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DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

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

DÁIL ÉIREANN

Dé hAoine, 12 Iúil 2013

Friday, 12 July 2013

Chuaigh an Leas-Cheann Comhairle i gceannas ar 10.30 a.m.

Paidir.
Prayer.

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Courts and Civil Law (Miscellaneous Provisions) Bill 2013: Second Stage (Resumed)

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

Deputy Mary Mitchell O'Connor: Dolphin House, one of Ireland's busiest and most heavily burdened family courts, is an archaic building without the most basic facilities. In comparison, the criminal courts are housed in state-of-the-art buildings, the facilities in which far outshine those available in the family courts. Consultation rooms in Dolphin House are limited and hallways and doorways become places for discussion, despite the *in camera* rule. Sensitive decisions that impact on individuals and their children's lives are made in corners and staircases. Far too often, women who make applications to the family court have to wait weeks or months for legal representation. Why are families, often in dire need of urgent legal service, being put on the backburner?

Many judges are masters of the law, but few are specialists in any area. Judges are rarely assigned to one court. I fully support the statement made by the Minister for Justice and Equality, Deputy Alan Shatter, last weekend that we needed specialist judges. This should have been implemented years ago.

Recently I met a woman who told me about her experience in the family law court. Hers is just one of the many cases that are impacted on by the failures of the system. I will call her "Mrs. Potter". She initially went through the collaborative route with her ex-husband after separating in 2003, which process was finalised in 2012 after nine years. Unfortunately, their divorce agreement was never enforced. In 2008, five years after her initial approach to the courts, her maintenance payments stopped and one year later her children's payments stopped. She went to the High Court to seek that the divorce order be upheld. Her husband hired a top lawyer, while she was represented by the legal aid service.

Without resources, she resorted to selling basic possessions to provide the basic necessities for her children. The legal system she encountered was one of constant adjournments, brief hearings and increased acrimony. It followed her children through their education. As a testament to the dire legal system, the couple sought an agreement outside the courts owing to the emotional torment and stress being causing to their children. If the legal system was working efficiently, the wife would have had a fairer outcome and would not have had settled for the

sake of closure. This shows just one facet of how outdated the family law courts are. It is a shame that a mother with three children who need her constant attention had to put her focus, money and time into a crumbling court system that appeared to have little or no interest in her well-being.

Ten years is too long for anyone to have to wait for his or her matters to be settled and the emotional and financial difficulties in cases like this should arise for no one. I am aware of at least 30 women who have cases being dragged through the courts in fighting for maintenance. I find it strange that many wealthy men will fight tooth and nail to prevent their wife or partner from seeking basic money to feed, clothe and educate their children. Often maintenance will be granted, yet a few months later the partner will renege on this contract.

I turn to the issue of domestic violence. A study conducted by Women's Aid indicated that many victims of domestic violence had nowhere to go. If an application is sought on a Friday night, Monday is a very long time away when living in an abusive home. They feel they have no way out because they cannot afford to abandon their homes. Women and children who do not have a safe place to go to when they are in a dangerous domestic environment should be a top priority when considering reform of the family law system.

The 2012 Women's Aid report stressed that women often feared going to court or applying for orders under domestic violence legislation because the court system was too technical, unfriendly and unfamiliar to women. The courts should be places where victims of domestic violence, as well as families, can come and be treated as human beings with the utmost care and respect. A woman cannot afford to make serious life decisions that will affect both her future and that of her children in a stairway or a tiny office.

I welcome the Minister's proposal to amend the *in camera* rule. I know there have been some criticisms in the media, but it is appropriate because there will be no place to hide for the perpetrators of domestic violence or fathers who do not want to pay maintenance.

Deputy Finian McGrath: I appreciate the opportunity to speak on the Courts and Civil Law (Miscellaneous Provisions) Bill 2013. I welcome the debate on efforts to reform and introduce positive change to the justice system. It also gives us a chance to take a critical view of the flaws and weaknesses of the justice system. At the same time, we aim to ensure fairness, justice and equality in the system and particularly in terms of the urgent need to protect children. Ireland is a great country for talking about children's rights and holding referendums, but we need to focus on implementation and delivery to children who need them most. This is relevant to today's debate. It is why I support the legislation.

Many children are at risk in dysfunctional and violent families and are living in severe poverty. Many of us believe not enough is being done, in a realistic way, for these children. That is something on which we should focus when we talk about the legislation, and I will return to the details of the Bill in a moment. Children living in very dysfunctional or poor families are experiencing considerable poverty, yet the response of the system to them and to the implementation of safeguards for them is sometimes very inept while at other times, slowness is often the issue.

How can anyone expect a four or a five year old child to be normal or natural when he or she lives in a home where there is domestic violence, drug-fuelled rows or alcohol abuse and is left on his or her own for hours due to alcohol abuse? That is something on which we should focus. Their beautiful childhood innocence is blown out of the water and later on in life, we

see the horrific consequences of that. I know this from working in a school in a disadvantaged area for more than 25 years. I will never forget the look on the faces of four or five year olds when somebody forgot to collect them at 3 p.m. because of major issues in their dysfunctional families. Teachers and social workers had to look for nannies, uncles and grandfathers to assist the family. If we do not intervene early, these children's lives will be destroyed and they will end up in very dysfunctional situations themselves. As the Minister knows, Mountjoy jail is full of the products of some of these very dysfunctional and violent families. We must get these children out of that environment. It must be done early and that must be our priority. Lack of action can lead to horrific consequences for children. This is urgent and the need for professionalism must be top of the agenda.

To return to the legislation and the issue of care orders and the broader system, under the Child Care Act 1991, the HSE has a statutory duty to promote the welfare of children who do not receive adequate care and protection. Applications can be made to the courts under a range of care orders, such as emergency care orders, interim care orders, care orders, supervision orders, interim special care orders and special care orders. How does that break down in reality? In 2011, some 2,287 care orders were granted while in 2010, the figure was 1,046. There was a 50% increase in the number of care orders granted between 2010 and 2011. We have to focus on that issue.

The implementation of legislation and of services is the constant flaw in the system. We have seen many cases of child abuse and neglect which have been ignored and have eventually ended up in the courts. Everybody is forgetting about the real issue which is that a good quality health service, linked to the education service, can get in early and save those children before there is abuse and dysfunctionality. Otherwise, we end up with our prisons full.

To return to the detail of the legislation, the Courts and Civil Law (Miscellaneous Provisions) Bill 2013 allows the press to attend and report on family and child care cases. This is subject to the protection of the identity of parties to the proceedings and children. The courts may restrict access to the hearings and prohibit the publication of evidence in order to protect identities, which I strongly support. The Bill also raises the monetary amounts which the District and Circuit Courts can award.

The Courts and Civil Law (Miscellaneous Provisions) Bill 2013 deals with a number of important measures, which the Minister and many Members of this House want to see dealt with. The first measure is the amendment of the *in camera* rule in family law and child care proceedings in order to produce greater transparency in the administration of family and child care law, which is the positive thing about this amendment. It is important to have transparency in the administration of family law but we also must ensure fairness, equality and justice. The Bill allows free access to the courts in family and child care proceedings, subject to certain restrictions and prohibitions. I strongly support that because we must be very sensitive in many of these cases. The identity of parties or children involved in these particular cases must be protected.

The second measure is the increase in the monetary jurisdiction of the Circuit and District Courts in civil proceedings. The third measure is the appointment of two additional Supreme Court judges, which I welcome, because the Chief Justice drew attention to the critical situation in regard to delays in the Supreme Court and the Court of Criminal Appeal in a recent speech. I agree with the decision of an interim solution of the appointment of two additional judges to the Supreme Court which will bring the total number of judges, including the Chief Justice, to ten.

The fourth measure in the legislation amends the Juries Act 1976 to make provisions for juries in lengthy trials. The Bill provides for additional jurors in respect of trials likely to take more than two months. This provision is particularly urgent as it is anticipated it may be required for lengthy trials due to start early next year.

The fifth measure amends the Coroners Act 1962 and the Civil Legal Aid Act 1995 to provide for legal advice and legal aid in regard to certain inquests. The sixth measure amends the Bankruptcy Act 1998 and the Personal Insolvency Act 2012 to provide for the transfer of some of the functions in regard to bankruptcy from the Courts Service to the Insolvency Service of Ireland.

I heard some of my colleagues refer to a number of very important issues, including child care and the rights of children. It is important to point out that there are major weaknesses in our justice system, which must be dealt with. The rights of fathers are often forgotten. I take the point that some fathers are not particularly good about supporting families in cases of separation. We have all come across those types of situations in our constituency clinics but we also hear from fathers, in particular, that there is not enough equality in terms of access to their children and family situations. It is important we do not forget them in this debate. While the two parents should be treated equally and with respect, they also have very serious responsibilities. It is important to say that because it seems the fathers of children and their rights are not being respected in our society.

The Bill provides that the press will generally be allowed to have access to family law cases and to report on them. However, judges will be able to prohibit press access where they are satisfied that it is in the interests of justice not to do so, which is sensible, and it is necessary to preserve the anonymity of a party to proceedings or any child to whom the proceedings relate. In these situations, the court can exclude or restrict the press from hearing and prohibit the publication or broadcasting of any evidence. The issue of press reporting is important. We have all read about some horrific cases in recent years and it is important they receive sensible, sensitive and balanced reporting. It is important to remember that families and children are always affected. Some families often end up in a horrendous situation when they find themselves on the front pages of the newspapers because of a particular family law case or a particular incident concerning the family. We saw that in recent days. One of my constituents, poor Mrs. Dunleavy, was murdered in Scotland. Members of the press must be sensitive to families and realise they are hurting and must be treated with the maximum of respect.

Under section 5, the court may, under certain circumstances, prohibit or restrict the publication or broadcasting of any evidence, or any part of such evidence, given or referred to during the proceedings. The court will also have due regard to the best interests of any child to whom the proceedings relate. This is a welcome provision. The court must also have regard to "the extent to which the attendance of bona fide representatives of the Press might inhibit or cause undue distress to a party to the proceedings or a child to whom the proceedings relate by reason of the emotional condition or any medical condition, physical impairment or intellectual disability of the party or the child concerned". It is important to recognise this when dealing with such circumstances, which frequently involve children. I have a particular interest in intellectual disability and I am pleased to note the courts will be required to have due regard to the needs of those with disabilities. Section 5 also provides that a court will have regard to "whether information given or likely to be given in evidence might be prejudicial to a criminal investigation or criminal proceedings". This is also important.

Overall, the Bill will relax the rules relating to members of the press attending and reporting on family law and child care cases. Strict *in camera* rules in such cases have been repeatedly criticised as being contrary to the idea that justice must be done in public. We all agree on this point. Rules that were intended to ensure privacy in sensitive cases have resulted in family law and child care cases being almost secret. The Bill provides that the media will generally have access to family law and child care case proceedings but members of the public will not be allowed to attend such proceedings.

The Bill contains certain provisions intended to ensure the privacy of those involved in family law and child care proceedings is protected and individuals cannot be identified. The courts can prohibit access to certain cases or the reporting and publication of certain evidence. This legislation is welcome because reform and change are required. The system must be transparent while also respecting and protecting the rights of children and citizens in general. I am grateful for the opportunity to speak to the legislation.

Deputy Luke 'Ming' Flanagan: I welcome the provisions of the Bill which address the *in camera* rule as it relates to family law court cases. However, the devil is in the detail and my position on the legislation will depend on how the matter is ultimately addressed. The idea behind this legislation makes a great deal of sense. As someone who had two children outside of wedlock, albeit planned, it was shocking to learn that if I, as a man, were to seek guardianship over my children, whom I love, I would have to apply for it, whereas my partner has an automatic right of guardianship. Rights should not be based on one's genitals but on the fact that one is a human being.

Given the sensitivity of this issue, opening up the family courts will clearly cause problems in that confidentiality is vital for all concerned. At the same time, it is important that information is made publicly available. I have been contacted by many men who have been involved in cases in the family courts, many of whom have been accused of being misogynous for fighting for their rights. I have also been contacted by a number of women about this issue. One particular lady, a doctor, who sought to secure the right to look after her children was told she would have a better chance of securing guardianship of her children if she chose to stay at home and abandoned her fancy ideas of being a doctor. None of this information, which was very distressing for all concerned, could be reported.

It is interesting that this issue should arise at this time, especially given that the child protection watchdog this week called for an extension of guardianship rights. I am firm supporter of gay rights and rights for all citizens. I note the rights of single fathers appear as an aside throughout. They must be afforded equal importance with other rights. It always baffles me that a country that is predominately run by men does not bestow the same rights on fathers as it does on mothers in respect of looking after children. I often wonder if, subconsciously, some of these men would be horrified at the idea of having equal rights as it would mean they would have to look after their children. I cannot get my head around the reason anyone would think along such lines. It is difficult to understand that, despite having a predominately male Legislature, men must ask for permission to have equal rights of access to their children.

One of those who contacted me about this legislation asked me to read into the record the details of his case. I have changed some of the information to guarantee his anonymity. This case shows the anguish that some people experience. I hope the change to the *in camera* rule and changes to guardianship rights in subsequent legislation will ensure the circumstances I am about to describe no longer arise. The person in question asks what is "this thing about

guardianship that was on the news last night?" He and his girlfriend split up in October 2013 and have three boys. He is now living in a three bedroom house in County Roscommon and sees his boys every second weekend but has no say in anything else. He has paid €80 maintenance every week since the couple split up. His eldest boy is eight years and in school and his youngest son who is three years will soon start crèche. The father is not allowed to have anything to do with his children's schooling and does not even know which crèche his youngest son will attend. He would like to attend parent-teacher meetings, know where his children will be schooled and meet the people who will be part of his children's childhood, just to be more involved in their day-to-day lives. He is not, he states, one of those fathers who would settle for seeing their children every two weeks. While he would love to be with them every day, that is not possible but his boys are his life. This, he states, is the hand he was dealt. He had considered seeking joint guardianship to secure more say in the lives of his children and see them more often than at present. He asks whether there is an issue with guardianship for single fathers because he does not understand the position. Having spoken to the man in question after receiving his e-mail, I learned that one of the reasons he cannot understand the current position is that, despite having read up on the issue, he cannot get his head around the reason he is, in a sense, a second class citizen.

I hope the guardianship laws will be changed. The proposed changes to the *in camera* rule will at least result in greater fairness in the courts because it is human nature to be more careful when one knows one is being observed. This means the family courts will ensure not only that the i's are dotted and t's crossed but that the dots on the i's are perfect circles. This is what we need.

Fair dues to the Minister for taking on this difficult issue. He faces the difficulty of deciding what is the legitimate press. One will hear in the mainstream media that one cannot believe what one reads in blogs. As the Minister and I know, however, one cannot believe much of what one reads in the newspapers either. The Minister has one hell of a challenge in deciding what is the legitimate press and I wish him luck in nailing down the answer to that question. When I was elected to the House, I believed there were certain newspapers of record until I examined what they wrote about topics that were close to me.

The record is not always exactly what they print. In potentially sensitive cases, if they got access to these courts, it is one thing to annoy a politician for a day but to destroy a parent's or a child's life because of irresponsible reporting is another game and far more serious. To decide on exactly what is the legitimate press will be a difficult issue but it has to be opened up. However, the see-saw is to be balanced and progressed, and if it can be done in the right way and can be proved to be done in the right way, I will certainly support it. We cannot have a continuation of the current situation, no matter how sensitive, where things are done behind closed doors. Things were done behind closed doors in the Magdalen laundries, the church, politics and every walk of Irish life and it caused nothing but problems. If the right balance is struck in respect of the *in camera* rule, which is what I am most interested in, I will certainly vote for it.

11 o'clock

An Leas-Cheann Comhairle: Does Deputy Frank Feighan wish to speak now?

Deputy Frank Feighan: No.

Deputy Shane Ross: In principle, I welcome the Bill. The idea of reforming the courts in this way is welcome. I wish to make a general point about courts of this sort regarding the

judges themselves. I do not know how judges for these cases are chosen but I gather that it is left to the president of each court to decide how they are allocated and to which cases they are assigned. It is obviously very sensitive in the case of children but I ask the Minister, and I do not think it is a case for political sensitivity, if he intends to reform the way this nation appoints judges. There is a mood abroad, and it is one in which I believe, that the appointment of judges has been a form of abuse or political patronage for many years. It is very easy to point the finger at the last Government which abused its political patronage in an utterly ruthless way to stuff the courts with its prodigies. The District Court was certainly the worst example of this but it extended to the Circuit Court, the High Court and the Supreme Court.

It has often been possible for people in the Law Library to identify the political allegiances of judges in a way which discredits the whole Judiciary. It is not necessarily true in all cases but there is a regrettable tendency for politicians, of all parties, to nominate to the High Court, the Supreme Court and the District Court those who have been loyal to their own parties when they get into power. It was very obviously true under the last Government and Fianna Fáil has practised this utterly ruthlessly in the past. In many case, it has regarded the Judiciary as some form of political reward for those who have been loyal to it at election time. I can point out examples galore but I will not do so because the people are not here to defend themselves. There are examples galore of at least one Chief Justice who was a Fianna Fáil candidate - that is not a crime - and has worked for Fianna Fáil at elections and people in other categories who fit into this Bill. The Judiciary is peppered with former Deputies, whose allegiance to their political parties has obviously not been a disadvantage to them when they are being considered as possible judicial appointees.

The problem with that up to the mid-1990s was that the appointments were made by the Government without even a veneer of interference or objectivity or any body between the Government, the politicians and the Judiciary to review those appointments in an independent way. Judges were appointed on a nod and wink by Ministers for Justice and by Governments following representations, usually made to them by people who were party loyalists. They may have had the qualifications. In some cases they did while in some cases they did not, but the appointments were certainly made on a political basis and often for political reasons. That was changed in the 1990s because of the Harry Whelehan affair - that was the catalyst which brought it on - and a deal was done initially between Fianna Fáil and the Labour Party to appoint a Judicial Appointments Advisory Board. That board was to give some comfort to those who said that these appointments are nakedly political and was put forward as a cover to shield the Government against that accusation. The problem with the Judicial Appointments Advisory Board, JAAB, was that all the people on the board were political appointees, from the Chief Justice down to people who were nominated directly by the Minister for Justice of the day.

When Fine Gael, the Labour Party and Democratic Left came to power in the middle of the Whelehan affair, they adopted a fairly similar Bill, almost identical, and Nora Owen became Minister for Justice. The Judicial Appointments Advisory Board was born, but the problem with that was that it was exactly a cover and no more. Political appointees have got through the process of JAAB very easily and, because of the nature of this process which was purely cosmetic, it enabled Fianna Fáil during that period to put its own nominees happily through this particularly comfortable hoop into positions of great influence. As far as I know, certainly up to last year, the Judicial Appointments Advisory Board had advertised all appointments but had never held a single interview for appointment of a judge, although it has the power. That meant it was a fairly undemanding process to go through. It also meant that those who were favoured,

and politically favoured, got through it very easily because the political appointees let them through. That is a cause of great regret in that it means that this is simply a fig leaf which does not allow any serious examination of the appointments of judges.

Deputy Finian McGrath: Hear, hear.

Deputy Shane Ross: It would be far better if judges were appointed in a transparent manner, after interviews, with qualifications and brought before Oireachtas committees in order that Members of both Houses and all parties could examine them in a demanding way and that they would have to be seen, not just by the Oireachtas but the public, to have the necessary qualifications to fill these particularly serious roles in society.

It is well known that representations, particularly in the District Court, are made regularly by politicians to politicians to appoint their people, and then they fly through what is known as JAAB. It is no coincidence that down in the Law Library the Judicial Appointments Advisory Board, JAAB, is known as "JAABs for the boys". That is what they call the system, because they know it is a bit of an old racket they can get through. Any Minister may say this does not happen because of the system they must go through, but that is not so. The system is regarded as a joke, as a system put forward in order to get the right people into the right jobs, in many cases because of their political pedigrees.

I do not want it to be understood this is the case in every situation. It is not, but the system is open to abuse and is abused. Let us look at the appointments made under the current Government also. There are people - the Chair would pick me up if I named them and it would be unfair to name them - who have got through the hoops under Fine Gael and the Labour Party who would never have got through those hoops under Fianna Fáil. There are European candidates who stood for Fine Gael and now at least one is in the High Court. Is that a coincidence?

Minister for Justice and Equality (Deputy Alan Shatter): If the Deputy, as he always does in this House, is after the usual predictable, easy headline, I cannot sit here while he maligns the members of the current Judiciary, speaks in a manner that makes his accusations readily identifiable with an individual member of the Judiciary, and uses this House to damage the reputation of any member of the Judiciary who cannot respond. The Deputy knows exactly what he is doing. No doubt this is the subject matter of the article he is writing for the back of the *Sunday Independent*. I urge, Sir, that the rules of the House be applied. The last comment the Deputy made not only is outrageous in its implication but traduces the reputation of a current sitting member of the High Court, who is readily identifiable from the comment. The Chair has certain duties to put a stop to that.

An Leas-Cheann Comhairle: I know my duties, but I do not know the ins and outs of this particular matter. We had a discussion on this Bill yesterday and one of its proposals is to increase the number of ordinary judges of the Supreme Court to nine. That is the only reference to judges. I know the Deputy has not named anybody and I do not know who he is talking about. I hope he will not name any person. Perhaps he would stick to the Bill, which is to do with the courts and civil law and refers, as I see it, to the number of ordinary judges to be appointed to the Supreme Court.

Deputy Shane Ross: Thank you. I will not name anybody. I am being meticulously careful in all cases not to name anybody. What I am saying is about trying to establish a principle for appointing judges. What I am saying is that those who have stood for election for particular

parties seem to get preference when that political party is in power. This is an important principle and is one that will be discussed in this House, because these are political appointments and they are made by the Government of the day. The idea that this principle should be suppressed in this House is utterly outrageous.

Deputy Finian McGrath: Hear, hear.

Deputy Shane Ross: I apply this not just to the main Government party, which gets so sensitive when it is mentioned in its case, but equally if not more so to the previous Government. The point is that the Government is at the same racket as the previous one and is appointing people who have shown political loyalty to it at a rate which would make Fianna Fáil blush.

Deputy Alan Shatter: That is outrageous.

Deputy Finian McGrath: No. The Minister is involved in it.

Deputy Shane Ross: This applies not just to candidates about whom the Minister is sensitive, but to Members of the other House - with whom I served many years ago - who happened to have run as running mates to other powerful people in this House. It should not be possible for anybody, however powerful, to try and silence discussion of a principle of that sort in this House. I am sorry if it is embarrassing, but it is true.

The courts of this country need serious reform. People are still being appointed to the District Court without interview and with no known qualifications beyond being a solicitor or a barrister, because they can show political credentials. I would like to see that reform introduced to this House by the Minister. I congratulate him on this Bill and am sorry he does not like what I have said about other matters. I urge him to go further and to examine the appointment of judges, particularly in the case of this Bill.

Deputy David Stanton: When I first glanced through this Bill, I noted it amended nine different Acts, which brings to attention the need to consolidate previous Acts and our whole body of law. People who work in this area have told me it is extremely time-consuming and costly for solicitors and barristers to have to go through all the existing Acts when working on a case. I understand the Law Reform Commission is working to try to bring about consolidation. We need to look seriously at doing that because it costs significant money for businesses, families and others to make sense of our corpus of law.

I commend the Minister on his introduction of this Bill. We are very lucky to have this Minister, who is an expert in this area. I am not an expert and there is nobody else in the House who is as expert as he is. When I look at this area, I realise how complicated it is and how little I know about it. In order to try to educate myself a little in this area, I attended a seminar last Saturday organised by the Department in Dublin. Again, I congratulate the Minister on that seminar, which was a consultative seminar on the possible establishment of a separate family court structure. It was very well attended, was extremely interesting and there were a number of eminent speakers, including Mr. Justice Michael White from the High Court, Mrs. Justice Judith Ryan from the Family Court of Australia, Gerard Durcan SC, Muriel Walls, solicitor, Bronagh O'Hanlon SC and representatives of the Family Lawyers' Association of Ireland. I found it fascinating to listen to what these people had to say on this issue and the Minister and the large number of eminent people who attended also listened attentively to the contributions. It struck me that it would be very helpful if we had a similar seminar here and if it was compulsory for Members to attend, because then Members could come in here and speak sensibly on

this area. As Members are aware, family law cases are held *in camera*. I have never attended such a case, but the Minister has attended many. I wonder how many Members know enough about this area to speak on it with any form of authority, experience or credibility.

I would like to mention some comments from Saturday's seminar. One speaker spoke about assessing the current system and said that clients had told her it was unremittingly crushing and awful; was chaotic and dysfunctional; was like a form of torture; had no coherence or consistency; was an utter terror; and gave one nightmares about giving evidence and being cross-examined. She also had a lot of praise for individual judges, solicitors and barristers and said that most worked very hard and did their best and tried to reduce tension between the parties. When one attends a seminar like this one sees how important it is to do what the Minister is doing in this legislation - setting up a proper and good system that will work. Another person said that the family law courts are still too adversarial in nature, although they are quite important.

There was a lot of talk about alternative dispute resolution. The Minister for Justice and Equality asked the Joint Committee on Justice, Defence and Equality to do some work on the mediation Bill, which is a very important Bill coming down the tracks, and we have done so. Alternative dispute resolution is important, as is the importance of communicating information about it. People should know about mediation and the fact that there are alternatives to an adversarial system in the courts. A Law Reform Commission report from 2008 recommended that compulsory information sessions about ADR should be introduced, and I think that is mentioned in the forthcoming mediation Bill. People would not be forced to attend mediation, but they would have to be aware at least that it is there and what it can do. There are difficulties with ADR, but it is important that people know about it.

The voice of the child is mentioned, as is how reports are dealt with. Historically, the probation service provided social reports to the family law courts, but I understand this service is now being discontinued. That is something that needs to be examined. Family law courts in England and Wales have a dedicated service to back them up, where social reports and reports seeking out the voice of the child can be ordered by the court in respect of any matter concerning the welfare and best interests of the child. Duty social workers are also important.

We had several hearings a few months ago on penal reform, and one of the issues raised was the importance of anger management. One organisation that presented was the Etruscan Life Training and Education Centre, which runs courses in anger management. It also does work on drug use, depressants and so on. Clients who used the service found the anger management courses extremely beneficial. Quite a number of people do not know how to control their emotions. Their programmes include understanding anger, positive parenting, drug and alcohol awareness, dealing with stress in the workplace, and dealing with anger, bullying and so on. We need to start looking at these approaches, under which we encourage the resolution of problems such as uncontrollable anger. In Canada this whole area is known as the family justice system, and they try to make the whole thing more family-friendly and child-friendly.

At the seminar, Gerard Durcan spoke about the limits and danger of specialisation, which was quite interesting. He said that the risk in specialisation is a possible separation of specialist judges from the general body of judges. This is the value of having such seminars, at which these issues are highlighted and discussed. If an issue is identified, it can be discussed and solutions can be suggested. Mr. Durcan maintained that specialisation might cause judges to reproduce previous decisions, which could hamper the evolution of case law. As I am not a lawyer, it is quite interesting to come at it from this angle and see that case law evolves, but if somebody

is in a closed system, perhaps he or she may not be up to speed with the general evolution of the law. Mr. Durcan said there was a particular danger where cases are always taken by the same select group of judges, and spoke about the compartmentalisation of the law and procedures.

When we are setting up specialised courts, there is an opportunity to look beyond the system. I travelled to New York a few months ago to have a look at the community courts system there, and I mentioned this to the Minister more than once. I know he is interested in this and I hope he will bring forward some ideas on it. In 1993, the Midtown Community Court opened as a three-year demonstration project in Manhattan. At the time, Midtown was a no-go area, as were parts of Central Park, Grand Central Station and other areas. What happens now in these courts is that if somebody commits a misdemeanour or a low-level offence, they are brought before a specialist judge the following morning and in order to come before the community court, they must plead guilty. The judge then reviews their files, which will have been prepared overnight, as the court has a very good backup service, which is something our family law courts need here. The judge then makes a decision and, more often than not, this results in community service for the offender. The offender is given 60 or 70 hours of community service and after sentence is passed, the offender is immediately sent to meet probation officers, social workers and others, and the work of community service begins straight away. Recidivism has gone from 80% to 18%. Areas such as Times Square, Central Park and so on are now tourist Meccas. Business people are very pleased with it. The system actually works. It cuts down on the number of people being incarcerated. It also provides value for the community in that work is carried out in the community by these offenders. An offender is monitored for six months. After this the judge reviews his or her file, and if he or she does not reoffend within six months, the files are sealed. There are parallels here with what we are doing in expunging minor offences after a number of years. There are parallels with the Minister's encouragement of community service in the system, which I agree with entirely. There are parallels here with immediate access to justice, and there are parallels with our own policies in trying to cut the number of people in prison. I urge the Minister, departmental officials and others to look at this seriously. The Center for Court Innovation in New York carried out much research on how courts operate, and I think we should do more in that area and look again at the idea of community courts.

I congratulate the Minister, his officials and others involved in this task. This Bill is complex and important. It provides for the selection of additional jurors in lengthy criminal trials. There is a concern that we may have fairly lengthy trials coming up soon, and I do not think we can expect jurors to spend six or 12 months attending trial. We really need to flag that at this stage, so that the Minister can suggest solutions and see how they work in practice.

Deputy Peter Mathews: Thank you, a Leas-Chathaoirligh, for giving me the opportunity to commend the Minister and his officials for the introduction of this Bill. The energy shown in tackling this issue, which is very relevant to many family lives, is to be admired. Much work has gone into it, and I have enjoyed and learned a lot from the debate and the contributions. I support the introduction of this Bill and commend it. As Deputy Stanton said, we might need a practical assessment of the impact and implications for the composition of juries in long trials. That may merit some further examination. Well done again, and I thank the Minister.

Deputy Frank Feighan: I welcome this Bill and thank the Minister for the amount of work he has put into it. He is a reforming Minister. This is significant legislation and it seems to be uncontested because I note that not one Member of the Opposition is sitting in the House this morning. If something was contested or if someone was complaining, they would be in the House howling about how bad and how awful it was. I congratulate the Minister on this Bill.

He has the unanimous support of the House.

The amendment of the *in camera* rule in family law and child care proceedings is important. It introduces greater transparency to the administration of family and child care law. Most politicians have not spent much time in the Circuit Court, District Court or the High Court, and I am one of those people. Some 25 years ago I had to attend court to transfer a pub licence. It was an intimidating place at the time and even now it is intimidating. I had not been in court for 25 years until last Wednesday morning when I had to appear in a court in Carlow at 10.30 a.m. That was because, seemingly, I got two points for speeding at 62 km/h in a 50 km/h zone and I was caught on camera, but I did not receive the fixed penalty fine. Since I did not receive the fine, I was unaware that I had committed an offence. As a result, I received a summons to appear the court in Carlow at 10.30 a.m. That was fine, but I had to take a half day and hire a lawyer, although I had intended to appear in the House on the day. I was almost hoping that I might be arrested so I would have an excuse. Anyway, I appeared in court. It was eye-opening and mind-boggling. It was possible to see the structures of the court, including free legal aid, and many of the problems that we hear and read about from time to time, before one's eyes.

One thing struck me in particular. An inspector or superintendent was leading the prosecution from the Garda or the State or whatever. He was absolutely committed, professional, competent and measured. It was a joy to see someone there in court last Wednesday who was representing the Garda and the Department of Justice and Equality at the highest competent level. This man had put serious thought into his work. From what I hear he has helped to reform the way members of the Garda do their duty. I wish to put that much on the record.

With the lawyers and the judge present it was all rather technical and emotional. I was pleased to see justice being administered in a fair and efficient fashion. This is what the Minister must do. He must turn around an archaic system that is sometimes not transparent. At times, for all that it is transparent, we do not want to know about it because do not want to peel away the layers since it does not affect us until we have to appear in court. Thankfully, I was only appearing on a minor issue, but it was still an issue.

The appointment of two additional Supreme Court judges is important and I welcome that because there are delays in the Supreme Court and the Court of Criminal Appeal. The amendments to the Bankruptcy Act and the Personal Insolvency Act are welcome as well. These are the times we are in and these matters can clog up the courts. Again, the Minister has made major advances in these areas.

I wish to make a point regarding the Courts Service. As politicians, we always ask questions. The Courts Service is autonomous and its officials make their own decisions. They have closed many courts throughout the country, including courts in my constituency. They closed a court in my town. I took the view that the criteria they used were unfair. One criterion used to move the Circuit Court to Roscommon town was that it was a newer court, but the new court in Roscommon town has not been built yet. The court is using the same facilities.

Sometimes we hand over all the power to independent authorities and that is fine and great. However, sometimes they make decisions that clearly are not competent or fair. As politicians and members of the public, we do not have any recourse to challenge the fairness of these decisions. Who watches the people who watch? If authorities want to make decisions, that is fine, but they should follow the laws and the criteria set down. They should not make decisions that impact unfairly on areas that need the Circuit Court, and if they are going to make such

decisions, they should be fair, transparent and open to appeal. In this case, the Courts Service made a decision and there was no recourse to appeal. Although we met representatives from the Courts Service and discussed the matter with them, I knew in my heart and soul that they did not have the slightest intention of listening to all the arguments, which were very powerful.

I thank the Minister as well because for too long we have seen all types of legislation, but we are in a crisis. There is a crisis of political transparency and accountability as well as a financial crisis. In crisis there is always opportunity. The Minister has not been behind the door in standing and putting his head above the parapet. I congratulate him on the work he is doing. As in life, we all make mistakes, but the man who does not make a mistake does not do anything. I thank the Minister for using his office to try to reform a complicated and necessary system.

Deputy Alan Farrell: I thank the Minister for his presence and for bringing the Bill before the House. I echo the opening remarks of Deputy Feighan. It is a rare thing to have legislation that is so extensive and complex going through the House uncontested. Anyway, I thank the Minister for bringing forward the legislation.

As we are aware, the legislation aims to make two significant changes to the legal system. The first relates to the transparency issue with regard to the *in camera* rule for the family courts and the second relates to efficiencies and affordability with regard to the Courts Service.

For many years family experts and rights advocates groups had have been pressing for the abolition of the *in camera* rule, citing reasons of lack of confidence, transparency and mistrust of the legal system, with particular reference to the family courts structure. While it is a constitutional requirement that justice is administered in public, there is no question that the existence of the *in camera* rule has served a real and significant purpose for individuals who have found themselves in family law proceedings. The purpose may be more relevant now than ever, especially in light of the number of significant changes the Government has put forward, not least of which is the Legal Services Regulation Bill. The right to privacy during proceedings, which are by their nature very personal and sensitive, is something that we as law-makers cannot take for granted, particularly in the world in which we live. As a society we have barely come to terms with the pace and tone of online communications, not to mention the irreparable damage that loss of anonymity can do to individuals, particularly children. In theory, transparency and justice are intrinsically linked, as our justice system is our ultimate instrument of accountability. In reality, family law cases are personal, sensitive and often psychologically damaging to individuals, particularly when children are the subject of the case. The *in camera* rule was derived from the principle that some proceedings are so sensitive that it served the public interest to protect the litigants' confidentiality.

While I fully accept the flaws it has masked in the family law system, not least some of those remarked on by the Deputy from Roscommon-South Leitrim, I welcome the restrictions on reporting by the press under this Bill, such as the creation of a robust system of intolerance of any reporting that may identify litigants. Some have criticised the strength of restrictions on the press, stating that although they will deter reporters, deterring individuals from seeking justice on family matters for fear of identification and humiliation is a far more damaging concept. The Ombudsman for Children reiterated in her contribution to this debate, which of course was most welcome, that the right to privacy is a fundamental consideration and the right not to be identified must be guaranteed.

I believe the best practice for reporting of family law cases will involve the establishment

of a panel of journalists who would be allowed access to all family law proceedings. This would be somewhat similar to the system in the Houses of the Oireachtas. The strategy would ensure that members of the press with significant expertise and respect for the courts would be appointed by their publications and allowed to access and report on proceedings, allowing the development of a culture of trust between the press, the legal profession and its clients. I would also welcome a move by the courts and agencies such as the CSO to play a part in communicating family law proceedings through the publication of reports and statistics that could be made available through websites and public libraries. This would be particularly useful as we approach the referendum to establish a new family law court, which the Minister recently announced for 2014.

In respect of journalists' access and the terrific reporting function of local newspapers in particular, I have a significant concern that relaxing the *in camera* rule in such a way as to permit our local papers across the country to report on family law matters might not be a good thing. I have seen local newspapers report on traffic offences, as Deputy Feighan mentioned, and other matters, and it seems to form a large and significant part of their content. I would be concerned that an opportunity such as this may be difficult for them to resist, notwithstanding what the Bill sets out in attempting to ensure anonymity for all persons in the case. The Minister is to hold the referendum which will set in motion a radical overhaul of our family law system as set out in the programme for Government.

Last week, Deputy Stanton and I attended a family law seminar at the Incorporated Law Society in Blackhall Place and heard some very worthwhile contributions from stakeholders and international experts in the field. I was particularly interested in the experiences of a judge from Australia, who made some interesting observations. While all the contributors bore in mind the impact of the *in camera* rule on transparency within our family law system, our own professional experiences as well as evidence derived from the Law Reform Commission in 1996 and the Family Law Matters report 2007 make a compelling case for urgent reform. Given that the report of the Law Reform Commission was published in 1996, it is high time there was some movement in regard to family law structures in this state. The contributions at the seminar highlighted the mutual and serious factors that make our system so difficult and traumatic for litigants. Emphasis was placed on the significant inadequacies of experts in family law within the courts, inconsistency among judges when dealing with some cases and a lack of information, inadequate dispute resolution, waiting times, pressure on staff to help with litigants' paperwork and the legal environment which has proved to be an inappropriate place for such sensitive matters. For example, Ms Muriel Walls, the chairperson of the Legal Aid Board, described a conversation with a client in which she said she would draft a bill and affidavit and a notice of motion for her case, and her client had no idea what she was talking about. From this simple example we can understand the frustration and confusion that litigants face when entering the court system.

Another issue highlighted in the report was that many litigants are left with no choice but to represent themselves if they are unable to access legal aid or to afford representation of their own. For these reasons I welcome the shift towards minimal legal jargon and access to information within the family courts in order to make the system more user-friendly. One point that was mentioned was the dropping of Latin phrases, which might seem like a simple matter, but having reflected on the statements made at the seminar I agree with the proposal. So many phrases are used in the court systems, such as *locus standi*, and there are all sorts of others that I have to look up. As a legislator it is my responsibility to do so, but I imagine it would make

things much easier for lay litigants to be presented with the English language and no jargon in family courts.

The monetary limits for the District and Circuit Courts have remained unchanged since 1991. The level for the Circuit Court is just over €38,000 and that for the District Court is €6,384. This is forcing modest civil matters into the High Court, thereby increasing costs for litigants and wasting the resources of the High Court. I understand the average cost of a case increases by 30% if it is brought to the High Court and it is in the financial interest of the middle-income business person or member of the public to remain within the remit of the Circuit Court to retain more reasonable costs in making modest claims. This is a sensible measure and I would like in time to remove the potential for further appeals to the Supreme Court, which is dealing with delays of up to four years. I acknowledge the concern about the impact this will have on the District Court as these changes are implemented. I strongly urge the Minister to continue to engage with and monitor this process in order to ensure successful progress.

The reform of the Supreme Court must remain a priority for this Government. The average waiting time for a case is four years. This is incredibly unfair. To those who wait it is an obstruction of justice, and it is unsustainable for the staff and personnel working within the system, not least the litigants. The Chief Justice, Ms Justice Denham, has already called a halt to any further appointments of priority cases to the Supreme Court, which now stand at 70. This crisis within the justice system requires a multifaceted and robust approach which I believe this Government has begun to undertake. The appointment of two additional Supreme Court judges to tackle the delay is essential as an interim measure. This will bring the total number of Supreme Court judges to ten.

However, it is the referendum to establish a court of appeal, due to take place in September this year, which will allow real reform of the entire system. Under this establishment, appeals will no longer be within the remit of the Supreme Court. Instead, a dedicated court will be established with the function to deal with the appeals within reasonable time periods with frequent settings covering civil and criminal matters. This reform will begin with the amendment to the Constitution.

I acknowledge the many reforms to the Irish legal system undertaken by the Government and the Minister, namely, the legal services Bill, the personal insolvency legislation, the two planned referendums to establish new courts and the variety of significant changes proposed in this Bill which will increase affordability and access to justice in the court system and improve transparency within the family court system. I commend the Minister and the work of his Department in bringing forward this Bill within the lifetime of the Government.

Deputy James Bannon: I welcome the Bill, which will improve the State's response to people experiencing violence and unfair treatment, such as emotional, physical and financial abuse. The Minister has worked extremely hard since taking office to address domestic violence in Ireland. He is the ideal person to handle this, in that he has built up a huge body of experience and expertise on the issue. He is an eminent lawyer and has been dealing with family law cases for as long as I can remember, representing women and addressing the injustices against women for many years.

I have no doubt that his vast knowledge in responding to people who have experienced injustice, domestic violence and bad behaviour is included in the reforming provisions of the Bill. Most of the provisions are important reforms of the court system. The main provisions are

to amend the *in camera* rule in order to introduce greater transparency in the administration of family and child care law by allowing press access to courts in family and child care proceedings, subject to certain restrictions. Restrictions are very important. We will have a handle on this and there will be certain provisions in the Bill to address it.

The Bill also increases the monetary restriction limits of Circuit and District Courts in civil proceedings. A greater understanding of the trauma resulting from violence and bad behaviour is needed, as well as a need to recognise the sensitivity of family situations and address embarrassment and other additional problems, such as the various forms of discrimination which may arise. A person often goes into himself or herself after having a bad experience. It is something for which additional support services are needed to help people to cope. It is a very traumatic experience for anyone who finds himself or herself in this situation.

The Bill proposes to retain the privacy provisions in respect of such court proceedings while allowing the attendance of the bona fide representatives of the press. The courts will retain the powers to exclude or restrict representatives of the press or prohibit the publication of evidence given in proceedings in certain circumstances. This is to be welcomed.

In addition, a strict prohibition will apply on the reporting of materials likely to identify parties to the proceedings or any children to whom the proceedings relate. The Bill also aims to provide for proceedings with the need to ensure access to important information on the operation of family and child care law in our courts. The application of the *in camera* rule in regard to court hearings on family law and child care proceedings has given rise to a public perception that undue secrecy is attached to the administration of these areas of the law and that there is a lack of uniformity and consistency in the manner in which justice is administered.

There will be a need for the provision of extra specialist personnel to assist in this area and to recruit other professionals to provide appropriate services to people experiencing violence and financial hardship. People have suggested social workers, family support workers, community care workers and mental health workers could assist in this regard, and I have no doubt such people will come on stream. Additional costs will be incurred but to rectify the situation and improve the law the cost factor should not come into account. I thank the Minister for introducing the Bill.

Minister for Justice and Equality (Deputy Alan Shatter): I thank all of the Deputies who contributed to the debate on this Bill today and the last day. This is an important Bill which provides for much needed reform across a number of different and important areas of the law.

As regards the proposed changes to the *in camera* rule to which so many Deputies made reference, what I am providing for in this Bill is a careful balancing of the need for privacy with the need for public access to important information on the operation of family law, child care and adoption proceedings in our courts.

Part 2 of the Bill will retain protections for the privacy of the parties, including the privacy of any child to whom the proceedings relate in respect of such court proceedings whilst providing that bona fide members of the press can be admitted to the proceedings. Access to information about family law and child care proceedings insures that should any issues of concern arise out of the manner in which the law is being administered within the courts system, the general public, Government and Oireachtas will be informed. This means that any necessary legislative action can be taken.

Unfortunately, for far too long this area has been shrouded in secrecy. For many years I have been of the view that reform is required. It is necessary that we seek to bring a greater degree of openness and transparency to how our law is being administered, but we must do so in a manner that does not create any barriers to those who need to use our court system to resolve family conflict from feeling free to do so, and we must ensure the anonymity of individuals is appropriately protected and, more particularly, that the welfare and best interests of children are protected.

As Deputies have said, this issue requires careful balancing. The right of press access to the proceedings will be balanced with the strict prohibition on the publication of any information that is likely to identify the parties to the proceedings or any child to whom proceedings relate. It will be a criminal offence to publish information in breach of this prohibition.

I am also providing that the courts will retain the right to exclude or restrict the presence of members of the press from all or part of family proceedings in certain circumstances. This very important balancing power has been carefully drafted to ensure that the courts, in deciding on the issue of press access or publication of evidence, will have to have regard to the privacy rights of persons, including children, as I said earlier, who are involved in any individual case.

Some Deputies raised specific concerns on matters such as numbers of journalists who may attend a particular case, difficulties that might arise from contemporaneous reporting and the possibility of persons from rural areas being more readily identifiable from local media reports.

Since the Bill was published in March last I have received a number of helpful submissions from bodies with an interest in this area of the law which also raised similar concerns.

Other Deputies were concerned the provisions may allow the courts to be unduly restrictive in providing for press access. In drafting the provisions of Part 2, the Department and the Parliamentary Counsel were conscious of all of these concerns and the provisions have been designed to address them. The court may determine whether to exclude or otherwise restrict the attendance of representatives of the press, or whether simply to prohibit or restrict the publication or broadcasting of some particular evidence or any part of such evidence. In deciding whether to do any of these things the courts will be bound by the criteria set out in the relevant provisions. They will start off from a perspective of seeking to promote public confidence in the administration of justice. The Judiciary has been given a broad discretion in applying the specific factors detailed in the legislation in determining the controls to apply in individual cases as appropriate. This will allow the courts take account of issues such as those mentioned by many Deputies during the course of the debate.

12 o'clock

It is clear from the provisions of the Bill that no court can automatically decide in every case to exclude the media. Each case will have to be determined on the circumstances of the individual case and the background matters of relevance. Having considered the submission of the Ombudsman for Children, and also taking account of views submitted by the Children's Rights Alliance and Barnardos, I moved an amendment on Committee Stage in the Seanad to further enhance the rights of children and other parties to proceedings by providing that the court will be obliged to hear the views of the parties and of any child to whom the proceedings relate.

I intend to keep the provisions of the legislation under review. If it turns out it is not being applied in the manner intended or it gives rise to unintended consequences or difficulties, it is

important that we address any such issue as early as possible. It would be very useful if following enactment of the legislation, there could be some agreed protocol, as some Deputies have suggested, with media outlets as to how they will report family cases to ensure there is a degree of consistency in non-disclosure of sensitive information or any other information which could identify individuals.

The suggestion has been made by some Deputies there should be a pool of journalists identified who would be the only ones with access to family law and child care proceedings. Consideration was given to the creation of such a pool but such a pool has not proved necessary in the context of reporting other types of cases in the criminal law area which are sensitive. The concept of bona fide representatives of the press attending proceedings is applicable in rape cases and other cases of sexual assault. There has generally been a responsible approach taken by the media to the reporting of such matters in a manner which does not result in the identity of individuals being revealed, or information being revealed which could result in others identifying individuals. I hope the press would approach family proceedings and child care proceedings in a similar way.

The legislation makes provision to allow the court to direct that particular types of evidence not be disclosed, and there is explicit provision to allow for members of the media to be excluded, for example when particular evidence of a sensitive nature is being given, such as evidence on matters directly impacting on the welfare of the child which if reported could clearly result in the child being identified, or if the view was that if reported it could be contrary to the best interests of the child because the child might read of the report, which would cause the child greater additional distress. A broad discretion will be conferred on the court to either exclude journalists or expressly direct that particular matters be not reported.

I have tried to deal in a general way with some issues raised by various Deputies. I will now turn to some of the issues specifically raised by individual Deputies. Deputy Niall Collins suggested the level of penalties for publication of information likely to identify parties or children involved in family law or child care proceedings are too high. As I stated earlier, Part 2 aims to provide a balance between openness and transparency in family law proceedings and the need to protect the privacy of persons involved in the proceedings and to protect the welfare and best interests of children. For this reason it is vital to have a strong prohibition on the publication of material which may identify persons involved in family law and child care proceedings and to have meaningful penalties available to be applied by members of the Judiciary in accordance with their discretion based on the circumstances relating to any violation of the provisions of the Bill. I am not convinced the penalties provided for publication of information in breach of this prohibition are excessive in the circumstances. It would not be too far-fetched that if some sections of the print media became aware that a particularly prominent individual was engaged in a difficult and contentious family dispute they may weigh up, if the penalty was a low financial one, whether the financial and commercial gains and benefits of reporting on it would make it clearly worth taking the chance or worth paying such penalty. It is important there are meaningful penalties, so the law is complied with, and which can be imposed if it is not.

Deputy Pádraig Mac Lochlainn raised the issues of determining bona fide representatives of the press and whether a system of press accreditation could be put in place. This is of a similar nature to having a panel. As I stated, this is a matter for the Judiciary to determine. If there is an issue as to whether somebody is a bona fide representative of the press it is a matter which can be drawn to the attention of the court by lawyers representing parties, or the parties

themselves, or it is an issue a judge can question. The Judiciary has not to date had a difficulty in this area and members of the Judiciary have properly and carefully dealt with these issues in other areas of the law.

Acting Chairman (Deputy Jerry Buttimer): The Minister has four minutes remaining.

Deputy Alan Shatter: As I understand it I have not less than 15 minutes. It would not be possible to respond to all of the issues within 15 minutes.

Deputies Collins, Mac Lochlainn and Murphy raised the possible effect on judges and court offices of the increased jurisdiction of the Circuit and District Courts. I am also aware similar statements have been made by bodies such as the Law Society, the chairman of the Irish Brokers Association and the Personal Injuries Assessment Board. The House should be aware that when handing over the Courts Service annual report for 2012 earlier this week, the Chief Justice noted that waiting times in courts throughout the country were at their lowest for several years. The Government has nominated two judges to fill existing District Court vacancies and a Circuit Court vacancy will be filled as soon as possible.

The Courts Services is in the process of closing the remaining smaller venues and generally rationalising its network of venues thus facilitating greater efficiency and throughput. As Deputies will realise, the structure of the District and Circuit Courts means that outside of Dublin where there is reasonable capacity the increased volume will be geographically dispersed. The Courts Service has amalgamated court offices throughout the country and generally feels the volume can be handed from an administrative point of view, but it will monitor the situation carefully, and no doubt if difficulties arise they will be reported to me.

The increase in jurisdiction is a matter which has received some publicity in recent days but which was not an issue that was particularly raised by Members of the House. It is an important matter which I should address. There has been a suggestion that higher insurance costs could result from the changes in the monetary jurisdiction limits for the District and Circuit Courts. Statements issued by the chairman of the Irish Brokers Association and the Personal Injuries Assessment Board referred to the increase in jurisdiction causing an inflationary effect on personal injury claims and an increase in insurance costs being passed on to consumers. It is important to note that the monetary jurisdiction limits of the Circuit and District courts have effectively remained unchanged since 1991. If that argument were taken at face value, it would be a reason never to increase the courts' jurisdiction in the area of personal injuries. What is being alleged in this context is not valid, and there is no research basis for suggesting that the proposed increases would have any such effect.

The Courts Act 1991 set the monetary jurisdiction limits for civil matters at €38,092 in the Circuit Court and €6,384 in the District Court. The Courts and Court Officers Act 2002 made statutory provision for increases in this regard, to €100,000 in the Circuit Court and €20,000 in the District Court, but these new limits were never brought into force. Accordingly, 11 years since the 2002 legislation was enacted, court jurisdiction limits remain at the levels set out in 1991. That makes no sense on the basis of inflation alone. The District Court today is exercising a lower-value jurisdiction in real terms than it did in 1991, and the same applies to the Circuit Court. This means that a substantially larger number of cases than necessary are being heard in the higher courts, with substantial additional costs to litigators.

The Bill increases the jurisdiction of the Circuit Court to €75,000 and that of the District

Court to €15,000. The press release by the Irish Brokers' Association in which it criticised the proposed increases in the jurisdictional limits referred to the District Court jurisdiction being increased to €35,000, which is totally inaccurate. In regard to concerns about a possible inflationary effect on personal injury claims, we have dealt with this matter cautiously. The jurisdiction of the Circuit Court in this area is being increased only to €66,000, whereas in all other areas the new limit is €75,000. Taking inflation into account, this means the Circuit Court's jurisdiction will remain slightly below where it was in 1991 in real terms. In fact, based on inflation alone, the new threshold should be at least €65,000. Moreover, the new limit is 40% less than the equivalent level prescribed by the Courts and Court Officers Act 11 years ago. That increase was never brought into force because the same complaint was made at the time. As a consequence, the courts' jurisdictions have been frozen for 22 years, which makes absolutely no sense.

The suggestion has been made that these changes will increase the level of awards the courts will make, and that this is my intention in bringing forward the legislation. To be clear, my intention is that we have a court jurisdictional base which makes sense, that those who litigate do not incur unnecessary legal costs, and that the rights of citizens are protected. If citizens believe their rights are not being appropriately protected, whether in the personal injuries area or any other area, they should have access to the appropriate court at the lowest level of legal costs that can and need be incurred. It is entirely wrong to assume that judges will misinterpret the provisions contained in this Bill, simply because the jurisdiction limits have been increased, and thus routinely make larger awards to individuals than are merited by the particular case. It is estimated that, on average, the legal cost of taking a case in the Circuit Court, subject to the complexity of the case, is 30% lower than in the High Court. An appropriate increase in the jurisdiction levels is long overdue to ensure the courts are dealing with cases at an appropriate level and the costs incurred by parties are reasonable.

There were 375 awards made by the High Court in personal injury cases in 2012. Of these, 162 involved payments of less than €60,000, which is the new limit for personal injury awards in the Circuit Court. Under this legislation, those awards, if dealt with at Circuit Court level, would have resulted in legal costs being 30% lower for both plaintiff and defendant. Of the 1,485 awards made in the Circuit Court - this is a very interesting figure - 1,315 were between zero and €20,000. Based on these figures, a majority of the awards made in the Circuit Court in 2012 could now be dealt with at District Court level, which would involve a very substantial reduction in legal costs. In addition, a substantial number of cases that are currently dealt with in the High Court will in future be dealt with at Circuit Court level.

Deputy Peter Mathews: That will help to eliminate delays.

Deputy Alan Shatter: The suggestion was made that the increase in jurisdiction limits should await the enactment of the Legal Services Regulation Bill. The latter is only one of the measures being taken to ensure the modernisation of the legal professions and a more transparent and competitive legal costs regime. There is no justification for linking implementation of the new regulatory and legal costs architecture under that Bill to the roll-out of other policy changes.

Concern was also expressed in regard to resources and the capacity of the courts to deal with the new business that will come before them. The reality, however, is that where a substantial number of cases which currently come before the Circuit Court migrate to the District Court, there will then be space within the former to deal with an increased workload. This will, in turn,

result in fewer cases coming before the High Court and will facilitate speedier hearings before that court. We will keep a careful watch on the resources of the courts and their capacity to deal with matters. In a context where fewer cases came before the District Court in 2012, we are confident the latter has the capacity to exercise this additional important jurisdiction. If any difficulties arise, we will ensure they are addressed.

Deputies Richard Boyd Barrett and Shane Ross raised issues with regard to the appointment of members of the Judiciary. This was a point also raised by Deputy Pádraig Mac Lochlainn during the debate yesterday on the Thirty-third Amendment of the Constitution (Court of Appeal) Bill. Deputy Boyd Barrett made the specific suggestion that we move to popular voting to select Supreme Court judges. He did not, however, explain how that might work or what type of campaign individuals might run for appointment to the court. He did not indicate how such persons might explain to a public to whom they would not necessarily be generally known the reasons they should be appointed. I disagree fundamentally with the Deputy's proposal in this regard. We must be always careful not to politicise the Judiciary. The absolute independence of our Judiciary has been demonstrated time and again and we would be ill served by adopting a system of elections in which leading lawyers were forced into taking public positions on issues of controversy. We might have a situation, for example, in which people ran for the Supreme Court on a "hang 'em and flog 'em" ticket. Would they make promises with regard to how they might interpret particular parts of the Constitution? Would they indicate what they might do if there was a challenge to some aspect of the Constitution? Would they publicly identify individuals who, if they were brought before the courts, would be "sent down"?

This is a completely nonsensical proposal. In some small areas of the United States, campaigns are run to have people appointed to the judiciary. I do not believe such a system would be of benefit to the Irish people and it is not one which our Constitution envisages. I certainly do not believe that we should hold a constitutional referendum to provide for such a system. It would, of course, be very interesting to see what sort of campaign People Before Profit candidates for appointment to the Supreme Court would run. What qualifications would be prescribed? Would it be necessary to ascribe a particular ideology to oneself or would one run on a party ticket or as an independent individual? This is a completely unworkable proposal and it is not one which I would remotely favour.

I am on record as saying that because the Judicial Appointments Advisory Board has been in place for a number of years, it would be a good idea to review how it works and also how the mechanisms for the appointment of members of the Judiciary operate. We must do this while ensuring that no issues arise with regard to judicial independence. I repeat what I said yesterday, as Deputy Ross was obviously too busy to join us yesterday for the interesting debate which took place in respect of the court of appeal. Because of the outrageous contribution he made in the House this morning, I reiterate that there have been suggestions from time to time going back many years that particular individuals have been appointed to the courts for their political affiliations. As a lawyer who has practised law for 30 years and who has written academic papers in respect of the law, it is almost impossible to find, going back to the foundation of the State, a single member of the Judiciary, at any level, who has delivered judgments as a member of the Judiciary which anyone could say were based on political partisanship. We may disagree with certain decisions made by judges or we may puzzle over or applaud them. The important thing is, however, that the Judiciary is independent in its operation and that this should continue to be the case.

We operate under a system of separation of powers. If matters are dealt with in the courts in

a way which is not appropriate or which gives rise to concern, then it is right that this House has a role in the context of introducing amending legislation. However, the House does not have a role in the context of delivering judgments. The latter must be delivered in the courts when cases come before them. The House should never do anything to undermine the credibility of the courts system, which enjoys an extraordinary and worldwide credibility. As stated yesterday, the global forum rated our courts, in the context of independence, efficiency and integrity, as fourth out of the 146 countries studied. It is absolutely appropriate that we should engage in a debate on whether there is a better system for the appointment of members of the Judiciary, whether the system operated by the Judicial Appointments Advisory Board is the best on offer or whether there is something different which we should do. I do not believe it is appropriate that any Member of the House should make global accusations against current or past members of the Judiciary and then attempt to traduce the name of a single individual member thereof. I deplore Deputy Ross's conduct in the House this morning.

It is very easy to come before the House and make global accusations. It is also very easy to target an individual with an accusation intended to damage his or her reputation and generate an easy headline, particularly in circumstances where said individual is not in a position to defend himself or herself. Deputy Ross is associated with a newspaper which relishes that sort of approach. On a weekly basis, those at the newspaper in question hold an editorial meeting at which they decide who will be their target for the coming Sunday. The newspaper in question has a formula which is used with great regularity and which includes well-practised techniques of targeting individuals with accusations. On occasions that newspaper does not get things right, while on others it does. However, there are times when it just develops a narrative. If possible, where the individual who is being targeted is not in a position to defend himself or herself, then those at the newspaper will be quite happy about that fact. If the person is in position to defend himself or herself, then what he or she says will be used to further target him or her.

This is not something which should happen in the House. Deputy Ross made the following accusation, "Political appointees have got through the process of JAAB...". What is a political appointee? I am not aware that when the names of a number of individuals are submitted the Judicial Appointments Advisory Board in order that it might consider them for appointment to the Judiciary, that it would seek to ascertain whether any of those individuals is or is potentially a political appointee. The legislation under which the board, on which the Chief Justice and the presidents of each of the courts sit, operates is designed to ascertain the eligibility of an individual for appointment to the Judiciary and, based on his or her record, whether he or she would be appropriate for appointment. The board then submits a number of names to the Government for its consideration. It is inevitable that, in a democracy, some individuals who are engaged in the practice of law will have an interest in politics while many others will not. On some occasions those with an interest in politics will engage with political parties. Some others may engage because they have a particular specialty interest in the area of law in which they are practising, are frustrated by a lack of reform and may use their expertise to try to influence politicians to enact reform in the public interest.

Is it being suggested that, in a democracy, because an individual at some stage engaged in politics, sought election or was associated with a political party, he or she should be excluded from judicial appointment in circumstances in which the Judicial Appointments Advisory Board recommends him or her for such appointment, not by virtue of any political criteria but rather as a result of his or her legal expertise? Is that what Deputy Ross is suggesting? If any individual who is engaged in politics is appointed to the Judiciary, is he or she to be smeared

with the accusation that he or she is a mere political appointee in order to suggest that he or she is undeserving of his or her appointment? During his or her time as a serving judge, should he or she be the possible subject of a smear to the effect that he or she is not fit for the office to which he or she has been appointed?

What was the point of Deputy Ross's performance earlier this morning other than trying to generate a cheap headline and grab attention? The Deputy did not address a single issue relating to the Bill. I deplore his conduct in the House this morning in the context of the impact it could have on the reputation of members of the Judiciary. I repeat what I said yesterday in respect of every appointment to the Judiciary made by the current Government since I became Minister for Justice and Equality. Those who served in previous Administrations can speak for themselves but I am certainly not going to cast aspersions on any existing or retired judge. Every judicial appointment made since I became Minister has been the result either of individuals being promoted from one court to another - I do not believe a single individual has been promoted who would not be seen, from an objective point of view, to have deserved such promotion - or being recommended for appointment by the Judicial Appointments Advisory Board. For the information of those Members of this House who do not know it, when that board makes recommendations, it furnishes two lists, namely, the full list of all the people who applied for appointments and a list of all the names it would recommend. I can tell Members there are always people it does not recommend and always some people it recommends. The legislation allows the Minister to make appointments from either list but not a single appointment has been made from any proposal other than the list of those recommended for legal expertise. It is unfortunate that if a lawyer was involved in democratic politics in this House at some stage, and if through merit and on the recommendation of the Judicial Appointments Advisory Board they are appointed to the Judiciary, they should be fair game for accusations that they are a political appointee. It is a game the media play because they love to look back and see if an individual engaged in politics somewhere, if they might have run for election and not succeeded or if they might have been a Member of this House and suggest their appointment lacks merit. It is a dangerous and an unfair game in which to engage.

Deputy Ross said he does not want political appointees and then he came up with the alternative to Deputy Boyd Barrett of how judicial appointments might be made. He said judges should be appointed in a transparent manner and that they should be brought before Oireachtas committees in order that they could be questioned in a demanding way. This is from a Member of this House who does not want to politicise the appointment of individuals as judges. Are we going to introduce the sort of system we have seen in the United States that has created great difficulties where potential appointees to the judiciary there come before a justice committee and are cross-examined on their views about the interpretation of the constitution and on what they personally believe? Under such a system, individuals could be examined, for example, on how they would personally interpret the issue that has given rise to so much debate in this House this week, how they would interpret Article 40.3.3°. Would they have to look at the committee and assess who is on which side of that debate because they would not get recommended unless they said the right thing? They might be asked their view if a particular individual were prosecuted and whether they would convict that individual.

Is that the sort of system we want where we turn the appointment of members of the Judiciary into a party political game in this House or into a game where Deputies have to determine whether the particular individual would adjudicate on speculative cases in a manner they would approve of? That would essentially constitute this Parliament interfering in judicial indepen-

dence and in the appointments system. I do not believe we should travel that route. For someone to make accusations in this House about political appointees and then suggest we further politicise the making of judicial appointments is an indicator of the extent to which that issue is thought through prior to that Member making the contribution he made.

A number of Deputies raised concerns about family law matters and I thank them for the comments they made. I am sure my colleague, Deputy Mary Mitchell O'Connor, who referred to a particular case, and Deputy 'Ming' Flanagan, who referred to another case, will understand that I cannot address individual circumstances of cases that have arisen. I have made no secret for many years of my view that we should have a separate integrated family court system. There is a need to ensure those whom we appoint to such a court have the insight, expertise and common sense to make decisions in such a court. I regret that we do not currently have, and that due to limited resources I cannot instantly provide, the sort of welfare assessment service our courts should have in dealing with custody disputes and access issues to help judges decide how to best make decisions. I believe we should have an in-court mediation service throughout the country in each of the courts dealing with family matters to try to deflect people from litigation into resolving their issues by agreement, but we do not yet have the funds for all that. However, change is taking place.

A number of improved facilities for family law have been introduced in some new and refurbished venues. The situation in some venues is unsatisfactory and in Dublin in particular it is less than satisfactory, but there has been change. Deputy Mitchell O'Connor mentioned Dolphin House which is the busiest family law office in the country, accounting for a very significant percentage of barring and safety orders in the area of domestic violence issues nationally. The building was completely refurbished in 2007 with additional consultation rooms, two additional court rooms and an additional child care court has also been provided, but the Courts Service acknowledges there is still a shortage of consultation rooms, for example, in Dolphin House. Family law Circuit Court facilities are provided in three dedicated family law courts in Phoenix House in Smithfield, which has eight consultation rooms and other necessary facilities for family law court users, judges and staff, but I do not believe there is sufficient consultation rooms in Smithfield for the number of people who attend there to have their family disputes resolved.

Deputy Stanton, among others, referred to the proposals for a separate family court. I hope that by this time next year we will be on the verge of a referendum being held to establish our new integrated unified system of family courts. I hope also next year to bring forward the finalised mediation Bill which has already been published in draft form.

With regard to what was said about some family cases, when Deputies hear of family cases that have been before the courts for many years, the story and the reasons for that are always complex. One of the great difficulties in the area of family dispute, in particular in relation to children, is to get estranged spouses or parents to implement arrangements in the interests of the welfare of their children rather than engage in an ongoing war and using the children as ammunition in that war.

Deputy Niall Collins requested clarification of what can be deemed a lengthy case for the purpose of allowing additional jurors to be selected for a criminal trial. That is dealt with in the proposals in the Bill where it provides that additional jurors may only be selected where the judge is satisfied that the duration of the trial is likely to exceed two months.

The Deputy also raised the need for confidentiality for persons accessing the new personal insolvency arrangements. The identities of persons who enter into new insolvency arrangements should be made available only to relevant creditors. Registration of the grant of a protective certificate or the fact that a person has been granted a debt relief notice, debt settlement arrangement or personal insolvency arrangement is a necessary feature of our new insolvency legislation. To protect the constitutional rights involved and to prevent potential actions for judicial review, the Act provides for enhanced oversight by the court of the new debt resolution procedures. This court involvement has the significant benefit to the debtor of providing protection from enforcement actions by creditors either during the negotiation period or during the lifetime of the arrangement. The granting of a protective certificate, to have its full effect, must be registered in the appropriate public register. Likewise, the successful conclusion of an arrangement must also be recorded. This is normal in other jurisdictions and I am not of the view that this imposes a significant burden nor does it expose a debtor to shame. Of course, the decision to seek to participate in a debt resolution process is theirs alone. However, it is important to emphasise that only the basic facts of the existence of a protective certificate granted with a debt relief notice, debt settlement arrangement or personal insolvency arrangement will be entered in the insolvency registers.

Detailed information concerning the debtor's financial affairs will not be made public. The provision for a public register of insolvency arrangements is common in many countries, including the United Kingdom. The new EU insolvency register has a requirement for the interconnectivity of public insolvency registers. I should also mention that a register of bankruptcies has been in place in the State for a very long time. I am conscious that I have a covered a large number of matters that have been raised by a number of Deputies. I am sure we will return to many of these issues in the context of the discussion that will take place on Committee Stage.

I wish to briefly reference certain matters. Deputy Luke 'Ming' Flanagan raised the issue of guardianship of children in circumstances where a child is born outside marriage. As I have informed the House, we are looking at the law relating to parentage and guardianship and I hope we will publish before the end of the year the heads of a Bill in this area for discussion purposes and that we will have a final Bill in 2014 to address many of the issues and difficulties in this area in a careful and considered way.

Deputy Stanton raised a number of issues. He made reference to the family courts. One of the issues he mentioned was the concern expressed at the conference that was held last Saturday about the risk of specialisation in relation to members of the Judiciary. While specialist family courts where judges exclusively deal with family law matters work very well and very successfully in a number of countries, Europe is not as up to date in this area as are courts operating in some parts of the United States, Australia, New Zealand and a number of other countries. That is an issue for further discussion as we consider in the coming months the structure of a new family court and the qualifications or eligibility factors for being appointed to it.

I am very interested in the concept of community courts that Deputy Stanton raised. We have a form of community court in the work the drugs court does. That is something we are examining within the Department and I look forward to furnishing a paper on the issue for the consideration to the Oireachtas Joint Committee on Justice, Defence and Equality that might form part of a dialogue as to whether some interesting developments could take place.

Deputy Frank Feighan raised issues around the Courts Service and the closing of courts. It is important that we ensure we use resources wisely. When I came to office there were court-

houses which were not fit for purpose. We have a large number of courthouses, some of which only deal with limited business.

Deputy Barry Cowen: That is not true.

Acting Chairman (Deputy Jerry Buttimer): The Deputy should, please, allow the Minister to continue.

Deputy Alan Shatter: I am very conscious that when a court closes in a constituency it is a cause of concern to Members of this House. I assure Members that I am informed by the Courts Service that it genuinely engages in consultation with all interests, including the legal profession, the Garda and other relevant bodies across the board in particular towns that might be affected by court closures, and that it looks at the alternatives. These decisions are ultimately made by the Courts Service independent of me as Minister. It is part of the independence of the courts. The Courts Service has a separate function in this context but it does listen. I am aware of the fact that it has done substantial work looking at courts right across the country. There have been cases where the future of a courthouse has been considered and having engaged in the consultative process it has remained open, rightly so. A real consultative process is undertaken and an assessment by the Courts Service as to how to proceed. There is also an important resources issue. If it is uneconomical to maintain a court in a particular area and there is only a limited number of court proceedings coming before it, it does make sense to consolidate the courts system. I know the Courts Service will continue to deal with that.

I am conscious that a number of Deputies expressed concern about the area of domestic violence. Reforms were introduced in the law in this area in the Civil Law (Miscellaneous Provisions) Bill in 2011. As part of the programme for Government, we are looking at producing a consolidated domestic violence Act with additional reforms contained in it. That will not happen in 2013. We have a substantial legislative agenda but I hope we will see that work undertaken to a substantial extent in 2014, leading to the publication of a new Bill. I thank all of those who contributed to the debate. I look forward to Committee Stage.

Question put and agreed to.

Acting Chairman (Deputy Jerry Buttimer): When is it proposed to take Committee Stage?

Deputy Alan Shatter: I understand it will be next week.

Committee Stage ordered for Wednesday, 17 July 2013.

Electoral, Local Government and Planning and Development Bill 2013: Second Stage

Minister for the Environment, Community and Local Government (Deputy Phil Hogan): I move: "That the Bill be now read a Second Time."

The Electoral, Local Government and Planning and Development Bill 2013 is a diverse Bill. As the name suggests, it provides for amendments to existing electoral, local government and planning and development law. The Bill puts in place legislative provisions that are needed now, across the electoral, local government and planning areas, in order to advance implementation of the Government's programme of local government reform. The Bill provides a struc-

ture for the review of European Parliament constituencies. It also provides for the transposition of an EU directive on nomination procedures that must be in place for next year's European elections. The Bill presents an opportunity to rectify an omission in the Electoral (Amendment) (Political Funding) Act 2012 and to make two other small but important changes in electoral law.

I will now outline the content of the Bill in greater detail, setting out why the proposed legislation is required or recommended to the House, as the case may be. The provisions in the Bill dealing with the register of electors follow on from the Government's programme of local government reform that will see single new local authorities in Limerick, Tipperary and Waterford after next year's local elections. In preparation for those elections and in view of the mergers, we have looked at the arrangements for the preparation and publication of the register of electors in these areas. In the normal course, this would involve all six existing councils in these areas progressing this work in their respective areas for the register that will come into force on 15 February 2014. Having reviewed the position, I am satisfied that the preparation and publication of one register of electors in each area for the 2014 to 2015 period is the correct approach to take. This view is underpinned by the recent report of the local electoral area boundary committee where it can be seen that the local electoral areas recommended straddle existing administrative boundaries in Limerick, Tipperary and Waterford. The amendments in the Bill provide a legal basis for the preparation of a single register of electors in each of these new administrative areas.

We cannot wait until next year to put in place the necessary arrangements. We must do so now because a detailed work programme must be undertaken each year on the preparation of the register of electors that will be published the following February. This work programme is undertaken in accordance with dates set out in the Electoral Act 1992. The first of the deadlines to be complied with is the requirement on registration authorities to give public notice of the categories of electors entitled to be entered in the postal or special voters lists. This must be undertaken in the period of 14 days ending on 1 September. The amendments should come into effect therefore before that date. My Department has discussed and agreed the provisions proposed with all of the local authorities involved. Limerick, South Tipperary and Waterford county councils will be the registration authorities for their respective combined areas for the next electoral register. That is the register that will come into force on 15 February 2014, the preparation of which will commence before the end of the summer.

In the area of planning and development the reform of local government structures presents an immediate challenge for town councils which are to be dissolved and city and county councils which are being merged. That is because these councils continue to have to meet their statutory obligations in regard to development planning, including where they all have different review cycles for their development plan reviews. In the case of planning authorities that are due to be dissolved, I am of the firm view that reviews of borough and town council development plans, as currently obliged under the Planning Acts, are wasteful of resources and confusing for the public given that the authorities will not likely be *in situ* to finalise and adopt these development plans. As regards amalgamated planning authorities, I propose to give them the discretion to not review their plans, particularly given the different cycles they are currently locked into in terms of review of existing development plans. For example, while south Tipperary commenced review of its development plan in February 2013, it is not due for adoption until February 2015 and while north Tipperary is due to commence its development plan review in July 2014, its plan is not due for adoption until July 2016. As Tipperary County Council will be

a newly merged authority, it makes no sense for it to have to finalise two separate development plans for the county. At the same time, I want to ensure that there will be a timely cohesive and coherent unitary development plan made by the newly amalgamated planning authorities. Consequently, I am proposing to give those planning authorities which it is proposed to amalgamate or dissolve, the discretionary powers under the Planning Acts to extend the lifetime of their existing development plan and to cease any development plan reviews already commenced.

I am also proposing to place a mandatory obligation on planning authorities that are being amalgamated to commence preparation of a development plan within one year of the making of regional planning guidelines which affect the area of the development plan given that it would be important to ensure that there is a time-bound obligation on the new amalgamated authorities to commence the process of preparing a new cohesive and coherent unitary development plan for the entire new administrative area of the council. These are pragmatic proposals to give the necessary flexibility to planning authorities in meeting their statutory obligations under the Planning Acts in light of the local government reform programme.

I am taking the opportunity afforded by this Bill to provide for the appointment of a dual manager in Waterford county and Waterford city. Provision for the dual management of the Limerick and Tipperary authorities was provided for by way of an amendment to section 144 of the Local Government Act 2001 in the Local Government (Miscellaneous Provisions) Act 2012. The decision to merge the authorities in Waterford had not been taken at that stage. Provision is being made in this Bill for the further amendment of section 144 of the Local Government Act 2001 to allow for the appointment of a dual manager in the case of the Waterford authorities. A local government Bill, to be published later this year, will give expression to the wider reform measures in the action programme for effective local government, which sets out Government decisions for local government reform. Provision for the full merger of the three sets of authorities and consequential and related matters will be provided for in that Bill.

Arising from the accession of Croatia to the European Union, there was a need to adjust the distribution of seats in the European Parliament. The European Council made a decision of 28 June 2013 on the composition of the European Parliament for the 2014-2019 parliamentary term. This provides for a reduction from 12 to 11 in the number of members to be elected in Ireland. A review of European Parliament constituencies is, therefore, necessary. The Electoral Act 1997 provides only for the establishment of a constituency commission to review European constituencies following the publication of preliminary results of a census of population. The constituency commission established following the 2011 census recommended no change in the configuration of the European constituencies. However, at that stage there was no change in the number of members to represent Ireland in the European Parliament.

As there is no provision for the establishment of a commission in the period between the taking of one census of population and the next, an amendment to the legislation is necessary to provide for a review. The Bill deals with this by providing that whenever a constituency commission has completed its work in the normal course and it is necessary afterwards to review the configuration of European constituencies because of a change in the number of members to be elected in Ireland, then a committee will be established for this purpose. The committee will present its report within two months of establishment, having allowed a period of at least one month for the receipt of submissions from the public during that two month period. Apart from this, the same provisions that apply to a constituency commission as regards terms of reference, membership, procedures and disclosure of information will apply to the committee. It is my intention that this committee should be set up as soon as possible in order that the constituencies

will be known in good time for next year's European elections.

European elections are set to be held again next year. All EU citizens have a right to stand for election to the European Parliament, irrespective of where they live in the European Union, as long as they meet the eligibility requirements. Those set out in Council Directive 93/109/EC are transposed into Irish law in the European Parliament Elections Act 1997. Up to now, non-national candidates putting themselves forward for election were required to produce, with their nomination papers, an attestation from their home member state certifying that they did not stand deprived of the right to stand as a candidate for election to the European Parliament in their home member state. While this measure safeguarded the member state of residence from including an ineligible candidate on the ballot paper, it was not working well in practice. Potential candidates were being deprived of the right to stand simply because they could not get their attestations from their home member states in time. Against this background, new arrangements have been put in place to remove this barrier to the exercise of the right to stand for election. These are set out in Council Directive 2013/1/EU, which amends the earlier directive and which must be transposed by 28 January 2014.

This directive abolishes the attestation requirement and includes in its place an additional element to the formal declaration that candidates were already required to complete when seeking a nomination to stand for election. Candidates will in future directly declare that they do not stand deprived of the right to stand as a candidate in their home member states. It will then be a matter for the member state of residence to check this with the candidate's home member state, which must respond within five working days or less if so requested. If the information provided invalidates the declaration, the member state of residence must then take appropriate steps, in accordance with national law, to prevent the candidate from standing for election or, if that is not possible, to prevent the candidate from being elected or exercising the mandate. This is a significant shift in approach for potential non-national candidates. No longer will it be their responsibility to establish their eligibility - this responsibility will lie with the member state of residence in which the candidate proposes to run.

We have an obligation to ensure we facilitate any non-national candidate who wishes to seek election in Ireland to the European Parliament in accordance with the provisions of the directives. At the same time, we need to take steps to minimise the possibility of ineligible candidates making their way onto the ballot paper or possibly being elected. The directive provides that if the candidate's home member state does not respond to the member state of residence in time, the candidate is to be given the benefit of the doubt and allowed to stand for election. This Bill proposes new nomination arrangements that will meet the requirements of the directive, while ensuring that the chances of including ineligible candidates on the ballot paper are minimised to the greatest extent possible.

The preamble to Directive 2013/1/EU recognises that different deadlines can apply for the submission of nominations by national and non-national candidates. The new arrangements for Ireland proposed under this Bill build on this recognition. They provide for more time between the making of the polling day order and polling day than at present. This should allow sufficient time to check the declarations of non-national candidates. The Bill provides that the polling day order will be made not later than 50 days before polling day, instead of the current 35 days. It provides that, excluding Sundays and public holidays, the returning officer will publish the Notice of Election not later than the 35th day as opposed to, as it currently stands, the 28th day, before polling day. This then enables different nomination timelines to be put in place. The current period of seven days, excluding Sundays and public holidays, allowed for submission

of nomination papers to the returning officer will continue to apply in the case of non-national candidates. In the case of national and UK candidates, however, this period will be extended to 14 days, excluding Sundays and public holidays. The seven days between these two periods will be used to check the declarations made by any non-national candidates, with their home member states. The aim is to ensure all necessary checks are completed before the end of the period for withdrawal of candidature, at which point the returning officer adjourns the election to take a poll or declares candidates elected, as appropriate. I am satisfied that these arrangements will both address our needs and the requirements of the directive.

The Electoral (Amendment) (Political Funding) Act 2012 expanded the requirements in respect of the information that individuals must provide when making a statement of donations to the Standards in Public Office Commission or to a local authority. It provides that information must be supplied on whether the donation was solicited, the name of the person soliciting the donation and whether a receipt was given, and the date the donation was given and received. The Act applied these information requirements to elected representatives and election candidates but they were not applied to political parties. This Bill rectifies this by providing that the information requirements in respect of the disclosure of donations that apply to elected representatives and election candidates will apply also to political parties.

I am bringing forward two small but important amendments to electoral law in this Bill. The first of these relates to the time that is available following the announcement of an election or referendum for eligible people to apply for inclusion in the supplement to the postal and special voters lists. The reality is that any eligible person can apply to be included on these lists at any stage. However, it is human nature to put off making the application. If a person waits until after the announcement of an impending election or referendum, he or she then only has a two day window in which to submit an application to his or her registration authority. These arrangements have been the subject of some criticism. I felt it appropriate, therefore, to examine what could be done to improve the position. The Bill provides that, in future, the timeframe in which to make an application for inclusion in the supplement to the postal and special voters lists will be based on the date of the polling day rather than the date on which the polling day order is made. The Bill provides that applications for inclusion in the supplement to the postal and special voters lists need to be made 21 days in advance of polling day, excluding Sundays and public holidays, if they are to be considered in the context of the impending election or referendum. This matches the arrangement already in place where applications for inclusion in the supplement to the register need to be made in advance of 14 days before polling day, excluding Sundays and public holidays, if they are to be considered in the context of the impending election or referendum.

1 o'clock

However, in the case of applications for inclusion in the supplement to the postal and special voters' lists, additional time must be provided. This is to allow for the issue of postal voter documentation in good time and for making arrangements for special voters to cast their votes.

Given the very tight timelines that can arise between the moving of the writ or the making of the polling day order and polling day, the new arrangements will not apply for general elections or by-elections. They will apply for referendums and for presidential, European and local elections, for which the polling day orders generally are made at an earlier date relative to polling day. To give an example of how these new arrangements will be an improvement, it may be useful to consider them in the context of next year's local elections. Under present arrangements, a polling day order will be made no later than 50 to 60 days before polling day, requiring applications for inclusion in the supplement to the postal and special voters' lists to

be made no later than 48 to 58 days before polling day. Under the proposed new arrangements, such applications could be made in advance of 21 days before polling day, excluding Sundays and public holidays, thereby giving people an additional 24 to 34 days to apply to their registration authority for inclusion in the supplement.

The other amendment to electoral law relates to the requirement of An Post to make copies of referendum Bills available for inspection and purchase in post offices in the run-up to referendums. The context for this provision has changed completely since it was introduced in 1942. It effectively has become obsolete and should be repealed. In 1942, copies of Bills were not accessible online and there was no Referendum Commission to provide information to voters. This has all since changed and referendum Bills can now be read on or downloaded from the website of the Houses of the Oireachtas at any time. While the establishment of a Referendum Commission is not mandatory, a commission has been established for every referendum held since 1998. The commission's role includes the preparation of statements for the information of the public and the publication and distribution of these statements to bring them to the attention of the electorate. In addition, a statement for the information of voters may be prescribed by the Houses of the Oireachtas whenever there is a referendum. Such a statement has been prescribed and issued to voters for all referendums held since 1937.

As I stated, the Bill puts in place legislative amendments that are needed across the electoral, local government and planning areas in the context of the programme for local government reform, the change in the number of MEPs to be elected in Ireland and the need to transpose a Council directive. This Bill takes a sensible and pragmatic approach to meeting all these requirements and I commend it to the House.

Deputy Barry Cowen: Fianna Fáil broadly supports this primarily technical Bill to enable the redrawing of European Parliament constituencies due to the reduction of Ireland's complement of MEPs from 12 to 11. Fianna Fáil also supports the changes to provisions for postal votes and increased transparency in electoral donations. However, it is opposed to the specific measures to allow the development plans of town councils to continue after the abolition of such town councils. In addition, the party is opposed to the creation of a dual county manager for Waterford City Council and Waterford County Council, which forms part of the preparatory work for what Fianna Fáil considers to be a deeply flawed document from the Minister pertaining to local government reform, Putting People First.

The accession of Croatia as the 28th member state of the European Union and the Lisbon treaty commitment to cap the number of MEPs at 751 means that Ireland and a number of other countries will lose a single MEP each. The total number of Irish MEPs obviously then falls from 12 to 11. This Bill enables the Government to set up a constituency boundary review commission to accommodate these changes, which Fianna Fáil supports as part of the Lisbon treaty changes to the role of the European Parliament. Fianna Fáil is opposed to the section of the Bill that creates a dual manager for Waterford city and county councils. It is opposed to the amalgamation of these authorities, which it considers will damage the strength of representation and leadership in Waterford. It also is opposed to the sections outlining changes to planning law that will accommodate the Government's proposals to abolish town councils in their entirety. Fianna Fáil intends to publish its own radical local government proposals in the coming weeks, which will form the bedrock for its proposals in respect of the forthcoming local elections to be held next year.

The minor amendments to the postal and special voting arrangements are a welcome step

towards making voting more accessible for citizens. Fianna Fáil also supports the provisions in the Bill to enhance the transparency of political donations by extending criteria for disclosure to both candidates and political parties. As for the proposals contained within the Putting People First document, I note the Bill prepares the way for the implementation of the Government's centralising power grab outlined in Putting People First. Fianna Fáil is opposed to the Minister's local government plans on a number of grounds. The Putting People First document puts bureaucrats first by transferring power away from public representatives into the hands of officials and by creating a democratic deficit at the heart of Irish politics. There is no vision of a new role for local government that moves away from silo-driven central government thinking. The Putting People First proposals reduce the role of councillors without handing real power to ordinary citizens, thereby making Ireland what I consider to be the most centralised country in the Western world. There are no ideas, such as the establishment of directly elected mayors, to really drive on reform and change in local government. I note that thus far in this or any other document published by the Minister with regard to recommendations, there is a complete failure to implement the recommendations of the Mahon tribunal. The Putting People First proposals support a property tax that will differ from county to county across 31 councils, hitting home owners in some areas much harder than others. As I stated, the proposal creates a democratic deficit at the heart of Irish politics, places more power into the hands of unelected officials and fails dismally to transform how politics is done in Ireland.

Local government is ripe for change in Ireland but the Government has missed its opportunity by opting for spin and rhetoric instead of substance. One has headline-grabbing cuts but the lack of substantive changes to local authority powers is ignored. It constitutes a failure to shift away from the silo thinking and delivery that emanates from centralised government. Having already moved water services from councils before deciding what it wants to do with local authorities, the Government has offered no new vision for the role and functions of local government that would bring it into line with the rest of the democratic world. Moreover, there is no real detail regarding any devolved function. Promises in the programme for Government for a rebalancing of powers between councillors and officials have been abandoned and section 140 of the Local Government Act 2001 has been removed without giving any real additional powers to councillors. Greater democratic participation is completely ignored by the plan, which transfers powers away from communities and towards the most centralised government in the western world. The Minister stated previously that a high level of centralisation was unhealthy but the proposals in the document now have made the situation worse. The changes threaten merely to be a reduction for the sake of headline grabbing, rather than thoughtful political reform with real foresight on how the country should be run. The Government must show more imagination in shaping our comparatively weak system of local government. Instead, power is being centralised in the hands of unelected bureaucrats, and putting people first simply means putting bureaucrats first. There is a real sense of a democratic deficit emerging from these changes.

We have consistently argued that real political reform must be holistic in its approach to the institutions of the State. *Ad hoc* haphazard changes, such as an emasculated Constitutional Convention, abolishing the Seanad, sham Dáil reform and eliminating town councils are not the way towards creating a better system of governance. Instead of reform, the Fine Gael–Labour Party Government has centralised power in the hands of four key Ministries. It has amalgamated the areas of justice and defence under one Minister, which is unique in the western world. The Government has stated its intention to remove the Seanad as a check on its powers. Ireland is sliding towards a serious democratic deficit and failing to live up to the EU principle of sub-

sidiarity. It is alienating citizens from the process of governance. This flies in the face of the promise made by Fine Gael in its document, New Politics, which was to confront the traditional centralised, top-down approach. It was to restore power to local government and make local governments more relevant to the communities they serve. It stands in direct contradiction to Labour Party's pre-election promise in its manifesto, namely, to return accountability to elected councillors. In reality, the new chief executive position enhances and maintains an iron grip on councils. It is simply the county manager under a different name.

We broadly support what is primarily a technical Bill enabling European Parliament constituency redrawing. We support the provisions for the changes in regard to postal votes and increasing transparency with regard to electoral donations. I repeat, however, that we are opposed to specific measures that allow development plans of town councils to continue after the abolition of town councils. We oppose the creation of a dual county manager for Waterford city and county councils. These are the first instances of the preparatory work, the first enabling tools in legislation, giving effect to proposals for local government reform in the flawed document known as Putting People First. In response to Second Stage statements, I ask the Minister to inform the House as to when he will bring forward legislation to give effect to the bulk of the detail in Putting People First.

Deputy Phil Hogan: I thought there was nothing in it.

Deputy Barry Cowen: I have no doubt there is nothing in it but I would like to hear the Minister's interpretation of the legislation to give effect to the nothingness within it in order for the local authorities and their members to provide for the local elections next year. The Government has a vast majority in this House and Deputy Hogan, as the Minister, has a right to make proposals in this regard. I do not dispute that and acknowledge the right. I acknowledge his election victory and the commitments he made, despite the fact that he will not live up to many of them. However, it is only right and fair, having described what he believes to be contained within the document and to be the considerable enabling powers for local authority members, that he make us aware of the detail of the legislation at his earliest convenience. It is on having investigated and interrogated it that I will be able to pass judgment. It is only then that I will be able to confirm and reaffirm the nothingness I believe will be within the document. Unfortunately, without the documentation and relevant legislation before the House, we cannot argue that specifically. I ask the Minister to inform the Houses when he will bring forward the relevant information in that regard. I expect it will be early in the new session considering that he has reneged on bringing it forward in this session.

Deputy Martin Ferris: We must always strive to make democracy inclusive and accessible. While I acknowledge the constitutional review group is dealing with the bigger issues, I believe there are challenges this Government could tackle immediately without ever touching the Constitution. While this Bill appears to be technical, simply putting in place structures to reflect EU directives and the new reality of the Minister's local government proposals, it also offers opportunities in regard to voter registration. The Bill gives the Government an opportunity to make voter registration easier and more accessible. Part 4 deals with supplements to postal and service voter lists. Many people do not query whether they are on the electoral register until an election is within weeks. To get onto the supplementary register, a member of the public must obtain a form, fill it out, have it signed by a garda and send it to the relevant local authority. While at a superficial level this may seem a simple procedure, it is another obstacle in the way of the public exercising their right to vote.

Exercising one's vote should be encouraged and easy. Many residents fill out a new form, get it stamped by a member of the gardaí in a Garda station and return the form to the local authority in needless bureaucracy. The application should be valid with or without a Garda stamp, and the form should be completed electronically. In this era of information technology, it should all be computerised. There is no evidence or information that it is so important that it cannot be included on electronic forms. It would make it far easier, particularly for young first-time voters.

This raises the question of voter registration. It seems archaic that in the 21st century we still expect people to register and re-register to vote. When I buy a television licence once, I am registered and do not have to re-register annually. Those who are registered pay their licence fee every year without any need to re-register. The same principle should apply to voting. In this regard, I must raise a serious concern. It has been the practice to remove people from the voting register. Every single party at election time discovers people who have voted for it over many years who are no longer on the register. This is wrong and it is a disgrace. People are unaware of the practice until it happens to them and their neighbours during an election. This practice must stop. It appears the Government is suspicious of the electorate and puts barriers in place to ensure they do not exercise their vote.

All the voter education in the world is useless unless we make the registration process easy and more accessible. I ask the Minister for the Environment, Community and Local Government to review the process. I understand one is automatically registered once one becomes 18 and is put permanently on the register. In certain elections, a voter can vote in any voting centre over a two-day voting period, usually on a Saturday or Sunday. In this State, however, we make the process awkward and cumbersome. In saying that, I understand the Irish political system, according to the Integration Centre's annual report of 2012, is generally deemed to be inclusive and to offer favourable conditions for migrant integration. While residents need to be full Irish citizens to vote and stand in presidential and general elections, or to vote on referenda, all residents - regardless of status - can vote in local elections. We are one of 14 EU states that allow for this. While others, including Belgium, Luxembourg and the Netherlands, impose a condition that a person must be resident for five years - Britain and Ireland, thankfully, have no such precondition.

This has its own challenges, however. It is one thing to allow people to vote, but the real challenge is to ensure that people actually participate in their democracy. There are no reliable national data on registered electors by nationalist groups, but an analysis of Dublin City Council's electoral register was undertaken in 2012. The study found that just 8,068 non-EU nationals in Dublin City were listed in the 2010-11 register of electors. The census shows that there were 32,659 non-EU nationals aged 18 or over living in Dublin. This indicated that only 25% of those eligible to vote were registered, while of within-EU nationals almost 6,400 were registered out of a population of 39,028. This means that just one in six potential EU voters was registered, while the percentage of British nationals registered to vote was 74%.

This study highlights the need for local awareness campaigns. Examples of these are the "Count Us In" campaign run by the Immigration Council of Ireland; the migration voter education campaign led by Dublin City Council; and the "Our Vote Can Make a Difference" campaign managed by the New Communities Partnership and the African Centre. This is particularly important as we approach the local and EU elections next year.

This challenge is not reserved to local elections because an increasing number of non-EU

nationals are receiving Irish citizenship. The number has increased from 4,969 in 2010 to 9,529 in 2011, and an estimated 23,200 in 2012. This is due in part to improving waiting times and a low rejection rate. This poses challenges to ensure that these citizens enjoy the same rights and responsibilities as everybody else.

The important challenge is to ensure that people participate in the decision-making process in this State. Registration drives must be done in different languages and in partnership with migrant communities. Political parties must also make themselves accessible to Ireland's new residents. No party has a monopoly on this issue and we must avoid political point-scoring in this regard. We must make ourselves accessible and open to engaging with migrant communities, not just at election time but also before and after elections.

The challenge is to ensure all residents in Ireland - regardless of where they are from, how long they have been here, or how they got here - feel included and are included in our democratic structures. Progress is being made but we have a journey ahead of us. It is only if the Government takes the lead, with cross-party support, that we will complete this journey.

Deputy Catherine Murphy: We have had important hearings all day at the Committee on the Environment, Culture and the Gaeltacht; it is a pity, therefore, that this matter is being taken on the same day. I realise that there are scheduling issues and that the Minister would not want that to have happened. I must apologise because I have not done an awful lot of preparation on this matter.

Deputy Phil Hogan: There will be other days.

Deputy Catherine Murphy: It is not desirable to do things in this way. Things have been so hectic this week that preparation for this debate has been difficult.

In setting out a reform agenda, much depends on what question is posed. I tend to ask what we do well as a country. I am more than a little concerned, however, that the question being asked about the reform of our political institutions is how we can save money. I think that is where these amalgamations are coming from, which is a pity.

In our own areas we can all see the wonderful community and voluntary work that is undertaken locally. I am afraid, however, that we will miss a real opportunity to rebuild or redevelop our uniquely Irish local government system. I was a councillor in a town that was established in the lifetime of the State. There were only four such towns, three in the 1980s and Tramore in 1948. I realise that is not the subject of today's Bill but one could see the opportunity that presented. It mattered in the community where I lived and had a vested interest in developing.

The county has become the pre-eminent location for local government, yet the county is not uniquely Irish. The county system was developed between the 12th and 17th centuries and was used as a means of control by the crown. That means of control has been retained as the culture that dominates our local government system. It may no longer be the crown, but the Department of the Environment, Community and Local Government still exercises that system of control. As a people, we do not like being controlled; we do our best when there is a certain element of liberty. I realise that there must be control measures within any political system, but positioning the county at the centre of local government is wrong. There is good evidence that that system is not what people identify with.

A study was undertaken by the New Urban Living project at the Department of Sociology

in NUI Maynooth. The researchers found that four things created an attachment to places: the built and natural environment, the cultural character and life of an area, the quality of informal associational life, and the elective belonging. These were the reasons people had chosen to live in a particular area. The study found evidence of a strong attachment by residents to their town and locality. That also applied even those who had moved from outside, which is very much the profile of North Kildare. On All-Ireland final day, people certainly do feel attached to their county, but it is a very different vehicle from a manageable location for building communities.

As part of a UK study, Sir Michael Lyons examined how local government should be reformed there. He surprised himself with some of his findings. He said the function of local government should be about place-shaping and the creative use of power and influence to promote the general well-being of a community and its citizens. We should start by talking about that and looking at the smaller level of place-shaping. One must shape that place where people feel a sense of identity and function well. That is where an opportunity is being missed in terms of the reform programme here. One of the great examples of what works well at community and voluntary level is the GAA which is based fundamentally on the parish or community. Competition may well culminate in September with a focus on the county, but the main platform for the association is at community level. It is the same with the credit union movement and TidyTowns associations. These institutions are incredibly important to discerning what is uniquely Irish and on what we can build our local government system rather than continue to remodel an inherited system which does not play to our strengths. We must develop a local government system which is cost-efficient and effective. It is people's money that is being spent. I am certainly not talking about being wasteful.

The other side to this is what one gets in return and how one builds communities. My practical experience of working at town and county level is that the play-shaping role was more effective at town level. As I say whenever I get the opportunity, a district council model, independent of the county council system, is what we should develop. Some town councils have been too small in the past and there has been resistance to reform. There has been a need for a very long time to reform institutions. However, there are great opportunities also. We need three large regional authorities. Barcelona is an example of how city regions deliver strong economic returns. To amalgamate the County Waterford and Waterford city local authorities is not to create a regional authority. We have regional authorities which are not elected and which most people do not know exist. Sometimes, they perform very useful functions. In particular, the planning function exercised on the east coast has been valuable. Now that spatial plans at county level are consistent with regional plans, a culture which needed to change has changed. We can identify some of our economic failures at that level where we saw an out-of-control, informal approach to rezoning land. It is something that bothered me for a long time.

I do not see the Bill providing for the kind of reform that builds on our strengths. We have an opportunity to build a dynamic new infrastructure which could change behaviour. My experience on Leixlip Town Council which was established in a modern context in 1988 was that it was in many ways very efficient. It was aimed very much at facilitating community development because the community identified with it. It was of the community, which is a consideration we are missing in the proposed amalgamations. We are missing a unique opportunity, which I regret. I hope I am wrong, but the Bill should be opposed from that point of view.

Deputy James Bannon: I welcome the opportunity to speak on the Bill. I thank the Minister for the Environment, Community and Local Government, Deputy Phil Hogan, and the Constituency Commission for their hard work and equitable conclusions within geographical

constraints. On the law of averages, we will see some discontent at the end of the process, particularly in the loss of one MEP serving the country. It was a bit rich of Deputy Barry Cowen to be so critical of this reforming Government when we are suffering from the corruption, fraud and cover-ups committed by former politicians from the Fianna Fáil Party he represents.

An Ceann Comhairle: Perhaps we will stick to what is in the Bill. This is Second Stage.

Deputy James Bannon: They were in collusion with some senior bankers and executives and responsible for the illegal theft of taxpayers' money and the downfall of the economy which we are trying to fix. Every time Fianna Fáil took office in recent years, it dragged us down. I hope the people will be aware of this next year when the local and European elections are held. Fianna Fáil has had a history of centralising everything related to local government and services since 1977. Gone are the days when the Minister for the Environment used to take a pen to a map of the State to trace lovingly and gerrymander a new set of constituencies for the benefit of the party he or she represented. Nobody wants to go back to the Tullymander, although it did not benefit the then Deputy Tully or his party at the time. It was a period when artistic talent was given free rein. Like Oireachtas Members and local authority councillors, MEPs represent the voice of the people by whom they are elected to serve them and implement their will. Their aim is to keep the best interests of the community in mind in making cost-effective and environmentally sound decisions.

I welcome the reforms to local government of the Minister, Deputy Phil Hogan, in particular the way he intends to resource and provide it with more powers. He intends to abolish many of the quangos established by Fianna Fáil in government. He is bringing Leader boards within the control of the locally elected representatives who are best positioned to serve the interests of the people. I am relieved that citizens will no longer remain without legislative representation for uncontrolled periods of time. The Government now fills vacancies within six months, which eliminates the need for redress in the courts. It is interesting to note that six vacancies arose during the 30th Dáil, three of which were eventually filled through by-elections, while the outstanding ones remained vacant. These are issues which should be noted, not forgotten.

Transparency is the essence of democracy. It would be beneficial to hold a public meeting after the Constituency Commission issues its primary report to allow voters to contribute their views on the process. That might go some way towards resolving contentious issues. I welcome, in particular, the provision that a new constituency review will follow each election. This is very important. I was very pleased that the Constituency Commission had retained the *status quo* in my constituency of Longford-Westmeath which had been restored by a previous commission in response to submissions to rectify an unsustainable realignment. This is an historical constituency in the midlands and remains a four-seater.

An Ceann Comhairle: I am sorry, but will the Deputy get back to dealing with the Bill?

Deputy James Bannon: I know that it is the European elections I am meant to be dealing with. However, it is important to note this issue.

An Ceann Comhairle: Yes, it is the European elections we are dealing with.

Deputy James Bannon: The commission has recommended that our European parliamentary constituency be part of the north-west region. This is important because the midlands region has much in common with those counties, particularly in matters such as agricultural development. Ours is a disadvantaged constituency which has little in common with Dublin

and the east coast.

It is essential the democratic process is seen to be impartial and transparent, which brings me to the important bedrock of the electoral register and the urgent need to establish an electoral commission to safeguard electoral integrity. There is a need for a single body to foster integrity and public confidence in the electoral process. This measure was discussed when we were in opposition and I hope we will implement it now that we are in government. I know the Minister is committed to it. The existing state of the electoral register has been found to be unsatisfactory and it has been woefully neglected in the past. The current administration of the system is piecemeal and lacks a cohesive approach. Major discrepancies have been found between it and the published figures in recent censuses. In 2007 alone, it was estimated that there were 800,000 errors in the register. Such errors negatively impact on voter turnout and future registrations.

Ireland's electoral register is patently incapable of being updated and maintained within the existing structures of local authorities. There are 24 registration authorities legally responsible for the register. This is not, however, a core function of local authorities. They have between 700 and 800 programmes to look after and the register lacks priority within these structures. Local authorities have done the best possible job, but the care of the register is not within their remit. This places an undue burden on resources and staff. We must secure the integrity of the electoral process and solve the problems associated with the register of electors and address the necessity for having one overarching body responsible for compiling the register such as the chief electoral officer in Northern Ireland or the Electoral Commission in the United Kingdom.

The consolidation of the electoral registers into one national register, maintained by a single body, would also provide for an overall saving to the taxpayer. Several years ago, as a member of an environment committee delegation, I had the pleasure of visiting the Northern Ireland Electoral Commission and meeting its head, Mr. Douglas Bain. He informed us that the cost of maintaining the electoral register came to approximately £2.5 million, with a further £2.5 million required for the running of elections.

An Ceann Comhairle: I am sorry to interrupt the Deputy, but I have to draw his attention to the Bill.

Deputy James Bannon: This is an important part of the local government system.

An Ceann Comhairle: The Bill deals with the register of electors in respect of a European constituency. We cannot have a general discussion about what should or should not happen to registers. Perhaps that is a matter the committee of which the Deputy is a member could address.

Deputy James Bannon: I am speaking about this issue because the register is very important as it is the same register we use when we go to the polls.

An Ceann Comhairle: I know that it is an important issue.

Deputy James Bannon: It is the same register we use when we vote in European elections-----

An Ceann Comhairle: However, the register of electors is only a related issue.

Deputy James Bannon: -----general and local elections.

An Ceann Comhairle: Will the Deputy, please, return to the Bill? It only deals with local authorities in Limerick and Waterford.

Deputy James Bannon: It is important that I flag the issue in order that we can get it right. I know I have the support of the Minister in this regard. The register should be updated and published yearly, with a system of continuous registration to be devised.

The European elections provide us with an opportunity to look after our emigrants abroad. It is our duty to care for Irish people abroad. It is bad enough to see people having to emigrate without being disenfranchised also. We have many highly skilled workers who are deprived of the right to work and live in their own country. This is not the fault of the Government. We hope to get the economic climate right to which they can come back. We cannot penalise them further by refusing them the right to be part of the democratic process. It is high time, therefore, that we recognised that workers who are forced to leave the country should be entitled to be treated as citizens, with all the rights of citizenship. One of these rights is the right to vote in European parliamentary elections. I would extend this right to national and local elections. Will the Minister examine such a move? This is a practice followed in most European countries and internationally. According to a recent study, 121 countries, including 36 European countries, have put in place mechanisms to allow their emigrants to vote. It is becoming highly unusual that the only non-residents allowed to vote in Dáil and European elections are Army personnel and diplomats stationed abroad. All of our citizens should be provided with this facility. I know that the e-voting machines introduced by the previous Government were a disaster, but with the use of modern technology we could enable emigrants to vote in Oireachtas and European parliamentary elections. We are not too far away from seeing this happen in Ireland.

Democracy is all about the people ruling themselves. It is about encouraging people to take an interest in their society. It is not just a system; it is an idea that has been cultivated. I know that the Government is committed to ensuring better communications with our Parliament. There should be a greater role for our MEPs in the national Parliament. Most other European countries facilitate their MEPs to a greater extent than we do and I would like to see the same happen in this country. Broadening the role of our MEPs should probably have been considered by the Convention on the Constitution. I know it has been touched on, but greater discussion and debate should take place about it.

I thank and compliment the Minister for the Environment, Community and Local Government on the fine job he is doing. He has adopted a hands-on approach, as acknowledged the length and breadth of Ireland among public representatives and communities. He recently visited my own constituency of Longford-Westmeath and the general public very much appreciated what he was doing for local government, communities and, above all, services used by local people.

Deputy David Stanton: I thank the Ceann Comhairle for giving me the opportunity to speak on this Bill which, again, is an important one. It is short, but there are some very important initiatives included in it.

The major change is that the number of MEPs is being reduced from 12 to 11, which means that the constituencies will have to be reviewed. At present, they are quite large. MEPs in the north-west constituency must take into account people living in Kilrush and Moville. It is an enormous area. The areas from Dingle to Tramore in the south and Wexford to Dundalk in the east are also very large. Each constituency, including Dublin, has three seats. If one is

to move to have 11 MEPs, there needs to be a major change and my suspicion is that we will have even larger constituencies. Obviously, we do not know yet and the commission will be independent. As the Minister likes to be radical, will he consider having single seat constituencies or a national list system? I do not know if it is physically possible for people to cover that kind of territory and engage with constituents. I, therefore, challenge the Minister to possibly produce a paper on the pros and cons of and hold a seminar on having single seat constituencies or a national list system in order to get away from these massive constituencies and expecting people to travel to Brussels or Strasbourg and then come back and service a constituency of that size. In practice, one will find that MEPs are located in physically different areas; therefore, in practice, there are smaller boundaries that MEPs will serve, but we need to look at this issue because it would make it far more manageable.

I will digress for a few moments. The Minister knows my views on national elections and Dáil constituencies, for which we should be talking about single seat constituencies. I was perturbed recently at the Constitutional Convention when it spoke about having seven or eight seat constituencies. That would lead to massive competition at local level and one would end up with Deputies spending less time here dealing with national and international issues as they would need to spend more time in their constituencies dealing with local issues, which are within the remit of councillors. We need to rethink on this issue in a significant way.

I welcome the changes to the supplements to the postal and special voters lists, which are important and timely. They give people more time to get on the lists, but we need more advertising of them. We need to let the public know in a timely fashion that they are available. Perhaps we should look how they are structured, as they are quite complicated. There are a range of sections, qualifications and rules. The system needs to be simplified in order that people can avail of the postal and special voters lists in an easier way, but this is a welcome first step that is very important.

At the start of this process, the register of electors will be changed because of the new authorities and there will be new registers. When this is happening nationally, I suggest we consider mandating undertakers to let local authorities know when someone dies in order that his or her name can be taken off the register? It would be a simple thing to do. Surely the undertakers could send a note to the local authority telling it that someone has regrettably passed away. It would be a very simple and easy thing to do. I mention this in the context of the changes to the register of electors. Again, it is an interesting idea.

Mention is made in the Bill of town councils and changes and requirements relating to development plans. The town councils will go, a matter on which the Minister and I have had conversations. We need something to replace town councils with in urban areas in the context of development plans and planning. I note that around the country there has been growth in the number of community councils and know that the Minister is interested in this idea. There are community councils all over the country and they work very well and are democratic. However, they will not be recognised unless they are democratically elected. They do a lot of work such as looking after social services, old and young people and the environment. One could say they do more than town councils which have a narrow statutory remit. I suggest that if we are looking at development plans, as mentioned in the Bill, we need to start encouraging the development of community councils in urban areas which will no longer be served by a discrete, focused town council. This should possibly be looked at and encouraged.

Another issue which arises under the Bill is the disclosure of donations. Again, it is wel-

come that political parties must come forward in the same way as candidates and it is quite important that they do so.

Mention is made in the Bill of candidates who come from other jurisdictions and how they can be validated to ascertain they do not have a criminal record and are eligible to stand for election. This leads to a wider debate about how we can encourage new immigrants to get involved in the political process. If people who come from other jurisdictions stand for election, this might help, but we need to reach out to people who are now citizens of Ireland to encourage them to get involved in the political process by standing for election, including in European elections, either for political parties or as Independents. We had different integration policies and sections at Government level. Now that they have more or less been stood down, it is important that we focus on this issue. It is quite hard to get involved in the political process in Ireland. Even joining political parties can sometimes be daunting for people who do not know what is involved in the process. Perhaps we need to start looking at that issue and talking about democracy and how people can become involved. Many of the people concerned come from other jurisdictions that would, to say the least, have had challenges related to democracy and many of them are quite interested in getting involved. The political system needs to focus on this issue to try to involve them.

I have a point to make on the register of electors, voting and the special voters list. It is slightly off topic, but perhaps the Ceann Comhairle might indulge me when I talk about polling station personnel. I suggest to the Minister that he bring about a situation where individuals could apply for these positions rather than having people in them who are well off and have huge pensions, while persons in receipt of jobseeker's allowance cannot get a look in. If these positions were advertised on an annual basis, people would be able to apply for them and a panel established. This would certainly be of help. It would also be of help if people in receipt of social welfare payments received some dispensation for the period of time they were doing this work in order that it would not impact adversely on their jobseeker's allowance or eligibility for other schemes.

I do not have much more to say. This is important legislation. I know we spoke about having an electoral commission. Perhaps the Minister might give us his views on when that might occur.

The idea of a standing electoral commission to look after elections, referendums and so on has been suggested so at what stage is that?

Deputy Anthony Lawlor: It seems to be funky Friday in here. I was hoping Deputy Catherine Murphy would stay on as she was part of Kildare County Council when I was on it and I have been fighting against certain changes in this type of legislation since they came into being. I will refer to Part 8 of the Bill, which deals with planning development and specifically the Planning Development Act 2000. Within the Bill, there are proposed changes to amalgamate city, town and county bodies and there will be a review of development plans in that process. Within each development plan being reviewed there is a section referring to Part V of the planning Act, and this takes in the social and affordable housing scheme. If the Ceann Comhairle will indulge me, I will speak specifically to this.

2 o'clock

I have been totally opposed to this process since it was introduced by a former Minister, former Deputy Noel Dempsey, as a way of alleviating housing list difficulties in all counties throughout the country. It has failed miserably, and in Kildare currently we have in excess of

5,000 people on lists. If Deputy Murphy had remained she would have known that I argued passionately at the time not to introduce it into our development plan but we were forced to do so as a result of legislation under Part V of the Planning and Development Act 2000. I argued at the time that it did not develop communities but just built houses. It did not develop playgrounds, amenities or sites for schools. Before this, local authorities were doing "deals" - I hate that word - with developers and if there was a possibility of getting a piece of land for a school or playground, there could be a negotiation. In my constituency the McHugh case in the courts struck down that concept, although I thought it was an excellent idea. If a local plan was put in place, it meant local amenities could be sorted out.

This process was introduced by the former Minister, Noel Dempsey, who believed it would solve all the housing problems, but it has failed utterly in doing so. We need to give local authorities some opportunity to start building houses and that will also help generate jobs locally. Many builders are unemployed on a long-term basis and these could be taken from the dole queues. It would also help clean up the black market, where much construction is ongoing.

I know the Minister is part and parcel of a reforming Government and he loves to change things. He recognises that some of the actions of our predecessors were absolutely disgraceful and despicable. Since its introduction in 2000, I have fought against this process with all my body to ensure it could be reformed or removed from the Statute Book. I ask the Minister to consider this and he will have my complete support if he amends the 2000 Act in order to repeal this section. The Minister is reforming and likes good ideas and if we remove this process and allow local authorities to get back to building houses, it will be a positive move not alone for local authorities but for the economy in general.

Minister for the Environment, Community and Local Government (Deputy Phil Hogan): I thank the Deputies who made a contribution on Second Stage of the Electoral, Local Government and Planning and Development Bill. I stated at the outset that this would not be the most Earth-shattering Bill in the world but we have to deal with a number of technical issues that relate to the current reform programme in local government. It also deals with European election boundaries because of the decision of the Heads of Council in recent days, and we are reducing the number from 12 seats to 11. I was interested in Deputy Stanton's comments on the numbers of members and the context of single-seat constituencies. We must divide 11 seats among the population to give fair representation to everybody, amounting to 400,000 people per member. Some parts of the country, particularly in the west and north west, will require a fair bit of geography in order to give that critical mass of population per member. With the best will in the world, there will be a bit of travelling for the member elected in that region. There is a system in place under the Electoral Acts, with an electoral commission similar to that of the Dáil that will consider the matters. I know the Deputy's personal views on matters related to electoral reform, which are being discussed as part of the Constitutional Convention. I will not create a new process with this Bill for the European elections in 2014. Perhaps some of the suggestions made by the Deputy will be in place for the following elections.

I am very committed to the establishment of an electoral commission, which is in the programme for Government. We hope to advance proposals on that in 2014 and it is hoped it will be in place in time for the 2016 general election. A number of Members mentioned the register of electors and in the context of the electoral commission we are considering how to do better in ensuring the citizen is engaged more in the process of being interested in politics and wanting to put their name on the register. Political parties have a role to play in this regard, as Deputy Ferris mentioned. As political parties, we are not as good as we were in going out to meet the

electorate on an individual basis, but there are sufficient communication tools at our disposal to allow us engage with citizens and ensure they do not forget to register. We should make it as easy as possible for them to do so, particularly when it comes to marginalised people in the community and non-nationals. The problem is not unique to those groups.

There was mention of community councils and I am considering the concept in the context of a local government Bill. Many of the suggestions from Deputies Cowen, Catherine Murphy and other speakers are appropriate to another Bill, which will be published in the autumn and enacted before the end of the year. That will be significant legislation and I look forward to the constructive and open engagement from all sides of the House in getting this right. The notion of having the community and voluntary sector empowered with local government through the municipal districts is something of which I am very conscious, and we do not want to create a democratic deficit in any locality that could be filled by other means. There must be a structure in place with the democratic and accountable autonomy of local government that is able to guide the process and ensure a group of people does not come together just to set up a structure to compete with an existing municipal council or district. We must watch out for that and ensure that whatever is established is accountable.

I am very conscious of the need for citizen participation in all aspects of government and there is no better place for it than at local government level. That is why we will ensure, contrary to Deputy Cowen's ungenerous comments, the Government's programme and my personal commitment to devolve as much power and function as we can from national agencies and the national Government to local government. This is the first time with any local government reform package or policy agreed by Government where the first port of call will be local government. There is a capacity in local government but, unfortunately, since the abolition of rates on land and houses in 1977, we have taken all the financial autonomy and wherewithal from local councils. We have not prioritised local resources at a local level, based on the priorities of the democratically elected local councillor. Anybody who has read Putting People First, the action programme for effective local government that was published last October, will see that the intent of the policy document, which will be enshrined in legislation, is to reverse all the bad work and policy done since 1977 as a result of abolishing domestic rates and rates on agricultural land. There were also changes in motor tax introduced in order to get a 20 seat majority in the 1977 election. Moreover, many agencies of the State had activities centralised that should have been going on at local level.

I have reduced the number of agencies from 21 to ten in my Department alone. They were never necessary but, because of the times we were in, it was felt we could solve every problem by throwing money at it or setting up a committee or an agency. That day is over and I will make sure we have, on behalf of the taxpayer, an effective and efficient means of delivery of services without duplication of structures, staffing or any other facet of government, national or local.

I very much support Deputy Lawlor's comments on planning and development matters and I am on record in this regard in opposition as well as in government. I will work closely with the Minister of State, Deputy Jan O'Sullivan, who has the delegated functions in this area, to see what we can do in the forthcoming planning and foreshore Bill, which will be published in the autumn. This will give us an opportunity to consider planning matters and policies that have not worked, such as the Part V provisions, which, as the Deputy rightly pointed out, became developer-led rather than being led by local authorities and their elected members in the interest of the wider community. I subscribe to his comments and I am very much in favour of getting

local authorities back into the business of building houses again in line with what he suggested. They have been pushed aside over the past 20 years from doing the work they were set up to do, which is to generate economic and social activity in their own communities with the help of money from the Exchequer and locally by adopting plans agreed by local authority members to get people working and to deliver services at local level - particularly housing, which is essential to every family - as quickly as possible. I assure the Deputy we are engaged in initiatives that will be based around local government, which will give a stimulus to the construction sector and which will give hope to the people on our housing waiting lists as we attempt to transfer the various financial supports the State gives to the private sector through the RAS and so on into the local government system.

The Bill is not intended as a major review of law. In the electoral area, I have taken the opportunity to address a few provisions, particularly in the context of political funding. Few people acknowledge the fact that we have effectively taken the chequebook out of politics and we have provided more money in the public system while retaining the opportunity at local level for small financial donations to be made to people in the political system to support various small events for local election candidates. The days of vast amounts swashing around in the political system are, rightly, over. There was not a level playing field in this regard in the past and I have sought to improve it.

I thank everybody for their contributions. I look forward to dealing with the remaining Stages and to enacting this modest legislation prior to the summer recess.

Question put and agreed to.

An Ceann Comhairle: When is it proposed to take Committee Stage?

Deputy Phil Hogan: Next Tuesday.

Committee Stage ordered for Tuesday, 16 July 2013.

The Dáil adjourned at 2.15 p.m. until 1 p.m. on Tuesday, 16 July 2013.