



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

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

Dé hAoine, 2 Nollaig 2011.

Private Members' Business

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Dé hAoine, 2 Nollaig 2011.

Friday, 2 December 2011.

Chuaigh an Ceann Comhairle i gceannas ar 10.30 a.m.

Paidir.

Prayer.

Private Members' Business

An Bille um an Aonú Leasú is Tríocha ar an mBunreacht (An tUachtarán) 2011: An Dara Céim

Thirty-First Amendment of the Constitution Bill 2011: Second Stage

Deputy Catherine Murphy: Before I introduce this legislation, I would like to mention that we were led to believe that a door into the Chamber would not be opened this morning. It is a matter of concern among the Technical Group. It seems to be open now. It was not open when some Deputies tried to use it to enter the Chamber. I understand an instruction had been given not to open the door in question. I am merely expressing my concern about the matter.

An Ceann Comhairle: I ask the Deputy to formally move the Second Reading of her Bill.

Deputy Catherine Murphy: Tairgim: “Go léifear an Bille an Dara hUair anois.”

I move: “That the Bill be now read a Second Time.”

I thank the Ceann Comhairle for giving me an opportunity to introduce this very important and timely legislation. I thank my colleagues in the Technical Group for their support in bringing this Bill forward. I look forward to a positive debate, which I hope will be productive. We can all agree that the recent presidential election campaign placed an enormous focus on the Office of President. Attention started to be paid to the campaign much earlier than in previous contests. It was very intensive. Reports on the campaign meandered across our television screens and newspapers. In recent years, we have started to follow elections on our computer screens as well. This level of scrutiny was not confined to the duration of the campaign itself — it went on for months on end. Following such a level of engagement, now is the time to seize the opportunity to correct some of the more obvious flaws in the current constitutional provisions regarding the Office of President. The flaws in question were brought into sharp focus during the long nomination process and the election itself.

Before I go into the substance of what I am proposing today, I would like to congratulate President Michael D. Higgins on his recent election. We can all agree we have elected a fine President. I wish him every success over the next seven years. President Higgins has a long and

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distinguished record of driving reform. I am bringing this Bill to the House today in the same spirit. I appeal to Government and Opposition Deputies to progress this Bill beyond Second Stage. As the President is the only office holder in Ireland who is elected by all of the people, it is vital that our Presidency continues to evolve and reflect the dynamic nature of modern Irish society. The two most recent Presidents, Mary Robinson and Mary McAleese, modernised the office by interpreting their presidential roles distinctly and with great success. I propose that the Members of this House, as responsible legislators, should follow their lead by starting to modernise the constitutional architecture that surrounds the Presidency. In that way, we can honour the visionary work of President Robinson and President McAleese and ensure the office retains its relevance in our rapidly changing society.

I appreciate that a number of aspects of our Constitution require updating. We must start somewhere. Perhaps the highest office in the land is the most appropriate place to begin. This is not the first time a Bill of this nature has been proposed. In 1998, the All-Party Oireachtas Committee on the Constitution produced its third progress report, which dealt with the Office of President. The former Deputy Jim O’Keeffe of Fine Gael sponsored an amending Bill, which was not altogether dissimilar to the Bill I am proposing today. The Thirty-First Amendment of the Constitution (The President) Bill 2011 is based primarily on the recommendations that were made in the report of the all-party committee. Even in 1998, the constitutional provisions relating to the Presidency were considered to be outdated. It is an indictment of this House that such a comprehensive cross-party report has been gathering dust for 13 years. The constitutional changes that were recommended by all-party committee were proposed just a year after the election of President McAleese. Her election in 1997 marked the first time that two candidates were successfully nominated by local authorities to run for President. I participated in that nomination process at local authority level. Just one previous attempt had been made to use this process, in 1945, but it was unsuccessful.

Until 1997, no candidate from outside the main political parties had ever achieved a nomination to run, with the exception of our first President, Douglas Hyde. No candidate from outside the main political parties has ever been elected to the office. I do not suggest that any of our distinguished office holders has been anything other than scrupulously independent-minded. I am merely suggesting that we should question whether the often-repeated claim that the President is “above politics” will ever be realised, given that the political parties remain the gatekeepers to the Presidency, in effect, and only allow one of their own to pass through. As a citizen, I resent being denied the opportunity to cast a ballot when an election is due to take place. That has happened to the citizens of Ireland on six occasions, when the political parties agreed not to have a presidential election. The age of political monopolies ended in Ireland in 2011. We should make sure it never resurfaces. If it happened in other countries, we would be the first people to criticise it.

Prior to the official beginning of the most recent presidential election campaign, several candidates went through a protracted nomination process. Citizens were widely engaged in the process, by and large. Social media were extensively used for the exchange of opinion. This demonstrates the changing nature of active citizenship, particularly with regard to elections. We have to take that on board because such engagements are valid. Many, many people were dismayed by the lack of an avenue for citizens themselves to nominate a candidate and there was a real feeling of frustration that the political parties retained ownership of the process. At both national and local level, parties agreed to exercise almost total control. Thankfully, that

relaxed at local government level towards the end of the campaign, but not without heavy persuasion. Indeed, the current incumbent intervened at a very late stage, to positive effect.

This Bill proposes to insert a new subsection in order to introduce a mechanism whereby a presidential candidate may be nominated on the initiative of 10,000 citizens who are entitled to vote at presidential elections. This change was recommended by the Oireachtas All-Party Committee on the Constitution in its third progress report in order to “further democratise the nomination process for presidential elections”. I believe it would have the effect of allowing an increasingly diverse selection of presidential candidates to be presented to the people and would help us truly realise that facet of the office — its independence — which we so prize.

The Bill also proposes to reduce the number of Oireachtas Members required to nominate a presidential candidate from 20 to ten. This change was indeed also recommended by the Oireachtas All-Party Committee on the Constitution in 1998 in order to make the means of nominating a presidential candidate less restrictive than is the case under the current provision. It is my belief that together these proposals would address the concerns expressed by a wide section of the population throughout the recent campaign.

I have introduced this Bill here today because we simply cannot allow the opportunity to pass whereby most of the population have indicated an appetite for change. Now that people have become familiar with the current arcane process by which candidates may be nominated, it is clear that the vast majority wish it to be updated. It is because of this desire for change that I make these proposals today. Some Deputies may inquire as to why we cannot simply wait for the forthcoming constitutional convention to address these matters, but my point is that reform cannot wait any longer. My concern about leaving changes to the constitutional convention is that I have no evidence that any attempts by the Oireachtas to make serious constitutional reform have ever been acted upon, so I must question whether the forthcoming convention will be the same.

I also have pause to wonder if it is a good idea to put wide-ranging reform proposals to the electorate in one measure. Perhaps it is more advisable to place non-contentious issues before the electorate first. This would be an opportunity to achieve changes in an incremental way and retain the more contentious issues for single issue referenda. Our recent experience of referenda should give us reasons to pause for thought.

In addition to the changes I have already highlighted, the Bill also proposes a number of other changes, which I will now outline. I propose the reduction of the presidential term of office from seven to five years. This is in order to encourage a stronger sense of engagement between the President and the people by means of more frequent electoral interaction. With a less onerous term of office, we might anticipate an increasingly diverse selection of presidential candidates.

I see no reason for specifying that a presidential candidate must be 35 years. The 1998 Oireachtas All-Party Committee on the Constitution similarly could find no logical reason for setting the age at which one becomes eligible for election to the office of President at a greater age than that at which one may exercise the right to vote in elections, namely 18 years, and I concur with the conclusion of the committee.

I propose also to remove references to the President being forbidden from holding any other “position of emolument”. The purpose of this amendment is to clarify the terminology of Article 12.6.30 in order that it cannot be read to mean that the President is precluded from holding honorary offices during his or her term in office. Notwithstanding this freedom, the

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wording places significant restrictions on the President to ensure that he or she cannot hold offices which are inconsistent with the office of President. Again, this change was recommended by the Oireachtas All-Party Committee on the Constitution. In its third progress report, it is stated that the committee is in agreement with the authors of J.M Kelly's *The Irish Constitution* on the need for such clarification.

I propose to change the oath of office which must be sworn upon entering into office. The purpose of this amendment is to provide a means by which a President-elect may, should he or she so wish, enter into office by taking and subscribing publically to the prescribed declaration without requirement to make religious references. The introduction of such an option is intended to ensure that each President elect retains his or her right to freedom of religion during the inauguration ceremony and in order to reflect the increasingly diverse nature of Irish society. This change was recommended by the Oireachtas All-Party Committee on the Constitution. It is highly unusual, even among states such as Malta and Iceland that have state religions, that an option of make a non-religious declaration is not made available to a President elect, so I am making provision for that in this Bill.

Most of us will know that Article 12 contains one of the few examples of what can be taken to be so called mistakes, the requirement for the President to be elected by means of proportional representation. As we all know, this is impossible for a single-seat office, so the purpose of this amendment is to delete text which is superfluous to the needs of Article 12.2.30. Again, this technical amendment was recommended by the Oireachtas All-Party Committee on the Constitution in its third progress report relating to the Office of the President.

We have a responsibility as legislators not to postpone decisions that should so obviously be made. I felt angry, particularly during the nomination process for the recent presidential campaign, that so many of our citizens were frustrated by being sidelined by the process. We have not provided a mechanism for people to engage in the nomination process. This Bill is intended to address those concerns. It seeks modest but meaningful changes to deal with obvious flaws. Let us not kick those decisions into the space of a constitutional convention just to postpone decisions which should so obviously be made. Let us not ignore the measured conclusions of the Oireachtas All-Party Committee. Let us not continue to sideline our citizens in this process.

Deputy Finian McGrath: Hear, hear.

Deputy Barry Cowen: I thank Deputy Catherine Murphy for introducing this Bill. It is a very reasonable measure which would move forward a piece of political reform which has been talked about for some time but has not been acted upon. This is a very appropriate time to begin the process of reforming the constitutional provisions for Uachtarán na hÉireann, given, as we have just been through an election, that public interest in and knowledge of the presidency is very high.

The Fianna Fáil Party will support this Bill on Second Stage and push for it to be allowed to proceed to enactment, subject to public consultation and a more detailed consideration of some aspects of it. It is a good Bill which accurately reflects past all-party agreements and provides a solid basis for moving forward to address clear issues with the procedures by which we elect our Head of State.

We are very lucky that the position of President has earned the respect and admiration of the people since it was created in 1938. It has always been held by men and women of the

highest calibre and each of our Presidents has brought distinction to the office. Though they have all had some political connections in their careers, they have ensured that it is seen as a position above party politics. In this they have ensured that the presidency has fulfilled its single most important function in our democracy — it is a source of unity.

Our President has very few strong powers when compared with other directly-elected Heads of State. In our system, Article 28.2 of the Constitution confers executive power on the Government. Yet, it would be wrong to dismiss the presidency as merely a ceremonial office. In the debate in this House on *Bunreacht na hÉireann*, de Valera explained that the Constitution conferred on the President six substantial powers exercisable on the President's own initiative, independent of the Government, with which the President would protect and safeguard the people's interests. A number of these powers were clearly contingency powers and they have, thankfully, never had to be used. In this respect, I refer to powers such as those conferred on the President in Articles 24.1, 22.2 and 27 where the President might conceivably intervene as a form of "medium" in a dispute between both Houses of the Oireachtas.

The presidential power most frequently used is Article 26, which is a significant power that allows the President, following consultation with the Council of State, to refer a Bill to the Supreme Court for a decision on whether a Bill is repugnant to the Constitution. This is an important power and places the President in the position of upholding the Constitution and defending the people's rights. It is a power that successive Presidents have exercised independently. By transcending partisan divisions, our presidency has served as a reminder of our shared support for the core institutions of the State.

Our Presidents have also represented the State with great dignity and to great effect. While dramatically limited in their freedom to espouse policies, our Presidents have nonetheless been able to forcefully represent the ideal of Ireland seeking strong co-operation and engagement with other states. Cearbhall Ó Dálaigh said that, under our Constitution, Presidents do not have policies but they have themes. Mary McAleese's theme was building bridges and her work for reconciliation will forever earn her the gratitude of the people. The diaspora was a theme of Mary Robinson's and other Presidents, going right back to Douglas Hyde, who made our national language an integral part of his presidency, have pursued themes that have benefited our country and its people.

We have a presidential tradition of which we can be proud and which we should protect. The public support and legitimacy it enjoys should not be tampered with and the Fianna Fáil Party believes there is no need for a fundamental re-evaluation of the powers of the President. However, we support the idea that there are specific reforms concerning the process for nominating and electing the President which should be addressed and would not damage the current successful model for the presidency. We also believe that now is the best time to take up them up.

This year's election campaign was high profile and public understanding of the role of the President has increased significantly. In addition, any change should take place as early as possible in our new President's term in order that there is no risk of issues being mixed with the early stages of the next campaign. During the past decade, all parties contributed to detailed discussions about the constitutional provisions relating to the presidency. It was agreed that change was required and specific proposals were outlined. It would be unreasonable to hold this Oireachtas to the decisions of a former committee. However, its agenda was a sensible one

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and there is no reason to go back to the beginning of the process. That would be a recipe for doing nothing.

We also oppose the idea that this matter should be sent to the constitutional convention. The convention, which has been delayed from the timetable outlined in March, has a broad agenda. The Government has separately decreed that the abolition of the Seanad, which is a more controversial matter, will not be referred to the convention. There is no in-principle reason that other constitutional reforms should be delayed for at least a year before they can be taken up in this House. Last Tuesday, the Taoiseach was asked about various referenda during Question Time and he sounded almost as if he was scared to run a referendum on anything. The Government's arrogance and haste led to the defeat of the Oireachtas inquiries proposal. The legitimate response to this should not be to suspend all referenda but to change the way they are handled before they are put to the people.

If Second Stage is agreed and the Bill referred to a committee, as it should be given the previous positions of every party represented here, it should not be rushed through. The committee should call witnesses, invite public submissions and then have a credible debate on amendments. Following its passage, a lengthy period should be given to the Referendum Commission to prepare materials for the referendum. In this way, we would have a well considered proposal, which would incorporate public views, and it would not just land on the public with little notice and reflection.

The Bill proposes to reduce the age of eligibility to stand for the office of President from 35 to 18 and we strongly support this proposal. With limited exceptions concerning the holders of certain public offices, every person entitled to vote in an election should also be entitled to stand. If a young person is capable of persuading the people of his or her vision for the presidency, then so be it. An artificial higher age is unnecessary and should be removed for the presidency and all other electoral offices.

The legislation also proposes to reduce the President's term from seven to five years. While the current term has not led to major problems, we support this, in principle, because of the views of many candidates and holders of the office. However, we would like the reduction in the term to be qualified to ensure the presidency does not become just another election. Specifically, we believe there should be a prohibition on the holding of any other election or referendum within a month of a presidential election. In the past, this has been contentious. In 1945, the Government was criticised for holding the presidential election on the same day as the local elections. In 1966, the Government was criticised for not holding the local elections at the same time as the presidential election. In 1959, there was controversy about holding a referendum to abolish proportional representation on the same day as the presidential election. I do not want to go over old ground but we can learn from these controversies of the past and forge a consensus.

In future, especially if we reduce the cycle for presidential elections from seven years to five, we should agree that the presidency is kept separate from all other electoral contests. Presidential elections should not be thrown in with local and European elections or a general election. In a presidential election, we are choosing our Head of State and it is important that the people can reflect on this and that it does not become embroiled in other issues.

The evidence of the 1997 and 2011 elections is that the current unwieldy nominations process is still capable of delivering a diverse set of candidates. Simply increasing the number of candi-

dates would add nothing to the quality of the elections. The evidence of the most recent campaign is that a large field can make much of the election superficial. There is no such thing as an in depth debate between seven people. What is of concern is that it is clearly possible that a person with widespread public support could be blocked by parties seeking to protect their own interest. The most recent case of electing a President without a contest was not the result of candidates being blocked. President Hillery's election in 1976 and re-election in 1983 reflected the public mood that there should not be a contest and the only candidate nominated had not just the support of the parties but the overwhelming goodwill of the people. He did a splendid job and brought stability and dignity to the office of President.

Internationally, the role of national and local representatives in the nominating process is not unusual. In both the previous two contested elections, all significant candidates were able to secure a nomination but the efforts involved became ridiculous. We need a nomination process that does not become too prohibitive for candidates. However, nobody wants a scenario that invites joke or spurious candidates to put themselves forward for Head of State and get on the ballot paper. This is an area we would like to go into in greater detail on Committee Stage, but we would like to consider a hybrid system of reducing the number of councils or Oireachtas Members required and combining this with the introduction of a popular nomination, for example, ten Oireachtas Members and 10,000 citizens.

The timing of the nomination is more important than the method of nomination. Every democrat should be concerned by how the recent election developed and the comments of one broadcaster that "the media won the election". He claimed that the media had picked up the candidates and, in turn, thrown them about the place before moving on to the next one. This was a product of a short campaign with seven candidates whom the public had little time to get to know. This gave an advantage to those willing to caricature the records of individual candidates while denying them the right to legitimately respond. This would be less of an issue if there was a much greater period between the end of nominations and polling. A minimum gap of ten weeks would give more than enough time for both scrutiny and perspective.

More than any Dáil since independence, we were elected to deliver a programme of substantive political reform. Part of this was to comprise a new respect for the Dáil and a willingness to loosen the grip of the Government on everything we do. In reality, nothing has changed. This is the third time we have had a Friday sitting and so far the Government has been unwilling to allow an Opposition proposal to move forward. Two weeks ago, a Government elected on the solemn promise that it would quickly ban corporate donations voted down a ban on corporate donations for the second time in nine months.

There has been an absolutely consistent approach of supporting the principle of Opposition measures and of blocking them in practice. Deputy O'Dea's Bill to reinstate protections for the many thousands of workers formerly covered by JLCs was allowed to proceed beyond Second Stage because the Labour Party was concerned about its backbenchers.

11 o'clock That measure had previously been blocked for months. Equally, the Bill brought forward by Deputy McConalogue in respect of an amendment to the Constitution in respect of children's rights has been left in procedural limbo. Day after day, measures are being given cursory consideration in the House and are then guillotined. In addition, Ministers are failing to engage properly with the Opposition. The Taoiseach has reduced his exposure in the Chamber to answering questions. Increasingly, he refuses to provide any information during his time here.

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If the fine words of Ministers with regard to empowering the Oireachtas are to have any substance, the Government must allow Bills such as that before the House to proceed beyond Second Stage. This legislation is not a national priority but it is important. It will assist in providing further protection for a successful institution which has given our State great service for almost 75 years. The Bill, the principles of which are sound, could be improved by a lengthy and inclusive consideration on Committee Stage.

An Ceann Comhairle: I call Deputy O'Brien who, I understand, is sharing time with Deputy McLellan.

Deputy Jonathan O'Brien: That is correct. I congratulate Deputy Catherine Murphy on introducing the Bill, which Sinn Féin will be supporting. We are of the view that it is important to engage in further discussion on this legislation on Committee Stage. That said, the Bill is far from the finished product and there is room for improvement in respect of it. I say that as a republican who considers all legislation which comes through the House from an all-Ireland perspective. In that context, there is a glaring omission from the Bill but I will return to that later.

The debacle which attended the most recent presidential election highlights the need for reform with regard to how we elect the President. This is a matter to which those of all parties and none alluded during the presidential election campaign. The Taoiseach indicated that it will be considered in the context of the upcoming constitutional convention.

Sinn Féin does not have a major difficulty with section 1(b) of the Bill, which proposes to reduce the number of years for which a person may serve as President from seven to five. Arguments can be made both in favour of and against changing the length of the presidential term.

Section 1(c) deals with the age limit which applies in respect of those who can stand for election to the Office of President and we are of the view that this matter requires further debate. There are many capable young people who, under the current age limit, would be prevented from standing for election to the office. I accept that it is too simplistic to compare the Office of President with most other forms of employment. However, the Employment Equality Acts 1998 to 2008 outlaw direct and indirect discrimination on the basis of age. If the relevant provisions were applied in respect of the election of the President, then the State would be acting illegally. As already indicated, this is a simplistic argument and I am merely putting it forward in order to highlight the folly of having an age limit in place.

Further debate is required in respect of section 1(d) and (e). Requiring that someone must secure the signatures of 20 Members of the Houses in order to run for President clearly has the effect of confining the ability to seek election to those who are either members of larger political parties or who have associations with such parties. While there is a large number of Independent Deputies in the current Dáil — these Members comprise the Technical Group — that was not always the case in previous Dáils and it may not be the case in respect of future ones. Were it not for the fact that there is such a large number of Independent Deputies in this Dáil, there would only have been six rather than seven candidates in the recent presidential election. Consideration must be given to the issue of the number of signatures required from Oireachtas Members in order for someone to obtain a nomination in respect of running for the Office of President.

The Bill contains a proposal to the effect that a person could secure a nomination by gathering 10,000 signatures from members of the public. While I do not want to commit to a particular number, this is certainly a proposal in respect of which Sinn Féin would be in favour. We are of the view that what is proposed would enhance the nomination process relating to presidential elections. However, it remains to be seen how we would proceed in the context of the logistics involved and in respect of verifying the validity of the signatures gathered and ensuring that those who supplied them are on the electoral register. The theory behind this proposal, which we support, is good.

I referred earlier to a glaring omission. The latter relates to the right of Irish citizens in the Six Counties to vote in presidential elections. The Bill does not refer to this matter. My party welcomed the Taoiseach's commitment to the effect that during the deliberations of the constitutional convention — which is due to be established shortly — consideration can be given to extending voting rights to citizens in the Six Counties. Extending such rights would represent a natural outworking of the terms of the Good Friday Agreement and is something which should happen in due course. Since the establishment of the Office of President, Irish citizens have been denied the right to vote in presidential elections. Successive Administrations have failed to address this matter and nothing has changed. However, I hope the constitutional convention will take action in respect of it. If the Bill progresses to Committee Stage, my party will certainly be considering tabling an amendment in this regard.

The Good Friday Agreement enshrines the right of people in the Six Counties to hold Irish citizenship. However, these individuals are disenfranchised when it comes to choosing the President of Ireland. I ask Deputies to reflect on the term “President of Ireland”. For me, this term implies someone who represents all 32 counties. The terms “President of the Irish Free State” or “President of the Twenty-six Counties” are not used. There is no reason, therefore, for not allowing people of all 32 counties to elect the President.

Having defeated repeated attempts to impose second-class citizenship on sections of society in the Six Counties for many decades, Sinn Féin would not like to see a situation develop whereby the political establishment in this State would get away with paying lip service to those in the Six Counties and their rightful place within Irish society. It is ironic that citizens of the Six Counties can win all-Ireland championships, play for the national rugby team and stand for the Office of President, as was the case with Martin McGuinness in the most recent election. Not only can people from the Six Counties stand for the Office of President, they can, as was the case with Mary McAleese, actually become President. Despite this fact, those to whom I refer cannot exercise their democratic right to influence who may occupy the Office of President. An amendment to the Constitution and political will on the part of the Government are all that would be required in order to allow citizens to vote in presidential elections.

When Mary McAleese left office in recent weeks, she received high praise from Members on all sides and rightly so because she was a fine President. She received that praise because of the way she sought to include people across the island of Ireland. The inclusive way in which she sought to fulfil her duties as President was rightly recognised by both Deputies and Senators and also by all members of society. However, some of those who fell over themselves in the quest to see who could bestow the most praise on Mary McAleese are the very individuals who are now frustrating the process to extend voting rights to citizens within the Six Counties. I hope this matter will be addressed sooner rather than later.

Not only does this issue affect citizens of the Six Counties, it is also — in light of the increase in the number of people who are emigrating — becoming more relevant to those who live

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abroad. I refer to people who are being forced to leave Ireland as a result of the disastrous economic policies pursued by previous Governments. I am not just focusing on the previous Administration in this regard, I am referring to successive Governments. They are now being denied the opportunity to determine who is best placed in terms of forming a Government to introduce policies, which would turn around the economy and which, hopefully, would lead to a situation where they could come home and contribute to restoring this nation's dignity and integrity. I understand that the Bill was tabled in an attempt to make the presidential nomination more inclusive, and my party welcomes that. However, that inclusiveness must include affording all citizens the right to fully participate in the democratic and civic life of the nation. I would point out to the House that being an Irish citizen does not stop at the Border.

Deputy Sandra McLellan: I welcome the opportunity to speak on this Bill today. At the outset, I commend Deputy Catherine Murphy on her work on the Bill and for bringing it before the House.

I want to address the issue of the candidate nomination process and voter eligibility. Everyone would agree that the nomination process as currently configured is completely inappropriate. The debacle surrounding the process in the recent presidential campaign, particularly in Senator Norris's candidature, highlighted this issue. It needs to be altered to ensure real participative democracy. The situation whereby only a select group of elected representatives can nominate a candidate for the presidency seems to be in direct contrast to what the role of the presidency is support to be. The role is meant to be inclusive to represent all of the people, yet the selection process is exclusive. The selection process is undemocratic and surely must change.

On the same issue, we should seriously look at the age restriction for being eligible to be a candidate. If there were an upper age limit, people would be justifiably outraged, yet there is a lower limit that is almost twice the legal age of majority. For 17 years after one's eighteenth birthday a person can hope to play a full role in society in the eyes of the State and to be held fully accountable in the eyes of the law but is refused even the slightest option of seeking the highest office. The threshold should be lowered.

Separately, on the issue of voter eligibility, it is vitally important that we extend the franchise to all Irish citizens. It is the birthright of all those born on the island of Ireland, wherever they might currently reside. Someone born in Antrim, Armagh, Derry, Down, Fermanagh and Tyrone is no different from someone born in Dublin, Cork, Limerick, Galway or any country in the South. Similarly, the thousands forced to emigrate, and now living in Boston, Brisbane or Manchester, are no different or no less Irish than those living in Mallow, Middleton or Youghal. The Constitution and the founding documents, the Proclamation and the Democratic Programme, speak of the Irish nation and all of its people. This includes all 32 counties.

Sinn Féin is not the only party raising this issue. It is being raised by political parties in the North as well as the likes of One Voice, One Vote campaign. Representatives of that non-political group were in Leinster House a number of weeks ago during the presidential campaign when a Sinn Féin motion on presidential voting rights was debated in the Seanad. There is a consensus among nationalist parties in the North that Irish citizens should have the right to vote. This goes to the heart of the issues that were resolved in the Good Friday Agreement. That Agreement spoke about people in the North having the right to be part of the Irish nation. It defined citizenship and how people would have the right to be Irish, British or both. Sinn Féin supports this.

The notion of voting rights for Irish citizens in the North should not be seen as a threat to anyone. On the contrary, it will act to enhance the democratic process and the Good Friday Agreement. It will vindicate the Constitution and the pledge of office. Most importantly, it will uphold the rights of citizens and ensure we go further than paying lip-service to the notion that citizens in the North are part of the Irish nation. It is one matter to have it in State documents but it is entirely different when those same citizens are denied the right to vote for their President.

Likewise, the Irish all over the world should have a chance to vote for their President. At present, we are filling planes and boats with our young people. Many have left with no option but to emigrate in search of employment. They, too, should be afforded the opportunity to vote. Many other countries already have for many years legislated for such a scenario and acted upon it. We should do the same.

Minister of State at the Department of the Environment, Community and Local Government (Deputy Fergus O'Dowd): I congratulate Deputy Catherine Murphy on putting this important proposed legislation before the Dáil today. I compliment the Members on the constructive comments that most of them have made. I will put to one side the parts that were political because this is a serious debate about the Office of President and how we should elect that person.

This Bill deals with the Office of President and constitutional change. It comes at a time when memories of the recent presidential election are still fresh in our minds. In one way, that is good because we are all the more familiar with the issues presented to us for consideration in the Bill. We can readily recall the concerns sometimes expressed in the run-up to the election that the current nomination process might somehow conspire to leave potentially good candidates out of the race. On the other hand, we are not expecting to be seeking to fill the Office of President again until 2018. I am sure I speak for all when I take this opportunity, as other Members have already, to extend best wishes to the new President and to wish him well in the important role he has undertaken. As we would not expect an election again until 2018, this gives us ample time to reflect on the proposals in the Bill — time, which I will argue, we should take rather than rushing ahead at this stage.

In the Bill significant changes to our Constitution are proposed. Before commenting on the specific proposals, I want to make some general remarks about the importance of constitutional amendments. I also want to outline the general approach being taken by Government in this area in order to put my subsequent comments in context.

The Constitution is at the core of our democracy and changes to it need careful consideration. It has served us well down the years. However, the authors of the Constitution and the voters who originally approved it could not have anticipated the full extent of the political, economic and social changes that have taken place in the country over the past 75 years. For this reason, the reform and renewal of the Constitution is an important process to which this Government is fully committed.

The Bill provides for seven amendments to Article 12. These deal with the election of the President and related issues. Most of the amendments proposed in the Bill reflect recommendations in the May 1996 Report of the Constitution Review Group and the first and third reports of the All-Party Committee on the Constitution in 1997 and 1998, respectively.

Of the seven amendments proposed in the Bill, five echo recommendations to be found in these reports. However, neither the Constitutional Review Group nor the all-party committee

[Deputy Fergus O'Dowd.]

recommended any change to the presidential term of seven years — a period of five years is proposed in the Bill. In the case of the proposal in the Bill to reduce, from 35 to 18, the age limit for eligibility for election and appointment, the Constitution Review Group and the All-Party Committee on the Constitution took differing views, with the former recommending no change, or only a minor reduction in the 35 year age limit. There is, therefore, a degree of convergence between what is proposed in the Bill and the recommendations of these earlier reports, but only that. There is not consensus.

One can have little argument with the first amendment proposed in the Bill, that is, that the Constitution should be amended to delete the reference to the system of proportional representation in Article 12.2.3°. As Members will be aware, the term “proportional representation” means the filling of a number of seats by different candidates at an election in proportion to the votes they receive. It cannot refer to the filling of a single seat and, therefore, it is not relevant when there is an election to the Office of President. Both the Constitution Review Group and the all-party committee came to the same conclusion, that inclusion of the reference to “proportional representation” in Article 12.2.3° is superfluous. This amendment, therefore, might be viewed as a reasonable technical proposal, although it should be noted that amending the Constitution in this way would make no practical difference.

The second amendment proposed — reducing the presidential term from seven to five years — is among the issues specified in the programme for Government for consideration in the proposed constitutional convention. It will be interesting to see what emerges from the convention on this proposal as both the Constitution Review Group and the all-party committee came to the view that the seven year term should continue to apply. On the other hand, a five year term might be considered more appropriate, perhaps in the context of Presidents taking up a second term. There is no consensus, therefore, on the proposal to reduce the presidential term and the sensible approach in these circumstances is to see what emerges from the convention.

There is a similar lack of consensus in regard to the third amendment — lowering the age at which someone can be eligible for election to the Office of President from 35 to 18 years. Within the Constitution Review Group there was some sympathy for the idea that the minimum age for taking up the office of President should be in line with the 21 years threshold that applies for Dáil membership. However, the majority favoured no change, or only a minor reduction, in the age limit. There was a sense that the office of the President called for special qualities, which are more likely to materialise over a longer span of years than 18 or 21.

The all-party committee, for its part, rejected this view. It felt that there was no logical reason for distinguishing between the age at which one becomes eligible to vote and the age at which one could be elected to the Office of President. On this basis, it felt that anyone who had reached the age of 18 should be entitled to stand for the Office of President and anyone of that age who managed to secure a nomination would, in the committee's own words “be an exceptional and worthy candidate”. These diverging views only serve to underline again my point that the issues involved need careful consideration. It would be wise to reflect again on the proposal to reduce the age for eligibility in the light of whatever emerges from the Constitutional Convention.

The next two amendments proposed in the Bill relate to the nomination process for the Office of President. The current provisions are that nominations can be made by 20 members of the Oireachtas or for city or county councils. Former or retiring Presidents may become candidates on their own nomination. The Bill proposes two changes to these arrangements.

The first is to reduce the number of Oireachtas signatures required to make a nomination from 20 to ten. Once again, this issue was considered by the Constitution Review Group and the all-party committee, with the latter recommending the reduction to ten in the number of Oireachtas signatures required. Clearly, if the number was reduced from 20 to ten, it would be easier to secure nomination by members of the Oireachtas. At the same time, we need to be conscious that the Office of President is a national office of the highest standing in the country. It would be important to ensure that nominees have a broad based support. We need to reflect on what level of signatures would be appropriate to achieve that objective and if they are to be reduced from 20, what that level should be.

The second suggestion in the Bill is that a candidate for selection to the Office of President can be nominated by 10,000 citizens. While this is a proposal that has a certain appeal, it gives rise to some practical considerations that would also need to be borne in mind. In recommending this proposal at the time, the all-party committee considered that, while such a nomination procedure would involve practical difficulties and extra expense, it would be feasible. It would, for example, be necessary to have an adequate validation system for the signatory process. Safeguards would be required to ensure that citizens exercised their nomination only once. It might also open the debate about whether or not citizens should be resident in Ireland at the time of nomination.

Some concerns were aired in the run-up to the October presidential election that the nomination process was too restrictive. It was suggested that some potential candidates might not make it on to the ballot paper. In addition to voices of support for particular potential candidates there were parallel but different voices. These were voices of concern to ensure that candidates of real possibility would not fall short of the nomination process requirements.

Popular nomination could be seen to imply a greater degree of direct democracy in the nomination process. It might also further facilitate the nomination of candidates from outside of the party political system. Systems for popular nomination of presidential candidates operate in a number of European countries such as Austria, Finland and Portugal. However, the all-party committee drew attention to some possible difficulties with popular nomination, commenting that it left open the possibility that the office of President could be demeaned by the nomination of frivolous candidates or endangered by the nomination of inadequately qualified ones. Others might argue that the President should not represent any particular group or interest but should represent all the people — the election of a single-issue candidate, for example, could militate against this requirement. These are issues that could be teased out in greater detail in the proposed convention.

The sixth amendment proposed — providing that the President should not hold any other post inconsistent with the office of President — may well better reflect the intention of the drafters of the Constitution than the current wording on this point. It echoes a similar change proposed by the all-party committee but, again, the amendment would involve little practical difference.

The seventh and final amendment proposed is to allow an incoming president to omit religious references from the oath of office — or “declaration” as it is referred to in the Constitution. This is a matter that could be considered in further detail in the Constitutional Convention.

Without taking in any way from the proposals put forward in the Bill, I was surprised at the timing of its introduction, so early in the cycle. We have just had a presidential election and, in the normal course, a further election would not be expected until 2018. I can understand

[Deputy Fergus O'Dowd.]

that there may be a concern to bring up these issues while a presidential election and campaign is still relatively fresh in the memory but I do not consider that would be sufficient justification to press ahead with a referendum on these amendments at this stage. The key point is that the proposed Constitutional Convention provides an opportunity to reflect on the constitutional provisions relating to the nomination process etc., for the Office of President. Whatever views emerge from the convention will be available to inform and influence the type of amendments to the Constitution that might be made in advance of the next election for the Office of President.

The programme for Government outlines an ambitious programme of constitutional reform. In addition to the two referendums already held, the priorities include a referendum on children and a referendum on the abolition of the Seanad. The programme also provides for the establishment of the Constitutional Convention, which will be asked, among other things, to consider and report on the question of reducing the term of office to five years and any other relevant constitutional amendments that might be recommended by the convention.

Taking into consideration the Government's programme for constitutional reform, noting the commitment in the programme for Government to set up a constitutional convention and taking into account that we would not expect an election to the Office of President again until 2018, the Government opposes the Bill. However, we welcome and will listen to the comments made by all speakers. We believe the convention is the place where all these issues can be debated and fully discussed.

Deputy Thomas Pringle: I welcome the opportunity to speak on this important Bill. I disagree with the Minister — the Bill is timely, given that we have just had a presidential election. The recent election highlighted a number of flaws in the current system, particularly in respect of the nomination process for Independent candidates to get on the ballot paper. The Bill proposes what I believe are satisfactory arrangements to alter that system.

The election campaign highlighted the fact that the electorate regard the Office of President as an independent office and does not see it as party political. Clearly the most blatant and openly partisan candidate was the Fine Gael candidate who fared very badly on election day with no reflection of the vote the party achieved in the recent general election. This was solely on the basis that the electorate views the office of President as an independent office and do not see it in that party political role. That had a significant impact on how the election results played out.

The successful candidate, President Higgins, although a party nominated candidate was in the view of the people an Independent and above parliamentary politics. That was reflected in the overall decision made by the people. The provisions to amend the nomination process for Independent candidates are therefore worthwhile and timely.

They tie in with the other provisions in the Bill, such as reducing the age that candidates must be to receive a nomination to seek election as President. If somebody can go through the process of securing 10,000 signatures from voters on the register of electors, they would have to be a candidate of good standing who could command a certain amount of popular support. That is true regardless of their age. A candidate in their early or mid-20s or up to 30 years old who can get that number of people to support their nomination would obviously be worthy of the office and could contribute a great deal to the office of the presidency if their election campaign was successful.

I believe there is a disconnect between young people and the electoral process. Often young people will vote in alternative ways but the problem is that in many cases they do not go out to vote at all. That is a reflection of the fact that they do not see politics as relevant to their lives. If somebody of a young age comes forward and stands in a future presidential election, it can only be good for the body politic and ensure that young people will engage with the process. For that reason I believe this Bill is an important provision and should be considered.

I disagree with the Minister's view that this Bill has been introduced too early. I also worry when I hear Ministers say that something should be considered by a constitutional review. That is a signal that it will be put on the long finger and that nothing will happen in the lifetime of this Government. The Minister also said it is unlikely that there will be another presidential election before 2018. That is seven years in the future, which means the Government intends to do nothing with this process. If it is put before another constitutional committee or review group, it will be considered for a number of years, there will be a raft of meetings, it will generate reports and it will still go nowhere. In early 2019, if some of us are still lucky enough to be Members of the House, we will probably be bringing forward another Private Members' Bill to try to amend the provisions in the Constitution relating to the President.

The Minister said that most of the amendments proposed in the Bill reflect recommendations in the May 1996 report of the constitutional review group and the first and third reports of the Oireachtas All-Party Committee on the Constitution in 1997 and 1998. Now, in the dying days of 2011, we still have not seen any proposals for change brought forward. That reflects the biggest problem on the Government side of the House. There appears to be a total reluctance to deal with the issues. There is no doubt that the Constitution was a good document and served its purpose at the time, but there is a crying need for amendments to be made to it.

The presidency, which is the primary political office in the land, is a good place to start. If a simple constitutional amendment such as this was put before the people, I have no doubt it would be passed. It would start the process of change, which would be an organic process that would develop over a number of years with a series of referenda to change the Constitution and make it more relevant to current times. Doing it in that way means we could deal with some of the less controversial elements and start to shape the Constitution we will need for future years. We can have the review groups and all-party committees to examine the other issues and devise possible changes and amendments on that basis.

However, if this is sent to a committee again, nothing will happen and we will still be here talking about the presidency ten or 15 years hence. In the next presidential election there will be the same difficulties for independent candidates, which will simply serve to further erode confidence in the office and in our ability to change it and make it reflect modern society. This Bill is very important and the Government should accept it. There will be an opportunity in 2014, if we must wait that long, when local and European Parliament elections are due to be held to put forward constitutional amendments to deal a number of issues such as the presidency. Indeed, if the Government has a difficulty with reducing the age for candidates to 18 years, we could also hold a referendum during the local elections to reduce the age of candidates for the Dáil to 18 years too. That would make the constitutional provisions reflect all the requirements.

I support this Bill and commend Deputy Murphy on bringing it forward. I urge the Government to accept the Bill and to move as quickly as possible to implement the changes, not pass it to another committee where it will languish for years.

Deputy Joan Collins: I thank Deputy Murphy for bringing this Bill forward. It offers an opportunity to speak on the general issue of the presidency. Many people in this country believe, and I certainly believed, that the presidency was only established as a grazing ground for the political elites in this country. It only became a political issue in the political debate surrounding Mary Robinson when she stood for election. It was seen as a progressive step to have a woman, particularly from the left, stand in the election. Before that, hardly anybody knew who the President was. One only saw him being wheeled out for certain events. People only knew he lived in the big house in the Phoenix Park.

I believe we and the constitutional convention should be discussing the abolition of the presidency, and I would like to bring forward a Bill to provide for that. Deputy Byrne has put forward suggestions of what could be done with the presidency. The Attorney General could easily carry out the legislative role of the President. That should be considered. With regard to being the Head of State representing Irish citizens, there could be a rotating Head of State chosen every two years from the elected Government Ministers. Some mechanism should be examined whereby somebody could play that role. It would make for a more democratic and accountable Government in this Chamber.

The wage and expenses would be wiped out immediately. Áras an Uachtaráin could be used for a useful purpose by the community and voluntary sector, for example. We should open a full debate about what we can do about that office. I would bring forward a Bill in the future to reflect that and call for the abolition of the presidency. That would create a greater debate in society.

People are already raising the problems relating to extending the vote to those living outside the Twenty-six Counties, for example, the thousands of people leaving our country every week, people in the North and so forth. The Bill raises that debate and if the presidency is to remain in place, that should be the case. In addition, it should be open to 18 year olds, and that should be reflected in the Dáil with candidates for the Dáil also being eligible from 18 years. If one can vote at 18 years old, one should also be able to stand for election. Ultimately, it is up to the people to decide who they want; it is not up to an elite group in this Chamber to decide who should be selected and put forward. That has been an elitist position to date. The same applies to the Seanad, which I would also like to see abolished.

I agree that the religious content should be removed. It should also be removed from this Chamber. All local councils hold a minute's silence, and we should not be subjected to a prayer in this Chamber. I do not know if it is a constitutional requirement or a requirement of this Chamber, but it should be taken off the agenda. There should be a minute's silence so Members can reflect on their own religious or non-religious beliefs in the Chamber.

I conclude with that. I am anxious to put on record that I believe we should be debating not just this Bill but the abolition of the presidency.

Deputy Robert Dowds: I thank Deputy Murphy for bringing this Bill to the Chamber. I want to make it clear that I am a supporter of the institution of the Presidency, which has played a valuable role for this country in a number of ways. As Deputy Cowen said earlier, despite the fact that every incumbent, with the possible exception of Douglas Hyde, had definite political links, to my knowledge each President has always acted above politics and been a unifying figure for this country. It is important that we have a figure who is seen as a unifier for the country, and I have no doubt that the recently elected President, Michael D. Higgins, will act in the same way as his predecessors. I believe he will also keep to the spirit of the type of Presidency that was instituted by Mary Robinson and continued by Mary McAleese. It is fair

to say also that had Erskine Childers lived longer he may have operated the Presidency along the lines of our two great women Presidents.

It is important to value the office of the President and it should not be denigrated. It is an advantage for the country abroad also because the President is in a particularly good position to appeal to the diaspora. While the President should continue to work in harmony with the Government and not out-step the constitutional restrictions on his or her office, the office can be used for the benefit of the country economically under the direction of the Government. It is very important that we maintain the Presidency and regard it as an office of great importance to which everybody can look with respect. I thank all the Presidents of the country for the fine job they have done.

I wish to comment on certain aspects of the proposed Bill. In terms of the method of election, the current method in respect of the way people vote should continue.

I am open to the idea of a five year Presidency but if that happened it should probably be at the same time as our local government and the European Parliament elections, which are held every five years, although I appreciate the disadvantage is that there may be too many issues to be considered. I do not have a major problem with the seven year term but I am certainly open to that suggestion.

Deputy Murphy criticised aspects of the nomination process and the way it was too controlled by political parties. There is truth in that but despite some of the blips in the most recent election campaign every candidate who wanted to run managed to get a nomination. Whether it was through getting the support of 20 Members of the Oireachtas or four county councils, the system worked.

An important point regarding Deputy Murphy's contribution is that if the Seanad is abolished, which is a decision that will be made by the people rather than us here, it will be important to change the number of Deputies who can nominate a President because the size of the Oireachtas overall will be smaller. In those circumstances the idea of ten people being able to nominate a candidate for the Presidency is a good one.

I am open to the suggestion that 10,000 by signature should be able to nominate a candidate for the Presidency but it must be carefully examined to ensure the signatures are genuine and people are not signing twice or three times. Another aspect that must be examined is the way that might be organised. A radio or television station might decide to nominate somebody and whip up support. While the idea is a good one, we need to put some checks in balances in place to determine if that would work in a way that was above board because it is important that we keep the Presidency——

Deputy Finian McGrath: One could go on “The Late Late Show” and get 10,000 signatures.

Deputy Robert Dowds: I would not be that happy about the idea of “The Late Late Show” deciding it wanted to nominate a particular individual.

In general, the current role of the President is about right. It would be wrong for him or her to have more powers that the office has now. I hope our current President, as the two previous Presidents did, will use the office to promote Ireland both culturally and economically abroad and that he will also do what both President Robinson and President McAleese did to great effect, namely, use the office to focus attention on aspects of Irish society which might not otherwise have much focus on them. There is a case for some presidential reform although, broadly speaking, I do not believe the role of the office should change.

[Deputy Robert Dowds.]

I agree with Deputy Murphy regarding section 1 (g) in the explanatory memorandum.

Deputy Finian McGrath: I welcome the opportunity to speak on this new and radical legislation brought forward by Deputy Catherine Murphy and the Independent group, the Thirty-First Amendment of the Constitution (The President) Bill 2011. This is also a major opportunity to do something radical, sensible and creative in the process of the election of our President. This Bill is about a new inclusive democracy but it is also about a new Ireland, with fresh thinking. It is about our future, while always respecting our past, and we must ensure that everybody is included in the democratic process.

The Bill is also about our young people and if the major political parties in this House are honest and true to their word about creating a new Republic, they will support our legislation. There has been enough huffing and puffing about change and reform. There has been enough talk about inclusive politics. Now is the chance to change, and I urge all Deputies to support our Bill.

In the last election our people demanded reform and change. This Bill is now part of that debate. It sets out the agenda for the next presidential election and the future of this great country. We all have to be part of that process, and this Bill is the engine room for change in the election of our President. It does not have all the solutions, and I welcome the different views expressed in the debate, but it is a huge step in the right direction, particularly in dealing with the issue of active citizenship.

We must remind ourselves that democracy lies in the hands of our people, not in any political elite. That is the reason this Bill is inclusive and democratic. The main principles of the Bill were supported by all the major political parties in the past so let us get on with the job and quit the waffle.

There is no reason we cannot broaden the debate and put the views and the rights of people in the Six Counties, and also the rights of our emigrants, on this agenda. We should look at the situation in the North, as many people feel excluded from the democratic process on the island. I completely support that position. I noticed recently that 37,000 applications for passports were made to our own Passport Office from the North of Ireland in 2010. There is a huge interest from many people in the North of Ireland to participate in the elections. Mary McAleese was from the North but many people could not vote for her.

In line with the Good Friday Agreement and with the vision of inclusive politics, we should look strongly at this issue. I read a letter in *The Irish Times* during the week where a number of high profile northerners demanded the same equality of voting rights as the rest of us on the island. They included Fr. Des Wilson and Peter Canavan. Let us be creative, open and democratic. The Minister of State's brother, Niall O'Dowd, also supports that strong view.

There was recently a great meeting in Dublin Castle of many of our emigrants who came here to help us come up with new ideas for the economy and job creation. I supported that because the principle of it was very good. Many of us have relations who live abroad and they always want to assist their homeland. These people would also love to have an opportunity to vote for the President of their country, even though they might live in America, Australia or France. Other European countries have facilitated their citizens who are working and living abroad. I ask the Minister of State to back the right of our emigrants to vote. There would have to be some sort of threshold for this, but anybody who has left this country over the last ten years and has paid their taxes here for many years should have the right to vote in our

presidential and other elections. It would broaden the debate and makes things very inclusive. I am always fascinated to the likes of the US and French embassies during elections in those countries, when queues of people gather outside to vote. Some people in this House are afraid of that. It could be developed further and I would like to see a broader debate on this issue, particularly in respect of the presidency. The French have a parliamentary representative for their emigrants, and one such representative had lived in Ireland for 20 or 30 years. There is great potential for emigrants to get involved with this issue.

I was unhappy about certain aspects of the last presidential campaign. I was not impressed with the standard and the tone of the election process. I do not mind people answering hard questions but I thought at times that the campaign was very nasty, personal and dirty. It was very disrespectful to some of the candidates. Some of the media did not operate in a very genuine democratic way, and some of the coverage was a disaster. I also thought some of the coverage was very unprofessional, with people in the media pushing their own political agendas and so on. That is not acceptable. Some of the current affairs programmes were fair and balanced, but many of them were very unprofessional. There is no need to be nasty and dirty in politics. Let us have a debate about the office but let us not personalise it.

Many young people to whom I spoke were thinking about getting involved in politics but that campaign frightened the life out of many of them. Those of us who encourage people to get involved tell them to begin at the next local elections but the presidential election definitely put people off. Having said that, if we cannot take the heat we should not be in the kitchen.

Deputy Robert Dowds: Dáil elections are a piece of cake by comparison.

Deputy Finian McGrath: There is no doubt about that, even though the last general election was tough going.

The Minister of State, Deputy O'Dowd, stated that the reform and renewal of our Constitution is an important process to which the Government is fully committed. If he is in favour of reforming the Constitution, I hope he has a more open mind than that displayed by some of the comments he made in his speech.

The Bill proposes seven amendments to Article 12 of the Constitution. The second amendment proposes to reduce the presidential term from seven to five years. I welcome that. Politics needs a new generation, fresh energy and people to get involved in the democratic process. I believe five years is just the right term. Sometimes we only get four years in the Dáil if we are lucky. I am not sure if this Government will get through next week, but we will see. I hope it lasts a bit longer.

Deputy Shane McEntee: We will get through the next four budgets. The Deputy need not worry.

Deputy Finian McGrath: It has two men overboard so far, but it need not panic.

Politics needs fresh energy. When I saw the new Deputies come in here, I thought they brought a new energy to the House. That is very important for here and for any presidential campaign. I strongly welcome the provision for five years. There should be a big clean-out after which we can get on with the job.

Another amendment reduces the number of Oireachtas signatures required from 20 to ten, which provides for a more democratic aspect to the presidency. The figure of 20 was a bit high

[Deputy Finian McGrath.]

for some of those involved in the recent campaign. Some of us were ducking in and out on different issues, but we found that the threshold of 20 Members was very high.

Deputy Robert Dowds: Perhaps it was just the Deputy.

Deputy Finian McGrath: That is the democratic process, but I will stick with the people, as the Minister of State knows very well.

Deputy Fergus O'Dowd: He will sing for them.

Deputy Finian McGrath: The constitutional review group and the all-party committee also went along with this. I am not sure whether the Minister of State is up for it or not, but it is a very inclusive and democratic proposal. Before the Minister of State returned to the Chamber, I was saying that I believe his brother, Niall O'Dowd, would be very supportive of it.

I heard Members speak earlier about bringing down the age of eligibility for election to the Office of President. We want to reduce the age to 18 because we want to give an 18 year old the democratic right to stand for election to the office. We have to give a younger generation the chance to come forward. There are many talented people in this country who could make a contribution.

During the campaign, I noticed that many people were looking for fresh new ideas. They also wanted people from all walks of life to get involved in the democratic process. Section 1(c) gives us the opportunity to be more inclusive, more democratic and open up the pitch. I know many talented young people who would like to make a major contribution but some of them may have been frightened off the pitch after the last presidential election, although that is another issue.

Section (1)(e) allows for a candidate to be nominated directly by 10,000 members of the presidential electorate. It cannot be left only to Members of these Houses. We have to ensure that all angles are covered and 10,000 is a credible figure. I accept the Minister of State's point about people who are nominated by radio stations and so on but we could tidy up that section in the legislation to ensure that it is 10,000 written signatures of registered voters and not somebody running a campaign on a radio station. At the moment, only the councils and the Oireachtas can nominate a candidate.

The debate today has been interesting. I have heard many new ideas on the presidency. I welcome the Bill and I strongly support it.

I also welcome the broader debate. I urge the Minister of State to change his mind. I believe he stated earlier that he would not accept the legislation. This is appalling, it lets us down and it is not democratic. It points to all the waffle that has gone on in this House for the past six months. We all got elected on the basis of reform and change. This is an opportunity for the Minister of State to vote for such change. I call on him to support Deputy Catherine Murphy's legislation and the Independent group.

Minister of State at the Department of the Environment, Community and Local Government (Deputy Fergus O'Dowd): Mar a dúirt me i dtosach, is díospóireacht an-thábhachtach é seo. Tá sé mar chuid den díospóireacht náisiúnta atá riachtanach. Ba mhaith liom go dtiocfaidh tairbhe tábhachtach agus go n-athróidh rudaí mar thoradh ar na tuairimí atá nochtaithe inniu ag Teachtaí ar gach taobh. Tá sé mar bhunchloch againn go dtarlóidh díospóireacht chomh fairsing agus is féidir ag an gcoinbhinsiún. Is é sin an tuairim atá againn ar an taobh seo den

Teach. Aontaímid go gcaithfear díospóireacht iomlán a dhéanamh ag an gcoinbhinsiún ar na rudaí tábhachtacha atá ardaithe ag na Teachtaí inniu. Níl an Rialtas ag tabhairt tacaíocht don Bhille seo. Táimid ag diúltiú díospóireacht eile ar an mBille sa Dáil as seo amach. Beidh seans againn na tuaraimí agus na prionsabail tá nochtaithe ag na Teachtaí inniu a phlé go hiomlán sa choinbhinsiún.

I am not critical of any of the amendments in the Bill. Rather, I remind the House that the Government has set its priorities for constitutional reform, that in the normal course of events the next presidential election will not take place until 2018 and that the proposed constitutional convention provides an appropriate forum for further reflection on the constitutional provisions relating to the nomination process etc. for the office of President. This is the key point and this is where the debate will take place fully and comprehensively.

The office of President is the highest office in the land and careful examination is necessary before any changes are made to it. In democracies where a non-executive president is Head of State, constitution writers have devised different mechanisms of choosing their president. In many countries the function is assigned to parliament without a direct vote of the people. We have a different system which provides for a direct vote of the people with a nomination procedure involving directly elected public representatives.

One might take the view that we already have a finely-tuned model of democracy, balancing the involvement of the electorate with that of elected representatives. However, I fully acknowledge that the role of the President has evolved in recent decades into one of increasing importance on the domestic and international stages. The role is being defined not only in terms of formal responsibilities laid down in the Constitution but also in terms of less tangible aspects. There is the sense that people see the presidential election as an opportunity to select as Head of State a person who reflects ideas and aspirations which best represent today's Ireland. Against this background, there may be an impatience that individuals whom people believe meet these criteria encounter barriers when they seek nomination for election to the office of President. The proposals in the Bill to broaden the nomination process could be said to reflect this impatience.

Constitutional reform has been hot and cold over the years. The previous Government had ample opportunity to bring forward legislation relating to the constitutional reform under discussion here. This Government has been in office for almost nine months and tangible actions have been taken not only in respect of constitutional reform but on political and electoral reform as well. The programme for Government commits to our introducing specific constitutional reforms during the lifetime of the Government. We have already had two referendums on judicial pay and Oireachtas inquiries. We plan to put other constitutional amendments to the people on children and the abolition of the Seanad.

The programme for Government outlines an ambitious programme for reform. It has committed to a radical overhaul of the way Irish politics and the Government works. We have cut the pay of the Taoiseach, the Tánaiste and Ministers. We have halved the cost of ministerial transport and we have outlined the provisions in new legislation being drafted at present that will effectively ban corporate political donations. We have cut the number of Dáil committees and we will provide incentive for greater participation of women in politics. Some months ago my colleague, the Minister for the Environment, Community and Local Government, Deputy Phil Hogan, introduced an Electoral (Amendment) Bill to the House providing for much needed electoral reform in three distinct areas. Now enacted, the legislation provides for a reduction in the number of Members of the Dáil, subject to the provisions of the Constitution,

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a time limit of six months for the holding of by-elections, and for reduced spending limits at presidential elections from €1,300,000 to €750,000 and for a reduction in the maximum amount that can be reimbursed to a candidate from €260,000 to €200,000. These lower limits were in place during the recent election.

It cannot be said then that this Government is averse to reform. In the case of the Bill before us, some of the proposed changes are technical but appear to have little practical impact while others give rise to differing views. To suggest that constitutional issues relating to the office of the President can be considered in the context of the constitutional convention does not reflect a lack of commitment to reform on the part of the Government in any way. Rather, it is a measured response. We should avail of the opportunity afforded by the proposed convention to go through these issues in fine detail. Then we will have the benefit of the deliberations in the convention before proposing any changes to an electoral process that will not arise in the normal course of events until 2018.

As Members are aware, various models for reviewing the Constitution have been used in Ireland and abroad. In Ireland, expert committees have been set up, comprising eminent individuals who have used their knowledge and experience to examine all these issues and to recommend change. There have also been political fora, including formal Oireachtas committees and informal all-party committees, to examine general constitutional reform and specific issues and to bring forward appropriate proposals for change.

The programme for Government provides for the establishment of a constitutional convention to consider comprehensive constitutional reform over a wide range of issues including the Dáil electoral system; a provision for same-sex marriage; amending the clause on the role of women in the home and encouraging greater participation of women in public life; removing blasphemy from our Constitution; and the possible reduction of the voting age to 17 years.

Deputy Barry Cowen: When?

Deputy Fergus O'Dowd: The convention will also be called on examine issues in respect of the office of the President that are central to the proposals put forward today. For example, the convention will be considering the issue of reducing the presidential term to five years and aligning it with the local and European elections. Recently, the Taoiseach indicated in the Dáil that the criteria and process for nomination for the office of the President can be discussed by the convention.

The programme for Government provides that the convention will also consider and report on other relevant constitutional amendments that might be recommended by it. The question of how the convention will be set up and how it will operate is being actively considered. The Taoiseach has signalled his intention to invite Opposition leaders to meet him shortly to discuss the proposed convention, hopefully before the House rises for the Christmas recess. I note that referendums give rise to thoughts about how they should be brought forward. For example, should they be held on the same day or on separate days? If one opts to run with individual proposals there is an extra cost involved and it may not generate much public interest. On the other hand, if one globalises the proposed changes one risks reducing the scope for differentiation between the constituent proposals. The proposals in this Bill have come soon after the recent election. As I suggested in my earlier remarks, this has the advantage of raising issues while they are fresh in our memories.

In general, I take the view that the nomination process worked out well in the end. We saw local authorities becoming fully involved in the process of exercising their constitutional prerogative. Only in the past three presidential elections have we seen this active participation by local authorities in the nomination process. It is fair to say that in the recent election there was a certain maturity in the way they went about their business. Four of the seven candidates participating in the election were independents. Local councils, which are political bodies and democratically elected, played a pivotal role in enabling these independent candidates to pursue their electoral ambitions. We should be mindful of the local government contribution in any consideration given to the nomination procedures for the presidency.

I conclude by reiterating that the Government is committed to reform. We are confident in our ability to bring about meaningful change. We realise we do not have a monopoly of wisdom or good ideas when it comes to reform and I encourage participation by all in the House in these reform measures. There will be ample opportunity for engagement and involvement.

On behalf of the Government, I am opposing the Bill in the context of the proposed convention on the Constitution and the invitation to the leaders on all sides to participate in it.

Deputy Shane Ross: I wish to share time with Deputy Catherine Murphy.

Acting Chairman (Deputy Catherine Byrne): That is agreed.

Deputy Shane Ross: I congratulate my colleagues who drafted this Bill, particularly Deputy Murphy, and for the constructive way it has been approached by the Technical Group. It is very important this is done now. Time and again, throughout presidential elections, there have been complaints about the procedure for selecting candidates. Everybody has paid lip service to it, as has happened with the Government and others today, and afterwards it is forgotten for another seven years until the next election. This was in danger of being repeated until our group tabled this Bill.

My view of the presidency and the procedures for electing, selecting and nominating a President is that it is a stitch-up between the political parties, as it always has been. It will probably remain so, judging by the Minister's reply which indicates there are no ideas in Government about radical reform of the nomination process.

The process was set out by Éamon de Valera in 1937 in a Constitution devised to a large extent for his own purposes. It was set up in a way that it would probably never go to an Independent but would always go to a political party, presumably and preferably at the time to Fianna Fáil. That has happened to a large extent. Those who were elected and could claim some independence have, however, always had definite political pedigrees. I am not talking in particular about Patrick Hillery or others who had such obvious political pedigrees which they wore on their sleeves, including Éamon de Valera, but about Mary Robinson and Mary McAleese, both of whom had definite political preferences, who were allied to political parties and who would not have become President had they not come through the political processes one way or the other. They might have worn an Independent badge, but in effect they were both candidates for the Dáil for a political party.

The presidency and the presidential system, as it was set up, has worked brilliantly for those who set it up. It was set up to look after people who had done loyal service, maybe to the State, but also to political parties and who had come through the political process. That is something we should broaden, deepen, widen and change. One of the features of the recent

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presidential contest was that those who were candidates had to go through a tortuous procedure which was not merited.

It did happen that those who wanted to be independent candidates did eventually get nominated. I concede that. The system did facilitate them but that does not mean the system is right. They got through it but they had to go through a political process which was far too narrow and excluded many other people had they wanted to run. They all had political connections or political pedigrees of some sort which gave them a huge advantage when they were standing for the presidency.

I see no reason why the President should be a politician or an ex-politician. To some extent it is a disadvantage. It would be wonderful if we could elect a President who was non-political in the real sense, and I do not mean independent politically. I mean absolutely politically neutral, non-political, with no political leanings or views in effect but maybe was a great author, a great poet, who represented something completely different in Irish life, someone of whom we as a people are proud.

One of the chief criteria for electing a President is not that he or she should have served the State so well, in political terms, but that it should be someone of whom the nation can be proud and be a symbol when he or she walks into the Oval Office or at the Great Wall of China or anywhere abroad. We must be assured that it is an Irish person who will not let us down and not someone who has served well in this or the other House Fianna Fáil, the Labour Party, the Independents or someone else. This should not be in the exclusive criterion but the system, as it currently exists, is weighted and biased very heavily in favour of those who have political connections, who have political friends, who had done political favours and have who have come through the system. They should not be debarred but it should not be that sort of advantage necessarily.

Acting Chairman (Deputy Catherine Byrne): The Deputy has one minute left.

Deputy Shane Ross: I thought we had 15 minutes each. I apologise.

Acting Chairman (Deputy Catherine Byrne): The Deputy is sharing 15 minutes.

Deputy Shane Ross: I did not realise and I apologise.

I find the Minister's reply disappointing, it is milk and water. I do not share the Government's view that all constitutional questions should go to a constitutional committee of some sort or a constitutional convention. From my experience in this House I regard all references of these matters to other committees or to other bodies as a way used by governments to delay and funk problems. The idea of a constitutional convention, whereas it may be well founded and well motivated, has the potential of being what we have seen in this House for many years, a process of delay and obfuscation. The proposed constitutional convention could well be a very convenient method and vehicle for the Government delaying reform of the Seanad, delaying presidential reform, not doing those things which it pledged to do and then blaming that delay on another body. It is the oldest political trick in the world and I see it as having the potential for delaying the reform of the presidential system and holding that power of patronage in the hands of politicians, whether Fianna Fáil, Fine Gael or the Labour Party.

This system desperately needs reform. As a member of the Independent group, I had been pressurised to give my signature here, there and everywhere during the recent presidential election. In the end, I found myself in the extraordinary anomalous position, because of the

power which one has and should not have, of signing the nomination paper of somebody who was not my first preference for the presidential election. This is absurd. That type of anomaly should be removed and the opportunity to exploit that anomaly should also be removed.

Deputy Catherine Murphy: The whole point of Second Stage of a Bill is to open the debate and to set a framework. The point of Committee Stage and Report Stage is to flesh out the arguments and to table and make amendments. I have no monopoly on wisdom and none of us in the Technical Group think we have such a monopoly——

Deputy Shane Ross: Except Deputy Finian McGrath.

Deputy Catherine Murphy: Indeed, within the Technical Group, we regard difference and diversity as a strength.

Deputy Shane Ross: Hear, hear.

Deputy Catherine Murphy: The fact that some of our colleagues can argue against the points made by the group demonstrates this. We can do so without killing each other.

I thank all speakers who contributed to this debate. I refer to the important point made by Deputy Cowen as to the advantage of having this discussion at an early stage in the presidential term. I may disagree with him on the hybrid system of a nomination process he proposed but it is none the less very interesting. This is precisely the type of issue that would have been debated by way of amendment on Committee Stage if the Government had permitted the Bill to proceed.

Sinn Féin Deputies made a strong argument that citizenship does not stop at the Border. This a deep conviction among members of that party and one which was articulated very well in the debate. David McWilliams has put forward the notion of Ireland becoming a mother ship. Given that this is one of the few countries in the world with such potential and strength, I am open to fleshing out the idea in a practical manner.

Deputy Dowds stated the nominating process could change if the Seanad is abolished, for example, in respect of the number of Oireachtas Members required to sign nomination papers.

I do not agree with the Minister of State that the timing of the Bill is surprising. The immediate aftermath of a presidential election is the most appropriate time to propose changes of this nature. The citizens we are supposed to represent believe the current process is extremely flawed. It is wrong to kick a flawed system which could be changed now into a constitutional convention.

I concur with the Minister of State that changes to the highest office in the land must be given careful consideration. A third report which referred to the Presidency was produced in 1998 following deep and long debate and consideration by an all-party Oireachtas committee. The report's recommendations are reflected in many of the proposals in the Bill. The Government's position is that we should repeat the earlier process of review and produce another list of recommendations. If we were to do so, the Government would then argue the list is too long to be put to the electorate in a referendum and the proposals should instead be implemented incrementally. That is not a valid position and it is unacceptable to truncate debate on this legislation by preventing it from proceeding to Committee Stage.

The Government speaks of political reform and trumpets the additional days the House will sit, including Friday sittings. However, Deputies from that side made only a minimal contribution to today's debate. Political reform must be meaningful, which means Opposition legis-

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lation must not be kicked off somewhere else. The Government must understand that this legislation has been proposed in a sincere fashion and allow it to proceed to the next Stage. We have made an industry of writing reports, considering this and that and failing to make decisions. Comprehensive reform is required. The Bill would require decisions to be made on the Presidency, rather than kicking the issue into a constitutional convention where it would be considered for an indeterminate period. We do not know when a proposal will be put to citizens who can see the flaws in the current system and know they have been sidelined. It is a disgrace that the Government is refusing to allow the Bill to proceed.

Deputy Finian McGrath: The Minister of State needs to up his game.

Deputy Catherine Murphy: On behalf of the Technical Group, I engaged with the other Whips on this issue before returning to my colleagues with a number of proposals. In our discussions one of the major concerns expressed was the lack of a big vision for reform. While changes such as the introduction of Friday sittings and topical debates are welcome, although I am not sure the latter are being well handled, they are nothing more than tinkering with the process. Changes must be meaningful and fit into a much broader reform agenda. I accept that reform may have to be delivered incrementally but the proposals put forward or accepted by the Government thus far have been very tame. I am concerned that a constitutional convention will produce either a wishy-washy outcome or, in the event that it produces decisive recommendations, that the Government will fail to deliver on them on the basis that it would be impossible to put them all to the people by way of referendum during its lifetime.

Cuireadh an cheist.

Question put.

An Ceann Comhairle: Cuireadh an cheist agus ar vótáil a éileamh cuireadh siar é de réir Bhuan-Ordú na Dála Uimh. 117A(4) arna mhodhnú le hOrdú on Teach, go dtí Dé Máirt, 6 Nollaig 2011.

In accordance with Standing Order No. 117A(4), the division is postponed until immediately after the Order of Business on Tuesday, 6 December 2011.

The Dáil adjourned at 12.25 p.m. until 2.30 p.m. on Monday, 5 December 2011.