

SEANAD ÉIREANN

Déardaoin, 5 Meitheamh 2008.
Thursday, 5 June 2008.

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

Paidir.
Prayer.

Business of Seanad.

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

The need for the Minister for Justice, Equality and Law Reform to establish a transparent system for individuals to monitor their asylum applications.

I have also received notice from Senator Jerry Buttimer of the following matter:

The need for the Minister for Finance to make a statement on the tax incentives as promised and the Government's plans for the Cork docklands.

I have also received notice from Senator Pascal Donohoe of the following matter:

The need for the Minister for Finance to provide an update on plans to provide quality bus corridors in the Phoenix Park and other plans for the park environment.

I have also received notice from Senator Pearse Doherty of the following matter:

The need for the Minister for Education and Science to commit to ensuring the proper dispersion of the student services charge by higher education institutions throughout Ireland and to guarantee that all moneys collected through the student services charge are invested in student services, and not used to pay down institutional debt.

I regard the matters raised by Senators Ross, Buttimer and Donohoe as suitable for discussion on the Adjournment and they will be taken at the conclusion of business. Senator Doherty may give notice on another day of the matter he wishes to raise.

Order of Business.

Senator Donie Cassidy: The Order of Business is No. 1, motion re Thornton prison; No. 2, motion re the Risk Equalisation (Amendment) Scheme 2008; No. 3, four motions back from committee; No. 7, statements on Report of the Joint Committee on European Scrutiny and No. 8, the Civil Law (Miscellaneous Provisions) Bill 2006, Report and Final Stages, to be taken at the conclusion of No. 7.

It is proposed, in regard to No. 1, motion re Thornton prison, that as the joint committee has not completed its considerations on the matter, this be extended to 17 June; No. 2, motion

[Senator Donie Cassidy.]

re Risk Equalisation (Amendment) Scheme 2008 be referred to committee, without debate, at the conclusion of the Order of Business; No. 3, motion re referral to joint committee of proposed approval by Seanad Éireann of a Council Decision on the improvement of co-operation between special intervention units of the member states of the European Union in crisis situations, a proposal for a Council Framework Decision on taking account of convictions in the member states of the European Union in the course of new criminal proceedings, a draft Council Decision on the stepping up of cross-border co-operation, and a proposal for a Council Framework Decision on the protection of personal data, back from committee, be taken without debate at the conclusion of No. 2; No. 7, statements on the report of the Joint Committee on European Scrutiny, entitled “Special Report on the Enhanced Role for National Parliaments in the Lisbon Reform Treaty” be taken at the conclusion of the Order of Business and to conclude not later than 12.40 p.m. — spokespersons may speak for seven minutes, all other Senators for five minutes and Senators may share time with the agreement of the House, and the Minister will be called on ten minutes from the end of the debate for concluding comments and to take questions from spokespersons; and No. 8, the Civil Law (Miscellaneous) Provisions Bill 2006, Report and Final Stages to be taken at the conclusion of No. 7.

Senator Frances Fitzgerald: Can the Leader confirm that the Broadcasting Bill will be taken when we return, which is what our Whip requested last night?

Senator Donie Cassidy: It is proposed to take Committee Stage of the Broadcasting Bill on Wednesday, 18 June, with the agreement of the House. There was considerable interest in it.

Senator Frances Fitzgerald: It is important that adequate time be given to this Bill, which is comprehensive and needs time.

I raise the issue of transport. We have seen from the financial returns to the Government that the country is facing a very serious situation. The wasteful attitude of the Government in regard to many projects and poor decision making will impact greatly on people who need front-line services in health, education and other areas. It now looks as if money is not available for those critical front-line services.

I note that for the first time, Cabinet papers have been released under the Freedom of Information Act and that the former Minister for Public Enterprise, the Leader’s colleague, Deputy Mary O’Rourke, lost a Cabinet battle to link the two Luas lines. This is an example of poor decision making and the folly of not linking those lines is there for all to see. It is a major source of annoyance to commuters in Dublin and will result in huge expense to put it right, probably €70 million.

This week young people in west Dublin going to sit their leaving certificate were delayed getting to school because of massive traffic jams and chaos on the N4 and M50. Even a minor accident apparently leads to total chaos and traffic jams.

I have asked previously for a debate on the national development plan to ascertain how the Government will tackle the new financial situation and to have a discussion with the Minister for Finance on the Government’s priorities at this critical time in the economy given the changed circumstances.

Given the critical nature of the public finances, I propose an amendment to the Order of Business that we have that debate today to discuss the key decision making needed, the poor decision making of the past and the urgent need to examine these issues critically to ascertain how people who wish to avail of front-line services, especially in the areas of health and education, can be protected.

We hear of an increasing number of elderly people not getting the home care packages they need and of an increasing number of elderly people being kept in hospital because the step-down facilities are not in place. Let us invite the Minister to the House to debate the reality of the financial situation.

Senator Joe O'Toole: I am not sure if my question is for the Leader or the Cathaoirleach. We have not had an update on the situation in regard to the building work in the Seanad Chamber and the move to another location. I tried to get an update recently but I got nowhere. I do not want us to be caught between two stools. Nothing seems to be happening and I cannot get any information that anything has been put in place so that work can start the day the Seanad adjourns for the summer recess. I would like reassurance in this regard because the House was informed it would move only if work was being done, that it would begin on time and would finish within the year. That was discussed and the Committee on Procedure and Privileges reported back to the Houses. It is crucial the issue is clarified.

I have often raised the difficulties of the fishing industry. I know it is not a very popular issue and that people do not get excited about it as they do with other issues in the eastern part of the country. We sold out the fishermen with the first national economic programme in the 1950s, we continued to sell them out in the negotiations prior to joining the EEC in 1972 and we have been trying to fight our way back since then. Last year we unnecessarily stopped drift net fishermen from salmon fishing. There is also an initiative to buy out fishermen. All of the above have caused the death by 1,000 cuts of one of our most traditional industries.

With the increase in the price of diesel and the restricted quotas, boats are tied up because they cannot afford to go out. Even if they catch their maximum quota, the cost of diesel for small trawlers — it could increase to almost €2,000 per week — means it does not pay for the running of the boat. There is something significantly wrong and the Government must intervene. That problem was created prior to us joining EEC. Perhaps we could ask the EU to take us out of the mess into which we got ourselves more than 30 years ago. Owing to the restrictions on the Irish fishing industry, it will die before our eyes if we do not get help from somewhere. I ask people to show support for the fishing industry.

Senator Alex White: Will the Leader ask the Taoiseach and the Minister for Finance to address quickly the serious and genuine issues raised by SIPTU, the largest trade union in the country? Mr. Jack O'Connor has clarified the position of the union in a letter in *The Irish Times* today. I draw the attention of the House to this most important letter and ask the Leader to raise its contents with the Taoiseach as a matter of urgency.

In recent days, the ICMSA and the IFA have had talks with the Taoiseach, whether over tea and buns in Tullamore or somewhere else. Useful work was done at those meetings and the farming organisations thankfully have recommended a “Yes” vote in the Lisbon treaty. Regrettably SIPTU has not yet found it possible to recommend a “Yes” vote in the treaty, although the Irish Congress of Trade Unions has. Will the Leader raise with the Government as a matter of urgency the question asked by Mr. Jack O'Connor and SIPTU last week? They were portrayed in some quarters of the media as almost demanding legislation or constitutional change within ten or 12 days of the Lisbon treaty or else they would not support it. That is not what they have sought.

On the question of trade union recognition and the fall-out from the unfortunate Ryanair decision in the Supreme Court, which has arguably undermined the role and power of trade unions, Mr. O'Connor said:

We have made no demand for a Government declaration to implement “statutory union negotiating rights”. Our position is that we will support the Lisbon Treaty if the Government

[Senator Alex White.]

commits to legislate for an entitlement to the benefits of collective bargaining for workers (and, by implication, prohibition against discrimination for seeking to organise to achieve it).

It is a perfectly reasonable request that trade unions should be entitled to organise and to have employers listen to their genuine concerns and views when they are raised on the shop floor. That power and entitlement has been undermined by the Ryanair decision. The unions are entitled to have that revisited and I ask the Taoiseach to address that issue as a matter of urgency. It may mean a commitment on the part of the Government to amend the 2001 and 2004 Acts in order that the definition of “collective bargaining” is clarified in legislation and that we can reverse the worst effects of the Supreme Court decision in the Ryanair case.

Senator Déirdre de Búrca: I agree with the points Senator Alex White raised. This morning’s bookies odds on a “No” vote in the Lisbon treaty are worrying. The bookies have improved the odds of a “No” vote.

Senator Jerry Buttimer: Is the Senator giving us a tip?

Senator Déirdre de Búrca: Those of us who are concerned about the Lisbon treaty and who want it ratified need to look at those constituencies which are concerned about the possible implications of ratifying the treaty with a view to reassuring them. It appears the Taoiseach reassured the farming community to such an extent that the president of the IFA, who addressed the Oireachtas Joint Committee on European Affairs yesterday, has said he is calling very willingly for a “Yes” vote and that the IFA will do all it can between now and the day of the referendum to ensure farm families support the Lisbon treaty.

SIPTU is a very respected trade union which has raised issues of concern to workers. The letter in *The Irish Times* makes it clear that it is looking for similar reassurance on the intentions of the Government on protecting workers’ rights and not any cast-iron guarantees or legislation which would be rushed through between now and the referendum date.

This is a very important issue because we were discussing the Charter of Fundamental Rights yesterday in the House. It was pointed out that rights are enshrined in that charter which protect the rights of businesses to establish themselves in any part of the Union — as well the fundamental rights of workers and citizens of the European Union. Unfortunately, several recent judgments of the European Court of Justice indicate a tendency to give precedence to the rights of business over those of workers. These are complicated cases and it is difficult to make a clear interpretation of the basis on which those rulings were made, but the point made by Senator Alex White is valid. If the unions, and particularly SIPTU, can be reassured on the issue it has raised this would encourage many people who have traditionally supported the European Union to back the Lisbon treaty.

I welcome the launch this morning of the Dóchas report — Dóchas is the Irish association of non-governmental development organisations — into the issue of disability and international development. The report points out that people with disabilities form approximately 10% of the world’s population. Some 80% of disabled people live in developing countries and form the world’s largest minority. This report makes a compelling case for integrating the whole issue of disability into international development policy. Given that Ireland is the sixth largest international aid donor *per capita* in the world, there is an opportunity to lead international efforts towards truly inclusive development by integrating disability fully. I ask the Leader of the House to invite the Minister of State with responsibility for overseas development aid to debate this issue with us in the Seanad.

Senator Paudie Coffey: I, too, support Senator O'Toole in his call for the Government to engage with the fishermen. Fisheries is a traditional industry that has served this country very well. However, fishermen feel very neglected by the manner in which they have been dealt with by Europe. This is, perhaps, a downside for Europe, and I hate saying this, but it provides material for debate on both the "Yes" and "No" sides on the Lisbon treaty. They feel isolated and neglected and I call on the Government to engage with them at this difficult time because their basic incomes are under threat and they need support.

Many Senators spoke yesterday about road safety and there was some debate on the issue. I support those Senators who are calling for the Minister for Transport to come before the Seanad so that we may have a detailed discussion on road safety. Road safety depends on three factors, one of which is the conditions of drivers. All drivers must have a certain amount of responsibility. A number of issues arise, including drink and drugs and people driving under the influence of those substances; the issue of speed, which was discussed yesterday, and the roll out of speed cameras around the country; and the issue of road fatigue.

One of the first subjects I addressed on the Order of Business in this House was fatigue on the roads and the lack of rest service stations on national primary routes for road hauliers and regular road users. It is very dangerous practice to expect people to drive long routes without any facilities for rest. I again ask the Leader to intervene with the Minister for Transport and call on him to address the Seanad on this issue. The condition of our roads might also be addressed. I congratulate the Government on the new bypass at Carlow. It is a marvellous piece of infrastructure and is certainly very welcome for drivers approaching Dublin from the south-east. However, the state of the local and regional roads leaves a great deal to be desired. There are many dangerous bends and junctions that cause serious accidents and deaths on a daily basis throughout the country. I ask the Leader to persuade the Minister to address the Seanad on how he proposes to invest in these roads. Any time representations are made to local authorities, the immediate response is that they do not have the resources to deal with these roads. Many of them are roads inherited over many generations, but they are not adequate for the traffic levels and vehicles on them today. If we are serious about reducing road deaths and carnage these are the issues we must address.

Signage, one of the basic requirements of any good road system, is abysmal in this country. As we approach the main season for tourism, we can see the total deficits and lack of adequate caution, hazardous and even directional signage everywhere. It is a debate that is urgently needed in this House.

Senator Mark Daly: I apologise on behalf of the Irish people to the Spanish ambassador and the people of Spain for the refusal of the Irish Coast Guard Service to let him visit the marine rescue and co-ordination centre at Valentia. I raised this yesterday on the Order of Business, but since then I have learned that the director of the Irish Coastguard Service, Mr. Chris Reynolds, in a Radio Kerry interview, said he would not allow the Spanish ambassador in because it is an operational facility. He said it was a workplace, and as such, it would not be appropriate to let him visit.

However, I have been informed this morning that on 13 April, this year, a group from the RNLi in Dorset, England, was allowed to visit the facility. In addition, some 15 people from Estonia's department of the environment were allowed to visit the marine rescue and co-ordination centre at Valentia. This exposes the lie and the excuses made by senior management for not allowing the ambassador to visit the centre. The real reason, of course, is because senior management is well aware that Spanish lives will be put at risk if the centre is closed and there will be a loss of Spanish speaking rescue co-ordinators, who will effectively be retired if Valentia closes.

[Senator Mark Daly.]

The Spanish ambassador's visit would have highlighted Spain's concerns if Ireland closes this facility. On behalf of the Irish people I wish to apologise for insulting the Spanish ambassador.

Senator Ivana Bacik: Since everyone has been mentioning the Lisbon treaty this morning, with Senators on the Independent benches coming out of the closet to indicate the way they shall be voting, I declare that I shall be voting "Yes" .

Senators: Hear, hear.

Senator Ivana Bacik: I note with concern, however, that a commentator remarked in the newspapers last week how few prominent women were coming out on the "Yes" side. This is yet another indictment of the very poor pro-treaty campaign being run by the Government. The strongest arguments in favour of the "Yes" position have come from the Opposition. The Government needs to be doing much more in the last few days of the campaign, in particular, putting women forward to argue for the "Yes" side, because they comprise a large group of undecided voters at this point.

Senator de Búrca commented on the odds in favour of the "No" side. I notice one punter placed a bet of €10,000 on the "No" side to win, so let us just hope he or she got it wrong.

Senator David Norris: Was it in sterling?

Senator Ivana Bacik: We do not know whether it was a sterling bet, of course.

Senator Jerry Buttimer: It was each way.

An Cathaoirleach: Senator Bacik, without interruption, please.

Senator David Norris: The implication is that the betting shop was in Drumcondra.

Senator Jerry Buttimer: Is that where the BT account is located?

An Cathaoirleach: Senator Bacik, without interruption, please. She is not interrupting anyone else.

Senator Ivana Bacik: The arguments in favour of the Lisbon treaty are very strong, from a feminist perspective, particularly because of the Charter of Fundamental Rights, and also because of what the European Union has done to date in terms of promoting gender equality. That is very important and needs to be put on the record. However, it is also important to stress that the treaty will facilitate further expansion of the EU eastwards. That is something all of us should very much support and be in favour of. It is another reason for supporting the treaty, although I was slightly hesitant in declaring all this because I backed Hilary Clinton and——

Senator David Norris: Shame.

Senator Ivana Bacik: ——it has been proven this week to be the wrong course, so perhaps I shall not be putting any bets.

On a more serious note I want to ask the Leader for a debate on No. 21 on the Order Paper, a motion which I have table dealing with the issue of genital mutilation. A report has been published by the Women's Health Council of Ireland calling for legislation. It is a literature review which is examining this issue and which is particularly serious for women in developing countries. It is becoming increasingly serious in Europe for women who come here from other

countries. Female genital mutilation, or cutting, is a brutal practice, which needs to be outlawed and specifically criminalised, even in European countries. I have been active on a campaign to do that. I have a motion on it before the House and the women's health council is again saying that specific legislation is a necessary, although insufficient element, to counter this barbaric practice in this country.

Senator Ivor Callely: I listened with interest to the proposal from the leader of the Opposition with regard to the amendment of the Order of Business. I hope the Leader sees no great problem in accommodating such a debate. I am not sure I agree, however, with the urgency for it today. We all know there has been a slow-down in the economy and that this has impacted on tax revenue.

However, it is important that everybody recognises the positives and the progress made in the past decade. While Senator Frances Fitzgerald touched on infrastructural issues, she did not mention our low tax base or our tremendous progress in regard to unemployment. Many other positive things have been done. There has been huge investment in infrastructure. We know there are challenges ahead and that we must confront and overcome them. We must learn from the past and consider how best we can overcome problems in the future.

If we are to have such a debate, it should be meaningful and we should be informed when it will take place, what Member of Government will participate in it and the time allocated to each speaker so that we can put forward new solutions to these challenges.

An issue I raised previously is what mechanism exists to assist the Leader in responding to issues raised by Senators on the Order of Business? What type of co-operation and co-ordination exists between the Departments and ministerial offices with which the Leader must communicate? I am somewhat at a loss to understand why on many occasions it takes weeks or months to get a response in respect of an issue raised on the Order of Business.

I have also asked the Leader if he will obtain from the Department of Health and Children a detailed outline in regard to its policy for accident and emergency departments and if he will ascertain from the HSE the mechanism through which such policy is implemented, the criteria and supports in place in this regard, in particular in respect of each accident and emergency departments in Dublin. What co-ordination exists between departments in this regard?

Senator Eugene Regan: On the Lisbon treaty——

Senator David Norris: A Lisbon lecture, take 18.

An Cathaoirleach: Senator Regan without interruption, please.

Senator David Norris: We know he is not going to be interrupted.

Senator Rónán Mullen: Senator Regan may be going to call for a “No” vote.

Senator Eugene Regan: I would like to speak briefly about our reason for having a referendum on the Lisbon treaty.

An Cathaoirleach: Those Senators who continue to interrupt will not be called to speak on the Order of Business. I will not allow Senators who continue to interrupt another Senator while making a valid point to speak as they will have said enough during their interruptions.

Senator Eugene Regan: The UK constitutional structure is that sovereignty resides in the Crown through parliament. In the Irish constitutional set-up sovereignty resides with the people. This is the reason we are having a referendum in Ireland and the UK is not.

[Senator Eugene Regan.]

I say this because whether Tony Blair or Gordon Browne promised a referendum in the United Kingdom is a matter of domestic politics there. It is not an issue which should influence the referendum in Ireland. The reality is that even if the UK did hold a referendum it could be over-ridden given the principle of supremacy of the UK parliament. In Ireland, changes to the Constitution are decided by way of referendum. I say this because we have been subjected by the British press in Ireland to a barrage of criticism in respect of the Lisbon treaty, in particular in *The Sunday Times* by representatives of a UK-based organisation, Open Europe which is apparently linked to the UK Independence Party. I accept the right to free press. However, we should know from where these viewpoints are coming.

11 o'clock

Senator Joe O'Reilly: Hear, hear.

Senator Eugene Regan: The UK Independence Party wants out of Europe. I do not believe the Irish electorate should be influenced in terms of the referendum on the Lisbon treaty by UK propaganda. We fought long and hard for our sovereignty. It is our decision and it should be based on Ireland's interests. It is important we bear this in mind. We should not be influenced on this issue by the propaganda of the UK press.

A Senator: Hear, hear.

Senator Eugene Regan: I ask that the Leader bring this point to the attention of the relevant Minister who has read the Lisbon treaty.

Senator Mary M. White: Last week, I spoke at a women in business conference in the midlands which was encouraging women to start up their own businesses. I took poetic licence to speak on the issue of the Lisbon treaty and reminded them — many of whom were quite young and under 40 years of age — that prior to our joining the EU women in the private and public sector had to give up their jobs when they got married. Following an appeal to them for a “Yes” vote on the Lisbon treaty I received a great round of applause.

The Leader stated earlier that Committee Stage of the Broadcasting Bill 2008 has been postponed until 18 June. This is the fourth time arrangements have been made for a discussion on issues affecting older people. The programme for Government is committed to giving people choice in regard to the age at which they retire. It is a denial of the human rights of older people in the private and public sector that they must retire from their jobs at aged 65 years. It is urgent we have a debate on older people.

Women were denied their human rights when they had to give up their jobs following marriage. The Minister of State at the Department of Health and Children with special responsibility for older people, Deputy Máire Hochtóir, is willing and able to participate in such a debate. Yesterday, I spoke to Deputy Barry Andrews, Minister of State at the Department of Justice, Equality and Law Reform with special responsibility for children. He is looking forward to coming to the House to discuss children's issues. I want to know what the Government proposes to do in respect of child care subventions and other proposals currently on the table. Older people and children are the least looked after in our society. Their human rights are being denied.

In my experience, young women are worn out trying to work and take care of their children. A Bill in respect of flexible working time drawn up by me was not pushed through despite it being accepted at the partnership meetings. The reason for this is that not enough women sit at the Cabinet table; it is dominated by men. With all due respect, this is a man's club.

Senator David Norris: No, it is a gentleman's club.

Senator Mary M. White: It is a man's club. One has only to look at how hard it has been for Hillary Clinton to break through——

Senator David Norris: To get off stage.

An Cathaoirleach: Senator Mary White without interruption, please.

Senator Mary M. White: I had better be careful not to say too much more. I fully supported Hillary Clinton.

Senator Rónán Mullen: She still did not get through.

Senator Mary M. White: I hope that Barack Obama's committee has the vision to put Hillary Clinton on ticket. My husband has made a bet with me that it will not.

Senator Jerry Buttimer: At the risk of embarrassing anybody, I would like to second Senator Fitzgerald's amendment to the Order of Business.

Yesterday, the Leader got rather nasty with me in regard to my comments in respect of the budgetary position. However, I accept the cut and thrust of politics and the Leader's position. We now have a budget deficit despite the Government having had a surplus this time last year of €260 million. The former Minister for Finance and current Taoiseach, Deputy Brian Cowen, told us we could not be trusted with the economy. How dare he and how dare he insult the people of Ireland. Where did that surplus go?

An Cathaoirleach: Is the Senator seeking a debate on the matter? He should make his point.

Senator Jerry Buttimer: We have had a €2 billion surplus during the lifetime of this Government. The Government is a little like Tom Thumb sitting on its hands while having its fingers in the pie. It is time we had an urgent debate not alone on the national development plan but on the economy. I want to hear what the Green Party Members have to say on the programme for Government which is now in tatters.

Senator Donie Cassidy: I will let them lose on the Senator if he wants.

Senator Jerry Buttimer: It is in tatters.

An Cathaoirleach: The Senator has made his point.

Senator Jerry Buttimer: I remind the Members on the Government side that the cutbacks being introduced hurt the poor, the old, the disabled and the young and it is on their heads.

Senator David Norris: This is the last day we will have an opportunity to discuss the Lisbon treaty. For this reason the debate we will have this morning is important. This is the first time I have committed myself against the treaty. It is important that I am allowed to state this. The people taking a conscientious position on the "No" side have been abused, misrepresented and treated with a fair amount of contempt. A good number of threats have been made against the people exercising their democratic right.

Senator Joe O'Toole: No, there have not.

Senator David Norris: Yes, there have, including by the President of the European Commission, Mr. Barroso, who stated we would pay for it. I wish to ask a couple of questions.

An Cathaoirleach: I hope the Senator is not suggesting that wrong words were used in this House about people opposing the Lisbon treaty.

Senator David Norris: It depends. I am not that sensitive. However, being called a flake is not a compliment. I am not getting all dithery about it. One can call me a flake if one wants. I may be a “loo-la” but I will ask questions that the Government side, and in particular the Leader, does not like answering.

Senator Rónán Mullen: The Cathaoirleach himself asked that the word be withdrawn.

Senator David Norris: We have known for sometime that the Taoiseach, Deputy Brian Cowen, has not fully read the treaty. We then discovered the Commissioner has not fully read the treaty and stated that anybody who did would be an idiot. This was glossed over by stating, as I pointed out previously, that Members of the Dáil voted for the treaty not having read it. The Minister for Finance has read it, however, and this is what allows him to commend the treaty.

It has got worse and this is why I want to ask these questions. We now know a member of the Referendum Commission, Mr. Justice Iarfhlaith O’Neill, does not understand it either. He was asked about neutrality and after some hesitation he stated that action must be consistent with Ireland’s policy of neutrality. He then went into the question of moving from unanimity to qualified majority voting and he stated, “It’s quite difficult to be precise about what that means. There certainly is not a precision about it whereby we could say it applies to A, B, C or D.” I make this point as a preface to asking these questions again. We have a Taoiseach and Commissioner who have not read it and a member of the Referendum Commission who does not understand it. However, the Irish people are expected to vote for it.

We have expanded the Petersberg tasks to include permission to intervene in the war against terror in third countries. This is very worrying. Can we have answers on this? Can we have answers to the questions I asked about the European armaments group, coyly renamed the European Defence Agency, and whether Ireland will be committed to budgetary spending to get into the international arms trade which is the specified intention of the European Defence Agency to go into competition with the United States of America? The Irish people are fully entitled to know this.

I applaud my colleague Senator Bacik for taking her position but I will state this. It will not only be men who are involved in these military adventures. Women will also be involved. Many women in this country will not want us to go down this road. With regard to neutrality——

An Cathaoirleach: Senator Norris has made his point.

Senator David Norris: Fianna Fáil never had a principled position on neutrality and de Valera was pragmatic when he adopted it. Fine Gael would walk us into NATO if it could and it is perfectly open about it. The problem is that the Irish people——

An Cathaoirleach: This is not relevant to the Order of Business.

Senator David Norris: ——have a principled commitment to neutrality and this is the problem that politicians have. They want to get around the Irish people but they will not.

Senator Dan Boyle: It was pointed out that this is the last opportunity for the House to discuss the Lisbon treaty prior to the country voting on it. The arguments have been made in the House advocating a “Yes” or “No” position. On responding to today’s Order of Business, will the Leader make one last attempt to encourage all voters in the country to participate in

the referendum? It is important to have as high a turnout as possible and that the intervening days are used as much as possible for people to hear both sides of the argument.

I happen to be advocating a “Yes” vote, having advocated a “No” vote on previous treaties. I explained to the House why this is and one of the reasons is that having advocated a “No” vote and seeing my arguments not accepted by the Irish people I do not see the point in making those arguments again. It is time to move on and consider this treaty as a separate international instrument.

Senator Maurice Cummins: The Senator is in Government now and that is the difference.

Senator Dan Boyle: With regard to the possible economic competence of the Opposition party, which was already raised on the Order of Business, when the Irish electorate judges this they know who was in Government when we had the highest rates of inflation, unemployment and borrowing. They make their judgments accordingly.

Senator Frances Fitzgerald: Inaccurate.

An Cathaoirleach: The point is made.

Senator Dan Boyle: In a historical context, when we have the opportunity of discussing this in the House at the earliest possible date we will see quite clearly——

Senator Jerry Buttimer: What will Deputy John Gormley do at the Department of the Environment, Heritage and Local Government?

Senator Dan Boyle: ——that despite the current economic slowdown we still have growth rates which do not exist in other economies with levels of investment that deliver on infrastructure.

Senator Jerry Buttimer: Go back to the organic farming.

Senator Dan Boyle: However poor the situation might get over the next 18 months, there is a belief that if others were in Government, they would be worse.

Senator Frances Fitzgerald: Look at accident and emergency services and front-line services.

Senator Jerry Buttimer: The Green Party intervened and fought with cabbages.

An Cathaoirleach: Senator Cummins, without interruption.

Senator Maurice Cummins: It is difficult to listen to this when we have seen the worst deterioration in Government finances in the history of the State.

Senator Jerry Buttimer: With the Green Party in Government.

Senator Maurice Cummins: I wish to speak about the delay in administering the nursing home repayment scheme. What is happening is a disgrace. People who applied in 2006 have not been informed yet whether they will receive money. Others were written to and advised their applications were mislaid and others were sent application forms suggesting their applications were incorrect, which is not right. Will the Minister lay before the Houses of the Oireachtas a report on the nursing home repayment scheme detailing what has been paid, how many applications have been received and what the position is with regard to repayment? Is a quota system per month in operation? People want to know.

[Senator Maurice Cummins.]

What is the situation with regard to the fair deal legislation which was promised more than 12 months ago? Every time we inquire about this, we are told the Bill is coming soon. I hope it will not be sprung on us in the last week prior to concluding our business and rushed through the Houses of the Oireachtas. It needs to be debated. Is the Leader in a position to indicate when we will have the Bill? Will we have it prior to the summer recess or must we wait further? People are in limbo with regard to subsidies for their elderly parents and relatives and they do not know where they are. It is about time the Government clearly indicated what it intends to do in this area.

Senator Feargal Quinn: I welcome today's debate on the Lisbon treaty. It is interesting to see that of the six Independent Senators, four have already declared with two voting "Yes" and two voting "No". I believe the other two of us will declare today. I have been fastidious in my studying of the treaty. I am a member of the Forum on Europe and have attended practically every meeting. I am also a member of the Oireachtas Joint Committee on European Affairs. I intend to announce today that I will vote "Yes" and I will discuss that later during the debate on Europe.

In spite of the budget difficulties, I recommend to the Leader that he advises the Government and the Minister for Finance not to endanger the investment in education provided for in the national development plan, particularly in regard to technology and science because our future depends on that. I was impressed as I entered a car park of which I am a registered member recently because the barrier opened before I reached it and as I left the car park, the barrier also opened. This is due to modern technology called vehicle registration identification which enables the machine to read the car registration as it approaches the barrier and it opens automatically. The reason I mention this is Senator Coffey referred to speed cameras and speed limits. Vehicle registration identification is a perfect way of ensuring speed cameras work in a totally different way from what we are used to in cases where people speed up and slow down. This technology could be deployed on every road in Ireland in speed cameras. As one travels between cameras, if one has reached the next camera quicker than one should have, one could be challenged in court immediately.

I was approached by a citizen, Neville Brennan, with a suggestion recently. In the case of the new Eazy Pass for all tolls in Ireland, would it not be a great idea to give people the opportunity to attach the pass to their tax discs? They could have the option to use it. The concept of using technology to do that is worthy of consideration and I intend to pass on that suggestion to the Minister for Transport because it is one sure way of using technology to reduce costs while being of huge benefit to citizens.

Senator Joe O'Reilly: I support the amendment to the Order of Business to hold a special debate on the economy with specific reference to the national development plan and frontline services. Economic storm clouds are gathering and we have had three concrete pieces of evidence in recent times——

An Cathaoirleach: If the Leader agrees to the debate, the Senator can raise these issues.

Senator Joe O'Reilly: On the basis of the Davy Stockbrokers report, the FÁS projection that one quarter of building workers are about to lose their jobs and the shortfall in taxes of €430 million in May, the debate is warranted and urgent. The Government must accept responsibility for the lack of money following the boom and the lack of improved public services, which also merits debate. In debating the NDP, will the Leader take into special consideration two issues? The rail system should be developed and no expenditure cuts should apply to its development

considering our responsibility relating to carbon emissions and quality of life issues. From an economic, social and quality of life perspective, the rail system is critical. I also support Senator Quinn regarding education and investment in research at third level. I appeal to the Leader to schedule the debate rather than dividing the House in order that we can gain a perspective on this crisis.

Senator John Hanafin: I would welcome a debate on the economy, although not necessarily today. I am conscious of how citizens view a Government in given circumstances. The markets collapsed in America in 1929 but it was not until 1930 that the economy went into severe decline and it was 1932 before this affected Europe. That was a different time and place. A Fianna Fáil Government was elected in 1932 and it was in office for 16 years. The reason it stayed in power in the midst of the depression was it looked after all the people to the best of its ability. In more difficult times, which are not a depression, Fianna Fáil and the Government will continue to look after all the people to the best of their ability and will be thanked by them accordingly.

Senator Dominic Hannigan: I join Senator de Búrca in welcoming the report *Dóchas* published earlier. The organisation appeared before the Sub-Committee on Overseas Development last week. Its work is excellent and it is another sign that if we contribute more to overseas development, we will achieve results and we will help to ensure aid reaches the right places.

I agree with Senator Mary White's comments on the involvement of women in politics. I have mentioned previously women comprise only 10% of the Cabinet, which is clearly not enough. Ireland has the second lowest representation of females in government in Europe with only Malta behind it. However, males are not prevalent in some aspects of society. This year fewer males are sitting the leaving certificate examinations than females. Young male underachievement and participation in school are major issues. Will the Leader arrange for the Minister for Education and Science to come to the House to discuss how he is encouraging young males to stay in school because this has implications for crime levels and achievement?

Senator Paul Bradford: I agree with Senator Alex White's call on the Taoiseach to clarify the issue of concern to SIPTU regarding the Lisbon treaty. We were happy when clarification issued to the IFA earlier this week and the assurances given allowed the association to come on board to support the treaty. The key issue affecting unions and workers is that we will continue to have a strong economy and create and retain jobs. Jobs are very much at the core of the debate on the treaty and the strongest assurance that can be given to workers and future generations is that the treaty and Ireland's deep, ongoing involvement in Europe will be the best way forward for the economy and of ensuring jobs will continue to be created in the numbers they wish. The passage of the treaty is the best guarantee of job security and job creation.

Senator Donie Cassidy: Senators Fitzgerald, O'Toole, Callely, Buttimer, Boyle, Quinn, O'Reilly and Hannigan expressed strong views on matters pertaining to the NDP and the challenges facing the Government. A debate will take place and, hopefully, the new Minister for Finance will attend at the earliest time.

Transport matters were highlighted by Senator Fitzgerald and Senator Quinn referred to speed cameras. I will endeavour to have the debate on that matter take place at the earliest opportunity.

Senator O'Toole sought an update on the proposed transfer of the Seanad from this Chamber to another part of the House. The Cathaoirleach will endeavour to establish the up-to-date position and come back to the Seanad on Wednesday, 18 June. I share Senator O'Toole's

[Senator Donie Cassidy.]

serious concerns. It was our clear understanding under the Cathaoirleach's stewardship that we would not leave the Chamber until work had commenced on the main building and we are all in agreement with that.

Senators O'Toole and Coffey raised their great concerns for the fishing industry. This has been highlighted many times by Senator O'Donovan. We are all concerned about this industry and I have no difficulty arranging such a debate. Senators Alex White, de Búrca, Regan, Norris, Boyle and Bradford all expressed their concerns and asked for the Taoiseach to look at the statement by the president of SIPTU, Jack O'Connor, in *The Irish Times* this morning to try to allay the fears of the workers in SIPTU. As a total of 40% of the members of SIPTU are Fianna Fáil, we will certainly pass on the views of the Senators to the Taoiseach after the Order of Business this morning.

In respect of the Dóchas report and people with disabilities, I certainly have no difficulty in having time left aside for a debate on this. Senator Coffey spoke about road safety, drivers, drink and drug driving and the challenges that face everyone out there. As I said earlier, I have no difficulty in having a debate on this, particularly in respect of county roads and bad bends. If the machinery, staff and employment are in place from November to January in some counties when work is scarce and money tight, one could do a lot with a digger and few trucks in respect of clearing the view on some of the bends if the finances do not otherwise exist. Members of the Opposition would know because nearly all the councils are under Opposition stewardship. To assist the Opposition in respect of this, I can say that we do this in Westmeath and it is very successful. We can get a considerable amount of good safety work done in those quiet months of the year.

Senator Daly highlighted his serious concern and made an apology to the Spanish ambassador in respect to the serious matters the Senator put on the record of this House. In my 27-year membership of the House, I have not heard a Senator make such a strong statement on behalf of the Irish people on many occasions. I have started inquiries following the highlighting of this incident yesterday and am awaiting a response to the serious position in which the Spanish ambassador found himself in respect of Valentia coast guard station which was highlighted by Senator Daly. Hopefully, we will have an update on this for the House on Wednesday, 18 June 2008.

Senators Bacik, Regan, Mary White, Hannigan, Norris and Quinn all spoke about the Lisbon treaty, while Senator Mary White spoke about the votes of women. It concerns the votes of women of all age groups and we should not be ageist in this respect. To reply to Senator Hannigan, I understand that 20%, not 10%, of the Government is female. I also understand that people are appointed to these positions on ability rather than gender, which is the way it should always be. Having said that, I certainly will pass on to the Minister the views of the Senators.

In response to Senator Bacik, I have no difficulty in having female genital mutilation debated here at some time in the near future. Senator Callely again asked me about issues relating to the HSE and the Department of Health and Children. When I get inquiries of this nature, I pass them on to the Minister in charge and I await a response like everybody else. Naturally, I get priority in respect of these matters but the method in the Dáil is different from that in the Seanad. I suggest that any Senator who is not familiar with Standing Orders should familiarise themselves with them. My door is open if they then wish to discuss any part of those Standing Orders they wish me to take to the Committee on Procedure and Privileges, and I will be only too pleased to do so.

Senator Cummins inquired about the fair deal legislation. This is the health (long term residential care services) Bill which the Seanad knows is to provide for a new structure of financial support for persons requiring residential care in public and private nursing homes. I understand this is at a very advanced stage before publication. It is only a matter of weeks, and possibly not even that, before it will be published. I will come back to the Senator when I get an update on this. I agree with the sentiments expressed by Senator Cummins here this morning in respect of the urgency of this matter.

An Cathaoirleach: Senator Fitzgerald proposed an amendment to the Order of Business, “That statements on the public finances be taken today”. Is the amendment being pressed?

Senator Frances Fitzgerald: Yes.

Amendment put.

The Seanad divided: Tá, 18; Níl, 24.

Tá

Bacik, Ivana.
Bradford, Paul.
Buttimer, Jerry.
Coffey, Paudie.
Cummins, Maurice.
Doherty, Pearse.
Donohoe, Paschal.
Fitzgerald, Frances.
Hannigan, Dominic.

Mullen, Rónán.
Norris, David.
O'Reilly, Joe.
O'Toole, Joe.
Phelan, John Paul.
Quinn, Feargal.
Regan, Eugene.
Ross, Shane.
White, Alex.

Níl

Boyle, Dan.
Brady, Martin.
Butler, Larry.
Callely, Ivor.
Cannon, Ciaran.
Carty, John.
Cassidy, Donie.
Daly, Mark.
de Búrca, Déirdre.
Ellis, John.
Feeney, Geraldine.
Hanafin, John.

Keaveney, Cecilia.
Leyden, Terry.
MacSharry, Marc.
Ó Domhnaill, Brian.
Ó Murchú, Labhrás.
O'Malley, Fiona.
O'Sullivan, Ned.
Ormonde, Ann.
Phelan, Kieran.
Walsh, Jim.
White, Mary M.
Wilson, Diarmuid.

Tellers: Tá, Senators Maurice Cummins and Paudie Coffey; Níl, Senators Déirdre de Búrca and Diarmuid Wilson.

Amendment declared lost.

Senator Donie Cassidy: In view of the time frame and the vote, I propose that the discussion on No.7 be extended to 1.15 p.m. and that No. 8, the Civil Law Miscellaneous Provisions Bill, Report and Final stages, be then taken.

Order of Business agreed to.

Prison Building Programme: Referral to Joint Committee.

Senator Donie Cassidy: I move:

That the Order of the 27th May, 2008 referring the proposal that Seanad Éireann approves the development of a prison in the District Electoral Division of Kilsallaghan in the County of Fingal, to the Joint Committee on Justice, Equality, Defence and Women's Rights, shall have effect with the substitution of '17th June' for '5th June'.

Question put and agreed to.

Risk Equalisation Scheme: Motion.

Senator Donie Cassidy: I move:

That the proposal that Seanad Éireann approves the following Regulations in draft:

Risk Equalisation (Amendment) 2008, Scheme, 2008,

copies of which have been laid in draft form before Seanad Éireann on 3rd June, 2008, be referred to the Joint Committee on Health and Children in accordance with paragraph (1) (Seanad) of the Orders of Reference of that Committee, which, not later than 26th June, 2008, shall send a message to the Seanad in the manner prescribed in Standing Order 72, and Standing Order 74(2) shall accordingly apply.

Question put and agreed to.

Treaty of Amsterdam: Motions.

Senator Donie Cassidy: I move:

That Seanad Éireann approves the exercise by the State of the option or discretion provided by Article 1.11 of the Treaty of Amsterdam to take part in the adoption of the following proposed measure:

a proposal for a Council Framework Decision on taking account of convictions in the Member States of the European Union in the course of new criminal proceedings,

a copy of which proposed measure was laid before Seanad Éireann on the 14th day of May 2008.

Question put and agreed to.

Senator Donie Cassidy: I move:

That Seanad Éireann approves the exercise by the State of the option or discretion provided by Article 1.11 of the Treaty of Amsterdam to take part in the adoption of the following proposed measure:

a proposal for a Council Decision on the improvement of cooperation between the special intervention units of the Member States of the European Union in crisis situations,

a copy of which proposed measure was laid before Seanad Éireann on the 2nd day of May 2008.

Question put and agreed to.

Senator Donie Cassidy: I move:

That Seanad Éireann approves the exercise by the State of the option or discretion provided by Article 1.11 of the Treaty of Amsterdam to take part in the adoption of the following proposed measure:

Draft Council Decision on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime,

a copy of which proposed measure was laid before Seanad Éireann on 15th day of May 2008.

Question put and agreed to.

Senator Donie Cassidy: I move:

That Seanad Éireann approves the exercise by the State of the option or discretion provided by Article 1.11 of the Treaty of Amsterdam to take part in the adoption of the following proposed measure:

a proposal for a Council Framework Decision on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters,

a copy of which proposed measure was laid before Seanad Éireann on 27th day of May 2008.

Question put and agreed to.

Lisbon Reform Treaty Report: Statements.

Minister of State at the Department of Foreign Affairs (Deputy Dick Roche): The enhanced role of national parliaments is one of the most important features of the Lisbon reform treaty. It is one area that has not been raised in the debate on the forthcoming referendum. One feature of the debate is the tendency to raise matters that are not in the treaty as opposed to those that are. If the Irish people vote “Yes” next week and the treaty is ratified, the EU will be a more democratic place than it is today. I cannot understand why any citizen would vote to make it less democratic.

I thank the Joint Committee on European Scrutiny for the production of this timely and comprehensive report. It is the first report produced by an EU member state parliament on how to deal with the enhanced role of parliaments. I salute the initiative of Deputy Perry, chairman of the joint committee, and its members for this timely report. I was glad to meet the joint committee on 29 April to discuss the enhanced role for national parliaments in the Lisbon treaty. I want to restate the assurance I gave the committee on that occasion that, once the treaty is ratified, the Government, and I personally, will work closely with the Houses of the Oireachtas. If the referendum is passed next week, national parliaments will have a much more intimate involvement in the production of EU legislation. For the first time, both Houses of the Oireachtas will have the right, in certain circumstances, to veto arrangements.

The Lisbon reform treaty enhances the EU’s democratic character, reforms decision-making within the EU institutions and involves the European Parliament to a degree which was unheard of when it was first devised.

The treaty will create a president of the EU Council for a two and a half year term subject to a maximum appointment of two terms. The president will be more chairman than chief, as he or she drives forward the work of the EU and ensures continuity and cohesion. He or she will not be a president of Europe. Does anyone believe, apart from those in obscure areas of Irish public discourse, that the French President, the British Prime Minister or the German

[Deputy Dick Roche.]

Chancellor will surrender leadership of Europe to an individual elected by the European Council? The treaty ensures that the EU Commission will be based on strict equality between the member states. The Nice treaty confirmed a smaller Commission but the Lisbon treaty confirms an equal Commission. We cannot do better than be equal.

The treaty will strengthen the voice of the EU on the world stage and will give legal effect to the EU Charter of Fundamental Rights and sets out the EU's powers and their limits more clearly. The treaty achieves all this while preserving Ireland's military neutrality, veto on taxation and its special position on the life of the unborn child. It is a balanced treaty and will promote a better working relationship in Europe.

The treaty includes new innovative arrangements for national parliaments in EU decision-making. The Government lobbied for and negotiated many of those changes, which I have previously described as revolutionary rather than evolutionary in their nature. They are revolutionary because the treaty provisions represent a change in mindset at EU level. The mindset change is about recognising the need for EU law-making to come back closer to citizens. On the day the treaty was signed, the speaker of the Portuguese Parliament, Jaime José de Matos da Gama, said the real winners in the treaty are national parliaments.

The challenge for Ireland is to seize the opportunities presented by the Lisbon treaty. The challenge for this House is to seize the opportunity presented by the changes in the treaty in order that Ireland makes its mark and advances Irish interests from day one in this exciting, new area.

Why is so little heard about the greater role for the Dáil and Seanad from the anti-treaty side in the referendum debate? Those opposed to the treaty claim it reduces democracy when it does the opposite. These positive changes for our national parliament demonstrate, beyond a shadow of a doubt, that the Lisbon treaty strengthens the democratic legitimacy of the EU and makes it more accountable to its own people. These provisions which give the Oireachtas a voice and a veto it never had before are in direct contradiction of the web of conspiracy theories and myths about loss of sovereignty which are peddled by the treaty's opponents. Which Member would call for a vote which would effectively make the House less relevant?

The undeniable fact is the Lisbon treaty makes the EU even more democratic than it has been before. It strengthens the role of national parliaments by giving us a direct input into European legislation. It enables the Houses to ensure the Union does not exceed its authority. The treaty also gives the Oireachtas a right to veto any proposal to change voting rules from unanimity to qualified majority voting in the European Council or Council of Ministers, as well as any extension of co-decision between the Council and the European Parliament.

The Twenty-Eighth Amendment of the Constitution Bill goes even further by requiring the affirmative consent of each House of the Oireachtas before the Government can agree in the European Council to any such change. The treaty gives Seanad Éireann more power than Bunreacht na hÉireann does. This House will have more power, a direct say and the capacity to influence and even veto EU legislation if the treaty is ratified.

I commend the joint committee report as a succinct analysis of what the Lisbon treaty means for the work of this House in the area of EU law. Notwithstanding the key innovations made under the EU Scrutiny Act since 2002, the treaty, once ratified, implies further significant changes in the role of the Oireachtas itself in EU affairs. The current national arrangements work well and provide for full oversight by the Houses of the Oireachtas of the actions of the Executive in negotiating EU measures and implementing EU law.

The Lisbon reform treaty however marks a major step change and provides for a far more substantive role for the Houses of the Oireachtas in EU affairs than is provided for by law or

under the Constitution. The Twenty-Eight Amendment of the Constitution Bill contains all the necessary provisions required to give effect to the role to be played by the Houses of the Oireachtas. The terms of the Bill underline the Government's desire to maximise the role of the Houses of the Oireachtas in the future development of EU legislation. Such an extension of role for the two Houses of the Oireachtas is a positive aspect, not just in the life of politics in this nation but also in the life of the nation.

The treaty, if ratified, gives this House and its sister parliaments in the member states which are the directly elected voices of the people of Europe, a stronger say than ever before. Therefore, the people who elect us to the Houses of the Oireachtas will have a stronger say than ever before in shaping the direction of EU affairs. This means that an Irish citizen
12 o'clock need not look to Brussels if he or she has questions about a particular policy; instead, those questions can be brought to us, as Members of the Oireachtas. This is an extraordinary change. It means that rather than a civil group in society or an individual having to look to go to Brussels to do their lobbying, they can knock on any of our doors, visit any of us, as they do in the normal arrangements between citizen and public representative and make their views heard. This must be something to be celebrated.

We are now within eight days of the referendum which will be the most decisive vote on Ireland's future in the EU since we first became a member in 1973. The polling day on 12 June follows one of the liveliest — some would say one of the most distorted — debates on EU issues which has ever been held in this country. Whatever else, the campaign has not been dull and both sides will be out delivering their message. We can be proud that the referendum process has moved the debate about Europe's future into the minds of our constituents and the national Parliament.

After 35 years of positive engagement with Europe, Thursday, 12 June marks the moment of truth for the people of Ireland and for our future approach to the European project. I am confident that when voting day arrives, people's experience of the positive changes we enjoy as equal members of the European Union, combined with a national confidence in our ability to advance our own interests at the heart of the EU, will result in a decisive "Yes" vote. I am confident that the people of Ireland will choose the positive over the negative, that they will have the self-confidence to choose to remain at the heart of Europe and to remain a key player in Europe, for the benefit not just of the people of Ireland but for the benefit of the people of Europe.

We will continue to have debate about the nature of the EU even when the referendum has been held. A recurring theme will be the sense that EU decision-taking is a remote, anti-democratic process which small countries cannot influence very well and we have to show that this is not true. We must show that this characterisation is a distortion of reality. This can be achieved by following the proposals set out by the joint committee. We need to continue to focus on how Europe can be communicated in a meaningful way.

In addition to the provisions on national parliaments, two internal reforms provided for in the Lisbon treaty are worthy of mention. First, the treaty will strengthen democracy at the European level by increasing the number of areas in which the European Parliament will share law-making with the Council of Ministers. Senators will recall when Professor Pöttering addressed this House a few weeks ago. He made the point that when he was elected in 1979 for the first time to a directly and democratically elected European Parliament, it had virtually no powers. He said it had powers in about 2% of the areas. Under this treaty, the European Parliament will now have co-decision powers in 95% of all legislative areas. By any objective standard this is a significant step forward for democracy. It will also have more oversight and more powers to oversee the budgetary affairs of the European Union and this is a welcome

[Deputy Dick Roche.]

step forward in democracy. Both of those steps, as is the democratic step to give this House and its sister House a greater say, are completely missed and obscured in the debate here in Ireland. They are obscured because the truth is the people who obscure them do not want the Irish people to know about the step forward in democracy which is being taken.

Second, the citizens' initiative has been sneered at in the debate. There are few, if any, constitutions in Europe which contain a right of citizens' initiative. I took part in a debate last night when a person argued that the treaty does not provide that if a citizen signed the initiative the work has to be done. If one asked 1 million people to sign a petition for the abolition of income tax, I would probably be one of the first people to sign it. However, such a decision would make governance somewhat difficult.

The initiative is very important and it could be described as a "civilian surge". It will help to breathe new life into the democratic functioning of the Union. Taken together with the changes for national parliaments, this package of democratic reforms will have a real impact on the way in which we deal with the Union.

As stated in the committee's report, both the new Article 5 and Article 12 to be inserted into the treaty on European union and the two significant related protocols will strengthen the role of parliaments in the EU and give them a vital and early say in the evolution of EU law. The first of the two protocols recognises the manner in which national parliaments scrutinise government activities within the Union. This is a matter for particular constitutional organisation in the practice of each member state. The arrangements set out in the protocol apply to all component chambers of a national parliament. I remind Senators that under this treaty, this House will have the same powers as the French Assembly, the House of Commons, the Bundestag — this is amazing — and yet this aspect of democracy is missing in the debate.

The protocol provides that Commission Green and White Papers, all the European Commission's annual legislative programme and all draft legislation, must be sent directly to this House at the same time as they are sent to the national governments. In other words, the Members of Seanad Éireann and Dáil Éireann will receive simultaneous transmission of drafts along with national administrations. These Houses will have a longer time in which to make an input and will not be required to wait until the eleventh hour and the fifty-ninth minute before it has the opportunity, as the elected voice of the people of Ireland, to have a say. This is an extraordinary step forward. It is an entirely new departure which will give national parliaments more time for consideration of Commission proposals. Similarly, the agendas and outcomes of meetings of the Council of Ministers must also go directly to national parliaments at the same time as they are sent to the governments of member states. I say, a little blushing, this does not happen in the case of any Cabinet in Europe. At least eight weeks must elapse between the provision to national parliaments of a piece of draft EU legislation and it being placed on a Council agenda for decision. Even before the legislation is put on the Council agenda, the Houses of the Oireachtas and their sister parliaments across Europe will have the right to have a say. What person calling himself or herself a democrat would not celebrate this provision?

The treaty provides that national parliaments must have at least six months' notice of any intention of the European Council to use the so-called *passerelle* provision. The word "*passerelle*" is a French word for a bridge or something that bridges a gulf. Under this provision it will be possible to change from unanimity to qualified majority voting in certain key areas but this can only happen if every single government agrees, if the European Council agrees unanimously, if the European Parliament agrees by majority, if every parliament decides it does not have an objection and, in the case of Ireland, if both Dáil Éireann and Seanad Éireann pass a positive resolution. Some people, the Libertas movement in particular, call this "self-amend-

ing”. The matter has been grossly distorted in the referendum debate. The move from unanimity to QMV can only occur in the most restricted circumstances.

The protocol on the application of the principles of subsidiarity and proportionality further develops the role of national parliaments in relation to the implementation of the important principle relating to subsidiarity. Within eight weeks of the transmission of a draft legislative act, any national parliament, or any chamber of a parliament, may send to all EU institutions a “reasoned opinion” stating why it considers that the draft does not comply with the principle of subsidiarity. If, within eight weeks, at least one third of national parliaments or chambers of national parliaments, issue such reasoned opinions, the draft proposal must be reviewed. This so-called “yellow card” system is a major development which will bring national parliaments directly into the EU decision-making process.

In addition, the treaty provides for an “orange card” procedure whereby if a simple majority of national parliaments take the view that a proposal breaches the principle of subsidiarity, but the Commission decides to maintain its proposal, it must submit its reasons to the Council and the European Parliament, which will take a majority decision on how to proceed. This is an extraordinary change. The European Parliament will act by a majority of votes cast and the Council will act by a majority of 55% of its members. The application of the principle of subsidiarity is intended to take place primarily before the adoption of legislation. However, the Court of Justice is empowered to adjudicate on alleged infringements after the legislation goes through.

As I have mentioned, national parliaments are to be given at least six months’ notice of any intention by the European Council to make certain limited adjustments to the voting rules in the treaties under a simplified revision procedure known as the general passerelle. Any move will have to be supported by the European Council and will have to be accepted by member state parliaments. The treaty gives any national parliament the right to veto the *passerelle* — the so-called “red card” procedure.

Building on the provisions of the treaty and the protocol, the Government is proposing, in the Twenty-eighth Amendment of the Constitution Bill, to go even further. We will go even further than any other member state in that Dáil Éireann and Seanad Éireann will not just be asked to vicariously cast their eye across the legislation but will also be required to give assent to the use of the *passerelle*.

In addition and importantly, future changes to the treaties involving the conferral of new competences on the Union would be prepared by a convention in which it is envisaged that national parliaments would be strongly represented. One of the great and extraordinary things in the preparation of the Lisbon treaty was that its predecessor, the constitutional treaty, was prepared by a convention attended by 205 men and women drawn from all the national parliaments and the governments of all the member states. That was a remarkable and exciting process as well as being democratic and open. That process will become the generality under this treaty.

In Ireland, as is currently the case, any move to confer new competence on the Union would mean that advice will be sought from the Attorney General and, of course, a referendum will be required if there is any substantial change. Similarly, even were the European Council to seek to use the simplified revision procedure to propose a change to the treaties not involving a new competence, any decision would have to be ratified by each member state in accordance with its own constitutional provisions.

Following a “Yes” vote in the referendum, which I strongly believe will be in our interest, the challenge facing the Houses of the Oireachtas will be how they can use the opportunities

[Deputy Dick Roche.]

presented in the Lisbon treaty. The joint committee makes a number of points and conclusions regarding the implications of a ratified treaty.

The Government will play its part in reviewing the European Communities Acts, including the EU Scrutiny Act 2002, to bring our domestic provisions into line with the treaty, and to the point where we can fully utilise the provisions of this treaty. It will be necessary to make these amendments in the autumn to enable ratification before the end of the year, as envisaged by the treaty. All of this is, of course, contingent on a successful ratification of the treaty. I call upon all Members of the Oireachtas to do all they can in their power to explain this important move forward objectively and truthfully to the citizens with whom they have contact.

It is a vital national priority that we ratify the treaty. I believe that an informed decision by the Irish people on 12 June will result in a positive outcome. Not only that but as I said at the outset, if we vote “Yes” Europe will become a demonstrably more democratic place than it is at the moment. If we vote “Yes” national parliaments will have more powers than they have ever had or have ever envisaged. If we vote “Yes” this House will have even more powers than were given to it in Bunreacht na hÉireann. If we vote “Yes” we will have a Union that is efficient, effective and capable of dealing with the challenges that lie ahead. If we vote “Yes” we confirm Ireland’s place at the heart of Europe. It will send out a powerful message about this country’s commitment to the European project, not just to be heard within European political circles but also within the business community that makes investment decisions that produce jobs here. For all those reasons, a “Yes” vote is the best decision and it is also the best choice in the interests of democracy.

I compliment Deputy John Perry, who is present in the Visitors Gallery, for the job his committee undertook in producing this report.

Senator Paschal Donohoe: I welcome the Minister of State to the House and thank him for his passionate contribution in discussing this important report. I also acknowledge the work that Deputy Perry and others members of his joint committee undertook in producing the document under consideration by the House. I also recognise the valuable work being done in this area by the Joint Committee on European Affairs, of which I am a member together with Senator Leyden.

One writer recently observed that the dilemma we face is that at national level we have politics without policy, while at European level we have policy without politics. That might be overstating the matter but there is a truth in there which, as politicians, is it incumbent upon us to acknowledge — that is, that nationally more and more important decisions we face are being driven by decisions taken in the European Parliament and elsewhere. However, the passion and politics that should be present in debates in the European Parliament and European Commission, where crucial decisions are being made which influence our country and its citizens, are absent.

The level of engagement by the public in understanding how important decisions are made is not present. That is one of the major reasons why a degree of disenchantment with the European project has gradually been seeping in. It is why the report by the joint committee on the treaty is so valuable. In seeking to persuade people in my constituency, I have made two arguments that are enormously potent in convincing them of the value of the treaty. First, it is a fact that if this treaty is passed, the role and power of national parliaments will expand. Second, why would any Member of the Oireachtas, in which we are so proud to serve, seek support for a treaty that would reduce the power and influence we are so lucky to wield? Both those points are essential in showing why the treaty is so important to our destiny and prosperity. It is essential we put those points across in the last few days of this treaty debate to

convince the electorate that it is in our interests as a parliament that the treaty be passed. More importantly, it is in the interests of the people that it be passed.

The report clearly outlines why this treaty will deliver such important elements. The treaty explicitly spells out the parliamentary competence of the Oireachtas and of other European institutions. By and large the issue of competency has been positive. The European project started off as the European coal and steel community and it gradually expanded. This has been a positive trend. Recently, however, a degree of competence spread by stealth has occurred, resulting in a reduction in the faith our citizens have in these institutions. The treaty clearly crystallises who does what and the joint committee's report comments positively on this aspect. We must send out this message to the electorate as it seeks to make a decision on the matter.

Another important element of the treaty is that it recognises that the various institutions will play different roles. We are trying to bring a degree of architectural co-ordination to ensure that the work of the European Parliament, the European Commission and the Oireachtas will head in the same direction. It is self evident as to why this is so important. It is great that EU parliaments will be getting more power and that their role will be recognised by this treaty. We cannot be complacent, however, and say that this in itself is a good thing. It is far more important that the people we serve see the development of our parliamentary role and power as a good development.

As we debate the treaty and, I hope, prepare to vote "Yes" in the referendum next Thursday, we must acknowledge the considerable work which remains to be done by the Oireachtas to ensure we can deliver the important responsibilities being conferred on us. As truthful as I am in recognising the importance of the treaty for the prosperity of our people and the power of our Parliament, we also need to acknowledge that the additional responsibility which will be conferred on us will require us to order our business differently. It would be a major disappointment for Members and citizens if the Oireachtas were to fail to discharge this new power in a manner that does credit to the electorate.

As one writer recently stated, the European Union is a response to our heritage and history but can never be a substitute for either. To ensure it does not become such a substitute we must reintroduce passion into political decision-making at European and national levels. The Lisbon treaty will play an important role in ensuring this change occurs. The argument which will make a difference in the final stage of the debate on the treaty is that this institution, in which Members are so fortunate to serve, will secure greater powers. It is, therefore, our duty to ensure we use these powers to serve people to the best of our ability. I hope the debate on the referendum on the Lisbon treaty will play an important role in allowing us to fulfil this duty.

Senator Terry Leyden: I welcome the Minister of State with responsibility for European affairs, Deputy Dick Roche, to the House. I hope his speech will be widely distributed in the coming days because it was a tremendous report on developments in the European Union and the benefits of the Lisbon reform treaty. I also compliment Senator Donohoe on his excellent, off-the-cuff contribution which laid out the precise position.

The enhanced role which will be played by national parliaments under the Lisbon treaty is an aspect of the text which has been somewhat neglected in the debate of recent weeks. The report by the Joint Committee on European Scrutiny, an excellent and thorough presentation of the proposals in this regard, presents the proposals in a manner which will be easy to follow for all interested parties. I compliment the committee Chairman, Deputy John Perry, Vice Chairman, Deputy Seán Connick, its members, including me, and Mr. Ronan Gargan, the adviser to the committee, on the publication of the document. I am also pleased that my proposal to publish it in printed form was accepted. I compliment the staff of the Oireachtas printing press on the excellent quality of their work on behalf of Oireachtas Members. This is

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one of the first times the in-house printing press has printed a document on behalf of the Oireachtas. I hope the text will be widely distributed.

I compliment the Minister of State on undertaking in his contribution to the joint committee to make provision in law to ensure compliance with the provisions of the treaty relating to national parliaments. As he noted, the powers of the Seanad under the treaty will be stronger than its powers under the Constitution. All sides of the political spectrum, including those who oppose and support the Lisbon treaty, have been democratically elected to the House.

Senator Feargal Quinn: The “Maybe” side is also represented.

Senator Terry Leyden: I understand from today’s welcome announcement that the “Maybe” side has joined the “Yes” side.

The Minister of State, Deputy Dick Roche, canvassed in County Roscommon. I was asked on my canvass whether I could give five reasons for voting in favour of the Lisbon treaty. I could give 55 reasons but owing to time constraints I will only refer to five of them.

The first is the need for greater efficiency in the European Union. This is the declared primary purpose of the treaty and is linked to the enhanced role of the national parliaments under discussion. The institutions of the Union were designed for an organisation consisting of six countries. However, this complex institution has evolved and extended far beyond its original borders to the great benefit of all concerned and now promotes co-operation between 27 countries and almost 500 million people in a wide range of areas. While the European Union continues to function with its current structures, it is naive at best to claim that a structure designed for six member states would not need some modification to accommodate an organisation of the size of the current Union, particularly as it will enlarge further as applicant countries join.

Second, the treaty provides formal recognition and protection of human rights, an issue discussed last night in the presence of the Minister of State. I suggest that when the treaty is passed on 12 June, the Charter of Fundamental Rights should be printed and circulated to every household. It is a marvellous, concise summary of our rights which should be available to inform people of what will be their rights under the Lisbon reform treaty.

The third reason is a stable economy. The economy is inextricably linked with those of our European neighbours and the overall European Union economy. This has been reinforced by the success of the euro. The decision to adopt the euro links Ireland very closely with 15 other eurozone countries in the European Union. To risk upsetting this relationship would necessitate very compelling reasons for voting against the treaty and there are no sufficiently strong arguments being made to justify potentially upsetting our economy, particularly in these difficult times. Those opposing the Lisbon treaty are champions of economic insularity and do not appear to have any regard for what we have achieved in the past 35 years. Without our membership of the euro, one of the strongest, most stable currencies in the world, we would not have experienced the recent economic boom.

The fourth reason is the number of jobs being created. Unemployment was a significant problem when Ireland joined the European Economic Community in 1973. Since then, the unemployment rate has declined to one of the lowest in the world and 1 million jobs have been created in the economy. It is not an accident that business groups and trade unions have recommended supporting the treaty to their members. In the area of equality in the workplace, the European Union — the EEC as it was known then — gave us the equal pay directive, a most important legislative development. These are major achievements.

The fifth reason is the need to maintain the significant influence we wield in the European Union. There is no question that Ireland punches above its weight in Europe. As I experienced when I represented the country during the period when the Single European Act was negotiated, Irish civil servants working on our behalf in Europe are second to none. I compliment them, Irish Members of the European Parliament and the ministerial teams we send to Europe on the work they do on our behalf. The support the Minister of State receives from our ambassador and civil servants in Brussels is excellent.

I wish I had more time to discuss this issue in greater detail. There are many reasons to vote “Yes” on 12 June. Principal among them is the need to protect the interests of our young people such as those in the Gallery. By voting “Yes” we will guarantee them a future in this country.

Senator David Norris: I wish to share time with Senator Quinn. I welcome the Minister of State who made an interesting case to the House. I also compliment Deputy Perry on the report produced by the joint committee he chairs. It is important that both sides of the debate are heard today, as has not been the case thus far. Mr. Pöttering, for example, was invited to the House to advocate the treaty without a balancing performance by anybody else. There has been a chorus of “Yes”.

It has been argued that those who advocate a “No” vote are the same old people who have never voted in favour of Europe. I have always been an enthusiastic European and have supported every treaty, although I have done so with growing reservations on account of the incremental militarisation of the European Union. I have no doubt this is the case.

I mentioned on the Order of Business today that the Taoiseach acknowledged that he has not fully read the treaty. The Commissioner, Charlie McCreevy, stated he has not fully read the treaty and one would be an idiot to try. An attempt was made to cover that up by stating that the Minister for Finance presents the budget to the Dáil and the Deputies, who have not read the entire document, vote for it. That is true but the Minister for Finance is in a position to commend it because he has read the entire document. Today, as I pointed out on the Order of Business, we have a worrying situation where Mr. Justice Iarfhlaith O’Neill, the man who is in charge of the Referendum Commission and who is supposed to explain it, acknowledges that some aspects of the treaty are completely impenetrable.

I have a number of questions. It is a matter of balance. There are good measures in this treaty. Some of those on the “No” side are an embarrassment. For instance, I have heard people state that one would get gay marriage stuffed into this country, there would be access to abortion, there would be free contraception and there would be euthanasia. If I thought that were the case I would be out campaigning for it, but I acknowledged that it most definitely is not and that should not be used as an argument against the treaty.

However, there are questions I would like to ask. In terms of the democratic unresponsiveness of the treaty, for example, what percentage of it is precisely the same as the rejected draft EU constitution in light of the fact that it is reported widely in the press today that people from other European countries who are grateful to us for having this debate state that they have been robbed of the right to vote? It is perfectly clear from the words of senior European politicians that they do not trust their own people and that there is not time to name them all, but we know what Valéry Giscard d’Estaing, for example, has stated on this issue.

In particular, I am concerned about the Government’s position on the Crotty case. The Government has stated that there must be a referendum because of the Crotty case. The Crotty judgment stated that a referendum was only called into play when a treaty involved substantial

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change here, and yet the Government states the treaty involves no substantial change. They cannot have it both ways. That worries me.

I have asked a series of questions on militarisation because I do not like the Western European Armaments Group, even though they have tried cosmetically to repackage it as the European Defence Agency, EDA. I would like to ask the circumstances in which we take part in this. Do we really want to be part of the European Defence Agency? Why was there no Dáil discussion on this decision to join the EDA? Can we have clarification on that? What are the financial implications of our membership? I understand we will be required to contribute. There is an upping of the military budget. I am very concerned by the statements of the former director of this group that one of the principal targets is so that they can increase production of armaments.

An Cathaoirleach: Senator Norris is taking from Senator Quinn's time.

Senator David Norris: On the question of the Commissioner, we were told historically it was vital for us to have a Commissioner. Apparently now it is not. We were told in recent weeks by a Minister that we could not give the farmers a guarantee on the veto because it would weaken our negotiating position, but now that has been overturned.

I will yield to Senator Quinn, but there are many reservations. I ask the Minister of State, Deputy Roche, or his officials, just because I do not have time and it would not be fair to continue, to take a look at the detailed questions I asked last week on the Order of Business about the European Defence Agency and the Western European Armaments Group and to give Members an answer. I was promised answers repeatedly by the Leader and I did not get them. That is not democracy.

Senator Feargal Quinn: I welcome the Minister of State, Deputy Roche, and thank Senator Norris for sharing his time. We greatly appreciate the fact that Deputy Perry's report has had a chance to be discussed in the House, even though it is a short debate. Way back when this started, I was quite concerned that there would not be a debate. It seemed that all the larger parties announced almost immediately that they had made up their minds before they got around to having the debate and one of my reasons for stating I would not make up my mind was because I wanted the debate and I was quite undecided. I was quite fastidious in my attendance at the forum and at the Oireachtas Joint Committee on European Affairs. I also was careful to read as much as I could about the treaty.

There were four or five questions that kept cropping up. One or two of them have been mentioned today by Senator Ross.

Senator David Norris: I am not Senator Ross.

Senator Feargal Quinn: Senator Ross will also speak about them if he gets a chance. It seemed there were concerns about family law. Regardless of whether that was a question of same-sex marriage, abortion or euthanasia, I am convinced now that it does not come into question, the treaty has nothing to do with it and they are protected.

The second area was tax about which I was very concerned. One sees Germany with a 38% corporation tax rate and us with a 12.5% rate and the word is that Mr. Frederick Forsyth states today that the Europeans were looking not for harmonisation but for standardisation. In other words, they were looking to make us all the same. I would be quite concerned if that were the case but I have been convinced that it is not threatened.

The third area was the issues of neutrality and defence. I would be happier to be part of a defence pact where we were involved so that if there was a mutual defence, we would be protected by our colleagues in Europe.

The last area was the loss of a Commissioner. It seemed a tough one to decide on, but if the Germans who have a much larger population are giving up the same amount of Commission membership time as us and the other countries are doing so as well, it seems this area also is protected.

I asked everybody on the “No” side with whom I argued how they voted in previous referenda on Europe since 1972 and the majority have always voted “No”. They stated they were strongly European but that this particular treaty is just a step too far. If they had voted “No” on the previous occasions, it seems quite likely that if they had had their way, we would not have had the success we have experienced for the past 35 years. That was one of the most influential areas. It convinced me that the success of Ireland over the past 35 years has been influenced to a large extent by the decisions of the Irish people to support the changes in the European Union. In this case, I am happy to do the same and support it with a “Yes” vote.

Senator Dan Boyle: On the Order of Business today I tried to articulate one of the reasons I am advocating a “Yes” vote in this referendum. My argument was that I had made arguments for rejecting previous treaties which were not accepted in previous referendum campaigns and one of the responsibilities of democracy is to accept the verdict of the people, move on and see how debates subsequently change. That is one of the more disappointing aspects of some of the campaigning on the “No” side.

I am a person who believes that in terms of the constitutional integrity of our referendum process, we need a coherent and consistent argument on both sides whenever there is a referendum. I certainly would not go along with any of the personal antagonism or denigration that often accompanies these debates. We should be glad that there are people who are putting themselves forward and putting forward arguments that deserve consideration, but some of those arguments are ones that have been made before — they are arguments that I have made — and the people have decided accordingly. We must argue on the basis of the treaty itself and what is likely to come about as a result of its changes.

One of the persuading factors for me, and one of the reasons I voted “No” legitimately in the past, was that there continues to be a democratic deficit at the heart of the European Union and all of the treaties that have been approved subsequent to our own accession have helped worsen that democratic deficit. I can honestly state that this is the first treaty, which in itself has flaws, that goes in a different direction. It seeks to address the democratic deficit. It brings in measures such as the citizens’ initiative, enhanced powers for the European Parliament and a role for national parliaments, which is the matter of this debate. Those grounds are one of the strongest arguments for voting “Yes” on this occasion and I hope we, as parliamentarians, accept that as a valid argument.

The report has been submitted by the Joint Committee on European Scrutiny which does valuable work on behalf of the Houses of the Oireachtas. It is far from easy work. Approximately 2,000 legal instruments emanate from the European Union every year. In accepting this new-found responsibility and in recognition of the democratic principles that would follow from an acceptance of the Lisbon treaty, we should ask how we, as a parliament, can address this work in the most satisfactory way. The EU scrutiny committee has made arguments about how that can be done. There are other avenues open to us. I do not need to remind Senators that the last report on Seanad reform envisaged such a role for this House. In light of the ratification of this treaty, if the people so decide, this is a debate to which we can return as we progress the idea of Seanad reform and give ourselves a workload that justifies our presence in the

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parliamentary system. We can play a valuable role as a bridge between the Irish Parliament and the European Parliament and EU institutions, a role that, as of now, only the Joint Committee on European Scrutiny fills. We should look for more than that.

We are coming into a week where there is much uncertainty about what will happen. On the Order of Business Senators referred to the shortening of odds. I can relate my experience of the previous general election where I had the dubious privilege of being the shortest price favourite not to be elected. This has no implication for what is likely to happen on Thursday or Friday when the votes are counted. There is uncertainty in a large group of voters who have yet to make up their minds. People are wavering between a “Yes” and “No” vote because of the uncertainty of much of the campaigning.

I will repeat what I stated on the Order of Business, that all Members, irrespective of the position they take on the treaty, should emphasise the importance of the maximum possible turnout and voter participation. That is the essence of what we are as a democracy.

Senator Alex White: I propose to share time with Senator Doherty. I do so in the spirit referred to by Senator Boyle. It is important that we have a debate and hear all voices and points of view on this vital proposal before the Irish people on 12 June. It is easy to assert that one respects other points of view but I do so sincerely. We must respect the viewpoints of those who urge the Irish people to vote “No”. Senator Norris complained, perhaps with justification, about name calling and people being blackguarded. I am not looking for a paper medal but I have not engaged in any of that. I am not aware of Members engaging in abuse or comments about people who take a different view — certainly not in this House.

We have debated the treaty on a number of occasions and are now debating the report of the joint committee and the enhancement of the role of parliaments across the EU arising from the reform treaty. Senator Boyle is correct in referring to the democratic deficit, which is a serious issue for the EU. We refer to a democratic deficit in our domestic political situation, an argument that can be made, but there is a major problem at the heart of the European project. It may be one that, because of the sheer scale of it, is impossible ultimately to redress. If there is a way of doing it, the drafters of the Lisbon treaty have attacked this problem. As Senator Boyle says, there are serious and substantive changes to the way the EU does its business. This will have a positive effect on citizen participation, citizen information and the citizen’s stake in the EU through the national parliaments. There is no doubt the treaty does that. It cannot be gainsaid by anyone that this is not one of the things the treaty does in terms of consultation with parliaments on policy matters, allowing them a real role in upholding the principle of subsidiarity and placing the parliaments in the position of watchdogs on behalf of the people they represent.

I have never claimed that the treaty is a manifesto for workers’ rights or that it achieves all that those of us on the left wish to achieve for workers’ rights, equality and social justice. I say this to all my colleagues but particularly Sinn Féin, a party that has demonstrated a commitment to the principles of equality and social justice. I do not say that to patronise Senator Doherty or anyone else. It believe it is the case but also that Sinn Féin is seriously mistaken in the view it takes on the Lisbon treaty as a possible means to advance those principles in Europe. In a recent article, Mr. Fintan O’Toole made the interesting point that this is about having a playing pitch on which we can advance these goals. Politics, struggles and battles are what we must engage in now. I hope Sinn Féin will be part of this in Europe to advance and uphold workers’ rights. That is where Sinn Féin should be instead of seeking to have this treaty rejected, which would have a negative impact on those we represent.

Senator Pearse Doherty: Ar dtús báire ba mhaith liom mo bhuíochas a ghabháil leis an Seanadóir White as ucht a chuid ama a roinnt liom. I thank Senator White for providing me with time to speak on this issue. I wish to refer to workers' rights, even though I addressed it last night. The Charter of Fundamental Rights contains no new rights that are not already contained in the Constitution or in international law. Sinn Féin will defend workers' rights in this State, the EU and the wider world. Our MEP, Mary Lou MacDonald, was the only Irish MEP to be shortlisted for the MEP of the year award because of her work in the European Parliament on workers' rights. Our record is second to none. We share the opinion of trade unions in Ireland that we must see the strengthening of workers' rights in this Parliament. The charter means nothing unless it is implemented or legislation, such as that on collective bargaining, is introduced in the home country.

Rather than address the democratic deficit, the treaty will widen it. The treaty removes Ireland's right to a permanent Commissioner for five out of every 15 years. This means we will not have a representative on the body responsible for drafting and implementing laws for that period. Ireland's representatives on the Commission have played a crucial role over the years. No matter how good a relationship the Irish Government builds with European Commissioners from other states it is no substitute for an Irish voice at the table. For a small country like Ireland it is vital to have a permanent voice at the European Commission table, especially when one considers that this country only has a small number of MEPs and our voting strength on the Council of Ministers will be halved if Lisbon is passed.

In addition, the Lisbon treaty would remove also more than 60 member state vetoes at Council in highly sensitive areas such as energy, asylum, immigration, judicial co-operation and the inclusion of health and education in international trade agreements. We will give more than 100 new powers to the EU, including self-amending articles which will significantly strengthen the EU institutions while weakening the role of member states and citizens in the legislative process.

To make this process of centralisation appear less dramatic, the drafters of the Lisbon treaty included a protocol on member state parliaments. Advocates of the treaty argue that this protocol will greatly increase the role of member state parliaments in the decision-making process. Nothing could be further from the truth. When one cuts through the rhetoric and examines the detail of what is proposed, it is clear the new powers for member state parliaments are nothing more than cosmetic window dressing designed to take the bad look off a very bad treaty. At the core of the proposals contained in the protocol are two new mechanisms known as the yellow card and the orange card. None of these requires the Commission to take on board the issues raised by parliaments but just to consider them within an eight-week period.

After my contribution last night, the Minister of State commented that no one has the right to invent facts. This is true on both sides and the Minister of State's comments yesterday suggested it was only the "No" side that invented facts. The Tánaiste claimed a number of times that larger states have two Commissioners. Deputies have claimed that Ireland would not lose its Commissioner and the Minister of Defence referred to stopping many alliances forming in Europe. The Minister of State must acknowledge that, on all sides, there has been misrepresentation, even from some of the most senior Members of the Irish Parliament.

Senator Ann Ormonde: I welcome the opportunity to discuss the new treaty provisions in regard to national parliaments because I will address a group of ICA members this evening. This is the key area which will appeal, namely, the extension of democracy. I compliment Deputy Perry and colleagues on the Oireachtas Joint Committee on European Affairs and the Oireachtas Joint Committee on European Scrutiny on bringing forward this report. It is a good,

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simple report which is the key to the biggest part of this treaty, namely, bringing the citizen closer to the decision-making process. This is pure democracy.

If any issue is raised or if any proposal is made by Brussels, whether in regard to rules, regulations, directives or draft legislation, and if it does not comply with the principle of subsidiarity, it can be brought before the both Houses. That is bringing significant power back to the people and is what I call “real democracy”.

The public will be able to identify with the issues raised by the Commission. We will have eight weeks within which to discuss those issues and if we do not like them, they will go to the European Parliament where our MEPs will discuss them. The citizens will have a link to public representatives here. Our MEPs will be able to decide if draft legislation is not acceptable to Ireland. That brings democracy to the core of our society and that is what I want to tell the public.

There was a perception that power was based in Europe, that it made the decisions and that we had no control. There is no question but that has changed under this new treaty. To vote “No” would be a drastic decision but to vote “Yes” would bring Europe closer to the citizen. Young people should know their future lies in Europe. Europe is being opened up to Ireland. We are not being isolated so that we become a little country on the periphery of Europe. This is the model country in Europe and we cannot destroy that.

This Chamber will have the power to discuss any issue brought forward. I will say to the people to whom I will speak this evening that if they have a problem, they can come to me and I can raise it in the House and that we can use the yellow or the orange card system. We are all well aware of what that means in sport. It will give a warning signal to the Commission to rethink legislation if we are not happy with it.

I will do everything I can to ensure people vote “Yes” on 12 June. It is great we are having a referendum because it is one way in which the public can engage in this discussion. The public were not engaging two weeks ago but they are now. Friends and colleagues have telephoned me to ask about the treaty. This is the way forward.

Senator David Norris: I hope the Senator had a better answer than Justice Iarlaith O’Neill.

Senator Ann Ormonde: It is great we are having a referendum and that people will have a say. I look forward to a resounding “Yes” vote on 12 June.

Senator Paul Bradford: I welcome the Minister of State to the House. He is almost becoming part of the furniture at this stage. The report before us is important and I concur with what all previous speakers said about the perceived democratic deficit at political level in Brussels. When we lecture Brussels about a democratic deficit, we could look at little closer to home and at our system of Cabinet Government, at the fact the views of Dáil and Seanad Members are ignored on many occasions, at the managerial system of government at local government level and at the fact local public representatives are ignored. We could discuss the above if we were so taxed about the democratic deficit.

The provisions in the Lisbon treaty for stronger and additional powers for the European Parliament and national parliaments are a step in the right direction. I welcome the publication of this report and congratulate Deputy Perry and his colleagues on their work, as Senator Ormonde did. I was a member of the Joint Oireachtas Committee on European Scrutiny in the last Dáil, as was Senator Ormonde, and every other Thursday morning we met at 9.30 a.m. and for an hour to two hours we went through a huge volume of work on EU policies. The deficiency we faced was that much of the work we did was retrospective and there was little

opportunity to influence what was being decided and debated in Brussels. As a result of the proposal in the Lisbon treaty, as the Minister of State outlined and as all reasonable colleagues here and elsewhere would acknowledge, the role of the national parliament is now greatly enhanced. Deputies, Senators and all public representatives will now have a much greater say in what is being decided in Brussels. The additional check available to national parliaments is a further guarantee that the policies of Brussels will only be pursued after full consultation with the national parliaments.

I also welcome the additional powers being given to the Members of the European Parliament. People will no longer be able to claim the European Parliament is a political talking shop. It will be a chamber with real political power which is what democracy should be about and which I very much welcome.

The question of transparency in Brussels is being significantly addressed. It is a major step forward. If we look at the transcripts of previous debates on Europe, a significant criticism among people who were traditionally anti-Europe was the so-called “democratic deficit” but that has been substantially addressed. The EU scrutiny committee will be of significant benefit to the people.

I refer to what a number of previous speakers said about the change in the number of Commissioners and the loss of the Irish Commissioner for five out of every 15 years. I concur with what the Minister of State and all reasonable people have said. Every country, whether Germany, Malta, Ireland or the UK, will work under the same rules. They are fair, balanced and workable. There was much outcry on this side of the House and elsewhere following the creation of additional Minister of State posts. We must accept that one cannot continue to grow government and the number of Commissioner forever. There must be some balance and this strikes a fair one.

My final point relates to the question of what will happen if Ireland votes “No”. We must acknowledge that the world will not end. I was at a meeting on Tuesday when this question was asked of the former Taoiseach, Garret FitzGerald. He responded by saying that there is one word which is so crucial to Ireland’s place and role in Europe and that is “goodwill”. He highlighted his term as Taoiseach where significant advantages were gained by Ireland and he instanced the milk quota, the European Social Fund proposals and education funding. He said Ireland achieved that by the goodwill it had built up in Europe. That is what is at issue this day week.

Let us retain our goodwill, which is worth 1,000 vetoes. We have made huge progress because we are recognised as a country which wants to be at the heart of Europe. We have built up enormous goodwill. I am not saying it is at risk next Thursday but I hope we will continue to fly the flag of goodwill and ensure Ireland continues to play a significant and leading role in Europe by voting “Yes”. This report is one of the many reasons Ireland’s interests are best served by the people voting “Yes” on Thursday next.

Senator John Hanafin: I am pleased to welcome the special report on the enhanced role for national parliaments in the Lisbon reform treaty. The reality is that despite claims that this will give less democracy within Europe, the Lisbon treaty will deliver more. While I do not like any sword of Damocles hanging over decisions, it is important to appreciate the ramifications of a “No” vote. Economically, Ireland is a little island, like a cork on the ocean, and we are very dependent on markets, not least Europe. At the time we joined the EEC, Ireland was almost wholly dependent on the UK. In 1973, 54% of exports went there and agriculture was the vital contributor at that time. The prices of commodities were dictated by our major trading partner. Britain’s best interests lay in main-

1 o'clock

[Senator John Hanafin.]

taining a cheap food policy and it continued to receive commodities from the old empire countries, subsequently the Commonwealth. It was getting sugar from the Caribbean, beef from South America and lamb from New Zealand, as well as buying butter and bacon from the Danes. Irish commodity prices were effectively being fixed by the British economy.

It is good to be aware of the implications. If, as I believe, this is a reform treaty, it might have been more in our interests to represent it as such were it not for the tradition of naming such agreements after the cities in which they were agreed, such as Maastricht, Amsterdam and Nice. Given the state of current international markets, I believe there will be a lack of confidence within the economic market, with serious consequences. We are going through a slowdown at the moment, with construction slowing down which is having knock-on effects on the wider economy. Somebody selling carpets or curtains will be affected, as will the shopkeeper selling the breakfast roll in the morning. There is an immediate knock-on effect. At this time, when the money markets are tight and inter-bank lending is much slower because of the lack of confidence and when the markets could do with a boost, I honestly believe a “No” result would be a significant blow to the economy.

More seriously, as mentioned by Senator Bradford, we work on goodwill within Europe, and should we be seen to be unreliable or undependable, that would be more serious on an ongoing basis. There are many parts of the Lisbon reform treaty that are very positive, such as the fact that national parliaments will have the “yellow card” and “orange card” mechanism to rein back the institution within Europe which is claiming a competence that is seen to be outside the subsidiarity principle. This is to be welcomed. I would not like to see at this time a vote of no confidence in what has been an extraordinary successful political achievement. I am mindful in particular of the opportunities provided to people such as me who finished school in the 1970s and have reaped the results through the 1980s, 1990s and into the new century.

It would be unfair, disingenuous and lacking in spirit of us not to give the young people coming forward today the opportunities we have enjoyed, because this is no more than a reforming treaty to take cognisance of the fact that there are now 27 member states as against the six at the start and that we need to reform the institutions as a result.

Senator Ivana Bacik: I am grateful to the Cathaoirleach for allowing me the time. Earlier today I declared my support for the Lisbon treaty, having given it some consideration. I had not always supported similar treaties in the past. However, it deserves support, despite the strong criticisms I have of the manner in which the Government has campaigned in favour of the treaty and the way the referendum campaign has been run. It has been unfortunate that the arguments in favour of the treaty have not been made in as strong or compelling a way as they might have been. In particular, few prominent women have been speaking in favour of the referendum, which is very unfortunate. This is not just my opinion but is a view that is widely held. Women, as a group of voters, in particular need to be convinced of the arguments in favour. Even in the limited time left it certainly is possible for more prominent women speakers from the Government to be put forward. The Opposition parties in favour of the treaty have run stronger campaigns.

Others have made very strong criticisms in terms of the EU structures, the lack of democratic accountability and the structure of the Commission in particular. Having said all that, I still believe this is a treaty worth supporting. The report before the House makes some of the points in terms of the enhanced role for national parliaments, which I believe is important. It is also important that there will be an enhanced role for the European Parliament, as others have said, because that is clearly a body with very direct democratic accountability to the citizens of

Europe. There are two key reasons, however, I shall be voting “Yes” next Thursday and why I believe the treaty deserves our full support.

First, the procedural changes in the treaty, although they are not sexy or easy to sell because they are largely technical, are none the less vital to facilitate the greater expansion of the European Union. I believe passionately that the EU should expand and become a more inclusive Union, embracing in particular the Balkan states and others from the former Soviet Republic. That really could enhance the life prospects for many disadvantaged people on the peripheries of Europe. It is of major significance in the treaty and a positive reason to vote in favour.

The treaty also deserves our support because of the Charter of Fundamental Rights. From the left-wing perspective I hold, the charter contains many socioeconomic rights, such as the right to health care, which deserve our support. They are not in our Constitution at present and we shall see further changes in favour of a social and citizen’s Europe being made by virtue of our adoption of this treaty, because it contains that charter. Because it facilitates expansion and contains a charter, to put it in very simple soundbite terms, this treaty deserves our support and those are the arguments I believe need to be made compellingly towards women and other voters on the left in particular as we face into the last week of the campaign.

Minister of State at the Department of Foreign Affairs (Deputy Dick Roche): I thank all Senators who have made a contribution, both for and against. I want to give Senator Bacik one further coherent argument in favour of the treaty, and I agree with her 100%. One of the tragedies of the debate so far is that we have been debating what is not in the treaty as opposed to what is. In a sense that is inevitable, however.

I got to know Danny Cohn-Bendit well during the course of the European Convention. He made one very interesting comment why Europe needs this treaty. Europe has reached the stage at which it can influence the equilibrium of world politics, and that is the absolute essence of this. Europe and the European project stand for certain democratic values, freedom, rights of the individual and self expression — all of the things that are in our DNA as Europeans. He was right in saying we have a different viewpoint. We might approach those principles from different directions, but they are dear to us and part of our DNA. For a period it looked as if it would be a unipolar world, and it may well be a multi-polar one, but in the event it is important that there is a place therein for the expression of the values, democracy, rule of law, human rights and the principles that as Europeans we hold dear.

I shall refer briefly to today’s contributions. Senator Paschal Donohoe made a very good contribution on how the treaty sets out the roles and powers of the Union. I refer again to Senator Bacik’s important point that this does not enter into the debate. More than any other treaty this one clearly expresses the competences of the Union and the principles that deal with those competences, including the principle of conferral and the fact that the Union has only those rights which we as member states give it. We can take them back. This gives lie to the suggestion that somehow or other a super-state is being constructed. No such super-state or federal state exists. This is a unique function. The Senator also mentioned the principle of subsidiarity but we can add conferral, subsidiarity and proportionality.

Senator Terry Leyden spoke about the extension of democracy and stated that the treaty has been overlooked. Again, this point was taken up by Senator Bacik in her contribution. It is a real tragedy that we have not had the space to debate this. Senator Leyden also made the interesting suggestion that the Charter of Fundamental Rights should be printed and widely distributed. That is something well worth considering. As it happens, I have 5,000 miniature copies of it for distribution among young people. I will consider distributing them to adults also.

[Deputy Dick Roche.]

Senator Norris stated that he wondered how we could commend the treaty when we had not read it. I can commend the treaty because I have read it in detail. I was one of those privileged to be involved in its preparation. The question was asked, how much of this treaty was contained in the constitutional treaty. Approximately 95% or 96% of what was worth preserving was contained in it.

Senator Norris spoke also about the EDA and asked why we want to be associated with it. The first point I should make is that in this area, which is broadly bracketed as the defence area, nobody is forcing us to do anything. The treaty specifically recognises the defence character of each member state. In so far as the EDA is concerned, one has a right to get involved or to not get involved. There are practical and good reasons we should be involved. We currently have young men and women serving humanity's cause in Chad. It is important we properly equip those who go to dangerous places to provide help and assistance on our behalf. This agency will ensure they are properly equipped with capacity to inter-operability as the military call it. The agency is not a threat to our neutrality.

Senator Norris and a number of other Senators, including in particular Senator Doherty, mentioned the Commission. It is worth reminding the House that the Nice treaty provided for a smaller Commission. The Lisbon treaty provides for an equal Commission. One of the great victories in the negotiations on the Convention on the Future of Europe was acceptance by small and medium sized states of a smaller commission if, and only if, the distribution of portfolios and positions on the Commission were on the basis of strict equality. One of the great victories or concessions, whichever one chooses to call it, was acceptance by the larger states that this should be a principle. This speaks to the nature of Europe. It is built on equality.

Senator Quinn spoke about concerns in respect of family law and in particular abortion. While many disagree with me, I am pro-life and have been always of that view. I do not disrespect people who take a different view. I would not be advocating strongly and passionately a treaty that would undermine this. The treaty contains a provision which reiterates the protocol that this is a matter for the Irish people. The Irish people may some day make a different decision from the one they made in the past and I will respect that decision too. Senator Quinn also spoke about his concerns in respect of tax and neutrality. I believe both these issues have been well and truly answered.

I agree with Senator Boyle that one of the problems is that arguments do not always include coherence or respect. I listened during the week to commentary about people on the "No" side being Trots, SPUCers and neo-cons. Whether one is a Trot, a SPUCer, a neo-con, right-wing, left-wing or otherwise, in a democracy one is entitled to one's views. People are not entitled to invent facts but they are entitled to their views and we should learn to respect those views.

Senator White spoke about the enhancement of the role of parliaments which is what we are discussing here today. This is a major move forward. It gives a real role to national parliaments. Senator Doherty, as I mentioned earlier, spoke about the role of the Commission. I simply reiterate the point that the Commission is based on equality. He also contradicted the view that the charter is valuable particularly from the point of view of workers' rights. I was very active in the trade union movement when I was a civil servant. Although I was not a formal member of the social Europe group within the convention, I joined it and attended all its meetings specifically because of those interests.

I say to Senator Doherty that the Sinn Féin view is in direct contradiction with the views expressed recently by John Monks, General Secretary of the European Trade Union Confederation, by David Beggs, Blair Horan and the Irish Congress of Trade Unions. Senator Doherty also made the point continuously made by Sinn Féin that there are huge movements in terms

of competences. They have always argued that, between two different elements, there will be 173 different areas. The referendum commission yesterday outlined 33 areas. This matter was also addressed by way of parliamentary question. The view of the Robert Schuman Foundation in this regard as published in its statement differs from the view taken by Sinn Féin. With respect, I believe Sinn Féin is wrong.

I agree with Senator Ormonde that it is great we are holding a referendum on the matter. It is a pity the debate often gets deflected into all sorts of avenues that have nothing to do with the main subject matter. However, the holding of a referendum is, in essence, an expression of democracy. I compliment Senator Ormonde on all she has done in this regard. I agree with Senator Bacik and would welcome participation by more women in public life and in this debate. I do not understand it but there is a reluctance in this regard, particularly among women, as indicated in all the polls. This can be best addressed by women engaging in the debate.

I agree with Senator Bradford's point that we have ended the democratic deficit. Also, I agree with him that equality is an issue in the Commission. As a small, medium or large state we should never look for anything other than equality. Equality is the very essence of the democratic process. If we want to be treated as equals we must be prepared to treat others as equals. The question was asked, what happens if we vote "No". It is a fundamental question.

Senator Hanafin made the point about the Sword of Damocles hanging over everybody's head. It is important for us to realise that a "No" vote will not be cost-free. A "No" vote will have very real costs not alone for Ireland but for Europe. I say this not to scare people but because it is an objective enough position. If we vote "No" we will reject a treaty that will make Europe more democratic. I genuinely cannot see the point of that. If we vote "No" we reject the possibility of giving legal effect to the Charter of Fundamental Rights which is an uplifting document. I sincerely do not see any benefit in that. If we vote "No" we say no to a treaty that has at its heart equality between member states, equality in terms of Commission appointments, in terms of a voting system that recognises the equality of citizens in member states, that recognises that Seanad Éireann is as important to the people of Ireland as is the French Assembly to the people of France, and that recognises that we can protect those issues which are important to us. I do not see the point of rejecting a treaty that enshrines equality.

Senator Hanafin is correct that the real loss will be to our standing as a country. This point was also made by Senator Bradford. Ireland enjoys an astonishing amount of goodwill in Europe. I have been involved in the European project for 35 years. I was involved in the early days as a young civil servant. The respect and goodwill which Ireland enjoys is something we should not easily squander. For example, the current head of the Commission on Administration is an Irish woman. Her predecessor was an Irish man. There have been only five heads of the modern administration within the European Commission and of those five people two are Irish. This is an extraordinary indication of the respect we as a nation and our public servants enjoy in Europe. An Irish man was recently president of the European Parliament. Pat Cox went to Europe as an Independent. John Bruton is currently the EU ambassador to Washington, an appointment that would not have been made without the support of the Irish Government and without the respect for Ireland and John Bruton in Europe. Great respect has been shown to us in terms of our postings in the Commission. Ray MacSharry, Peter Sutherland and Paddy Hillery all had outstanding portfolios.

I agree with the point made by Senator Bacik that the argument should be about what is in the treaty. It grieves me that every time I go on a radio or television programme or, as I will do after this, go to a press conference, I will be asked about the next negative, such as that somebody stated something about Judge Iarlaith O'Neill as opposed to what is in the treaty. I

[Deputy Dick Roche.]

will be asked about somebody's comment on Article 48.3 as opposed to what the article states. I suppose this is the nature of public debate but I agree the focus has been wrong.

I have made the following point within my party so when I make it now I do not in any way chastise or correct Senator Bacik. Comparisons between the campaigns of individual parties are not helpful. All of us bring different issues to the campaign. I celebrate the roles played by Fine Gael and the Labour Party. In particular, I celebrate the role played by Proinsias De Rossa within the Labour Party. We need to pay generous tributes to people such as Deputies Timmins and Creighton and I am prepared to do so because we all made an effort in this. I respectfully disagree with Senator Bacik with regard to comparisons. I do not disagree with her right to make those comparisons.

As Senator Bacik correctly stated, for the next seven days we need to debate what is in the treaty. This treaty is important for Ireland. It is good for Ireland and for Europe. We will best serve the Irish and European causes and the democratic cause by voting "Yes" on Thursday, 12 June. I thank Senators for their contributions which, as always, have been of the highest standard.

Civil Law (Miscellaneous Provisions) Bill 2006: Report Stage

An Cathaoirleach: I welcome the Minister of State at the Department of Agriculture, Fisheries and Food, Deputy Tony Killeen, to the House. Prior to commencing I remind Senators that Senators may speak only once on Report Stage except the proposer of an amendment who may reply to the discussion on the amendment. On Report Stage, each amendment must be seconded.

Amendments Nos. 1 and 2 are related and will be discussed together by agreement of the House. Is that agreed? Agreed.

Government amendment No. 1:

In page 14, between lines 3 and 4, to insert the following:

10.—Subsection (5) of section 32A (inserted by section 180 of the Criminal Justice Act 2006) of the Courts (Supplemental Provisions) Act 1961 is amended in paragraph (b) of the definition of "relevant district" by substituting "subparagraph (1), (2) or (2A) of paragraph 3 of the said Schedule" for "subparagraph (1) or (2) of paragraph 3 of the said Schedule".

Minister of State at the Department of Agriculture, Fisheries and Food (Deputy Tony Killeen): Amendments Nos. 1 and 2 are designed to put in place a system to facilitate the signing of warrants where the person whose function that would normally be, namely, the District Court judge assigned to the district to which the warrant relates, is not available.

Section 32A of the Courts (Supplemental Provisions) Act 1961, which was introduced by the Criminal Justice Act 2006, established a process whereby a District Court judge can, even though outside the District Court district to which he or she is assigned, exercise the powers to issue arrest warrants, search warrants and other related warrants that relate to his or her District Court district. This section has been operating well enough as far as it goes. However, a difficulty has been encountered where the District Court judge assigned to a District Court district is not just outside the district in question but for the moment inaccessible within the normal turnaround time required, for instance, physically remote on a holiday.

The speed and capacity of modern communications are such that the need for a warrant may arise very quickly. However, there still must be a physical piece of paper that an arresting or searching officer can produce on demand to any person affected by it. If, for instance, the

District Judge assigned to a district in Clare happens to be in Donegal and the urgent need arises in Clare for a warrant to search premises, it can be difficult under present arrangements. These amendments are proposed by the Government to deal with the difficulty.

Amendment agreed to.

Government amendment No. 2:

In page 15, between lines 17 and 18, to insert the following:

“13.—Paragraph 3 (as amended by section 37 of the Courts and Court Officers Act 1995) of the Sixth Schedule to the Courts (Supplemental Provisions) Act 1961 is amended—

(a) in subparagraph (1), by substituting “temporarily assigned by the President of the District Court to another district or districts” for “temporarily assigned by the President of the District Court to another district”,

(b) in subparagraph (2), by substituting “assigned by the President of the District Court to any district or districts” for “assigned by the President of the District Court to any district”,

(c) by inserting the following subparagraphs after subparagraph (2):

“(2A) Without prejudice to subparagraph (2), the President of the District Court may, in relation to any district, temporarily assign for a period not exceeding 6 months one or more district judges (whether or not any such judge is permanently or temporarily assigned to another district or districts) to exercise, in relation to that district, the powers specified in subparagraph (2B).

(2B) A district judge who is temporarily assigned to any district under subparagraph (2A) may exercise any of the powers of a district judge to which section 32A applies for the time being conferred on him or her by law whether he or she is in or outside that district.”,

(d) in subparagraph (3), by substituting “temporarily assigned by the President of the District Court to any district or districts” for “temporarily assigned by the President of the District Court to any district”, and

(e) by inserting the following subparagraph after subparagraph (4):

“(4A) Where a district judge is temporarily assigned to any district under subparagraph (2A)—

(a) in case there is for the time being a district judge permanently assigned to that district – he or she shall, in relation to that district, have, while so temporarily assigned, concurrently with that district judge, all the powers of a district judge to which section 32A applies for the time being conferred on that district judge who is so permanently assigned,

(b) in any other case – he or she shall, in relation to that district, have, while so temporarily assigned, all such powers of a district judge to which section 32A applies as would for the time being be conferred by law if he or she were a district judge permanently assigned to that district.”.

Amendment agreed to.

Senator Alex White: I move amendment No. 3:

In page 23, to delete lines 23 and 24.

[Senator Alex White.]

I return to this issue which we dealt with on Committee Stage. I made the point that it was difficult to see how our jurisprudence would be improved by the proposal to delete the requirement in the Petty Sessions (Ireland) Act 1851 with regard to the judge's note. On Committee Stage, the Minister of State, Deputy Conor Lenihan, made the point to the House, of which we were well aware, that an appeal from the District Court is by way of a full rehearing in the Circuit Court. It is still difficult to see why, in the absence of a universal transcript system, we should not have a formal judge's note of the evidence before him or her. Need for this could arise in a case stated, a judicial review or a complaint against a judge before the judicial council if and when it is established.

It is no use stating an appeal to the Circuit Court is a full rehearing. We know this. However, need for a note could arise in other circumstances. On Committee Stage, the Minister of State, Deputy Conor Lenihan, referred to two authorities, namely, *Friel v. McMenemy* and *Hegarty v. Fitzpatrick*. In these cases, the court refused to permit the applicants to have access to the note of the evidence required under section 24 of the 1851 Act. Taking the outcome of these cases as read still does not dispose of the possibility that a judge might need a note to finalise a case stated, that the High Court might wish to have access to a note or that the judicial council, when it is established, might require access to a note.

The case for the removal of this provision has not been compellingly made. On Committee Stage, the Minister of State, Deputy Conor Lenihan, did not clarify from where this is coming and perhaps the Minister of State, Deputy Tony Killeen, will do so now. I know it is a matter for the Government to bring forward proposals to change legislation. What is the source of the case being made for this change? Is it coming from the Courts Service or the judges of the District Court? I am perplexed by it and I do not see any real rationale for it.

An Cathaoirleach: Is the amendment being seconded?

Senator Eugene Regan: For the purposes of the discussion I will second the amendment.

Deputy Tony Killeen: I understand the point made by Senator Alex White. The strong argument against making the change he proposes which *de facto* does not make the change the Bill proposes is that it is impractical with regard to the time it takes. In any event, I have not been able to find any circumstances in which the proceedings as followed in the manner provided for previously could be of any subsequent assistance. An enormous workload would arise were this to be required in all cases.

The 1851 provision states:

Whenever any Justices shall proceed to hear and determine any Complaint or Information to an Offence, they, or One of them, shall, when required so to do by either Party, or his Agent, take or cause to be taken a Note in Writing of the Evidence.

This is a major practical undertaking and during the century and a half since it was enacted, this provision has evolved considerably. The petty sessions themselves are a thing of the past and in the vast majority of cases, the justices who sat on them were unpaid part timers and frequently were not lawyers. At present, we have District Court judges who are whole-time appointees with legal qualifications and experience, each sitting alone in the District Court.

The procedures for the hearing of criminal trials and of civil trials have made considerable advances since early Victorian times. The strongest argument advanced by the Minister is that this provision, of which the Bill seeks to dispose, is of no practical benefit at this stage and has considerable capacity to delay matters.

The annual throughput of cases in the District Court is approximately 650,000. That number has increased rapidly and it is likely to increase in the future. Just under 70% of cases relate to criminal offences, which range from the most minor parking infringements to offences involving violence, theft to offences involving violence, theft, public disorder and the like, and the overall trend is upwards every year. Were district justices to be asked, in even a small proportion of those cases, to take a written note of the evidence, the work rate of the court would not be able to keep up with demand. The major underlying reason for making this change is that no practical use is being made of the provision currently and were it to be invoked in a substantial number of cases, it would result in an unmanageable workload for the courts, which would be unable to proceed as heretofore.

Senator Alex White: The provision has been in place for 157 years and the bottom line is it has no practical use. I imagine other provisions in our body of legislation have no practical use. Can we expect all such provisions will be addressed and the Government to proposed that they be deleted? That is unlikely even though there are many. I am sure this issue has arisen in other areas. If one scanned our body of legislation, many such provisions might be found. Who is the source of this request? Is it is the Courts Service, the Judiciary or another body?

Deputy Tony Killeen: The proposal to remove this 157 year old provision emanated in the Attorney General's office. I agree with the Senator that it would be a good idea to make this change in other legislation. When evidence is introduced, the opportunity should be availed of to dispose of provisions that are unlikely to be used or that are impractical, particularly in cases where they have not been used to a great extent historically and on the rare occasions they have been used, they have been unhelpful to both parties and particularly the court. The Attorney General suggested this change.

Amendment put and declared lost.

An Cathaoirleach: Amendment No. 4 is out of order.

Senator Alex White: It was ruled out of order on Committee Stage on the basis that it would be a charge on the Revenue. Why is it being ruled out of order now?

An Cathaoirleach: The amendment was ruled out of order on Committee Stage because it involved a potential charge on the Revenue. It was, however, still open to the Senator to debate the issue on the section but the issue was not debated at all. It must be ruled out of order on the basis it does not arise from Committee proceedings.

Senator Alex White: It was ruled out of order and, therefore, I presumed it could not be debated. I propose that the Bill be recommitted in respect of amendment No. 4.

An Cathaoirleach: Is that agreed? Agreed.

Bill recommitted in respect of amendment No. 4.

Senator Alex White: I move amendment No. 4:

In page 28, between lines 2 and 3, to insert the following:

“31.—(1) If in any proceedings before a court it appears to the court that—

(a) costs have been improperly or without any reasonable cause incurred by a solicitor acting for a client who is a party to those proceedings, or

[Senator Alex White.]

(b) by reason of any undue delay in proceeding under any judgment or order, or of any misconduct or default of that solicitor, any costs properly incurred have nevertheless proved fruitless to the client incurring those costs,

the court may, on its own motion or on the application of the client concerned —

(i) call on the solicitor of the person by whom such costs have been so incurred to show cause why such costs should not be disallowed as between the solicitor and the client and also (if the circumstances of the case require) why the solicitor should not repay to the client any costs which the client may have been ordered to pay any other person, and

(ii) make such order as the justice of the case may require.

(2) An order under *subsection (1)*—

(a) shall not be made in respect of a solicitor acting in good faith and without negligence,

(b) does not depend upon a finding by the court that the solicitor is guilty of professional misconduct or gross negligence in relation to their duty to the court.

(3) (a) Where a court is considering whether to make an order under *subsection (1)*, the court may at any stage refer the matter—

(i) in the case of the High Court, to a Taxing Master,

(ii) in the case of the Circuit Court, to a county registrar, for inquiry and report and may also appoint a solicitor to attend and take part in such inquiry.

(b) Notice of an order under *paragraph (a)* shall be given to the client in such manner as the court may direct.

(4) In this section, “court” includes the Master of the High Court.”.

The amendment is designed to ensure solicitors who incur costs due to their negligence are required to pay them by empowering the court to make an order in that regard. If costs have been incurred through the negligence of a solicitor on behalf of a client, provision is made to require the payment of such costs by the solicitor because they should not be borne by the client.

Deputy Tony Killeen: The issue of legal costs in contentious cases generally is being addressed by the Department of Justice, Equality and Law Reform. By “contentious”, I mean legal services provided or work done in connection with legal proceedings before a court. The work is intended to address concerns about the costs associated with civil litigation and the intention is to bring forward practical proposals to help address the issue. A number of reports have been prepared in this regard. The issue of legal costs generally has been the subject of much scrutiny in recent years. In December 2005, the report of the legal costs working group, chaired by Mr. Paul Haran, former Secretary General of the Department of Enterprise, Trade and Employment, was published. Broadly speaking, the report recommended the replacement of the existing taxation of costs system with a new system of legal costs assessment. A group set up by the Department of Justice, Equality and Law Reform to advise on the implementation of that report and to consult professional legal bodies has completed its deliberations.

Officials in the Department have commenced work on drafting the scheme of a Bill to reform the manner in which disputed legal costs are assessed, with the allied objective of making the market for civil legal services more predictable, consistent and transparent to consumers. It is intended that the Bill will also provide for significant improvements in the quality and quantity of information that a solicitor is required to provide to clients and the manner in which it is to be supplied. An important consideration in developing the Bill is the view that the individual litigant should have a central role to play in controlling his or her legal costs. How the litigant can be so empowered will be addressed in that Bill. The timely provision of information to clients is central to this empowerment.

The proposal is to have a new system for the assessment of costs which, as part of its remit, will provide information to the public on the law and on clients' entitlements relating to costs. I expect the new system will have a mechanism to collect, analyse and publish data regarding costs, counsels' fees, witnesses' expenses and other disbursements from all court jurisdictions. The Bill will also provide for legislative and procedural changes to reduce delays in court hearings and generally expedite the legal process. The issue of costs penalties for delays or costs incurred due to negligence can be addressed in the context of this proposed Legal Costs Bill. This will provide an appropriate opportunity to consider the issue, which is considerably wider than what would be dealt with if the amendment were accepted.

Senator Alex White: Until the final few sentences, the Minister of State's reply was interesting and compelling but it had nothing to do with my amendment, which addresses a narrow issue in respect of the negligence of solicitors. I do not have an objection to the matter being dealt with in other legislation, if this is what the Minister of State is proposing, although he stated the issue "can be addressed" in the context of other legislation. If he was indicating that it will be dealt with in that other legislation, I would be much more reassured. I see Senator Walsh is present. We previously had a brief discussion in the House about legal costs. I would welcome a wide-ranging debate on the question of legal costs. I think Senator Regan would agree with me. Such a debate would provide us with an opportunity to address the serious issues that exist and perhaps address many of the misinformation that exists as well. This is a wider debate that ought to be held.

What I am proposing in this amendment is much narrower. It relates to the question of negligent solicitors and has arisen in some recent decisions in the Master's Court, if I am not mistaken. It is something that needs to be dealt with even if we were not dealing with the wider issue of legal costs. If the Minister of State can or is willing to indicate to me that it will be addressed in the context of that other legislation mentioned by him, I would be prepared to take that commitment on board.

Deputy Tony Killeen: I will certainly raise that with the Minister who I believe will be very disposed to making that commitment. I will certainly raise it in the strongest terms. I understand the important point made by Senator White.

Bill reported without amendment.

Senator Alex White: I move amendment No. 5:

In page 30, between lines 24 and 25, to insert the following:

"(2) Where a tenant has, prior to the passing of this Act, effected a renunciation as referred to in *subsection (1)*, the tenant shall be deemed not to be entitled to a new lease for a period of 20 years, and any lease for a shorter period effected on foot of such renunciation shall be deemed to be valid."

[Senator Alex White.]

This issue arose because of a particular case drawn to my attention. The amendment proposed by us is designed to ensure renunciations of the right to a new lease made pending the passing of the Act would be recognised as valid. Otherwise, some tenants would have their tenancies terminated and hardship might be caused.

On Committee Stage, the Minister objected and said that the amendment would discriminate unfairly between persons who made a renunciation before or after a particular date, which is a fair point. In those circumstances, we have changed the amendment to delete the reference to a particular date, as the Minister of State will see. On that occasion, the Minister also objected to the idea of retrospective legislation. Rather than being retrospective legislation, and I know that Senator Regan addressed this on the previous occasion, it is more in the way of a validating amendment. It is designed to validate and give effect to what the parties referred to actually intended, which was that there would be a renunciation. I cannot see how that would be a breach of anyone's rights.

Senator Eugene Regan: I second the amendment. The Minister gave a fairly comprehensive response to the debate and questions raised by Senator Alex White and me on the previous occasion and indicated that the intention of the amendment was to make it retrospective. My concern was that the existing provision provides for the ability of a tenant to renunciate prior to the taking out of a tenancy — assigning the tenancy agreement — whereas there is no reference to “prior” here. As I interpret it, the provision as drafted would apply in the case of “prior to” or at any time after the lease was entered into. Perhaps the Minister of State could clarify that one point.

Deputy Tony Killeen: In effect, what this amendment is proposing is that a change to the law affecting business tenancies be made retrospective. The proposed change to the Landlord and Tenant (Amendment) Act 1980 contained in the Bill is to enable parties to a business tenancy to contract out of the provisions of Part II of the 1980 Act which gives the right to a new tenancy in certain circumstances. The important precondition for contracting out is that the tenant or would-be tenant has first received independent legal advice.

The provision draws upon section 4 of the Landlord and Tenant (Amendment) Act 1994 which enabled business tenants who had, or were entering into, leases of office premises to exercise this opt-out. Unlike the provision in the 1994 Act, the ability to contract out is not confined to cases where the renunciation has been completed prior to the commencement of the tenancy. This is a deliberate policy choice since it is intended to facilitate existing business tenants who, in the absence of an ability to renounce their statutory right to a 20-year tenancy, might face eviction as the period of five years, after which the right accrues, draws to a close. One of the effects of the provision in Part II of the 1980 Act that gives the business tenant a right to a further 20-year tenancy after a continuous tenancy of five years is that landlords tend to offer business leases, especially in the small business sector, for a period of four years and nine months. This is, in general, because landlords are unwilling to put themselves in a position where they have committed their property to a long leasehold during which they may find themselves at a disadvantage if, say, they are unable to secure rent reviews that keep pace with inflation or they may have to pass up on development opportunities that might arise during that period.

As this Bill proceeds through the Oireachtas, there are many business tenants who entered into their tenancies three, four or more years ago and whose leases are approaching their end. When they entered into those tenancies, there was no inkling that there would be a change in

the law along the lines now proposed in this Bill. They were content to take the leases on the terms being offered by their landlords and had no expectation of anything other than that at the end of their leases, they would have to look around for alternative premises either to lease or to buy. As this Bill has made its way through the Houses, there are some whose leases have expired exactly on that basis.

They now see the possibility offered in the Bill, a possibility that will be available to others who entered into leases a little later than they did, and they have made representations to Members in both Houses to see whether it is possible for them to avail themselves of the new law. Naturally, that happens all the time in respect of all the issues raised. It is a very important point and as was the case on Committee Stage when the Senators set a particular date retrospectively, the Minister, among other things, pointed out that there were difficulties relating to the specific date. To be fair to the Senators who tabled the amendment, the only alternative was to leave it open-ended in retrospective terms. This also creates a particular difficulty. In respect of Senator Regan's point, the proposal as it stands is not retrospective but it does enable current tenants to avail of the opt-out. Naturally, they will not have that facility until after the Bill is enacted and commenced. Without reading through a lot of material with which both Senators are considerably more familiar than I am, my understanding is that this is the current situation in respect of the provisions in this Bill. There are two reasons, one of which is dealt with or circumvented by the Senator by removing the date but the other, which is the retrospective element, continues to be a difficulty that the Minister believes cannot be addressed in this legislation

Amendment, by leave, withdrawn.

Bill reported with amendments, received for final consideration and passed.

An Cathaoirleach: When is it proposed to sit again?

Senator Jim Walsh: At 10.30 a.m. on Wednesday, 18 June 2008.

Adjournment Matter.

Local Development.

Senator Jerry Buttimer: I thank the Cathaoirleach for allowing me to raise on the Adjournment the issue of Cork docklands. I welcome the Minister of State, Deputy Killeen. Cork docklands are pivotal to the growth of Cork given the need for the city to develop and grow. They could have a profound impact on both the economic and physical force of Cork into the future. The docklands project in Cork concerns light rail, railways, homes, apartments and the completion of schools, hospitals and other social facilities.

It has been described as having the potential to be a vibrant urban quarter for Cork. The Government's inaction so far is a source of concern in respect of the regeneration of the Cork docklands area. Cork City Council and the people of Cork are looking for tax incentives. They were promised in the budget and the Finance Bill but we have seen nothing so far. I appreciate that Cork City Council is working with the Department of Finance in forwarding necessary documentation to the EU regarding state aid.

I have some questions for the Minister of State. Do all the tax incentives require EU permission and can any of them be given without EU permission? My next question concerns the

[Senator Jerry Buttimer.]

gateway innovation fund which is necessary for the development of the two bridges. Where are we at this juncture and when will it be announced?

Cork City Council has heard nothing regarding tax incentives. If one looks at Dublin and other docklands projects in Ireland and England, one sees that they were kick started through tax incentives. Such tax incentives are not needed for the provision of hotels and apartments but for schools and other social facilities which are an important part of the Cork docklands regeneration.

The development of light rail and a link between Kent Station and the docklands is also an important part of this project. The Minister of State will agree that we must learn from the Dublin docklands development in the context of building first and putting in infrastructure later. Currently we have a brownfield site and four or five major developers with large land banks. Cork City Council requires two important elements — tax incentives, which will cost the Government nothing and infrastructural spending on the two bridges. I hope the infrastructure is put in place before anything else is done.

There was a suggestion by certain members of the Government parties that the EU is holding up the Cork docklands project but I believe that is a red herring and is nonsense. The project must be prioritised. The European Commission President, José Manuel Barroso, visited Cork recently and was impressed by the docklands project. Cork City Council has done all that is required so far. The economic study has been completed; planning applications have been put forward by one of the major developers, Howard Holdings, the north and south docklands local area plans are complete; and full consultation with the landowners has taken place. The authorities of the port of Cork, who had a major oral hearing with An Bord Pleanála, are in the process of trying to move the port downstream and Cork City Council is in advanced, regular contact with them.

I ask that the Government announces, without delay, the tax incentives for the docklands project, which is absolutely critical to Cork. The city is hemmed in by the county and there is no agreement between the city and county council regarding an extension to the boundary of the city. Therefore, the most natural way to go is to grow the city through the docklands and through the provision of various facilities, educational, medical, social and so forth. I hope the Government is favourably disposed and I ask that the Minister of State address the specific points I have raised in his reply.

Minister of State at the Department of Agriculture, Fisheries and Food (Deputy Tony Killeen): I thank Senator Buttimer for raising this important matter. I am responding on behalf of the Minister for Finance.

The Cork docklands area is situated in a strategic location to the east of Cork city centre and covers an area of 166 hectares of land on both banks of the River Lee, with 4 km of waterfront. Its potential was recognised in the 1990s and consideration of how to realise it culminated in the publication of the Cork docklands development strategy in 2001. This document set out a vision for a new urban quarter for Cork characterised by high quality design with residential, employment and leisure opportunities; in short, a superb quality of life in a high-density urban setting. The Minister for Finance appreciates that due to its unique location and potential, the regeneration of the docklands is a priority for Cork City Council.

The Government formally established the Cork docklands development forum last November which is chaired by Professor Gerry Wrixon, former President of UCC. The objective of the forum is to oversee and drive the development of the Cork docklands area, by bringing together senior representatives of the key Departments with stakeholders from the

local authorities and the community and business sectors. The work of the forum is ongoing and officials from the Departments of Finance, An Taoiseach, Enterprise, Trade and Employment and the Environment, Heritage and Local Government are represented on the forum to ensure a coherent cross-Departmental approach and focus and to expedite the work of the forum in partnership with the relevant local stakeholders. The forum has already met on a number of occasions and is due to report back to the Government by the end of this month on how the vision for the docklands can be realised.

The regeneration of Cork docklands was highlighted in the national development plan which recognised that the area has the capacity to accommodate an additional residential population of at least 15,000 people, in a mix of both social and affordable housing units. The regeneration of this area will also result in significant commercial activity with associated job creation opportunities.

The Government also recognised the case for the regeneration of Cork city docklands as early as 1999 when a significant area in the docklands was designated for tax reliefs under the 1999 urban renewal scheme, although it is accepted that unfortunately, for a variety of reasons, no significant development took place in the areas designated under the scheme.

Cork City Council made a formal submission in advance of this year's budget for tax incentives to encourage the redevelopment of Cork docklands. However, due to the wide scope of the proposal, it is understood that it is highly unlikely that the combined package of reliefs as proposed by the council would be approved by the European Commission under the relevant State aid guidelines. Officials from key Departments, including the Department of Finance, have engaged in discussions with the EU Commission on the production of a package of financial measures, including tax incentives, which can pass the State aid test. These discussions are ongoing and they are likely to be prolonged given the complexity of the issues under consideration.

While the Commission approved Cork docklands and some of the adjoining areas as being eligible for regional aid under the State aid map for the period 2007 to 2013, this does not mean that the area can qualify for all of the proposed tax incentives. It must be noted that the Commission's state aid map simply places an upper ceiling on the level of aid that can be awarded in a specific assisted area. It does not grant automatic approval to tax or any other financial incentives. These must be submitted for separate State aid approval.

It should also be noted that if a redevelopment project of magnitude was to benefit from tax incentives in its entirety this would involve massive and long-term Exchequer costs. This is a very important consideration, particularly in the current economic climate where there is already some pressure on tax revenues.

The Taoiseach, when he was introducing the second stage of the Finance Bill to the House in his role as the Minister for Finance, stated: "The Cork project is at the beginning of a process of evaluation and we need to assess how best to devise proposals that would meet with EU State aid requirements. It is an exciting project but at this stage it is still a work in progress". In that regard, the Taoiseach also indicated that an early announcement may not assist in clarifying some of the outstanding issues that have yet to be resolved between the various stakeholders. The Taoiseach also said that the Cork docklands forum is expected to report by the middle of this year and that he remained open to looking at ways in which the tax code can be used for the development of the area.

It is understood that the forum is currently completing its report for the Government which will be submitted by its target date of the end of this month. Once this has been received, the Minister for Finance will study the report and consider whether and how financial measures,

[Deputy Tony Killeen.]

including tax incentives, can be put in place to encourage investment and change behaviour in order to secure the regeneration of the Cork docklands.

Senator Jerry Buttiner: I thank the Minister of State for the reply, although it is disappointing. When does the Minister of State envisage that a decision will be made on this project, given the budgetary changes in the national development plan announced by the Taoiseach last week? The Minister of State is well aware that this project is pivotal to Cork. When are we likely to see this being brought to a conclusion? The docklands in Cork is dependent on this project coming to pass.

Deputy Tony Killeen: Assuming the report is received by the Minister at the end of this month, as is expected, I would anticipate that the Department and the Minister would consider it over a period, while also continuing to work with European Union officials. I will raise the question with the Minister and ask him to respond to the Senator directly.

The Seanad adjourned at 2 p.m until 10.30 a.m. on Wednesday, 18 June 2008.