolition of the quota will result in many other types of farming enterprise leaving these sectors and entering the dairy sector, but they will have to borrow a great deal of money to do so. The effect of price decreases on smaller producers who are producing at or perhaps below production level is much more magnified. Bigger producers, including those who have borrowed a great deal of money, are better able to sustain their businesses than smaller producers. That is my concern in this regard.

**Deputy Simon Coveney:** It is important to note that the Common Agricultural Policy has been designed to try to bring income balance to farmers also. This is one of the reasons we have direct payments. I remind the House that the average dairy farmer in Ireland receives a direct payment of €18,000 a year. That is the average payment. Some of the bigger guys receive much higher payments. Teagasc has predicted that the average annual income on dairy farms will drop from €64,000 or €65,000 to €34,000 next year. The €18,000 single farm payment becomes a much more important income support when there is such a significant decrease. We will be offering other supports such as disadvantaged area payments. New environmental schemes will be opening up. A new targeted agricultural modernisation scheme will be specifically tailored for farmers in the dairy sector who want to invest. Young farmers will receive 60% grant aid for this investment. There are, therefore, many supports available. The real chal-

lenge is in preparing the market for the dramatic price volatility we are seeing from last year to next year. We need to insulate and help farmers to hedge against this price volatility for the future. That is where Ireland can introduce new pricing models and new thinking, rather than relying on the Commission to do so. The Commission needs to be open to acting on dramatic price drops at European level, as I think it will be.

**Deputy Martin Ferris:** The Minister mentioned the new pricing model in his initial response and has done so again now. I take it that this model involves processors locking in a certain amount.

**Deputy Simon Coveney:** Yes.

**Deputy Martin Ferris:** That would be a very good idea, as it would give an element of certainty to the producer. If one third of what is produced was locked in at a sustainable price, it would assist in having a soft landing in the market and help those who are not able to withstand the volatility of the market. It is something in which I would see a great deal of merit.

**Deputy Simon Coveney:** I thank the Deputy for being constructive. That is exactly what we are trying to do. For almost two years Glanbia has been encouraging its members to lock a portion of their milk into a pricing model that guarantees a margin for farmers. When it does deals with the customers to which it sells its products on the back of that locked-in price, it locks in a price also. Its big customers - the buyers of powder, cheese and butter, etc. - are also looking to agree locked-in prices in order to take the uncertainty out of this volatile market. The more we can put medium-term and long-term pricing contracts in place, not just in the dairy sector but also in other areas, the better. I met malting barley growers yesterday who were doing the exact same thing. It is great that the IFA is showing such leadership on this issue. Farmers would not lock everything in - they would lock in a portion of their product at a price they would know would be certain for a period of one, two or three years. They can take their chances on the highs and lows of the market after this.

**Deputy Martin Ferris:** The same happened in the sugar beet industry.

**Deputy Tom Hayes:** They had contracts.

### **Green Low-carbon Agri-environment Scheme**

3. **Deputy Michael Fitzmaurice** asked the Minister for Agriculture, Food and the Marine if tier 3 farmers are eligible to apply for the green low-carbon agri-environment scheme; if the funding is in place to facilitate these payments; and if he will make a statement on the matter. [48481/14]

**Deputy Michael Fitzmaurice:** Many farmers around the country who do not fall into the priority 1 and priority 2 categories under the new green low-carbon agri-environment scheme, GLAS, are very anxious. Many of these farmers were in REPS. They have small farms of 30, 40, 50 or 60 acres. Currently, they are very concerned that they are not in a position to go into the first or second priority categories. Are tier 3 farmers eligible for the green low carbon agri-environment scheme, GLAS, and if funding is in place, can we ensure the farmers outside the first and second priority categories could get into it?

**Deputy Simon Coveney:** We are taking close to 30,000 farmers into GLAS in the first go.

**Deputy Michael Fitzmaurice:** They must fit into a category.

**Deputy Simon Coveney:** I will go through the tiers shortly. We are trying to get as many into it as we can. There will be a second phase in which to take others, as we want to have 50,000 farmers in GLAS over the next few years. In tier 1, all farmers with priority environmental assets, PEAs, get first priority access to the scheme in year one and subsequent years. If any of the following PEAs are applicable to the holding, they must be chosen and the relevant actions planned: these are farmland habitat, or Natura locations; farmland birds, from hen harrier to grey partridge, corncrake, waders and so on; commonage land; a high status water area; rare breeds and so on. In the absence of any listed PEAs, a farmer, whether beef, sheep or dairy, with a whole farm stocking rate exceeding 140 kg livestock manure nitrogen per hectare - in other words, an intensive farm - or a farmer with more than 30 hectares of arable land will be considered under tier 1. That is because we are trying to get a mix predominantly of farmers in Natura or commonage areas and so on but with some intensive farmers as well.

With tier 2 we are considering farmers in vulnerable water areas, and this is primarily about low-emission slurry spreading, minimum tillage, green cover establishment from a sown crop, wild bird cover and so on. With tier 3 we consider everybody else, and any applicants would have a list of elements that can be applied on farms. We hope to get a number of farmers in on tier 3 as well. Tiers 1 and 2 will be prioritised but with 30,000 farmers or so coming into GLAS, we will be able to get quite a number in from tier 3 as well. Not everybody will get in the first time around but the vast majority of farmers will do so.

**Deputy Michael Fitzmaurice:** As with the single farm payment, the Minister is facilitating people with designations in the first priority category, which I understand. The second tier includes intensive and arable farmers. If we do not ensure the smaller farmer with up to 70 or 80 acres is included in tier 2, they will be pushed out. Some of these farmers came out pretty badly from the single farm payment system. Listening to farmers around the country, some feel that an intensive, arable or big farmer can get into this scheme but others are caught in a trap because they are not a priority. The Minister might refer to trailing shoe equipment but there are parts of the country down our way where such equipment could not be used. The farms are so small that seeds for wild bird cover would not be sown. We must try to facilitate those people caught in this way.

**Deputy Simon Coveney:** It is important to consider my record in this area. When we have had to choose who would go into schemes, we have given small farmers priority. In the past number of budgets, when we have introduced schemes, such as the agri-environment options scheme, we have given priority to the kind of farms mentioned by the Deputy. If we must choose with GLAS and implement criteria because we have more applicants than places, they will be put in place in a way that will have the most deserving farmers get in. It is important that GLAS would not be seen solely as income support, and this must be sold to the Commission and seen in real terms as giving an environmental dividend on farmland across the country.

I assure the Deputy that small farms will not be and have never been discriminated against by me. This is about an environmental dividend. There are other schemes dealing with disadvantaged areas and support for small farms on island communities, which exemplify how we have introduced measures that have never before been done. We are more than aware that we need to keep small family farms intact and on the land, even in disadvantaged areas. We will tailor schemes to support that process in future, just as we have done in the past couple of years.

**Deputy Michael Fitzmaurice:** I am not saying the Minister is discriminating against anyone. If we consider the conditions set down, there is a stipulation for farms to have a whole farm stocking rate exceeding 140 kg livestock manure nitrogen per hectare-----

**Deputy Simon Coveney:** That is tier 1.

**Deputy Michael Fitzmaurice:** -----or be an arable farmer. If a farmer has 40, 50 or 60 acres but does not fit the criteria - it may be bad land - is there a facility to enter the scheme? I do not think such farmers can get into it.

**Deputy Simon Coveney:** There is. We introduced the option for a more intensive level of stocking rate for tier 1 because we wanted a mix of farmers. The Commission indicated a wish for many different farmers in the new environmental scheme rather than it solely being for commonage and Natura lands or small, disadvantaged farms. Intensive farmers also need to be thinking about the environment with respect to the GLAS. The reality is they will be a minority of farmers, although some people may not want to hear me say that. The vast majority of farmers coming into tier 1 will be of the type we discussed earlier in commonage and Natura lands. There will also be smaller farmers coming in under tiers 1, 2 and 3. In many ways, I suspect they may be prioritised, although if we have to choose, we must examine the criteria, depending on who applies and how many applicants there are. If we accept 30,000 farmers into GLAS in the first round, we may get between 35,000 and 40,000 people applying. We will have to make some choices. I assure the Deputy that we will try to ensure every type of farm and structure will get into GLAS at some level.

### **Rural Development Programme Funding**

4. **Deputy Éamon Ó Cuív** asked the Minister for Agriculture, Food and the Marine when the rural development plan for Ireland will be approved; and if he will make a statement on the matter. [48486/14]

**Deputy Éamon Ó Cuív:** This relates to when the rural development plan for Ireland will be approved by the European Union. We debated this the last day the Minister took questions and he promised to come before the agriculture committee to outline the concerns of the European Union. Unfortunately, this has not happened. Will the Minister outline his best guess of when the rural development plan will be agreed?

**Deputy Simon Coveney:** I am more than willing to come before the committee but it is about finding the time to do so, given everybody's schedule. I expect we will have that discussion early in the new year. I hope I have demonstrated that I am not shy about coming before the committee to answer questions.

The rural development programme has been a frustrating process for me as we had our plans in early and we submitted them well in advance of the deadline. The problem for the Commission is it has 118 different rural development programmes for which it is trying to get approval, and Ireland is one of them. Undoubtedly, the approval process will carry over to the new year. There is an added complication as if rural development programmes are not approved, there must be a carry-over of budgets from one year to the next, which also poses a new challenge for the Commission it must overcome. There is a series of elements stacking up.



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The Commission has taken on extra staff and resources to try to make progress on the rural development programmes but in reality we will not get approval for our programme in time to be able to open schemes as early as I would like, which is in the first two months of next year. We have sought an alternative way of opening schemes, anticipating approval of the rural development programme at some stage in the first half of next year or, I hope, towards the end of the first quarter next year. I have discussed with the Commissioner - it has been checked from a legal perspective - whether there could be a letter of comfort indicating the Commission is happy with our schemes in principle but that formal approval of the rural development programme will take a bit longer. If we get that letter of comfort for the Department of Finance, I am confident we can open schemes on the back of it.

*10 o'clock*

I am hoping to get the letter of comfort in January so that we can open schemes toward the end of the month or in early February. The green low-carbon agri-environment scheme is a priority because people are anxious to get on with it, but we are seeking the same assurances regarding the targeted agricultural modernisation scheme and a range of other supports. It is a realistic timeframe to seek to have the letter of comfort early in the new year, with a view to obtaining formal rural development programme approval later. In the meantime, we can get schemes open, which is really what farmers are seeking. I am being as blunt and open as I can be on this.

**Deputy Éamon Ó Cuív:** I thank the Minister for his reply. Given the inevitable delays that will arise, even allowing for this shimmy - it is a welcome shimmy, if it comes out - we are still looking at February before GLAS will be announced. If we take into account all of the complexities involved in requiring 30,000 farmers to draw up plans, does the Minister accept it is very unlikely that GLAS money will be paid out next year, even though he has made provision for same in the Estimate? Has he given consideration to a contingency plan for how that money might be paid to farmers legitimately in some other way? The value of direct payments to farmers is falling dramatically.

Second, it is the Minister's intention to introduce a genomics scheme. My understanding, however, is that the EU has raised several principle questions along the lines that the scheme is linked too much with Harvest 2020 and not sufficiently linked with rural development. Is that scheme likely to open in February? If not, we are looking at a huge slice of money farmers were expecting next year which might not be available.

**Deputy Simon Coveney:** What farmers want is to have a new scheme open as soon as we can open it, and that is what we will try to deliver. Whether it requires a letter of comfort to achieve it or not, farmers are not interested in that type of detail. They want a date from me for when they can apply to the scheme and put their plans in place so we can assess them, make decisions as to who is in and lock people into the scheme for a five-year period.

I have consistently said that we would not have the scheme up and running until September next year at the earliest. This is in a context where we are looking to accept 30,000 farmers into it. If we can get the scheme open in February, we will do everything we can to deliver an application process that allows farmers to apply on time and planners to put plans in place on time, which should not, by the way, be too complicated. Then we can look at fast-tracking the assessment of those applications with a view to staying as close as possible to the September target. We have budgeted some €20 million for a three-month payment under GLAS for next

year. I am determined to get some payments out next year under the scheme but, most importantly, I want to get 30,000 farmers into the scheme for the next five years and get it up and running as soon as we can.

We are having difficulty with the Commission regarding the genomics scheme, but that does not mean we will not get agreement on it. We continue to have intense discussions with the Commission explaining what the proposal is all about. It takes a while to get one's head around what we are trying to do here. It is a climate change, emissions-based initiative as well as a genomics initiative. We are hopeful of getting it through on that basis, but it is taking time. We are making great progress with the Commission on GLAS, by the way.

**Deputy Éamon Ó Cuív:** One of the unforeseen delays in getting GLAS off the ground could be that farmers will look for a little extra time to get their plans in. The Minister needs to get 30,000 applications; 25,000 or 20,000 will not be good enough. There could be several unforeseen delays. Are we still in the situation the Minister outlined previously such that he cannot allow GLAS to start until this entire tranche of plans has been assessed because of the issue raised by Deputy Fitzmaurice, namely, that they will have to be graded to see who is in and who is out? There can be no early starters; everybody must start on the same day. Has there been any movement on that situation to allow, for example, tier 1 applicants to commence a little earlier and so on?

Does the Minister expect the genomics scheme to be covered in the letter of comfort he is seeking? If it is not and if there is any delay in agreeing the final rural development programme, farmers will see a large hole in their pockets next year.

**Deputy Simon Coveney:** We are seeking a letter of comfort on all the schemes, not just GLAS. We want to have negotiated and agreed the detail of our RDP with the Commission, but the formal process of approval takes time. In many countries, there are multiple RDPs in operation. In the United Kingdom, for example, there is a separate programme for each of England, Scotland, Wales and Northern Ireland. We have only one RDP but the formal approval process still takes time. If we thrash out all of the remaining issues around GLAS, beef genomics and the other proposals we are working through by mid-January, we hope to get a letter of comfort in the second half of that month, which will allow us to open schemes. We will be preparing to get them open as soon as we receive the letter of comfort. As I said, the objective is that the letter will apply to all schemes, not just GLAS.

### **Common Fisheries Policy Negotiations**

5. **Deputy Martin Ferris** asked the Minister for Agriculture, Food and the Marine if he will provide an update on the negotiations on the Common Fisheries Policy which took place at the meeting of the Agricultural and Fisheries Council, AGRIFISH, on 15 and 16 December 2014. [48484/14]

**Deputy Martin Ferris:** At its meeting on 2 December, the Joint Committee on Agriculture, Food and the Marine discussed with the Minister the proposals from the Commission regarding the future of Irish fishing, cuts in quota and so forth. Following his negotiations at the Agriculture and Fisheries Council on 15 and 16 December, is the Minister satisfied he got the best deal possible for the Irish fishing industry into the future?

**Deputy Simon Coveney:** I am satisfied we got the best deal possible for Irish fishermen. It is not the perfect deal, but it is a very significant improvement on where we were three days ago. In terms of fish landed value, we went into the negotiations standing to lose more than €18 million in the whitefish sector alone, which accounts for the vast majority of fishermen. We have come out of the negotiations with the value of quota for landed fish for next year increased by some €1.5 million. These are independent figures compiled by Bord Iascaigh Mhara on the basis of current fish prices. In other words, we have gone from minus €18 million to plus €1.5 million.

The greatest priority for us going into the negotiations was the prawn catch, or nephrops as they are known in fishing terminology. Half of our whitefish industry in income terms is accounted for by prawns. The catch is worth €59 million each year in an industry that will have an overall value next year of €123 million. Half of its total value is comprised of one stock, in other words, and almost every fishing community has an interest in that stock, from Rossaveal right around to Howth and encompassing the whole of the south, south-west and east coasts. The proposal from the Commission was for a 14% reduction in prawn quota. We got a deal for a 3% increase, which will raise the value of the prawn catch next year to just over €60 million.

We also achieved significant progress in other areas, with a very positive outcome for fishermen in the west, north west and north. In the case of hake, for instance, a proposed reduction has been turned into a significant increase. We succeeded in changing substantial proposed reductions in megram and monkfish to a roll-over position, which means we get the same quota next year. Likewise, in the case of skates and rays in the Irish Sea, which is a very important fishery for us, a proposed 20% reduction is now a roll-over.

The one problem area is the Celtic Sea mixed fishery for cod, haddock and whiting. Going into these negotiations, the Commission was proposing a 64% cut in cod quota, a 41% cut in haddock quota and a 14% cut in whiting quota. The outcome has been a cut of roughly 12% in respect of each of those stocks.

We have won these arguments and made them on the back of science. Therefore, we are not taking irresponsible decisions to try to be popular with the fishing industry. We have made good decisions on the back of science and conservation measures that the industry has bought into. This is a good outcome. There are some challenges with the Celtic Sea, of course, but on the whole this is a much better deal than many were expecting.

**Deputy Martin Ferris:** I commend the Minister on his work, and also the industry, which played a very positive role. The Northern Ireland Minister, Ms Michelle O'Neill, also played a very positive role.

The Minister, Deputy Coveney, mentioned the cuts for the Celtic Sea affecting haddock, cod and whiting, and their effect in the areas in question. Are the cuts on an annual basis?

**Deputy Simon Coveney:** Yes. Just for next year.

**Deputy Martin Ferris:** Just for next year. Can the Minister renegotiate after next year?

**Deputy Simon Coveney:** Every December we renegotiate.

**Deputy Martin Ferris:** Those of us from coastal communities realise the added value of fisheries in coastal communities such as Kilmore Quay, where everybody is tied in to onshore

work in factories and small shops. They are all benefiting from the cod, haddock and whiting fisheries. Can the Minister assure us today that the quotas can be renegotiated after a year?

**Deputy Simon Coveney:** Yes.

**Deputy Martin Ferris:** What is the position on discards? Will the Minister give us his views on that and on how the industry in question will be affected?

**Deputy Simon Coveney:** The Celtic Sea fishery is a really complex one. There are species other than cod, haddock and whiting caught in the Celtic Sea on which we have had good news, but the cod, haddock and whiting fishery is a big one, particularly in respect of the whiting element as we have a bigger quota than France and the United Kingdom, who share the fishery with us. The industry took the initiative here and said it would introduce conservation measures. It is effectively putting escape hatches in nets for small fish, which is the correct and responsible thing to do. On the back of that initiative, it has got a better deal in terms of quota.

With the Marine Institute, we got up-to-date science on the cod stock, in particular. A 64% reduction in the cod quota was proposed for next year, which would have been devastating for the industry. However, on the back of the science, the recommendation was for 26%. This totally changed the discussion. Therefore, the combination of the new science coming from the Marine Institute and the new conservation measures, involving the changing of the gear we use by introducing a 120 sq. mm mesh panel, which is essentially like a sunroof slotted into a net that allows juvenile fish to swim out, allowed us to change the conversation totally. While we had to introduce cuts, they were much more modest than would otherwise have been the case.

We are seeing strong recruitment on the ground at present for both cod and haddock in the Celtic Sea. I anticipate this will give us improved quotas over the next couple of years.

I acknowledge that Minister Michelle O'Neill had a good input, particularly in respect of prawns. We share a very important prawn fishery with Northern Ireland in the Irish Sea. The Minister made a very strong argument on moving from a -14 position to +3 position. She was very helpful on that.

**Deputy Martin Ferris:** I have been lobbied continuously on the traditional swap between Ireland and Belgium in respect of the plaice quota in area VII, f and g. Perhaps the Minister will be able to answer my question on this. The figures I have indicate that the quota received for 2013 was 197 tonnes. Belgium was given 125 tonnes in a swap, which left 72 tonnes for the Irish vessels. In 2012, the quota was 197 tonnes, again with 72 tonnes left for the Irish vessels. In 2011, the quota was 200 tonnes, with 126 tonnes given to Belgium, leaving 74 tonnes for the Irish vessels. What is the meaning of the traditional swap? Do we get something in return from Belgium?

**Deputy Simon Coveney:** Yes.

**Deputy Martin Ferris:** What do the Irish fishermen get in return?

**Deputy Simon Coveney:** I did not get a chance to mention the discards issue for next year. We are about to change fundamentally the way in which we fish, for the better. This was negotiated, I am glad to say, by Ireland during the Irish Presidency in a new Common Fisheries Policy. We are introducing, from 1 January, which is in a few weeks, an obligation to land all pelagic fish. This time next year, we will be introducing the obligation to land for the whitefish

sector. We need to work and are working with the industry to bring that about because it will be good news for everybody. It means we will not be dumping hundreds of thousands of dead fish into the sea because fishermen do not have a quota to land them in port. That will be history, I am glad to say. We are figuring out a practical way of making progress on the discards ban at present.

On the swap issue, every year we swap with other countries, including Belgium, and particularly France because it has a lot of quota. We decide on the fish that are valuable to our industry in respect of which we need to get a larger quota and what fish we could swap that are of less value to our industry in order to get those valuable stocks. I assure the Deputy that we get something back every time we swap. In general, we get back something more valuable to our industry than what we are giving. Swapping occurs all the time. We have a very good relationship with France and Belgium. They are seeking extra quota for flatfish, in particular, and we may well be looking for more prawns or other whitefish. We negotiate this with the industry and do not make a unilateral decision in the Department to swap. We ask fishermen and the fishing industry representatives what they are looking for and where the pressure points are and we swap accordingly.

**An Ceann Comhairle:** The best traders in the world.

**Deputy Simon Coveney:** It is trade.

## Other Questions

### Land Parcel Identification System

6. **Deputy Michael Fitzmaurice** asked the Minister for Agriculture, Food and the Marine when the digitisation of all maps will be completed; and if he will make a statement on the matter. [48389/14]

**Deputy Michael Fitzmaurice:** Over the past few weeks, it has come to my attention that there are many farmers who have not received their direct aid scheme payments. There seems to be a problem with the digitisation of the maps. Could the Minister inform us when this will be finished and how soon the farmers will be able to get their money? If the digitisation is not done, they obviously cannot get their money.

**Deputy Simon Coveney:** I can confirm that there is currently no delay with the digitising of maps. The majority of farmers, 98%, have been paid. Each year, my Department receives over 130,000 applications from farmers under the direct aid schemes, which are funded or partially funded by the European Union. The schemes involved include the single payment scheme, the disadvantaged areas scheme, REPS and AEOS. Under EU regulations, all applications must be subjected to robust administrative checks prior to payment. The main element of the administrative check is an area assessment. This is achieved by using the detailed database of individual land parcels. This is known as the land parcel identification system, LPIS, which currently records electronically some 1 million individual land parcels and which is required to be kept fully updated. This is done by the Commission because it audits us in this regard.

The Department's systems in this critical area must meet demanding EU and national audit

requirements. In 2014, my Department has received approximately 122,000 applications under the single payment scheme from applicants who hold entitlements or have applied for the transfer of entitlements under the scheme. Only valid applications under the single payment scheme that fully comply with the requirements of the EU legislation are paid. Consequently, all applications under the scheme are subject to administrative checks.

Cases that do not pass the validation process go into error and cannot be paid pending a resolution of the error concerned. These errors include over-claims, dual claims and incomplete application forms. My Department enters into correspondence, mainly through the issuing of inquiry letters to farmers, to resolve these error cases. This year, 26,850 farmers submitted maps for updating of the LPIS. There is no delay in the digitising of these maps, except where queries have arisen over the outcome of the digitisation process and are the subject of correspondence with the farmers concerned. In virtually all cases, digitisation of areas is required in advance of applications being fully processed for payment. I can assure the Deputy that there is no delay in the digitisation of the results of inspection cases and that the vast majority of inspection cases have been processed to finality and are paid.

To date, a total of 119,539 applicants, accounting for over 98% of all applicants with entitlements under the single payment scheme, have been paid a total of €1.142 billion between advance and balancing payments. The processing of the remaining unclear cases remains a priority, with twice-weekly payment runs being made to pay on applications that have been cleared for payment. In other words we are working as fast as we can. The vast majority with which there were no problems have been done. The only cases that have not been paid are those with outstanding queries which we are trying to clarify. We are making payments twice a week to try to get through that list.

**Deputy Michael Fitzmaurice:** My understanding from a company in Dundalk which was digitising the maps and from farmers who have been checking it, is that they were told there was a delay whereas the Minister is saying there is not a delay. It is good to know that there is not a delay on the digitising of the maps. Obviously, what the Minister is saying is that other problems are holding up payment.

**Deputy Simon Coveney:** Some of them require inspections to back up the maps.

**Deputy Michael Fitzmaurice:** I know that takes time. What I am dealing with specifically is the maps. My understanding is that when farmers telephoned asking about their payments they were told the maps were gone for digitisation and were not back and there appeared to be a delay.

**Deputy Simon Coveney:** I can understand why that would be the perception because there were significant delays in digitisation a couple of years ago relating to the agri-environment options scheme. There has also been concern for a number of farmers in regard to the LPIS review and the accuracy of maps and so on. The mapping and digitisation and the change of system that has been in place for a year has caused many concerns and in the past caused many delays for AEOS which was very frustrating in the Department in terms of trying to overcome those delays. I do not think that is the problem now. If it is, I will look into it and we will fix it, but my understanding is that digitisation of maps is not the reason for the delay at the moment but I will certainly check it out.

**Deputy Michael Fitzmaurice:** Will the Minister please look into it?

**Deputy Simon Coveney:** I will, of course. I will come back to the Deputy if there is a problem.

### **Bord na gCon Administration**

7. **Deputy Mick Wallace** asked the Minister for Agriculture, Food and the Marine the reason it is not currently the standard practice in the Irish dog racing industry to make public the results of all doping tests, positive or negative, as is the usual practice in other sports; and if he will make a statement on the matter. [48418/14]

**Deputy Mick Wallace:** As the Minister of State is aware there are many people in Ireland who are very passionate about working with greyhounds in different facets but we have a serious problem with greyhound racing in Ireland. As the Indecon report stated, the IGB was unfit for purpose. I am aware some changes have been made recently and some new people have been put in place to deal with the drug problem which is haunting the sport. Unless we get seriously improved regulation it will be hard to restore the reputation of greyhound racing.

**Minister of State at the Department of Agriculture, Food and the Marine (Deputy Tom Hayes):** The control, administration and regulation of greyhound racing are the responsibility of Bord na gCon under the Greyhound Industry Acts 1958 and 1993. Two statutory committees of Bord na gCon, namely the Control Committee and the Control Appeals Committee are central to the regulatory process. These committees operate independently of Bord na gCon. The Control Committee and the Control Appeals Committee of Bord na gCon were established under the Greyhound Industry (Control Committee and Control Appeal Committee) Regulations 2007 (SI 301 of 2007).

Under that legislation, full details of any laboratory findings can only be published at the conclusion of proceedings by the Control Committee and the Control Appeals Committee.

Article 8(6) of Greyhound Industry (Control Committee and Control Appeals Committee) Regulations 2007 (SI 301 of 2007) provides that the Control Committee shall publish its findings in all decisions in a manner it deems fit and that such publication may be delayed subject to appeal procedures. The majority of samples obtained at licensed stadia are tested for prohibited substances in the National Greyhound Laboratory at Bord na gCon headquarters in Limerick and some samples are tested in an appropriate laboratory the UK.

When a sample returns a positive result, owners-trainers are afforded due process including a hearing at the Control Committee and an appeal to the Control Appeal Committee. This can lead to a significant time lag from the initial notification of the positive sample to subsequent publication of the results of the positive samples. Consequently, the number of cases published in a particular year can span more than one calendar year.

Bord na gCon has confirmed to me that it is currently involved in a public consultation process with stakeholders with a view to putting in place legislation which will enable the publication of details of all adverse findings after positive results have been returned by the laboratory and prior to consideration of such cases by the Control Committee. It is envisaged that the information to be published will include the identity of the greyhounds involved and the owners and trainers.

I am informed that Bord na gCon has recently, in a move towards greater transparency, confirmed a finding of positive results after the analytical phase and prior to the hearing at the Control Committee. The complete details on the owners and the greyhounds will be available when the Control Committee, and the Appeals Committee - if appropriate - has concluded its deliberations on findings which are upheld.

Bord na gCon has recently appointed a Director of Racing, Governance and Compliance. Furthermore, I have appointed a person to the board who has particular expertise in veterinary and related matters.

We are also changing the legislation. Officials from my Department are currently working on greyhound legislation to identify any legislative changes that need to be made. That will be brought before the House as soon as we possibly can.

**Deputy Mick Wallace:** I thank the Minister of State. Given the way the matter is being dealt with, I am glad to hear a review is about to take place because stakeholders, small owners, who are concerned about how things have gone on up to now have approached me. There is little doubt that there have been people involved in controlling how things are regulated in the greyhound industry who should not be involved in it. There is some serious conflict of interest also where the chairman of the control board has dogs in training with a guy who has been found to be guilty of doping dogs. How in God's name can this be allowed happen? There has to be a serious look at who has been involved. As the Minister of State is aware, in September the greyhound board in Britain made a statement warning English buyers against purchasing dogs in Ireland because they were drug ridden. How bad is this?

**An Ceann Comhairle:** I will allow the Deputy back in again.

**Deputy Tom Hayes:** We need to be very careful in terms of drawing a line and saying this industry is full of people who are breaking the law.

**Deputy Mick Wallace:** I did not say that.

**Deputy Tom Hayes:** That is what is being said and that is the perception. I attend many tracks up and down the country and several functions and I hear this all this all the time. I want to be quite clear, the Indecon report which we published has several recommendations on regulation. We will implement them. There is no room in this industry for anybody who is breaking the law. We are quite clear on that and we will move as fast as we possibly can. I want to assure the Deputy and everybody in the industry that no stone will remain unturned on this issue. We will do everything possible and if anybody is involved in drugs they will be dealt with as they have no place in the industry. We want a clean sport. This industry is subsidised by taxpayers in a major way. As the Minister responsible I sent out a clear signal that we want this area regulated 100%.

**Deputy Mick Wallace:** I am not saying all dogs in Ireland are drugged; they are not. In actual fact, the view on the street is that it is the bigger trainers and owners who are the most guilty in this area and the small guys have far less access-----

**An Ceann Comhairle:** That is speculation. We cannot speculate.

**Deputy Mick Wallace:** Why have we allowed a system to prevail where it takes three weeks to get a result back from Limerick whereas in Britain results can be back in 48 hours?



Surely that does not make for great transparency. The fines have been larger in Britain. The suspensions have been much clearer and enforced to a greater extent. We have been very lax in how we have done things here. The small trainers feel that the playing field is not level. The big boys are getting away with murder and being shown favouritism at the expense of the industry in general and the small guy. Does the Minister of State know if there are tests for stanozolol, a new drug on the market, in greyhounds?

**Deputy Tom Hayes:** If I go to a greyhound track, the first person I meet will tell me one thing about it, while someone else further on will tell me the opposite and not to listen to others. That is the view on the street, but the facts are totally different. A full assessment of the greyhound board was carried out by Indecon which contained 27 recommendations, a large number of which related to testing and doping, all of which are being dealt with, even though we only received them several months ago. A new regulatory committee will be put in place and will be appointed by me. It will be independent of Bord na gCon, as well as small and big trainers. We want a level playing field for everyone involved.

**An Ceann Comhairle:** That is good news for Deputy Mick Wallace.

**Deputy Simon Coveney:** The Deputy should welcome it.

### Farm Household Incomes

8. **Deputy Éamon Ó Cuív** asked the Minister for Agriculture, Food and the Marine the steps he is taking to mitigate the projected drop in farm incomes in 2015 of 25% forecast by Teagasc; the amount of funding projected to be paid to farmers through his Department in direct payments next year through all schemes, including schemes under the rural development programme, RDP, compared to 2011 and 2014; and if he will make a statement on the matter. [48281/14]

**Deputy Éamon Ó Cuív:** Teagasc has forecast a drop of 25% in farm incomes next year. As well as facing challenges with prices, farmers face the other challenge that the amounts paid in direct payments are consistently falling. Will the Minister outline the scale of the fall next year compared to 2011?

**Deputy Simon Coveney:** If one adds up all of the direct payments, there has been a fall for several years. Next year, however, there should not be. Between now and 2020, there will be an effective increase in payments because of a very strong rural development programme, with increased expenditure each year. When one looks at the amounts of direct supports going into farming, rather than the number of schemes and so forth, the totals have been falling from 2011 each year until this year. We have tried to limit it as best we can and ensure the moneys are well spent.

There has also been a reduction in the guts of €100 million in the cost of running the Department. Five years ago the number of departmental staff was 4,500; it is now fewer than 3,300. Across the board, we have reduced expenditure, applying it to the Department first, with some reductions in schemes.

We negotiated a new rural development programme in the Common Agricultural Policy, CAP, which will see a significant increase in expenditure every year for the next six years. Next

year is essentially about stopping further reductions and building from this. Accordingly, next year's rural development programme spend will come to €439 million. I can send the Deputy the detailed figures for the different areas. It is anticipated that next year's direct payment spend will be roughly the same as this year's, €1.65 billion, counting the single farm payments, as well as the rural development programme spend. It should not be forgotten that we are spending heavily in areas such as forestry which does not involve any European funding. We have managed to prevent cuts to the forestry programme, maintaining it at between €110 million and €115 million.

Like every other sector that relies on Government budgets, there have been reductions in expenditure in the past six years. Farmers can now look ahead with much confidence that expenditure will be moving the other way in the next few years.

### **Beef Industry**

9. **Deputy Martin Ferris** asked the Minister for Agriculture, Food and the Marine the effects on Irish beef producers of the Russian sanctions. [48285/14]

**Deputy Martin Ferris:** Given the situation in Ukraine, with sanctions imposed on Russia by the European Union and the West and counter-sanctions imposed by Russia, what has been the effect on Irish farmers and food producers? Does the Minister foresee this continuing?

**Deputy Simon Coveney:** Exports of all Irish offal to Russia have been suspended following an audit inspection by officials from the Russian Federation in May this year. It also resulted in the suspension of exports of other prime beef cuts from a number of meat plants supplying to Russia at the time. In late June the Russian Federation also introduced an EU-wide ban on beef trimmings owing to alleged adulteration of beef consignments with pork. This had nothing to do with Ireland. In addition, Russia introduced a ban on the import of some agricultural products, including beef, from the European Union in August.

While Russia is not a major destination for Irish beef exports, it does provide a useful alternative third country outlet for Irish beef, particularly beef offal. In 2013 Ireland exported 7,494 tonnes of beef, worth a little under €10 million, to Russia, the majority of which was beef offal. Overall, Ireland produced approximately 520,000 tonnes of beef in 2013 and of which Bord Bia estimates that around 470,000 tonnes was exported. The main markets for Irish beef are the United Kingdom and continental Europe, two of the highest priced markets in the world.

Given the relative size of the Russian market for Irish beef exports, the impact of the trade restrictions is limited. The price of beef has been rising in Ireland in recent weeks and increased by over 7% since the beginning of September. Third country market access for Irish beef is a priority of mine. I hope that in the next few weeks Irish beef exports to the United States will resume and that next year the market in China will open. Chinese scientific experts are examining our beef market with further meetings with my officials scheduled for tomorrow.

While we would like the Russian ban to be reversed, we are coping with it. The sanctions are having a big impact in some other sectors. In the meantime, I recently met the Russian ambassador to discuss offal exports to Russia.

**Deputy Martin Ferris:** Have we found alternative markets for our produce that Russia is

now refusing to take?

**Deputy Simon Coveney:** Yes, we have. The particular market for offal in Russia was attractive for us, as there are limited markets that pay well for offal. That is why it would be good to export offal back into the Russian market, if we could. This is one of the conversations we are having with the Russian authorities. Other countries are having similar conversations. Ultimately, we want to get back to a normalised trading relationship with Russia. However, that is not possible because of other foreign policy and security issues linked with the situation in Ukraine.

### Commonage Framework Plans

10. **Deputy Éamon Ó Cuív** asked the Minister for Agriculture, Food and the Marine if he has examined the proposed implementation strategy for commonages here, presented to him recently by the representatives of commonage farmers; if he accepts this strategy as the only practical way forward; and if he will make a statement on the matter. [48278/14]

**Deputy Éamon Ó Cuív:** There is significant concern among farmers in hill areas which include a large amount of commonage about the proposals for GLAS, the green, low-carbon, agri-environment scheme, mainly centred on the collective agreement aspect of the scheme. Allegations were also made by the Department that undergrazing was a major problem caused by farmers. When I sought the maps and details of the places involved, the Department could not provide them. Will the Minister clarify the position on commonages and GLAS?

**Deputy Simon Coveney:** My approach is to ensure everyone who wants to participate in GLAS will have the opportunity to do so and that the scheme is flexible enough to respond to different types of farming, whether it be in Connemara, east Cork, the midlands or County Donegal. We have listened to what farmers say. Hill farmers in commonage areas, predominantly in the west - particularly in parts of Counties Galway, Mayo and Donegal - have expressed concerns and we have listened. I met hill farmers from the region recently with Deputy Seán Kyne, who, along with other Deputies, has been hugely vocal on this issue. We are trying to resolve the problems and we have had some success. In the past three weeks we have spoken to the European Commission about accommodating this issue for commonage farmers. We have dealt with concerns relating to Pillar 1 payments, so farmers in commonage are not now required to have a certain stocking level to get payments, and this is a huge step forward. We have argued that commonage farmers should be able to apply in their own right rather than organise collective agreement beforehand, and we think this will be facilitated. We examined a requirement that 50% of active farmers on a commonage would have to be involved in GLAS, but we are now trying to negotiate this as a guideline rather than a requirement. If farmers cannot agree on a planner to put in place a collective GLAS commonage plan, as some farmers believe will be the case, the Department will appoint a planner from a list of approved people.

We are addressing all of the issues, including the matter of 50% agreement on GLAS, the possibility of applying on an individual basis, the seeking of extra time to allow commonage farmers access and the appointment of planners to put collective GLAS commonage plans in place. We are making progress with the Commission on all of these issues and we will get a conclusion that will allow for a practical solution for commonage farmers. We are listening to farmers and working with them to achieve an outcome that suits the Commission's audit system, can be implemented on time by the Department and, most important, is workable for

farmers in commonage and non-commonage areas. I am asking for a little time to get the deal done and achieve a reasonable outcome.

**Deputy Éamon Ó Cuív:** The hill committee whose members met the Minister in Dublin a few weeks ago raised 12 points, and I am pleased to see that he is moving in the right direction. Will the Minister continue to discuss the details of the progress he is making with the hill committee, which consists of experts in the field? If the Minister informed Brussels that he had to put together these proposals on foot of an unwillingness among farmers to graze the hills, will he correct this? As the Minister knows, the Department could not identify any under-grazed areas on hills when asked for the information in a parliamentary question and in committee meetings. All of this is based on a false premise, and it is important that this be corrected in Brussels in the same way that I had the Ceann Comhairle correct it in the Dáil. How can Brussels make the right decision on an incorrect premise? While this process continues, will the Minister or his officials meet the hill committee regularly?

**Deputy Simon Coveney:** Many groups, not just one group, are interested in the implementation of GLAS. We meet farming organisations regularly, particularly the Irish Farmers' Association, IFA, and other groups including the Irish Cattle and Sheep Farmers' Association, ICOSA, and the Irish Creamery Milk Suppliers' Association, ICMSA. I have met the representatives of the hill committee on a number of occasions and I speak to Deputy Kyne in detail on this issue around twice a week. Deputy Kyne and Deputy Ó Cuív speak to the members of the hill committee regularly. It is not fair to suggest that I am not consulting people, as we had public information sessions all along the west coast. I deliberately did not attend those meetings because I did not want them to turn political - I wanted them to be factually based meetings that gave information.

**Deputy Éamon Ó Cuív:** They were not factually based.

**Deputy Simon Coveney:** Departmental officials met farmers at those meetings; some were very happy with the proposals and others want changes. We are trying to respond in a progressive and sensible manner.

To correct the record, I do not think it is a false premise to say there has been a problem with under-grazing on some commonage lands. Some areas have been under-grazed.

**Deputy Éamon Ó Cuív:** Where are those areas?

**Deputy Simon Coveney:** There is a difference between acknowledging problems and providing Deputy Ó Cuív with all of the evidence.

**Deputy Éamon Ó Cuív:** Under-grazing is a problem that has been caused by destocking.

**Deputy Simon Coveney:** Correct.

**Deputy Éamon Ó Cuív:** The answer is to change the approach to destocking. This problem has not arisen because of an unwillingness on the part of farmers to farm the land, but that was the premise of the Minister's proposal. I sought details on the areas the Minister has identified as under-grazed, because if they are the same areas as those that have been destocked, it is clear the problem has been caused by the Department and not farmers.

**Deputy Simon Coveney:** I never said farmers are not willing to graze. I said that decisions made in the past and the manner in which things have unfolded since those decisions mean that

some land is under-grazed. That is a problem because the only way to manage this land is to graze it, and that is why we introduced stocking rates as a requirement for the disadvantaged areas scheme, DAS. We want to get more animals grazing on land that can be managed only by grazing. We introduced an island scheme under the new Common Agricultural Policy, CAP, to ensure that stock is maintained on land and islands where farming is difficult. We have examined other schemes to support farmers, and commonage farmers are a priority in GLAS because we aim to ensure that stock is maintained on land. Much of the land of which I speak can become unfarmable due to a lack of stock and, when this happens, it is difficult to restore it to a farmable condition. The GLAS plans are about working with farmers to get stock on land so that it can be managed and maintained in a good agricultural condition. This will ensure income for farmers and the maintenance of agricultural land in commonage areas. It is not a question of farmers being unwilling to do this. Farmers were sometimes required to destock in the past, and this subsequently proved to be a mistake.

### **Organic Farming Scheme Applications**

11. **Deputy Michael Fitzmaurice** asked the Minister for Agriculture, Food and the Marine if payments to organic farmers processed in the Athenry office, County Galway, will be issued before Christmas; and if he will make a statement on the matter. [48388/14]

**Deputy Michael Fitzmaurice:** It has been brought to my attention that organic farmers are experiencing problems with receipt of payments, particularly in County Roscommon and western counties. There is a serious problem in Athenry at the moment and it seems the person responsible for signing off on payments in Castlebar is not doing his or her work. Can the Minister update me on whether these farmers will receive payment before Christmas?

**Deputy Finian McGrath:** Hear, hear.

**Deputy Simon Coveney:** The Deputy is concerned that a farmer in the organic scheme may not be able to avail of GLAS. I think it has been clarified that a farmer in the organic scheme can avail of GLAS.

**Deputy Michael Fitzmaurice:** A farmer with less than 10 hectares of land cannot avail of GLAS.

**Deputy Simon Coveney:** I will clarify that matter for the Deputy, but my general point is that organic farmers are welcome in GLAS.

Regarding the Deputy's question on organic farmers and the Athenry office, I am advised by my Department officials that an industrial dispute at local office level has developed in recent days and, unfortunately, this is delaying the processing of organic farm payments in some local offices. This is a most regrettable development at a time when plans for the required payment run were at an advanced stage. I understand that a consultation process is under way and that every effort is being made to resolve the issue. I will take a personal interest in this matter to see that it is resolved as quickly as possible.

**Deputy Michael Fitzmaurice:** Christmas is coming, and many of the people to whom we refer are not in the agri-environment options scheme, AEOS, so this is the only payment they will receive. I ask that some of the money be forwarded to them, as it could make it a happy

Christmas. Otherwise they will have to simply wait.

**Deputy Finian McGrath:** The Minister can be like Santa Claus.

**Deputy Simon Coveney:** I work in the political area. As I said, there is an industrial relations issue at the heart of this and it does not have a political solution. I will try to ensure that payments are received as quickly as possible.

*Written Answers follow Adjournment.*

### **Appropriation Bill 2014: Second Stage**

**Minister of State at the Department of Public Expenditure and Reform (Deputy Simon Harris):** I move: “That the Bill be now read a Second Time.”

The Appropriation Bill 2014 is an essential element of financial housekeeping that, as Deputies are aware, must be concluded by the Dáil this year. The Bill serves two primary purposes. First, the Appropriation Bill is necessary to authorise in law all of the expenditure that has been undertaken in 2014 on the basis of the Estimates that have already been voted on by the Dáil during the year. The amounts included in section 1 and Schedule 1 to be appropriated for supply services all relate to amounts included in the Estimates or set out in the Revised Estimates Volume 2014, voted on by the Dáil in January 2014 as well as the Supplementary Estimates, also voted on by the Dáil in 2014. Second, the passage of the Appropriation Bill is essential to provide a legal basis for all existing voted expenditure to continue into 2015. It allows payments, including social welfare payments, salaries and pensions as well as payments to suppliers for goods and services to continue pending a vote by the Dáil on the 2015 Estimates.

Under the rolling five-year multi-annual capital envelopes introduced in budget 2004 Departments may carry over from the current year to the following year unspent capital up to a maximum of 10% of voted capital. Section 91 of the Finance Act makes legal provision for this capital carryover by way of deferred surrender. Under this enabling legislation the normal requirement under the Exchequer and Audit Departments Act 1866 to surrender unspent moneys in a financial year to the Central Fund may be deferred in the case of capital moneys, subject to certain conditions. Among these conditions is that the unspent capital sums must be set out in the Appropriation Act by reference to the Votes concerned. The Appropriation Act determines definitively the capital amounts which may be carried over to the following year. The capital carryover facility forms an integral part of the rolling multi-annual capital envelopes.

The multi-annual system is designed to improve the efficiency and effectiveness of the management by Departments and agencies of capital programmes and projects. It recognises the difficulties inherent in the planning and profiling of capital expenditure and acknowledges that for myriad reasons capital projects may be subject to delays. The carryover facility allows for a portion of unspent moneys, which would have been lost to the capital programmes and projects concerned under the annual system of allocating capital, to be made available for spending on programme priorities in the subsequent year.

The amounts of capital carryover by Vote are set out in Schedule 2. It is proposed to carry over a little over €79 million from a total capital programme of over €3.5 billion. This €79 million is split across seven Votes, with the largest amounts arising on the Votes of the Department

of Transport, Tourism and Sport, the Department of Jobs, Enterprise and Innovation and the Department of Agriculture, Food and the Marine.

The liabilities in respect of the first payroll payments to staff and pensioners mature on 1 and 2 January 2015 and form part of the supply services for 2015. However, as funding must be in place to ensure staff and pensioners have access to funds on these dates, Departments and Government offices will need to pre-fund their commercial bank accounts. Section 3 puts in place a mechanism to provide for advances from the Central Fund to the Paymaster General's supply account in December 2014. These advances are to be repaid to the Central Fund in January 2015.

A provision in the Appropriation Bill provides legal authority for Departments and Government offices to have a credit issued in respect of the Central Fund. This facilitates the accounting treatment of salaries and pensions payable on 1 and 2 January 2015 as expenditure that comes under moneys voted by the Dáil in 2015 in respect of which the usual processes and mechanisms for voted moneys in 2015 will apply.

Section 15(1) of the Health Service Executive (Financial Matters) Act 2014 provides that from 1 January 2015 the Health Service Executive Vote shall cease to exist and the salaries and expenses and certain other services administered by the Health Service Executive, including miscellaneous grants, shall form part of the Vote of the Office of the Minister for Health. Section 3 of the Appropriation Act 1999, as amended by section 4 of the Appropriation Act 2005, provides that funds relating to certain excise duties on tobacco products be transferred by the Revenue Commissioners as appropriations-in-aid to the Health Service Executive. The amount involved is approximately €167 million. The incorporation of the HSE Vote into the Vote of the Office of the Minister for Health requires that these excise duty receipts be appropriated to the Vote of the Minister for Health with effect from 1 January 2015. This change requires a revision to section 3 of the Appropriations Act 1999, as set out in section 4 of the Appropriation Bill 2014.

I remarked at the outset that the Appropriation Bill is an essential element of housekeeping which those of us in the Dáil are required to undertake. The passing of the Bill will authorise in law all of the expenditure that has been undertaken in 2014 on the basis of the Estimates voted on by the Dáil during the year. Crucially, passage of the Appropriation Bill will allow the payments required to deliver our public services and pay our public servants to continue in 2015 in the period before the Dáil approves the 2015 Estimates.

**Deputy Sean Fleming:** I welcome the opportunity to speak on the Appropriation Bill 2014. Essentially, the purpose of the Bill is to give statutory authority for the amounts voted by the Dáil during the year either by way of the original Estimates or Supplementary Estimates.

The Bill deals with expenditure of €42.657 billion in 2014. This seems like a big figure and in fact it is a big figure. The way this €42 billion was divided across society shows the Government's priorities and choices in 2014. Some of the choices by the Government were cruel, unfair and hit the most vulnerable hardest. Worse, many of these choices were unnecessary; they need not have been taken.

I had hoped the Minister for Public Expenditure and Reform, Deputy Howlin, would be before the House but perhaps the Minister of State will relay this information to him. The Estimates for 2014 which the Minister announced on 15 October 2013 were flawed. The Minister

for Health and the director general of the HSE disowned these Estimates within 24 hours of their being published. They were right and the Minister, Deputy Howlin, was wrong, as evidenced by the need for a Supplementary Estimate of €680 million last week. The Government's projected estimate of expenditure on budget day for 2014 amounted to a general Government deficit of €8.16 billion, or 4.8% of GDP, well within the ceiling of 5.1% of GDP under the excessive deficit procedure. Had the Minister, Deputy Howlin, factored into his budget for 2014 the Supplementary Estimate of €1.2 billion passed in the House last Thursday - it was required to meet known expenditure - the Government would have ended up with a projected deficit of €9.36 billion, corresponding to 5.7% of GDP, well in excess of the 5.1% ceiling permitted. The Minister knew he could not face that prospect in the House in October last year and that is why he cooked the books on budget day last year.

That may be reason enough to vote against the Minister's management of the Department of Public Expenditure and Reform. However, the main reason we are voting against the Bill is because it reflects the unnecessary, cruel, unfair and divisive choices the Government has made in allocating the €42 billion based on its policy positions in 2014.

In 2014 the Government chose to cut the rent supplement by €29 million and remove it entirely for 8,000 households. This was on top of the cut of €49 million in 2013 when the Government also removed 8,000 households from eligibility for rent supplement. The Government discontinued the mortgage interest supplement to all new applicants in 2014 and removed from eligibility for the scheme 4,000 families who had been in receipt of the payment. This was in addition to the 5,000 families the Government removed from eligibility for the mortgage interest supplement scheme in 2013. The Government cut the mortgage interest supplement payments by 68% in 2014. The Government also cut the jobseeker's allowance to €100 for those aged up to 25 years. These three decisions inevitably lead to an increase in homelessness and the numbers of people sleeping rough on our streets as well as children with nowhere to call home.

*11 o'clock*

The Government's choices helped create that problem but its response was to allocate €440 million in 2014 from the local government fund to Irish Water to install water meters, pay bonuses and consultants. This Government had a choice to spend taxpayers' money in 2014 on rent supplement and mortgage interest supplement but it chose instead to spend it on installing water meters, paying bonuses and consultants in Irish Water.

This morning when I was on the way in here in the car the first thing I heard on the radio was an advertisement by Christy Moore, the famous singer, appealing for funds for the Simon Community which deals with homelessness. This is a sad but real commentary on the Government's actions and choices in 2014. It is shocking that help for homelessness has to be funded by voluntary donations. Worse, 30 minutes later, I heard another advertisement by Sr. Stanislaus Kennedy seeking funds for Focus Ireland, which also deals with homelessness. She said it is the worst situation in 30 years. It is no wonder because the Government cut the rent supplement, the mortgage interest supplement and the jobseeker's allowance for 25 year olds. How could they pay rent on €100 a week when the Government will not give them rent supplement? Does the Minister of State get the connection between Sr. Stanislaus and Christy Moore looking for money for homeless people and the Government's choices that created homelessness?

**Deputy Simon Harris:** I do not get the connection with the Bill.



**Deputy Sean Fleming:** Shortly after that on “Morning Ireland” I heard a spokesperson for the Simon Community who said there had been a 41% increase in homelessness in the past two years. This is a direct result of this Government’s actions.

In 2014 the Government cut maternity benefit. The Minister of State, the Minister for Public Expenditure and Reform, Deputy Howlin, and the Tánaiste and Minister for Social Protection, Deputy Burton, abolished the telephone allowance for elderly people living alone in the budget announced in October 2013 and it came into effect in January 2014. The Government abolished the one-parent family payment for new applicants where the youngest child is over seven years of age in the middle of 2014.

The Government had the choice to spend taxpayers’ money in 2014 on the telephone allowance for elderly people living alone, on maintaining maternity benefit and one-parent family payments but chose instead to spend it on installing water meters and paying bonuses and consultants in Irish Water through Vote 25 of the Department of the Environment, Community and Local Government, which it thinks we will support today. We certainly will not.

**Deputy Finian McGrath:** Hear, hear.

**Deputy Sean Fleming:** In 2014 the Government also took the medical card from thousands of people over 70 years of age. It increased the prescription charges to €25 per month. It cut funding to the elderly under the fair deal scheme, and to the acute hospitals, resulting in many hospitals, the latest being Beaumont, having to close the doors of their accident and emergency departments to the general public. It gave Irish Water a blank cheque. We will not support the Government’s expenditure choices this year.

The Government does not poverty-proof or gender-proof its spending plans. Many of the cuts I highlighted today are hitting women and children the hardest. The Government does not family-proof its spending plans. It presides over regressive budgets which hit the vulnerable and the weakest hardest. It is creating a divided society, social exclusion and inequality. In 2014 taxes are €1.1 billion ahead of target. Therefore, some of these choices did not need to be made. They were cruel and should not have happened. They display a Government that has no interest in fairness and should not be supported. It says it is spending €42 billion but does it think of the effects of that €42 billion? Its biggest cuts affect those who can least afford it. That is the essence of the Appropriation Bill, to give statutory approval to the expenditure which went through here by way of Estimates and Supplementary Estimates, many of which we criticised. We told the Government on budget day 2013 that its budget was flawed, that it lacked fairness, that it was regressive and would hit the most vulnerable the hardest but the Government ignored us and ploughed ahead with its expenditure cuts because it is more interested in looking after the wealthy. This Government is simply interested in making the most vulnerable take the hardest cuts. It reflects a core in this Government that is out of touch with the people.

**Deputy Peadar Tóibín:** As the Minister of State described it, the Appropriation Bill 2014 is necessary to give effect to the constitutional requirement to validate payments before the end of the calendar year, and thereby to give statutory authority for the amounts voted by the Dáil for the original Estimates, Revised Estimates and Supplementary Estimates. It also provides for the capital carryover from one year to the next, for the authorisation of certain receipts as appropriations-in-aid of specific services, and a mechanism to advance funds from the central fund to the Paymaster General’s supply account in December to transfer and discharge liabilities due on 1 and 2 January. In other words, this legislation provides for a series of year-end

clearance issues. Consequently, it must be enacted prior to the Christmas recess.

Every year since 2003, with only two exceptions, the Appropriation Bill has passed all Stages without either debate or vote. The first exception was in 2009 when the Labour Whip, without explanation, called a vote. In that first full year of austerity budgeting, Sinn Féin voted with Labour against the Bill, in protest. The second exception is this year, when for the first time the Government has allocated an hour for a mostly symbolic Second Stage debate.

This arises because of the strenuous objections made by my party colleague, Deputy McDonald, and others last week to the Government's insistence that the Supplementary Estimates be voted through, not only without Dáil debate but also without the spokespersons being provided with full information in advance with respect to Supplementary Estimate No. 12, despite having requested this information in committee. As the Minister admitted at the time, this information was reasonably requested. I understand that today's debate has been conceded as a consequence of these valid objections.

We are dissatisfied with the expectation that we pass the Supplementary Estimates in the absence of necessary information. We do not, among other things, want to hold up people's pension payments before Christmas.

Today's break with the appropriations rubber stamp tradition is something that I wish we could simply welcome. Unfortunately, it is virtually an empty gesture. Opposition Deputies are categorically excluded from putting down substantive amendments, due to the ongoing constitutional restriction pertaining to money Bills. Any serious counter-proposals cannot even be democratically debated or defeated, much less passed by way of majority vote. The House is simply not allowed to actively consider alternatives. In the interests of democracy, my party earlier this year drafted and attempted to move the 34th Amendment of the Constitution Bill that would have remedied this anti-democratic provision, and in doing so given effect to a recommendation of the Convention on the Constitution in this respect but so restrictive are the current rules that we were prevented from even doing this.

Last week the Economic and Social Research Institute, ESRI, confirmed what we already know about this Government's budgetary allocations, in this year and in previous years. The percentage losses were greatest, not just for those with the highest incomes, but also, and most unfairly, for those with the lowest incomes. Successive budgets since this Government took office in 2011 have imposed higher than average losses on the poorest 10% of households. The greatest proportionate losses were experienced by single unemployed people but the ESRI also found that middle income families have not been insulated from loss. It found that families at all income levels had been squeezed as a consequence of successive budgetary decisions taken by the Government. Budget 2015 will result in those on the lowest incomes losing the most household income. Contrary to Government claims, this remains true, even when one takes into account the revised flat rate water charge. The ESRI's analysis of this issue chimes with Sinn Féin's view of it. The top 10% of households gained the most from the budget, with patterns of loss concentrated in the bottom half of income distribution. Fiscal prudence, economic stability and budgetary sustainability could be achieved by means of a fairer distribution of budgetary pain. It is interesting to note that the Fine Gael Party's policy of protecting its target electorate, namely, those in the upper income bracket, has overcome the Labour Party's pretensions of protecting those on lower incomes.

The legislation will give statutory authority to the largest Supplementary Estimates in the

history of the State. Last week the Minister for Public Expenditure and Reform tried to have the House pass them without debate. This followed a discussion in committee during which he had failed to provide the final figures which had been prepared and were available, despite Opposition spokespersons, including my colleague, Deputy Mary Lou McDonald, having requested and discussed the very same information last year.

The Minister claims Supplementary Estimates of nearly €1.2 billion spread across nine Departments will be covered by tax receipts that are running ahead of the deficit target as a consequence of Government prudence and largesse. He further insists that only €510 million of this figure is new money, as the rest arises from savings. He denies this allocation effectively amounts to an admission that, at the time of the budget, the Government under-funded the health sector by a minimum of €680 million, the agriculture sector by as much as €177 million, the transport sector by €162 million, the education sector by at least €103 million and the environment sector by €34 million. As time prevents me from examining each of these sectors in detail, I will focus briefly on expenditure on health services and pensions.

The additional allocation includes a Supplementary Estimate for the health sector that is the largest in the history of the health service. It stands at €680 million, including a €510 million overrun, the scale of which is more than €100 million larger than expected. This irrefutably demonstrates that the level of spending cuts previously imposed on the Department of Health and the Health Service Executive was not sustainable or consistent with the delivery of an acceptable level of health care to citizens. On a number of occasions this year, the accident and emergency service in Our Lady of Lourdes Hospital, Drogheda, was forced to close to new admissions, such was the level of pressure on the service. In some cases, 30, 40 or 50 patients were lying on trolleys and staff faced severe pressure as they tried to deal with patients. Patients on trolleys experience delayed diagnosis, which means reduced levels of care and causes the poorer outcomes that have become the hallmark of the Government. While a full and frank confession has not been forthcoming, the Government has been forced to finally acknowledge this by way of deed. Deputies on this side of the House are all ears if the Minister of State wishes to make a full and frank confession. It could be therapeutic for him as it would allow him to enjoy Christmas more. The Minister for Health has insisted that the supplementary allocation will not affect the health funding available next year. I hope that proves to be the case.

The total additional spend on pensions will be €22.25 million. The Minister for Public Expenditure and Reform correctly insists that the hard earned pensions of workers who made lifelong contributions to the Civil Service should be paid on time for the holiday season. I fully agree with him and also accept that it can be tricky to predict the final number of retirements in any given year with accuracy. However, it should be noted that nearly 20% of these pensions involved payments in excess of €100,000. Some 263 of them are lump sums of more than €100,000, of which 24 are in excess of €160,000 and 169 are worth between €100,000 and €130,000. At the other end of the scale, 176 people received a meagre pension of less than €10,000. The Minister is asking the Dáil to stand over his failure to redress significant pension income inequality and the ongoing payment of gold plated pensions. My party's consistent concerns and demonstrated viable alternatives have been repeatedly ignored, most recently in October. Nonetheless, the individuals due to receive the financial supports and incomes detailed in the Supplementary Estimates should not face delays in payment.

Sinn Féin does not endorse the philosophy of austerity underpinning the Government or the consequent persistence and aggravation of economic inequality. It is vital that the Minister reconsider the political direction in which the State is moving and realise that the Government

has an opportunity to achieve its objective of fiscal prudence, while delivering a fair and equal society.

**Deputy Finian McGrath:** I am grateful to have the opportunity to speak to this legislation. I warmly welcome the debate, as it gives Deputies an opportunity to examine the finances of the State and how taxpayers' money can be most effectively spent.

Sometimes an impression is given that certain groups, specifically poorer sections of society, do not contribute. This idea is wrong and should be hit on the head in this debate. All citizens are taxpayers and contribute to the economy.

The impression is also given that the well-off are the only group who are feeling the pinch. The opposite is the case. While the wealthy may have to forgo one foreign holiday, others have problems in putting food on the table or paying the household charge or water tax. These are the economic problems many face. Let us not forget the squeezed poor and low paid who have suffered in recent years as a result of the Government's austerity policies.

In discussing how public money is spent and the effectiveness of such spending we must look closely at what is being done in 2014. We must not forget those on low incomes. A recent ESRI survey found that the less affluent had suffered most in recent budgets. In other words, the poorer sections of society were hammered again.

The Minister of State referred to financial housekeeping. Many of us have challenged the way in which the Government approaches financial housekeeping. The number of children living in poverty has increased and the position is getting worse. The school completion programme in my constituency is an excellent project which operates breakfast clubs and provides supports for disadvantaged children. One project supports 1,800 primary schoolchildren. This week the budget for the programme was cut by €47,000. This project ensures children are fed in the morning and can attend school. Since it commenced, the attendance rate at primary school of the 1,800 at-risk children who participate in it has increased to 95%. Some of the children are from very poor families, with several living in hotels. These measly cuts need to be challenged when discussing the figures set out in the Bill.

The budget did not provide for the full reinstatement of the respite care grant. Many families are under severe pressure. Many of them also have family members who have a disabled child, perhaps a disabled adult child. I would ask the Minister and all the whizz-kids in the Department of Finance to look at this particular issue in the near future and return the full respite care grant because people are suffering out there.

Another issue which really gives me a bad pain in the head is when I hear people, particularly members of the Labour Party, say they protected people on social welfare. The under-25s are still on €100, down from €188 and, despite people jumping up and down in here every day about housing, we saw the horrific €20 million cut to rent supplement. What does that mean? It might just be a figure to some people but 8,000 people in this State were affected by that cut. We all know what has happened in regard to the health Estimates and what happened off-balance sheet with Irish Water. Many of the figures I have heard and which have been presented in this House are off the rails and we have Fr. Ted economics coming out of some people. In recent days we have seen the crisis in regard to Beaumont Hospital, where funding is needed to get 100 people into proper home support and home care packages in order to free up accident and emergency.

This is all related to housekeeping. The Minister of State said the Bill is an essential piece of housekeeping which we in the Dáil are required to undertake. I am saying this housekeeping fails dismally. He also said the passage of the Bill will allow the payments to deliver our public services. The Government's record on public services in the past four years has been a disaster. Let us look at the 15% cut to disability services and the fact nothing has been done about class sizes, meaning we have the highest class sizes in the European Union. It is very important, when we are discussing these figures and this Bill, that we deal with this in a comprehensive manner.

To go back to the legislation, the primary function of the Appropriation Bill is to give statutory authority for the amounts voted by the Dáil during the year, either by way of Revised Estimates or Supplementary Estimates. The Bill also provides for definitive capital carryover from 2014 to 2015. The statutory authority for this was introduced in the Finance Act 2004, which specified that the amounts, by Vote, must be included in the annual Appropriation Act. On an important point, when we dig deeper into the Bill, we see it also includes a section which provides for receipts from excise duties on tobacco, which currently accrue to the HSE under Vote 39 but will transfer to the Office of the Minister for Health under Vote 38 when the dis-establishment of the Vote of the HSE occurs. It is very important that we understand health is something that has to be protected, and I would support any Minister in any party who does that. However, at all times, it must be cost effective and value for money as public money must be spent wisely by everybody. It is the same with excise duties. Those who are paying excise duties make a massive contribution to the wider debate.

The legislation will, first, give statutory effect to the individual 2014 Estimates, including the Supplementary Estimates, and will formally appropriate the various sums which the Dáil has voted over the year. Second, it will authorise the utilisation of certain departmental receipts as appropriation-in-aid for specific services mentioned in this legislation. Third, it will provide for the carryover of capital savings by Vote. Those are the specific issues dealt with in the legislation. The important point, when we talk about housekeeping and the legal basis for all existing voted expenditure to continue into 2015, is that we ensure public money is spent wisely.

I welcome the opportunity to make these points in regard to the Appropriation Bill. It is important that we recognise that value for taxpayers' money is an essential part but also that the major cuts to services that have happened in recent years have been a disaster for the country, for the people and for the economy. Again, I urge caution when spending public money in the next 12 months.

**Acting Chairman (Deputy Seán Kenny):** I call the Minister of State, who has five minutes.

**Minister of State at the Department of Finance (Deputy Simon Harris):** I have a lot to get through in five minutes and I am not sure where to start. I found a lot of Deputy Fleming's contribution quite disingenuous. There is no new policy in this Bill. The Deputy is around this House a lot longer than I am and he knows the Appropriation Bill gives technical effect to issues that have been debated to the Nth degree in this House and have been voted on and passed by the Houses of the Oireachtas.

The Deputy talked about charitable organisations advertising on radio. I do not believe certain individuals he has named would like to be linked to his own political ideology. However, it is important to note that charitable organisations, which we all support in this House, have

always advertised for funds, and it is a very important part of what they do.

The Deputy referred to the issue of Supplementary Estimates for the Health Service Executive. Again, it is important to note that, in almost every year since the establishment of the HSE in 2005, it required a Supplementary Estimate, although I accept this is the biggest one. Even when we were the wealthiest country in Europe, and the Deputy's party had more money than sense, there was always a requirement for a Supplementary Estimate. Given the health service has come through an extremely difficult number of years in funding terms, to suggest that needing a Supplementary Estimate is wrong, bizarre or out of sync simply does not stand up to any level of scrutiny.

This Bill does three things and, if the Deputy is going to vote against it, which he has every right to do, he needs to be conscious of the three things it does. The Bill ensures public servants get paid in January. It ensures that people on jobseeker's allowance, disability allowance, non-contributory State pensions and all other social welfare payments funded from the social protection budget get paid. It ensures nurses, gardaí and teachers get paid. It ensures there is payment to suppliers of goods and services, including Irish SMEs.

To be fair to Deputy Tóibín, he acknowledged that and he said he did not wish to hold that up. If Deputy Fleming wishes to hold it up, that is his prerogative. He and I will get paid because we get paid out of the Central Fund but other people depend on the passage of this technical piece of legislation each and every year. To try to turn it into a political debate about other policy matters, when there is no new policy in this Bill, is disingenuous. All of the provisions this Bill gives technical and legal effect to have already been debated and passed by these Houses.

The Bill also does another thing, namely, it allows for capital project spending to be carried over. Again, when we have ambitious projects that have not quite got there yet or that need to be finished, rather than allowing the money to go back to the Central Fund, the Bill allows the Department to hang onto that money and deliver those projects. That is to be welcomed. If we do not pass the Bill, that cannot happen.

As the House knows, the Bill refers to transferring tobacco duties to the Department of Health. I know Deputy Fleming's party may have an affinity with the HSE as its leader set up the HSE. This Government gave a commitment to bring back accountability to the health service so that, when Members of this House ask questions, they are not constantly told: "That is a matter for the HSE". The Vote will come under the democratically elected Government's responsibility and that of the Minister appointed by that Government. That is progressive and important for accountability. I know the Deputy has a fondness for the HSE. We do not. We think the transfer of its Vote to the Department of Health is important.

I heard much of the debate that went on in committee about pensions. It is important to say that a lot of what this Bill deals with is the legacy of the Fianna Fáil policy of 2009. Among the figures that party briefed the media on during the week, as is its entitlement given it is public information, is the fact there is a follow-through on some of the decisions taken in 2009, when the Fianna Fáil-led Government decided to introduce the incentivised scheme for early retirement. People took 10% of their lump sum but, when they reach pensionable age, they have to get the other 90%. That was a decision taken by the last Government. There are many former public servants sitting at home today who retired under that scheme on the promise of the last Government that, once the State was solvent - which, thank God, it is, due to the efforts of this

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Government - they would be paid the 90%. To try to disown that policy choice, when it is one of Fianna Fáil's legacy issues we are working through, is disingenuous.

It is always important to have discussion about whole-of-year budgeting. We must always look at whether we can do things better and what we can do better, and we are determined to try to do that. We now have the comprehensive expenditure report 2015-17 and we have departmental allocations set out over a three-year period to 2017. This allows Dáil Éireann and the select committee to engage on a multi-annual basis and it allows greater foresight to be provided to Dáil Éireann and the public with regard to future expenditure. There will be much need to have that sort of political debate. However, let us not pretend this legislation is something it is not. I do not have the time in the 35 seconds available to me to debate the whole fairness issue. Certainly, the decisions taken by the Fianna Fáil-led Government were not fair.

In regard to the issues concerning the wealthy, I look forward to having a debate with Sinn Féin in regard to how to define "wealthy". We have categorised our effort in regard to people who are earning between €32,800 and €70,000. I describe these people as being middle Ireland, the people at the backbone of our public services and working in our SMEs. However, we must leave that debate for another time. I commend the Bill to the House and ask that we pass it without too much pantomime.

**Acting Chairman (Deputy Seán Kenny):** As 45 minutes have now elapsed, I must put the question: "That the Bill be now read a Second Time."

Question put and declared carried.

**Acting Chairman (Deputy Seán Kenny):** In accordance with the Order of the Dáil yesterday, 17 December 2014, we will now proceed to Committee Stage.

## **Appropriation Bill 2014: Committee and Remaining Stages**

### SECTION 1

**Deputy Sean Fleming:** I move amendment No. 1:

In page 3, between lines 25 and 26, to insert the following:

"(3) The Minister shall, within 12 days of the passing of this Act, publish a report providing a breakdown of savings in 2014 arising from the Haddington Road agreement, on a vote by vote basis."

For the record, I have submitted five substantial amendments on the appropriation accounts. I know we will not have time to discuss them all here as we have only 20 minutes to deal with them. While this Bill might be considered a piece of housekeeping and a rubber stamp job, I take all legislation going through the House far more seriously than a rubber stamp. If legislation is to be a rubber stamp exercise, I will not be part of it. That is why we have this debate. Our Whip sought a debate on this because we felt it necessary to have a debate on the appropriation accounts, which normally slide through on the last day of the session.

**Deputy Simon Harris:** Sorry to interrupt, but we never used to have a debate on this Bill and did not have it when Fianna Fáil was in government.

**Deputy Sean Fleming:** I accept that. This is probably the first time ever and the Bills Office was surprised to find somebody putting forward amendments, probably for the first time ever. I am proud of that, because the Government should be answerable to the Chamber. I expect the Minister of State would agree with that.

My first amendment asks for the Minister, within 12 days of the passing of the Act, essentially the end of the year, to publish a report providing a breakdown of the savings in 2014 - we are talking about the 2014 appropriation accounts - arising from the Haddington Road agreement on a Vote by Vote basis. The reason I have asked for this is simple; the Minister has said time after time that the Haddington Road agreement will deliver savings of €1 billion over three years. This is simply not true. The Minister has never backed this up and has never shown the savings on a Department by Department basis or shown how the figures add up. He speaks about €200 million for this, €100 million for that or €160 million for something else. He has never provided a breakdown and I say that is because he knows that the savings promised have not been delivered.

The majority of the savings in the public sector pay bill have come about as a result of retirements, not as a result of the Haddington Road agreement, yet, the Minister continually attributes the reductions and the savings to the agreement. This is not true as they are attributable to the normal ebb and flow of people and retirements from the public service. Last year, there were approximately 850 retirements. This year, we are told the figure is 1,300 plus, which is why we had a Supplementary Estimate. This is the reason the public sector pay bill will reduce over the lifetime of the agreement, from 2013 to 2016.

When I have asked about these issues previously, the Minister - the Taoiseach has confirmed this - has told us the figures on savings are masked in the overall Estimate, cannot be identified separately and are unidentifiable on a Vote by Vote basis. This amendment has been submitted to call the Minister's bluff. I do not believe he is capable of delivering the figures, but he will give me some answer or other. He cannot provide a breakdown, even if he had from now until Christmas 12 months to provide a breakdown of the savings adding up to €1 billion on a Vote by Vote basis.

Because I believe this to be true, I wrote to every Secretary General and Accounting Officer of the various Departments during the summer, asking each of them to provide me with a breakdown for his or her Department as a result of the Haddington Road agreement and asking for specifics as to whether these savings related to salaries, reduction in hours, change in pension payments for people on salaries over €32,500. Before that, I had submitted a parliamentary question to every Minister, but each of them referred the question back to the Department of Public Expenditure and Reform. They were afraid to respond because they knew they did not have the answer. The Department says there is €1 billion in savings, but that is a nonsense answer. I should have complained to the Ceann Comhairle about my questions not being answered, but I am accustomed to not getting a proper response from the Minister, Deputy Howlin.

When I wrote to every Secretary General, two, three or four of them made a genuine effort to provide some information, but the majority did not reply to me, the main Opposition spokesperson on public expenditure. I know why they did not reply; it is because they do not have the figures. Therefore, I raised the issue again during our discussion on the Supplementary Estimates and asked for a breakdown from the Minister's Department on Vote 12. I asked how much of the savings in the Supplementary Estimates - we had this debate last Tuesday week -



was attributable to the Haddington Road agreement. I wanted to get a figure, but the Minister bluffed in his reply. He told me the savings from the Haddington Road agreement were not relevant to the Vote or the Supplementary Estimates. His response was shocking.

He then said he would provide information “tomorrow”. Three times he said on public record that he would provide the information. “Tomorrow” was last Wednesday. We then voted here on Thursday, without the information having been provided. I am used to getting a snide remark from the Minister, who seems aggravated when people ask about taxpayers’ money. He said he briefed the media. That reply was issued by the Minister’s office to the Clerk of the Oireachtas Joint Committee on Finance, Public Expenditure and Reform on 15 December and is a public document. It says more about the Minister and the people he has doing his bidding for him that he accused me of issuing this. It was a public document that had been issued to the committee on Tuesday, or perhaps Monday, 15 December, but it only came one week after the Vote when we had sought it.

I would like a quick reply from the Minister of State on this amendment - as I want to add a supplementary question - and on whether he can provide a breakdown on a Vote by Vote basis of the savings from the Haddington Road agreement. I have provided time for this, until the end of the year, but the information should already be in the system. I know it will not be possible to produce the information if it is not in the system, but the Minister keeps telling us there have been savings. He mixes up savings happening in the public payroll area, savings that would have happened in any event, with or without an agreement, and masks these savings as a result of the Haddington Road agreement.

I am all in favour of the changes that have happened in the public service, difficult and all as some have been. The biggest cuts were made by Fianna Fáil and minor ones came later. We introduced the various emergency measures and the Government has added to our legislation. All I am asking for is simple information. I am not querying whether the cuts should or should not have been made. They were accepted by the trade unions and their representatives, so there is no argument about them. All I want is a breakdown of the savings, but the Minister gets hostile when asked for a breakdown. He promotes himself as a Minister who supports freedom of information, but he gets hostile when asked to provide information regarding Government expenditure. Perhaps the Minister of State can provide the information I am looking for.

**Acting Chairman (Deputy Seán Kenny):** I remind Deputies we have only 14 minutes left. We have a number of other amendments and sections to deal with, but I must put the vote after 20 minutes of debate.

**Minister of State at the Department of Finance (Deputy Simon Harris):** I reject the assertion that the Minister, Deputy Howlin, is hostile in regard to the provision of information. He has done a lot to ensure there is more information available than there was, including in regard to freedom of information and has rowed back on the curtailment introduced by Fianna Fáil. He has enhanced the legislation to ensure there is more openness in regard to government. I do not think the Deputy’s criticism is fair.

I do not propose to accept this amendment. The Minister for Public Expenditure and Reform has previously announced the intention to publish an annual report on public service reform, including the issues addressed in the Haddington Road agreement, in early 2015, in line with the commitment in the Government’s public service reform plan 2014-2016. I understand this commitment was previously conveyed and confirmed to the Deputy in response to a parlia-

mentary question in October. It should also be noted that the Financial Emergency Measures in the Public Interest Act 2013 obliges that a statutory report be made on the requirement for and effectiveness of the legislation. The Minister for Public Expenditure and Reform will make a further report to the Oireachtas in June 2015 in line with these statutory obligations.

The Haddington Road agreement, which came into effect on 1 July 2013, is underpinned by the Financial Emergency Measures in the Public Interest Act 2013 and forms the cornerstone for public service policy over a three year period. Over the first 18 months of its lifetime, the agreement has been key in enabling reduced costs in the public service pay and pensions bill. The impact of the 2013 Financial Emergency Measures in the Public Interest Act 2013 and the Haddington Road agreement has been to deliver cost reductions and substantial productivity increases. The additional hours which the agreement has facilitated have allowed the Government the scope to reinvest in key front-line services by recruiting additional staff and we are now moving into that space. The demonstrates that the agreement is delivering and contributing to achieving the Government's fiscal target of bringing the deficit target below 3% GDP by end 2015.

It is important to differentiate when trying to calculate the benefits of the Haddington Road agreement versus the Croke Park agreement and previous agreements. It is quite different. The agreement provided for a number of pay cuts for people at the higher end of the public sector pay scale. As a result, the effects were fed into the system immediately. That was quite different from the Croke Park agreement, under which there was a thorough implementation process and a need to scrutinise whether various reforms or objectives had been met. The Haddington Road agreement was clear-cut in terms of what it did and the pay cuts it implemented. It was a fairer agreement than previous ones in respect of where it tried to strike the balance in savings. We do not propose to accept the amendment because we do not believe this is the legislation under which a report should be provided within 12 days. This is technical legislation. The Minister has given a commitment to publish a public service reform annual report in 2015, which will address key issues, including issues under the Haddington Road agreement. He has reiterated that commitment to the Deputy in the House. Thankfully, we are moving into a space in which we can look at engaging on the future of public sector pay and working conditions and recruitment to key front-line services. Therefore, the amendment is not necessary.

**Deputy Sean Fleming:** That is the response I expected, because the Minister is not capable of producing a breakdown. That is why he will not produce a report. It would not hold up the legislation, because I specifically asked for the report to be published following the passage of the Bill in due course. He would have time to do that, and it would not interfere with this legislation.

The Minister of State is the first Minister to acknowledge that the cuts under the Haddington Road agreement were clear-cut for those earning more than €65,000 and for those with pensions in excess of €32,500. Given that he is boasting that these were simple, clear-cut, black-and-white changes, the Minister should be able to provide figures for the impact of the cuts on a vote-by-vote basis, but he is essentially saying that will not be done because the Minister will present an annual report. There is zero chance of that information being provided in this report. It will be a global public service report and there will no breakdown. If it is as simple as the Minister of State says to quantify the savings as a result of the different cuts, I would welcome that. I want to verify the Minister's statement, which he has repeated *ad nauseam*, that the Haddington Road agreement provides for €1 billion in savings. I do not believe that for a minute. It is similar to the flawed Estimates he issues every year. In an hour, we will be presented with

Revised Estimates for 2015, which will be another set of false statements.

For those who do understand these technical Bills, the Minister of State's reply sounded good, but it is not relevant. He gave the impression that there would be a report on the FEMPI legislation. That is a simple report explaining why we need the FEMPI legislation and dealing with the sustainability of the national debt, the general government deficit and so on, but it does not address the savings under the Haddington Road agreement, as the Minister of State will be aware. It is a different report entirely, which will not give the savings I have sought on a vote-by-vote basis or even on a heading-by-heading basis. The Minister has studiously avoided dealing with this issue since the agreement was introduced. His bluff has eventually been called and I am sorry he is not present. He wittingly or unwittingly called his own bluff in the letter he issued to the Oireachtas committee to which I referred earlier on 15 December. I asked a series of questions and I was not happy with the reply. I met his officials following the vote last Thursday.

The Minister promised three times on the record of the House last Tuesday week to provide the information the following day. On Thursday morning, I spotted that he was to take the vote on the Supplementary Estimate in the Chamber. I rang his office and said that I had not received the information. He did not contact me, having promised it to the committee three times. I asked him to withhold the Supplementary Estimates until Tuesday of this week or until he had provided us with the information, and he refused to do that, saying that he had to publish the appropriation accounts. This all happened before the vote last Thursday, with the public unaware that there had been direct calls between me and his office. I then offered to take the Supplementary Estimate last Friday because the House was sitting, giving him another day to supply the information. I did not object to the content, but I wanted the information in the public interest. However, the Minister would not agree to take the Supplementary Estimate that day. The vote went ahead on Thursday. He asked a senior official, whom I was happy to talk to, to phone me. The official said they could not issue the information I was seeking because it would breach data protection rules, as it might be possible to identify some of the people based on their scales and the limited number of people retiring out of the 1,300 people mentioned. That was the first time this had been mentioned. The Minister, therefore, was not capable of supplying the information he had committed to providing on Tuesday. I said I would meet the official following the vote. I had no other option and that was one of the reasons I voted against the Supplementary Estimate. We were not happy with the choices that led to it anyway.

I met three officials from the Department and I agreed to narrow the scope of the query and have the information put in bands in order that there was no way people could be identified by Department, by category or by name. The information was supplied to the committee on 15 December. The Minister's bluff was eventually called. I had been asking him about the lump sum savings in respect of the pension levy, which the Minister of State says are laid out simply in black-and-white under the Haddington Road agreement for the public service in Vote 12. I asked for a breakdown and the Minister supplied a table to the committee. A total of 3,653 people in receipt of public service pensions were hit by the public service pension reduction, PSPR. Some of them were affected by a reduction under the original FEMPI legislation and the third FEMPI Act, both of which were implemented during our time in government, and then they suffered a further reduction under the fifth FEMPI Act, which relates to the Haddington Road agreement. I wanted to isolate the saving under FEMPI, which could not be simpler. The Minister, in reply to the committee earlier this week, stated:

Please note that a significant number of the payees involved were already paying PSPR

prior to the implementation of FEMPI 5. These cases had their PSPR increased in line with the new relevant applicable deduction percentages. The FEMPI Act 2013 gave effect to the terms of the Haddington Road agreement. The Department of Public Expenditure and Reform advises it is not possible to extract the portion of PSPR payable that relates directly to the increases in the PSPR in that Act.

The Minister, therefore, at long last told the committee that it is not possible, even in respect of that specific black-and-white item, to extract the portion of PSPR attributable to the Haddington Road agreement and the FEMPI Act 2013, yet he bandies about a figure of €1 billion in savings over three years. How can he make up a figure when he cannot work out a basic, simple calculation? The Minister has been bluffing about the savings all along. He cannot provide them and he will not do so because they do not add up to €1 billion.

**Deputy Simon Harris:** I cannot let the assertion of bluffing go unchallenged. I could make pointed comments but I will not, given the limited time available. The Deputy should not try to drag me into a row that he has been trying to keep going for well over a week. The Haddington Road agreement reached with the public sector unions was clear-cut in how it went about its business. It made it clear where the savings would be achieved on pay and pensions and at what levels they kicked in. The sum the Minister has put in the public domain is one we will stand over proudly. He and his officials have engaged with the committee and the Deputy on this. We are very proud of what has been achieved under the Haddington Road agreement in maintaining and extending services through significant gains in productivity. As I said in my initial contribution, we are moving to higher ground, where as a result of budget 2015, we can finally look at increasing front-line staff numbers in key and important sectors such as education and health, as well as the number of gardaí. We can also look at engaging, post the Haddington Road agreement, with public sector unions on where we go from here. The Minister will be publishing an annual report on public sector reform which will deal with the Haddington Road agreement in line with the commitment he has given. He is a Minister for Public Expenditure and Reform who has done nothing but add to the level of transparency in government and who will continue to do so.

I cannot accept the amendment for the reasons outlined. It is not appropriate to include such requests for reports in primary legislation.

Amendment put and declared lost.

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

**Deputy Sean Fleming:** I am opposing section 1. In the past 60 minutes the Minister of State has got the gist of what I want to say. As he rightly said, there is no new Government policy decision being announced today, there is no change of approach by the Government and there is nothing new in the legislation. All it does is give statutory effect to every expenditure choice the Government has made during the course of the year in the Estimates and Supplementary Estimates. I have given the Minister of State several reasons I disagree with the choices the Government made during the year. I reject the choices it made owing to a lack of fairness.

**Deputy Simon Harris:** In opposing the section the Deputy misses the point; this is the section that will ensure public servants, pensioners and those in receipt of disability and jobseeker's allowance are paid. The Deputy has picked the wrong part of the Bill to oppose because while he can take comfort from the fact that he will be paid from the Central Fund in January,

all of the people I have mentioned - vulnerable members of society - would not. We must pass legislation today. Opposing the section is pantomime politics.

**Acting Chairman (Deputy Seán Kenny):** As the time permitted for the debate has expired, I am required to put the following question in accordance with an order of the Dáil of 17 December 2014: “That each of the sections undisposed of is hereby agreed to in Committee; that Schedules 1 and 2 and the Title are hereby agreed to in Committee; that the Bill is, accordingly, reported to the House without amendment; that Fourth Stage is hereby completed; that the Bill is hereby passed; that the Bill which is certified to be a Money Bill will now be sent to the Seanad.”

Question put:

<i>The Dáil divided: Tá, 76; Níl, 28.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Barry, Tom.</i>	<i>Broughan, Thomas P.</i>
<i>Burton, Joan.</i>	<i>Calleary, Dara.</i>
<i>Butler, Ray.</i>	<i>Collins, Joan.</i>
<i>Buttimer, Jerry.</i>	<i>Collins, Niall.</i>
<i>Byrne, Catherine.</i>	<i>Creighton, Lucinda.</i>
<i>Byrne, Eric.</i>	<i>Dooley, Timmy.</i>
<i>Carey, Joe.</i>	<i>Fitzmaurice, Michael.</i>
<i>Coffey, Paudie.</i>	<i>Flanagan, Terence.</i>
<i>Collins, Áine.</i>	<i>Fleming, Sean.</i>
<i>Colreavy, Michael.</i>	<i>Fleming, Tom.</i>
<i>Conlan, Seán.</i>	<i>Grealish, Noel.</i>
<i>Connaughton, Paul J.</i>	<i>Healy, Seamus.</i>
<i>Conway, Ciara.</i>	<i>Kelleher, Billy.</i>
<i>Coonan, Noel.</i>	<i>Lowry, Michael.</i>
<i>Coveney, Simon.</i>	<i>McGrath, Finian.</i>
<i>Creed, Michael.</i>	<i>McGrath, Mattie.</i>
<i>Deering, Pat.</i>	<i>Martin, Micheál.</i>
<i>Doherty, Regina.</i>	<i>Mathews, Peter.</i>
<i>Donohoe, Paschal.</i>	<i>Murphy, Catherine.</i>
<i>Dowds, Robert.</i>	<i>Murphy, Paul.</i>
<i>Doyle, Andrew.</i>	<i>Ó Cuív, Éamon.</i>
<i>Durkan, Bernard J.</i>	<i>Ó Feargháil, Seán.</i>
<i>Ellis, Dessie.</i>	<i>O’Sullivan, Maureen.</i>
<i>English, Damien.</i>	<i>Pringle, Thomas.</i>
<i>Farrell, Alan.</i>	<i>Ross, Shane.</i>
<i>Feighan, Frank.</i>	<i>Smith, Brendan.</i>
<i>Ferris, Martin.</i>	<i>Troy, Robert.</i>
<i>Fitzgerald, Frances.</i>	<i>Wallace, Mick.</i>
<i>Fitzpatrick, Peter.</i>	
<i>Gilmore, Eamon.</i>	

<i>Griffin, Brendan.</i>	
<i>Hannigan, Dominic.</i>	
<i>Harrington, Noel.</i>	
<i>Harris, Simon.</i>	
<i>Heydon, Martin.</i>	
<i>Howlin, Brendan.</i>	
<i>Humphreys, Heather.</i>	
<i>Humphreys, Kevin.</i>	
<i>Keating, Derek.</i>	
<i>Kehoe, Paul.</i>	
<i>Kelly, Alan.</i>	
<i>Kenny, Seán.</i>	
<i>Kyne, Seán.</i>	
<i>Lawlor, Anthony.</i>	
<i>Lyons, John.</i>	
<i>McCarthy, Michael.</i>	
<i>McEntee, Helen.</i>	
<i>McGinley, Dinny.</i>	
<i>McLellan, Sandra.</i>	
<i>McNamara, Michael.</i>	
<i>Maloney, Eamonn.</i>	
<i>Mitchell, Olivia.</i>	
<i>Mitchell O'Connor, Mary.</i>	
<i>Mulherin, Michelle.</i>	
<i>Neville, Dan.</i>	
<i>Nolan, Derek.</i>	
<i>Ó Caoláin, Caoimhghín.</i>	
<i>Ó Ríordáin, Aodhán.</i>	
<i>Ó Snodaigh, Aengus.</i>	
<i>O'Brien, Jonathan.</i>	
<i>O'Donovan, Patrick.</i>	
<i>O'Dowd, Fergus.</i>	
<i>O'Mahony, John.</i>	
<i>O'Reilly, Joe.</i>	
<i>Penrose, Willie.</i>	
<i>Quinn, Ruairí.</i>	
<i>Rabbitte, Pat.</i>	
<i>Ring, Michael.</i>	
<i>Ryan, Brendan.</i>	
<i>Stagg, Emmet.</i>	
<i>Stanley, Brian.</i>	
<i>Stanton, David.</i>	
<i>Tóibín, Peadar.</i>	

<i>Tuffy, Joanna.</i>	
<i>Wall, Jack.</i>	
<i>Walsh, Brian.</i>	

Tellers: Tá, Deputies Paul Kehoe and Emmet Stagg; Níl, Deputies Sean Fleming and Mattie McGrath.

Question declared carried.

*12 o'clock*

**An Leas-Cheann Comhairle:** The Bill, which is certified to be a Money Bill in accordance with Article 22.1.1<sup>o</sup> of the Constitution, will now be sent to the Seanad.

### Leaders' Questions

**Deputy Dara Calleary:** This morning's newspapers and last night's news programmes carried heartbreaking reports about an evolving situation in a hospital in the midlands. Our thoughts must be with the family of the woman involved. When asked about the situation yesterday, the Taoiseach stated that he was aware of the case and that, while it was difficult, now is not the time for constitutional change. On Tuesday evening, the Minister for Health commented in this House that current law is too restrictive and, while he did not mention the case in Mullingar, it must have been to the forefront in his mind. Can the Tánaiste confirm whether this case was discussed by the Cabinet at any stage this week and if she or her Cabinet colleagues were aware of it? Can she also confirm the Taoiseach's remark that the Government does not intend to review the legislation in this area?

**The Tánaiste:** First, regarding the media reports on the case of a young woman who is unfortunately brain-dead and being kept on life support, I understand her family is seeking to take a case to the courts. Obviously, I cannot comment in any detail on legal action that might take place.

I wish to express my sympathy for the family of this young woman on the tragedy that has happened. She had a serious brain trauma or brain event; I am not sure which it was. She was in Beaumont Hospital for a period of time but was subsequently transferred back to the hospital in her local area of Mullingar. At this time of the year, it is a terrible tragedy to visit a family and I sympathise with them.

The Deputy asked if I was aware of the case. I have been aware of it since late last Sunday, when I received a telephone call from the Minister for Health, who advised me in fairly sketchy terms - I think that was as much information as he had - about the very tragic circumstances of the case. Subsequently, I had a conversation with the Taoiseach. As to whether there was a discussion about it at the Cabinet, there was none of which I am aware. Obviously, I had a discussion with the Minister when he advised me of this potentially pending case and the tragic circumstances. I also briefly discussed it with the Taoiseach yesterday morning.

Clearly, it is for the woman's family and loved ones to decide how they would like their

daughter to be treated. I understand they will possibly take court proceedings some time early next week.

**Deputy Dara Calleary:** This is a most appalling situation for the woman, her baby and her family. Will the Tánaiste and the House join me in asking those on either side of this debate to remember that there is a family at the centre of this and that whatever discussion and debate we have on this case in the next few days should put dignity at the heart of it? The case should not be used by any side to advance a political view on this issue.

**The Tánaiste:** I will be honest about this. The people voted in favour of the Eighth Amendment to the Constitution, but when it was put to the people the Labour Party recommended against voting in favour of that amendment. That was our position then and it has been our position for a long time. In cases such as this, the issue is the medical care of the woman. It is a relatively early stage in the pregnancy and my understanding is that the doctors have sought, and are seeking, to give both the woman and her baby the maximum amount of care and attention. Cases such as these are very tragic for the families involved.

Speaking as a mother and a woman, I believe there is a huge amount of common ground in this debate, which is sometimes drowned out by the noise from those at the extremes on both sides of what at times can be a very extreme debate. These issues are not easy. In the programme for Government the Government agreed to address a series of previous court case issues, such as the X case. I do not know the Deputy's views, but if I recall correctly, he was one of the Members who had reservations about legislation on these matters, and I believe he voted accordingly. However, notwithstanding the enormous difficulties, there is an unspoken agreement on all sides of the House among people in the centre ground to respect life and to ensure that the maximum and best attention is available to women who are pregnant, while respecting the right of choice and the right of women to seek the best possible outcomes in respect of their health and their lives. Obviously, that also involves the life of any baby.

**Deputy Jonathan O'Brien:** This day next week will be Christmas Day, a time when families come together to celebrate the holidays. Over the next few days many loved ones will be returning from all parts of the world to celebrate with their families. Unfortunately, some will not be able to return home and there will be many empty chairs around dinner tables next Thursday. Many of those who are unable to return hold out the hope that some day they will be able to return permanently. Many were forced to emigrate due to the economic crash, the difficult financial circumstances in which they found themselves and the years of austerity implemented not only by this Government but by previous Governments.

The sad thing is that many of the individuals who were forced to emigrate and are unable to return have no democratic stake in the future of this State. They have been denied the right to vote in presidential, general and local elections, so they are unable to vote for political parties or individuals whom they believe will create the conditions that hopefully would see them return home for good. One of the discussions at the Constitutional Convention was on the extension of voting rights in presidential elections to Irish citizens living outside the State, and the convention voted overwhelmingly to recommend such an extension to the Government. Many people would have considered that to be the first step in a process which would eventually enable Irish citizens to vote not only in presidential elections but also in future general and local elections. Will the Tánaiste explain to the Dáil, the people who are unable to return home this Christmas and the families who are facing a holiday without a loved one at the Christmas table why the Government has decided not to implement the recommendations of the Constitutional



Convention and extend voting rights to those Irish citizens?

**The Tánaiste:** We are all delighted to see people coming home to Ireland from across the world. The good news is that, due to the expansion in employment here, for many people it might well be the first step towards what we hope is a permanent return home for those who wish it, after having spent time abroad and probably having gained extremely valuable experience for building a career in Ireland. I notice that in the course of the last year none of the Opposition parties has raised issues relating to the economy or employment-----

**Deputy Brian Stanley:** Where has the Tánaiste been?

**The Tánaiste:** -----but due to the strength of the growth in employment, unemployment has fallen.

**Deputy Peadar Tóibín:** There have been only 43,000 new jobs since this Government took office. I got the figures from the Central Statistics Office.

**The Tánaiste:** The Deputy referred to the catastrophic fall in the economy. I am happy to inform him that the latest figures show that unemployment has fallen below 11% and is now at 10.7%. Thankfully, it is now well below the eurozone average.

**Deputy Peadar Tóibín:** It is above the EU average.

**The Tánaiste:** When this Government took office, unemployment was up to 40% above the eurozone average.

However, Christmas is all about families coming home. As Deputies will be aware, No. 38 on the Order Paper provides for the Dáil to discuss the fourth report of the Constitutional Convention. The Government takes the work of the convention very seriously. As the Taoiseach said, at our recent meeting a decision was made to put before the people, in late spring or early summer next year, two constitutional questions put forward by the convention. One is on marriage equality, while the other is on the age qualification of presidential election candidates.

**Deputy Finian McGrath:** There is not one on Irish Water.

**The Tánaiste:** The Government has been working through a menu of the very important proposals brought forward by the Constitutional Convention. There will be an opportunity for the Deputy and others from his party to bring forward proposals on the work of the convention.

**Deputy Jonathan O'Brien:** While I cannot speak for other Opposition parties, Sinn Féin Members have consistently raised the issue of the state of the economy.

**The Tánaiste:** We have not heard it.

**Deputy Jonathan O'Brien:** Then the Government has not been listening.

**Deputy Caoimhghín Ó Caoláin:** That is the problem; it will not listen.

**Deputy Dara Calleary:** That is the problem. It only hears what it chooses to hear.

**Deputy Jonathan O'Brien:** If the Tánaiste wishes to set aside time to discuss the economic situation, she will not be short of Opposition speakers.

**Deputy Finian McGrath:** We could bring them in on Christmas Eve.

**Deputy Paul Kehoe:** The Deputy should be careful what he wishes for.

**Deputy Jonathan O'Brien:** While the two referendums are on important issues, marriage equality and lowering the age limit for those who wish to stand in presidential elections, a number of issues were discussed at the Constitutional Convention. Does the Tánaiste believe it would be right to extend voting rights to Irish citizens who have been forced to emigrate and are living in America, Australia, Britain and across Europe? Should we give them the opportunity to have a stake in the formation of future Governments which will create the economic conditions, jobs and infrastructure to enable them to return home for good? Every job created is welcome; we will not belittle any job creation.

**Deputy Paudie Coffey:** Sinn Féin trades in misery.

**Deputy Jonathan O'Brien:** However, we are not creating enough jobs.

**Deputy Paudie Coffey:** Sinn Féin's economic policies would drive them out of the country.

**Deputy Jonathan O'Brien:** The number of people who have been forced to emigrate as a result of the financial crash and the continuing implementation of austerity by this and previous Governments means that it will be a very long time before they will have an opportunity to return home. Does the Tánaiste agree with her colleague, the Minister of State with responsibility for the Diaspora, Deputy Jimmy Deenihan, who, before visiting the United States last year, said he saw no reason we could not extend voting rights to those living outside the State in order that they could play a constructive, democratic role in electing future Governments?

**Deputy Frances Fitzgerald:** We put the matter to the Constitutional Convention.

**The Tánaiste:** The Deputy may not be aware that the proposal that a constitutional convention be established was originally put forward by the Labour Party in opposition and adopted by the Government as part of its programme.

**Deputy Peadar Tóibín:** It is another unfulfilled promise.

**The Tánaiste:** I do not recall Sinn Féin putting forward any systematic proposal to review, in detail, various constitutional issues through the work of a randomly selected group of citizens who would come and give their view. When we took office, some of the highest levels of emigration had occurred after the economy had collapsed under the previous Government. Thanks to the Government, we can see that very difficult trend for families around the country begin to change.

**Deputy Finian McGrath:** What about voting rights? The Tánaiste is not answering the question. She is waffling.

**The Tánaiste:** I do not know whether the Deputy is aware that there is a huge amount of recruitment in Ireland and, in case people abroad are listening, I want to use the opportunity provided by the Deputy's question and positive comments about emigrants to say when people are at home, a job may be available to them in Ireland.

**Deputy Frances Fitzgerald:** Hear, hear.

**The Tánaiste:** I would like that message to be sent. I would like emigrants to return and vote in Ireland.

**Deputy Finian McGrath:** The Tánaiste did not answer the question.

**Deputy Peadar Tóibín:** She did not answer. This is Leaders' Questions and answers.

**The Tánaiste:** The Government is working through the different proposals of the Constitutional Convention. I am glad that the Deputy recognises that the two referendum proposals to be put to the people are important. It is the judgment of the Government that it is appropriate that the two proposals selected be put before the people next year. Many very important proposals have been put to the people, including the referendum on children's rights. Our experience shows that we need to give each referendum matter time and that it should be the subject of very detailed discussion.

**Deputy Caoimhghín Ó Caoláin:** The Deputy asked about voting rights for the diaspora.

**Deputy Finian McGrath:** Another Labour Party policy has been scrapped.

**Deputy Catherine Murphy:** I wish the Tánaiste and her colleagues a very happy Christmas. The mention of Christmas conjures up images of joy, warmth and family gatherings around the dinner table. However, for many, that is not the reality. In the past few days we have received reports from Threshold and Focus Ireland and this morning from the Simon Community confirming what is obvious to any of us who has been paying attention to the housing-homelessness crisis of late. The rent supplement issue is exacerbating the problem. The Simon Community described it as an emergency, while Focus Ireland in its report earlier this week stated that for many, the single reason they had become homeless was the rent supplement payment did not cover their rent. According to the report of the Simon Community, 3,000 people are in emergency accommodation, of whom we know hundreds are children.

While I welcome the 20 point action plan announced in the past few days, it is very limited in its geographic reach in preventing homelessness. The Tánaiste is the last hope for many families to keep a roof over their heads because she controls the rent assistance and family income supplement schemes. There is a problem with the pathway accommodation and support system, PASS, whereby local authorities are supposed to capture those at risk of homelessness. Many local authorities count only those who present as homeless, rather than those who are at risk of homelessness. There is nothing for those who are at risk of homelessness but who are in full-time employment. The family income supplement scheme does not take unsustainable housing costs into account.

A review of the rent supplement scheme is under way. Is the amount budgeted for in 2015 finite, or will new money be made available, if required, for that scheme? I am encountering cases all the time of people in full-time employment facing rent hikes of 20% or 30%, and there are economic evictions in consequence. In such circumstances, would the Tánaiste consider even a short-term adjustment to the family income supplement, or some other mechanism for those without children? Has the Tánaiste sought increased powers for the Private Residential Tenancies Board, PRTB, in light of the increasing pressures on the private rental sector, on which one in five families now rely? Will the Tánaiste consider rent caps, even for a limited duration? It is either one or the other.

**The Tánaiste:** I thank the Deputy and extend my good wishes to her and to everybody else in the House for a happy and peaceful Christmas and a peaceful and prosperous new year.

In respect of rent supplement, I will first reiterate what I have stated previously. The ap-

proach my Department has been taking is that it has been particularly involved in trying to identify families who are at risk of losing their rented accommodation because landlords are in many cases suddenly seeking hugely increased rents. While this certainly is a problem, what my Department has been and is doing is to emphasise a case-by-case management approach to each individual family in difficulty, which I believe to be the best approach. However, the core underlying problem - the Deputy and I have discussed this previously and I believe we both agree - is that for a long time either no social housing or insufficient social housing has been built in Ireland.

**Deputy Bernard J. Durkan:** Hear, hear.

**The Tánaiste:** In the budget, the Government sought to put together the largest capital programme for housing in a generation. I note that this has been welcomed by Deputies on all sides of the House because, ultimately, increasing supply is the only long-term and medium-term way to address the issue arising from the fact that Ireland has a growing population. Moreover, the population of families with young children is growing hugely, and such people need accommodation on a long-term basis for themselves and their families. The only way in which many of them ever will get that is - as happened up to ten years ago in Ireland - through the provision of an adequate amount of social housing. A family will get a key to their own hall door, and when they close that door they can be sure that no landlord will arbitrarily arrive and suddenly demand enormous increases in the rent payable, regardless of whether they are working. This is the vision to which Members should aspire - namely, that families are provided both with opportunities of purchasing homes on an affordable basis and with homes to rent, either through housing agencies or the local authorities, in order that they can have long-term security of tenure and the key to that hall door which they can be sure will be theirs and their children's for as long as is required.

I have written to community welfare officers, and as recently as last week I met all-----

**Deputy Dara Calleary:** If one can be found.

**The Tánaiste:** -----the regional managers of the community welfare services to emphasise the discretionary power they have in the law to deal with individual cases. At this point in time, under the protocol that the Department has been working on with Threshold and other agencies since the middle of June, more than 300 families have been housed. Moreover, the Department has been rolling out tailored responses on a localised basis to the issues as they arise in different towns and cities throughout Ireland. I consider this to be the best way of reaching the families and individuals who have difficulties.

**Deputy Dessie Ellis:** Why does the Tánaiste not bring in rent controls once and for all and stop the increases?

**An Leas-Cheann Comhairle:** Please. I call Deputy Catherine Murphy for a supplementary question.

**Deputy Catherine Murphy:** I asked the Tánaiste a number of questions she did not answer. Is the amount of money finite or is it likely to be increased? I also asked her about possible short-term rent caps, increased powers for the PRTB and about something akin to a family income supplement. I acknowledge that from what I can discern, there has been a noticeable difference with regard to community welfare officers, which is welcome. I am interested in practical solutions, but we cannot continue to use the supply-side argument exclusively, because if

we take that to its logical conclusion, essentially we are telling people to go off and hibernate.

Another point is that the short-term action plan focuses heavily on Dublin, which is the epicentre of the problem. While it will be extended to Cork city and county, it does not extend to an area identified by the Simon Community, namely, the periphery of Dublin, along with counties such as Kildare, Meath and Wicklow. For example, a county like Kildare is bigger than Limerick city and county put together, but it does not have a city in the middle. Similarly, the pressures on counties such as Wicklow or Meath are just as bad as those on Cork county. Consequently, one really must look at where people live, rather than stating “There is a city, and that is where the problem is.” I have a serious problem with that. I acknowledge that there is a housing programme that will extend into the lifetime of the successor to the present Government before houses actually will be delivered. Short-term solutions are absolutely essential, and one thing that is becoming evident is the role the banks are playing with regard to the buy-to-let sector, in which people are increasingly at risk of losing their homes because banks are forcing sales. Increasingly, people are being evicted as a consequence of this trend, and that must be addressed. I ask the Tánaiste to address the questions I asked in the first instance.

**Deputy Finian McGrath:** And high rents.

**The Tánaiste:** First, in respect of the Deputy’s question on the amount of the budget and the amount of money allocated, I wish to make clear that this is flexible. Obviously, as the Deputy herself has described, it depends on how rent pressures can vary from area to area. For instance, I am conscious that in the constituency represented by the Minister of State, Deputy Kevin Humphreys, in the south east of the city centre, the presence of information technology giants such as Google and social media companies has meant there is intense pressure on rents due to the number of people who work in the new industries. Obviously, in County Kildare, companies such as Intel and HP are enormous employers and, again, as the Deputy is aware, there is a huge private market of people in work seeking to rent houses for three or five years. This is one reason for the difficulty in respect of housing supply.

I also wish to say, with regard to the Deputy’s comments-----

**Deputy Finian McGrath:** Members know what the problem is. What will the Tánaiste do about it?

**The Tánaiste:** The Deputy asked a serious question and I want to try to explain the answer to her.

**An Leas-Cheann Comhairle:** The Tánaiste has the floor.

**Deputy Finian McGrath:** Members are looking for solutions, not a statement of what the problem is.

**An Leas-Cheann Comhairle:** The Tánaiste to reply, please.

**Deputy Bernard J. Durkan:** The Deputy should have some manners.

**The Tánaiste:** I believe Deputy Catherine Murphy would like to hear the answer, and she asked the question on the Deputy’s behalf.

**Deputy Finian McGrath:** I would like the Tánaiste to answer the question. The Dáil would like her to answer the question.

**An Leas-Cheann Comhairle:** Sorry; the Tánaiste has the floor.

**Deputy Noel Coonan:** Empty vessels make a lot of noise.

**Deputy Finian McGrath:** She should not tell us what the problem is.

**Deputy Bernard J. Durkan:** When Deputies opposite were in control, no houses were being built.

**Deputy Finian McGrath:** We all know what the problem is.

**An Leas-Cheann Comhairle:** Please, can we settle down now?

**The Tánaiste:** On the Deputy's question about the operation of the banks at present with regard to buy-to-let mortgages, many of which are in difficulty, as recently as last week there was a meeting of the Cabinet sub-committee at which this was discussed in some detail. My view is that we might have an arrangement whereby, when a bank appoints a receiver, it could be a rent receiver. There is no doubt that in some cases receivers are, in effect, seeking quick vacant possession, and this is increasing the pressure. Many buy-to-let landlords are, perhaps, accidental or part-time landlords and they are now handing back their houses. A receiver may not be aware of the difficulties that a repossession may pose for a tenant. The banks have an obligation to citizens in this country to take into account the impact on tenants of their seeking a sudden or rapid vacant possession. I am happy to talk to the banks about the impact of this on tenants in receipt of rent supplement, because the Department will continue to pay the rent. Unless the house is to be sold immediately, it would appear to me that there is a great deal of scope for an agreement in regard to a further letting period, notwithstanding that the house may ultimately be sold.

In regard to housing supply, approximately 600 of the 1,000 boarded up houses, particularly in the Dublin area, which are known also as voids because the tenancy was surrendered, will be available for re-let by end April 2015, with the remainder coming on stream during the rest of the year. Although it takes time to build houses, there will be additional supply coming on stream next year.

**Deputy Dessie Ellis:** What about rent controls? It is a big issue.

**Deputy Paul Kehoe:** Deputy Ellis did not ask a question.

**Deputy Finian McGrath:** The Government is ducking and dodging.

**Deputy Paul Kehoe:** The question was not asked by Deputy Ellis.

### **Order of Business**

**The Tánaiste:** As this is the season of goodwill, I am sure everybody will listen to the Order of Business with a great sense of goodwill and, as happened in the First World War, set aside their hostilities and allow a little truce.

*(Interruptions).*

**The Tánaiste:** Most of the time I love to listen to Deputy McGrath, but on this occasion I

ask that he give me the floor.

**Deputy Dara Calleary:** Is the Tánaiste going to sing?

**The Tánaiste:** It is proposed to take No. 21*a*, motion re presentation and circulation of Revised Estimates 2015; No. 21*b*, motion re membership of committee; No. 44, Protection of Children's Health (Tobacco Smoke in Mechanically Propelled Vehicles) Bill 2012 - Order for Report, Report and Final Stages; No. *a1*, Road Traffic (No. 2) Bill 2014 [Seanad] - Second Stage (resumed) and remaining Stages; No. 38, statements on the fourth report of the Constitutional Convention on the Dáil electoral system; and No. 39, statements opposing domestic violence, to adjourn after one hour, if not previously concluded.

It is proposed, notwithstanding anything in Standing Orders, that the Dáil shall sit later than 5.30 p.m. and shall adjourn on the conclusion of Topical Issues, which shall be taken not later than 8.30 p.m. or on the conclusion of No. 39, whichever is the earlier; Nos. 21*a* and 21*b* shall be decided without debate, and any division demanded on No. 21*a* shall be taken forthwith; the following arrangements shall apply in relation to No. *a1*: the resumed Second Stage shall, if not previously concluded, be brought to a conclusion after three hours; Committee and Remaining Stages shall, if not previously concluded, be brought to a conclusion after two hours by one question which shall be put from the Chair and which shall, in relation to amendments, include only those set down or accepted by the Minister for Transport, Tourism and Sport; the proceedings in relation to No. 38 shall, if not previously concluded, be brought to a conclusion after 90 minutes, and the following arrangements shall apply - the statement of a Minister or Minister of State and of the main spokespersons for Fianna Fáil, Sinn Féin and the Technical Group, who shall be called upon in that order, shall not exceed ten minutes in each case, and such Members may share their time; the statement of each other Member called upon shall not exceed ten minutes in each case, and such Members may share their time; and a Minister or Minister of State shall be called upon to make a statement in reply which shall not exceed five minutes; the following arrangements shall apply in relation to No. 39 - the statement of a Minister or Minister of State and of the main spokespersons for Fianna Fáil, Sinn Féin and the Technical Group, who shall be called upon in that order, shall not exceed 15 minutes in each case, and such Members may share their time; the statement of each other Member called upon shall not exceed ten minutes in each case, and such Members may share their time; and a Minister or Minister of State shall be called upon to make a statement in reply which shall not exceed five minutes; the Dáil on its rising today shall adjourn until 2.30 p.m. on Wednesday, 14 January 2015, unless the Water Services Bill 2014 is sent back to the Dáil with amendments made in the Seanad, in which event, the Dáil shall sit on Tuesday, 23 December 2014 at 11 a.m. and shall adjourn not later than 1 p.m.; there shall be no Order of Business within the meaning of Standing Order 26 and accordingly, the only business to be transacted shall be as follows: Water Services Bill 2014 – amendments from the Seanad, the proceedings on which shall, if not previously concluded, be brought to a conclusion at 1 p.m. and any amendments from the Seanad not disposed of shall be decided by one question which shall be put from the Chair, and which shall in relation to amendments to the Seanad amendments, include only those set down or accepted by the Minister for the Environment, Community and Local Government; and on the conclusion of proceedings on the amendments from the Seanad, the Dáil shall adjourn until 2.30 p.m. on Wednesday, 14 January 2015.

**An Leas-Cheann Comhairle:** There are six proposals to be put to the House. Is the proposal for dealing with the late sitting agreed? Agreed. Is the proposal for dealing with Nos. 21*a* and 21*b* agreed? Agreed. Is the proposal for dealing with No. *a1* agreed? Agreed. Is

the proposal for dealing with No. 38 agreed? Agreed. Is the proposal for dealing with No. 39 agreed? Agreed. Is the proposal that the Dáil on its rising today shall adjourn until 2.30 p.m. on Wednesday, 14 January 2015, unless the Water Services Bill 2014 is returned to the Dáil with amendments made in the Seanad, in which event the Dáil shall sit on Tuesday, 23 December 2014 at 11 a.m. and adjourn not later than 1 p.m. agreed? Agreed.

**Deputy Finian McGrath:** No comment.

**Deputy Dara Calleary:** Guím beannachtaí na Nollag agus athbhliain fé mhaise ar an Tánaiste agus ar mo chomhghleacaithe sa Teach seo agus sa Seanad.

I wish the Tánaiste and her colleagues in this House and the Upper House and their families every good wish for Christmas and the New Year. While we disagree on many things in this Chamber, the one thing we are agreed on is that we are very fortunate in this House to have staff of such excellence across all sections of the complex. I thank them for their work in 2014 and wish them health and happiness for Christmas and the New Year.

The Tánaiste referred earlier to referendums next year. Can she confirm whether it is the Government's intention to pass the children and family relationships Bill prior to May and the proposed referendum on marriage? Will she also say whether it is the Government's intention to hold a referendum during 2015 on our commitments with regard to the Unified Patent Court?

**The Tánaiste:** Ba mhaith liom Nollaig shona agus athbhliain faoi mhaise a ghuí ar gach duine anseo agus in Éirinn. As well as wishing Members a happy Christmas and a prosperous new year, I would like to extend our best wishes and thanks both to the Ceann Comhairle and Leas-Cheann Comhairle, as well as all the staff who work in the House and serve its Members so very well. I wish the best to them and their families at Christmas and for the new year.

My understanding is that work on the children and family relationships Bill is extremely well advanced. It is anticipated that it will be introduced early in the new year and will be completed prior to the holding of the referendum in respect of marriage equality.

The Government has not made a decision on the referendum on the establishment of a patent court.

**Deputy Jonathan O'Brien:** On behalf of myself and my party, Sinn Féin, I wish the Tánaiste and her colleagues in both this Chamber and the Seanad a very happy Christmas and a prosperous new year. I hope she has a very peaceful holiday. I also extend our best wishes and holiday greetings to all the staff who work in the Houses of the Oireachtas.

Given the success of the Convention on the Constitution in being able to discuss a wide range of issues and come up with several recommendations to the Government, is there any prospect of it reconvening this year to discuss further issues which may be relevant to the Constitution, particularly given the debate which took place in the Chamber over the past several nights, including the comments of the Minister for Health, other Ministers and Members on all sides who said the eight amendment needs to be dealt with? Are there any plans for this issue to be dealt with by the Convention on the Constitution?

**The Tánaiste:** I thank the Deputy for his good wishes and the good wishes to the staff.

My understanding is that the Convention on the Constitution has come to the end of its work. There are certainly no proposals to reconvene it this year. I am not aware of any other



proposals to do so either. Clearly, the matters relating to the eighth amendment to the Constitution require very careful consideration and debate. As was said earlier by Deputy Calleary, there is a wide range of views on it. In the case of my party, the Labour Party, we advocated against that particular change to the Constitution being adopted by the people. The people, in their wisdom, decided to adopt it, however. As democrats we have to accept that.

There are serious matters with this issue which require detailed debate. There has been no decision on the convention being a mechanism for that kind of detailed debate, however. On previous occasions, expert groups and committees have looked at the some of the extremely complex issues which arise in these cases.

**Deputy Brendan Smith:** RTE proposes to cease its long wave radio service which will affect a large number of Irish emigrants, particularly older emigrants, in Britain. It is also an issue of concern in many parts of Northern Ireland, particularly in north Antrim and other rural parts of the Six Counties. Yesterday, the foreign affairs committee unanimously agreed to write to RTE to request it give a commitment that it will not cease this service. Will the Tánaiste do likewise? We have very ambitious and laudatory plans to support the diaspora and connect better with it. The removal of this long wave radio service would be very detrimental, particularly for many older Irish emigrants who depend on it for keeping in touch with home and getting the news from here.

**The Tánaiste:** I am conscious this is an important issue for those affected. I am aware that the foreign affairs committee has been in discussions with RTE on the matter. I am sure RTE is also conscious about its far-flung listenership which likes to listen to programmes on the traditional long wave service. I will make inquiries as to what, if anything, can be done by RTE to address these changes. While the service may be replaced by digital audio, for a cohort of older people that may not be necessarily suitable or popular.

**Deputy Bernard J. Durkan:** I also support the request made by Deputy Smith for the retention of the RTE long wave radio service.

**Deputy Dara Calleary:** The Deputy does not need it.

**Deputy Bernard J. Durkan:** No, I do not need it as I live close by it.

**Deputy Dara Calleary:** They can hear him from here.

**Deputy Dessie Ellis:** He is on the same wave.

**Deputy Bernard J. Durkan:** Many Irish emigrants abroad have recourse to that service and regard it as their lifeline with home. It is of significant sentimental importance to them and I strongly support Deputy Smith's point.

At this time of the year, alcohol seems to be used as a loss leader by many of the multi-chain stores to the detriment of existing establishments such as public houses. To what extent is it intended to bring the alcohol pricing legislation forward, given that a case pending in the courts will be decided in another jurisdiction? Would it be possible to bring it forward here as a matter of some urgency?

**The Tánaiste:** The Deputy is lucky enough to have what might be called a Kildare shout. There is no difficulty in either ourselves or anybody else not being able to make out every word he has to say.

**Deputy Dara Calleary:** He is actually from Mayo.

**Deputy Finian McGrath:** He is a blow-in.

**The Tánaiste:** I anticipate the control and sale of alcohol legislation will be brought before the Dáil in the middle of next year.

**Deputy Finian McGrath:** I wish the Tánaiste and her Government colleagues a very happy and peaceful Christmas. I commend and thank the Ceann Comhairle, the Leas-Cheann Comhairle and all the staff who work in the Dáil and its vicinity.

On a happier note, to show I am not Mr. Angry all the time, will the Tánaiste join with me in welcoming yesterday's significant and historic breakthrough in relations between Cuba and the USA? Barack Obama, Fidel and Raoul Castro got together to end the embargo. Will the Tánaiste also join with me in commending Pope Francis I on his efforts in this regard which went on for several months? It is a major breakthrough. The Irish people have been pushing this agenda for many years. It is a historic day for me as I campaigned for the release of the Miami five. In case the Leas-Cheann Comhairle thinks I am out of order, this is covered by the mediation Bill. This historic day is good for world peace and international relations.

**An Leas-Cheann Comhairle:** It is probably covered by the Christmas dispensation Bill.

**Deputy Dara Calleary:** Comrade Finian McGrath.

**The Tánaiste:** I am delighted at what has happened in the relationship between the United States and Cuba. The boycott of Cuba had been in place for more than 50 years and I am delighted to see it lifted. I wish prosperity and positive developments from this for the people of Cuba. I understand this is covered by the mediation Bill. The Deputy will know that last weekend we marked the successful conclusion of the mediation I initiated for Waterford Glass workers and their outstanding pension issues. There is a strong role for mediation in disputes, both large and small.

I wish Sinn Féin and the other parties good luck in the North in their budgetary talks which are critical for the overall discussions in the North.

I am so delighted that Deputy Finian McGrath and I are in a truce. I wish him and, most importantly, all his constituents a happy Christmas.

*I o'clock*

**Deputy Robert Troy:** The issue of the sale of alcohol Bill has been mentioned today and I raised the matter with the Taoiseach during the debate on the increase in excise duty in the 2012 budget. At the time the Taoiseach said it would be brought before the House within a matter of months. Some three years have passed and today the Tánaiste has said this legislation will be before the House in the middle of 2015. How can we on this side of the House be confident that this will be the case?

Can the Tánaiste update the House on when the Government intends to publish the wind energy guidelines? She will be aware that members of her parliamentary party in the Dáil and Seanad have published legislation on wind energy policy but it has been on the shelf gathering dust for some years. When will the Government finally come forward with regulations on this issue?

Prior to the Easter recess of 2011 I asked the Taoiseach about the possibility of facilities for tabling and answering parliamentary questions while the Dáil is in recess. The Taoiseach informed me that by the summer recess arrangements would be in place for the tabling and answering of parliamentary questions while the Dáil is in recess. Four years have passed and we still do not have the facility to submit parliamentary questions to the various Departments while the Houses are in recess. Many Opposition Deputies find that parliamentary questions are the only way to get answers from Departments in some cases.

**Deputy Bernard J. Durkan:** That was also the case back when Fianna Fáil was in power.

**Deputy Robert Troy:** What of the democratic revolution?

**The Tánaiste:** As I said, the legislation on the sale of alcohol is anticipated to come before the House in the middle of next year. I do not have an exact date for the wind energy guidelines as Ministers have changed in both of the relevant Departments.

**Deputy Robert Troy:** Does that mean there has been a change in policy? Has there been a change in direction?

**The Tánaiste:** Both Ministers have met communities and organisations and have travelled the country to talk to people on what is a very sensitive and important issue.

**Deputy Robert Troy:** Has there been a change in direction?

**The Tánaiste:** I am not aware of any commitment the Taoiseach made to Deputy Troy on parliamentary questions but I do know that my Department uses a great deal of its resources, at a cost of several million euro per year, to answer parliamentary questions in their many facets and formats. I think my Department answers the largest number of individual parliamentary questions and my staff, at all levels, give a very dedicated service to Members of the Dáil and Seanad. A great deal of work is involved in answering the volume of questions received and we try to give detailed answers.

**Deputy Bernard J. Durkan:** Hear, hear. I thank the Tánaiste for that work.

**Deputy Mick Wallace:** I understood that the terms of reference for the commission of investigation in response to the Guerin report were to be published this week. I have tried to raise this matter on Topical Issues on a few occasions, without success. Can this be done today to allow speaking time here? It would be very disappointing if the terms of reference were published after the Dáil closes.

**The Tánaiste:** I understand that the Minister is ready to announce the terms of reference, though I am not sure precisely when this will occur. This matter was discussed by the Cabinet and I understand that the terms of reference are ready to be announced soon.

**Deputy Brian Stanley:** Like previous speakers, I wish all staff, Members and those on the Government benches a happy Christmas.

I welcome the new accord that has been agreed between Cuba and the United States as the people of Cuba have suffered greatly in the past 50 years and have shown great fortitude. Substantial progress was made by the people of Cuba, despite the blockade and the hardships they endured.

Climate change legislation is in the programme for Government, it is on the A list and has been scheduled for every term over the past two years. I welcome the fact that it is on the A list but the environment committee conducted a substantial report in the summer of 2013 and two months later the legislation arrived on the Minister's desk. We were promised the legislation would be before this House before Christmas. Last week, at the summit in Peru, some 194 states set the stage for a planned accord in Paris on climate change in 2015. The EU has set targets and we all want to meet these targets, including members of the Tánaiste's party. Why has the legislation been delayed and will the Tánaiste commit to bringing it before the House in the new year?

**The Tánaiste:** The first meeting of the Cabinet is to take place on 8 January and I understand that this matter will be raised on that occasion. The legislation will be dealt with in the new year.

**Deputy Joan Collins:** I, too, wish everyone working in the Houses of the Oireachtas a peaceful festive break. We can all go home, close our doors and have a nice Christmas dinner. Last week the Minister for the Environment, Community and Local Government, Deputy Alan Kelly, introduced a housing strategy commitment that people living on the street would be given secure accommodation before 25 December. I asked that 45 minutes be put aside this week for a report on this to the House. Can the Tánaiste or the Minister confirm that these beds will be provided and where they will be provided? Last week Focus Ireland supplied 30 beds but that leaves a need for around 160.

**The Tánaiste:** The plan brought before the House by the Minister, Deputy Kelly, included very good innovations like the night café, which guarantees that people living on the street can get tea, coffee, soup and other food. All of this is proceeding, as is the night bus to bring people to shelters with beds. A certain amount of accommodation has become available and I saw yesterday that the Archbishop of Dublin has opened new accommodation under the auspices of Crosscare. The details of the strategy were set out in the Minister's statement and a great deal of this is underway. I hope the strategy can help everyone sleeping rough on the streets of Dublin.

I lived in the city centre for a long time and I know that people in these circumstances can face very complex problems. Notwithstanding the best efforts of families, some people do not want to be with a large number of other people. I want the message to go out that beds are available if people want them but, for complex reasons, some people do not want to be with other people and we must respect this. I hope this is how ancillary facilities, like the night café, may be helpful to some people.

I commend the many people I know who have donated money and volunteered their time, concern and care for people sleeping rough. We would all like to see an end to homelessness in Dublin and a reduction in the drugs problem in Ireland in 2015 and 2016. Drugs are often, unfortunately, a major factor in homelessness.

**Deputy Peter Fitzpatrick:** The Horse Racing Ireland (amendment) Bill was due this session and was to amend and extend the Irish Horseracing Industry Act 1994, the Horse and Greyhound Racing Act 2001 and related matters. What is the status of the Bill and when will it be enacted?

**The Tánaiste:** I understand the pre-legislative examination of the proposals has been be-

fore the committee and that the Minister is currently examining the proposals made by the committee.

**Deputy Dessie Ellis:** We are still dealing with serious issues of mental health and the difficulties experienced by people in accessing mental health services, particularly through accident and emergency departments. We have seen the queues of people in Beaumont Hospital recently. The hospital had to turn people away and ask them to go to other hospitals. There is a major shortage of front-line personnel, including psychiatrists and nurses, in our hospitals. Blanchardstown hospital is another where there is a major shortage of personnel.

**An Leas-Cheann Comhairle:** That is suitable for a parliamentary question.

**Deputy Dessie Ellis:** The Government promised extra funding. Will there be a debate on the matter when the mental health capacity Bill is being discussed?

**An Leas-Cheann Comhairle:** You should take that up with the Whips, Deputy.

**The Tánaiste:** It will be before the committee at Christmas. I imagine the Deputy is aware of and has seen the fine new facilities opened recently in Blanchardstown and more recently in Grangegorman. They are providing vital services to people troubled by mental health issues. Furthermore, we have seen significant change with the opening and building of primary care centres throughout Dublin. Ultimately, as the Deputy is aware, the best way of providing for the needs of people with mental health issues is, at a local level, to prevent people from having to go into hospital as far as we can.

I am satisfied with the ring-fenced budget my colleague, the Minister of State at the Department of Health, Deputy Kathleen Lynch, has for this matter in respect of the recruitment of staff, which is ongoing, and the provision of greater facilities. I know Deputy Ellis takes an interest in the matter. He will be aware that issues relating to drugs are a contributory factor in the level of mental health difficulties in Irish society. All of this will be down for debate and consideration in the committee early in the new year.

**An Leas-Cheann Comhairle:** I thank Members for their good wishes and wish Nollaig faoi shéan agus faoi mhaise to all Members and to the staff of the Houses.

### **An Bille um an gCeathrú Leasú is Tríocha ar an mBunreacht (Síocháin agus Neodracht), 2014: An Chéad Chéim**

#### **Thirty-fourth Amendment of the Constitution (Peace and Neutrality) Bill 2014: First Stage**

**Deputy Mick Wallace:** Tairgim:

Go gceadófar go dtabharfar isteach Bille dá ngairtear Acht chun an Bunreacht a leasú.

I move:

That leave be granted to introduce a Bill entitled an Act to amend the Constitution.

This Bill sets out to have Ireland's neutral status affirmed by adherence to the provisions of the 1907 Hague Convention (V) respecting the Rights and Duties of Neutral Powers and Persons in Case of War on Land. According to Article 2 of the Hague Convention (V): "Belligerents are forbidden to move troops or convoys of either munitions of war or supplies across the territory of a neutral Power". Thus, from March 2003, Ireland could not be described as a neutral state. When Dr. Ed Horgan took a case against the State because it was in contravention of the Hague Convention, Mr. Justice Kearns stated that international law was clear on the duties and responsibilities of a neutral state, but that since such law was not part of the Constitution or domestic law, neutrality was simply policy, and if the Government wished to end it then he, as a judge, had no role in that decision.

The Fine Gael-Labour Party Government included the following clause in the programme for Government, "We will enforce the prohibition on the use of Irish airspace, airports and related facilities for purposes not in line with the dictates of international law." However, to date, the Government has not done so.

The fact that Irish neutrality is a Government policy rather than a constitutional necessity represents a significant risk. It was clearly demonstrated in March 2003 that the Government, under the then Taoiseach, Bertie Ahern, misled and railroaded Dáil Éireann into Irish participation in the US-led Iraq war by the simple expedient of issuing a declaration that participation in this war was not participation, thereby ending Irish neutrality while declaring falsely that Ireland was still neutral. To avoid such international and national wrongdoing in the future, it is vital that neutrality be included as an article in our Constitution by a referendum of the people, in order that only a referendum of the people can reverse that decision.

As John Lannon and Ed Horgan of Shannonwatch have pointed out, we have already abandoned neutrality by allowing US forces engaged in wars throughout the world to use Shannon Airport on a scale that was never permitted or envisaged prior to 2001. Since then, Ireland has provided direct support for unilateral military intervention by the US and its NATO allies, most notably in Iraq and Afghanistan. This support has included facilitating the transit of 2.5 million armed troops plus additional military aircraft through Shannon Airport. It has also included the deployment of members of the Defence Forces with the NATO-led international security assistance force in Afghanistan. Therefore, we need to re-establish Irish neutrality first and then amend the Constitution to ensure it is not undermined or breached again.

The weight of diplomatic efforts of a neutral Ireland could be far greater than those of a non-neutral Ireland. In the latter case, supporting NATO, which is where we will eventually end up if we continue to dilute our neutrality, will mean that our foreign policy is effectively dictated by external, more powerful states. The alignment of Ireland with other states that are engaged in war presents a significant security threat to the people. Shannon Airport is now associated with the illegal US invasions and occupations in Iraq and Afghanistan as well as military interventions in other parts of the world. This puts the airport at risk, and the only way to fully and clearly address that risk is to affirm Ireland's neutral and non-aligned status.

The Taoiseach has repeatedly defended the US landings in Shannon and indicated his trust in US assurances to a series of Governments to the effect that the planes were not being used in any way that violated Ireland's neutrality laws. The recent report into the CIA torture programme has unequivocally shown that these US assurances are worthless and that we would be foolish to continue to trust them. In the interests of State security, will the Government see the necessity of either stopping the US landings at Shannon or at the least checking the contents of

every plane? We are already complicit in the illegal torture of countless prisoners, the majority of whom have been held in gulag-like conditions without trial for up to 13 years.

In 2007 the Irish Human Rights Commission conducted an extensive review of the matter and concluded that the State was not complying with its human rights obligations to prevent torture or inhuman or degrading treatment and that its reliance on the assurances of the US Governments was not good enough. In June 2011, the UN Committee Against Torture said it was concerned at the various reports of Ireland's alleged co-operation in a rendition programme, as part of which rendition flights used the State's parties, airports and airspace. The committee said it was also concerned about the inadequate response by the State in investigating these allegations.

Most of the information in the US Senate report relating to the different countries involved in the CIA torture programme was redacted under pressure from the Obama Administration and the CIA. If we care to get to the truth of the reported US military use of Shannon Airport for extraordinary rendition, we should ask the United States Senate Select Committee on Intelligence to supply the relevant sections of the full unredacted report as soon as possible.

**An Leas-Cheann Comhairle:** Is the Bill opposed?

**Minister of State at the Department of the Taoiseach (Deputy Paul Kehoe):** No.

Cuireadh agus aontaíodh an cheist.

Question put and agreed to.

**An Leas-Cheann Comhairle:** Since this is a Private Members' Bill, Second Stage must, under Standing Orders, be taken in Private Members' time.

**Deputy Mick Wallace:** Tairgim: "Go dtógfar an Bille in am Comhaltaí Príobháideacha."

I move: "That the Bill be taken in Private Members' time."

Cuireadh agus aontaíodh an cheist.

Question put and agreed to.

### **Presentation and Circulation of Revised Estimates 2015: Motion**

**Minister for Children and Youth Affairs (Deputy James Reilly):** I move:

That, notwithstanding Standing Order 159 of the Standing Orders of Dáil Éireann relative to Public Business, Revised Estimates for the Public Services for the year ending 31 December 2015 be presented to the Dáil and circulated to Members and be referred to Select Committees or Sub-Committees, as appropriate, pursuant to Standing Orders 82A(3)(c) and (6)(a) and 159(3) and paragraph (8) of the Orders of Reference of Select Committees.

Question put and agreed to.

### **Membership of Committees: Motion**

**Minister of State at the Department of the Taoiseach (Deputy Paul Kehoe):** I move:

That Deputy Brian Stanley be discharged from the Select Committee on Finance, Public Expenditure and Reform and that Deputy Peadar Tóibín be appointed in substitution for him.

That Deputy Peadar Tóibín be appointed to the Select Sub-Committee on the Department of the Taoiseach.

Question put and agreed to.

### **Council of Europe: Appointment of Representatives**

**Minister of State at the Department of the Taoiseach (Deputy Paul Kehoe):** I wish to inform the House that the following persons have been selected and nominated as representatives and alternates for Ireland to the Parliamentary Assembly of the Council of Europe until the end of 2015. The full representatives are Deputy Joe O'Reilly, who will be leader of the delegation, Deputy Michael McNamara, Deputy Olivia Mitchell and Senator Terry Leyden. The alternates are Deputy John Halligan, Senator Katherine Reilly, Senator Jim D'Arcy and Senator Catherine Noone.

### **Protection of Children's Health (Tobacco Smoke in Mechanically Propelled Vehicles) Bill 2012: Report and Final Stages**

Bill received for final consideration.

Question proposed: "That the Bill do now pass."

**Minister for Children and Youth Affairs (Deputy James Reilly):** I am genuinely delighted to be here, one week before Christmas, to complete this legislation's journey through the Houses. One of the best Christmas presents we can give our children is to protect their health and well-being. This important Bill goes some way towards that. I thank the Senators who brought this Private Member's Bill to the Oireachtas, and all the Senators and Deputies who so positively supported the legislation throughout the legislative process.

Protecting children from harmful tobacco products has long been a priority for me as Minister for Health and now in my current role as Minister for Children and Youth Affairs. I supported this legislation when it was introduced as a Private Member's Bill, developed by Senators Crown, van Turnhout and Daly.

In June 2012 I received Government approval for the principle of prohibiting smoking in cars with children present and for the drafting of amendments to the Private Member's Bill. Those amendments were made and accepted. I thank all those involved in this process in the Office of the Attorney General, the Departments of Justice and Equality, Transport Tourism and Sport and in particular An Garda Síochána. The purpose of the Bill is simple: it will prohibit smoking in cars where children are present. It will be enforced by An Garda Síochána. It will



bring about a cultural change whereby we will all seek to protect our children.

Environmental tobacco smoke is a carcinogen. It contains the same cancer-causing substances and toxic agents that are inhaled by the smoker. There is no safe level of exposure to second hand smoke. Compared with adults, children breathe more rapidly and have a less developed immune system. They are more susceptible to the effects of second hand smoke. They are unable to remove themselves from risk if people smoke around them. Children's exposure to second hand smoke in cars is involuntary and is particularly harmful to them in enclosed spaces such as cars. Parents and others with responsibility for the welfare of children have an obligation to ensure that such exposure does not take place. This legislation is a reminder to people not to light up in a car with children present. Where people disregard this reminder it will serve as a punitive measure. I reiterate this legislation is to protect children not to penalise smokers. In order for it to commence it requires the development of regulations. It will also have to be incorporated into the operating systems of An Garda Síochána. Officials will work with An Garda Síochána and other relevant Departments to put these arrangements in place as soon as possible. I commend the Bill to the House.

Question put and agreed to.

**An Leas-Cheann Comhairle:** A message shall be sent to the Seanad acquainting it accordingly.

### **Road Traffic (No. 2) Bill 2014 [Seanad]: Second Stage**

**Minister for Transport, Tourism and Sport (Deputy Paschal Donohoe):** I move: "That the Bill be now read a Second Time."

I thank the House for facilitating the introduction of this Bill at such short notice. The Bill involves technical amendments to existing legislation to deal with issues related to the endorsement of penalty points on driver licence records and contains a provision to address the implications. In essence, this Bill is about road safety and preserving the integrity of the fixed charge notice and penalty points system.

Deputies will recall that, in the Road Traffic Act 2014, which was passed by the House last year, provision was made for the adjustment of penalty points for certain offences, for the endorsement of penalty points on the record of foreign driver licence holders and for the reduction of the disqualification threshold for learner and novice drivers from 12 penalty points to seven. As is normal with road traffic legislation, sections of the Act were commenced at different times. Among the penalty points adjustments in the 2014 Act were provisions for bringing the offences of using a vehicle without a valid National Car Test, NCT, certificate and parking a vehicle in a dangerous position into the fixed charge notice system, with the consequent endorsement of three penalty points on the person's licence record. I commenced the relevant section of the 2014 Act for these and other adjusted penalty point offences with effect from 8 December 2014. Prior to commencement, these were straight to court offences attracting five penalty points on conviction. In other words, people who committed these offences could not avoid a court appearance by paying a fixed charge.

When preparing the Commencement Order, an oversight in the legislation was detected in my Department. The Road Traffic Act 2002, which first established the fixed charge notice and

penalty points system, provided for the endorsement of the relevant number of penalty points on the records of those who made payment on foot of fixed charge notices for offences listed in the Schedule to the Act. It excluded from this provision those offences which were straight to court offences, including using a vehicle without a valid NCT certificate and parking a vehicle in a dangerous position. When the 2014 Act was being drafted, these two offences should have been removed from the exclusions contained in the 2002 Act. Due to an oversight, this did not happen and I am proposing to rectify the position in this Bill. There are no implications from this oversight so long as it is closed by the provisions of this Bill.

The other issue that the Bill addresses also relates to the endorsement of penalty points. Section 2 of the Road Traffic Act 2002 provides the basis on which penalty points can be endorsed on a person's record following the payment of a fixed charge under section 103 of the Road Traffic Act 1961. Section 8 of the 2014 Act amends section 2 of the 2002 Act by substituting a reference to section 37 or 44 of the Road Traffic Act 2010 for section 103 of the 1961 Act. In other words, with the enactment of the 2014 Act, penalty points would be endorsed on payment of the fixed charge under those sections of the 2010 Act. Section 8 of the 2014 Act was commenced with effect from 1 August 2014. Unfortunately, because sections 37 and 44 of the 2010 Act have not yet been commenced, the commencement of section 8 of the 2014 Act removes the power to endorse points on the licence record. To summarise, when the 2014 Act was brought in the section that referred to the application of penalty points due to the receipt of fixed charge notices made reference to two sections in the 2010 Act that had not been fully enacted. That issue arose and was identified when I was dealing with the first issue.

Section 2 of this Bill seeks to address both of the issues to which I referred. The section also provides clarity on a situation where an offence has been committed but the appropriate penalty points associated with the offence have been increased before the fixed charge is paid. The section reflects the current practice of endorsing the number of penalty points that were applicable on the date the alleged offence took place. The concern that arose when this error was detected was that there might be a question mark over the penalty points endorsed since 1 August following the payment of a fixed charge. I contacted the Office of the Attorney General on this point and received comprehensive advice which pointed out that the legal vacuum caused by the commencement of section 8 of the 2014 Act could not be said to reflect the intention of the Oireachtas, which can be taken to have been that there would be, at all times, some mechanism for endorsing penalty points on the driving licences of persons choosing to make a fixed charge payment in lieu of a potential prosecution. On the basis of this advice, I am satisfied that it is appropriate to provide that penalty points that have been endorsed following the payment of fixed charges should be retained on licence records. The effect of section 3 is that penalty points endorsed since 1 August following payment of a fixed charge are deemed to have been lawfully endorsed. This is appropriate as the drivers involved will have received a fixed charge notice for the alleged offences and made payment on foot of it. The fixed charge notice will also have advised the person of the number of penalty points to be endorsed on his or her licence following payment. This is a key point in the proposal.

The issue that has arisen relates to a flaw at the end of the process of receiving penalty points, that is, the point at which they are attached to a driver's licence after he or she has accepted responsibility for a road traffic offence. I am not proposing to create a new offence but to deal with the administration of an offence for which responsibility has been accepted. This concern applies only to drivers who have paid the fixed charge. The penalty points applied to drivers convicted by the courts were not affected, as endorsement in these circumstances is

provided for in a separate section of the 2002 Act. While the number of penalty points affected by this issue is wide, the legislation does not address penalty point offences adjudicated on in court; it deals only with those applied by means of payment of a fixed charge notice.

When the fault in legislation was detected in the week before last, I instructed my Department immediately to cease issuing advice to drivers who had paid the fixed charge notifications that their licences would be endorsed. With the enactment of this Bill, endorsement of licences will recommence. However, to remove any doubt that the penalty points that were not endorsed in the two and a half week intervening period may be now applied, the Bill provides in section 3(3) for the endorsement of these points.

I introduced a Committee Stage amendment in the Seanad which has become section 3(4) of the Bill. The purpose of this subsection is to make it clear that section 3(1) is not intended to infringe in any way the constitutional rights of individuals. The subsection was inserted following judicial review proceedings taken in the High Court on Monday in which the applicant challenged the endorsement of penalty points on her licence which resulted in her disqualification. The constitutional separation of powers prohibits legislative interference in proceedings in being before the courts. This provision will ensure the section cannot be interpreted in a manner that would interfere or be perceived to interfere with proceedings pending before the courts.

The fixed charge notice and penalty points system has played an important part in enhancing road safety and has been very effective since its introduction in 2002 as part of a suite of measures in addressing safety concerns on the roads. The main objective of the penalty points system is not to penalise but to raise awareness of unsafe practices and, as a result, reduce the number of deaths and injuries on the roads. The system is widely accepted by members of the public, as evidenced by the fact that more than 70% of those served with a fixed charge notice pay the stipulated amount without recourse to the courts.

The Bill provides a means of addressing inadvertent errors that took place in recent months. I am satisfied that its enactment will correct these errors and provide, in accordance with the previously stated will of the Oireachtas, a clear legal basis for the endorsement of penalty points when a fixed charge payment has been made following a road traffic offence. The provisions will also ensure penalty points endorsed following the payment of a fixed charge since 1 August remain on the licence record.

I again thank the House for facilitating the Bill. I am sure Deputies will appreciate the urgency of the matter. The Bill is being introduced to ensure the robustness and integrity of a system that plays a vital role in saving lives and reducing the number of injuries on the roads are maintained. I commend it to the House.

**Deputy Timmy Dooley:** I thank the Minister for outlining the provisions of this relatively short Bill which is technical in nature. The Fianna Fáil Party supports the legislation. The Oireachtas has done a good job on the issue of reducing the numbers of deaths and injuries on the roads by taking a non-partisan approach to road traffic legislation in the past ten years. As I have indicated previously, I wish to continue with this non-partisan approach.

As the Minister noted, the purpose of the Bill is to protect the integrity of the penalty points system. It is unfortunate that the circumstances he described have arisen. It appears, having taken advice from the Attorney General, that he is precluded from going further than he has in the Bill. The 2014 Act omitted to refer to the previous penalty points legislation and, as such,

undermined the provisions contained therein. I remain concerned, given the retrospective nature of the Bill, about the potential for a legal challenge. It is essential that the integrity of the penalty points system be protected and that the law covering this area stand up to legal scrutiny.

As the Minister noted, the technical flaw in the legislation may affect up to 78,000 drivers. The introduction of penalty points for driving offences by the then Fianna Fáil Government helped to transform road safety and saved thousands of lives. The legislation in question was enacted with the assistance of the Fine Gael Party and other parties in opposition at the time. The House has maintained a relatively progressive approach to developing legislation and reducing the number of deaths on the roads. Notwithstanding this, the number of road deaths began to increase again in 2012, possibly as a result of a reduction in enforcement caused by a decline in Garda numbers. The previous chairman of the Road Safety Authority, Mr. Gay Byrne, laid the blame for the increase in the number of road deaths on the dramatic reduction in resources allocated to road safety. He referred specifically to the reduction in the budget of An Garda Síochána preventing the force from reaching the levels of detection that would result in a continued reduction in the numbers of deaths and injuries on the roads.

The Government must refocus its efforts to prevent road fatalities and provide the Garda with the resources it needs to carry out road safety duties. Once the legislation has been passed, the Minister will have an ongoing battle at the Cabinet table as he fights his corner to ensure additional resources are provided for the Garda for road safety purposes. While the Road Safety Authority is a self-financing agency which no longer requires financial transfers from the State, road safety efforts must be supported and funded through the Garda budget.

The Bill has been introduced to address technical flaws in the 2014 Act which extended the use of penalty points in road traffic legislation. Sections of the Act failed to make reference to the Road Traffic Act 2002 which had established the penalty points system. It is important that we find a solution to the problem that has arisen. Having sought some advice on the matter and spoken to people in legal circles, concerns remain that while the issue identified is a relatively insignificant technical error, it involves the imposition of more than 200,000 penalty points on more than 76,000 motorists.

While the issue is identified as technical in nature and relating to two specific offences, namely, using a vehicle without a test certificate and parking a vehicle in a dangerous position, the error relates to all motorists detected of a penalty point offence and all penalty points since 1 August. Because of its size and scale, the expectation is that there will be numerous challenges to the legislation and its retrospective nature. The Minister has identified one which has begun this week, rightly so, and he has identified the need to carry out the separation of powers. There will be no interruption to the enforcement of road traffic offences under the penalty points system. Indeed, the error identified will lead, as I said, to multiple challenges, one of which has already begun.

To take the substantive issue dealt with in the second part of the Bill, under section 8 of the Road Traffic Act 2014 reference is made to previous statutory provisions contained in sections 37 and 44 of the Road Traffic Act 2010. Sections 37 and 44 must be read in the context of section 35 of the Road Traffic Act 2010, and this updates the statutory provisions regarding the services of fixed charge notices. Section 35 is not an issue here. However, section 37 of the Road Traffic Act 2010 deals with the payment of fines where the motorist acknowledges wrongdoing, discharges the fine and accepts the penalty points within the statutory 56 days. Section 37 of the Road Traffic Act 2010 has not been enacted and, therefore, section 44 of the Road Traffic

Act 2010 deals with the payment of a fixed charge and the service of a summons. This allows a motorist to pay a fine and accept the endorsement of penalty points on a licence beyond the expiry of the statutory 56 days and where a summons has issued. Prior to the summons being lodged and entered in court, this is a further mechanism in which it is proposed that a motorist can accept wrongdoing but not have to appear in court.

Section 44 of the Road Traffic Act 2010 has not been commenced. Therefore, section 8 of the Road Traffic Act 2014, which was commenced on 1 August 2014 under SI 147 of 2014, refers to both section 37 and 44. As neither of these sections of the Road Traffic Act 2010 have been enacted, any reference in the subsequent and amending legislation of section 8 of the Road Traffic Act 2014 is, based on the legal advice I have, erroneous and seeks to evoke provisions which have not yet been commenced. This, again, is identified as a simple legislative error. The legal advice available to me suggests it is open to considerable challenge. Obviously, we will have to wait and see how that plays out in due course.

In conclusion, while we accept the legislation and will support it, we are concerned that the retrospective nature of the Bill is open to significant challenge. Obviously, at a later stage, it may prove impossible to endorse the points to which this legislation seeks to give legislative foundation. If that happens, I guess there is nothing that can be done about it, other than that we will have to accept it and move on. However, it will mark a stark blow to the whole structure of our penalty points system and the integrity that surrounds that. If that happens, we will have to deal with it. The Government and the Minister will have to be far more imaginative in the way they resource the Garda Síochána, as I said at the outset. Perhaps if they can deal with that, it will help to address whatever fallout emerges from the mistake that has occurred in this instance.

**Deputy Dessie Ellis:** Huge strides have been made in recent years in regard to safety on our roads. This year and last year, however, for the first time in a number of years, we have seen an unfortunate rise in the number of deaths on our roads. It is a well-worn statement that one life lost is one too many, and we must always strive to reduce road fatalities and the potential for the accidents that cause them.

Major strides have been made in the past decade with the introduction of the penalty points strategy, which had greater success than even the Government of the time had expected. This success was due, in part, to the ability of penalty points and the attached fines to modify the behaviour of Irish road users. Practices that were commonplace in the 1990s are frowned upon and shunned today, which has meant drivers now use the road in a safer and more secure and careful manner.

The strength of the deterring effect of penalty points was down to two things, in the main - one, that the public saw the administration of penalty points as fair, and, second, because they had sufficient reason to believe they would receive penalty points if they flouted the law. These two essential planks of the penalty points system's effectiveness have been severely damaged over the past three years, and this issue has not helped the matter. The mistake of not removing the requirement for a valid NCT and dangerous parking from the list in previous legislation, making them exempt from fixed charge penalties, was just that - a mistake.

I have many issues with the Government and the politics behind many of its policies, which extends to this Department, but it would be wholly unfair to not understand that mistakes are made and human error is always a danger. This Bill was debated in the House and this issue

was not picked up by anyone. I must state that this speaks to an issue in the way Bills are drafted and presented to the Dáil. On more than one occasion I have read Bills which were before the House and which required sitting down with two or three previous Bills in the same vein, going back and forth to decipher what each new section meant. I have had some experience of reading legislation in the last few years and have become more accustomed to this practice, but it remains a difficult and sometimes confusing endeavour to really try to get a firm understanding of the effect of each section.

This is made all the more difficult when we consider that a reference might not have been made which should have been made. This issue could only have been identified by the drafter, given the current way we deal with legislation. Providing expertise in the drafting of Bills rests with the Department and checks and balances are essential. We must look to present legislation which is easier to work with and to consider all the implications it might have on previous Acts in the same category. How this is done is another question, of course.

The failure to commence the other section in question was another case of human error, which we must work to avoid at all costs but which will always be a possibility. In recognition of this, I would like to express my appreciation of how the Minister has handled this. I am sure we will probably lock horns again in the near future but, in the last week, the Minister has acted swiftly and with consideration for the Opposition and the desire across the board to see this issue fixed. With 78,000 people affected from 1 August to 3 December, and with 49 licences suspended and the possibility of many more, the Minister had to act quickly once this problem was identified and understood.

The Minister met transport spokespeople from the Dáil and the Seanad. I ask that this engagement become more commonplace and certainly be continued for the duration of the outworking of this Bill. I also ask the Minister to agree to update the spokespeople and the committee in the new year on other issues.

For many members of the public it is very difficult to take the time to make an in-depth analysis of these somewhat complicated issues but it is important that this remedy is seen to be fair and proportionate. Confidence in the penalty points system has been damaged by scandal in recent times. Most people strongly believe that some people, by way of influence or a good connection to a member of the Garda, can make penalty points disappear - whether we like it or not, that is what most people believe. There is a case for transparency and fairness in the administering of the scheme, not scrapping it as some might argue.

This is especially important in the context of a policing organisation which has weathered three years of harsh austerity. Cuts made by this Government have meant fewer gardaí, fewer vehicles and fewer stations but, all the while, more responsibility for road safety is laid at the door of the Garda. They have clearly worked extremely hard to fill the gaps caused by this lack of resources, but they cannot be spread so thin and continue to be effective. Less capacity for gardaí to do their job means more people continuing to drive dangerously on the roads and more people who should have been banned remaining behind the wheel. This is clearly why we have seen an upturn in road deaths in the past two years. Without proper resources, we cannot return to the success of previous years. I do not believe we have reached a threshold. There are still people flouting the law and endangering lives. We can do better; the key is to give the correct supports to the Garda to do its job.

I also want to raise issues concerning the NCT. Vehicle safety is as important as safe driv-

ing. I do not dispute that drivers must have a valid NCT to drive, but there is a problem when it is not so easy to undertake an NCT test within a short period. We raised this issue when the Bill was discussed previously. The Minister has said that waiting times are not a problem, but this is not borne out by the experience of the people I speak to. I have been told of people waiting for a test appointment for two, three, four or five months. This is far in excess of the 11 days the Minister cited, although that might be the case in some test centres.

The NCT centre in Ballymun has a fixed time period for conducting each test, and workers are instructed to complete the tests in that time. However, that time period has been reduced recently. I am concerned that this quicker turnover of cars could lead to health and safety issues. The Minister said that if tests could not be provided within 28 days drivers would be offered a free test, but the number of free tests has been very low. I wonder if people are being offered these free tests - I have not heard that they have - or if they do not know that they should ask for them, which might explain the low figure.

The NCT and the definition of dangerous parking are two issues that the legislation has not dealt with properly. It is not clear to ordinary citizens what we mean by “dangerous parking”. We need to get the message out and explain this further. I am not clear on what is meant by the phrase. I realise that when people park they could cross over a line or enter another square, but it is unclear what is meant by this. We need to get the message out more.

In the past, I mentioned the GoSafe vans and issues with regard to where and how they park, such as inaccuracies in terms of where and how they parked and where and how their cameras were set up. Do we need to look further into these areas? We are aware that judges have quashed penalty points and that cases have been thrown out of court for various reasons. Has a proper analysis been done of this? Have we looked carefully enough at the issues to ensure we will not see other problems down the road in regard to these vans? Two serious anomalies have been identified in this Bill, but we may yet face a legal challenge, despite the fact the Attorney General’s advice is that the Bill should be robust enough to withstand such a challenge.

We will not oppose the Bill, as road safety is so important. The Minister mentioned an addition to the Bill from the Seanad in the context of a case taken recently. Will he elaborate on that addition? I understand he is saying this is to safeguard the integrity of that case, but that the enactment of the legislation does not prohibit others from challenging it. I ask the Minister to comment on this in his response.

**Deputy Finian McGrath:** Before I start, I wish the Ceann Comhairle and his staff a very happy Christmas and a peaceful new year. I wish the same to the Minister of State, Deputy Ring, and the Minister, Deputy Donohoe. I hope they enjoy the break. They deserve it, as they have had a rough few weeks in the House.

**Deputy Michael Ring:** We are tough.

**Deputy Finian McGrath:** Yes - well able to take the heat. I thank the Chair for the opportunity to speak on this new piece of legislation, the Road Traffic (No. 2) Bill 2014.

Before I go into detail, I wish to say that the penalty points issue is driving many people mad. There is no doubt that there is grave injustice in some cases. This leads me to wonder and ask whether this is just another way of making money or of hammering regular people or soft targets who do not generally break the law. They seem to be getting hammered in the neck from every quarter, and the penalty points are just another example of that. Let me give

an example. The other morning I was driving to work and saw an unfortunate man in a white van, who was driving to work with his ladder and other gear, drive slightly into the bus lane. Within ten seconds a garda appeared, flashed him down and pulled him aside to give him the full monty. I presume he will get penalty points as a result. The reason I give this example is that one week previously, when I contacted the Garda about part of my constituency that was being intimidated by drug gangs and gang leaders, they said there was nothing they could do about it unless the people being intimidated came to the Garda with the evidence. The point is that the ordinary Johnny in the van who is going to work is hammered, while people who are causing havoc throughout the city are left to walk around freely. People see this as a grave injustice. I do not blame the Minister for that, but that perception exists and is part of what leads to the anger in our broader society. I am horrified at this and want the Minister to understand that when a regular working or unemployed person gets two, three or four points added to his or her licence for something trivial, but there is no action taken on other serious issues, people have a reason to be angry.

To give another example, if the ordinary man in the van has a little Johnny or Mary who plays football on the road, a garda will stop them and warn them that they cannot do that. However, when a public representative contacts a garda to report something or when a community is being devastated by drugs, gardaí will say they have no evidence and can do nothing. That is not the kind of Ireland I want to be part of. Recently, I heard the Minister of State, Deputy Ring, speak about the kind of Ireland he wants to live in. We must be cautious that a nanny state does not evolve.

A change was made to the penalty points system in August and a problem was discovered in early December in regard to how the penalty points were being applied to licences, whereby they were not in order due to an oversight. The Minister then had two choices. He could either give everyone who had received penalty points in between August and December an exemption, or he could retrospectively apply the new rules. I represent the regular working man or woman, and the jobs of some of those people are dependant on not having penalty points. I have met taxi drivers who have lost their taxi plates and licences over the issue of penalty points. This is an issue we must examine. We need a common sense approach.

Despite the fact that choosing option two could lead to legal challenges by individuals who lost their licences during the period after accruing high points, the Attorney General is confident in her opinion that retrospectively applying the new rules, as opposed to applying an amnesty, is within the law and that any such challenge would be unsuccessful. As a result, the Minister went for option two. I call on the Minister to focus on the real issues.

*2 o'clock*

He has a responsibility and I will support him on the broader issue of public safety but I have serious questions about this policy given the issues that constituents raise with me.

Speeding and drink and drug driving are no-nos but what about the little man and little woman who are regularly picked off and fined €80 and who are left wondering about what will happen when they reach eight penalty points for three minor offences they committed while driving back and forth to the shops? I was on Griffith Avenue the other night. There is no speed limit sign but a van was parked on the side of the road picking off people leaving the football club and so on. A total of 35 or 40 people were picked off who might have been ten or 11 km over the speed limit. These are soft targets and it is like shooting fish in a barrel. That gener-



ates anger and does nothing for road safety. This was at 9.30 p.m. when the school was locked up with no kids around.

Reference has been made to driving under the influence of alcohol or drugs. The Shane O'Farrell case was horrific. A young Trinity College student from County Monaghan was mowed down and killed and nobody batted an eyelid except his mother, Lucia Farrell. She approached us, having approached the previous Minister, and raised the case. The guy who hit him walked free. There is injustice within the system and the law and this also drives people mad. The Minister has to stop letting people down.

There is also an issue about confidence in the penalty points system. A transport policy cannot be implemented without confidence and trust. The penalty points system was seriously damaged when certain people started having their points quashed. I have penalty points and I put my hands up because I should not have committed an offence. However, I recently drove to Kerry and I had to slow down going through every town but it was easy to drive accidentally above the speed limit. I could have returned to Dublin with another six penalty points and been in serious trouble. There has to be confidence and trust in the system and penalty points have to be applied fairly. While the Minister has responsibility for this and I support the legislation, he must recognise the broader picture and not just think that all he has to do is introduce a new scheme to hammer Johnny and Mary who go out to work and obey the law every day of their lives. We need to give them a break. This is linked to a root and branch reform of the entire system.

The Bill makes technical amendments relating to the endorsement of penalty points on a person's driver licence. As of 8 December, there is a fixed charged penalty for the offences of using a vehicle without a valid NCT certificate and parking in a dangerous position with penalty points consequent on payment of the fixed charge. Previously, people accused of these offences were required to go to court and received additional penalty points on conviction. I welcome the reform in this section. The Minister got away lightly with the learner drivers, an issue similar to this. I do not know how many learner drivers there are in the State but 90% of them are law abiding but he has introduced legislation that provides that they must have a fully qualified driver sitting beside them in the car. That does not encourage safe driving. The learner drivers I know are hell of a lot safer than others driving around the State breaking laws left, right and centre. They felt they were a soft target in the public safety debate. I want to represent the soft targets and the regular person.

During drafting of the legislation, a second issue came to light in respect of section 2(1) of the 2002 Act, which provides the basis on which penalty points can be endorsed on a person's record following the payment of a fixed charge. The original reference to this payment came under section 103 of the Road Traffic Act 1961.

I will support the legislation but there are issues the Minister should consider. He said the legislation presents no financial implications for the Exchequer but there are significant financial implications for many innocent people who are being hammered every day by penalty points and by laws that are excessive. At the same time, when they seek safety and protection for their children from drug dealers and drugs gangs, they cannot secure it.

**Deputy Michael Fitzmaurice:** Most Members will work with the Minister on this. While everyone has a responsibility, when we support something, it needs to be done in a rational way. Once a Bill goes through, sadly, given the increased regulation introduced for motorists, com-

monsense seems to go out the window. We all travel around Ireland and GoSafe vans can be seen everywhere in 50 km zones. They are there to collect money because, in general, they are not found at blackspots. They are in places where they can catch someone travelling at 2 km or 3 km. over the speed limit. That aggravates many people because they feel they are being short-changed in the context of legislation being introduced in the public interest.

There has been a major problem in recent months getting vehicles through the NCT. People have received penalty points because of a failure to display a valid NCT certificate but if something is not done to address a problem such as this backlog, the Minister has to put his hands up and say he did not have the resources to address that and in the best interests of everyone, take a step back, get it right and then impose whatever sanctions he wants.

I have a major problem with the legislation relating to learner drivers. Every one of us had a provisional licence. At the time, we did not even go to a driving school because as youngsters we probably drove in a field for a while to get used to driving a tractor or a car. We got the feel of a vehicle and when we went on to a road, we were wary of ourselves. However, the statistics highlight that learner drivers are not responsible for the safety issues on our roads. The Minister is from Dublin but he needs to bear in mind that in rural counties such as Mayo, if youngsters get into college in a city, their parents might buy them a car because of the price of accommodation so that they can drive back and forth to their home. The sad reality of regulation gone wrong is that they would be as well off if they never bought the car because they have to jump in the car beside them when they go to college. If someone has ten or 12 lessons done with a driving instructor, he or she should be able to sign a certificate to say the person is fit to drive on the road.

People may be worried about speed when youngsters are starting off. Tachographs and special speedometers were installed in lorries years ago and there is no reason the speed at which a car travels cannot be restricted when people are starting off. It may be a solution rather than putting families to significant expense. They may not be able to afford to send their youngsters to college but they might have a diesel car for them to travel up and down. That would not cost near as much as if they had to take accommodation. We need to examine these issues in a commonsense way. Another thing that is causing the major problem around this country at the moment is the issue of trailer licences. For 15 or 16 years, they have been going to marts and town. They have been turning, twisting and doing everything one could with the car and trailer. They are now illegal on the road. In the past few weeks, I have seen that gardaí have actually pulled people up and penalty points are involved. These drivers are as good as any one would see but once again, we have gone mad on regulation. We need to think before we do some of those things.

It is worrying thing, particularly in rural parts of Ireland. What is the interpretation of parking in a dangerous place? A farmer could be on the side of a by-road for five minutes looking at cattle. Does a garda interpret that as dangerous parking? Everyone believes there should be penalty points for driving recklessly. Perhaps a person could pay a fixed penalty charge for the first, second or third times without penalty points. Anyone can make a mistake once or twice but if it keeps recurring, obviously the penalty gets heavier.

In respect of the two points I highlighted, those young people are not reckless. They are trying to start in this world. Many of them are trying to give themselves an education. They are to the pin of their collar trying to finance all of this. We could put a limiter in a car, which can be done as we have done it with the lorries where it has worked successfully. We also need to

sort out the issue of trailers. We need to have a bit of common sense about it besides saying that a person got a licence in 1991 and that on 13 September before it, they were sound and could drive away and the gardaí would give them another tick on their licence while if it was a day after that, the gardaí would not give them the tick on their licence. That is regulation gone mad and bureaucracy gone wrong.

I will support the Bill but I ask the Minister as a new Minister to start looking at common sense and not just listen to what somebody who does not understand says. I advise the Minister to ask the likes of the Minister of State, Deputy Ring, because he knows what it is like to live in areas like that. He knows the different problems in different areas of Ireland. The Minister cannot just cater for one section of a community. He must cater for everybody.

**Deputy Mattie McGrath:** I am also delighted to be able to speak on this legislation. I have not made up my mind as to whether I am going to support it. It is not because I do not want to see road safety because I do. I read about the background and context. I am very concerned about it, as I am about a lot of legislation in recent times. Information I have received states that as the Bill is in effect emergency legislation, pre-legislative scrutiny by the Oireachtas Committee on Transport and Communications and the Oireachtas Select Committee on Transport, Tourism and Sport has not occurred. According to some reports, regulatory impact analysis is not expected for the Bill for the same reason. That is very concerning for any legislation. We know why the Minister is here today. He had only two choices - address this loophole or let it go. A total of 78,000 people are affected. It is very bad. Rushed legislation is bad legislation. We cannot cater for everything but the people who draft the legislation should try to ensure that it is read and understood through the impact assessment.

There has been no impact assessment of many pieces of legislation that have been passed recently regarding the effect on ordinary families. I support all the safety measures. One death on the roads is one death too many, particularly coming up to Christmas. It is an awful tragedy. I heard about a hit-and-run last night on the news. One accident is one too many. Much of the legislation in recent years has proved that many bad practices have been wiped out. As I said, this loophole must be filled. However, I question the cost of running GoSafe. Estimates of the cost were provided and my understanding is that the cost has gone way above that. The lads in the vans have a hard enough job in those conditions sitting in a van in all kinds of weather but they seem to be in places in my constituency where there were not that many fatalities. We were told that this was the reason they were there so I question that.

I also want to put the issue of weight restrictions on record on behalf of road hauliers. My colleague, Deputy Healy-Rae asked me to mention this. There is a derogation at present and I know the Minister has the option of renewing that. I appeal to him for the sake of business, road hauliers, employees and the families involved to continue this derogation because a pallet list on a load is make or break. It is the difference between being profitable and unprofitable and those involved are hard-pressed at the moment.

I would also ask the Minister to look at hedge cutting. We are talking about bad practices. There are aspects of the Bill regarding parking in a dangerous place. None of us can accept that somebody should park in a dangerous place. However, one might park in a very safe place but the bushes on country roads are growing to the middle of the road. Egress and access to fields, particularly for contractors and farmers, are impossible. The Government should look at the legislation that stops people from cutting roadside hedges at any time during the year. We heard Deputy Healy-Rae's brother's comments about how birds will not nest in a place if they think

they will get destroyed. Birds have brains. People must be able to cut hedges all year round in the interests of safety because one has to come out to the middle of the road. Normally, agricultural machines have a long bonnet and the driver is not sitting as close to the front as they would in a car so they must come out to the middle of the road and it is highly dangerous. It is highly dangerous for tourists as well. One cannot navigate around roads. They are closed in in many parts of the country. I am referring to my constituency. We need to look at the legislation to see whether we can do something about hedge cutting. I know that submissions on this issue are being taken and they should be looked at.

I salute the staff I know in NCT centres because they work very hard. However, people cannot get an NCT test. The Minister is saying they can but I can give examples of countless cases. I have heard them on "Liveline" with Joe Duffy and people have contacted me telling me that they had been notified in early November that their NCTs are up at the end of December. However, the earliest test they can get is mid-February and sometimes March. I have spoken to the gardaí and I salute the Garda traffic corps for the work they do. I have spoken to an inspector in my area. They have said that they cannot put people off the road for this and they must try to work within the law as best they can and be liberal in their attitude. If a man going to work is stopped three times with no NCT certificate despite the fact that he has applied for a test and he is trying to be law-abiding, he could be off the road. That is a farcical situation. It is those who are on the road all time trying to make a living and look after their families who are being penalised here. The Minister must amend this because the NCT centres are running beyond their capacity and cannot manage. I want to see fairness here because the person who never goes to work or does anything is fine but the man on the road, be it a haulier or an ordinary man going to school, Mass, a match or the shops or to see Santa Claus with the kids, is affected. It is farcical that such people should be affected despite the fact that they cannot get the NCT test. They have got their car pre-checked in garages and have paid for it and they have to wait for the NCT. That is not viable.

In his reply, could the Minister clarify the following matter? In the NCT charter, which is on the website of the Consumers' Association of Ireland, it states that if a person cannot get a test within a certain length of time, they will get a free test. It also states that if they arrive at the centre at an appointed time and do not get a test within an hour, they will get a free test. Why are people not made aware of this? I am not blaming the workers who work very hard in these centres - at least the one I go to - and who are very efficient. If a person cannot get a test on the date they were given and they are supposed to get a free test, they should get it because the consumer is weighed down with regulations, as other Deputies have said. I ask the Minister to look at that.

I now turn to the issue of "L" plates and learner drivers. I recently said on the radio that-----

**An Ceann Comhairle:** The Deputy is straying a bit.

**Deputy Mattie McGrath:** A small bit but it all relates to road transport.

**An Ceann Comhairle:** We have gone from hedge cutting to learner drivers.

**Deputy Mattie McGrath:** It is road safety.

**An Ceann Comhairle:** Perhaps the Deputy would stick to what is in the Bill.

**Deputy Mattie McGrath:** I am trying to but hedge cutting is very serious in rural areas.

**An Ceann Comhairle:** I know it is.

**Deputy Mattie McGrath:** Road safety is a farce if one cannot see where one is going or cannot see the road signs.

**An Ceann Comhairle:** I agree with the Deputy but it is not in the Bill.

**Deputy Mattie McGrath:** I have raised the issue of “L” plates and learner drivers. I have five kids who have full licences. My wife and I were able to train them. That is the way it works. However, a mother or father cannot always accompany a young driver to work or college. It is fine in Dublin and other cities because people can access public transport, but there is no rural transport service. Therefore, it is not fair or equal and legislation must be fair and equal to all citizens. Young drivers are forced to travel together in one car, which leads to accidents because of brinkmanship and peer pressure. They are buying cars and insuring them before going onto the road. Perhaps they should be subject to a curfew between 11 p.m. and 7 a.m., but it is not fair to penalise them. Research indicates that only 6% of accidents are caused by young drivers in cars with “L” plates.

The issue of making vintage vehicles undergo the NCT should also be considered. Such vehicles certainly must not be allowed on the road if they are unsafe, but their engines will not stand up to tests for fumes because they are old. These vehicles are part of our heritage and it is wonderful that they are being preserved. The vintage car associations are very concerned about this issue. Legislation must be practical and, as Deputy Finian McGrath noted, we should not victimise people. I acknowledge that is not what gardaí do and I salute them for the work they do across the country. However, it is not fair to introduce legislation which requires them to stop motorists for relatively unimportant issues. Then we have people like Lucia O’Farrell, whose son was mowed down by a driver wanted in two jurisdictions for up to 30 crimes.

I salute the Garda for administering the law, but I question the use of vans. I hope somebody will challenge the provision under which the two penalty points are doubled if the fine is not paid and the individual concerned is brought to court. That is a strange provision. If somebody misses the first notice, his or her penalty points will be doubled and a serious fine may be imposed.

I wish the Minister well with the Bill, but I ask him to consider the issues I have raised. They are important for hard-pressed families. Some of these provisions appear to be a cash cow, which is not fair. People need to respect the law, but it also needs to be accepted by them.

**An Ceann Comhairle:** The Minister of State, Deputy Michael Ring, and Deputy Michelle Mulherin will be sharing time.

**Minister of State at the Department of Transport, Tourism and Sport (Deputy Michael Ring):** I am delighted to share time with Deputy Michelle Mulherin as we share the same constituency.

I commend Members of all parties for supporting this legislation. It is a credit to them because we cannot compromise on road safety.

Deputy Mattie McGrath referred to a derogation for hauliers. I have raised that issue with the Minister who has given me a good hearing and I know that he will do the right thing. I thank him for giving the issue so much thought. He understands there is a problem in this regard and

I hope he will deal with it when he gets an opportunity to do so.

Deputy Michael Fitzmaurice made a valid point which I also made a number of years ago when I was on the opposite side of the House. It is an issue that should be considered at European level. I refer to manufacturers producing high performance cars, despite legislation in every European country prohibiting vehicles being driven faster than 100 km/h. These cars can reach twice that speed. Sometimes I do not agree with the legislation produced in the Europe and Union and hope the Minister will ask at European level why manufacturers are allowed to produce high performance cars when legislation in most countries restrict the speeds at which they can drive. If we can land people on the moon, it is not impossible to make cars that can only go as fast as the speed limit.

When this problem arose, the Minister was attending an important meeting in Brussels. He immediately asked his officials to deal with the issue by contacting the Attorney General and preparing the necessary legislation, which we are now considering. He did an excellent job in solving a problem that was not of his making and I commend him for closing the loophole.

We have made considerable progress in reducing the number of road deaths. Last year there were 181 which was 181 too many. However, 365 people, or one person per day, were killed in 2006, while 640 were slaughtered on the roads in 1972. We have, therefore, made considerable headway. To give credit where it is due, the previous Fianna Fáil Government brought forward legislation to deal with this issue. As a consumer and practising politician who lives in the west, I do not like penalty points, but I acknowledge that they have slowed me down and that they have saved many lives by slowing others down. That is why I compliment Opposition Deputies for supporting the Bill. This is a question of road safety and saving lives.

I urge motorists to drive slowly over the Christmas period. We do not want the local priest, doctor or garda knocking on a door at 3 a.m. to tell a mother or a father, a brother or a sister, an uncle or an aunt that a loved one has been killed on the road. Let everyone enjoy a peaceful Christmas without people being killed on the roads. I have attended too many funerals during the years because of tragic deaths which could have been avoided.

For the sake of road safety, it is important that secure legislation be in place and that we obey the law. This is a technical Bill which closes a loophole to ensure people can have confidence in the law.

A number of valid issues were raised by Opposition speakers in regard to penalty points. The Minister is someone who listens. He has a conscience and knows how people have to live. I have confidence that he and his officials will review the penalty points regime to determine how well it is working. This is not about money; it is about road safety. I do not like speed cameras or penalty points, but, as Deputy Willie Penrose will know as somebody who travels to Dublin from the west on a regular basis, we have to slow down because of the speed camera vans. That proves that the legislation works. People will obey the law if it is seen to be fair. They may say judges make decisions in court. Judges have a job to do which they do very well. If they find that legislation which has passed through the House is flawed, they have a duty to protect the citizen. They have a duty to ensure that the legislation enacted by the Oireachtas is proper legislation. I would not be critical of a judge who reviews and makes a decision on penalty points or the law in this country. That is their job and we have put them in that position. That is the reason they do it and they do it very well.

18 December 2014

I wish to compliment my colleague, the Minister for Transport, Tourism and Sport, Deputy Paschal Donohoe. I was in the Department before he was appointed and he has done an excellent job. He uses common sense. He is a man who sees what must be done and ensures it is done. When he saw this problem he dealt with it quickly.

The Deputies in the Opposition who will support this legislation are doing the right thing. Sometimes in politics one must do the right thing. I compliment them. We might fight with one another in the House occasionally, but when something is right for the common good, everybody must support it. I also compliment all the previous speakers. I did not hear anybody say that road safety is not an issue or that there should not be penalty points or a law to protect people on the roads.

There were 181 deaths on the roads last year. That is a lot of people, a lot of families and a lot of hurt. Many people in this country have suffered. In previous years the number was 640, so we are making progress. We all hope the time will come when no person will be killed on the roads. Sometimes when I see accidents where people have been killed on the road I often wonder if they might be suicides and whether they should be recorded in the same way as accidents. It is an issue that should be considered.

Ultimately, the laws we are introducing are working. I compliment the Minister on the part he has played and for closing down this loophole as quickly as possible. I also thank the Members opposite for their support.

**Deputy Michelle Mulherin:** I acknowledge and welcome the efficient and professional approach of the Minister in dealing with this amending legislation to resolve the issue with penalty points. As the Minister of State, Deputy Ring, said, we might not like penalty points, but they are there for a reason. We must keep that foremost in our minds.

I wish to bring two important issues to the Minister's attention and perhaps he might act on them. They relate to the NCT. The first is the renewal of the NCT certificate for vehicles which are off the road. The NCT is in place to ensure that vehicles are roadworthy and are not likely to cause an accident for other road users or, indeed, for the driver of the vehicle. The current position with NCT certificates for vehicles that are off the road is that if one's NCT certificate expires and one takes the vehicle off the road for six months, after the six-month period one must put the vehicle through the NCT again. However, the certificate one is given will be backdated to the commencement of the six-month period off the road, which is the date on which the previous NCT certificate expired. It has retrospective effect. That makes no sense. It causes additional expense and bother for the vehicle owner or for a garage where the vehicle is on the forecourt but not on the public road.

The new NCT certificate should run for the 12 months from the date of the test, not from the anniversary of the date of the initial registration of the vehicle. There should be no need to backdate it when it is off the road. It will not be a hazard on the road because it is off the road. The NCT is a road safety measure, not a revenue-earning bonanza for National Car Testing Service Ltd. or a means of unduly inconveniencing citizens with red tape. In the case of motor tax, an individual can declare in advance that a vehicle will be off the road so that he or she can avoid liability for payment of motor tax during that period. A similar regime should be introduced for the NCT certificates. This type of regime already exists in other European jurisdictions, and I ask the Minister to move to a more sensible approach whereby the certificates would only operate from the date of the test, especially where a person takes the opportunity to

declare the vehicle to be off the road.

The other matter that concerns me is the introduction of penalty points for driving a vehicle without a valid NCT certificate. I can vouch for the situation in my local car test centre in Ballina. If my NCT is due in January or February next and I seek an appointment today, the earliest date I will get is at the beginning of March. I accept that there is a priority list, where an individual might benefit from an earlier date if there is a cancellation. That was the information I was given today by National Car Testing Service Ltd. However, if the test does not happen, is it not manifestly unfair that an individual should receive penalty points where the NCT certificate has expired in these circumstances? It is outside his or her control owing to the fact that there is a waiting list. The person has applied for the test but cannot get a date. What will the Minister do to ease the situation?

The regime I described earlier concerning vehicles that are off the road is adding to the problem. There are more demands for test appointments on account of vehicles that are off the road receiving certificates with retrospective effect. It means that a vehicle such as the one I described will only have a six-month certificate when it is put back on the road and will be back for another NCT in six months. That is another reason to change that regime.

I seek reassurance from the Minister for motorists who are caught in those circumstances. Even though they have applied for the NCT, they cannot get a date within a reasonable period of time. What discretion does a garda have not to issue penalty points in a situation in which a motorist has applied for the test? Perhaps the Minister will provide clarification on that. This is not something theoretical. It is a real problem in my area, and many people use the test centre in Ballina. It is also a problem throughout the country. I accept that there is a priority list, but I am concerned with the eventuality that somebody cannot be catered for owing to the massive demand that currently exists. Perhaps the Minister would speak on that and also consider changing the rules relating to the certificate for vehicles that have been off the road.

**Deputy Willie Penrose:** I welcome the opportunity to make a contribution to the debate on this Bill. We are all aware of why it became necessary to introduce this measure to amend the Road Traffic Act 2002 and the Road Traffic Act 2014 in respect of penalty points. It is a loophole or a lacuna which has arisen as a result of the implementation of the Road Traffic Act 2014. Two significant issues emerged. These matters would not arise if we had consolidated legislation. I said the same in respect of the companies legislation. It is a nightmare. Legislation should be clear and implementable, and everybody should know the consequences. It is not fair when individuals find themselves with consequences visited upon them. We all have a duty in this regard.

One of the issues relates to section 2(1) of the Road Traffic Act 2002, which facilitates the endorsement of penalty points on a licence record following the payment of a fixed charge. Section 2(1) expressly exempted from its effects a list of offences that are subject to penalty points but not fixed charges. On 8 December last, a fixed charge penalty was imposed for the offences of using a vehicle without a valid NCT certificate and parking a vehicle in a dangerous position, with the penalty points consequent on payment of a fixed charge. The NCT issue is causing mayhem in some areas. I am due to have my NCT in February and I will probably get the test on time in Mullingar, but that is not the case in other areas. One can make an application for the test, but under the legislation one can make all the applications one wishes to make, but one must have an NCT certificate. If I could not get the test in February, it would mean I had to sit at home from that date and not travel to the Dáil. It is so stupid as to be unbelievable. I



endorse what Deputy Mulherin said. What should happen is that when one makes the application one is given a receipt confirming that the application has been made, and that should cover the motorist in the event that he or she is stopped by a garda. It is unbelievably simple.

Common sense is worth all the doctorates that everyone in the world can muster. I was a postgraduate student, but I have a brother who is a far sharper lad altogether. Let us be clear about this and not deprecate people or run them down. People who only came through national school could write this Bill without any errors. I salute all the people who are honed in the school of common sense and reality and who had to work their bones off in rural Ireland. There are probably people of the same type in urban areas as well. However, I am speaking unashamedly as a rural advocate and I am sick to the teeth of some of this. It was all right when a garda could have some discretion. Now, you cannot say “hello” to a garda without it being written down. Gardaí have to implement penalty points because it is in the law. Apart from the risk of disqualification, penalty points can increase people’s insurance costs. The Minister is putting people off the road, although it is not his intention. From what the Minister of State, Deputy Ring, says, the Minister has a fair lot of commonsense in his head, notwithstanding that he has a very high level of education, and I appeal to him to use it.

The Bill seeks to amend section 2(1) of the 2002 Act so as to delete references to the two offences that have been exempt, namely, failing to display a valid NCT certificate and parking in a dangerous position. The second issue is more important and significant. It appears to have arisen from the application of section 2(1) of the 2002 Act and how it coexists with section 8 of the original Act of 2014. It contains a number of provisions relating to the endorsement of penalty points and appears to have its genesis in the failure to commence sections 37 and 44 of the 2010 Act, which specifically refer to section 8(b)(i) as the means of endorsing penalty points on a person’s licence after payment of fixed charge notices.

This is all gobbledygook, and I am a barrister. Ordinary people should be able to work this out without paying a barrister or solicitor. It should be clear. This is part of the problem. Laws are constructed in such a way that the negative always applies in order to achieve the positive and for someone to understand it. It is time it was all cleared up. Let us leave behind our colonial past and bring laws back into language the plain people understand.

It is clear that there is a problem with the fact that section 8 of the 2014 Act commenced on 1 August and brought into being a legislative error in so far as sections 37 and 34 of the Road Traffic Act 2010 had not yet been commenced. While the legislation did not provide for endorsement of penalty points within a fixed notice system in which a person has paid a fixed charge, section 103 of the 1961 Act remains valid. It was inserted by means of section 11 of the 2002 Act. Mother of divine institution. While the Bill will address a number of these problems on a prospective basis, clarity will no doubt be sought by way of judicial determination as to the lawfulness of the penalty points endorsed between 1 August and the day the Bill is passed, in respect the payment of a fixed charge. The question of retrospectivity must be addressed and considered within the ambit of the constitutional provisions, especially Article 15.5.1° of the 1937 Constitution. It is important that retrospective legislation does not conflict with the constitutional provisions.

The question which arises in this case, and which appears to have been considered by the Attorney General, is whether Article 15.5.1° of the Constitution applies to procedural or remedial matters. In the case of the Minister for Social Affairs *v.* Scanlon [2001] 1 IR 64, the Supreme Court held that the Social Welfare Acts could provide for the recovery of wrongly paid

entitlements on a retrospective basis. However, I think this is a little more, and while I will not go into the ring with the Attorney General, who is very competent, I would not mind arguing from the far side of the fence. In this instance, the question that will arise for consideration is whether the retrospective operation of a criminal procedure ruling infringes the constitutional provisions. It appears that some court decisions indicate that it might not, and the Minister, the Government and the Attorney General are clinging to this.

We are bound by legal provisions, the Constitution, the European Court of Human Rights and European conventions. We must take a whole corpus of law into account. It will be interesting and a challenge, but it will be judicially determined. The cohort of cases between 1 August and now are critical. Hard cases make bad law, as they say. The Minister is trying to remedy something and I salute him because we all subscribe to road safety. The Minister of State, Deputy Ring, outlined, as only he can, the frightening statistics from the 1980s and the 1990s and the progress we have made. The previous Government played a major role in it and I salute it.

I turn to road traffic law and the application of penalty points to improve driver behaviour and to reduce the numbers of deaths and serious injuries on our roads. There has been a major extension of the number of offences which attract the imposition of points and other penalties. In August 2014, a lower threshold of points leading to the disqualification of learner and novice drivers was introduced and in recent weeks, penalty points were introduced for learners driving unaccompanied and learner and novice drivers failing to display L plates and N plates. There was confusion about the novice drivers who have passed their tests, and I accept the Minister's clarification of it. The lower threshold of seven points leading to disqualification applies to drivers who took out learner permits on or after 1 August 2014 while they are driving under a learner permit and for the first two years they drive under a full driving licence. Young people in urban areas may be able to leave the car if they do not have a qualified driver to accompany them, and still be able to go about their tasks by travelling on a bus, Luas or taxi in their immediate environment. However, those facilities or resources are not available to people where I live, in rural Ireland, or in Belmullet, the Aran Islands or some of the places whose names the Minister of State, Deputy Ring, used to resonate across the Dáil in his heyday.

**Deputy Paschal Donohoe:** He still does.

**Deputy Willie Penrose:** It is great to see him back in the arena. These transport facilities are not available to people who live outside the Pale, and it worries me. Very often, legislation seems to suit the big towns and cities and the Pale, while we are forgotten about in so many ways. The legislation will prevent young people from using their vehicles, despite having undergone stringent theory tests and having had a huge number of lessons from professional tutors. If nobody qualified is available, the car remains parked outside their doors and they cannot reach their destinations. Many, if not all, of these young people would be far better qualified than many of us, having undergone their theory tests. When we learned to drive, 35 years ago, we did no theory tests. It was enough to recognise a few signs, do a handbrake start and reverse around a corner. My colleagues, who are wiser than I, have done this.

While the Minister is going the right way with the high level theory test, he must re-examine this. Young people would be far better qualified than people like me, who have had a licence for almost 40 years and who, notwithstanding the experience they have gained in the those years, have garnered poor habits which a learner driver would be better to avoid. Many parents in rural areas may buy vehicles to allow their children to travel to third level institutions. I have

in mind Athlone Institute of Technology, one of the finest in the country, for example. These people come from rural areas such as Ballinacarrigy, Castlepollard, Multyfarnham, Bunbrosna, Edgeworthstown, Lisryan and Coolamber. These cars would be useless and there is no bus to bring them to Athlone Institute of Technology. In the absence of a qualified driver to accompany them they cannot access third level education, and it is nonsensical.

My colleague, Senator Marie Moloney, raised this in the Seanad with the Minister. I salute him for taking the debate there. These things do not go unnoticed by the ordinary mortals like ourselves. Senator Moloney gave the Minister the statistics available for 2013, and they showed that 6% of fatal collisions involved learner drivers, which means 94% did not involve a learner driver. Similarly, 6% of collisions in which serious injuries were sustained involved learner drivers and 94% did not. We are leaning very heavily on learner drivers. The Minister can point to accidents involving people aged under 25. I am a practising barrister and am not blind. I have three daughters aged 25, 22 and 18, and they are far more careful than I. People see this as another way of punishing people and safety does not seem to be the paramount objective. The RSA is driving this, and while it has done good work, if safety and competence among young people is its prime objective, why not consider adopting a proposal I have made here over the years? I propose the RSA liaises with the Departments of Transport, Tourism and Sport, Education and Skills and the Environment, Community and Local Government and get them to incorporate driving lessons into the school curriculum. Driving is as important as the three Rs. When a young person emerges from secondary school or the transition year programme or at whatever point one might like to do this, one should ensure they have had access to simulation with motor vehicles. I recall visiting Mullingar community college five or six years ago where this was being done by a company based in County Monaghan. Fair play to Mullingar community college which was ahead of the curve in giving students three or four lessons. The Minister should not be afraid to be innovative. I note his officials are writing and I am glad that is the case. Eight to ten lessons should be provided free in order that when young people emerge from secondary school, they will have the necessary confidence, competence and skills to drive a motor vehicle and will understand the dangers of driving at speed, recklessly and without due care and attention, as well as the importance of driving with no alcohol or drugs in one's system. As I am a pioneer, it is easy for me to say this, but I am glad that the Minister has brought forward legislation providing for drug testing which is a huge step. While I might have the odd negative comment to make here and there, let me praise all of the positive measures the Minister is taking.

A second point I have made during the years concerns something that has been in place across Europe for young drivers and workers under 21 years of age. One should restrict the size of motor vehicle and, even more fundamentally, ensure there is a speed restrictor or governor in place in all such motor vehicles driven by young people under 21 years old in order that they cannot exceed speeds of 60 km/h, for example. It is simple and one would have solved the problem. It would be a practical way of dealing with the issue, rather than not allowing young people who have received important levels of tuition in driving, to drive their cars. The Minister should request the Road Safety Authority to examine this proposal because I genuinely believe - I am making this point in a constructive fashion - it would contribute to road safety in a positive manner and help to achieve the objectives of the graduated licence system he has introduced. This is practice.

I have referred to the national car test, NCT, and the long delays people have experienced and will experience in having their vehicles tested. This is of crucial importance in the con-

text of it now being an offence to use that vehicle without a valid NCT certificate. It attracts significant penalty points, which I could not believe. While it is all right to impose penalty points, I could not believe it and asked myself whether I had fallen asleep in letting that measure through. Therefore, I call on the Minister to ensure drivers are not victimised by the imposition of penalty points when, despite their best efforts, they are unable to secure an NCT slot owing to centres being booked out. As I said, when people are trying to comply with the law, one should allow for this. If they can produce a certificate and are not engaging in pretence, the garda concerned could take a reasonable view.

There is another old issue that the Minister of State, Deputy Michael Ring, mentioned, that is, speed limits are often adjusted. I recall speaking in this Chamber on this subject approximately ten years ago, when the Minister of State used to drive along the same road as me through Palmerstown, beside where Deputy Thomas P. Broughan came from originally. At the time there were five or six speed limits on the road which the Leas-Cheann Comhairle would also have travelled. There were varying limits of 40 mph, 50 mph and 70 mph and one would go from one to the other when, bang, one would be caught. Moreover, one often finds GoSafe vehicles parked or positioned in areas that are genuinely safe. I have not seen accidents at some of the places at which they are located. In common with the Minister of State, I acknowledge and accept that they operate and I am aware of the reason behind their use, but while I travel extensively throughout the country, they are often placed just inside the speed limit zone, which is the sneakiest of things to do. One might just have driven into a speed limit zone and the next second one is caught. They are often also located outside churches or graveyards and I believe reference was made to this in one of the cases. One should be open about this because otherwise, one creates the perception among the public that it merely is a way to collect money. There will be a perception that it is not about safety at all but about collecting money and that it is a revenue-generating device.

These are all practical points and Members must pay far more attention to these real issues that have an impact on citizens in rural areas. I note that two Deputies present, Deputies Thomas P. Broughan and Dessie Ellis, come from the northside of Dublin and they probably experience the same thing. I am sure they could describe parts of their constituencies as rural also, but I refer to where one does not have everything available. I have always been an unashamed advocate on behalf of people in rural areas and rural issues and perhaps had Members paid a little more attention to the genuine issues and matters raised by Deputies from rural areas, there might not be splits in the parties that are leading to the emergence of new parties and groups. People are frustrated that their opinions not getting through. I refer to people outside the Pale and must emphasise that those of us from outside the Pale believe we often do not get a fair shake of the bag. I imagine the Minister of State has often made that point.

**Deputy Thomas P. Broughan:** Westport United got it though.

**Deputy Willie Penrose:** Fair play to that club, it is a good soccer team.

**Deputy Michael Ring:** So did every club in Dublin.

**An Leas-Cheann Comhairle:** Deputy Willie Penrose to continue, without interruption, please.

**Deputy Willie Penrose:** It is high time people outside the Pale were recognised and that legislation reflected their concerns.

I am not simply raising these issues just to be awkward, but I hope these proposals will be accepted in the spirit in which I have put them forward.

I will conclude by noting that while it is important to concentrate on learner drivers, one should note that they have received eight or ten lessons, from which they emerge with a level of competence that I am sure was not matched by the level with which Deputies Thomas P. Broughan and Dessie Ellis and I emerged. To be clear, we received three or four lessons and perhaps did not even have the price of them. While they are reaching that level of competence now, were one to include them in the school curriculum, it would be guaranteed. All Members present studied the three Rs, but this skill is as important because unless one has a full driver's licence on one's curriculum vitae, in the country one may as well say goodbye to the hills as far as getting a job is concerned. The Leas-Cheann Comhairle who comes from a rural constituency knows that unless one has a driver's licence, it is goodbye. I do not refer to Dublin in this regard but simply to the general position in rural areas. It is easy for people in urban areas as they can manage, but it definitely has been proved to be difficult in rural areas. I urgently ask the Minister to consider these proposals because they would be well received in rural Ireland and generate both greater respect for the law and people's adherence to it, once they saw there was a common-sense touch to it.

**Deputy Thomas P. Broughan:** Probably like other Deputies, before considering the Bill, I examined the latest horrendous death and casualty figures on the roads, to which the Minister of State, Deputy Michael Ring, may have referred. I understand the figure currently stands at 188 deaths in 2014 - the comparable figure this time last year was 181 - with 40 pedestrians and 11 cyclists having been killed. These are really shocking statistics because if there was a disaster involving air or rail transport in which 188 people died, the House would be talking about it for weeks. A public inquiry would be held and major action taken, yet, year in and year out, unfortunately, it appears to be acceptable to have these numbers of casualties. Moreover, it must be stated that, on the Minister's watch and that of his predecessor, Deputy Leo Varadkar, the position has deteriorated in respect of the number of casualties. In tandem with the new chairperson of the Road Safety Authority, former Deputy Liz O'Donnell, and its new chief executive, Members must try to reduce seriously these numbers because they are simply horrendous. Again, in a point to which I will refer, one should think of the terrible effects on the families and friends of each one of those 188 people, as well as on those others who were seriously injured. This is a point to bear in mind when considering the Bill and I am grateful to have the opportunity to contribute to the debate.

In a way, this debate should not be happening and it should not have been necessary to have it because Members effectively are meeting in emergency session to correct lacunae in road traffic law. The legislation should have been right from the outset and the Minister has a responsibility to the House for that fact. He is directly responsible to Members in being obliged to correct these two matters today. Moreover, his predecessor, Deputy Leo Varadkar, and the former Minister, Mr. Noel Dempsey, also bear a heavy responsibility for the necessity to bring forward this legislation. That said, Members are now in this position and I support the Bill because it offers important protection for road users. As I understand it, it addresses two loopholes in road traffic legislation as it relates to the penalty points system. The first concerns the validity of penalty points for the offences of using a vehicle without a valid NCT and parking in a dangerous position. I note that the Minister's intention in section 2 is to correct references in road traffic legislation about the applicability and endorsement of penalty points for these offences.

*3 o'clock*

As far as I understand it, the Bill also seeks to ensure that those offences which are now fixed charge offences are deleted from a list of exemptions of offences upon which driving licences would be endorsed with penalty points upon payment of a fixed charge. As I understand it, section 2(1) of the 2002 Act will be amended, in effect to delete references to the two above offences, as being exempted.

The first gap we are correcting relates to two very important offences. The recent flurry of people applying for NCT appointments appears to highlight that. I have some sympathy for the cases outlined by Deputies Mulherin and Penrose in terms of how the test operates in their areas. In the case of the Minister, Deputy Donohoe and I, we have the Ballymun facility which operates in an efficient way. People have said, for example, that they would like to have their NCT before the three-month period. Deputy Penrose is correct that if one has made a genuine attempt to get one's NCT it should be proof that one is trying to have the test carried out. That is an area the Minister could seriously examine to see how we could make it more efficient, in particular in terms of allowing people to have an early NCT.

Parking in a dangerous space is another issue. Any of us who were councillors prior to becoming Deputies recall that such an issue came up a lot, for example, outside supermarkets and schools. It is important the issue is remedied.

The second loophole relates to correcting the effect of section 8(b)(i) of the Road Traffic Act 2014 because this amended section 2(1) of the Road Traffic Act 2002 and made reference to sections 37 and 44 of the Road Traffic Act 2010 in substitution for section 103 of the Road Traffic Act 1961, but because the sections of the 2010 Act have not yet been commenced the endorsement of penalty points upon payment of a fixed charge would not be valid.

Again, I welcome the legislation in correcting the loopholes but I must reiterate my strong concerns because we should not have to be in the Chamber again to correct the legislation. I understand the loopholes came to light during a High Court challenge by a motorist who had received a number of penalty points and when an inquiry was made about the endorsement of the penalty points by the motorist's solicitor, it transpired that the legislation was defective or infirm.

I note that the second loophole which the Minister seeks to address in the Bill specifically refers to section 44 of the Road Traffic Act 2010. As the Minister is well aware, I have called for the enactment of section 44, which provides for the so-called third payment option. I made such calls a number of times in the media. Under this mechanism, a person who is served with a summons for a fixed charge offence will have a final opportunity to pay a fixed charge, of an amount 100% greater than the original penalty, not later than seven days before the court date on which the charge is to be heard.

As the Minister is also aware, the PARC Road Safety Group, brilliantly led by that great citizen and road safety activist, Ms Susan Gray from Donegal, has consistently campaigned for the enactment of section 44. I understand PARC raised the matter with the Minister. I also understand the Minister's predecessor, Deputy Leo Varadkar, and the Minister for Justice and Equality, Deputy Frances Fitzgerald, met with members of PARC in June of this year and committed to enacting section 44. I am informed that making section 44 operational requires the allocation of resources to an Garda Síochána to update its IT systems to recognise the creation

of a new structure in the penalty points system. I was told that at one of the Minister's meetings with PARC in September that it was said to the multi-stakeholder group under the remit of the Department of Justice and Equality that €6 million would be provided to update the Garda IT systems. That has been sought for many months. The courts also needed to update their systems. I understand they were quicker off the blocks in doing that, but some issues still arise in terms of the Garda system. If the necessary resources are available the Minister must ensure they are drawn down. That should allow for the system to be updated. However, it appears there are further delays in making the necessary changes. I would like the Minister to explain the reasons for the delay in the enactment of section 44 in his response. Mr. Bob Olson, of the Garda Inspectorate carried out a major report for the Government on fixed charge processing and he highlighted section 44 as one of the elements the Minister must address.

I am often asked why fixed charge notices are not delivered by registered post. Deputy Penrose outlined brilliantly the reason we need plainly written legislation steeped in common sense. Instead of the rigmarole in court, if one commits the offence, one should take the points and improve one's driving. That is the whole idea of penalty points. Why can we not have registered post in order that there would be no question over the delivery of fixed charge notices? It seems bizarre that such an approach was not taken.

As our barrister colleague, Deputy Penrose, said, the problems with the road traffic legislation, which the Minister is now attempting to rectify, highlight the need for a consolidated road traffic Act. I think the Minister referred to that in his introductory remarks for which I was unable to be present. Everyone knows the legislation on road traffic is complex. On many occasions in recent decades, because of the complexity of road traffic legislation, it has been shown to be easily open to challenge by an intelligent solicitor in a court. That is also a factor in the ongoing unacceptable level of bad driving and ultimately deaths and casualties on Irish roads. On numerous occasions in the Dáil, including during my time as transport spokesperson for the Labour Party for a number of years, I called for the consolidation of road traffic legislation. The current situation whereby there is a large number of Road Traffic Acts, dating back to 1961 according to supplementary information provided by the Minister, makes matters too complicated and messy. It makes it very difficult for us as legislators and policy makers for the future, for practitioners in the courts and for ordinary citizens to understand.

I wish to commend the Minister on one initiative since he has taken up this portfolio, namely, a proposal which I also advocated for many years, including during my time on Dublin City Council and as transport spokesperson in this House. The previous Deputy referred to people being outside the Pale. I am one of those who, like him, comes from a county council cottage, but we also had cattle. I am a country Dubliner. Deputy Dowds knows the area very well as he represents my native land. I can see both sides of the equation. A long speech was made last night about setting cities against country areas. To me, that is pointless politics. We are all people regardless of where we live. Someone such as I who had a rural background but lives in an urban area represents everybody. It is a fundamental thesis of social democracy and socialism that no matter where one lives, one should get exactly the same level of service. That is why I do not begrudge a cent to Westport United in any way. I know quite well that brilliant town in the constituency of the Minister of State, Deputy Ring.

**Deputy Michael Ring:** I thank Deputy Broughan very much. I knew he was a soccer man.

**Deputy Thomas P. Broughan:** Yes, exactly. One initiative which the Minister has introduced is to have a special speed limit in estates in urban settings. When I pursued the matter 15

years ago as leader of the rainbow civic alliance in Dublin City Council - the Labour Party was in a fortunate position in that it was the biggest party and Fine Gael was the smaller party - we called them home zones. The system was based on a Dutch model and the premise was that when one went into an urban estate, one dropped one's speed. At the time we aimed at 25 mph but the Minister is opting for 25 km/h. I agree with that also. It is a very useful initiative. We brought it forward but we floundered with the lack of activity and the lethargic approach of the then Department of the Environment, and later the Department of Transport. We could not get the measure through. I think of estates in my constituency in areas such as Marino, Donnycarney, Edenmore, Clonshaugh, Newbury and other places in Dublin Bay North, where one goes in off the main street and one is then in a residential area with seniors, children and families walking around doing their business and one must slow down immediately. I would like to see more signage on roads, not written on small signs, giving the home zone speed limit. That would be a very useful contribution to the protection of life for urban Ireland if the Minister were to introduce it, given the number of pedestrians involved. It could apply in all towns. I wish the Minister well in that regard. I hope it happens. I presume the Minister will do that as part of a future road traffic Bill. I am not sure whether the Minister can do it unilaterally, by regulation. If so, I look forward to that.

On the general issue of road traffic legislation, I refer to a series of four articles, to which, perhaps, other Members referred, written by *The Irish Times* journalist Peter Murtagh, entitled "Anatomy of a Car Crash". The articles refer to a terrible crash that happened on the very first day of 2014. In an outstanding piece of journalism, Mr. Murtagh analyses all aspects of that disaster, which resulted in the deaths of two men and horrendous sadness for their families and all of their friends. By the way, he refers to this as "the ripple effect" on the close-knit communities around the two deceased. It brings home vividly the disaster of one terrible crash and two communities ripped apart. In his articles, Mr. Murtagh goes down through the different elements of it. For instance, he covers the inquest, which occurred in October. When reading it, I was reminded that, as marine spokesman for the Labour Party for many years, I was one of those who campaigned for the provision of marine safety reports on disasters at sea when someone is lost or suffers serious injury. We used get the hard copy, but now the Minister e-mails the report of each incident to us. The Murtagh articles made me think it would be interesting to receive a full report on every crash in which somebody is killed or seriously injured. Obviously, it would entail major resources, but it would be important. It is something worth thinking about, to bring it home to us. One hundred and eighty-eight is merely a number. If the deceased had died together, there would have been a public inquiry, a major report or something similar. It is something on which the Minister might reflect to see if there is some way we could go forward in treating every one of those deaths as a major disaster, which it is for the country and for the citizenry as well as for the close connections.

As I stated, I am supportive of the Bill. Texting while driving was dealt with in the Road Traffic Act 2006 (Restriction on Use of Mobile Phones) Regulations 2014, which created the offence of accessing data on a mobile telephone while driving or texting while driving. I asked the Minister for Justice and Equality, Deputy Frances Fitzgerald, for data on texting, but she could not provide it. It is still upsetting for all of us who drive safely on the motorway anywhere around the country or in the city to see somebody talking away on their mobile telephone and, perhaps, driving erratically. In reply to a parliamentary question, the Minister stated that the Courts Service indicated that the relevant IT systems were updated with a new offence code on 7 December 2014 and, consistent with normal recording procedure, it will be a number of months before any meaningful data can be provided. That is something of interest to citizens,



who also recognise that mobile phone use and texting are important problems.

I note the Minister, Deputy Donohoe, indicated that he will take action on drug testing. I used talk constantly to his predecessor about the possibility of introducing the systems they have in places such as Victoria and New South Wales in Australia to identify drug usage, because that has been a factor in so many crashes, and the reply was always that there is no adequate testing, except for the initial legislation that the Government brought in recently.

I also wanted to ask the Minister about the supply of data from the National Vehicle and Driver File, NVDF, which is another important element of creating a regime. In a parliamentary reply, he told me that the system would start on Wednesday, 17 December, with one insurance company. This relates to drivers who have a bad track record, have not been behaving properly and have not brought their driving to a much better standard. This will be on such a driver's record for insurance purposes. It is another safeguard for the driving public.

I welcome the Bill. It is unfortunate that we must do this. Although the Government may not have that long to go, the Minister might take a stab at least at putting in place some sort of process of consolidating road traffic legislation. As Deputy Penrose stated eloquently, that would be something we could all understand and adhere to. As I stated, I welcome the home zones. Perhaps the Minister would also take a look at the reporting system for terrible crashes.

**Deputy Robert Dowds:** I wish to share time with Deputy McNamara. I need only five minutes.

**An Leas-Cheann Comhairle:** Deputy McNamara was on my list.

**Deputy Robert Dowds:** Má thagann sé, suífidh mé síos.

**An Leas-Cheann Comhairle:** Deputy O'Donovan is here as well.

**Deputy Robert Dowds:** I welcome the opportunity to speak on this Bill.

I welcome the fact that the Minister has moved quickly to close the loophole in the penalty points legislation. If he had not, it would be a cause of embarrassment, especially if certain persons who had had serious breaches were driving around improperly.

I will use my time to mention two issues that need to be raised and two changes to the penalty points system that I hope the Minister will agree to make in the near future, although I understand that he cannot make them in this Bill.

The first relates to drivers who breach weight restrictions. I welcome the recent introduction of penalty points for drivers who breach weight restrictions where there is a safety issue, such as a weak bridge or other obstacle, but I would like to see penalty points introduced for drivers who breach traffic management weight restrictions by going through residential areas that they are not supposed to enter. Currently, such a penalty does not exist. I have been dealing with a number of cases in my constituency in which hauliers regularly drive large vehicles far in excess of the weight restriction and it is having an impact on the lives of residents. One example of this is Kennelsfort Road in Palmerstown in Dublin 20, where the local community council has been trying for more than 15 years to reduce the number of HGVs using the road illegally. The road is subject to a traffic management weight restriction and I have been in touch with the gardaí responsible on numerous occasions to try to ensure these restrictions are being enforced. I am sorry to say the current system is not working due to a combination of the lack of a deter-

rent and a lack of adequate enforcement. Obviously, enforcement is a matter for the Garda, not for the Minister, but the deterrent is in his domain. I ask that the Minister amend the penalty points system as soon as possible to bring in penalty points for a breach of traffic management weight restrictions. This will improve the quality of life for many residents around the country. After 15 years of trying to do something about it, the people of Palmerstown, and, indeed, Lucan, where a similar issue arises, deserve a little more support from the State when it comes to enforcing its own laws.

Second, I want to bring up the issue of fines for breaches of weight restrictions. Under the new regime, a breach of weight restrictions will be subject to a €60 fine and a single penalty point if the charge is paid within 28 days. This is not an effective enough deterrent to haulage companies, and I ask that there be higher fines for this. I understand the Minister will not be able to do it in this Bill, but I would be appreciative if he could introduce those changes in the near future.

**Deputy Michael McNamara:** I am grateful for the opportunity to speak on this and I am sorry that I was not in the House a couple of minutes ago. I declare to the House that I have four penalty points on my driving licence. The last two were received in respect of a speeding offence in June. As I paid the fine in July, I do not think I am one of the people affected. It is important to state that the fine was paid in July. Section 3(3) states, “Where, at any time during the period from 1 August 2014 until the passing of this Act, a payment was made by a person...” So I do not think I am caught by that.

I am sure everyone in the House agrees on the need for road safety and we have to make our roads as safe as possible. Better than most, I know what it is like to lose a loved one suddenly in an accident and the jarring effect that has. Many families are facing into this Christmas without a loved one for the first time. Some of them lost that loved one in a road accident. We have a moral duty to do everything we can to make the roads safe. However, at the same time regardless of what we do, there will be a certain amount of road accidents. It is a matter of reducing them to the greatest extent possible.

We have to balance that with a sense of fairness and we need to ensure that all our legislation is fair. We do not want to have a police state. We want to allow people freedom to the greatest extent possible. We want to ensure that not alone is our whole system fair, but it is seen to be fair and felt to be fair. I heard many contributions, mainly from the Opposition benches about the perceived unfairness of the system.

On my way up here on Tuesday I called into a shop in Killaloe, just before crossing the bridge and continuing to Dublin. If the Minister is ever in County Clare I would like to bring him to meet that shopkeeper. He is a very ordinary man who goes about his business, earns a livelihood and pays his staff. He was saying that penalty points are having a very detrimental effect. He was talking in particular about the idea of penalty points for cars without NCT certification. I asked him what he meant. He said, “I’ve people coming in here and they are saying things like, ‘I’d have nothing to do with the guards; I wouldn’t give them the time of day now’”. This is Ireland where we have always had regard for the Garda and there have always been good relations between the community and the Garda.”

Whether we like it or we do not, whether it is right or not, there is an increasing perception of unfairness. I accept that some GoSafe vans are put in accident black spots. However, many GoSafe vans are parked in places where they are more likely than not to catch somebody speed-

ing - breaking the law admittedly - while hidden behind a humpback bridge, around a bend or other places where drivers will not see them. The Lissycasey Road in County Clare is quite famous for GoSafe vans because they can hide. People do not really appreciate that.

I will give another example. I am from Scariff, a small town in east County Clare. It has a Garda station - it was one of the towns that retained a Garda station. Most people are glad of that; it gives them an additional feeling of security even though the nature of crime has, of course, changed considerably. Some weeks ago there was a spate of robberies. A van was robbed in the main estate and a car was robbed from the main square.

The car's owner had the pleasure of seeing on YouTube the perpetrators driving his car at over 100 mph and burning it out. It is on YouTube for the world to see. The crime has not been solved and there are no leads. However, the following week in Scariff gardaí were out issuing penalty points in the 500 m between the town and the school. They were issuing penalty points at school time because when mothers are driving their children to school, there is an issue with regard to safety belts and penalty points. Those women who were driving their children to school were breaking the law and presumably they have been issued with penalty points. They may be among those affected by this Bill.

I do not condone them breaking the law; the law is there for a reason. However, there is a perception in the community that they are able to go out and give penalty points to women and men driving their children to school, but nothing is being done about the criminals who stole a car, filmed it being driven and filmed it being burnt out. It seems they are sort of immune and we always go after the easy targets. That perception may not be correct but it is there and it is very damaging.

I return to the specifics of the Bill. The first I heard of this was last week when the Minister spoke on radio saying that a loophole had emerged. I completely support him in closing the loophole. Of course, we should close the loophole and move forward. However, I do not understand how we propose to apply legislation retrospectively because that is a very unusual thing to do. The Constitution contains some provisions about it - I will not go into it.

The Minister has been advised that the Bill is constitutional and yet there are real doubts. Deputy Dooley has said that his legal advice was that it is at risk and maybe we will find out. However, we will only find out if somebody wants to challenge the legislation. That would have to be somebody who either has a huge amount of money so it does not really matter to them how much it costs, or they have no money at all so they have nothing to lose because that is how our system works. A judicial review is incredibly expensive. A person would either have to have an infinite amount of money or no money.

An ordinary mother or father bringing children to school, or even a Deputy driving to Dublin, does not have that kind of money for a constitutional challenge. How our system works is inherently unfair because the State will meet this with an army of lawyers. I appreciate the State has to defend its position. However, an ordinary person will not be in a position to challenge this.

I completely support the Minister in his endeavours to make the roads safer from now on and to close the loophole from now on. However, regardless of what we in this Chamber do today or tomorrow, there is nothing we can do to make the roads safer a week ago, three weeks ago or five months ago. So why are we legislating for three weeks ago or five months ago? I

accept the State made a mistake but the State comprises individuals. The Minister is a human being and the Department is staffed by human beings who make mistakes. Human beings drive cars too fast - they make mistakes. However, when people drive their cars too fast we expect them to hold up their hands, admit to making a mistake, pay the fine, take the penalty points and move forward.

Judge Durcan in Ennis District Court threw out approximately 100 summonses one day because the proofs were not in order, as people say in legalese. The evidence was not there. He was not clear who was there to give evidence on behalf of GoSafe. He was not happy they were authorised to do so under the Act. So all those cases were thrown out because the State made a mistake. That is the very nature of our justice system. When the State makes a mistake, it puts up its hand and admits it, and then goes about fixing the mistake for the future to ensure it does not happen again.

However, this legislation indicates we made a mistake but we are not going to admit we made a mistake. It is like saying, "When you make a mistake, you pay; but when we make a mistake, you still pay." I do not mean to denigrate this, but it is almost like a Bart Simpson approach to legislation, "I didn't do it. Nobody saw me do it. You can't prove anything." That is no way to run a country and no way to run a justice system because it is unfair. I accept it is not good that people who were caught speeding between 1 August and now do not get penalty points endorsed on their licence.

Of course, it is not good but a mistake was made. It also is not good that some people had their cases thrown out. As people are entitled to the presumption of innocence we have to presume all the people involved were innocent, but we will never know if that is the case. I am assuming they were innocent, as is the State. When a mistake is made by the State it is usually acknowledged. I do not understand why we do not, to use a phrase used previously by the Taoiseach, "man up" and admit the State is not perfect and it made a mistake. The alternative is to look like a tyrannical State that legislates retrospectively because it cannot admit when it is wrong. That is far worse than people having their penalty points for a defined period written off.

A loophole has been identified. I am happy to support the Minister in closing that loophole from this day onwards. Every Bill I have had the pleasure to support, and those I have had the displeasure to have to support, have applied from a particular day onwards. That is how we usually legislate. It is logical to say that we cannot change the past. Much as we would like to, we cannot change it and we should not be seeking to do so. I am not sure if this legislation is constitutionally sound. Whether it is in compliance with the European Convention on Human Rights is even more doubtful, in my view. On my proposed amendment, I accept that it is not appropriate because the remedy is a declaration of incompatibility. Are we actually saying that we know that this legislation is contrary to the European Convention on Human Rights but we do not care because we are the State and we do what we like? Is that the approach we are taking? I hope not because that would be an appalling vista. I know what we are speaking about are only road traffic offences but speeding is nevertheless a criminal offence, as are most offences under the penalty points system, albeit minor ones. I look forward to hearing the Minister's response on that point.

I support the Minister in making our roads safer and in closing off loopholes but I have a difficulty with retrospective legislation. I am concerned about the legality and constitutionality of such legislation and about whether it is in compliance with the European Convention on Hu-

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man Rights. More fundamentally, I am concerned about the morality of such legislation. Law must have a moral quality and the State must be above pettiness and vindictiveness. It must not when it makes a mistake seek to deny it. The commencement order in respect of the Road Traffic Act 2014 states:

Given under my Official Seal,

20 of March 2014,

LEO VARADKAR,

Minister for Transport, Tourism and Sport.

Are we saying that legislation is deemed not to have been commenced? That legislation was commenced, as the Minister and I well know. Every punter affected by it will know by now that it was commenced. Why then are we pretending to the contrary? Why are we engaging in this “Alice in Wonderland” fiction? Why not put our hands up and admit that it is unfortunate but a mistake was made and we will remedy it? I do not believe anybody in this House has not committed to supporting the Minister in remedying this problem from this day onwards.

**Deputy Patrick O’Donovan:** I wish to share time with Deputy Durkan.

**An Leas-Cheann Comhairle:** Is that agreed? Agreed.

**Deputy Patrick O’Donovan:** I welcome the Bill and the Minister’s initiative to close off the loophole referred to. This is a short piece of legislation but it is no less important than lengthier pieces of legislation from the Department of Transport, Tourism and Sport. The Minister will be aware of my particular interest in this issue in that I have previously raised the penalty points issue with him on the floor of this House and in a private capacity. In my dealings with the Minister, whether as a member of the transport committee or as a Member of this House dealing with legislation or constituency matters, I have always found him to be very proactive. I compliment him on the work he has done up to now.

This legislation is narrow in focus in that it deals with one particular element. The Minister will know that for the past number of weeks I have been raising an equally worrying issue in relation to penalty points, namely, the number of cases being thrown out of courts across the country. This problem is not confined to any particular court or district. There is a great deal of uncertainty and a lack of confidence in relation to the implementation of the penalty points system and road traffic legislation generally. As a member of the transport committee I have asked the Chairman, Deputy John O’Mahony, that the committee undertake a review of the penalty points system. As a result of whistleblower revelations, cases being thrown out of court and address of this loophole by the Minister, there is a drip, drip, drip erosion in confidence in relation to the State’s commitment to make our roads safer by changing people’s behaviour. We know that when people change their behaviour the roads are safer.

I recently learned through the Department of Justice and Equality that, unfortunately, since 2009 approximately 1,400 cases relating to penalty points have been thrown out of court for one reason or another. This arises not because these cases were isolated incidences but because there are systemic issues in relation to the delivery of the penalty points system, which I think needs to be reviewed. I have asked the Chairman of the transport committee to engage with the Minister, Deputy Donohoe, and his colleague, the Minister for Justice and Equality, Deputy

Fitzgerald, an Garda Síochána, the operators of GoSafe and the legal practitioners about what is happening in our courts and how we can improve the system. I acknowledge the issues that have arisen with the current legislation.

I am hoping that the transport committee will undertake a comprehensive review of the penalty points system to see if there are other anomalies arising in relation to the issuing of penalty points, including who can and cannot give evidence in court in this regard, the relationship between the driver and an Garda Síochána and the legal standing in this regard. If there are anomalies that are preventing the application of penalty points to the licences of people who have committed road traffic offences then they need to be addressed. I do not say that as a slight against the Department, the Minister or his predecessor because it is not today or yesterday this issue arose. I understand that review will be commenced after Christmas, which I welcome.

If one goes to the Oireachtas Library and takes out the local newspaper from Deputy Kitt's constituency, Deputy Durkan's constituency or my own constituency one will see in the courts pages the list of cases being churned out by the District Court every week. There is a real problem in this area and I would like to see it addressed. I would also welcome the Minister's views on that matter. My concern is for the people who accept their penalty points and pay their fines unlike others who go to the courts and say they did not receive the notification, leaving the judge, because of a lack of proof, with no option but to dismiss the case. I do not doubt that some people will not have received their notifications but I very much doubt that all of the 1,400 people mentioned earlier did not receive them. That is a bit far fetched. There are people who were legitimately detected by the speed detection vans whose penalty points were not properly processed and, for want of a better phrase, got away with it. This leaves a sour taste in the mouths of those who accepted their penalty points which resulted, in turn, in their insurance premiums increasing. In some instances, people were put off the road, and rightly so. As I said during a Topical Issue debate last week, part of which the Minister was in the House for, the law needs to be seen to be fair regardless of who the person is, from where he or she comes, what District Court area the case is heard or by whom the offender is represented. The law must be seen to be fair. As things stand in terms of this issue, it is not. Another issue that the Minister might consider in future legislation is one that has been raised with me, as I am sure it has been with the Minister and all other Members, by a person with a physical disability - namely, that of non-disabled people knowingly parking in spaces designated for people with disabilities. I hate using the term "disabled parking space". The parking space is not disabled; it is the person driving the car who may have a physical disability. Will consideration be given to examining some measure which would encourage people to change their parking behaviour? People who take up spaces to which they are not entitled often use excuses such as "I was only running in for a few minutes," or "As I was only leaving the car there for a while, I left the engine running." Such actions deprive people with physical disabilities of the right to go about their business.

I have raised before, both here in the Chamber and at the transport committee with the Minister's predecessor, the issue of how statistics for road traffic fatalities are reported. Some work was done on it. Will the Minister give us an update on how it is progressing? The rising number of road fatalities is stark and needs to be tackled. A statistic below that, however, is life-changing injury, which needs to be included in the overall statistical picture presented by the Department and the Road Safety Authority, RSA, every quarter. A life-changing injury means the victim is no longer independent and is relying on a family member, causing upheaval to someone's life. The National Rehabilitation Centre and the hospital network do fantastic work in this area. The presentation of such statistics will give a better analysis county by county as

to what is happening with driver behaviour and the seriousness of accidents. There are three elements to road safety - namely, engineering, enforcement and education. An important element of education is telling people what is happening on the roads. I would appreciate it if the Minister could examine this area.

I have spoken to the chairperson of the RSA, Liz O'Donnell, about road engineering. Local authorities and the NRA, National Roads Authority, ultimately have responsibility for the engineering of our roads to ensure they are safe. There should be some sort of an exercise, either through the RSA or the Department, to examine physical road conditions and realistic speed limits. It happens across the country. One could be driving along a road with grass in the middle of it and the speed limit is 100 km/h. I accept that the Minister will point out that this the maximum speed allowable and that the motorist should drive with due care and attention. These signs, however, are dangerous. There was a suggestion to bring back the old white speed limit sign with the black line across it to emphasise that motorists should use their discretion. The sooner these are rolled out the better. Parts of the national secondary road from Killarney to Kenmare over Moll's Gap are so narrow that they are not wide enough for one car, but there are 100 km/h signs all along it. On the other hand, one can go, as I do on my way home every evening, from the Red Cow roundabout in Dublin along the N7 in Deputy Durkan's constituency, a three-lane road, with unrealistically low speed limits. It is just a barrel for shooting fish in terms of collecting penalty points and revenue. All people want is realistic speed limits on the roads, not ones that are a revenue-generating exercise.

We cannot have slippage in how people view the law and penalty points. When that happens, driving behaviour changes. When that changes, bad practices start to come in and then, before one knows where one is, it becomes cyclical, with road fatalities and life-changing injuries increasing. Will the Minister and his officials review this whole area of penalty points? Over the past 12 months at the Committee of Public Accounts, in the Chamber or on the street, the perception of the fairness and impartiality of the penalty points system has got a walloping. We cannot have situations where a judge - an impartial and independent adjudicator of the law - in the Cavan-Monaghan District Court claims the law is being brought into disrepute by the penalty points system and that cases under it should not be brought before his court. We cannot ignore this. While I accept this legislation has to be passed today, will the Minister come back in the new year to do a comprehensive review of the penalty points system with the transport committee with a view to introducing amending legislation to get rid of the loopholes in it? One could drive a lorry through some of these loopholes. For most people, that is unfair. All they want is to be treated fairly.

**Deputy Bernard J. Durkan:** I concur with my colleague, Deputy O'Donovan, in that all Members have experienced the issues he raised, particularly contradictory speed limit signs. One often will have a stretch of road with a sign stating the limit is 100 km/h, while 100 metres further down a sign states it is 50 km/h.

We are all in favour of doing everything possible and fair to reduce road traffic accidents and deaths. We cannot eliminate road traffic accidents entirely, human nature being what it is. It is important, however, that the rules of the road are enforceable and sufficiently strong with no loopholes. We also cannot take away the right of legal representatives to challenge the law where necessary.

I have had penalty points myself. Before they were introduced, I predicted that everyone would, at some stage, get penalty points. They have not done so yet, but it is working its way

towards that. Human nature being what it is, there is no possibility that people can be sure they are on the right side of the points system. I got my points some six years ago when I overtook traffic on what was claimed to be a continuous white line when I actually had not. However, it was a case of peculiar circumstances over which I could not go to court. An Oireachtas Member going to court to defend such driving will have two chances. In that case, I had just survived a serious traffic accident an hour before. The golden rule is that one should cease driving after such an event and take time out. Unfortunately, like all Members, I had a schedule to keep and continued on, but paid for it with penalty points when I overtook. Fortunately, it was nothing else.

The law is funny in some circumstances. Like Deputy Michael McNamara, I have seen cases which have been challenged in court and where the State adopted a position but lost in the judicial review. In many such cases, the State then reverted to its original position afterwards. My theory was that matters must have turned on technical points, but that is not necessarily so because the law is peculiar, particularly regarding pension entitlements. It is not unusual for the State to revert to its original position and set aside a decision of the court, as though it did not understand matters properly, almost always to the benefit of the State. This is wrong and should not happen, but it is something I will raise on another occasion.

Like many others, my car has a global positioning system, GPS. As it recently broke, I obtained a second GPS device and discovered that it could tell me where checkpoints were located, although the locations are given on the website. The peculiar thing was that the GPS conflicted with the road signs on numerous occasions. Something should be done to merge the speed limit registration system with the global positioning system because they should be *ad idem* on road signs and if they are not, there is a problem.

The Minister for Transport, Tourism and Sport, Deputy Paschal Donohoe, has been very helpful since he came to office, as was his predecessor. However, to declare an interest, I happen to be the owner of a couple of vintage vehicles and, boy oh boy, the last registration system for vintage vehicles gave me headaches. I spent years trying to register vehicles that would probably never be put on the road because I at least wanted the option of putting them on the road in the future. Consolidating legislation is required to merge all road traffic legislation on matters such as penalty points, vehicle registration and so on. We should recognise that some vehicles are not put on the road and there should be a simple system to allow a person to register a vehicle as being off the road until he or she wants to put it back on it. Previously one could have had the registration documentation stamped in a Garda station when one wanted to put the vehicle back on the road but some people abused the system. There are simple ways to eliminate such abuse and I hope they will be found.

How much time have I left?

**An Leas-Cheann Comhairle:** The Deputy is out of time.

**Deputy Bernard J. Durkan:** Am I out of time? What an awful thing to say. The Leas-Cheann Comhairle has hurt me deeply.

I will conclude by saying we all agree that there is a need to ensure the highest possible safety standards on the road and that we support the Minister's actions. I have doubts about the retrospective aspects of the legislation because I do not favour applying the law retrospectively. I only know of one law which was applied retrospectively during my time in the House. It was



very controversial and I will not go into it now because some Members on the other side of the House will know what I mean.

**An Leas-Cheann Comhairle:** I am glad that the Deputy did not go into detail.

**Deputy Jerry Buttimer:** How does one follow Deputy Bernard J. Durkan?

The technical nature of this Bill should not confuse people because, ultimately, it is a matter of road safety, something on which we should never compromise. It is good that we can rectify the error and bring forward this legislation early. It is important to put things in context because we have come a long way on road safety and driver behaviour. How many of us would travel in a car without wearing a seatbelt? How many of us would contemplate driving without motor tax and insurance? How many of us would drive without having our tyres checked? These are things most of us now do automatically and it is welcome that it is a driver's responsibility to ensure a vehicle is safe and roadworthy.

It is important that we have greater transparency in the operation of the national car test, NCT, because, anecdotally, all of us have been told about issues regarding the availability of test centres. It seems that there is a lack of flexibility in how people are looked after, particularly taxi drivers who rely on their vehicles to earn a livelihood. It is important that they have certainty in this regard.

Members have spoken on the issue of speed cameras. I have reservations about the locations of some speed cameras in my constituency. We need a proper debate on the reason for speed cameras because the real purpose is supposed to be deterring speeding and a reduction in the number of fatalities, but it sometimes seems to be like a revenue-generating measure. I know that road safety is a priority of the Minister's, but the number of fatalities is a source of concern because it rose last year for the first time since 2005. Those of us who drive the route every week know that the motorway from Cork to Dublin is probably the safest in the entire road network because driver behaviour is pretty good, the road surface is very good and the engineering is good. The only major issue one generally faces on it is the backwash spraying towards one's windscreen from lorries on wet nights. However, when one leaves the motorway and traverses country roads, issues arise. Deputy Patrick O'Donovan referred to the issue of road maintenance. We need a real debate with local authorities, the National Roads Authority and the Road Safety Authority on keeping the road network fit for purpose. We all have examples of roads with huge potholes, but such information is useless to those who have died and been injured on the roads. It saddens me greatly that my own county, County Cork, recorded the highest number of fatalities in car accidents last year.

We must get the message across that the most dangerous time of the day on the road is between 2 p.m. and 6 p.m., according to the evidence available to me. This period covers the school rush and some driver behaviour around schools creates bedlam. We must educate parents and, in particular, children on road safety. Equally, people take chances in rush hour traffic by breaking lights, speeding and doing things they should not in order to get home. We must educate drivers to be more mature because most fatalities occur among drivers from 18 to 35 years of age.

Deputy Patrick O'Donovan touched on the speed limit review. I welcome the decision of the transport committee to examine the issue of speed cameras. Speed limits should be reviewed because they make no sense on some of the roads in my rural constituency. The limit

is too low in some cases and too high in others; many roads have an inappropriate speed limit of either 80 km/h or 100 km/h. The purpose of speed limits is to reduce speed, but we need to question what we are doing in this regard because speed limits are failing in their purpose. In some parts of my constituency people race to beat the traffic lights or take certain turns in the road to cut driving time.

*4 o'clock*

We have to be honest with ourselves. We need to have realistic speed limits that deter speeding and that are not dangerous to the road user.

I was travelling on a road last Sunday from Abbeyleix to Carlow when a motorist passed out two cars at once on a particular stretch. It was the will of God nothing was coming. There as no way he could have seen any oncoming traffic. It was the will of God that the person in that car was not hurt or killed. Yet the limit on that road was 100 km/h. To me, that made no sense. For part of the journey on that road the limit was 80 km/h. The car in question was going so fast that my car and the car in front went down to 30 km/h because we got such a fright. All of this concerns me because I do not think we get the message about education yet, although I know we have made changes to the penalty points, and that is important.

The Minister for Justice and Equality, Deputy Fitzgerald, has referred to the issue of transparency in penalty points and said that we are in a new era. I welcome that. I have always held the view, as a person and a politician, that if a constituent got penalty points then he deserved it, and if I got them then I deserved it. I had them once although, thankfully, I do not have them any more. I was attending a conference in Tralee before the 2007 general election. When I was coming out of Farranfore and heading home to go canvassing, I did not observe the speed limit. A garda stopped me and I got a fixed charge notice and penalty points. That was fair enough. I learned my lesson. It was a built-up area and I should have slowed down. The speed restriction applied on the road until the sign indicating a speed limit change, and that is fair enough. I learned from it, and that is important, because driver behaviour is something we should always educate people about.

I have often thought that although we have all passed our driving tests, we should consider how we drive now. I am not advocating that people should have to do a refresher course, but I often wonder whether we could bring people in for a spot check to see how they behave on the roads. I am 47 years of age, which means I am 30-odd years with my driving licence. Has my driving behaviour changed? I know it has, but have we challenged ourselves about how we use our cars on the road? What if we picked ten licences per year and brought those people in to do the test again? It is not that they would have to re-sit the test, but they could do it as a trial to see how they get on. We cannot become complacent about road safety. I know the Minister shares this view.

I commend the Minister on his initiative to introduce this change quickly. We can never allow a situation to develop whereby a lack of money for the Garda Traffic Corps is tolerated, if that is the situation. I am unsure whether there has been a reduction in the Garda Traffic Corps presence. Anyway, particularly at this time of year, it is important that we remain vigilant regarding the issue of alcohol and alcohol consumption. My final appeal is to those who are contemplating consuming alcohol and driving. I urge them not to do so. This is about our lives and the lives of people we love and cherish. That is why it is important always to keep road safety to the forefront of what we do.

**Minister for Transport, Tourism and Sport (Deputy Paschal Donohoe):** I thank all Deputies for their contributions this afternoon in what has been a constructive discussion of the Bill. I was struck by the tone in which all Deputies addressed the matter. There was open criticism and questioning of why this change is needed, as I would expect, but it took place within a framework of support for the objective of road safety legislation as well as an acknowledgment that this issue is rather different from many of the other issues to which we devote time in this House.

Let us consider the array of different issues and challenges with which we engage. Making our roads safe and the peace process in Northern Ireland are unique in this regard. They are two areas of political engagement in which people seek to approach the discussion and structure their policy approach in a very different manner and tone. These areas command a different approach. They have been supported in different ways by various Governments of different complexions over the years. Given the various comments that I have heard this afternoon, it is evident to me that the cross-Dáil consensus to make our roads safer is as strong as ever, and the way in which this Bill has been approached demonstrates that.

Many different questions have been put to me and I will respond to them presently. One of things that makes those of us in political life stop and think sometimes is the question of how to make politics, and the way we engage with issues on behalf of the people we represent, better. From the discussion this afternoon I am certain that road safety law and legislation is one such example, because people genuinely approach the issue in a different way. As the Minister for Transport, Tourism and Sport, I do not take that for granted. It is not something I expect from Deputies or Senators. It is something that has to be worked upon to ensure it continues. Indeed, I am committed to doing my part as Minister for Transport, Tourism and Sport to ensure it continues.

My colleagues have put various points of detail to me in respect of the legislation and I will respond to each in turn. Five common areas were touched on by almost all Deputies in their contributions, and I will touch on each of them. These were the areas of common concern or focus and I am keen to recognise that.

The first theme picked up by several Deputies was the notion of the unfairness of the penalty points system and the view that it is being used by agencies of the State to collect revenue or earn money. This charge was levied particularly in respect of the GoSafe vehicles, about which there has been an understandable level of focus recently. I am keen to be clear on the point. The GoSafe vehicles cost the State a good deal of commitment and funding to run and maintain. Far from being in any way about revenue collection, the only purpose of these vehicles and the associated strategy is to find another way to make our roads safer. We locate these vehicles in places where there is a history of road safety incidents, collisions and accidents.

Another charge levied against the penalty points regime is the notion of unfairness and the idea that in some way penalty points are meant to target people. One statistic is worth reflecting on in this regard. Some 70% of all penalty points levied on people, particularly through the fixed charge system, are accepted. I am not making the extrapolation that everyone accepts them because they are fair - that would be an unreasonable deduction to make. However, I contend that one of the reasons we see such a level of acceptance, particularly in respect of fixed charge notices, is the widespread understanding and acceptance that penalty points have played a vital role in making our roads safer. The Minister of State, Deputy Ring, outlined the history of where we were. It is bad enough that a life per day was being lost on our roads. Not so long

ago there were far more lost. While nobody wants penalty points, their breadth and implementation have made a very important contribution to making our roads safer.

Many colleagues raised the operation of the NCT centres, particularly after the changes that took place in the penalty points regime in respect of the test. It is not a case of a new charge being created of driving without an NCT certificate. That sanction was changed to give people the option of not going to court but paying a fixed charge and incurring three penalty points. There was always an offence, but the nature of the offence changed when we changed the law in that area. The bigger change that has created some of the difficulties Deputies referred to is the amount of advertising by the RSA when that change happened. It communicated this change very strongly and changed public awareness of the offence. Figures made available to me for the week commencing on 24 November show that 25,000 car tests were carried out. Of those, 9,000 were late or very late. A total of 1,450 were tests that should have been carried out in 2013. That figure is one of the reasons this change in the nature of the offence, as opposed to the creation of an offence, will play a role in making vehicles, and therefore our roads, safer. That said, I am aware of Deputies' concern about this matter. I continually check the average waiting time. The most recent set of figures indicates that the average waiting time is between 12 and 13 days. A total of 65 new testers have been trained and will be ready to go into the NCT centres. Tests will be carried out up to and including Christmas Eve. Some centres where there have been difficulties are taking measures to ensure that more services can be made available. In response to the issues many Deputies raised this evening, I will again discuss this matter with the RSA to see what can be done to ensure this system is brought in effectively and fairly.

The third theme Deputies raised was the change in the requirement for people with a learner permit to have a driver with them. This is not a new offence but it attracts penalty points. Deputy Fitzmaurice put to me the idea that Dubliners make law and are not very aware of its consequences in different parts of the country. Deputy Broughan rebutted it very well. I am very aware of the consequences of this law in all parts of the country. Like many Dubliners, I am one step removed from the rural life on which Deputy Fitzmaurice and others have commented.

This year 28% of people who lost their lives on our roads were between the ages of 16 and 30. That figure is equal to 53 lives. I feel I am obliged to consider measures that will reduce that figure and that changing the sanction to include penalty points will bring down the number of lives lost on our roads, particularly those of young people. It reflects the fact that people who are on a learner driver's licence will not have the same level of experience as people who have their full licence and may have been driving for longer. I believe this is the correct measure but, as with any measure I bring in, I will always keep it under review to make sure it is achieving its objective. I accept that this will require a change in the behaviour of people in some communities.

The final theme articulated by several Deputies was the notion of retrospection and its consequences in the law. Deputy McNamara is approaching it in a deeply principled manner because of his concerns about what it could mean for people who incurred penalty points between 1 August and the time when I became aware of the issue. He used certain language out of fear that we would create an environment in which the State has a degree of tyranny over its citizens. He said creating new offences is no way to run a country.

**Deputy Michael McNamara:** I have no problem with the Minister creating new offences to deal with a problem.

**Deputy Paschal Donohoe:** I meant the retrospective creation of new offences. I was incorrect.

**Deputy Michael McNamara:** I did not say the Minister was creating a new offence retrospectively.

**Deputy Paschal Donohoe:** I understand his concern about the retrospective nature of what is being proposed. I will be very happy to deal with his point on Committee Stage, but for now, I will sketch out my two principles for believing this is the right approach. First, the particular issue is the application of penalty points, as opposed to the enforcement of penalty points, which occurs after a person has accepted liability for a road traffic offence. I am not seeking to create a new offence, because if I was I would share some of the Deputy's concerns. I am seeking to deal with the application of penalty points. When an offence has been committed, that is recognised by other parts of our road traffic law, which a person has accepted responsibility for. That has been my guiding insight in believing this issue should be considered. It is a point at which liability has been accepted. For this reason - Deputy Michael McNamara may understand this better than I do-----

**Acting Chairman (Deputy Catherine Byrne):** The Minister's time has concluded.

**Deputy Paschal Donohoe:** Deputies have raised a large number of detailed points on which they expect me to respond. However, I will conclude on this point.

The acceptance of liability means that this issue will not end up in court and is, as a consequence, a civil law issue. The guiding point for me in all of this has been that I am not proposing to create an offence but dealing with a legal vacuum at the point at which the administration of the offence takes place. It is the correct approach for this reason. I am sorry I do not have more time to respond to Deputy Michael McNamara's request that I explain the reason for taking this approach, but the approach is necessary because continuity of enforcement is essential to a system such as penalty points. It is merited because I am achieving continuity of enforcement by addressing a legal issue and lacuna in the application of penalty points. If I were to seek to deal with other areas of law for which I am responsible or other types of behaviour, my answer to the Deputy's question would be different. The issue relates to the application of penalty points after the admission of liability. I am not seeking to create a new offence and my approach is correct for these reasons. Perhaps I might be able to engage with the Deputy on later Stages.

If the Acting Chairman will forgive me, I propose to address quickly a number of specific points raised by Deputies. I fully concur with Deputy Timmy Dooley's statement that while the error is technical in nature, its consequences are great. I have been transparent in communicating publicly on the number of people who have been affected by this issue.

Deputy Dessie Ellis asked whether I would take this approach to other items of legislation for which I was responsible. I will do so. I am aware of the Deputy's particular interest in drug testing and I will continue this approach in dealing with that matter.

Deputy Finian McGrath asked what the consequences would have been if the penalty points in the relevant cases had been erased. This goes to the heart of the question Deputy Michael McNamara posed.

Deputy Michael Fitzmaurice raised the issue of GoSafe vehicles, which I addressed. Deputy Mattie McGrath asked the reason there had been no pre-legislative discussion of the Bill. The

reason is the urgency attached to the matter. I did my utmost, as Deputies have acknowledged, to consult people before introducing the Bill.

The Minister of State, Deputy Michael Ring, noted the importance of having a derogation in respect of an aspect of the haulage industry. I am aware of the issue he raises.

Deputy Michelle Mulherin raised the issue of the national car test, one to which I referred.

Deputies Willie Penrose and Thomas P. Broughan have raised an issue that is at the heart of the difficulty I face, namely, the need to consolidate road traffic legislation. Deputy Willie Penrose sketched the different laws that had been touched on and commented on the technical nature of the issue. The only response must be to consolidate traffic law which I hope will be done in the longer term. I will commence work in this area.

I hope Deputy Thomas P. Broughan is following the debate in his office. He has asked me on a number of occasions to outline the position on funding for information technology that would allow us to proceed with the third payment option. He has raised this issue repeatedly in the media and the House. He has a great interest in it and understands its importance. I am pleased to inform him that I have secured sanction from the Department of Public Expenditure and Reform to begin work on it. I will update him on the matter.

I will consider the detailed points raised by Deputy Robert Dowds on penalty points applied in the future.

I have responded to the best of my ability to the points raised by Deputy Michael McNamara.

Deputy Patrick O'Donovan asked whether I would come before the Joint Committee on Transport and Communications to discuss some of the points he had raised. I will do so.

Deputy Bernard J. Durkan raised the issue of inconsistent speed limits. A review of this issue was published earlier this year and its implementation is under consideration.

Deputy Jerry Buttimer also raised the issue of NCT centres, one to which I referred.

In the past three hours many Deputies have raised detailed points in a constructive manner. I appreciate the indulgence shown by the Acting Chairman, Deputy Catherine Byrne, in allowing me to respond to them and touch on the broader issues raised by Deputies.

Question put and agreed to.

### **Road Traffic (No. 2) Bill 2014 [Seanad]: Committee and Remaining Stages**

Sections 1 and 2 agreed to.

#### SECTION 3

**Deputy Michael McNamara:** I move amendment No. 1:

In page 4, line 25, after “person” to insert “or with the State’s obligations under the European Convention on Human Rights Act 2003”.

I greatly appreciate the Minister providing an explanation, as not every Minister goes to the trouble of addressing all of the points made in the House. I acknowledge that he addressed many of the points raised by Deputies, including some who were not present, but I am sure they were following the debate in their offices. I have often been unable to come to the Chamber for debates. I do not wish to engage in platitudes, but the Minister engages in debate, which is healthy in a democracy. Not every Minister engages, which is unfortunate, especially as the Government promised to do things differently and have more open debates.

I know that the Minister is not proposing to create a new offence because the offences are already established. Having examined the law in this area, the legislation is probably lawful, but we will not find out in this Chamber whether it is because a separate branch of government will determine what is the position. I am sure someone with a little or a great deal of money will engage lawyers and test that point. It is unfortunate that the justice system is such that those whom I would describe as “in-betweeners”, by which I do not mean the four comedy characters on television but ordinary, run of the mill citizens, do not have meaningful access to it. Legislation amending the roads Act is not the place in which to address that problem.

The Bill includes a constitutional saver, the purpose of which I understand because someone is testing the law and his or her right cannot, should not and will not be interfered with. The Minister contends that this is not a criminal matter. That contention will be the crux of the matter in any case taken. The Minister is correct that the so-called loophole applies only in cases where someone admits to having committed an offence and penalty points are being applied to his or her licence. It does not, therefore, apply to cases that come before the courts. I wonder if, just because it does not go to court, it is a civil matter. I am not convinced by that because the reason it does not go to court is the fear of greater sanction. It is an admission. One is admitting one carried out an offence - a criminal offence, albeit a minor one. Fines are frequently levied as punishment in such criminal cases, and if one goes to court there is a bigger fine, so there is a fear of a bigger sanction.

The Irish Constitution has provisions with regard to retrospectivity and these have been litigated, although this is not the place for that. The European Convention on Human Rights was quasi-incorporated into Irish law. At the time, there was a body of thought that this did not really create much change and that there were no new rights created, given we have a written Constitution with very detailed rights provisions, and the Attorney General of the Minister for Justice, Equality and Law Reform of the time, an eminent senior counsel, Michael McDowell, was of a similar view. However, there were differences in the contours and the protections in some areas, and one of those is with regard to retrospectivity.

Article 7 of the European Convention on Human Rights states, “No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed.” I am not suggesting the Minister is creating a new offence and we are all agreed on that. However, the second part of Article 7 states, “Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed.”

What the Minister is doing is creating a heavier penalty. Not alone is the penalty the fine which people have had to pay when they admit their offence, but the question is whether penalty points are part of the penalty. I am sure that, at some point, counsel for the State will say that penalty points are not a penalty, and if they are a penalty, they are not a criminal penalty. It will be open to them to say that and, as there is Irish case law to support that proposition, they

might well win. However, equally, there is European case law which might argue against that - it might, although I do not know. We are increasing the penalty that is applicable at the time. While we thought the endorsement of penalty points was applicable at the time, we now know it was not. That is the nub of the issue on retrospectation.

I thank the Minister's officials. My first amendment concerned how far the Bill is incompatible with the constitutional rights of any person or the convention provisions. The Minister's office sought the advice of the Attorney General, who came back to say the effect of that would be to incorporate the European Convention on Human Rights in a way that was not envisaged in the relevant Act. There are huge deficiencies in how the European Convention on Human Rights is incorporated into Irish law. The courts have said in the past, in the case of Dublin Corporation, that what it was doing was contrary to the European Convention on Human Rights Act, and Dublin Corporation said, "thanks a million for that but we are going to do it anyway", because the Act is clear and it does not invalidate the statute under which it was doing it. While that is a very big issue, it is not an issue for a road traffic Bill.

I then sought to amend the Bill so it would refer just to the Act, and I sent in a very late amendment last night. Again, I thank the Minister and his officials for having looked at that. The Attorney General's office came back and said the amendment is ill conceived because, of course, under the Act, a declaration of incompatibility could be granted but it would not invalidate the operation of the Act until such time as this Legislature did something about it. That is true, so those in the Attorney General's office said my amendment is ill conceived, and they are right, therefore I will not be pressing the amendment. However, it does beg a very fundamental question.

Deputy Dooley clearly thinks this Act is suspect while I am not sure one way or the other. If this could be contrary to the European Convention on Human Rights Act, why does it matter? Maybe it does not matter and we can plough on anyway. I am sure the Russian Government knew the ban on homosexuality was contrary to the European Convention on Human Rights but it decided it would plough on anyway. As a country, we like to think we are better and that we respect human rights. We pride ourselves on that, given we are a small country which was one of the first to sign the convention and the first to take an inter-state case. We take human rights seriously, or we like to think we do. I wonder if there is a question here. Perhaps we should not worry about it and, on the off chance that someone with either enough money or no money takes a case, and they win, they might even have to go to Strasbourg and then come back, and all of that. It just seems like an outrageous waste of money. That is my fundamental concern, given I have no problem fixing the loophole prospectively, moving forward. It is just the question of retrospectation.

There always has to be a doubt about retrospective legislation because it offends our sense of justice. We have to know what is allowed and not allowed, and what the consequences are. In the case of penalty points, people knew they could not be speeding or doing whatever else they were caught doing. However, while they knew the consequences were penalty points, they did not know the law was deficient. Now we know it is deficient, I have questions. Nonetheless, I accept there is a logic to the Minister's argument. I worry that the only people who are going to benefit from this are my erstwhile colleagues down at the Law Library, and I am not sure that is a good way to spend taxpayers' money. As a matter of fact, I am sure it is not a good way to spend taxpayers' money, with the greatest of respect to them.

**Minister for Transport, Tourism and Sport(Deputy Paschal Donohoe):** I thank the Dep-



uty. With regard to how I view the Deputy's amendments, I am very pleased that I changed the merchant shipping Bill because the Deputy pointed to an issue. As he will recall, I felt at the time that I could not accept the exact amendment he put forward to me but we changed the Bill. To be fair, I know the Deputy still wants a further change in regard to the Bill but the point stands that because the Deputy put forward an amendment in regard to a Bill that was in front of the House that pointed to an area in which it could be strengthened, the Bill was then changed and improved. I am also pleased that, for example, on another piece of road traffic legislation in regard to road clamping and the regulation of that sector, which I took through the Seanad and which will come to the Dáil in the near future, changes were made in the Bill in the Seanad because of amendments and points that were made by the Senators in that Chamber. I just make that point to the Deputy because, leaving aside the time pressure I am operating under because of the urgency of the matter, if I had felt the amendment the Deputy put forward was going to improve and change the nature of the Bill, I would have accepted it. I want the Deputy to be clear on that.

It is an important principle in regard to how we consider legislation, and particularly how we consider amendments that are put forward to me from Members of the Opposition, that they are evaluated on their merits. The only reason I contacted the Deputy earlier today was because I genuinely felt, on foot of the advice I had received, that if I had changed the Bill in the way in which the Deputy wished, it would have meant it could not have achieved the objectives I believe are vital.

With regard to some of the specific points, the Deputy made a point about the penalty actually changing because of this legislation being, I hope, enacted by the Dáil later today. With respect, that is a point of difference I have with the Deputy in terms of my own understanding of how the Bill will operate. It goes back to the debate we had earlier. For me, because there was clarity on the penalty that was going to be accepted by the person when the person accepted that an offence had been committed, and because that penalty has not changed, that is the reason I do not believe the magnitude of penalty has changed in the way the Deputy does. I respect completely where he is coming from. How this would work in practical terms is that if somebody believed he or she would get three penalty points across the period of greatest concern for the Deputy, he or she would receive three penalty points due to the enactment of this Bill. One of the many things on which we will have clarity due to the enactment of the Bill is that the quantum of the penalty will not change. I ask the Deputy to consider this in the context of the point he has made. I understand the Deputy would be concerned if the level of penalty changed in any way.

In regard to the reference made to the European Court of Human Rights and the role of that body of law in Irish law, as somebody who has had responsibility for European affairs, I wish to make clear my understanding of the importance of that body of law to Irish law, culture and political life. Like the Deputy, I am proud of Ireland's legal and legislative history in that regard. While he would expect it to be the case, it is important I make it explicit to him, given his level of concern, that under no circumstances would I bring forward a Bill if I believed it would in any way contravene the Constitution or any other body of law that we subscribe to.

The Deputy asked for the rationale for the "saver" clause in this Bill. The sole reason this is included and that I ask the support of the House for it is to make explicit that the passage of this law does not in any way affect a matter that is currently before the courts. I say this as somebody who believes strongly in and accords significant value to our liberal values in how we govern ourselves. A cornerstone of all of that is absolute respect for the different spheres of

power within public life. They do one thing - and it is the courts that much of this will be tested - and the Oireachtas does something different. The only reason this clause is being introduced is to make clear to the Oireachtas and beyond that the legislation being introduced fundamentally respects the right of an individual to take the law as it was then to the courts. I wish to make that clear in this Bill.

Amendment, by leave, withdrawn.

Section 3 agreed to.

Section 4 agreed to.

Title agreed to.

Bill reported without amendment and received for final consideration.

Question proposed: "That the Bill do now pass."

**Minister for Transport, Tourism and Sport (Deputy Paschal Donohoe):** I wish to record my appreciation for the manner in which this Bill has been dealt with by the Dáil. I acknowledge the approach taken by Deputies in regard to its scrutiny and dealing with this challenge. I assure them I do not take this interest or approach for granted and will in the new year continue to engage with the Joint Committee on Transport and Communications on matters they believe are important. I also acknowledge and thank my officials and officials in the Office of the Attorney General for the role they have played in the drafting of this legislation and for the approach taken by all involved.

Question put and agreed to.

**Acting Chairman (Deputy Catherine Byrne):** A message shall be sent to the Seanad acquainting it accordingly.

#### **Fourth Report of the Constitutional Convention on the Dáil Electoral System: Statements**

**Minister of State at the Department of the Environment, Community and Local Government (Deputy Ann Phelan):** I am pleased today to provide to the Oireachtas the Government's response to the recommendations of the fourth report of the Constitutional Convention. The report is about the Dáil electoral system, one of the topics listed for consideration by the convention in the Oireachtas resolutions of 2012 approving the calling of the convention.

The Government acknowledges the interest of the participants and contributors and their engagement on the subject of the Dáil electoral system over two weekend meetings of the convention. This was, to quote the convention chairman, "a technical and complex" issue for consideration by the convention members. The decision of the convention was decisively in favour of retaining the current proportional representation-single transferable vote, PR-STV, electoral system, and the Government accepts the recommendation that the system be retained.

While voting to retain the current system, the convention made a number of recommendations for its modification. The convention chairman called this a "strong demand for changes" as part of a more substantial agenda of political reform. In that context in particular, the

Government restates its commitment to reform of the political and electoral system. This is evidenced in the strong delivery over the past three and a half years on commitments in the programme for Government and the commitment in the Statement of Government Priorities 2014-2016 to further reform.

In the fourth report, as well as dealing with the Dáil electoral system, the convention made recommendations for constitutional change in regard to permitting the appointment of non-Oireachtas members as Ministers and requiring Dáil Members to resign their seats on appointment to ministerial office. A recommendation was also made in regard to direct democracy or citizens' initiatives.

I will now set out the Government response to each of the recommendations made by the convention in its fourth report. I will begin with the recommendations for change to the Dáil electoral system. The convention recommended providing for larger constituencies with the smallest constituency size being a five seater. The Government is of the view that the three, four or five seat Dáil constituency arrangement has served the State well since 1948. It has provided for an appropriate balance in representation across the country while, at the same time, allowing for regard to be had to the terms of reference set in law for boundary review. The Government, therefore, will not accept the recommendation that no constituency should have less than five seats.

The Convention recommended the retention of more than 159 Members. In the convention report the recommendation to have more than 159 Members is associated with a range of one Deputy for every 30,000 or fewer of the electorate. The Government does not accept that such a ratio should be provided for and does not, therefore, propose to hold a referendum on an amendment to the Constitution in this regard. There is scope within existing legislation to provide for constituencies to return between 153 and 160 Members. The most recent constituency commission recommended an arrangement of constituencies for the election of 158 Members and the Oireachtas has provided for this in the Electoral (Amendment) (Dail Constituencies) Act 2013.

The convention recommended the establishment of an electoral commission. In April this year the Taoiseach advised this House of the Government's acceptance of this recommendation which reflects a commitment in the programme for Government. The preparatory work on this task has commenced in the Department and the Government Legislation Programme provides for the publication of an electoral commission Bill in 2015. Last night in the Seanad, my colleague, the Minister for the Environment, Community and Local Government, spoke with great passion and enthusiasm and in some detail about his commitment to this issue. He outlined his intention to bring proposals to Government in January to commence the pre-legislative phase of the Bill and this was well received by Senators.

The convention then recommended changing from the alphabetical order of candidates on the ballot paper and giving greater access to postal voting. The Government proposes that in due course an electoral commission be tasked with considering these issues and advising in detail on the electoral and operational implications, including costs, of implementing changes in these areas.

The convention recommended that measures be introduced to improve voter turnout. The Government accepts this recommendation and will continue to seek to implement measures to achieve improvements in voter turnout.

The convention recommended extending polling hours and polling days. Under existing law polling hours can be set for a period of at least 12 hours between 7 a.m. and 10.30 p.m. on any day of the week. However, in the context of any new arrangements for running elections that would be put in place when an electoral commission is established, the options for implementation of the convention recommendation to extend polling hours and to provide for polling on more than one day should be examined. The costs and the electoral and operational implications of such options would need to be identified in that examination.

The convention recommended improving the accuracy of the electoral register. The Government fully agrees that the highest levels of accuracy should be a constant and continuing objective for all with responsibility for the register. This includes the voting public, local authorities and the Department. The Department will continue to work with stakeholders on improving the accuracy of the electoral register. This issue also exercises county councillors at election time.

The convention recommended the introduction of a relevant education programme in schools. Much is being done in this regard. There is a civil, social and political education programme in place for post-primary schools. The new junior cycle student award is underpinned by 24 statements of learning which include that the student “values what it means to be an active citizen, with rights and responsibilities in local and wider contexts”. Earlier this year, it was announced that politics and society is to be introduced as part of the suite of subjects available to students at senior cycle.

The convention, in its fourth report, also made a small number of other recommendations unrelated to the Dáil electoral system. The first of these was that there should be a referendum to permit the appointment of non-Oireachtas members as Ministers.

The convention recommended providing a right for citizens to petition on influencing the legislative agenda and to petition for referenda. In response to these recommendations, I would point out that constitutional referenda are relatively common in Ireland and that there is nothing to prevent citizens presenting petitions. The Government has also substantially opened up the legislative process to citizens both via the work of the convention itself and the various packages of Dáil reform that we have introduced since 2011.

As the Taoiseach recently said in this House, the convention has been a valuable innovation in our democracy. I also commend the members and staff of the convention for their work on this report and their work generally over the lifetime of the convention.

**Deputy Barry Cowen:** I join the Minister in paying tribute to, and thanking, the members and staff of the convention for their input over many weekends and in acknowledging the report. It affords us the opportunity to examine issues in a different light considering the recommendations that emanated from it. I am glad the Government made a comprehensive response to them.

I agree with the Government that we should maintain the current mix of constituencies and not be confined to large constituencies. The Constituency Commission only recently made recommendations regarding the number of Members and the ratio of representation throughout the country is consistent. The commission’s recommendations were accepted by the House and these should not be altered in the immediate future.

The other issues, as the Minister of State said, could in the main be dealt with by an electoral

commission. It is disappointing that the Bill to establish such a commission was not brought forward at an earlier date. I acknowledge the commitment to do so next year but the Minister of State did not outline a timeframe for that to be introduced. I ask that this be done speedily to ensure the commission is in place before the referenda announced earlier this week are held next May. It is important considering the failure by the Government to secure approval for amendments to the Constitution in recent referenda and, more particularly the apathy towards them, as reflected by voter turnout, indicates the need for a commission to meet urgently and make recommendations to address these issues.

I am conscious of the Government's commitment to reform but mindful of the lack of reform, despite significant statements during the previous election campaign and in the programme for Government, and the lack of follow through in that regard. The recent McNulty affair exposed the shallow nature of the Government's reform agenda and the misuse of that board appointment to maintain a slender Seanad majority shows the Government has not learned any lessons. The history of the Government's measures to date illustrates its failure to grasp the nettle of reform in a meaningful way.

*5 o'clock*

I have said it on numerous occasions in respect of various debates relating to the passage of legislation across a wide range of areas, most recently with the passage of legislation to give effect to the amended charging regime associated with Irish Water. We know that this funding mechanism was devised by the EMC, which is a sub-committee of Cabinet and which does not have the sort of responsibility associated with such decisions which should in the main be made and agreed by Cabinet as a whole. It is very disappointing that this has been a strong feature of this Government's life and that the funding mechanism came from the pensions reserve, which meant that this Dáil had no role in direct questioning or seeking direct information pertaining to the setting up of Irish Water because of the fact that funds were raised in that way. We have seen the folly of that. The result has been a sorry debacle for the past 18 months. This was born within the EMC. There was no Cabinet participation. It is high time that the Government made a strong commitment that it will not use this body in the way it has used it previously.

Another area where, unfortunately, we have a systematic breaking of a programme for Government pledge is the commitment not to guillotine Bills. The record shows that 63% of legislation to date has been guillotined. The Government failed to implement its programme for Government commitment to allow for two weeks between Bill Stages in 78% of Bills. Topical Issue debates have been completely undermined by the failure of relevant Ministers to turn up in over 40% of cases. This is factual information that tells its own story. The Friday sitting could be described by many as mere window dressing to bolster sitting days without any real debate and with no votes associated with legislation being discussed. The Government continues to engage in cronyism in State board appointments ignoring the open public process. Again, a statistical analysis shows that only one in five appointments has come through the open process.

That is an indication from the Opposition's perspective as to the lack of commitment on the part of Government to follow through on the various promises made in respect of reform. I hope that when we see the effort, commitment and work of the convention in producing such a report and making such recommendations, they are considered in their entirety and that moves are made to address the recommendations contained in the report. I accept and agree with many of the Minister of State's initial responses to it. Having said that, the constituency review needs

to be enshrined to meet on a more regular basis rather than on the ad hoc basis maybe after two terms. I would like to see that set in stone.

The electoral commission was promised last April by the Taoiseach, as the Minister of State rightly noted. The Minister of State now says that the Bill is being prepared and will be before the House next year. I can only ask that every effort is made to bring that here hastily and to give it the sort of remit that would be reflective of many of the recommendations contained here in respect of improving voter turnout, looking at polling hours and polling days and improving the accuracy of the register. These are issues that this electoral commission needs to be charged with in order to make firm, real and meaningful recommendations to which the Government must commit in the event of the commission being given the sort of teeth that are necessary to make it effective.

I reiterate my and my party's thanks to and appreciation for the convention, staff and those who participated. I thank them for bringing forward the report. The success of that will only be measured by the commitments that ensue from Government in order to address the issues that have been raised. I implore the Minister of State to carry out the commitments she has given here today.

**Deputy Aengus Ó Snodaigh:** I take this opportunity to thank the convention for its fabulous work. This includes not only the chair, Tom Arnold, and the staff but, in particular, the citizen members, many of whom were engaging with a political concept they had never engaged with before in the detailed manner they did over a good number of weekends earlier this year and last year. As an experiment in participatory democracy, it was a worthwhile concept. It should be replicated along with whatever lessons need to be learned from operating it to deal with some of the other issues that Irish society needs to get to grips with.

The advantage of the convention is that it had a cross-current of all Irish society but it did not make decisions. It made decisions among its membership and sent reports to us for us to decide on matters. It made recommendations about referenda. At the end of the day, whatever comes of our deliberations on its reports, the referenda that come from that will be decided by all of the people. The weekends when I attended the convention were very useful because sometimes we have our own presumptions about where we stand. At each of the tables, there was a range of different members of the public as well as other elected representatives and it was good to be able to tease out some of the concepts and logic behind their positions. In this case, it was a very interesting debate that was facilitated by the expert panels in and around the proportional representation through the single transferable vote, PR-STV, and mixed-member proportional representation, MMP, systems. It got into the nuts and bolts of the various electoral systems in different parts of Europe and elsewhere. It addressed the benefits and pitfalls. For many of us, the political scientists were able to outline pitfalls of the approaches I and possibly others have around the voting systems. They were able to highlight pitfalls relating to the electoral commission being permanent or the ballot paper being in a certain format. Despite all of that, we then as a convention put the proposals to a vote and it allowed the members of the convention to make decisions which are reflected in the report.

One of the strongest recommendations made by the convention was that the electoral commission should be made permanent. The view was that it should be mentioned in the Constitution which would give it a standing and an independence over and above that which it enjoys at the moment and that it is not just to deal with referenda and elections as they appear. The view was that the electoral commission should have the power to ensure that, if at all possible, the

electoral register is 100%. The aim was for it to be a rolling register and that it would play a role in designing the ballot papers. One of the recommendations was that we should move from alphabetical ordering of ballot papers to a random ordering. This recommendation was endorsed by 67% of delegates at the convention. That is a significant proportion of a small group.

The convention also endorsed positions that I have long shared. It was originally intended under the PR-STV system to have constituencies of more than five seats, and only in extreme circumstances were there to be three or four seats. While the last commission has moved in that direction, thankfully it did not go so far as to propose constituencies of between six and nine seats. Constituencies for local elections are that large, but Dáil constituencies are smaller. The problems associated with such an approach were discussed at the convention. Deputies in a very large constituency might not be as accessible as might be preferred, notwithstanding the criticisms of clientelism. This was one of the more interesting debates at the convention. The citizen members of the convention asked Deputies about our workload. Some of them were originally critical of us for spending too much time on local issues, but when we explained that we would concentrate less on local issues if constituents stopped raising them with us, they told us they wanted us to deal with these issues. Concern was expressed about the potential for larger constituencies to become unwieldy in terms of representing communities. We might end up carving constituencies into smaller portions, much as happens in Britain, where one MP represents a small constituency under the first-past-the-post system. That would be the result if a constituency comprised counties Limerick and Kerry or two Dublin constituencies. For those of us who are political practitioners, it was interesting to observe how the nuances of politics can be lost on the general public. When decisions are made on the convention's recommendations, I hope we take account of the need for more education on how politics works. Much of the negativity towards politicians is based on ignorance. I do not mean this in a negative way; it is because people have not been taught about politics in school. Some of the negativity stems from media onslaughts on politicians and the assertion that we are in politics for our own good rather than to further the common good. An electoral commission should be enshrined in the Constitution, and the sooner that happens the better. It can be established on a legislative basis, but it would have greater standing and could be given other functions if it had a constitutional underpinning.

The Constitutional Convention was a useful exercise in democracy. The Good Friday Agreement envisaged an all-Ireland civic forum. If such a forum ever comes about, it should be modelled on the convention. It allowed us to grapple with ideas and concepts which could form the basis for us to legislate on what is happening in society. Such an approach might make us act more quickly than we would otherwise intend.

**Deputy Maureen O'Sullivan:** I was a member of the Constitutional Convention and was able to attend all of its meetings. Caithfidh mé a rá go raibh na cruinnithe go léir thar barr agus go raibh an comhrá, an díospóireacht agus an t-idirphlé eadrainn go léir dearfach. The convention's work went a long way towards improving public perception of Deputies and Senators. Many of the citizen members of the convention left with a much more positive view of our work after engaging with us closely at the various meetings. I acknowledge the hard work and commitment of the staff of the convention in making meetings run smoothly and in the excellent choice of venue at the Grand Hotel in Malahide.

We know that weak parliaments are associated with executive dominance, whereas strong parliaments tend to be linked with weaker governments and, consequently, more frequent elections. Where does Ireland stand in respect of those two scenarios? We elect Deputies to carry

out all of the tasks of the Dáil as defined by the Constitution, which range from law-making to overseeing the Executive and holding the Government to account for financial matters and international affairs. It is important that voters elect people who can perform those tasks efficiently and fairly, with the best interests of the country at heart. Two matters that have a bearing on today's discussion were decided prior to the convention's meetings. The constituency report for 2012 decided that the number of Deputies should be reduced by eight, to 158, and the number of constituencies should be reduced from 43 to 40. These changes have since been enacted. It did not make sense to me to enact these changes prior to the establishment of the Constitutional Convention, given that it was going to deal with electoral reform. It would have made more sense to await the convention's findings before deciding what aspects of the 2012 report should be provided for in legislation.

The electoral system for the Dáil was discussed over two weeks. We had a range of interesting presentations, some of which dealt with alternatives to our current system. These alternatives included single member plurality, single transferable votes and a mixed member proportional electoral system. One presenter applied the three alternatives to the 2007 and 2011 elections and came up with different scenarios. The 2007 general election returned 78 Fianna Fáil Deputies. One of the alternative systems would have returned 142 Fianna Fáil Deputies and another would have returned 114. The number would have increased under any of the alternatives. The 2011 general election returned 76 Fine Gael Deputies. There would have been 114 Fine Gael Deputies under two of the alternative systems but a smaller number under the third. I acknowledge that it is not an exact science, but the alternative systems would have made for very different governments and parliaments. It was clear that independent candidates do best under PR-STV. I am glad, therefore, that the Government has decided to retain that system.

We had extensive discussions on doing things better, including greater efficiency, transparency and accountability. The question arises of whether changing the electoral system would contribute to such improvements. I do not believe the existing flaws and shortcomings are due to a particular electoral system or that changing it would have changed the way we do politics. That is a different debate.

One criticism of the proportional representation system is that candidates in the same political party vie with each other as well as with candidates from other parties and independent candidates. This can lead to an emphasis on the local at the expense of the national. It was suggested that abandoning PR-STV would allow Deputies to devote all of their attention to the tasks outlined for them in the Constitution. However, we all realise how vital it is that Deputies are conscious of the effects of national policy and decisions on the lives of Irish people. Being involved at the local level should complement the national level.

One of the alternatives is the list system, but that still means that candidates from the same party will be in competition with each other. An interesting question was asked in 2011. Voters were asked if they would vote for the same person if the person was in a different party. A total of 32% said "Yes", 35% said "No" but approximately 33% did not know. After two weeks of debate there was a decisive result in favour of keeping the current PR-STV electoral system. To try to minimise the parish pump type politics they suggested constituencies of no less than five seats, which the Minister has rejected, and they were in favour of more than 159 Deputies. Another issue that was discussed very forcibly was the electoral commission, and there was a debate at most of the tables on the inaccuracies of the electoral registers and how that must be addressed.



With regard to voter turnout, we are aware of how difficult that is with the low turnout in this country. Some countries have voter turnout of 90% and more. The civic, social and political education, CSPE, programme is not working. It is not engaging young people. They are still disaffected and disinterested in voting.

On the matter of Oireachtas Members being members of the Cabinet, I firmly believe that is how it should be. They have a mandate as they are elected by the people. There was a suggestion that when a Deputy was appointed a Minister, he or she would resign his or her seat to concentrate on ministerial work.

The Constitutional Convention showed direct democracy in action. It was a good method of showing participative democracy. It was disappointing that Seanad electoral reform was not on the agenda, but we had a short discussion about it. I look forward to the new committee that is examining Seanad reform devising a democratic and fair system of electing Members of the Seanad, instead of the rather convoluted system we currently have.

I read the Minister's speech. Recently, members of the Constitutional Convention were invited to meet the Taoiseach. They were all still engaged and asking questions about what is happening with the work they did at the convention. My suggestion is that when all of the meetings have been covered in the debates in this House and when all of the recommendations have been addressed, there should be an opportunity for all of the members to meet together and produce a comprehensive paper on what happened with their work and recommendations.

**Deputy Brendan Griffin:** I welcome the opportunity to speak on this matter and to thank the people who were involved in the convention. Many people gave up their time and put a great deal of effort into being involved. That is very much appreciated and should be acknowledged.

I will focus on a narrow part of this report and what I consider to be a fundamental part of our democratic system, the electoral system for electing Members of the Dáil. There is much talk about Dáil reform and reforming how Deputies do their business, but we must also consider reforming how Deputies are elected to the House in the first place. One of the flaws in our system is the multi-seat constituency system. The PR-STV system has served us well over the decades. It certainly offers the opportunity for smaller groups and minorities in society to be represented in the House, but the multi-seat system has led to many difficulties and a lack of full potential being achieved in the House.

I will outline some of the flaws in the system. The first is the clientelism that arises. As long as there are multi-seat constituencies, too many Deputies will spend too much time on the wrong issues instead of focusing on the parliamentary and legislative issues they are elected to deal with. For example, if a constituent approaches a Deputy with a problem that is really more relevant to a citizens' information office, a member of the local authority or an agency of the State, the Deputy cannot tell the person that it is a matter for somebody else because the constituent will approach another Deputy in the constituency and one can be sure of two things as a result, that the other Deputy will do the job and the first Deputy will never get a vote again from the constituent. As long as that is the scenario, Deputies will spend far too much time on matters that should be dealt with by other people. That is a terrible shame.

Ultimately, very few people have the opportunity to be a Member of this House and to contribute to the formation of policy and making law. Unfortunately, when we become Members

too many of us are inundated with paperwork and matters that are not fundamentally part of the job. The only way we can change that is by jumping together and putting in place a system that safeguards the Deputy and allows them to delegate that work. Do not misinterpret me, I work extremely hard in my constituency on a one-to-one basis with people. However, I know from speaking to colleagues that many of us would prefer to have more time to focus on scrutinising legislation, forming policy on matters such as creating jobs for our constituents and trying to resolve some of the larger problems in the country. That is one of the flaws in the system.

Deputy Maureen O'Sullivan referred to internal party competition and the amount of time Deputies spend looking over their shoulders at somebody else in their party, perhaps the hungry councillor coming behind who is dealing with local issues on the ground. That Deputy, therefore, must also focus on local issues when they should be dealing with bigger, national issues in this House. We learned this painful lesson in the last number of years. We have seen how Dáil Éireann took its eye off the ball and allowed some problems to escalate and spiral out of control which ultimately led to the country's collapse in recent years. A stronger Dáil must have Deputies who are able to spend more time on Dáil issues. We must focus on that.

The argument for a single seat constituency system is strengthened when one considers that, at present, Deputies are not necessarily elected for their legislative or parliamentary work. In some cases they are elected for the wrong reasons. In a single seat constituency system, where one Deputy is returned from a constituency, the people would focus on the Deputy who is doing the legislative and parliamentary work. That is a serious issue and it must be considered and debated. To that end, I introduced a Bill dealing with this matter in November 2012 and another Bill recently. In my Bill I propose that a referendum be held and that we move from the current number of three, four and five seat constituencies to a scenario where there would be 157 single seat constituencies. It would retain the PR-STV system, although it would be the alternative vote, AV, system in that case. The Constitution refers to the use of the PR-STV system in the presidential election, which is perhaps a slight mistake.

In the Bill I introduced in 2012, I proposed that the number of Deputies be reduced to 101, with one being the outgoing Ceann Comhairle. Unfortunately, the focus of the debate at the time was on the 57 Deputies who would lose their jobs. However, the intention was to change from multi-seat constituencies to single seat constituencies while retaining the transferable vote system. That is the reason the latest Bill, which is currently with the Bills Office, retains the current number of Deputies for the next election. I strongly believe it is part of the reform that is required. There are two elements of reform required in this country - electoral reform and Dáil reform. Electoral reform and how Deputies are elected to this House is crucial. It is something we must debate further and I hope there will be a Second Stage debate on that Bill.

I realise there are differing views on list systems and other systems, but the country would progress if we were able to give Deputies a better opportunity to focus on what really matters, such as creating jobs for our people and ensuring our country never slides back into the mess it has been in for the last couple of years. Unfortunately, in this State we have a cycle whereby every 30 years we seem to crash into the worst possible economic disaster, recover and then crash again. This cycle will continue until we have more fundamental reform of how we manage matters. In the Oireachtas we are the managers of the country and when something goes wrong, the buck has to stop here. The system is flawed.

County Kerry will become a single five seat constituency after the next general election when I hope I will have the privilege of representing the whole county. We are a very proud

people and like to wear the green and gold whenever we can. To do so here would be a great honour for the whole county. However, if I drive home from Dublin on a Thursday evening, it might take four and a half hours, if I am lucky. If I have to attend a meeting in Listowel and then Ballinskelligs, it will take a further two and a half hours. If I then have to attend an event in Dingle, I could be driving around my constituency for five or six hours because it is so large. In a single seat scenario a county such as Kerry would be split into five constituencies, solving the logistical problem of trying to get around the constituency. The same applies to other large counties with relatively small populations such as Galway, Mayo and Donegal. We need to consider the issue. Although there is an argument that it would suit larger parties, I do not agree. In the past ten by-elections many of the people elected have been from smaller parties or Independents. We would see people responding to candidates who presented a strong parliamentary agenda and wanted to do the larger policy work.

I would like it to happen for future generations. What we do here might affect future generations for the next 90 to 200 years; God only knows. I do not want to be part of a Government that knows we have failed fundamentally, yet fails to reform. It would set us up to fail again. I would like to see more fundamental reform than in the past four years and we still have an opportunity to do it. With possibly 16 months before the next general election, there is adequate time for the Government to move the reform agenda forward. I hope it will happen.

**Deputy Eoghan Murphy:** While I welcome the debate, I question its timing. The Constitutional Convention gave the issue two weekends; we are giving it 90 minutes at the very end of the term and as a result, nobody is here. This treats the convention's work unfairly because it put so much time into it and it is a serious issue. If we are serious about changing our political structures and systems and reforming the culture of politics, electoral reform is at the heart of it. To spend 90 minutes at the end of the term debating the convention's work is insufficient. However, as it is an opportunity to speak, we should do so.

I do not know if we have decided how we will treat the recommendations. From the Minister's statement, it seems a particular way is on offer. Do we accept all of them or do we cherry-pick and, if so, who decides? Given that the convention's work cannot be binding, does it become an academic exercise, albeit a worthwhile one?

On the issue of the smallest constituencies having five seats, in one of his speeches the Minister stated, "The Government is of the view that the three, four or five seat Dáil constituency arrangement has served the State well since 1948." Therefore, the recommendation was not accepted. Unfortunately, this shows a complete lack of imagination on the part of the Government and what does it say for the convention's work?

The recommendations that have been accepted such as the establishment of an electoral commission were to be implemented anyway. The establishment of an electoral commission was included in the programme for Government. Other recommendations such as postal voting or extending voting to weekends will be given to the electoral commission to consider. What, therefore, was the purpose of the work? Although the reports are very interesting and a lot of time has been put into them, if we are accepting only the recommendations that we were going to implement anyway and not thinking about the more imaginative ones because that is not how the State works, I am not sure what the purpose was. While I do not mean to talk down or undermine the work of the convention, I wonder about the thought process before we established the convention and put the work in motion.

Other ideas recommended in this and other reports are included in legislation proposed by colleagues and are not necessarily new. We may not have had to do all of this work to reach a point we were already at.

In responding to the convention's recommendations we cannot become paralysed by analysis. If we think through the different iterations of reform and what might be the consequences, we will find flaws. However, we will find flaws everywhere and cannot let it keep us from making changes that need to be made because something is not working and we know it. If we were led by fear all the time, nothing would change and the *status quo* would be maintained. The logic that three, four and five seat constituencies have served us well since 1948 is given as a reason not to change things. Reasons will be given to explain why having a five seat constituency is not in the interests of the State. If the current system is not working well, we should not be afraid to try something else, even if there is not a perfect system with which to replace it.

I was very disappointed that the convention did not recommend changing the electoral system in terms of multi-seat constituencies. Deputy Brendan Griffin gave an excellent explanation as to why the model was not serving any of us well. He referred to the multiplication of work. In a four seat constituency such as mine a person may contact every Deputy in the constituency, each of whom may contact the relevant person in a Department, which is unnecessary. It also drives the hyper-localism of Irish politics. Changing the electoral system in this way would be a great way of moving away from it. Unfortunately, the convention did not recommend it; however, it does not matter, given that the Government is making the decision.

I agree with the recommendation that the smallest constituency should be a five seater. In European elections the system works well. People vote based on a person's ideas and principles, not because they had met him or her or because her or she had come to the door. To vote for somebody on that basis is not necessarily bad and accessibility is one of the benefits of the political system. However, if we want to move to a position where people will vote for a politician based on his or her convictions and positions on issues such as marriage equality or abortion, we must remove the hyper-localism. If we are not going to do it through having multi-seat constituencies, we could do it by enlarging constituencies.

The recommendation on changing the number of Deputies in the Dáil to reflect the number of voters was interesting. However, I could agree with it only if we were to make voting mandatory, as in Australia.

While I agree with the point on the establishment of an electoral commission, we should have done it in the first six months. Had we established an electoral commission, we could have let it conduct all of the referendums over the course of our five years in government.

The extension of polling hours and days is a no-brainer. It happens elsewhere in Europe and should happen here. I agree with providing greater access to postal voting which also happens elsewhere in Europe and many other countries.

We should allow people living overseas to vote through the embassies. During a recent election in Romania there were huge queues to vote at the embassy in my constituency. It is very simple and should be done. It bothers people if they are away during an election. It bothered people particularly during the 2011 general election because they very much wanted to vote but could not do so. Our decision is to allow the electoral commission to examine the issue. Again, we are unnecessarily kicking it down the road and delaying it. However, I agree with the idea.

Improving the accuracy of the electoral register is very important because we all know it is incredibly inaccurate. People are on a number of registers around the country as they move about. This needs to change, not least because it does not give us an accurate reflection of the turnout, which is important because we need to know the level of participation in society and how many are coming out to vote.

We had a very good education programme in schools, whereby Deputies and staff from the Oireachtas visited them. The Acting Chairman, Deputy Catherine Byrne, and I visited a school in Terenure together where we engaged with the students and told them what we did. Unfortunately, funding restrictions meant we had to cut back the programme. Education in schools is very important. When school groups visit Leinster House, they get a huge amount out of it and it is really brilliant. Recently, like many of my colleagues, I have started to have a question and answer session for students in the AV room, which gives them even more information. That is the best way to do it. Because the facilities and the people to do it already are available here, the first step to take is to bring every school in here and to make sure every school has been.

The next point was not about electoral reform but about the composition of the Cabinet or ministerial positions and is to permit the appointment of non-Oireachtas Members as Ministers and then to require Members of the Dáil to resign their seats on appointment to ministerial office. I do not agree with that. If one desires the American system and the executive government style, that is a complete change from parliamentary democracy. What we have is quite good, because the person elected to the Dáil and who then is elected by the Dáil into the Cabinet is politically and electorally responsible. One then matches that person with an expert by making sure the Secretary General of that Minister's Department is the expert one would take from industry or wherever. One then puts the two people together, that is, the person who has the expertise and the experience and the person who has the political accountability and understanding. That is a great force and a good example of how this has worked was the pairing of the Minister for Finance, Deputy Noonan, and John Moran, who formed a very good partnership at the head of the Department of Finance. This is what we should be working towards and what that would mean is not a change to how people are appointed to the Cabinet but changes within the Civil Service in order that people from outside can move more easily into the senior positions. People should be able to move in and out of the Civil Service to secure the best possible person in each Department at the very top. It should be open to a Minister, as he or she walks into a new Department, to say the best guy to run this Department is someone who used to run an airline and who would be perfect and then to bring in and work with that person. While the Minister would be politically responsible, that person would have the management and field expertise. I believe this is what people were trying to get at when they made such recommendations because they are of the opinion that something is not working. However, from my perspective, the fault lies in what can be done in respect of flexibility at the top of the Civil Service.

These were the recommendations on which I wished to speak. When Members speak on the next report of the Constitutional Convention, hopefully it will be the report on reform of the Dáil itself and hopefully much more time will be allocated to it. Moreover, I hope the Government does not prejudge the recommendations and tell Members which ones they must accept because were that the case, what would be the point of this entire exercise?

**Deputy Joanna Tuffy:** The main question the convention was obliged to decide in respect of our electoral system was whether to keep our system, that is, proportional representation by single transferable vote, PR-STV, or to replace it. The answer was a decisive "No" to replacing it and as the report states, "At the conclusion of the plenary meeting in June the result of the

ballot was decisively in favour of keeping the current PR-STV electoral system”. The vote was 79 to 20, which is in keeping with a national general election survey conducted in 2011. It was a substantial survey in which approximately 6,000 people were interviewed and again, the majority of the public was against moving away from PR-STV. Two referendums have been held on the subject in which the people opted decisively not to change to single-seat constituencies. Were one to introduce single-seat constituencies with proportional representation, which is called the alternative vote, it still would end up with the winner taking all and is undemocratic. That is the reason people wish to keep the PR-STV system, because it is the most democratic electoral system. Consequently, the two Deputies who spoke before me are very much out of sync with the view of the convention, with the view of the public and with decisions that people have taken by referendum. When we adopted PR-STV at the foundation of the State it was on foot of a civic movement. The idea was abroad in society that we were setting up a new State and should go for the best and most democratic system and we brought in PR-STV. Moreover in other assemblies, such as, for example, the citizens’ assembly in British Columbia that was the model for our Constitutional Convention, the question was whether they would change their electoral system. They sought decisively to change to our system and in fact, a majority voted to do so in a referendum they held. It was just that the bar was too high, in that unlike our referendums, it was not a simple majority but the percentage required was much higher.

I very much disagree, as did the convention, with the view of Deputy Griffin that there is something wrong with our PR-STV in terms of how Members act as Deputies. Members are here to represent their constituencies in the Dáil, which is what “Teachta Dála” means. When Members legislate, as legislators they are supposed to bring what they learn from their constituents because Members are supposed to represent their constituents when they legislate. The two are not separate but are related and one informs the other. In that way, each citizen in the State is represented in the Dáil, as is each parish, town and village. All types of people are represented here when Members legislate and Deputies take on board their concerns when they do so. That often informs the debate and so it should, as Members cannot legislate in isolation from what they learn as representatives in their constituency work.

**Deputy Brendan Griffin:** That still would happen with single-seat constituencies.

**Deputy Joanna Tuffy:** I did not interrupt the Deputy.

**Acting Chairman (Deputy Catherine Byrne):** Sorry, Deputy Tuffy, without interruption.

**Deputy Joanna Tuffy:** I believe it is a very democratic system that is serving us well. It gives voters a huge say at the ballot and does not mean they will keep the *status quo* as there was a decisive change in the last election, where something like 79 new Deputies were elected. Voters have huge power at the ballot box and they use it. Moreover, they use it according to national considerations. They of course consider how national decisions affect them as individuals and in their constituencies but they also consider the universality of the issues and vote in that way.

In addition, I note a survey of Deputies was carried out in 2010 and while this issue has been examined many times, the same answer keeps coming back but some Deputies keep ignoring it. They usually are Deputies from bigger parties who favour a single-seat model but that would mean that bigger parties would hold all the seats. That is how it works. Members should consider Britain and the results of the elections there.

**Deputy Brendan Griffin:** Look at the last by-election.

**Deputy Joanna Tuffy:** It is not democratic. Moreover, all the evidence that was put to the convention members was that if one had single-seat constituencies, the smaller parties and the Independents would lose out. They would not be represented. While Deputy Griffin might think this is a good thing, I do not. Even though I might oppose them in many respects, one would not have had People Before Profit, the Socialist Party or the Independents in this Dáil. Moreover, Sinn Féin would not have been in the Dáil at the last election. It would discriminate greatly against everybody except the big parties-----

**Deputy Aengus Ó Snodaigh:** We would have been. Sinn Féin candidates topped the poll in most constituencies.

**Deputy Joanna Tuffy:** ----- and that would greatly favour Fine Gael. Consequently, I understand where the Deputy is coming from in this regard. I am aware that Sinn Féin is in favour of PRSTV but the-----

**Deputy Aengus Ó Snodaigh:** We topped the poll in most constituencies, it was not based on transfers.

**Deputy Joanna Tuffy:** Yes, but it is not always like that. Sinn Féin's fortunes go up and down, just like those of the Labour Party.

**Deputy Brendan Griffin:** I note by the way that the last two by-elections in Dublin were won by the Socialist Party.

**Deputy Joanna Tuffy:** Only one constitutional issue really was at stake and that concerned the electoral system. All the other stuff is a survey of opinion and if one considers the recommendations about the modification of the constituencies to the effect that we should have larger-----

**Acting Chairman (Deputy Catherine Byrne):** Deputies should please be quiet.

**Deputy Bernard J. Durkan:** Apologies.

**Deputy Joanna Tuffy:** If one considers whether we should have larger constituencies, which was one of the recommendations, that is not necessarily something that must be done by changing the Constitution. It could be done by legislation. I would be in favour of that, as it of course would favour smaller parties much more, but it is much more democratic as well.

Changing the order of candidates on the ballot paper was one of the recommendations of the convention on the basis of a survey of opinion. I have my doubts about that because while I acknowledge there is a problem with people going from the top of the ballot paper to the bottom and there is a certain distortion in that regard, on the other hand, were the ordering all mixed up, I believe one would find people are accustomed to scanning the paper using their knowledge of the alphabet and the order in which it goes and finding the candidate for whom they wish to vote. Therefore, I question that second recommendation and it would warrant closer examination. As the Minister noted, probably the best place in which to give consideration to this recommendation is the electoral commission. As to one good thing in our system, I note that in Malta, they have PR-STV but it is ordered according to parties and consequently, voters simply stick within their parties and do not go across parties from one to the other. It is good that in our system people move around whereby they might give their first preference to Fianna

Fáil and their second preference to the Labour Party or whatever. This is a good thing about the system. While this makes the individual key to the process, a person's character is something people take into account when they vote for their representative.

As to how this worked, at the first session in May, the members of the convention considered whether we should examine other systems. They were open to looking at other systems and the one that got the majority was the mixed-member proportional system, MMP. The members of the convention ruled out list systems and so on and people were very much against those other systems. Consequently, the convention looked in detail at the mixed-member proportional system and when the convention members got the information about it, they could discern the pitfalls. They could see that it would be very difficult to have both multi-seat constituencies and people being elected on lists because in a way, as has been noted by Deputy Maureen O'Sullivan, one is replicating. As list systems involve multi-seat constituencies, one would have two multi-seat constituency elections. One still would have interparty competition within both systems because that happens in other countries. Moreover, even in the case of countries in which they elect on lists, it was put to us by the people who had studied the other systems and had lived in other countries that they have constituency work too. This is the case for people even if elected on lists, unless the system is a totally closed one, as in the case of Israel. The pitfalls were examined and a democratic deficit was identified. Representatives still do constituency work. Other countries are moving closer to our system rather than the other way round. Our system rather than those of other countries is considered the benchmark.

On the other matters surveyed, while the response of government is pretty good I believe many of the issues should be dealt with by the electoral commission. In my opinion, the issue of whether Deputies should resign when they become Ministers was not adequately considered by the convention. During discussion on the issue by the group with which I was involved I learned that when Ministers in France step down and somebody else takes their place, because they want to run again in their constituencies, they run as local mayors in order to keep up their profiles. In France, the Prime Minister can become a Mayor of Paris. It all comes down to local level everywhere. It is a universal phenomenon that people vote for who they know, which I think is positive. I disagree with those who say that is not the case. However, I would be wary of the proposal that Ministers should resign. I do not think it is practical or that it would achieve the outcome expected.

**Deputy Bernard J. Durkan:** Hear, hear.

**Deputy Joanna Tuffy:** On direct democracy, I believe there is a need for an audit in this regard. While direct democracy exists to a certain extent I do not believe the convention considered that issue in enough detail either. We should have an audit in relation to direct democracy, which was evident in respect of the Bill voted through the Dáil last night in relation to any proposal to privatise Irish Water. It is evident also in local government in the context of plebiscites and so on. We should first undertake a review of existing direct democracy and then consider what we can do to improve on it. I would be wary of direct democracy in the context of a vote on a homeless shelter in a particular area in that it might not be supported. Sometimes politicians have to do what is unpopular. That is democracy.

**Acting Chairman (Deputy Catherine Byrne):** The next speaker is Deputy David Stanton.

**Deputy Brendan Griffin:** On a point of information-----



18 December 2014

**Acting Chairman (Deputy Catherine Byrne):** I am sorry Deputy, please sit down. You cannot make a point of order.

**Deputy Brendan Griffin:** On a point of information-----

**Acting Chairman (Deputy Catherine Byrne):** Take your seat, please. The next speaker is Deputy David Stanton.

**Deputy Brendan Griffin:** On a point of information-----

**Acting Chairman (Deputy Catherine Byrne):** Sorry, Deputy please sit down. You have had your time. It is now Deputy Stanton's time.

**Deputy Brendan Griffin:** On a point of order-----

**Acting Chairman (Deputy Catherine Byrne):** The Deputy cannot raise a point of order now.

**Deputy Brendan Griffin:** I will not push it but the Acting Chairman should have allowed me to make my point.

**Deputy David Stanton:** This is an interesting debate. I agree that it is a pity it is taking place at the close of session when there are few people around. I was not, unfortunately, a member of the convention but I took an interest in the debate and on the recommendations arising out of it. Like some of my colleagues, I come from a rural constituency. While many colleagues from the urban constituencies are interested in increased seat numbers and larger constituencies, representatives from rural constituencies know only too well the practical issues involved in representing a large constituency. If the number of representatives is increased so too will the geographical areas.

Deputy Griffin comes from County Kerry, which for the purposes of the next general election will become one constituency. When one takes into account all of the peninsulas and so on in that area, representation of that constituency by only one Deputy will be horrendous. It will be very difficult. As stated by Deputy Griffin, it will take many hours to travel the entire constituency. The same will apply in the case of Donegal. I have previously spoken about the European Parliament constituencies and the fact that virtually half of this country is in one constituency. In my view, a constituency of that size is too big. It means that often two Deputies from the same party must each focus on one particular half of the constituency. In my constituency Deputy Barry focuses on the northern half of Cork East and I focus on the southern half of it. While we do some work together across the constituency, that is how it works de facto. In a situation where there is only one Deputy from a particular party in a constituency he or she has to cover the whole constituency in order to serve the constituents who voted for him or her. It is very difficult to have to drive hundreds of miles to do that. I caution against larger constituencies with more seats.

I note that most of our European partners use a mixed list system of one type or another. There is a need for further discussion on that issue. It is often said that in politics there is too much clientelism, localism or parish pump politics. Deputy Tuffy mentioned in her contribution that we have to represent constituencies and we also have to legislate. I believe that in legislating we represent the whole country and not only our constituencies. Very often people come to us with trivial problems. I note that the convention indicated that we should strengthen

local government and the role of the local councillor to provide that he or she can take on more local issues, thus freeing up Deputies and Senators to address the national situation. I believe that is an issue on which we should do more work.

Another issue discussed is the listing in alphabetical order of names on the ballot paper and the design of the ballot paper. Theresa Reidy of UCC has done a lot of work on this issue, on which I commend her. I noticed a flaw in the ballot papers for the local elections in terms of the location on the left-hand side of the ballot paper of the logos of political parties. The Independents did not have any logos and as such the box to the left of their names was blank. This meant that people who chose to record their vote on the left-hand side of the ballot paper were unable to vote for the representatives of any party because the box to the left of their names contained a logo and, thus, they invariably continued to vote for the Independents. That is a flaw in the ballot paper. People were supposed to record their votes in the boxes on the right-hand side of the ballot paper but some chose to do so on the left-hand side which meant they voted in many cases for the Independents. The advice from the returning officers was that it was a clear indication of voting preference. Many hundreds of people who recorded their votes on the left-hand side of the ballot paper were precluded from voting for party representatives because the boxes to the left of their names were filled with logos.

Very often a person will give their No. 1 vote to an Independent and then continue on in terms of preference. If that person chooses to record his or her vote on the left-hand side of the ballot paper and he or she is not too pushed about who gets the second, third and fourth votes and so on they will tick the following empty boxes. That is what happened. I ask that those who design the ballot papers ensure in the future that the boxes with no logos are blacked out so that people are compelled to record their votes on the right-hand side, thus giving everybody involved a fair chance. Design of a ballot paper is a serious matter.

According to some research because names on the ballot paper are listed in alphabetical order those whose surname starts with the letter A have an advantage because it is at the top of the ballot paper. It has also been said that those listed at the bottom of the ballot paper may also have a slight advantage. It has been proposed that names be randomly mixed up to ensure people get an opportunity to be at the top or bottom of the list as the case may be. As I said, design of a ballot paper is an important matter.

On the issue of a reduction in the number of Deputies in Dáil Éireann, I have heard it said that the number should be around 100. When the Irish soccer or rugby team plays an international match they have the same number of people on the pitch as the other team. In other words, in a soccer match against France or Germany and so on, there are 11 people on each team. There is an optimal number of people needed in a Legislature. If one removes Ministers, Ministers of States and then splits in two the number of Government and Opposition members then the choice for the Taoiseach, in terms of the number of people he can put in Cabinet, becomes limited. The workload for the remainder of us also increases. I caution against any great reduction in the number of Deputies.

I believe that an electoral commission is important. Perhaps the Minister will when summing up the debate indicate if it will be established prior to the next election, which presumably will be in 15 months time, and whether it will be operational for the purposes of that election. I would welcome a response to that question. On the extension of polling days and hours, I am not too sure about that. I think we need to do more to create an excitement around elections that would encourage people to come out and vote. In some countries - I think Australia was

mentioned in this regard - there is a national holiday type atmosphere around elections.

On improvement of the accuracy of the electoral register, that is an old chestnut. Another issue discussed was that of greater access to postal voting. I have drafted a Private Members' Bill which I hope will address the issue of access to postal voting for people who are away on holidays on polling day. I would welcome debate on that legislation so as to make the small change required in that regard. Perhaps the electoral commission could be tasked with ensuring that people who present an airline ticket to show that they will be away on holidays on polling day are facilitated with a postal vote.

Education programmes are also important. Returning to the issue of the electoral register, there should be a programme of registration in schools or colleges for students when they reach 18 years of age or 16 if it is changed.

*6 o'clock*

Has the Minister any proposals to encourage such a programme or even mandate it?

I agree with the convention's proposals on the appointment of non-Oireachtas Members to Cabinet. It is already provided for but has only happened on a few occasions over the past decades. The proposal for Dáil Members to resign their seats on appointment to Cabinet happens in other jurisdictions. Perhaps Ministers are too close to the Dáil. In other jurisdictions where they resign their seats, parliament then becomes a little more independent.

Direct democracy initiatives are always very welcome. There are two types of reform, one of which is big bang reform. Many Members claim the Whip system is awful. I have been a Member for 18 years and there have been only three times when Members have agonised over the imposition of the Whip system. Most parties agree in their party rooms to be guided by the Minister or spokesperson on the path to take regarding certain legislation. Rarely, does the Whip become an issue. However, a significant reform has occurred unnoticed, namely pre-legislative scrutiny. I have the privilege of chairing the justice committee which, since the general election, has scrutinised 11 Bills, hearing evidence from over 420 people and non-governmental organisations. The committee has published eight reports. Its report on missing persons led to a missing persons day while its report on prostitution led to legislation in the area being brought forward. The same applied to its reports on community courts and domestic sexual violence. The pre-legislative scrutiny system involves much, so that when the Bill is finally published by the Government, it is actually a very good document. This has been the biggest change I have seen here but it has got no coverage. These are the kind of reforms we need to be addressing.

**Deputy Jerry Buttimer:** Like the Acting Chairman, Deputy Joanna Tuffy, I was a proud member of the Convention on the Constitution. I acknowledge the work of the chairman, Tom Arnold, as well as the secretariat and academic staff headed up by Art O'Leary. The work they did in galvanising the members of the convention to debate in a resourceful and tolerant manner is to be commended, as well as the way the convention arrived at its conclusions.

I am glad and relieved we are now debating the convention's fourth report on the Dáil electoral system. The report is the culmination of the work of convention members over two weekends. On the first weekend, we examined the PR-STV system, proportional representation through the single transferable vote, and alternatives to it. The first recommendation was to maintain PR-STV but modify it. That decision shows the high regard people have for our current system. I agree with Deputy Tuffy on how our constituencies should be arranged and how

we vote. Deputy Stanton and I have spoken about the whole issue around whether we should have single-seat constituencies elected by PR-STV.

The convention also recommended larger multi-seat constituencies and, surprisingly to public representatives, more Deputies elected, essentially having one for every 30,000. Talking to convention members, I learned they like the fact that Deputies and public representatives are close to them in their communities, of them, from them, of their being involved and accessible. That is one of the hallmarks of our system that is to be commended. Whether it is Deputies Ó Snodaigh, Ann Phelan, Tuffy or Stanton, we are living in the communities we represent, we are from them, not aloof from them. This is to be welcomed and never to be taken away from our system of politics.

Another interesting point I learned from the convention was that many of its members wanted to see larger constituencies. Would that mean, however, that we would still be close to the people or would we lose touch with them? Aside from the simplistic view as a practitioner that we would have to cover more ground and service more people, a large constituency will make us more distant from the communities we represent.

Two weeks ago, I attended a conference in Washington DC. Members from parliaments in other jurisdictions were stunned that Irish parliamentarians would knock on constituents' doors every couple of days and hold regular clinics without appointments. It is interesting that we try to get a balance between being a legislator and, as Deputy Tuffy said, being a Teachta Dála, the messenger of the people. We must always strive to get the balance between contributing to legislation and having time to participate in debates and committee work. Having the privilege of being the chair of the health committee, I have come to appreciate the work I do in my committee which has given me a different perspective on being a Teachta Dála.

We do not sell the committee system well or advocate enough for it, however. We need to do that more. For example, today the health committee held two passionate meetings on Lyme disease and cosmetic surgery. If we did not have a committee system, we would not have heard testimonies about the effects of both. Equally, without the committee system we would not have been able to hold the HSE to account for five and a half hours last Tuesday night on many issues, an exercise which one could not do in this Chamber.

When people speak about reform of politics, I wonder do they know what they actually want. For example, if Deputy Ó Snodaigh came to my clinic asking me to advocate on his behalf to get him a medical card, his footpath or pothole fixed but I told him that as chairman of the health committee my only job was to be a public health advocate and legislator, he would belittle me in the media and social media, saying I would not do what he asked me to do. The convention supported the work we do in trying to get that balance. I accept we cannot always get it right but we do try.

I am very vexed by the electoral boundary commission's changes to Dáil constituencies, in particular the changes it made to Cork South Central. It is not about me losing half my home area in the constituency or the reduction of one seat. My issue is with the way it discommoded a community by putting it in a no-man's land where its members had nothing in common with other constituents in terms of geography or shared issues. This applies to many parts of the country where different communities have little in common other than the fact that they are from the same county. In the case I speak of a disservice was done to the people and to politicians because the boundary commission had an opportunity to bring real reform to how Depu-

ties are elected and how constituencies are composed but the question was ducked.

The electoral commission initiative was supported by 97% of the Constitutional Convention, it is in the programme for Government, and the Minister of State said in her address to the House that the Minister for the Environment, Community and Local Government, Deputy Alan Kelly, will put it in place. The electoral commission is required because issues that must be examined include access to postal voting, increasing electoral turnout, the accuracy of the electoral register and civic, social and political education, CSPE, in schools to ensure people participate in the voting process.

I agree with Deputy Stanton and am not convinced by comments on the length of the polling day. Presiding officers say that there is very little voting activity early in the morning on polling days. We need to change the voting system to allow for absentee votes from people abroad on holidays or for work reasons. We must assist those who otherwise would be unable to vote on voting day. Other European countries and the United States facilitate such voting.

**Deputy Aengus Ó Snodaigh:** They do it in the North.

**Deputy Jerry Buttimer:** I thank the Deputy for reminding me that they facilitate such voting in the North too. Voting queues can be seen outside embassies around Dublin and early voting exists in the United States for various elections. This is a measure we should consider because it would be an exciting part of the electoral process and would mean real engagement.

The weekend of the Constitutional Convention was excellent and the major recommendation that we should take from the fourth report is the establishment of an electoral commission. We must plan for elections and referenda in a more detailed way and I hope the referendum commission would be part of an electoral commission as this would bring consistency, uniformity and a planned approach to elections.

I commend the Constitutional Convention on its work and I particularly refer to the non-elected members because they were so diligent and powerful in their approach that they refreshed me. The chairman, Mr. Tom Arnold, did this Parliament and the people of Ireland a wonderful service. I commend the report to the House.

**Minister of State at the Department of the Environment, Community and Local Government (Deputy Ann Phelan):** The pre-legislative phase for the electoral commission begins in January 2015. The preparatory work for this task has commenced in the Department and the Government's legislation programme provides for the publication of an electoral commission Bill in 2015.

I have listened to the debate in the House and, while everyone is talking about electoral and political reform, nobody really wants to make radical changes. Changes to the ballot paper, postal votes and better planning for referendums are to be welcomed but when I speak to people outside Ireland they agree with how the Members of the Dáil are elected. People feel that the Dáil is reforming and that the proportional representation system means that people are represented who otherwise might not be. We sometimes forget that electoral systems evolve because of a nation's people. We have our electoral system, warts and all, but it serves the Irish people well.

I support postal voting because I know people who were devastated to learn that an election would coincide with their holidays. They felt very aggrieved and deprived so postal voting

would be a worthwhile reform. I agree with Deputy Ó Snodaigh on the education system as much can be done in that realm on the importance of politics. The education system should teach our children how to perform as citizens. For example, they should learn that when one lives in a country with public services it is very important to pay tax. Our education system must teach children how important it is to pay taxes when one lives in a country and avails of its services.

I thank Members for their contributions. It has been an interesting debate but, as Deputies said, it is a pity it took place at the close of business and will not be deemed as important as it actually is. I commend those involved in the Constitutional Convention on the great work they do. Debate on the way the political system functions is very important and we must continue to debate the reforms we can introduce to improve things.

I agree with Deputy Stanton's remarks on how well the committee system works because it serves these Houses, and legislation generally, very well. Deputy Buttimer also made this point. Outside these Houses, however, I have been told that people are dissatisfied that work is being done in committee rooms rather than in the Dáil Chamber. There is always a balance to be struck in politics and, like Deputy Buttimer, I do not think we have sold the work of the committees very well.

I recently visited Malawi and spoke to many politicians there but I was intrigued to learn that their problems were exactly the same as ours. As in Ireland, everything depends on constituency work and balancing one's legislative role with parish pump politics. Parish pump politics is a term we use to denigrate the good work that is done in representing one's constituents. We are elected to represent our constituents.

I recently happened to bump into some English people and they could not believe you could simply meet a Member of Parliament on the street. I stood and spoke to them and they said that would never happen in England. Irish people like their politicians to be accessible and we might live to regret it if we changed this radically. Politics is about people, not necessarily about running a committee system or presenting a ballot paper. This Dáil Chamber represents the people of Ireland and long may that continue.

### **Opposing Domestic Violence: Statements**

**Minister for Justice and Equality (Deputy Frances Fitzgerald):** I welcome the opportunity for Members to express their views on opposing domestic violence. It is poignant to think of the tragedies that have occurred in families in this country because of domestic violence. Each of us, no matter which side of the House we sit on, came to politics to right wrongs and eliminate evil. Sooner or later, each of us realised that no matter what we do some evils do not go away. Child sexual abuse does not go away. Sexual violence does not go away. Gender-based violence does not go away. Domestic violence does not go away.

A study undertaken by Cosc, the national body, found that over 70% considered domestic abuse to be a common problem in Ireland. It is extraordinary to think that following a survey, a total of 70% of people should say that they consider domestic abuse to be a common problem in Ireland. Domestic violence does not go away. Indeed, its very constancy might tempt us to shrug and move away from it but that should never happen. It should never be permitted to become a norm in the minority of homes.

18 December 2014

We know that domestic violence is devastating for the victim. It destroys trust and any sense of self and self-respect. It often causes a retreat from work, the economy and social networks. It has major personal and social costs. Preventing domestic violence and protecting and supporting the victims requires legislation, services and consistent good practice.

In recent years Ireland has put in place a national strategy for tackling domestic, sexual and gender-based violence to co-ordinate this multifaceted approach. The Government and I are committed to updating this strategy as a new blueprint for future initiatives. This work is being overseen by Cosc. A final review of the strategy was completed in the summer and is now feeding in to the development of the second stage. We have asked many people for submissions. I hosted a consultation in Dublin Castle some weeks ago where representatives from all the groups working in this area came together and gave us their best thinking on the next national strategy. It was a useful event and will help us to identify the priorities. The groups were asked to identify what they believe should be the priorities in the coming years.

In October, we were presented with excellent work from the Joint Committee on Justice, Defence and Equality. The committee produced recommendations on domestic and sexual violence. I note that Deputy Stanton is present and I pay tribute to him for the excellence of the work done on this topic and indeed on many other topics worked on during the year by the justice committee with considerable cross-party support. The recommendations from the justice committee will help us to identify the new national strategy. This needs a whole-of-government approach because one thing is clear: if we are to deal with this topic effectively, we need a cross-party and interdepartmental approach.

I am keen to highlight various benchmarks which will be important in the coming months and which will help us to underpin in a serious way developments and improvements in this area. In particular I have in mind the Council of Europe convention known as the Istanbul convention. This convention is aimed at preventing and combating sexual and domestic violence against women. I am keen to sign the convention in the course of 2015 on behalf of Ireland. We are examining the various elements that have to be dealt with. It was thought that there was some constitutional impediments to signing, but I am pleased to say that we believe this is not now the case. We will have an action plan as part of the new national approach towards ratification. In the course of 2015 we will also deliver domestic violence legislation to consolidate existing legislation and introduce some new elements of legislation. Several changes have been made already.

Another element which will contribute to a better approach to the victims of domestic violence is the implementation of the EU victims directive. I have held some good meetings with the Northern Ireland Minister, Mr. David Ford, MLA. We have worked together on the issue because he is implementing the EU victims directive as well. He has developed a charter for victims to ensure they have a more central place within the criminal justice system. I am keen for 2015 to be the year when we put the rights of victims at the heart of the criminal justice system. Delivering for victims is a key goal in addressing the grim reality of domestic violence, of this there can be no doubt. The directive is excellent and I believe that its implementation in all member states will make a real difference to how victims are approached throughout criminal justice systems.

Today, I am announcing a further allocation of €230,000 for victims services. This will come from the dormant account disbursement scheme. It will help the Crime Victims Helpline and Victim Support at Court. Victim Support at Court is very important. From what I have

heard, users find the support on offer invaluable. We are keen to see the service extended beyond Dublin and I hope the extra funding will allow that to happen.

Another key development in 2015 will be the planned establishment of the new victims liaison offices in each Garda division. The victims services offices will be the central point of contact for all victims of crime and trauma in each Garda division. The offices will give advice, information and support. I believe this will be very helpful. The offices will be staffed by dedicated, specially-trained personnel who will keep victims informed of all significant developments associated with their cases as well as providing guidance and support. I imagine other Members will agree that one of the key issues for people when they report incidents of violence to the Garda is their wish to be kept informed of what is happening and the outcome of the case or any associated developments.

The Garda Inspectorate report is important in this area. As Deputies will be aware, the report contains a chapter on domestic violence and how it is dealt with at present. While everyone accepts that there have been great improvements in the response from the Garda - victims support services will say as much - the inspectorate report also found an inconsistent standard. The report points to significant concerns in respect of the support for victims in many cases.

I have asked the newly-appointed Garda Commissioner to report to me on how An Garda Síochána will implement the inspectorate recommendations on all the issues and on domestic violence in particular in order that we can ensure a more consistent response. The Commissioner recognises the vital importance of this response and she is committed to delivering improvements. I have no doubt that this will be included in the policing priorities for the year ahead. She has made a clear statement about her concern for victims and this is one of the reasons she is supporting the development of the victims liaison offices.

One of the points that emerged from the Garda Inspectorate report was the question of risk assessment in domestic violence cases and ensuring that assessments are carried out more appropriately and carefully. Clearly, this is a challenging task and one cannot always be absolutely correct with risk assessment. However, by ensuring a consistent standard, improved training and greater clarity on the importance of being careful in undertaking risk assessment as well as by responding and listening carefully to victims and taking what they say seriously, we should and will get a more consistent response.

The misuse of alcohol is clearly evident in many cases of domestic violence. I am familiar with this from previous work in child abuse and neglect cases. We see the trends again and again in respect of the influence of alcohol and drugs on criminal offending. We know that alcohol abuse plays a major role in fuelling many cases of domestic violence. It is another example of the shocking impact of the misuse and abuse of alcohol and drugs on Irish society.

Awareness raising is important in respect of how we as a society and a community and individuals become more cognisant of the impact of domestic violence and encourage people to do whatever they can to reduce the incidence. We are supporting the various victim support groups in order that they can do this work. This year we have supported the White Ribbon Ireland campaign and the Man Up campaign, which encourage men to stand up against domestic violence and be positive actors in all their relationships with women and children. Considerable awareness raising has been undertaken by a variety of men's groups as well as individual men throughout the country in respect of this issue and this is a positive development.



Clearly, the question of legislation is important. We have made several changes. The change to the *in camera* rule is an important element of greater awareness throughout society. We have modified the rule to allow greater reporting of family law cases, including domestic violence proceedings. There are appropriate protections for the identities of individuals, especially children. Media reporting is important for people to understand the scale and type of case coming before our courts.

Several other changes have been made, such as the provisions for orders to be made for same sex couples in a civil partnership arrangement to be treated on the same basis as married couples, and for same sex couples living together in intimate relationships to be treated on a par with opposite sex couples in the same situation. Couples who have a child in common may now apply for safety and protection orders even where they have not lived together. These changes were called for and are now in our law. We have also removed the six-month period for residing together prior to being eligible for safety and protection orders which previously applied. I will publish additional legislative proposals in the early part of the new year to consolidate and reform the domestic violence legislation.

The role of Tusla is important because of the preventative family supports that are available and can be called on. Priority court time and court dates are available. The President of the District Court works to make sure that delays in the hearing of family law cases, particularly those involving domestic violence, are kept to a minimum. Support services in Dolphin House are available every week day morning to individuals attending there. We want to make sure those services are spread more widely to women using the court for applications under the Domestic Violence Act and other ancillary orders, such as child access and child custody. That is a very good service because it gives the women the support they need. That service is available as well in Dundalk District Court and other court jurisdictions are planning to introduce it.

Last week, I announced that there will be a new family law complex at Hammond Lane which will be helpful because the facilities families have been using, for example, in the Dublin area, are not of the standard they should be in order to help people get the best services, whether mediation or court services. It is quite clear that a new building is necessary instead of the three different services dealing with these cases in accommodation that is not good enough or suitable.

We need to work with the Department of the Environment, Community and Local Government to deal with the range of issues arising around domestic violence. Another element is to work with, and have programmes for, perpetrators of domestic violence. There are 13 programmes for which the Department provided just over €400,000 in funding in 2013. We have to work to reduce offending behaviour in this area. It is complex and is not easy but it is important that people are helped to behave differently and to work with couples where that is what the couples wish to do.

The fact that domestic violence runs like an underground river through our society does not mean we can ever accept it. The fact that it finds new routes and creates new tributaries with passing time should make us more rather than less resolute when it comes to dealing with it because we must deal with it and its victims. The new EU Victims Directive, the signing of the Istanbul Convention and the changed approach to victims within the criminal justice system should be an important marker of change in this respect in 2015. We will need to meet the relevant complex needs with a very strong cross-departmental, cross-disciplinary and professional approach working in tandem with the NGOs which do so much of the frontline work.

**Deputy Éamon Ó Cuív:** It was very inappropriate to stick 60 minutes of this debate in at 6.30 p.m. on the last sitting day of the Dáil session. When we speak here we hope by getting the word out through the media and so on that we can highlight issues of importance in society. This deserved a lot more than an hour's initial debate with the Minister's speech, which was very interesting, thrown in at the beginning. It should have been the key debate during the main part of a sitting day. How many journalists are around the House now? I put any money on it that if they are here they are in the Seanad watching the Water Services Bill 2014, not watching this debate. On the one hand, we say this is an incredibly important issue but on the other hand we tuck it away in a way that will not give the subject the treatment it deserves.

The statistics are horrendous: Women's Aid reports 17,000 incidents of domestic violence in Ireland. That is a huge number of victims. In many cases there are multiple victims, not only partners but children. The cases include sexual and emotional violence and financial abuse. In each case there is the heartbreaking situation of somebody feeling unsafe in her or his own home. We have to continue to work on this.

I wish it were possible to eliminate domestic violence. We must make sure that where it does occur there are appropriate responses. We must continuously change the methods we use to ensure this. I am very pleased that the Minister will implement the Istanbul Convention. It is very important. We will watch with interest when she outlines the steps that have been taken to do this. It is also important that this is never seen as a work completed because as society changes we have to keep changing the rules and defences to make sure that victims are defended at all times and that every new opportunity is taken to make sure we put better measures in place.

I have heard good reports of An Garda Síochána from some victims. It would be wrong for us to paint all members of the force in a bad light. Many have gone beyond the call of duty to help victims. I was very taken aback by the report of the Garda Inspectorate on Garda readiness to deal with the victims of domestic violence. The gardaí are the first call out point for many victims and are the people who can enforce the law.

It is vital, and this is within the Minister's gift, that all necessary resources are made available to An Garda Síochána. I noted the Minister's comments on the new Garda Commissioner. Having met Ms O'Sullivan, I have no doubt she will be very understanding of the position and concerned to implement the Garda Inspectorate's report. The understanding is that elements of Garda training on domestic violence have been suspended as a result of a lack of finance. There is no justification for this and, as a female, the Minister should ensure the problem is rectified. Every member of An Garda Síochána who is called out to an emergency domestic abuse case must have appropriate training and know what action to take.

We can introduce all the laws we want but we must ensure they function in real life. I was told by a victim of violence that gardaí who came to her home could not remove the perpetrator without a court order, although they were able to try to deal with the matter. Furthermore, safety orders apply for 24 hours, after which the perpetrator can return to the family home. I also understand that notice that a safety order is to be issued is given to the victim and perpetrator 24 hours in advance. This can cause serious difficulties. These are practical issues that arise in these types of cases. We must try to find a proper balance and ensure the law protects victims at all times by erring on the side of caution.

I recall a case that occurred one evening when I happened to be in Dublin. I received a

telephone call from a person who had been the subject of serious domestic violence and had found out that her partner had been released from prison and returned to the locality. She felt very vulnerable at night as she lived in a rural area. I telephoned the local Garda station but gardaí could only take limited action. The only comfort I could offer was to tell her to call me if necessary. I felt this was at least a way of keeping in contact. We must deal with these types of circumstances which create serious fear for people. It must be frightening to find one has no back-up in such a scenario.

A great deal of work remains to be done on this issue. I hope the House will have a proper debate when the Minister produces specific plans on domestic violence in the new year. Such a debate should highlight that domestic violence is a grievous problem and cancer in society that we must fight at all times.

I am glad the Minister touched on the issues of alcohol and drugs, particularly the former. Drugs are illegal and must remain illegal. Anyone who argues that soft drugs should be made legal has not studied the literature. Society also has a casual attitude towards alcohol. I am disappointed that we have still not tackled the issue of alcohol advertising, which is focused on getting young people into the habit of drinking. Anyone who tells me that drink advertisements do not glamorise drink for young people has not followed the advertisements broadcast on television.

Similarly, alcohol sponsorship must be addressed because drinking is presented as a laddish or macho thing to do. The vast majority of cases of domestic violence involve violence by men against women. If we are serious about addressing violence, we should be brave enough to tell the powerful drinks lobby that we can do more to address the issue of alcohol in society. Our tolerance of alcohol abuse is far too high.

**Deputy Robert Troy:** I welcome the opportunity to contribute to the debate. I have not stood opposite the Minister on this side of the House for some time. This is an important debate. Some issue will always be debated at the tail end of a session. The small number of Deputies present says more about those who are not here than those who are.

It is frightening to note that one in five women will be abused by an intimate partner in her lifetime. I did not realise the figure was so high until I researched the issue. We are discussing this issue as a result of the concern expressed by the report of the Garda Inspectorate which detailed particular problems with attitudes towards domestic violence in the force. It found, for example, that some complaints about domestic violence were treated as a waste of time and some members of the force displayed negative attitudes towards domestic violence incidents by referring to calls as problematic, time consuming and a waste of resources. The Chief Inspector of the Garda Síochána stated:

The whole issue of domestic violence needs to be thoroughly reviewed. We had about 11,000 domestic violence incidents and there were only 287 cases where somebody got arrested.

This is a matter of grave concern which must be quickly addressed.

One of the reasons for the low number of arrests for domestic violence is the insufficient level of training provided to gardaí. I acknowledge that many good members of the Garda do an excellent job. However, it is worrying that the Garda domestic violence training programme has been axed for new Garda recruits as a result of a lack of funding from the Department. The

programme provided previously in the Garda College in Templemore was run by people who deal with rape victims on an ongoing basis. The forthcoming programme was ended owing to a lack of funding. The Minister must reintroduce the programme if we are to be serious about tackling domestic abuse.

The Minister expressed a willingness to sign the Istanbul Convention. It is worth noting that the convention establishes a framework for governments to ensure robust action to prevent, investigate, prosecute and ultimately eliminate violence against women and girls. Unfortunately, violence will never be eliminated. I ask the Minister to forgive my unparliamentary language but as long as we have evil bastards in the world, there will be domestic abuse. We must ensure sufficient resources are in place to deal with it and this requires ring-fenced budgets.

I decided to speak in this debate because of cuts to a service in Longford which has supported 1,500 women who were subjected domestic abuse since 2005. In 2013, it assisted 248 women and had supported 242 women this year to the end of October. These figures are scandalous in a county the size of Longford. The previous and current Governments implemented serious cuts to funding for domestic violence services. For example, HSE and Tusla funding for domestic violence services has been cut by 17%, while funding for the Commission for the Support of Victims of Crime's domestic court accompaniment service has been reduced by 26%. Family Support Agency funding for counselling services has also been reduced by 47%. This is not good enough. If we are honest about addressing this issue, we must protect and sustain these services. I ask the Minister to give a commitment to look into the figures I have given today and ensure this service is supported into the future.

We also need to look at a cross-departmental approach. I have recently been dealing with a situation in which a woman had to leave her family home because of domestic violence. However, because of housing legislation, she was unable to apply for local authority housing and, therefore, was unable to receive rent allowance. The only places that woman could go to get away from a domestic partner were into a refuge or a hostel. We need to look at this in a more holistic way and we need to give it much greater time than we are giving it this evening. That said, I welcome the opportunity to contribute, albeit in a small way.

**Deputy Aengus Ó Snodaigh:** Tá áthas orm deis a bheith agam labhairt ar an ábhar seo. I too could be critical of how late the hour is, but I will not, because I believe it is important that we have this debate and it does not matter what time of day it is. Across all parties, we abhor domestic violence. While it is a pity the debate is at this hour, given the time of year, and as somebody who has continuously asked over quite a number of years for statements on domestic violence in December, to correspond with the Women's Aid campaign 16 Days of Action Opposing Violence Against Women, it is important that the Houses reflect the debate that is being held in public, given the harrowing statistics that face us every year. I have continuously asked for such a debate, and this year the Minister has granted it, which I welcome.

I have been critical of previous Ministers for Justice and Equality for their inaction in many ways. It is refreshing to hear today what the Minister has set out for herself, especially for next year. I hope the time will allow her to deliver on those commitments in terms of the Istanbul Convention and the EU directive on victims, and also the long-awaited newly consolidated and updated legislation. The consolidation will be good to see, but I believe updating and dealing with the issues is a big challenge, given that those who have been dealing with cases of domestic violence have shown us the system is not working. When the heads of the Bill are published, hopefully in early 2015, I hope the Minister can refer it to the justice committee as quickly as

possible so it can carry out pre-legislative scrutiny. It can also invite in those who have been critical of the way the Houses of the Oireachtas have dealt with domestic violence over the years so they can have their say and so that their views and practical solutions may be reflected by the drafters when they finally put the legislation together.

It is important, given the statistics, that we in this Chamber reflect the urgency that is involved. The domestic violence services answered more than 46,000 calls and provided services for more than 8,000 women last year alone. That is in some ways scary for a society, but it is a reflection of those who sought help, although not everybody seeks help, which is a pity. Fifteen rape crisis centres also assisted more than 2,000 survivors of sexual violence in that period. As we know, victims are far more likely to see a prosecution if they are attacked by a stranger in a public place and if they succeed in reporting it within an hour. If, however - as with the vast majority of victims, some 91% - a woman is assaulted by a known assailant in private - in her own home - there is often a delay in reporting, and it is extremely unlikely that those victims will ever see justice done. That is unacceptable. We have to come up with a framework in which that is not the case. It requires a more robust and co-ordinated response on behalf of the Government. That is why I welcome the change in attitude that the Minister, Deputy Fitzgerald, has brought in comparison to the previous Minister, Deputy Shatter, who said there was more important legislation to be prepared concerning the financial crisis. I know he was questioned on a number of occasions over the years and that was the stock answer. At least we have tonight seen a very solid commitment from the Minister, Deputy Fitzgerald.

I wholeheartedly support the recommendations from the Rape Crisis Network, which has called in particular for a multi-departmental Government response and the use of the education system in running a primary prevention programme. I believe a lot more can be done through education to prevent domestic violence in the first place or, at the very least, to give a societal response when abuse occurs in a family home or a community setting.

There is also the question of the provision of specialist training for An Garda Síochána. The Minister made mention of the Garda Inspectorate report findings, which were very stark and made sobering reading. The inspectorate found that rape and sexual assault is not always investigated by detectives despite the seriousness of the offences and the complexity and inherent sensitivity of the cases. That has to change, no matter what else we do. Those who are dealing with sexual violence in An Garda Síochána need to have the appropriate training and, hopefully, that will be reflected in the near future. The inspectorate also said these cases are often investigated by gardaí who are not properly trained. The inspectorate further found problems with accurate recording and classification of domestic violence on the Pulse system, with many identified cases of domestic violence wrongly categorised as complaints without violence, even where a crime had occurred. Again, it falls to members of An Garda Síochána to ensure there is proper reporting, classification and recording of those cases because, without those statistics, the figures we are quoting are probably an underestimation. That is a reform to be made within An Garda Síochána. Many reforms are under way in An Garda Síochána, which is all to the good. It cannot change overnight, but in many ways it needs to.

Last year saw an initiative called On Just One Day, which consisted of a State-wide census of women and children accessing domestic violence services. It found that on one day in November 2013 nearly 700 people called or used the services. A total of 467 women and 229 children who were at risk sought the help of the agencies involved, and if they had not, they would have been homeless or at risk of homelessness. On that one day when the census was held, more than 100 women and 150 children were accommodated in a refuge, and 15 women

and 24 children were newly admitted. That same day, 15 women could not be accommodated because there were not enough spaces.

*7 o'clock*

Of the total number of adult victims, 24 of the women were pregnant and 29 of them needed hospitalisation or a doctor. This is the report from just one day and the reason a day was picked was to provide an example of what the services go through day in and day out. These are the stark and harrowing figures of domestic violence in society.

Domestic violence affects all parts of the community, all walks of life, all classes and creeds. No group is immune from it and there are both victims and perpetrators in all groups. Given the sheer numbers involved, violence, against women in particular, should be at the top of the list of any anti-crime agenda and at the top of the political agenda. This is not to belittle or ignore violence against men within the home. The Minister mentioned the Amen service in Dolphin House, which helps men subject to domestic violence. It is good there is recognition that men too also suffer from domestic violence.

On a related issue, no victim, regardless of the perpetrator, should be denied a forum to have his or her voice heard or to see justice done or to receive the assurance that no further women will be put at risk due to the action or inaction of the justice system. To this end, Deputy First Minister, Martin McGuinness, made a formal proposal to the Taoiseach in early November for an all-Ireland initiative to deal with the issue and support the victims of sexual abuse during the course of the war in the North. Many of those victims did not feel they could report to the authorities, in particular the RUC and the PSNI. I believe this initiative could and should be jointly resourced by the Northern Ireland Executive and the Irish Government. The objective would be to support victims of abuse in all communities, regardless of the identity or position of the perpetrator, to ensure access to counselling and other supports and to ensure access to prosecution by the justice system if victims wished or felt they could make official complaints. Victims would also be assured anonymity and confidentiality if required and if they did not wish to be identified.

I raise the issue of funding of the services that are doing tremendous work in this area. We are all aware of the level of support they provide and of the increasing call on their services. However, as yet they have not seen a corresponding increase in the resources they need and require and some services have suffered cuts over the years. These cuts need to be addressed and reversed and the sooner the better. The reversal of the cuts would only bring the services back to a level that was not adequate in the first place. More is required, because the level of services needs to be raised beyond the level there five or six years ago when some of the cuts took effect. Key steps need to be taken to ensure moneys are ring-fenced to enable delivery of these services.

The estimate for the cost to the economy of these domestic services annually is €2.5 billion. If that is the estimate, the additional money required for service provision - €2.5 million - would be money well spent. Apart from the economic argument, it is money well spent if it helps protect women, children and men from domestic violence and provides them with the hope there is a service and home for them during the time they are making the transition from a family home where there is an abuser. It would also provide support where needed to allow them remain within the home where a violent abuser is barred from the home through a safety order.

SAFE Ireland has identified five essential actions requiring the support of the Members of this House. We must ensure these steps are taken. The first concerns the ring-fencing of budgets to ensure the services are properly resourced and can plan for the future. These services do not pop up overnight and those who run them must have some security to know the service can be guaranteed. It takes time to build up the trust and support of those people who have suffered domestic abuse. The second proposal is to amend, develop and enact housing legislation as a matter of urgency to address the many barriers to safe accommodation currently experienced by victims of domestic violence. As part of this, Sinn Féin recently tried to bring forward legislation in this House, but this was rejected by the Government. I commend those who supported it at the time.

I will forward the other proposals to the Minister. I thank her for taking the time to have this important debate. We should try to ensure the issue is part of our annual calendar in December, but preferably not the last item on our agenda. Perhaps the lateness of this debate sends out a message that we are serious about this issue and are willing to discuss it.

**An Leas-Cheann Comhairle:** Deputy Coppinger is sharing time with Deputies Mick Wallace, Clare Daly and Maureen O'Sullivan.

**Deputy Ruth Coppinger:** Christmas should be a happy time for families and everybody, but unfortunately it is a time when violence against women flares up in a dramatic way. It is a time when, according to Women's Aid, fear, intimidation, casual cruelty, sudden flashes of violence, threats to the well-being of children and the use of children as pawns to control and intimidate are rife. Unfortunately, this is what faces many women over the next few weeks.

The statistics that have been cited are shocking, but they are probably even higher than we believe. Internationally, at least one in three women - up to 1 billion women - have been beaten, coerced into sex or otherwise abused in their lifetime. In Ireland, one in four or one in five women have been victims of domestic violence. It is a serious concern that rather than an improvement in the situation, the problem seems to be getting worse. In a survey carried out in the United Kingdom, one in four teenagers reported they had experienced violence from their boyfriends or partners. This is a huge problem and society must blow it open and discuss it seriously.

Violence is not just physical. Psychological, sexual and financial violence against women are as serious as physical violence. They may not sound as serious, but imagine what it is like to be threatened that your house will be set on fire or your partner will commit suicide, or to be continually blamed, stalked, harassed, called names or imprisoned in your house and not allowed to use a car etc. These are all forms of psychological violence.

As an example of violence on a wider basis, some 55% of women have been sexually harassed in their workplace. This indicates the level of violence against women in society. The Minister may have seen a video that has gone viral showing a woman walking down a street in New York and of the intimidation and casual abuse she suffered from men who had no compunction about comments they made to her. I am not saying this is similar to what happens in Ireland, but I would hazard a guess that it does happen to many women.

It is appalling that one in eight pregnant women experience violence; pregnancy can be a trigger for a man to be violent to a woman. We must move away from an exclusive focus on the victim. We should stop looking at why she leaves and why she puts up with it to reduce

our victim blame culture, which is endemic in society, even among women. There has to be zero tolerance of violence against women of any kind. It should not be excused, minimised or put in a context, etc. Perhaps society needs to open a discussion on the clever nature of violent men. In a report by John Hennessy in 2012 entitled “How he Gets into Her Head - the Mind of the Male Intimate Abuser”, he contended that violent men are more skilful and determined than most paedophiles and they manipulate and groom women to be victims of violence in the future. It is important to understand that.

Ireland has the highest failure rate in Europe for meeting women’s needs when they seek help. We only have one third of the refuge places required and an array of other supports are also needed. Austerity and the homelessness crisis is worsening the position. It is impossible to give women advice and to find places for them to go. For example, the refuges in Dundalk and Wexford have been subject to cuts.

I welcome the Minister’s announcements regarding liaison officers in Garda districts and so on. I have experienced the lack of availability of gardaí in Blanchardstown to respond to breaches of barring orders when no cars were available. Ongoing cuts to Garda resources are also exacerbating the problem.

Capitalism breeds violence because as long as women are economically and socially subservient to men in a system, they will be victims of violence. The rape culture we have witnessed in popular culture is worrying and it deserves much more discussion than the few minutes devoted to this debate.

**Deputy Mick Wallace:** I am sorry I was not present for the Minister’s contribution and I hope she will forgive me if my contribution does not reflect comments she made.

According to the recent report of the Garda Inspectorate on crime investigation, “Domestic violence is a high volume incident that requires particular attention,” and its victims “are some of the most vulnerable and intimidated victims of crime and for this reason, need a higher level of support and protection”. However, the same report showed how little support is offered to victims of domestic violence in Ireland, laying bare a serious and dangerous lack of investigation, reporting or follow-up on the part of the Garda in many such cases. For example, between January and September 2012, of the 10,373 calls classed as domestic violence-sexual assault by the Garda, reports were carried out in less than half of the cases. Furthermore, some domestic violence incidents and the injuries sustained are not even recorded on the PULSE system, meaning that an incident of rape reported to the force could go unrecorded, almost as if it never happened.

According to the inspectorate report, domestic violence “often accounts for half of all murders committed”. In 2014, the EU Agency for Fundamental Rights published a study on violence against women, which highlighted that 15% of Irish women have experienced physical or sexual violence by a partner since the age of 15. The National Women’s Centre Ireland states that of the 204 women killed in Ireland since 1996, the majority were killed in their own homes, and more than half by a partner or ex-partner. While there is policy in place in respect of the response to domestic violence, the inspectorate report found little evidence that it is effectively monitored to ensure its proper implementation at operational level. This glaring disconnect between policy and practice is putting lives in danger and urgently needs to be addressed.

Clearly, from the victim’s point of view, reporting incidents of domestic violence is very



painful and risky in itself, leading the majority of them to avoid doing so, or to suffer several incidents before breaking their silence. Statistics from the National Study of Domestic Abuse show that less than a quarter of those severely affected by domestic abuse tell the Garda. The inspectorate report found that in many cases where domestic violence victims find the courage to report incidents to the Garda, the quality of service provided depended on the attitude of the attending garda and, in a large number of cases “the approach was one of disinterest or aimed at limiting Garda involvement in investigating further”. Victims have been told to “let him sleep it off” or that “there’s two of them in it”. Domestic violence calls have been referred to as “problematic”, “time-consuming” and “a waste of time”.

However, many gardaí provide a good service to victims and help them to obtain the protection they need but reform is urgently needed. We need ongoing effective training for gardaí in dealing with the sensitivities and nuances of domestic violence cases, the implementation of a victim-centred policy and effective monitoring of investigative policies. We also need to sign and ratify the Istanbul Convention, although the Minister may have said that will happen in the new year, which is welcome.

I wish everyone a happy Christmas.

**Deputy Clare Daly:** I echo the comments of previous speakers. It is good that we are discussing this issue but it is regrettable that it has been given a twilight slot. However, I am glad the debate was salvaged from among the other issues that were cut for discussion before Christmas and I welcome that we have marked the spot. As long as it is a marking of the spot and the debate will resume at a future date, then it is an indication of a welcome move because if society is to deal with these complex issues, there must be a debate, which articulates some of the complexities around it. There are contradictions at play. Domestic violence is a crime and it is not a private matter. As in any criminal matter, people seek to turn to the Garda first when they experience crime. Other Members alluded to the recent report, which has revealed shocking instances of what happens when people do that. Gardaí are not equipped to adequately deal with these issues and that needs to be addressed from a training perspective.

There are two options when violence occurs in the home before we consider why it happens. The first is how to facilitate victims to leave and the second is enabling them to stay, which means dealing with the perpetrators better than we do currently. This relates to the legal issues flagged by other Members. They need to be made more straightforward and enforceable to deal with the perpetrator. There is a sad irony that the best and safest route for many people is to leave. Against a backdrop of austerity and the homelessness and housing crises, that is not an option. I have no doubt that women remain in violent relationships out of concern for their children as they do not want to move them from schools and so on because no alternative accommodation is available in the area. They will put up with the beatings, the psychological torture and so on because leaving is not a viable option. It is regrettable that some of the positive measures even in the context of temporary accommodation are not being addressed because of a lack of resources. Deputy Catherine Murphy would have mentioned the Teacher Tearmainn facility in Newbridge, County Kildare, where two brand new apartments are unavailable for use because of staffing problems and so on. A sum of €80,000 would sort that out. The current situation is not good enough when hundreds of children are being turned away from the facility.

These issues need to be examined but we need a broader discussion on why domestic violence happens. Violence against women perpetrated by people they know is the most common form of violence experienced by women. I will not repeat the horrendous statistics but this

happens because of the way society unnaturally places the family in a position where, on the one hand, it is the resource we rely on the most because the State does not support us in many ways while, on the other, we allow things to go behind closed doors. It is not an accident that we have this problem. It is less than 25 years since rape within marriage was outlawed. It was not a crime before that because society could not envisage how that could be the case given a woman was a man's property. He was entitled to have sex with her whenever he liked and, therefore, she could not say "No". It is no accident that we are only catching up now with what goes on in the home when the attitude was that women and children were the property of men.

Alcohol and drugs should not be used as an excuse. I disagree with Deputy Ó Cuív because soft drugs do not result in violence and so on. Prohibition is not a solution to any of society's problems. We must examine the pressure we put on relationships and families, for example, the pressure of being a male breadwinner, who in a modern society may not be able to deliver and who may experience feelings of inadequacy and frustration. This is not in any way a justification but it does point to some of the roots.

There is, obviously, violence against men in a domestic scenario. This is a growing phenomenon and to mention it is no disrespect to women. We will grapple with some of these issues in the new year.

**Deputy Maureen O'Sullivan:** It is opportune that we are discussing domestic violence. The Christmas spirit is normally associated with the season of goodwill and harmony but we know that it is a time of particular difficulty for many people, particularly those subjected to domestic violence. These are mainly women but increasingly men suffer domestic violence. We have quite a lot of statistical information from the extent of calls to helplines, the numbers of people availing of support from agencies and the number of admissions to refuges. The saddest statistic of all relates to those who apply to refuges but the refuges are full and cannot take them in.

We tend to think of domestic violence as being physical and sexual but we know there are other forms like bullying and emotional and verbal abuse. Economic violence is another form. I came across someone who had been in a very controlled environment relationship and never really knew what it was like to have money of her own or to be able to decide how that money would be spent. I remember her sharing her elation when she was able to get out of that relationship with support, when she actually had money in her hand that was her own and she could make decisions as to how she was going to spend it. It is probably not regarded as being as serious as physical and sexual violence but she also suffered.

Verbal abuse also does not get the attention it deserves. The old saying "sticks and stones may break my bones but words will never hurt me" is completely wrong. I have seen people who have been reduced to abject feelings of worthlessness because of the words that were used to and about them. What will be particularly challenging is the way technology such as home and mobile phones is being used to monitor, read messages, control and intimidate the movement of people. It can involve people being stalked through social networking sites and these sites being used to spread lies and attack reputations, sometimes using graphic sexual images, some of which are real and some of which are imposed. This will be difficult to address.

International research shows that 25% of women who experience domestic violence are first assaulted during pregnancy. A couple of years ago, the Rotunda Hospital carried out a similar study which showed that one in eight women had first been assaulted during pregnancy. Abuse

does not just come from current partners. It also comes from former partners. We also see relationships where both partners are abusive.

There is no doubt that alcohol in particular plays a huge role in domestic violence. An EU report this year showed that Denmark, Sweden and Finland had the highest rates of domestic and sexual violence in Europe. We know that these countries have problems with alcohol, as has Ireland. Following on from what Deputy Clare Daly said, it is a fact that when both Finland and the US introduced prohibition, the rates of domestic violence fell dramatically in the first few years.

Power and fear are at the root of all domestic violence and abuse. There is control on one side and fear on the other and fear will paralyse. It stunts emotional, intellectual and psychological growth and development. The answer begins at the cradle and with empowering people and giving them from early childhood the confidence, the self-esteem and the skills not to get into that particular situation, and if they were in that abusive situation, the confidence to get out of it. We also know that there are women and young girls who knowingly go into relationships with men with a reputation for violence. This comes back to confidence and self-esteem. We know the numbers who withdraw charges and the numbers who go back into abuse sometimes thinking that it is better for the children.

My next point is about language and young men and boys in particular. Sometimes they do not have the language skills to communicate how they feel. It does not excuse what they do but sometimes their only way to express themselves is through their fists. In many cases, this is learned behaviour so we see cycles of domestic violence because there are young men who do not know any other way to behave towards young women except through violence. This cycle must be broken. The debate is good and welcome regardless of the hour and time.

### **Message from Seanad**

**An Leas-Cheann Comhairle:** Seanad Éireann has passed the Health Insurance (Amendment) Bill 2014, without amendment.

### **Topical Issue Matters**

**An Leas-Cheann Comhairle:** I wish to advise the House of the following matters in respect of which notice has been given under Standing Order 27A and the name of the Member in each case: (1) Deputy Lucinda Creighton - the deteriorating tax environment for productive investment in small and medium-sized enterprises here; (2) Deputy Terence Flanagan - the processing of medical card applications in the primary care reimbursement service; (3) Deputy Joan Collins - reports concerning a clinically brain-dead pregnant woman on life support at Midlands Regional Hospital in Mullingar, County Westmeath; (4) Deputy David Stanton - the need to secure sites for new primary and post-primary schools in Carrigtwohill, County Cork; (5) Deputy Dessie Ellis - the importance of maintaining the school completion programme in areas of educational disadvantage; (6) Deputy Éamon Ó Cuív - an gá, i bhfianéise na freagraí a fuair agus nach bhfuair an Roinn Caitheachais Phoiblí agus Athchóirithe ó na Rannaí Stáit maidir le seirbhísí trí Ghaeilge agus na riachtannais foirne le h-íad a chur ar fáil, agus an gá, de bharr an chéim síos atá tugtha ag an Roinn Caiteachais Phoiblí agus Athchóirithe don Ghaeilge

san iarratas ar eolas maidir le seirbhísi athteangaireachta agus aistriúcháin ata foilsithe aid le gairid, don Aire Caitheachais Phoiblí agus Athchóirithe teacht isteach sa Dáil agus a dhearcadh agus dearcadh na Roinne i leith na Gaeilge a shoiléiriú; the necessity, in light of the answers which the Department of Public Expenditure and Reform received, and did not receive, from the State Departments regarding services through Irish and the staff requirements in order to provide them, and due to the downgrading of the Irish language by the Department of Public Expenditure and Reform in the application for information regarding interpretation and translation services which it published recently, for the Minister for Public Expenditure and Reform to come into the Dáil to clarify his position, and the position of the Department, in regard to the Irish language; (7) Deputy Clare Daly - the need to reconsider the Protection of Life During Pregnancy Act in light of a clinically dead young woman being kept alive because of her pregnancy; (8) Deputy Mick Wallace - the terms of reference for a commission of investigation into the findings of the Guerin report; and (9) Deputy Robert Troy - the need to ensure that people in mortgage arrears are treated fairly by banks.

The matters raised by Deputies David Stanton, Robert Troy, Terence Flanagan and Dessie Ellis have been selected for discussion.

## **Topical Issue Debate**

### **Schools Building Projects Applications**

**Deputy David Stanton:** I thank the Office of the Ceann Comhairle for allowing me to raise this matter and the Minister of State for being here. I noticed there were announcements this morning of new schools, new builds, extensions and so on and that the schools to which I am referring this evening are part of that. When the rail link to Midleton was reopened a number of years ago, one of the conditions was that there would be a lot of land zoned and more houses built in the area to provide customers for the rail link and make it viable. This happened. Unfortunately, the scale of school building did not keep up. I know that the number of schools has been announced along with the two schools in Carrigtwohill I am mentioning. Gaelscoil Mhainistir Na Corann, Midleton Educate Together and Gaelscoil de hÍde in Fermoy were also mentioned. Could the Minister of State get back to me about Gaelscoil Mhainistir Na Corann because there is also a delay in the Department responding to the county council with regard to a query relating to a planning condition? I would be grateful if he could have a look at that.

A proposal was made a number of years ago to amalgamate the two existing primary schools - Scoil Mhuire Naofa, which is a boys' school in Carrigtwohill, and Scoil Chlochair Mhuire, which is the girls' school - into a new 32-classroom school. There is now a concern that this school might not be big enough. Could the Minister of State address that in his response or come back to me later? This was scheduled for 2016 or 2017 but we are told today that it will proceed in 2015. They have grown to a size which exceeds the anticipated capacity of the proposed new building.

I understand there is a lack of communication between the Department and the board of management as to whether they should accept additional numbers now, but no other option is available for parents in this town. Where are the children to go if the schools cannot take them?

Additional temporary accommodation is required in both of the primary schools from next September. The county council identified problems with recent requests for temporary accommodation on the grounds of traffic impact, portacabins and limited play areas. I understand the GAA is facilitating car parking. The Department has already sanctioned seven portacabins at Scoil Mhuire Naofa since 2006, and the other school is also under pressure. Scoil Mhuire Naofa had a projected enrolment of 438 in September 2014 and it achieved 431, which was an increase of 51 on September 2013. This resulted in a gain of 38 pupils in total. It has a projected enrolment of 469 for September 2015 and 500 for 2016. These numbers are rising rapidly, and I understand the other school faces similar challenges, with 100 applications for next September. Both schools are concerned about the impact of curtailing developments on local children, many of whom have siblings in the school.

It was expected that the amalgamation of the two schools would have already proceeded to the planning stage but I understand the process is held up by site acquisition. Has a site been acquired? In response to a parliamentary question tabled on 2 October 2014, I was told that once the site has been acquired a design team would be appointed. What is the position on the appointment of the design team? What is the projected timeframe for design and submission of planing? The school understands that the 32 classroom amalgamated school might be built through the rapid build programme but it is estimated that the appointment of a design team consultation process with stakeholders, the design development, integrating with other services, the planning process and getting the building permits could take as long as 24 to 30 months. Is that correct? Will the new school be ready to accept pupils in September 2015 or is September 2016 more likely? I understand the 32 classroom primary school will be on the same site as the new 800-pupil second-level school. Is this correct?

**Minister of State at the Department of Education and Skills (Deputy Damien English):** I thank the Deputy for raising this matter as it affords me the opportunity to outline the process used to ensure that there will be adequate accommodation in schools at primary and post-primary levels to meet the demographic needs arising.

The forward planning section of my Department has carried out a study of the country to identify the areas where, due to demographic changes, there may be a requirement for significant additional school provision at both primary and post-primary levels over the coming years. School accommodation requirements throughout the country have been considered as part of this detailed study. The five year school building programme, which was announced in March 2012, provides for a €2 billion school capital investment programme to 2016 and prioritises major school projects in areas where future significant demographic changes have been identified.

As the Deputy will be aware, the Midleton-Carrigtwohill area has been identified by my Department as one of the areas where, due to demographic changes, it is projected that there will be a requirement for significant additional school provision at both primary and post primary levels over the coming years. In that context, a number of school projects, including new buildings to facilitate the amalgamation of the two existing primary schools in Carrigtwohill and a new post-primary school, are proposed for the area and have been included in my Department's five year plan. In that regard, officials from my Department have been working in conjunction with the local authority towards securing permanent sites to meet both current and projected future needs in the area. The Deputy will be aware that there is a memorandum of understanding in place between my Department and the County and City Managers' Association. This memorandum of understanding fosters increased levels of co-operation and formalises the local authorities' role in identifying and securing sites for educational use. The

level of local knowledge available under this arrangement has been critical in addressing the type of challenge presented where additional school accommodation is required in areas such as Carrigtwohill and Midleton.

Significant progress has been made on the school building project to which the Deputy referred. Agreement in principle has been reached on a suitable site, which will facilitate the provision of new buildings for the amalgamated primary schools and the new post-primary school. The conveyancing process is under way. Arrangements are being put in place to progress the building project. As the Deputy may be aware, the schools to which he refers were included in the list of projects announced today which are expected to proceed to construction in 2015. This project is being assigned to the Department's design and build programme and the school authorities will be invited to review the plans for the schools in quarter two of 2015.

**Deputy David Stanton:** I asked a series of questions pertaining to next September, the urgency of temporary accommodation and what will happen to the additional students due to enroll in 2015. Perhaps the Minister of State should visit the sites because they are already cramped.

Currently St. Aloysius is the only secondary level school in Carrigtwohill. It is an excellent school but it is all-girls and all of the boys have to travel to Midleton, Glanmire, Fermoy or Cobh. Can the Minister of State clarify the stage that the second-level school building project has reached? Today's announcement indicates that the primary and post-primary schools will go to construction in 2015. The Minister of State indicated that the school authorities will be invited to review the plans in the second quarter of 2015. If they are only reviewing the plans in the second quarter, which is in April, May or June, when will we see shovels on the ground? I am alarmed at the pace of development.

The Department was advised of concerns expressed by Cork County Council about traffic and flood risk in respect of the road network during the pre-planning consultation last year. Have these issues been resolved? If the Minister of State cannot provide responses to my questions now, I would be grateful if he could revert to me with this information. The primary schools have been seeking a meeting with the Department and the county council to confirm the size of the amalgamated primary school, interim arrangements to meet demand for primary places, projections for future placements and any proposals for another primary school in the area. Will this meeting be facilitated? We urgently need communication and information.

**Deputy Damien English:** I cannot give the Deputy all of the information he requested but I will raise the issues directly. The plan is that construction will proceed before the end of 2015. This means the temporary accommodation will have to be addressed in September but there is a drive to begin construction in 2015 and I presume the project will be completed in 2016. It was in the five year plan and I can confirm that is on track. I cannot confirm the site location because it is still at conveyancing stage but it is close to completion. We can try to commence design earlier than quarter two but that is the worst case scenario.

In regard to traffic and other problems, I understand these are being discussed with the local authority. The reason for involving it with site selection was to address these problems and assist at the planning stage. I can certainly request a meeting and find out if it is necessary. It might not be necessary if the issues have been addressed but I acknowledge the concerns that the Deputy expressed. The second-level is also progressing to design stage. The story is positive overall and I will revert to the Deputy with the further information sought. I accept there

have been delays in acquiring the site and progressing to planning stage but everyone, including the local authority, has played a part in ensuring the right site is selected.

### **Mortgage Arrears Rate**

**Deputy Robert Troy:** It is outrageous that the Government is not dealing with mortgage arrears as a priority. We will face an unbelievable problem in the new year, when thousands of families will be evicted from their homes because of mortgage arrears. The number of family mortgages in arrears of longer than 90 days has doubled since this Government came to office. The number peaked at 12.9% of all mortgages in September 2013 and has fallen only slightly since then. A total of 74,192 mortgages are in arrears of more than six months and 37,484 families are in arrears of more than two years. These people are in real danger of having their family homes taken from over their heads. The Government is stuck in a mode of thinking whereby the banks are allowed to dictate the pace and the nature of the restructuring arrangements. The banks' response to the Government's mortgage arrears resolution targets programme was to step up legal proceedings. In response to the banks' actions there is a need for a clear definition of what is a sustainable mortgage and much greater standardisation in approach.

The Government heralded two major initiatives to tackle this issue, one of which was the mortgage to rent scheme. To date, that scheme has dealt with 50 applications, even though there are tens of thousands of people in arrears. The second brainwave or initiative of the Government was the Personal Insolvency Act 2012. When this legislation was going through the House, the then Minister for Justice and Equality, Deputy Alan Shatter, estimated that in its first full year of operation the Insolvency Service of Ireland would have 21,000 applications for debt resolution. To date, there have been only 311 applications. Therefore, it is not working and the reason it is not working is that the power has remained with the banks.

I will offer the Minister two examples involving two constituents I have dealt with recently. One took out a loan of €135,000 to buy an apartment. That was the value of the apartment at the time. Today, it is valued at €50,000. That man is lucky to be working and he approached the bank for some help. Its offer was a take it or leave it choice. It wants €1,000 per month for 30 years. That is €360,000 for a loan of €135,000 for an apartment worth €50,000. The banks have the power to say "take it or leave it." My other constituent was seeking to enter the mortgage to rent scheme. The bank, permanent tsb in this instance, offered the market value of the house to a housing body and intended to put this lady in the house. She was going to pay rent to the housing agency and then pay a mortgage on the difference between what was owed and what the bank was giving the housing authority. She would have been €500 per month worse off. Again, she was told she could take it or leave it.

I understand this is not the Minister's Department or his direct responsibility, but somebody must tell the Government that it must wake up. This crisis is very real. It is wrong that tens of thousands of families are approaching the Christmas period thinking that this will be their last Christmas in their family home.

**Deputy Damien English:** I welcome the opportunity to speak on this important issue on behalf of the Minister for Finance, Deputy Michael Noonan, and to set out recent developments in this area.

There is no doubt that some families across the country are experiencing genuine difficulties

in meeting their monthly mortgage repayments. The Government is fully aware of the impact this is having on these families and their lives. As the Minister said previously, we cannot have a situation where some families are living under the stress of mortgage arrears, unable to enjoy even a modest standard of living and excluded from participating in the economy and effectively living their lives because of their debt problem. It is important to note, however, that there are relationship frameworks in place with the State owned banks which preclude the State from intervening in the day-to-day operations of the banks or their management decisions.

The Government has developed a comprehensive cross-departmental strategy to support households in arrears, in line with the main recommendations of the 2011 Keane report. The primary focus of the strategy is to support those homeowners in difficulty with their mortgage repayments. The implementation of the strategy is overseen at Government level by the Construction 2020, housing, planning and mortgage arrears sub-committee which is chaired by the Taoiseach and at official level by a mortgage arrears steering group which is chaired by the Department of Finance. The Government's strategy is built around the four pillars for action as recommended in the Keane report. These are: engagement with the banks to develop appropriate measures for their customers in mortgage arrears; personal insolvency law reform and implementation; mortgage to rent; and a mortgage advisory function. A number of key measures have been advanced in this regard. It is worth noting, however, that of the 760,238 private residential mortgage accounts for principal dwelling houses, PDH, in the Republic of Ireland, some 117,889 accounts or 15.5% were in arrears at the end of September.

The Government has provided an enhanced range of information and guidance services for mortgage holders, including a dedicated information website, a mortgage arrears information and advice helpline and the provision of independent financial advice for mortgage holders who are being presented with long-term mortgage resolution proposals by their lenders. This advice is provided by qualified accountants drawn from members of the main accountancy institutes in Ireland who have agreed to participate and support this independent service. We must encourage people to avail of this service. Like the Deputy, I am dealing with clients who are not engaging fully with the service and who have been offered solutions but who require proper advice. They should avail of the service, if they can.

The Central Bank has put many protections in place to ensure people in mortgage arrears are treated fairly by the banks, including the code of conduct on mortgage arrears, CCMA, and the mortgage arrears resolution process, MARP. The key indicator of success in dealing with mortgage arrears is the development and application, where appropriate, of long-term solutions. In March 2013 the Central Bank published the mortgage arrears resolution targets, or MART framework, which set out the performance targets for mortgage arrears resolution at six mortgage lenders - AIB, Bank of Ireland, permanent tsb, Ulster Bank, KBC Bank Ireland and the ACC. Under this rolling process, quarterly performance targets have been set to require the banks to propose and put in place durable long-term solutions to address individual cases of mortgages in difficulty where the mortgage is more than 90 days in arrears. In that context, the Deputy will be aware that the Central Bank set progressive targets in 2013 and throughout 2014 for banks in respect of the numbers of proposed and concluded mortgage restructure arrangements. The most recent information from the Central Bank is in respect of the end of September 2014 targets and proposed solutions and indicates that the banks have exceeded their targets under the three headings.

The MART initiative has resulted in significant numbers of long-term restructured arrangements being put in place. At the end of March 2013, when the MART targets were set, Central



Bank statistics showed that 79,600 restructures were in place for principal dwelling houses; at the end of September 2014, this number had increased to almost 110,000 restructures. There is some progress, but I accept that not everybody is getting the solutions he or she needs. The Central Bank's latest mortgage arrears and restructures publication for the end of the third quarter of 2014 shows that the number of mortgage accounts for principal dwelling houses in arrears fell for the fifth consecutive quarter. That is slightly different from the information the Deputy has provided, but we can reconcile the figures, if he wishes. However, there has been a decrease. A total of 80% of the PDH mortgage accounts classified as restructures were deemed to be meeting the terms of their current restructuring arrangement, which is a significant achievement for all involved. I hope that will progress.

The Deputy referred to a case regarding the mortgage to rent scheme. Perhaps he might forward the details because it does not sound like the way the scheme is supposed to be administered. I will have it checked for him.

**Deputy Robert Troy:** I thank the Minister of State for offering to have the individual case checked. That is welcome. However, the Minister of State still does not understand. He referred to a website. That is damn-all good for somebody-----

**Deputy Damien English:** There is a helpline.

**Deputy Robert Troy:** I will deal with the three mechanisms the Minister of State mentioned. The website is no good for somebody who risks losing the roof over his or her head.

With regard to the personal insolvency legislation, the point is that the power rests with the banks. The banks' sole objective is to return to profitability and they do not care about the consequences for families throughout the country. The banks' response to the mortgage arrears resolution targets programme was to issue letters with threats of legal proceedings to the people concerned.

The Minister of State referred to restructuring. It is acknowledged that there has been some restructuring, but we do not know how sustainable that restructuring will be. I gave an example of what one of the banks had done with one of my constituents. The banks have added the arrears to the capital and just extended the period of time. If the people involved could not afford the mortgage in the first instance, how will they be able to afford it plus the arrears over a longer period of time?

My party put forward real and progressive proposals to solve these problems. One was to establish an independent arbitrator who could instruct the banks to take a particular course of action. It would remove the power from the banks and give the people who had got into difficulty through no fault of their own a better chance of securing a sustainable solution for the future. Consider what is expected to happen next year. According to a recent report, a number of buy-to-let mortgages that were taken out during the boom with interest-only repayments are due to revert to interest and capital repayments. In some instances, the repayment will be quadruple the current repayment. I am told that will happen next year. This will lead to more problems as investors will sell rental properties. That will leave more people out on the streets and we already have a homelessness crisis. We must amend the personal insolvency legislation to remove the banks' veto over a resolution.

**Deputy Damien English:** I will raise the Deputy's concerns with the Minister, who will have time to read over the debate. He is sorry he could not be here. The Deputy asked whether

the restructures were working. The review shows that 83% of restructures are meeting their terms and my evidence as a Deputy matches it. That would generally mean they are working. I have had very few people coming back to me who are in difficulty with a restructured arrangement. Naturally, they try to have the mortgages restructured at a level they can manage. Most cases we are dealing with in our offices are ones for which there is not yet a restructured arrangement. The Deputy is right that we need to keep an eye on it.

The idea of the restructures, in some cases, is to find a long-term solution, and it may involve adding arrears to the capital. It is also about making the mortgage sustainable in the short term, reducing the person's monthly mortgage payment, giving him or her a chance, hopefully, to get a job and try to get back into it. We must watch it. The guidelines are very clear that repossession of the family home is a last resort, and it is wrong of the Deputy to say tens of thousands of people will be homeless as a result of repossessions in the new year. This is inflaming the situation. While there are difficult situations, there are rules to deal with them. There is always room to improve the scheme.

**Deputy Robert Troy:** They will lose their homes.

**Deputy Damien English:** The figures for the past couple of years have not shown this. The Deputy raised the issue of buy-to-let properties and I can ask the Minister to reply to him on that directly as it is separate. Most of the initiatives we have put in place are to protect the family home. We have put codes of conduct in place, which have been addressed. The Deputy is scaring people by talking about tens of thousands of evictions. It is not the case.

**Deputy Robert Troy:** Almost 40,000 people are in arrears of two years.

**Deputy Damien English:** Three years ago some of the Deputy's party colleagues told us there would be tens of thousands of repossessions, but this has not happened. The Deputy is scaring people. While some people, after all the efforts, may have to give up their family homes for whatever reason, it will not be tens of thousands. It is wrong to give that impression. The Government inherited this mess and is dealing with the mortgage crisis as best it can. A range of measures are in place. Every effort is being made to protect family homes, and it is a little unfair to say tens of thousands will lose their homes.

### **Medical Card Administration**

**Deputy Terence Flanagan:** I thank the Ceann Comhairle for the opportunity of raising this very important issue. I welcome the changes the Government announced recently to improve the medical card system to make it fairer and ensure people with terminal illnesses will not be subject to review of their medical cards, which is very welcome. I seek to raise a number of issues that my constituents are having with the processing of their medical card applications by the primary care reimbursement service, PCRS. Like many Deputies, I deal with many medical card queries on behalf of my constituents. Recently, I wrote to the Minister, Deputy Varadkar, about a case in which a constituent of mine encountered serious problems with her application and the information that PCRS received. While I am aware that the issue does not fall under the Minister's direct responsibility, as it is a matter for the HSE, it is very important that he be kept up to date with what is happening on the ground, and he needs to take an active interest in what is happening in the PCRS.

I am concerned that some constituents have reported submitting the same documents, including application forms and medical forms, up to five times, with the PCRS stating it has no record of receiving any application. I am asking constituents to send the information by registered post to ensure the PCRS can confirm it has received the applications. The fact that information is being mislaid is very frustrating, particularly for ill or elderly constituents. They must go through the bureaucracy of pulling together an application. Having to do it a second, third and fourth time is embarrassing and shows up a very dysfunctional system which does not work. If the PCRS is saying An Post is not delivering the post, what investigation has it been seeking? If the difficulty is within the PCRS, what is it doing about it? There seems to be no issue with information leaving the building, given that constituents are receiving letters with updates on their applications. There is a major privacy and data protection issue. If private and personal information about people's bank accounts and medical histories falls into the wrong hands, it could open the door to abuse and identity fraud.

A constituent who wanted to renew her medical card in March 2014 sent in everything except her bank statements. When she contacted the PCRS in April for an update on the status of her card, she was advised that no documents had been received with the renewal application, although she had stapled them to the application. She had to resend all her documents, including a second copy of her private and confidential medical report, which costs €15 each time she requests it from her doctor. In July, she contacted the HSE and was told that while some of her documents had been received, the bank statements and medical report had still not been received, although she had sent them in the same envelope. Her doctor is, naturally, concerned about her private medical information going astray, as well as her confidential bank statements possibly lying around somewhere, where somebody can read it. Recently, two members of PCRS staff told her that all her documents had been received, including her bank statements. A week later, another staff member told her no bank statements had been received and that her medical card had been revoked. There are major issues, and this is just one example.

**Deputy Damien English:** I thank the Deputy for raising the issue. I am taking the debate on behalf of my colleague, the Minister for Health, Deputy Varadkar, who apologises for the fact that he could not be here, although he makes an effort to try to hear all Topical Issue debates. The Government is conscious of the importance of the medical card system in ensuring that people whose needs do not enable them to access GPs and other health services are provided with such supports, in line with the legislative provisions. There is always room for improvement in how public services operate, and the Minister, Deputy Varadkar has made it clear to the HSE that it must continue to improve the level of service provided to applicants for medical cards. The Deputy raised a specific case, on which neither I nor the Minister could comment. Most of us in the House have heard similar stories.

**Deputy Terence Flanagan:** I have multiple cases.

**Deputy Damien English:** People have put such cases on the record, and the Minister has made it very clear that it is unacceptable. It is certainly unacceptable that information gets lost, mislaid or delayed. He has made it clear that this aspect is not good enough and needs to be reformed. There have been many such stories, and it was part of the review of the application process which the Minister has organised. The HSE has a structured protocol in place for the medical card application and review process, and every effort is made to ensure ongoing engagement between the HSE and applicants during this process. However, I will outline some of the steps being taken to improve the quality of the service.

The Deputy will be aware of the publication of the reports of the expert panel on medical need and medical card eligibility and the external review of the medical card process. The external review was commissioned to examine how the HSE currently administers the medical card application process and to recommend ways in which the process could be made more efficient, simple and user-friendly in the future. Efficiency is the one the Deputy is seeking. In the light of the conclusions of the two reports, ten key actions have been identified to improve the operation of the medical card system, particularly for people with significant medical needs, and these are most welcome. To deliver on these, a range of actions are being put into effect or will be pursued in the short-term by the HSE. As an example, the HSE will ensure a more integrated and sensitive processing of applications, involving greater exchange of information between the central assessment office and the local health offices about people's medical circumstances and needs. In addition, the HSE has appointed a senior manager to lead the reform of the systems for handling medical card applications and reviews, with a focus on a high-quality customer service and easy-to-understand information and processes.

*8 o'clock*

Improved communications and information will be developed and provided for the public, health sector staff and health advocacy groups to ensure a better understanding of people's entitlements and the rules of the medical card scheme. Furthermore, a clinical advisory group will be established by the HSE in the new year to develop guidance on assessing applications involving significant medical conditions in order to take account of the burden involved and the needs arising from the condition and to ensure that appropriate services are provided to people who need them.

Other actions the Health Service Executive, HSE, will progress in the short term will be the development of a single, integrated process for people to apply for a medical card, a GP-visit card, the long-term illness scheme and the drugs payment scheme, as well as the establishment of access points nationwide in health offices to support and assist people to make applications. This will enable the HSE to make every effort to provide applicants with the benefits or services most suited to their needs. The Minister, Deputy Varadkar, also has asked the HSE to examine, with his Department, the best way to meet the needs of people with significant medical conditions who need the support of the public health system. This work includes considering the best way to make available medical aids and appliances to persons who do not hold a medical card, the provision of services to children with severe disabilities and to enable people with particular needs to have these met on an individual basis, rather than awarding a medical card to all family members.

The Minister for Health will continue to oversee the implementation of these actions and, if it emerges that further improvements are deemed necessary, he will consider them. It is important to note that under the relevant legislation, there is no role for the Minister for Health in assessing an individual's medical card eligibility, as the Deputy himself recognised, or give a direction to the HSE relating to a decision concerning the eligibility of an individual. Notwithstanding this, should the Deputy wish to give me details of the case he raised, I certainly will bring it to the Minister's attention and will ask the officials to pursue it further.

**Deputy Terence Flanagan:** I thank the Minister of State, Deputy English, for replying on behalf of the Minister for Health, Deputy Varadkar, and I acknowledge the Minister sent his apologies for his absence this evening. In respect of the Minister of State's response, what I seek is an investigation into the primary care reimbursement service, PCRS, at this point in

time. The major problem appears to be with the processing of applications, as applications either are not being received by the PCRS or are being received and basically are being kept in bags of mail or whatever. There is a black hole in the system at present and every single piece of paper sent in to the PCRS should be scanned, computerised and put onto a computer system. The age of manual systems is past, particularly in respect of information so sensitive as people's confidential bank details and medical records. All that information must be scanned and retained and huge efficiencies are required in the system, as it appears to be outdated.

There also is an issue regarding the processing of applications, in that different sections process different parts of the application form within the PCRS. Does the Minister of State agree that the entire system must be streamlined in order that one person will deal with one file from beginning to end? Recently, one of my constituents was informed that she needed to submit a new application to renew her medical card, whereas when I made a representation directly to the PCRS on her behalf, I was informed that her medical card was valid until the summer of 2015 and that she would not be obliged to renew it until then. Consequently, I obviously have major concerns about the integrity of the system when different messages are sent by different staff within the service. There also is a difficulty about delays in sending out information to constituents. Recently, a case was brought to my attention in which, although one is meant to have 21 days in which to appeal a medical card application decision, the person concerned had less than seven days in which to make an appeal because once the letter had been printed off, a delay arose in getting that letter signed and sent out. From my perspective and I am sure from those of others - Deputy Ellis may have the same experience - there are multiple problems within the system that must be investigated thoroughly. People's information is too confidential for it be lost. There appears to be a problem with the integrity of the system and I ask the Minister to investigate.

**An Leas-Cheann Comhairle:** Thank you Deputy but I must now call on the Minister of State to conclude.

**Deputy Damien English:** I again thank Deputy Terence Flanagan for raising these issues. I certainly will pass on to the Minister the Deputy's desire for an investigation into where information is stored or where it has gone. As for the examples the Deputy has given, as well as others provided by other Members - I believe all Members probably have had negative experiences of the process - this is why, when the Minister took up office, one of the first issues with which he dealt was to have an external review of the entire manner in which the HSE was administering the medical card application process and making decisions. Arising from that are the recommendations and the ten new actions the Minister believes and hopes, as do I, will fix this process and system that has been a cause of concern for the Deputy and many others. It certainly has not been satisfactory for applicants.

**Deputy Terence Flanagan:** The Minister needs to visit the PCRS to walk through the processes.

**Deputy Damien English:** While I understand he has visited, I certainly will tell him again that the Deputy wishes him to do that.

The Minister has made clear that he expects all the changes that will happen in the new year, as well as the new actions, will address the problems with the process. He has stated clearly that if this does not happen, further changes must take place and he will address that as well. Most Members are aware that it is not satisfactory. A key part that probably will help is the establish-

ment of the access points around the country in health offices to support and assist people to make applications because all Members are aware that, at present, many people believe they must approach the office of a Deputy or a Minister to try to get help with the process alone, that is, with the forms and so on. They should not be obliged to do this and should not think they must go to that level. Ultimately, I believe the access points will address that issue and should address the handing over and the seeking of information. However, the Deputy is correct that it would not be good enough were any information to get lost or mislaid and the Minister also is clear at that point. The changes arising from the external review and the recommendations regarding the processes across the board should make a difference. It certainly should put right matters and the Minister expects that to happen.

### **School Completion Programme**

**Deputy Dessie Ellis:** As the Minister of State is aware, the school completion programme, SCP, is a support system for children and young people who are at risk of early school leaving. The programme seeks to increase school participation, attainment and retention among this group of students. It is quite clear that in areas of generational educational, economic and social disadvantage, a scheme that encourages young people to stay in school and which aids them in achieving their potential at all levels of education, is a vital support. Low educational attainment and educational disadvantage have been shown to have a highly detrimental effect on individuals affected, their families, their community and society at large, not to mention the economic problems caused when young people are failed by the education system. Educational disadvantage is closely linked to the prevalence of poverty and Members are aware this State has at least three quarters of a million people living in poverty, many of whom are children and there has been an increase of 10% in child poverty in recent years.

The vast preponderance of research on the issue indicates clearly that children from poorer socioeconomic backgrounds and communities are much more likely to underachieve in education when compared with those from middle and high-income backgrounds. Children in poverty deal on a daily basis with a range of personal, social and economic conditions that make educational attainment a much more difficult goal. The good news is that education is a key to solving many of these peripheral conditions that harm educational attainment in poor communities. It is a vicious cycle that can be broken only by providing resources to educational programmes that take a step towards those affected by poverty and educational disadvantage. The school completion programme is such a support. It supports school readiness, helps with the development of social and emotional competence and eases the transition from primary to post-primary education.

In the areas of Finglas and Ballymun, which I represent, educational disadvantage and poverty are major problems. Thankfully, we benefit from the wonderful efforts of schools involved in the SCP, such as Scoil na Maighdine Muire, Scoil an tSeachtar Laoch and St. Joseph's senior school, all of which are located in Ballymun. They have contacted me regarding their concerns for the future of the programmes. SCP in Ballymun gives vital support to approximately 300 children and young people each year. The schools involved give glowing accounts of the positive impact of the SCP. They state more can be done but not while less is being given. Since 2008, the school completion programme budget has been cut by 33%. Continuous reductions have hurt badly the programme's ability to do its work. Since Fine Gael and the Labour Party took office, the annual budget has been cut by €5.3 million, which is a cut of 18%. This is a

cut to a service for some of the most vulnerable young people in the country. It is a line no Government should cross or consider crossing and this comes on top of other cuts to vital educational supports for disadvantaged children. This year's allocation remains well below funding for 2011, while the top rate of tax has been cut. The Ballymun education support team, BEST, completion programme works with eight DEIS schools and provides targeted intervention through a range of programmes and activities, including school breakfast clubs, small work groups, one-to-ones, the incredible years programme to prevent and treat emotional and behavioural difficulties as well as a transition programme that supports children moving from primary to post-primary school. This helps and supports pupils and children most at risk to engage in school programmes and curricula.

**Deputy Damien English:** I am taking this matter on behalf of the Minister for Children and Youth Affairs, Deputy Reilly, who sends his apologies for not being here to debate this important issue.

The aim of the school completion programme is to retain young people in the formal education system to completion of senior cycle and generally to improve school attendance, participation and retention of its target cohort. It is a targeted intervention aimed at those school communities identified through the Department of Education and Skills DEIS action plan for educational inclusion. It involves 124 locally managed projects and related initiatives operating across 470 primary and 224 post-primary schools to provide targeted supports to approximately 36,000 children and young people.

Since 1 January 2014, Tusla, the Child and Family Agency, has operational responsibility for the school completion programme, including the allocation of funds to local projects. The programme is one of three service strands within the continuum of education welfare service being implemented by the agency to support children, their families and schools. The other service strands are the home-school community liaison scheme and the educational welfare service.

In 2014, an allocation of €24.756 million was provided for the school completion programme. The agency has approved local projects' school retention plans for the 2014-15 academic year. The amount provided in 2014-15 for the school completion programme takes account of the savings requirements in the Comprehensive Review of Expenditure 2012-14. The first instalment of 2014-15 funding issued to local school completion projects last September. Further payments, totalling approximately €9.5 million, will issue this month, with a third instalment being paid in May 2015. The estimate for the Child and Family Agency for 2015 is €635 million, which is a 4.3% increase on its 2014 allocation. The Department of Children and Youth Affairs will shortly issue a performance statement under section 45 of the Child and Family Agency Act 2013. This will include the Minister's priorities for consideration in the development of the agency's 2015 business plan. The business plan will set out the agency's proposed activities, programmes and priorities for 2015, including provision for the school completion programme, in light of the moneys available.

A review of the school completion programme has commenced. The programme has been in operation since 2002 and it is timely that a review of it be undertaken. The review is an important initiative in relation to planning for the future development of the school completion programme. It is anticipated that the review will assist in identifying the reforms necessary to consolidate the programme on a sustainable footing for the future and to ensure that it is in line with the aims of Better Outcomes, Brighter Futures - the national policy framework for children

and young people 2014-2020.

The aim is to ensure that available funds are targeted to those services that provide the greatest contribution to good educational outcomes for children and young people at risk of educational disadvantage. The review will, among other things, examine the school completion programme structures and how they can best support an integrated approach to address early school leaving. It will analyse the interventions provided and make recommendations for evidence informed supports designed to secure the best educational outcomes for young people. The plan for the review includes arrangements to capture the views of a range of stakeholders, including staff and all those involved in the organisation and administration of the school completion programme. It includes a survey to gather the views of project co-ordinators and chairpersons of the 124 local school completion programme projects throughout the country, case studies of projects involving staff and participating schools and interviews with national stakeholders who have a direct interest in the programme.

Preliminary information gathered on the programme indicates that it encompasses a broad and diverse range of measures and interventions that have been developed by local projects over the years. It is hoped that following the review we will be in a better position to identify the most successful of these measures and interventions and to share that learning right across the school completion programme to the greater benefit of all the children participating. It is envisaged that the review will be completed during the 2014-15 academic year.

**Deputy Dessie Ellis:** Many of the children who are targeted by the school completion programme obtain huge benefits from that engagement. Great benefits also accrue to their families. This is evident from their school attendances, their attitudes to their teachers and their confidence to engage with other people and make friends. This leads to less disruption in their lives and the lives of others around them. Front-line services must be protected. The Ballymun Education Support Team, BEST, SCP board of management was recently notified that there might be further cuts to its programme in 2015 as the national SCP budget is no longer ring-fenced.

The Minister of State referred to a review of the SCP. A review often spells trouble. I hope that in this case the school completion programme will not be affected in any way. There are huge concerns among a range of schools across the country about proposed cuts. I am speaking on behalf of the management of schools in Ballymun who are seriously concerned that attempts will be made to cut funding for the school completion programme. This programme is aimed at the most disadvantaged of people. We cannot go down the road of affecting them. It is essential funding for this programme is maintained. Any review must take this into account.

The Minister of State said that responsibility for funding under the SCP is now the responsibility of Tusla. The previous mechanism for funding worked very well. I hope the serious concerns of all the schools in regard to attempts to manage this funding in a different way to their detriment will not be realised. I ask that the Minister of State bring to the attention of the Minister, Deputy Reilly, my concerns and those of my constituents and others across the country in this regard. Too much progress has been made to go backwards. That is the last thing we want to happen.

**Deputy Damien English:** I will bring the Deputy's concerns to the attention of the Minister, Deputy Reilly. I ask that he bring to the people concerned the message that this is not about imposing cuts. The review is an attempt to try to bring about best practice in this area given the variance between projects around the country. Some projects work extremely well and achieve



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great results. Like the Deputy, I am familiar with some of those projects, particularly the one in my constituency.

On cuts to funding, funding was cut across the board over the past number of years because the Government had €30 billion less to spend. The cuts were not imposed because the Government did not believe these schemes were working well. We recognise the great results they are achieving and want to continue them. I reiterate the review is a review to plan for the future of the scheme. The purpose of the review is not to identify areas where cuts can be made. It is important that the Deputy puts people's minds at ease in this regard. The purpose of the review is not to see if we can scrap the programme. While others might wish to pedal that message that is not the case. The purpose of the review is to see how the programme can be sustainable into the future, while ensuring we are getting the best value for our money. We must ensure the highest standards in all areas. That is the aim. Also, there are other areas with growing populations, such as my constituency in Navan, which do not yet avail of the programme and this will require more money to be spent in this area. Funding for the programme in 2015 has been increased, which should indicate the Government's intent in this area. It is important we ensure we get the best service possible. I will bring the Deputy's concerns to the attention of the Minister and ask that the Deputy also bring back the message to his constituents that the Government supports this programme.

### **Message from Seanad**

**An Leas-Cheann Comhairle:** Seanad Éireann has passed the Appropriation Bill 2014, without recommendation.

The Dáil adjourned at 8.20 p.m. until 2.30 p.m. on Wednesday, 14 January 2015.