DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

TUAIRISC OIFIGIÚIL—Neamhcheartaithe
(OFFICIAL REPORT—Unrevised)

Déardaoin, 30 Meitheamh 2011.

<table>
<thead>
<tr>
<th>Section</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business of Seanad</td>
<td>123</td>
</tr>
<tr>
<td>Order of Business</td>
<td></td>
</tr>
<tr>
<td>NAMA Transparency Bill 2011: First Stage</td>
<td>138</td>
</tr>
<tr>
<td>Houses of the Oireachtas Commission: Motion</td>
<td>139</td>
</tr>
<tr>
<td>Civil Law (Miscellaneous Provisions) Bill 2011:</td>
<td></td>
</tr>
<tr>
<td>Order for Second Stage</td>
<td>139</td>
</tr>
<tr>
<td>Second Stage</td>
<td>139</td>
</tr>
<tr>
<td>Message from Dáil</td>
<td>170</td>
</tr>
<tr>
<td>Ministers and Secretaries (Amendment) Bill 2011: Motion</td>
<td>170</td>
</tr>
<tr>
<td>Earlier Signature</td>
<td></td>
</tr>
<tr>
<td>Adjournment Matter</td>
<td></td>
</tr>
<tr>
<td>National Asset Management Agency</td>
<td>170</td>
</tr>
</tbody>
</table>
Thursday, 30 June 2011.

Paidir.

Prayer.

Business of Seanad

An Cathaoirleach: I have notice from Senator Deirdre Clune that she proposes to raise the following matter on the motion for the Adjournment of the House today:

The need for the Minister for Finance to ensure NAMA provides information on how it proposes to deal with unfinished developments and how its assets will be disposed of as recommended by the recent report of the National Competitiveness Council.

I regard the matter raised by the Senator as suitable for discussion on the Adjournment and it will be taken at the conclusion of business.

Order of Business

Senator Ivana Bacik: The Order of Business is No. 1, motion regarding the appointment of members of the Houses of the Oireachtas Commission, to be taken without debate at the conclusion of the Order of Business; No. 2, Civil Law (Miscellaneous Provisions) Bill 2011 — Order for Second Stage and Second Stage, to commence at noon and conclude at 3 p.m., if not previously concluded, with the contributions of group spokespersons not to exceed ten minutes, those of all other Senators not to exceed eight minutes and the Minister to be called upon to reply no later than 2.50 p.m.; and No. 3, motion for earlier signature of the Ministers and Secretaries (Amendment) Bill 2011, to be taken without debate on receipt of a message from Dáil Éireann on the agreement or otherwise of the amendments made to the Bill last evening.

Senator Darragh O'Brien: This side of the House will support the Civil Law (Miscellaneous Provisions) Bill 2011. It emanates from the previous Government. We will table amendments on Committee Stage which is to be taken next week. It is important legislation which is to be welcomed. It might not go far enough as regards the time lines but this can be dealt with next week by way of amendment.

Senator Healy Eames and others raised the issue of the culture of bonus payments. It has been publicised that more than 80% of the staff of the NTMA were paid bonuses in 2010, with the average payment being more than €7,000. Some of the amounts are startling. While nine of the most senior executives in the NTMA waived their bonus payments and this is to be welcomed, these nine payments came in total to €905,000. I ask the Government to examine the bonus payments structure. I understand contractual issues are involved. Rather than dealing
Order of 30 June 2011.
Business

[Senator Darragh O’Brien.]
with the payment of bonuses on an ad hoc basis, the Government should set in train agreements with the agencies that bonuses should not be accepted. This would avoid weekly revelations about bonus payments.

As regards the pension schemes of the NTMA and the National Asset Management Agency, NTMA staff are not deemed to be public servants but are contract staff. They have defined contribution pension schemes, the amount on retirement being based on investment returns. Last year the NTMA proceeded to set up a hybrid scheme. It was moving its staff to a defined benefit scheme akin to public sector and some private sector pension schemes. Most companies cannot afford to pay for such schemes. I raised this matter last year with the former head of the NTMA but we did not get very far. This is a matter the Minister for Finance should raise with the NTMA. Has it continued to move ahead, against advice, to establish what is effectively a Rolls-Royce pension scheme for non-public service workers at a major cost to the State? This has also happened in the universities to which I referred last week. Sometimes pension benefits are seen as not being a real cost because they are a cost down the line, in the future. This is adding to the State’s liabilities and I urge the Deputy Leader to speak to the Minister for Finance to ascertain what arrangements are in place for pensions in the NTMA and in NAMA. Most of the staff are paid very well for a job they do very well and the NTMA has a very good track record when compared with any international fund managers. However, their pension benefits need to be examined and the Minister for Finance needs to grapple with this issue. I ask the Deputy Leader to raise it with him as a matter of urgency.

Senator Deirdre Clune: I am pleased the Fianna Fáil Party is in agreement with the Civil Law (Miscellaneous Provisions) Bill. There are a lot of very important provisions in it and some of them have an overhang from the last Government. It is important they are enacted. I am sure we will discuss that later.

I would like the Deputy Leader to consider the census data which will be released today. It is estimated that the population will increase to 4.5 million, which is significant. It will have far reaching implications for future planning in the country. I congratulate the CSO on processing the data in such a short time. I know there is more to come in the next 12 months. It will make for very interesting reading, not just for Dáil constituencies which are not relevant to this House but to the other House, but also to settlements and how we move forward. It is an important document will be produced today which will have far-reaching implications for future investment in infrastructure and how the country moves forward. The figures will feed into the Electoral (Amendment) Bill which the Minister for the Environment, Community and Local Government published today.

Senator Mary Ann O’Brien: I would like to ask the Minister for Health, Deputy Reilly, why the State does not have the national budget for a paediatric home nursing care when it makes sense to care for children with life-limiting conditions at home and save millions of euro for the taxpayer by keeping such children out of hospital? Why are parents forced to ring Joe Duffy, as they did yesterday, and appear on “Prime Time”, as they did some weeks ago, to share their stories about how they are on the brink of not coping with their sick children and their siblings and are in desperate need of help?

Investment in home nursing care saves money. The children, parents and siblings do better and the taxpayer does better. The Minister says he believes in community care, so why does he not have a budget for paediatric home nursing care. I also ask him to clarify that the new service level agreement he announced on “Prime Time” on 31 May between HSE and the Jack and Jill Children’s Foundation did not contain any new funding for the foundation and was not new at all but was a document pending signature for months. Was it a PR stunt?
When will the Minister review the investment required by the Jack and Jill Children’s Foundation in line with the recommendations of the Trinity report, There’s No Place Like Home, published in February 2010 to increase State funding from €545,000 currently to €1.3 million to make it more sustainable and less reliant on mobile phone recycling and public donations to continue to exist? I remind the Minister that if Jack and Jill was to look after children up to the age of six years old, it could save the State a further €42 million per annum by keeping them out of hospital. The State will continue to benefit by saving €40 million every year by keeping the children currently supported by Jack and Jill warm and cosy at home rather than in hospital care which is nine times more expensive. We are not just talking about one charity, Jack and Jill. We need a national budget for paediatric nursing care. The average annual cost of hospital care is €147,000, which is nine times more expensive than the €16,000 cost of home care provision for a Jack and Jill baby.

Senator Sean D. Barrett: I support the comments of Senator O’Brien on the bonus culture. The bonuses paid in 2010 were presumably decided in 2009, a year in which GNP declined by 9%. I wonder what planet the people who decided to give bonuses were on when the rest of us were experiencing such a huge decline in income.

On No. 3 on the Order Paper, the request to the President to sign the Bill we discussed yesterday early, unfortunately, de jure, nothing happened yesterday. The Government got everything it wanted. De facto, we had a very useful engagement with the Minister performing a vital role in our national recovery and whose enthusiasm we were all impressed by. Parliamentary scrutiny and the role of Uachtarán na hÉireann should not be reduced to an administrative afterthought. I ask the Deputy Leader to communicate to the Government what I understand is her view as well, namely, our wish to play a full role in the national recovery and request that legislation be prepared in a timely way to allow for full consideration and scrutiny by Seanad Éireann and Uachtarán na hÉireann.

Senator John Whelan: I will not try the patience of the Deputy Leader and call for the Minister of Health to come into the House. There is a long list of questions before him and it will take him a couple of days to get through them all. It reminds me of a comment made by a previous Minister of Health and former Taoiseach that there are more landmines in the Department of Health than in Angola. It still seems the case, even though I know the Minister is doing his best to clean up the mess he inherited from his predecessor. In sporting parlance, he received somewhat of a hospital pass, if I may say so. There is a tendency and temptation which is hard to resist to turn medical issues and important matters of health care and hospitals into political footballs. Earlier in the week there was an attempt from the Opposition benches to blame Michael D. Higgins for the problems in Roscommon hospital. It was a remarkable feat, which turned a political football into a hot air balloon. It defied logic and political gravity, if I may say so.

I call on the Minister for Justice and Equality and for Defence to answer to the House on whether he is aware of the duty of care and responsibility he has under health and safety regulations and labour law to the 1,500 prison officers, soldiers, gardaí and prisoners in Portlaoise which contains two high security prisons. There is an absurd proposal from the HSE to close the accident and emergency department in Portlaoise hospital which is the 11th busiest acute general hospital in the country. Notwithstanding the needs of the community, the two high security prisons are across the road, as everyone will know, on the Dublin Road.

An Cathaoirleach: This is a matter that could be raised on the Adjournment.
Senator John Whelan: It is an urgent matter. It is important that the Minister for Justice and Equality does not expose the Government to any costly court cases for litigation owing to any removal of the accident and emergency facilities in Portlaoise. Rioting and trouble in the volatile environment of a prison and incidents of self harm which happen daily in the prison do not occur from 9 a.m. to 5 p.m., Monday to Friday.

Senator Mark Daly: I move an amendment to the Order of Business: “That No. 12 be taken before No. 1. on the Order of Business.” It is a procedural issue on the publication of the NAMA Transparency Bill 2011.

Will the Deputy Leader bring the Minister for Communications, Energy and Natural Resources to the House to deal with the fact that the church is still not aiding the child sex abuse audit. It is an appalling situation. CORI and some religious dioceses are refusing to cooperate with the National Board for Safeguarding Children in completing the audit required of the church authorities. They are hiding behind, of all things, data protection. The Data Protection Commissioner told them last November that there were no data production issues, yet the audit has not been completed. I understand only three dioceses and three bishops have assisted the board in trying to complete the audit. It is difficulty to understand how an organisation supposedly — I would nearly use “allegedly” — dedicated to helping the vulnerable and telling all of us who follow the creed that we must take responsibility for our actions is hiding behind a false veil of data protection in order not to complete an audit of the abuse that took place under its watch. Truth be told, people in high positions within the Catholic Church are afraid that when the audits are completed, they will be exposed as not having acted when they should have. Will the Deputy Leader invite the Minister for Communications, Energy and Natural Resources to attend the House to clarify that CORI can hand over this information and that there will be no legal implications for it? I look forward to the Minister taking the Adjournment issue raised by Senator Clune because the NAMA legislation is about the transparency and openness required by the agency concerning the sale of its assets and the establishment of a website to do so.

Senator Jim D’Arcy: I want to move away from economic matters for a while. It is of deep concern to me that a large percentage of Sinn Féin supporters in Northern Ireland, and perhaps even the majority, do not now want a united Ireland. The recent Northern Ireland life survey, which has been published annually since 1998, found that 52% of Catholics in the North would prefer to remain in the United Kingdom. In 2006, only 22% expressed such a preference. In addition, 73% overall believe Northern Ireland should remain part of the UK, with only 16% preferring a united Ireland. The latter is the most significant figure as it takes all the people of Northern Ireland into account. Nevertheless, the high level of support among Sinn Féin supporters for remaining in the UK is significant. This is disturbing for those of us who aspire to a united Ireland, including Fine Gael, the united Ireland party,——

An Cathaoirleach: Is the Senator seeking a debate?

Senator Jim D’Arcy: ——and who stand by Article 3.1 of the Constitution, as amended, which states that “It is the firm will of the Irish Nation, in harmony and friendship, to unite all the people . . . of Ireland”.

I ask that this matter be brought urgently by the Leader to the attention of the appropriate body, such as the Joint Committee on the Implementation of the Good Friday Agreement, for immediate consideration. This cannot be swept under the carpet.

Senator Rónán Mullen: Today is a significant day because it would appear that we have found the answer to an age-old scriptural riddle concerning whether the sons will actually be
made to pay for the sins of their fathers. It would appear that Deputy Michael Healy-Rae has given us the answer to that question: they will, indeed. Leaving aside the jocose aspect of this, the point needs to be reiterated that there are lessons here for all of us to learn. This has been another unhelpful blow to the reputation of politics and politicians in the eyes of an increasingly sceptical and frustrated public. Let us hope that we will have no more stories like this one in future.

It never ceases to amaze me how people in the media can miss the really obvious point. I know that Senator Marie-Louise O’Donnell will be as concerned as I am to hear that the journalism MA students in DCU — and I am a graduate of that course in DCU — are to be——

Senator Marie-Louise O’Donnell: The Senator was not a student of mine.

Senator Rónán Mullen: I was never a student of hers.

Senator Terry Leyden: That is very obvious.

Senator Marie-Louise O’Donnell: If he had been, he would have learned the art of brevity.

Senator Rónán Mullen: I look forward to the good Senator leading by example in that regard. There are many fine journalists. Listening to the debate on “Morning Ireland” earlier today about the Government’s plans to reduce the number of TDs, we heard how it started off with a promise by the Fine Gael party to reduce the number of TDs by 20. As we all know, that was diluted in the programme for Government. This morning, journalists were simply accepting that in light of the demographic changes one could not now reduce the number of TDs by 20 because one would fall foul of the constitutional requirement that there must be one TD for every 30,000 of the population. The obvious point, however, is that it can be changed by referendum. Is that not what the proposed abolition, rather than reform, of the Seanad is all about? Why was it beyond the capacity of journalists to ask the obvious question, which is “If you are going to have a referendum to abolish the Seanad, why not ensure in that referendum that one may reduce the number of TDs by 20”? Instead of falling for the standard political slide-back, our journalists should wake up to the hard questions they ought to ask.

An Cathaoirleach: Does the Senator have a question for the Leader?

Senator Rónán Mullen: I will conclude, mindful of Senator O’Donnell’s advice. Like Senator Daly, I, too, would be concerned if I thought that particular bishops were still failing to comply with their own audit. Having read the story in today’s newspaper — on which, I presume, Senator Daly is also relying — I got no actual information to help me form a judgment. I simply saw a phrase like “It is believed that this still remains the case”, but that does not make for good journalism either. To be able to speak about issues properly in this House we need the facts. We need the media to help us sometimes by providing clear facts, by asking the hard questions — whether of taoisigh, Ministers, backbenchers or bishops — and giving us the information with which we as public representatives can make certain judgments and call for certain changes.

Senator Michael Mullins: I support Senator Darragh O’Brien’s comments on bonus payments. We had a positive day yesterday on many fronts. The performance by the Minister, Deputy Brendan Howlin, gave us all confidence that we are on our way towards addressing many significant issues as to how we do business in the Oireachtas and make significant savings. As the Senator who raised the abuse of the telephone system here on Tuesday morning, I am particularly pleased that the Deputy who was the beneficiary of those 3,500 calls saw sense yesterday and decided to refund the cost of them to the Oireachtas. I hope the matter does
not end there, though. I urge the Leader to ensure that the Committee on Procedure and Privileges investigates this matter fully. We all want to see a system put in place whereby similar abuse cannot occur in future. The Oireachtas phone system should be configured in such a way that premium-line calls cannot be made from phones within Leinster House.

In recent weeks, we all received copies of the report of the Tribunal of Inquiry into Payments to Politicians and Related Matters. We got three large volumes of documentation, each of which costs €50 to purchase. That amounts to €150 per Member of the Oireachtas or a total of almost €34,000. There must be a better way of doing this. Significant cost savings could have been made by issuing the report electronically or making it available for access in the Oireachtas Library. I am not sure that every Member needed to have a copy or that everybody will read it. There are significant savings to be made everywhere we look within the Oireachtas system. I urge the Leader to take that point on board in future.

Senator Kathryn Reilly: I welcome Senator Jim D’Arcy’s comments on Fine Gael, the united Ireland party. Sinn Féin is currently hosting a number of regional conferences around the country on the issue of a united Ireland. I am sure his constituency colleague, Deputy Adams, or Councillor Sharkey, will extend an invitation for him to attend one of those conferences.

Senator Pat O’Neill: He could be the guest speaker.

Senator Kathryn Reilly: I am sure we can arrange something. Earlier this week, I spoke about semi-State bodies like EirGrid paying bonuses last year. According to the company’s 2010 annual report, the chief executive, Mr. Dermot Byrne, was paid a bonus of €23,000. I welcome the fact that this year the company will not pay any bonuses. I wish to highlight, however, that a bonus was paid to the CEO the year that EirGrid had to sensational withdraw the planning application for the North-South interconnector. While the CEO was given a handsome reward, this blunder by EirGrid, concerning the height of electricity pylons, left local communities across Cavan, Monaghan and Meath facing a huge legal bill.

There is one rule for some and another for others. I ask the Deputy Leader to invite the Minister for the Environment, Community and Local Government to the House to discuss the ratification of the Aarhus Convention and how the costs involved for these communities will be reimbursed. Unless the convention is ratified and groups such as the County Monaghan Anti-Pylon Committee and North East Pylon Pressure have their legitimate costs reimbursed, the people will be denied the opportunity to meaningfully participate in oral hearings to highlight their environmental concerns.

On a separate but related matter, the programme for Government commits to the establishment of an independent international expert commission to review, within six months, the case for and cost of placing underground all or part of the Meath-Tyrone line. It is now two months to the deadline, but the Minister has not yet announced anything about the review. EirGrid has finished the first round of the non-statutory public consultation process in preparation for submitting a formal new application to An Bord Pleanála. If the expert commission is to inform the process, it needs to be set up with terms of reference as soon as possible. I, therefore, ask the Deputy Leader to invite the Minister for Communications, Energy and Natural Resources to the House before the recess, if possible, to discuss this important issue.

Senator Martin Conway: I wish the Deputy Leader well on her first day taking the Order of Business. I know that she will certainly give us replies that will be most welcome.
Every day on the Order of Business since this Seanad first met there has been commentary on political reform, whether it be on the abolition of this House or a reduction in the number of Deputies. The programme for Government commits to the establishment of a constitutional convention in this regard. I, therefore, ask the Deputy Leader to advise us on the current position on its establishment. Having a debate on political reform is extremely important. It is not the preserve of this House exclusively, rather all citizens need to be included. We are in a time of great change. A new frugality will have to prevail and there will have to be political reform, whether it be in this House, the Dáil or at local government level. That debate needs to start now for there to be true political reform by the end of this Oireachtas term.

I would like to comment on media reports yesterday that it would take 18 months to set up an inspectorate to carry out whistleblowing inspections, as it were, in institutions which look after people with intellectual disabilities. I was delighted when the Minister of State, Deputy Kathleen Lynch, announced recently that she would recommend to the Government that it provide €6 million to carry out such inspections. I am concerned, however, that it will take 18 months to put this into action.

Senator Fidelma Healy Eames: Hear, hear.

Senator Martin Conway: I cannot understand why it will take 18 months to do so. Is it that the funding will not be provided in 2011 and that we will have to wait until 2012 for it? Perhaps the Deputy Leader might ascertain from the Minister of State the exact timeframe and why there will be such a delay in proceeding with the inspectorate?

I must agree with what Senator Darragh O’Brien and other speakers said about the bonus culture, about which Members have spoken this week. Bonuses should be a thing of the past. I hope, however, that we are moving from a position where we are broke to one where we can grow the economy again.

An Cathaoirleach: I must ask the Senator to conclude.

Senator Martin Conway: I will. There is no one in the country in a well-paid job who should be getting a bonus.

Senator Terry Leyden: Senator John Whelan seems to be a convert on the road to Kildare Street in regard to the future of this House. He seems to have found his voice at long last, on which I congratulate him. Let us be clear that he will not deal with me in the way he dealt with the Deputy in County Laois.

On the issue of responsibility, this is a coalition Government of the Labour Party and Fine Gael and it has an agreed programme. The president of the Labour Party will be a candidate in the Presidential election. Therefore, he has a role to play in considering the future of Roscommon County Hospital which we defended in hard times. The Minister for Health, a former president of the IMO, negotiated the most wretched contract for doctors — the golden card — which broke the Department of Health. He knew what his status was and he told the people of Roscommon and Portlaoise what he would do. I hope Senator John Whelan got a roasting last night in Portlaoise, if he had the courage to attend the public meeting there. I hope the Deputies——

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

Senator Terry Leyden: The Cathaoirleach allowed the Senator to make a disparaging comment about me and I will respond in like form.
An Cathaoirleach: I did not hear him make any comment about the Senator.

Senator Terry Leyden: I am a sensitive soul.

An Cathaoirleach: The Senator must be. That matter is not relevant to the Order of Business.

Senator Terry Leyden: It is relevant to me.

An Cathaoirleach: Does the Senator have a question for the Deputy Leader?

Senator Terry Leyden: I do. I ask her to contact the leader of her party to take action about the attacks on the flotilla sailing to Gaza to support the people of Palestine. I accompanied the Tánaiste previously and, in fact, led a delegation to Palestine in 2006. He knows the situation first hand, that Gaza is an open prison of 1.5 million people. There are brave and courageous people from this country who are prepared to go on board the ship to break the blockade on Gaza. I would like to support the Department of Foreign Affairs and Trade and know the Tánaiste’s heart is in the right place in that regard. We need to show solidarity to the brave people who are putting their lives at risk on behalf of the oppressed people of Gaza and the West Bank.

I inform the House that the Registration of Wills Bill 2011 will be taken during Private Members’ time at 5 p.m. next Wednesday, 6 July. I seek the support of all Members for this progressive legislation which was approved by the previous Seanad. I invite all my colleagues to a media briefing on it at 6.30 p.m. on Tuesday, 5 July, in the audio-visual room. Second Stage will be taken on Wednesday. I would like hear their views, particularly those of all the new Senators, prior to Committee and Report Stages.

An Cathaoirleach: That issue will be relevant to the Order of Business on the days the Bill will be debated.

Senator Fidelma Healy Eames: The rioting and flames in Greece broadcast on our television screens are a salutary warning to us of what we just averted by having a general election at the time we did. Are the Greek people being unreasonable in rioting? The answer is no. They are rioting because they were left in the dark as a result of bad government. The only policy now has to be truth and honesty. What we are finding daily in government are facts and figures we never knew previously.

Senator Darragh O’Brien: Hold on a second. There has been full access to the Department of Finance since last October.

An Cathaoirleach: Please allow Senator Fidelma Healy Eames to continue, without interruption.

Senator Fidelma Healy Eames: In the light of this——

Senator Darragh O’Brien: That is just plain incorrect.

An Cathaoirleach: Senator Fidelma Healy Eames to continue, without interruption.

Senator Fidelma Healy Eames: In the light of this and to be helpful to Members on all sides of the House, I ask the Deputy Leader to invite the Minister for Finance who I do not believe has been here since the start of this Seanad term to talk to us about the implications of the instability in the European Union for Ireland. While things are changing on a daily basis, I would like to see a roadmap, if possible. I would also like the Minister to also talk to us about
the bonus culture in this country. We read in the newspapers today that 84% of NAMA and NTMA staff received bonuses in the past year. That is a great number of people. Do we know how many are currently receiving bonuses from the State? It should be the policy not to pay bonuses until further notice. I would be grateful to the Deputy Leader, therefore, if she would invite the Minister for Finance to the House. We know he is doing an incredible job for the country, but it would be great to have him here to debate these matters.

Yesterday I sought a debate on education focusing on our vision for the education system. The Leader said he would seek to arrange such a debate in next term, but I had hoped we would be able to have it before the summer recess in view of the planning being undertaken for the new education year.

Senator Feargal Quinn: I extend good wishes to the Deputy Leader on her first day in this new job. I had not realised it was her first day, as it seemed she had been here forever. I am sure the Deputy Leader will be able to perform all her functions.

I received a letter the other day, which other Members may have received, from a person whose sister has been missing for 11 years. The letter sets out how his life changed when she disappeared. His agenda is to ensure every available resource is used to find a child from here or any other EU state as soon as possible should he or she go missing in this country. For this reason, I plead with the Deputy Leader to demand that the 116000 EU hotline for missing children be introduced in Ireland. The person from whom I received the letter has asked that this be done without further delay. The 116000 number has been reserved by the European Commission since 2007 for the entire European Union. While the Commission called on member states to have it operational in every country, the majority of countries have not done so, including Ireland. I ask the Deputy Leader to draw the attention of the Minister for Children and Youth Affairs, whose heart, I am sure, is in the right place, to ensure it is introduced in Ireland. I am sure it would not be expensive to do this. I do not understand the reason the number is not operational in this country.

Will the Deputy Leader provide time for a debate in the House on a particular aspect of banking? Yesterday, the Federal Reserve in the United States voted to reduce bank charges on the use of debt and credit cards. Yesterday also, the Office of Fair Trade in the United Kingdom proposed a ban on unfair debt or credit card charges. I was provided with an example of those charges, which stunned me. Ryanair is estimated to have received €252 million last year from card charges. These are figures which affect us. Two years ago, the European Court found that it was illegal for MasterCard and Visa to levy charges for cross-border transactions in Europe and urged each country to examine its own situation. I acknowledge it will be difficult for us nowadays to request that our banks reduce their charges but that is what we must do. Every trader who uses the credit card facility must pass on that charge to their customers, even those who pay with cash. We enacted legislation which provides that one must be charged the same for an item regardless of whether one pays by credit card or cash. Our citizens are paying higher prices for items for reasons that could be addressed. I urge the Deputy Leader to provide time reasonably soon for a debate on credit card charges and the banking system as a whole.

Senator Tom Sheahan: I profess I am not environmentalist. The issue of bonuses and waste, even within the Oireachtas, was touched on earlier. When this Seanad first convened, the issue was raised of inviting members of society into this House. Will the Deputy Leader say whether it would be possible to invite the chief executive officer of the Environmental Protection Agency, EPA, to this House? More than 30 years ago, 65,000 tonnes of non-contaminated waste was dumped in a landfill which was later covered and is now a greenfield site. The EPA, with the local authority, has spent vast sums digging trial holes and so on in this greenfield site.
in an effort to discover what is buried there. It has been stated in several reports that there is no contamination or toxic waste at this greenfield site, yet the EPA has ordered the company to remove 5,000 tonnes of waste at a cost of €2.5 million. While I do not agree with what went on, this was the practice throughout the country 30 years ago. If the EPA is determined to enforce this order, the company will go out of business with the loss of 400 jobs. It will cost the company €2.5 million to excavate 5,000 tonnes of waste. As I stated earlier, I am not an environmentalist but digging up ground to remove waste causes pollution and destroys our road network.

Would it be possible to invite bodies such as the Environmental Protection Agency, which to my mind are not responsible to any Minister, before the House in order that we could question them? I do not know if people are aware of the term “BAP”, best affordable practice. I believe best affordable practice should be put in place. I call on the Deputy Leader to——

An Cathaoirleach: Such bodies can be brought before committees.

Senator Tom Sheahan: The issue of inviting influential people into this House was discussed. I am asking if it is possible to bring the chief executive officer of the Environmental Protection Agency before the Seanad.

An Cathaoirleach: That is a matter for the Committee on Procedure and Privileges.

Senator Tom Sheahan: I formally request that the matter be forwarded to the CPP.

Senator Labhrás Ó Murchú: I support Senator Quinn’s call for the institution of the hotline number, which might help to resolve some of our missing persons cases. While we have many high profile cases in respect of which we have publicity campaigns from time to time, unfortunately they tend to end in a cul-de-sac each time. There is nothing as heartbreaking as seeing flyers on walls and telephones in a bus or railway station, some with photographs of the missing persons, seeking information in respect of a son, daughter or other loved one who has gone missing. Some cases appear to be linked. At least two or three cases in the midlands area appeared to have a criminal aspect to them. I do not think an issue arises in terms of resources. We must prioritise these types of issues. It must be heartbreaking for the families involved not to have closure. Many of us have received letters from the families of missing persons and one wishes one could do more for them. While I do not believe our raising this matter today will make any huge difference, I wonder if an appropriate agency could set about prioritising this issue by way of an ongoing publicity campaign. I believe the hotline would assist in this regard.

I salute the brave people who are trying to relieve the intolerable suffering of the people of Gaza. Everyone, including all the major powers, accept this is the position. One wonders how we can be held to ransom in this case when it does not appear to apply with intervention in other countries. The Government and we in the Seanad could call on an ongoing basis for the setting up of an independent Palestinian state. There is no reason progress cannot be made in this regard. I was impressed with President Obama when, in front of the cameras some months ago, made the same case. We all know what the obstacles are: votes, money and power within the United States by one faction over another. I do not believe a country like Ireland should allow those issues to deter us putting our position forward.

I call the Deputy Leader, whom I commend on her first day in that position, who I know will do a good job and whose views on human rights are strong, to provide time to debate this issue. The sheer humanity of this issue is crying out for resolution. Perhaps our small voice might get the momentum going.
Senator Susan O’Keeffe: As a journalist of some years standing, perhaps I, too, need to go back and learn how to write. I understood the word “bonus” to mean something one is given for doing a good job. It seems that many people having been taking bonuses and doing a very bad job.

Senator Sean D. Barrett: Hear, hear.

Senator Susan O’Keeffe: I echo the calls on bonuses and the bonus culture, which do not belong in this time. If we are to pay bonuses in future they must be for a job well done, which is my understanding of the reason for a bonus.

In the House on Tuesday I referred to temperatures rising on matters to do with health. It seems that temperatures are rising again and it is not good for the health of the people in this House nor for the people outside the House. Health issues seem to be on our agenda every day in here and outside. We would do well to honour the integrity of the Office of the President and those who are brave enough to put their names forward as candidates, that we should not impugn them regarding health or any other matters.

Senator Terry Leyden: That is a surprise to me — a president for all the people.


Senator Susan O’Keeffe: The Senator does himself a disservice.

Senator Terry Leyden: I cannot sit here and listen to this.

An Cathaoirleach: Senator O’Keeffe, without interruption.

Senator Susan O’Keeffe: I again ask the Deputy Leader to urge the Minister for Health to come to the House as a matter of urgency. It is clear that people are gathering in Portlaoise, Roscommon and across the country, concerned about hospitals. It is of concern to all of us because we do not need that kind of stress in the system and we do not need people gathering. Senator Whelan attended the meeting last night and appeared on the 9 o’clock news outside the meeting where his concern was evident. While we know about the shortage of funds, we know that people want information. They want to know what is happening to their hospital and other hospitals. If the Minister could do us a service and do a service to the people of Portlaoise, Roscommon and other parts of the country by coming to tell us——

An Cathaoirleach: Some of those issues could be eligible as Adjournment matters, which is how they should be raised.

Senator Terry Leyden: I got very little response when I raised it on the Adjournment.

Senator Susan O’Keeffe: I have already asked for the reconfiguration of hospitals in general. If a service is being closed, a hospital is being reconfigured. It is the same call in a different way. We need to see the Minister for Health and I appreciate he is very pressed.

Senator Terry Leyden: There were statements on Sligo hospital. I know all about Sligo.

An Cathaoirleach: Senator Leyden, please. Senator O’Keeffe should conclude.

Senator Susan O’Keeffe: We should ask the Minister for Health to come to the House to discuss health in general. The health of this House and the health of the nation are not doing well.
Senator Jim Walsh: I second Senator Daly’s amendment to the Order of Business on the introduction of the NAMA transparency legislation. I support the call by Senators Quinn and Ó Murchú on the introduction of the 116000 hotline number. We have been dilatory in introducing that. The European Commission provided for the introduction of that number for all European states in 2007. A great number of children, who have gone missing, many of them from State care, have then been subject to human trafficking for prostitution or pornography. It is a devastating life-changing experience for those children. We need to do everything possible to avert that happening. The Minister for Children and Youth Affairs should come to the House to debate the issue.

I also support the call by Senators Leyden and Ó Murchú with regard to the protection of the flotilla going to Gaza. It was appalling that last year one of the Turkish boats was boarded by Israeli commandos and nine people were killed. While the Israeli-Palestinian conflict seems intractable, greater emphasis from across the globe must be brought to bear to bring about a reasonable settlement there. The humanitarian situation in Gaza is appalling and people lack the basics. Food, water and medicine are in very short supply, and its depths of poverty are unacceptable in the modern world. We must respect the proposition that Israel’s security must be protected in any negotiated settlement. However, that does not mean Israel should have a veto on ensuring the same rights and protection are afforded to the Palestinians who are living in their homeland where they have lived for millennia. The Tánaiste and Minister for Foreign Affairs and Trade should come to the House at an early stage to debate the issue. Ireland and the European Union should pursue a clear and distinctive policy to advance a permanent settlement in that region.

Senator Paul Coghlan: I welcome the announcement by the Minister for Jobs, Enterprise and Innovation that he intends to introduce legally binding rules governing the interaction of retailers and suppliers. We are all aware of the allegations in the past of bullying, coercion and how a number of suppliers have been totally beholden to some of the larger multiples in particular. I hope it will finally end the practice of so-called hello money and possibly under the counter payments and so on.

Allied to that I welcome the announcement by the Minister for the Environment, Community and Local Government on retail planning guidelines to protect the streets of our towns. He made some interesting comments when he talked about the intention to amalgamate Limerick City Council and Limerick County Council, referring to some of the disastrous planning decisions that have decimated the streets of that city with regard to shopping. I hope it will lead to more effective decisions in the future. The management in many local authorities have much to answer for over the difficulties so many of our towns are suffering in that regard. I ask the Deputy Leader to invite either or both of those Ministers to come to the House to debate those issues, which are of such concern to the future of our towns.

Senator Jimmy Harte: Senator Quinn mentioned the cost of credit cards. The Minister for Finance or his Minister of State might clarify the following point at some stage. Whenever someone transfers money to another jurisdiction, for example to Northern Ireland or Europe, through the IBAN or SWIFT system, every transaction is reported to the US Government. When I researched the matter, I was told that the US controlled the system and wanted full information. If I have a son or daughter in Germany or France and want to transfer money to his or her account through the IBAN or SWIFT system, that is reported to the US Government. People may be concerned about what happens to that information when it arrives in the USA. Are we happy that this should continue? If the US Government is getting information on who is transferring money through Europe it may be the first stage on a bigger global financial game it is playing. I ask for clarification from the Minister. Is he aware of this and is he
happy that it should continue? Why has it been allowed to happen? It has obviously happened throughout Europe also. Many people have relatives abroad and have money transferred back and forward. This information is obviously freely available in the US and I ask the Deputy Leader to call on the Minister to clarify the matter if and when he comes to this Chamber.

Senator Ivana Bacik: I thank those Members who wished me good luck in my first day standing in for the Leader. I have big shoes to fill, given that Senator Cummins has been doing an excellent job as Leader.

I will respond to the speakers in turn. I welcome Senator Darragh O’Brien’s support for the Civil Law (Miscellaneous Provisions) Bill, on which we would all acknowledge much work was done under the previous Administration and which makes some very important amendments to current civil law matters. We will have plenty of time for Committee Stage and Report Stage debates on the Bill next week.

Senators Darragh O’Brien, Barrett, Mullins, Conway, Healy Eames, Sheahan and O’Keeffe raised the issue of the bonus culture, on which it would be very worthwhile for us to have a debate. The Government has already made clear that it expects leadership from the top and that no bonuses should be paid to semi-State chief executive officers for the time being. The Minister, Deputy Howlin, who was in the House yesterday and who was rightly praised by a number of speakers from across the floor, has set out his policy in regard to bonuses and stated he will initiate a review of the current system of performance related awards schemes for CEOs of commercial State companies. In the interim, he has requested boards not to pay bonuses.

We would all take Senator O’Keeffe’s point about the meaning of a bonus. Clearly, bonuses have been paid where they should not have been. It is welcome, as others have said, that some high level individuals have waived their bonuses, but something more formal needs to be done.

I should say also that the Minister for Communications, Energy and Natural Resources, Deputy Rabbitte, wrote to the chair of each State company in May, stating he is firmly of the view that bonuses are inappropriate and that payments should cease immediately. Action is being taken on this matter. We all saw last week the action of the Minister, Deputy Howlin, in setting out pay ceilings for CEOs of commercial semi-States and the wider public sector. The Government will ensure this bonus culture comes to an end. It would be useful for us to have a debate on this issue.

We have a very heavy schedule for the next few weeks, as Senator Cummins made clear, with much legislation coming to the House before 27 July, when we are due to finish the session. If it is not possible to schedule statements on some of the issues Members have raised before the end of July, we should come back to these issues when we sit again in September. Clearly, the bonus culture is one of those issues.

Senator Darragh O’Brien also raised issues about pension schemes in the public sector, in particular pension schemes for NTMA and NAMA employees. Again, these would be useful issues to debate with the Minister for Finance in the House.

Senator Clune raised the issue of the census and electoral reform, which was also raised by Senator Mullen. It would be useful to have the Minister for the Environment, Community and Local Government to the House and I will ask the Leader to request an early debate.

Senator Mary Ann O’Brien raised the important issue of a budget for paediatric home care and sought to have the Minister for Health to the House. We all take her point on value for money and the great work the Jack and Jill Children’s Foundation has been doing in terms of providing home care for children with serious conditions. We will be having all three of the health Ministers in the House before the end of July on legislation. The Leader has been trying to get the Minister, Deputy Reilly, to come to the House for a more general debate. We will
have a debate on health issues next week, so these issues can be raised at that point, even if we do not have general statements.

Senator Barrett referred to the bonus culture and also raised the issue of the earlier signature motion which is due to be taken without debate today once we receive a message back from the Dáil. I share Senator Barrett’s view that this is not a good way to go about the business of legislation. I said this yesterday when it was also acknowledged a number of times by the Minister, Deputy Howlin, and the Minister of State, Deputy Jan O’Sullivan. We are endeavouring to ensure we do not have this type of rushed legislative process in future. Given what we have just been saying about the bonus culture, it is imperative that the Department of the Minister, Deputy Howlin, is up and running as soon as possible. It was for that purpose the Bill was being progressed this week.

Senator Whelan raised concerns about the closure of Portlaoise accident and emergency unit. It is clear Senator Whelan was at the meeting last night, and, while I will not get into the debate between Senator Leyden and himself, Senator Whelan asked for the Minister for Defence to come to the House in regard to the possible consequences for staff of the Department of Justice and Equality in Portlaoise. We will have the Minister for Defence in the House next week for a debate on a defence Bill, so it might be appropriate to raise the matter then.

There has been a good deal in the press about the shortages of junior doctors. As we know, the Minister, Deputy Reilly, is trying to remedy that situation and to fast-track recruitment to fill the gap.

Senator Daly sought an amendment to the Order of Business in respect of No. 12, and I will accede to that amendment. As the Senator said, it is technical amendment to ensure the Bill can be published. There is no difficulty with that and I note the amendment was seconded.

Senator Daly also raised the issue of bringing in the Minister for Communications, Energy and Natural Resources on the concern about the failure of the Catholic Church to complete the audit on child sex abuse and child safety, and the concern about hiding behind data protection. I am not sure if the Minister for Communications, Energy and Natural Resources is the appropriate Minister. If he is, it would be an important debate to have, and this issue was also referred to by Senator Mullen. We will try to arrange for that debate.

Senator Jim D’Arcy raised the issue of a united Ireland. I was concerned he might be conflating Sinn Féin voters with Catholics, which would not be fair to do. None the less, it is a matter that would be appropriate to raise before the Good Friday Agreement implementation committee. Senator Reilly also referred to this issue.

Senator Mullen referred to the issue of Deputy Healy-Rae and premium rate phone calls from the Oireachtas. While it is a matter for the Dáil Committee on Procedure and Privileges, we in the Seanad Committee on Procedure and Privileges are very aware that we need to ensure correct procedures are in place for any such issues that arise here. We certainly saw this in regard to the affair concerning former Senator Callely. The Seanad CPP will next week consider how best we ensure our procedures prevent this sort of thing happening in future because it clearly brings us all into disrepute.

I notice Senator Marie-Louise O’Donnell hastily disowned Senator Mullen in terms of being a former student of hers—

**Senator Marie-Louise O’Donnell:** I would not call it “disowning”.

**Senator Ivana Bacik:** It was not quite disowning, perhaps. Senator Mullen also raised the reduction in the number of TDs and asked about a referendum in that regard. It is a matter
Order of Business

that will go before the constitutional convention that is to be established under the programme for Government. The constitutional convention will consider all aspects of electoral and political reform, which is an issue the Department of the Minister, Deputy Howlin, will take charge of once it is up and running, which is another reason to have it in place.

Senator Mullins raised the issue of the bonus culture and the Healy-Rae issue, with which I have dealt. He also asked for an examination of the cost of providing copies of the tribunal reports to all Senators. I agree with the Senator that we should consider this matter. I am not sure who took the decision to circulate hard copies to all Members, which was an unusual decision as we normally get them in electronic form. It is an issue we should take up, perhaps with the communications unit in the Houses.

Senator Reilly raised the issue of EirGrid and asked for the Minister for the Environment, Community and Local Government and the Minister for Communications, Energy and Natural Resources to come to the House. We may have those Ministers to the House on legislation, if not in the coming weeks, then perhaps in September. As I said, the schedule is heavy with legislation up to the end of July.

Senator Conway asked about the constitutional convention, of which the Department of the Minister, Deputy Howlin, will be in charge.

Senator Feargal Quinn: On a point of order, there has been a conversation going on ever since the Deputy Leader began summing up, which is not good manners.

An Cathaoirleach: I call for order.

Senator Ivana Bacik: I thank Senator Quinn. I was aware of that. Senator Leyden and a number of Senators, including Senator Ó Murchú and Senator Walsh, raised the issue of Gaza. I have long been a supporter of the Palestinian people and have been quite outspoken on that issue. I agree the conditions for the people in Gaza under blockade are intolerable and that we should have a strong voice in support of those beleaguered people.

With regard to the flotilla, the Department of Foreign Affairs and Trade is advising all Irish citizens against travel to the Gaza Strip. This is a general warning because of the danger. The Tánaiste has stated clearly in the Dáil that he has every respect and sympathy for the motives of the participants in the flotilla. While I am not sure if other Senators saw it, there was a report in today's newspapers that the Irish ship due to sail in the flotilla may not, in fact, be able to do so because there is a concern there has been some deliberate sabotage. Clearly, that is a matter which has just arisen.

Senator Fidelma Healy Eames asked for the Minister for Finance to come to the House to speak about the consequences for Ireland of the instability within the European Union, with reference to the riots in Greece and so forth. That would be a very useful debate for us to have to look at a roadmap for the future and it may be something we can arrange in this term. The Senator also asked for the Minister for Education and Skills to come to the House for a debate on education issues. I am also anxious to have such a debate and, if time permits in this term, we will try to arrange it.

Senator Feargal Quinn raised a very important issue, a hotline for missing children, on which he was supported by Senators Labhrás Ó Murchú and Jim Walsh. This is a matter on which many of us have been approached and clearly there would be all-party support. Senator Jim Walsh asked if the Minister for Children and Youth Affairs could come to the House for a debate. It might be useful for us to consider an all-party motion, as we have done on other issues such as this, which we could then provide for the Minister for Children and Youth Affairs. Even if she does not come into the House between now and the end of July for
statements, we have made clear our support on the issue of a hotline. Perhaps Senator Feargal Quinn and other Members might do what Senator John Crown did in producing a cross-party motion on the situation in Bahrain and produce a motion that would carry some weight.

Senator Feargal Quinn also raised the issue of credit card charges, on which he was supported by Senator Jimmy Harte. It is an issue that could be discussed in a general debate on banking.

Deputy Tom Sheahan referred to the bonus culture and asked for the chief executive officer of the Environmental Protection Agency to come before the Seanad. This issue will be considered by the Committee on Procedure and Privileges next week as part of the debate on the Taoiseach nominees’ motion on Seanad reform in order to be able to invite individuals to the House. Everyone expressed support for this idea and we have to look at how best we can do this. We also have to look at the mechanism of the petitions committee and how we can make it work. These are matters that will be considered by the Committee on Procedure and Privileges next Tuesday.

Senator Labhrás Ó Murchú also raised the issue of a missing persons hotline, as well as the gas pipeline blockade.

Senator Susan O’Keeffe asked for the Minister for Health to come to the House for a debate on health issues. We are trying to get him to come for general statements, but certainly we will have all three Ministers with responsibility for health matters in the House before the end of July to consider legislation.

Senator Jim Walsh raised similar issues to others and seconded Senator Mark Daly’s amendment to the Order of Business on the NAMA Bill, which is accepted.

Senator Paul Coghlan asked for the Ministers for Jobs, Enterprise and Innovation and the Environment, Community and Local Government to come before the House to discuss separate issues. These are debates we may be able to have this term, but, if not, they will be held early in the next term.

I think I have covered all requests. I apologise if I have overlooked any.

**An Cathaoirleach:** Senator Mark Daly has proposed an amendment to the Order of Business, “That No. 12 be taken before No. 1.” The Deputy Leader has indicated that she is prepared to accept the amendment. Is the amendment agreed to? Agreed.

Order of Business, as amended, agreed to.

**NAMA Transparency Bill 2011: First Stage**

**Senator Mark Daly:** I move:

That leave be granted to introduce a Bill entitled an Act to amend the National Asset Management Agency (NAMA) Act 2009 and to provide that, in the interests of transparency, all relevant details of properties offered for sale by or with the approval of NAMA be available to the public by means of publication on a website.

Question put and agreed to.

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

**Senator Mark Daly:** Next Tuesday.
An Cathaoirleach: Is that agreed? Agreed.

Second Stage ordered for Tuesday, 5 July 2011.

Houses of the Oireachtas Commission: Motion

Senator Ivana Bacik: I move:

That Seanad Éireann, in accordance with section 8(3)(b) of the Houses of the Oireachtas Commission Acts 2003 to 2009, appoints the ordinary Members of the Commission as follows:

Senators Marc MacSharry, Tom Sheahan and John Whelan.

Question put and agreed to.

Sitting suspended at 11.45 a.m. and resumed at 12.05 p.m.

Civil Law (Miscellaneous Provisions) Bill 2011: Order for Second Stage

Bill entitled an Act to amend the law relating to civil liability for acts of good samaritans, volunteers and volunteer organisations; to amend the Civil Legal Aid Act 1995; to amend the Private Security Services Act 2004; to amend the law relating to the sale of intoxicating liquor; to amend the Employment Equality Act 1998; to amend the Equal Status Act 2000; to amend the Bankruptcy Act 1988; to amend the Family Law (Maintenance of Spouses and Children) Act 1976; to amend the Coroners Act 1962; to amend the Land and Conveyancing Law Reform Act 2009; to amend the Registration of Title Act 1964; and to amend certain other enactments; and to provide for related matters.


Question put and agreed to.

Civil Law (Miscellaneous Provisions) Bill 2011: Second Stage

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

Acting Chairman (Senator Feargal Quinn): I welcome the Minister to the House.

Minister for Justice and Equality (Deputy Alan Shatter): I apologise to Members for being slightly delayed. The Government launched the new visa waiver scheme this morning and I hope it will result in a great many more tourists and business people visiting here.

The Long Title of this Bill is unusually long. It refers to the many Acts of the Oireachtas the Bill amends. This is an indication of the scope of the Bill and the many reforms of the law it seeks to achieve. The number of Acts referred to here is also indicative of the size and complexity of the Bill. More than 40 Acts are referred to and in addition, the Bill has an unusual number of Parts, 15 in all, and that too demonstrates a Bill of some substance.

I am indebted to this House for taking the Bill at short notice given that it was published only on Friday last. However, Members will appreciate that there are some very worthwhile and wide-ranging measures in the Bill, including some that require enactment with some speed because of gaps in the law. This Bill introduces a number of important reforms in the law across a broad range of areas. These include bankruptcy law, the enforcement of maintenance orders in family law cases, additional domestic violence protection, the amalgamation of the coroner districts of Dublin, protection of good samaritans and those engaged in voluntary work, some changes in the area of immigration and citizenship, legal assistance for the victims of
human trafficking, the appointment of Taxing Masters to the High Court and amendment of the Land and Conveyancing Law Reform Act 2009. It contains elements of the 2010 Bill published by my predecessor but I have significantly amended some original provisions contained therein and have addressed a significant number of additional areas of the law. The many changes in the Bill will make the law more efficient and more effective in the areas addressed.

Given the parlous state of our economy and the debt situation of many people, it is not surprising that the provisions in Part 7 of the Bill on bankruptcy already have received more attention than anything else. The most critical change proposed is in the replacement of section 85 of the Bankruptcy Act 1988, so as to provide that the period for application to the court for discharge of bankrupt persons be reduced from 12 years to five years. The discharge remains subject to the existing conditions. These are payment in full of all expenses, fees and costs of the bankruptcy, as well as all preferential payments, primarily to the Revenue Commissioners. The costs and preferential debts involved may amount to quite large sums and in a good number of cases the debtor will be unable to meet these amounts at any stage, and so may remain bankrupt for some time. Nevertheless, the change will be welcome. It will afford a chance to people to recover and to begin anew.

The new section 85 also provides, for the first time in Irish law, for the automatic discharge of bankruptcies on the 12th anniversary of the adjudication order in those cases. This will assist in the discharge of long-term bankruptcies and will allow the official assignee in bankruptcy to bring closure to 365 so-called “legacy bankruptcies” that currently clog up the system.

In line with a commitment in the programme for Government, a personal insolvency Bill is in the course of being developed in my Department to provide for a new framework for settlement and enforcement of debt and for personal insolvency. The framework will make provision for resolutions, without the necessity of court applications. The commitment under the EU-IMF programme of financial support for Ireland is to publish the Bill in the first quarter of 2012. It is my objective to publish the measure ahead of the EU-IMF deadline, if possible. Work is advanced to achieve that objective.

In developing the Bill, account is being taken of the recommendations of the Law Reform Commission in its recent report on personal debt management and debt enforcement. That report provided an in-depth review of the personal debt regime. Moreover, the economic and financial effects of certain of the new arrangements that are in contemplation are being carefully assessed to ensure that all relevant issues are addressed and their impact is fully anticipated and understood and to ensure there are no unintended consequences. A key objective of the Bill will be to achieve a balance, in so far as is possible, between the interests of creditors and debtors and also to create a system that avoids as far as possible the need for expensive bankruptcy procedures and court involvement.

Part 14 of the Bill, relating to the Office of the Taxing Master, is an interim measure pending more detailed reform of the office in line with commitments in the programme for Government and in the EU-IMF programme of financial support for Ireland. Part 14 amends the law so as to widen the qualifications for appointment as a taxing master. The post is currently confined to solicitors of ten years standing but will now be open to barristers and legal costs accountants. The existing retirement age of 70 years is being reduced to 65 years and the period of appointment will now not exceed five years. These modernisation measures are in keeping with recommendations of the legal costs working group and of the Competition Authority and with our ongoing EU-IMF commitments to structural reform in the legal costs area. In that connection, my proposals for the Legal Services Bill are at a very advanced stage of development. They will provide for fundamental reform of regulation of legal costs, of the legal professions and of
the adjudication process. The timeline for publication of those proposals is the third quarter of this year. I anticipate they will be published towards the end of the coming September.

Part 8 of the Bill inserts new provisions in the Family Law (Maintenance of Spouses and Children) Act 1976 that would empower the District Court to regard as contempt of court failure by a maintenance debtor to comply with a previous court order and to deal with it accordingly, including by means of imprisonment. The proposed amendment is based on the premise that a court has already deliberated in setting an appropriate level of maintenance and that if the debtor breaches that order without a significant change in his or her circumstances, that breach will constitute contempt of court. As these are civil contempt proceedings, both the debtor and creditor will be entitled, subject to the usual criteria, to civil legal aid. This measure will strengthen the existing provisions in the law for enforcement of orders of the court to pay maintenance. This area is complex and has been under review for some time. Part 8 addresses difficulties which have arisen consequent on the judgment of the High Court in the McCann case of 2009 concerning the enforcement of orders for the recovery of civil debt. The High Court found that the Enforcement of Court Orders Act 1940 lacked a number of necessary safeguards in circumstances where a person is at risk of imprisonment. Following this judgment, the Enforcement of Court Orders (Amendment) Act 2009 inserted a series of amendments designed to protect debtors and impose obligations on the creditor. However, it has become evident that those measures are unfortunately not the most practical insofar as enforcement of maintenance orders is concerned. A real problem has been created for the District Court in this regard.

I would like to take this opportunity to inform the House that I intend to bring forward a further amendment in this area on Committee Stage. I propose to repeal the arrest warrant provision in section 8(1) of the Act while retaining the section to allow it to be used for the enforcement of foreign maintenance orders. This amendment will be more in keeping with the principles outlined in the High Court judgment in the McCann case. In making reference to the enforcement of maintenance orders in the District Court, I wish to state that enforcement orders that can result in a maintenance defaulter being required to spend time in prison are very much last resort measures.

The objective is to ensure that when maintenance support orders are made in the courts, they are complied with by those under an obligation to make payment for the support of either their spouse or children and to ensure that where persons who clearly can afford to comply with orders meet their obligations. The primary remedy available for maintenance default currently is the making of what is known as an attachment of earnings order by the District Court, which facilitates that court when there is a default in maintenance payments requiring the maintenance debtor to make payments directly through the District Court system by way of a court order which requires an employer to deduct the sum due from a weekly, fortnightly or monthly salary payment. The difficulty in this area arises particularly where people are self-employed and attachment of earnings orders have no effect. It is in that area there is a specific gap which, unfortunately, is being exploited by some estranged spouses and parents of some children to evade meeting their legal obligations to provide essential family supports already adjudicated upon by our courts.

I want to turn now to Parts 12 and 13 of the Bill, which deal with the registration of property rights such as rights of way. The background is as follows. Part 8 of the Land and Conveyancing Law Reform Act 2009, which came into operation on 1 December, 2009, updated the law concerning the acquisition of easements and profits à prendre. The former are rights over neighbouring land, such as a right of way, while a profit is an established right to take, for example, turf or timber from land. Many of these property rights have been the subject of an express grant and are, therefore, already registered in the Land Registry. However, where the
right in question results from long usage, namely, what is referred to as acquisition by “prescription”, it may never have been registered. One of the aims of the reforms in the 2009 Act was to ensure registration of such rights. Such registration will facilitate the introduction of electronic conveyancing of land.

The law concerning acquisition of easements and profits by prescription has been greatly simplified and streamlined in Part 8 of the 2009 Act. It provides that such rights may in future only be acquired by prescription on registration of a court order with the Property Registration Authority. However, in late 2010, the Law Society made a submission to the Department in which it expressed concern that in cases in which there was no conflict regarding the existence of these rights, the requirement to obtain a court order would lead to an unnecessary expense for land owners and an unnecessary increase in the workload of the courts. The Government has accepted the thrust of the Law Society’s submission and the main purpose of the amendments to the Land and Conveyancing Law Reform Act 2009. The Registration of Title Act 1964, in Parts 12 and 13 of the Bill respectively, is to permit the Property Registration Authority to register the rights concerned without a court order where there is no disagreement between the parties concerning entitlement to the right concerned. The proposed amendments will allow a land owner, who claims to be entitled to a right on the basis that the relevant requirements set out in the 2009 Act have been met, to apply to the Property Registration Authority to register that right on the owner’s Land Registry folio and permit the authority to do so, where the claim has been substantiated to its satisfaction.

To be satisfied that the owner’s claim has been substantiated and is not the subject of a dispute, the authority will serve notice on the relevant parties. The detailed notice and other statutory requirements will be published in the form of a statutory instrument. The authority will also publish “practice directions” to guide practitioners. The amendments to the 2009 Act also extend the three year period during which existing rights of way must be registered to 12 years, that is, from December 2012 to December 2021.

Part 2 gives statutory backing to allow the Legal Aid Board to provide legal advice on criminal matters to alleged victims of human trafficking offences. The amendment will enable full effect to be given the Council of Europe Convention on Action Against Trafficking in Human Beings and to a UN Protocol on trafficking in persons, especially women and children. Both these instruments were ratified in 2010 and are in operation in the State.

In my Department, in the Garda Síochána, in the Health Service Executive and in the Legal Aid Board there are dedicated units dealing with human trafficking and assisting victims, as well as dedicated personnel in the Office of the Director of Public Prosecutions and in the asylum seekers and new communities unit of the Department of Social Protection. Once a potential victim comes to the attention of the competent authority — which for cases of human trafficking is the Garda National Immigration Bureau — they are immediately offered access to a range of services. These include accommodation with the Reception and Integration Agency, medical and support services through a HSE care plan based on the person’s individual needs, and legal services provided by the Legal Aid Board. In respect of enforcement, the Garda Síochána has identified trafficking in human beings as one of its priorities in the annual policing plan and has established a human trafficking investigation and co-ordination unit in the Garda National Immigration Bureau.

Part 3 builds on recommendations made by the Law Reform Commission in its 2009 report on the civil liability of good samaritans and volunteers. It amends the Civil Liability Act 1961 to give clear statutory protection from liability to those who, in good faith, help others. The objective is to protect from liability those who, acting with good intentions, go to the assistance of others who are injured or ill as a consequence of an accident or emergency. Protection from
liability is also provided for persons working as volunteers for charitable or other organisations for the benefit of society, including sports, recreation and rescue. Volunteers will be required to act in a way that does not contribute to gross negligence, while the volunteer organisation with whose organisation they operate will be held to the higher standard of ordinary negligence. While the higher standard will apply for volunteer organisations, provision is made for account to be taken of the benefit accruing to society as a result of the organisation’s work in determining whether it is just and reasonable to impose liability.

I may be bringing forward a further amendment to this provision to ensure that those who undertake voluntary work in circumstances of extreme climate difficulty, such as clearing pathways outside family homes or retail outlets during the type of weather that we witnessed last winter, can be assured that where they do so in good faith and do not act with gross negligence, they will not be liable to be sued should someone slip a couple of days later at the location they sought to clear. I also want to ensure that persons who use other materials to deal with weather events are not equally subject to liability to be sued, where they act in good faith and do not behave in a manner which is grossly negligent. This issue is being discussed by the crisis management committee, which I chair in my capacity as Minister for Defence, which brings together all of the various Departments and agencies in the State who may be deployed or engaged in dealing with various crises, be they environmental or otherwise, and which is engaged in forward planning in these areas.

The effectiveness of the Private Security Authority will be improved by the changes provided for in Part 4 of the Bill. The amendments provide for improvements to the licensing process of the authority, including technical changes to certain aspects of the renewal procedure, and the power for the authority to grant a temporary licence in particular circumstances. The Bill also increases the authority’s powers to request information about individuals involved in running a security company. This will augment further the controls on the management of security companies, in addition to tax certification and other compliance measures already in place.

Amendments provided for in the Bill also facilitate changes in the fee structure of the authority and this will allow the authority to appoint a person, in addition to its own staff, to be an inspector. The authority will be in a position to issue a temporary licence to an applicant, who is a new entrant to the industry, for a period not exceeding six months, during which the applicant can prove that he or she has the necessary competence to perform the security services in question. The authority may, in exceptional circumstances, extend the temporary licence for a further three month period, if that is necessary.

Part 5 introduces a new provision in our licensing laws. Section 14 provides for the preparation and publication of codes of practice for the purpose of setting standards for the display, sale, supply, advertising, promotion or marketing of intoxicating liquor.

I stress that such codes are intended as a practical mechanism to promote compliance with the licensing laws by licensees. They are not intended and will not operate as an alternative to Garda enforcement. Nevertheless, while breach of a code will not be an offence, it will constitute a ground on which an objection can be lodged by the Garda to renewal of the licensee’s licence. It will then be a matter for the court to decide under what conditions the licence will be renewed. There is scope for using the code of practice mechanism to deal with aspects of licensing law which are difficult to specify in legislation. For example, it can be difficult to define aspects of marketing or promotional activities in a sufficiently watertight and comprehensive manner to restrict or prohibit them. However, practices which generally tend to lead to excessive alcohol consumption could be addressed under an appropriate code. Staff training is recognised as another important area. However, it can be difficult to specify comprehensive
[Deputy Alan Shatter.]

standards in legislation. Incorporating such standards in a code could provide a more practical and flexible way of dealing with the matter.

Before concluding on this point, I refer to the existing code of practice on the display and sale of alcohol products in mixed trading premises. This code applies to supermarkets, convenience stores and other mixed trading outlets and it has been implemented by the mixed trading sector as a voluntary alternative to the structural separation provisions in section 9 of the Intoxicating Liquor Act 2008. The mixed trading sector has established a body known as Responsible Retailing of Alcohol in Ireland, with Mr. Padraic White as chairman, to oversee implementation of the code and to report the results of an independent compliance audit to the Minister on an annual basis. The results of the compliance audits have been broadly positive to date and the previous Government was sufficiently satisfied with the progress made that it did not feel it necessary to implement section 9 of the 2008 Act. Mr. White is due to submit his next compliance report to me in September next, and I intend to seek the views of interested bodies and the public on the effectiveness of the code before deciding whether to give effect to the statutory provisions in the 2008 Act.

MEAS, the Mature Enjoyment of Alcohol in Society, was established in 2002 by the Drinks Industry Group of Ireland. The voluntary MEAS code requires drinks producers, distributors and licensees to ensure that alcohol is sold and promoted in a socially responsible manner, and only to those over 18 years of age. I was surprised and disappointed by the announcement on 20 June by the Licensed Vintners’ Association, LVA, and the Vintners’ Federation of Ireland, VFI, of their decision to withdraw their support from the code and to cease their membership of MEAS. I regard this as a backward step and find it difficult to understand. It was my belief that both organisations——

**Senator Sean D. Barrett:** I am sorry, but some copies of the Minister’s speech do not have pages 10 and 11. I do not know whether that is a general problem. I would like to follow the Minister’s speech on paper. I apologise for this intrusion, but it would help us if we had the missing page.

**Deputy Alan Shatter:** If those pages are missing, I will ensure they are provided. It is not that we were trying to deprive the Senator of crucial information. I hope the missing pages are included in the script he now has.

**Senator Sean D. Barrett:** Go raibh maith agat.

**Deputy Alan Shatter:** The Senator will notice that I occasionally go off script, but on this Bill I have not done so.

It was my belief that both organisations truly had as an objective the encouragement of social responsibility in the sale and consumption of alcohol. The announcement made is open to the interpretation that they no longer support this important objective. It would be most unfortunate if that were the case. I urge both organisations, in the public interest, to reconsider their decision.

The Bill, in Part 6, provides for a small number of amendments to the Equality Acts which are intended to improve the efficiency of the Equality Tribunal in handling complaints and to take into account legal decisions at national and EU level. The amendments provide for the following changes: the tribunal may, where appropriate and where neither the complainant nor the respondents object, deal with cases on the basis of written submissions alone; the tribunal may state a case to the High Court and avoid further litigation by way of appeal; in situations where mediation has failed, the deadline for application for resumption of the hearing is
extended; and the maximum amount that may be awarded in employment equality cases is increased to two years’ remuneration or €40,000, whichever is greater, to provide for greater redress for applicants in low-paid employment. This is designed to align the text of national law more closely with EU equality directives.

The Coroners Bill 2007 is before the Seanad, having been restored to the Order Paper on my initiative. The Bill is in the course of being reviewed in my Department with a view, among other things, to making it as cost-effective as possible. In the meantime, in Part 9 I am providing for some early reform of the coroner system to allow for the amalgamation of districts in Dublin and certain other matters with regard to the filling of a vacancy of the office of coroner or deputy coroner.

Part 10 will for provide for a flexible system of fees for citizenship applications. Part 11 is intended to remedy the situation, following the High Court ruling on 25 March 2011 in the case of Dokie v. DPP, the Human Rights Commission, Ireland and the Attorney General, in which section 12 of the Immigration Act 2004 is inconsistent with the Constitution. It also provides for a flexible system of fees for certain immigration services.

Part 15 proposes several miscellaneous improvements of the civil law. The Bill amends the Domestic Violence Act 1996 so that a parent may now apply for a safety order against the other parent of his or her child even where the parents do not live together or have never lived together. This ensures that the full protection of the law is available where access to a child is an occasion of intimidation or even violence between disputing parents. Other amendments to the Domestic Violence Act mean that the protection of the Act is available on the same basis to unmarried opposite-sex couples and same-sex couples who have not registered a civil partnership. In addition, couples will no longer be required to have lived together for a minimum period before one of them can obtain a safety order. In line with a commitment in the programme for Government, I have asked my Department to develop proposals for a stand-alone Bill to further amend the law on domestic violence and to include all domestic violence legislation in one consolidated statute.

The Personal Injuries Assessment Board Act 2003 is amended in Part 15 so that it applies to any applicable limitation period, including the limitation periods set under the Civil Liability Act 1961. The amendment will also provide that the Personal Injuries Assessment Board Act shall not apply to a civil action involving personal injuries sustained by a person on board a vessel at sea, or a passenger on board an aircraft operated by or on behalf of an air carrier. I have included the amendments in the Bill at the request of the Minister for Jobs, Enterprise and Innovation, Deputy Richard Bruton.

Section 7 of the Official Languages Act 2003, which came into force in July 2006, provides for the printing and publication of Acts of the Oireachtas in both official languages simultaneously. The amendment in Part 15 will allow the publication in electronic format of Acts of the Oireachtas in advance of their printing and publication in both official languages. This will ensure that a version of the Act is available to the public pending the official translation. The practical reality is that translations take a few weeks and sometimes longer to publish. The amendment will help avoid the risk of a challenge from somebody whose rights are affected by a Bill which is not readily accessible. More importantly, it will ensure that all interested persons will be in a position to access an official text of an Act as soon as it is passed by both Houses of the Oireachtas. I have included the amendments in the Bill at the request of the Minister for Arts, Heritage and the Gaeltacht, Deputy Jimmy Deenihan.

Part 15 also makes amendments to the Second Schedule of the Courts and Court Officers Act 1995 to make provision for a number of functions to be undertaken by county registrars with a view to optimising resources and value for money. The amendments will empower
registrars to do the following: waive notice periods for intention to marry or enter a civil partnership; make orders in certain circumstances relating to notice of applications to appoint care representatives for persons lacking mental capacity, a function which was conferred on them under section 22 of the Nursing Home Support Scheme Act 2009; enlarge or abridge the time for service of documents or the carrying out of any act; and make orders enabling titles to land to pass from deceased owners to the successors in title.

Inevitably for a Bill of this kind, the addition of some further measures is being contemplated, and if these are ready in time I may seek the further co-operation of Senators in their inclusion. These will, if possible, concern the transfer of responsibility for the provision of legal aid for persons involved with a mental health tribunal to the Legal Aid Board, which will help the Legal Aid Board to promote mediation; certain improvements and efficiencies in courts procedures; other amendments to equality legislation; and a number of other minor amendments.

As Members of the House will see, this is a broad-ranging Bill which addresses a considerable number of areas of our law. In their individual context, each of the measures in this Bill is of real importance and, in some areas, genuine urgency. With the assistance of this and the other House, I have the optimistic objective of having this Bill enacted before both Houses are in recess at the end of July. I thank Senators for facilitating us in moving that Second Stage be taken today and allowing us to address the many important issues I have outlined. I look forward to hearing their comments and observations on the substance of the Bill and any suggestions they may have for its improvement.

**Senator Denis O'Donovan:** I welcome the Minister to the House. We on this side of the House are broadly in favour of this Bill, although we may table some amendments on Committee Stage.

We welcome the Bill. Its nuts and bolts are probably taken from the 2010 Bill introduced by the then Minister Dermot Ahern, with some changes as the Minister has pointed out. It would be very disingenuous for somebody on this side of the House not to have almost full support for its provisions. There are several areas of importance.

The change in bankruptcy terms, from 12 years to five, is welcome. The former Minister, Dermot Ahern suggested the period should be six years. I am pleased that the Minister is reducing it to five years although it should be reduced to three. As a practising lawyer I have found it takes a certain period of time to be adjudged as bankrupt, up to two or three years. The 12-year rule is crazy but bankruptcy did not affect us over the past number of decades because of the affluent nature of our society. Thousands of people face bankruptcy, some not entirely through their own fault. We could start blaming the banks or whatever. In special exceptional circumstances I would favour a three-year rule rather than five. It would allow people after six or seven years, from the time they start to get into trouble with banks and are eventually adjudged bankrupt, to get off the blocks again with a clean start. The period of five years is too long. In reducing the period from 12 years to five, the Minister is taking a leap. This area of law has been ignored for a long time. Ireland is currently in the middle of an economic climate I had not envisaged in my lifetime. What the country is going through is akin to what my father, God be good to him, experienced living in America during the Wall Street crash in the late 1920s. Throughout Europe economies have collapsed and that is why I suggest the Minister consider reducing the period from five years to four or three years, which would be my preference.

Another important provision the Minister is introducing is the good Samaritan provision. I would like to know if there has been an attempt to define a “good Samaritan” and whether it can be successfully defined in law. The amendment is valid. I have been involved in a hillwalk-
ing club for many years called the Sheep’s Head Way. It is a beautiful walk around Bantry Bay. If the Minister is ever there he could do the walk. It got rave reviews in the *New York Times*. A farmer acted as a volunteer to give a history of where they were going, a bit of a scóracht. There are registered ways marked by the State. A walk could take place on St. Stephen’s Day and a volunteer may fall or become injured. The guide has nothing to do with it. Some adult walkers will wander from the paths are chosen. The paths are very well marked and there are stiles to get over fences, gates to be closed and so on. There was a threat of legal action against a farmer who offered to show people the route. There are also instances where people cleaned snow from footpaths and so on. This emerged last year in Dublin and other towns and cities because of the adverse weather conditions. Is there any way we can create a legal definition of a “good Samaritan”? We all know in our hearts what it is and what it should be but the legal definition is of interest to me.

I praise the Minister for his strong statement on the change to the intoxicating liquor legislation. He is correct in firing a warning shot over the Vintners Federation of Ireland. It has withdrawn its support for MEAS, which is a retrograde step. The Minister’s statement will send a clear message to the federation. It is a powerful lobby group and it lobbied us when I was a Deputy and Senator. It has great ways of getting around us.

I recognise that we have a serious issue with alcohol in this country, probably more so than any other country in Europe. I am partial to a few drinks myself, but to say we do not recognise it would be rather silly. It applies more to the younger generation. When I was a college student I would have a couple of pints once a fortnight. We did not have the money to have more and the most one got in Cork city was a pint of Beamish or Murphy’s. Other drinks were not available.

Now there are shots. I was a 21st birthday party recently where people were going round with trays of shots. I am sure if I had imbibed them all I would have been shot myself. As a society we have to seriously examine where we are going with alcohol, particularly vulnerable young people. Most people are drinking at 15, 16 or 17 years of age even though they should not be. We must have a responsible attitude and I welcome what the Minister said today. It was very appropriate and necessary.

There are several other changes in the Bill. I am interested in the registration by prescription of rights of way. As someone who practised law for many years I welcome the provision. I understand it refers to situations where there is consent between the parties. I ask the Minister to examine on Committee Stage a situation I became aware of as a politician rather than a solicitor.

A septic tank was in a field for 40 or 50 years. Its owner wanted to inspect and maintain it, etc. When it was installed, the contract was by word of mouth. The formal granting of the wayleave and the right to forever maintain the connecting pipes and so on has never been put in writing or if it was it was never registered. There is a vacuum. The owner of the house, land and septic tank is an elderly lady. The septic tank is an essential element of her property. She should be able to swear an affidavit, setting out the circumstances, the length of time the arrangement has been in place, the fact that it need to be registered and to allow for the right to enter the land, with the Land Registry. The tank is approximately 30 m inside the fence and the woman concerned should be able to have it cleaned and sort out the problem. It is a welcome move and I ask the Minister to broaden the provision to encompass the situation I outlined.

The kernel of my remarks to the Minister is that I have a deep concern that even though he is reducing the bankruptcy period from 12 years to five it is not enough in the current climate. In some circumstances, where a person finds himself or herself with his or her back to the wall
financially, a fresh start could and should be made sooner in the current appalling economic circumstances. There are many such people in the country; not just the poorer classes but also the middle classes. I ask that the period be reduced to at least four years.

**Senator Paul Bradford:** I, too, welcome the Minister, Deputy Shatter, to the House and I welcome the legislation he has brought before the Seanad. The Bill brings a wide array of changes, many of which could have been the subject of separate legislation. Perhaps Deputy Shatter is a Minister in a hurry and wants to make quick progress. I look forward to co-operating with him to ensure the passage of the Bill before the summer recess.

I will commence with a word or two of support for what the previous speaker said about the bankruptcy law. In his proposed changes the Minister is taking a major step forward, but we must ask if we can go a little further. Over the past 12 or 18 months in the House I have said many times that every piece of legislation we introduce, no matter what the sponsoring Department, must be approached from the perspective of job creation and employment. With regard to every Bill, we must ask ourselves whether it produces or costs jobs. One might say a justice Bill should not have to face that test. However, the Minister is introducing changes to the bankruptcy law and this will be good for business.

We have a bankruptcy regime that writes off people’s future. We must contrast it with the situation across Europe, but particularly in the United States where businesses fail and business people lose everything, as happens in Ireland, but are allowed to start again. In Ireland, the closure of a business is often seen as a mark of total and abject failure, whereas in other countries it is seen as a mistake from which people can learn, start again and come back and create jobs. What the Minister is doing with regard to bankruptcy legislation and the loosening of regulation sends out a much needed statement that while people can fail in business, it is not the ultimate mortal sin. There is a possibility of restarting and getting back to work and creating work. The Minister’s proposals must be welcomed. I am sure we will tease out what Senator O’Donovan said about the possibility of even further improvement when we debate the Bill on Committee Stage. The measure sends a strong signal to business people from the House and the Government that it is not case of once down and you are out, and that there is a possibility of starting again.

I was pleased to see the proposed changes regarding the Taxing Master and that the post will now be open to barristers and accountants as well as solicitors. I appreciate what the Minister said about the recommendations that came before him. However, I question the proposal to reduce the age of retirement from 70 to 65. This is a subject we have debated in the Seanad, from a social welfare, pensions and ageism perspective, over recent weeks. Other Ministers have made bold statements, with which I agree, that 65 is no longer old. Could the Minister look again at the assumption that a person must retire once he or she reaches the age of 65? In all legislation we must try to be more flexible in this regard. We are told that 65 is the new 45. Most of our presidential candidates would believe that 70 is the new 50. The Minister might comment on that.

I welcome the proposal regarding the Family Law (Maintenance of Spouses and Children) Acts and their new obligations and provisions. It is sad that so many maintenance orders must be taken out. Deputy Shatter has an obligation as Minister and Senators have an obligation as legislators to ensure that where maintenance orders are put in place by the courts, they are fulfilled to the maximum possible degree. The Minister’s proposals are welcome in that regard.

Senator O’Donovan referred to the right of way issue. Rights of way and rural Ireland go hand in hand. They have been the subject of songs, plays, stories, films——
Senator Denis O’Donovan: And court cases.

Senator Paul Bradford: And court cases. I suppose they always will be. I am not a legal expert and, thankfully, I have not had to be a right of way expert, so far. I noted what the Bill provides regarding the registration period 2012 to 2021. What happens if that is not acted upon and the registration is not completed between 2012 and 2021? There will always be people who are left out of the loop.

Part 2 deals with the extension of civil legal aid to victims of human trafficking. We all welcome that. How do we put in place the maximum possible measures to allow victims of human trafficking to come forward? I know great work is done by social workers, gardaí, immigration officers and others, but hearsay evidence suggests a great number of victims of human trafficking live in the shadows. We must try to ensure as many of those victims as possible can come forward.

The proposals on good samaritans are very welcome. I concur with what the previous speaker said. We need to define a good samaritan, in so far as we can. How far can we broaden this legislation? The Minister said he would see if further changes could be introduced on Committee Stage.

Last year, I came across a query regarding a meals on wheels scheme. The scheme, facilitated by nuns with three or four volunteers using their own cars to deliver the meals, encountered a difficulty because insurance companies were claiming that volunteers delivering meals on wheels had to have additional car insurance. This requirement caused the scheme to close down because the people delivering the meals could not afford the additional insurance. I am not sure which Department is responsible for such situations but if we are to encourage good samaritans, such situations must be dealt with.

The Minister mentioned the safeguards the legislation would provide for people clearing roads, removing snow or leaving out salt or sand in bad weather. This is an obvious intervention that the Bill will deal with. Those of us who come from rural constituencies receive a large number of queries from people who live on particularly bad or potholed roads and who are willing to fill the potholes themselves but are afraid to do so because of insurance and liability issues. Could the Minister address this issue, either himself or with the Minister for the Environment, Community and Local Government? If a person is willing to fill a pothole outside his or her gate, can the person be given some degree of legal cover in order that they will not be sued by someone else?

In Part 4, I note what the Minister said about the Private Security Authority. I welcome the provision of additional powers to inquire about individuals who are running security companies. We have made much progress in the private security area but a difficulty persists with a minority of companies. The new legislation will be a help in that regard.

I repeat what the previous speaker said about the licensing laws and the establishment of a new code. We must acknowledge again, as the House has done previously, the country’s massive alcohol problem stemming from an alcohol culture. It is causing social and human misery throughout the country and needs to be tackled. We need a more substantive debate on this issue.

The Minister stated his willingness to consider any additional measure which may be practical. I am not sure how practical this is and it is not my job to speak for Opposition Senators but Senator Leyden has presented to the House on several occasions a Bill dealing with the registration of wills. To most Members it seemed a common-sense measure to have legislation to allow the registration of wills. I am not speaking on behalf of Senator Leyden but I ask whether it might be possible to include in this legislation that very desirable minor change in
[Senator Paul Bradford.]

the law. I look forward to the Minister’s response and I thank him for his attendance in the House today.

Senator Jillian van Turnhout: I thank the Minister for his comprehensive overview. I take this opportunity to welcome the citizenship ceremony held last week in Dublin Castle. This was a very important ceremony and several people noted it as a very welcome initiative by the Minister.

When reading the Bill last weekend I wondered whether the title should be changed to the lost and found Bill because it was certainly an eclectic collection of albeit very important measures. It has certainly tested my mettle in my breadth of knowledge. I cannot claim to have knowledge in all the areas covered so I will limit my comments to areas on which I wish to comment or to measures I wish to note.

I welcome the Minister’s proposals on civil legal aid in section 26 of the Civil Legal Aid Act 1995 which will allow the Legal Aid Board to provide legal advice on criminal matters to victims or alleged victims of trafficking. This is a very positive measure as this is an important extension of powers so that any alleged victim of human trafficking will be able to get legal advice. However, I note that this does not appear to extend to representation for the victims in court proceedings nor will it protect the victims of the sex trade who do not come within the narrow definition of trafficking. I do not know if anything can be done at this stage with regard to this issue. I am concerned that while this is a very welcome measure to allow the Legal Aid Board to give legal advice to victims or alleged victims of human trafficking, it does not include legal representation.

Part 3 refers to proposals on good samaritans. I read this section with particular interest because I am a long-standing volunteer with the Irish Girl Guides and I am bringing 22 girls on a trip this weekend to a 500-strong camp. If I am a little tired on Tuesday I will ask my colleagues to bear with me.

Senator Ivana Bacik: I wish the Senator good luck.

Senator Jillian van Turnhout: I have paid particular attention to this proposal which I welcome. It is important to discuss and encourage good samaritans and volunteerism. This section will be a welcome addition to any discussion on community life. I read the Law Reform Commission report on civil liability of good samaritans and volunteers and I note that many of the recommendations in that report are encompassed here. The proposal to deal with the civil liability of good samaritans and volunteers is important. The Minister also accommodates the range of individuals who may constitute a good samaritan or a volunteer or the organisations or types of intervention. While it may be difficult to define, any measure to support people to take the initiative, is important.

I am involved in several voluntary organisations and I have noted an undue expectation of a duty of care. This may arise where, as a result of an accident, a case is brought against an individual or an organisation by a concerned parent. The problem is that the insurance companies will urge organisations to settle before it goes to court, thereby not allowing the courts to intervene as is proposed in this Bill. This results in an increase in insurance costs for the voluntary organisations. I can provide examples of where this has happened.

Part 5 deals with intoxicating liquor and I particularly welcome these provisions and the Minister’s words on this issue. I have been a rapporteur on two significant EU reports on alcohol-related harm. This experience has changed my opinion because I would have been slightly more moderate in my view on the issue of alcohol-related harm but the evidence speaks
for itself. As the Minister observed, the Intoxicating Liquor Act 2008, which came into force in August 2008, introduces firmer penalties for those who sell alcohol to under-18s and it contains other welcome measures. However, enforcement has been limited and weak. I know this Bill cannot change this but I wish to bring this to the attention of the Minister while he is in the House.

Stricter government regulation is required to govern alcohol advertising and marketing. Alcohol advertising and marketing shapes children’s attitudes to alcohol from an early age and it plays a significant role in their decision to drink and how to drink. A review of longitudinal studies was carried out in 2009. This showed that the volume of alcohol advertisement in media seen by teenagers increases the likelihood that they will start to drink, the amount they drink and the amount they drink on any one occasion.

The Minister referred to the voluntary code. In 2003, draft legislation was prepared which was aimed at significantly reducing children’s exposure to alcohol advertising and marketing. Had this legislation been enacted it would have restricted the placement of alcohol advertisements, limited their content and banned the drinks industry sponsorship of youth leisure activities. This draft legislation went to Cabinet and had been approved. There then followed a change of Ministers and subsequently a voluntary code was introduced in place of the draft legislation. I note that this voluntary code mirrors exactly what was produced by the industry, including the grammatical errors. Therefore, the Minister’s comments this morning are all the more pertinent. I welcome the proposals in this Bill but I stress that any consultation cannot just be with the industry. This is an issue that affects society and there needs to be wider consultation. It is clear that a voluntary code alone is insufficient to address the problems and this view is supported by the World Health Organisation which has stated that self-regulation seems to work only to the extent that there is a current and credible threat of regulation by government. I endorse this view.

Part 7 proposes amendment of the Bankruptcy Act 1988. There has been much public debate in recent months with regard to bankruptcy and I welcome the proposals in the Bill. However, I also welcome the proposal by Senator O’Donovan to reduce the term to three years.

Part 8 proposes the amendment of the Family Law (Maintenance of Spouses and Children) Act 1976 and this is to be welcomed. It is an area in which the Minister has a wide experience and he is aware of its direct impact. These new measures will provide for a clear distinction between those who cannot pay maintenance and those who actively choose not to pay it.

Part 13 proposes the amendment of the Registration of Title Act 1964. My understanding is that the proposed section 31 which inserts a new section 49A into the 1964 Act, now provides that an individual can make application to register a right of way as a burden which will first require the consent of the landowner and second, this will only apply in circumstances where the land is registered land. The benefit of this measure is that court applications will be avoided where all parties consent and that registration and the ownership of the lands is registered with the Land Registry. It would appear that this section will not provide assistance to those individuals who are seeking to claim an easement over unregistered lands but, hopefully, this will be eased over time, as compulsory registration with the Land Registry is extended across the country.

My understanding is that section 28 proposes will extend the current deadline of December 2012. Is that correct?

I welcome Part 15 of the Bill which deals with miscellaneous measures. In particular I welcome the amendment of the Domestic Violence Act 1996. This is a critical amendment which is long overdue. I am pleased the Minister has taken this opportunity to amend the Act. Women who have a child with an abuser, for example, but who have never lived together or married,
[Senator Jillian van Turnhout.]

are currently a very vulnerable group. Where there is a child in common, there is often con-
tinued contact between the parents after the relationship ends and this contact gives further
opportunity to abuse. The Minister’s proposal in this section is very important and will have a
direct effect.

Women’s Aid has drawn my attention to a lacuna in the current provisions whereby dating
partners who are not cohabiting and women being stalked and abused by ex-partners are totally
unprotected under the Domestic Violence Act 1996 and will remain so. Protection from
domestic violence should not be contingent on current or previous cohabitation and, therefore,
safety orders should be available to all parties who are or have been in intimate relationships,
as set out in the United Nations guidelines on domestic violence legislation. I hope there will
be further progress in this area, and I welcome the steps taken in this regard in the Bill.

I thank the Minister for introducing the legislation to the Seanad. I look forward to our
future co-operation.

Senator Ivana Bacik: I welcome the Minister for Justice and Equality, Deputy Alan Shatter,
to the House. We have seen much of him already and I expect we will see more, even in this
session, as he continues to introduce justice legislation. Support is forthcoming from both sides
of the House for this Bill and I am pleased to offer my support on behalf of the Labour Party.
As Senator Jillian van Turnhout said, it is a type of lost property compendium. All human life
may be found in the legislation, from good samaritans to bankruptcy, from family break-ups
to coroners, via immigration, human trafficking and domestic violence by way of meals on
wheels and girl guides. As the Minister observed, the Bill refers to more than 40 Acts, comprises
15 Parts and has 14 separate themes. There is a great deal of content in it and I am pleased we
will have plenty of time next week on Committee and Report Stages to tease out some of the
detail. Having said that, I accept that some provisions are relatively urgently and that it would
be good to see the Bill in force by the end of the session. Some of the provisions are more in
the nature of tidying up, some were prepared under the previous Administration, and some
reflect commitments in the programme for Government. Overall, it is very welcome legislation.

Although it is common practice to have this type of compendium legislation both in civil and
criminal law, it is not ideal. Where possible, we should seek to avoid making reform piecemeal.
It is inevitable that it must be done on occasion, but there is a merit to emphasising codification.
A criminal law codification project was commenced under a previous Minister for Justice and
I understand that work is ongoing. It is cumbersome to have to review so many different
statutes in particular areas. The Minister for Public Expenditure and Reform, Deputy Brendan
Howlin, remarked yesterday in the House that he had to trawl through 200 statutes in order
to draft the Ministers and Secretaries (Amendment) Bill 2011 because there has never been a
codification of responsibilities in that area. I am conscious that there has been some codification
in some areas and that we have a useful resource in the www.irishstatutebook.ie website in terms
of being able to see where amendments have been made. Nonetheless, we should emphasise in
this House the need to codify where possible.

That quibble aside, the Bill is very welcome and will bring serious improvements to the way
in which the law affects many aspects of people’s lives. The Minister has indicated that his
Department will introduce more comprehensive reforming legislation in respect of some of the
issues on which the Bill merely touches, notably domestic violence, where there is a commit-
ment in the programme for Government to introduce consolidated and reformed law. I hope
we will also see consolidated sex offence legislation, an area in which there is a compendium
of different primary and amending legislation. It would be better to have a single Act to tidy
up that area.
There is also a commitment to introduce comprehensive reform of the immigration, residency and asylum systems, including a statutory appeals system. Although the Bill includes some provisions relating to immigration and citizenship, a codified law in this area is long overdue. I have two concerns in this regard. First, it was highlighted recently that we have the lowest recognition rate of asylum seekers in the European Union. I accept that the numbers coming to this country seeking asylum have fallen in recent years but our recognition rate remains very low. International bodies have expressed concern about this and we need to examine it when reforming the law on asylum. Second, there are serious problems with the citizenship application system, with outrageous delays in naturalisation and citizenship processing. I am sure every Member has had representations on these issues. I have spoken to people whose cases are relatively straightforward but who have been waiting two years or more for recognition. Like Senator van Turnhout, I welcome the citizenship ceremony as a very positive initiative, but we must tackle the delays in the administration of the system.

We all welcome the extension of the Civil Legal Aid Act, in Part 2 of the Bill, to the victims of human trafficking. However, I join Senator van Turnhout in asking the Minister to review the extent to which legal aid is provided. The Immigrant Council of Ireland has expressed concern that the provision should extend beyond simply legal advice to cover legal representation. The Free Legal Advice Centres have also suggested the provisions do not go far enough in that the provision of legal advice to victims does not extend to representing those victims in court, nor does it protect victims of the sex industry who fall outside the narrow definition of trafficking. I hope we can examine on Committee Stage how to extend these protections.

The Minister remarked that the bankruptcy provisions of the Bill have attracted the most attention. There is a commitment in the programme for Government, under the heading of supporting small and medium enterprise, to fast-track substantial reforms to bankruptcy legislation to bring us into line with best international standards. The Minister indicated the Department is fast-tracking a personal insolvency Bill which will provide more comprehensive reform in keeping with the Law Reform Commission’s report last year on this area. However, notwithstanding that we are awaiting more comprehensive reform, it is possible to include more radical reform in this Bill. For example, I support Senators Denis O’Donovan, Paul Bradford and others in regard to the period for discharge. It is extremely welcome that an automatic discharge is being introduced for the first time, but 12 years is far too long. The Law Reform Commission’s report is highly critical of the current regime and of the Bankruptcy Act 1988, which it describes as ineffective. The report includes a useful table comparing Irish law on discharge with that in other countries. It is immediately obvious that 12 years to automatic discharge is much longer than in any comparable jurisdiction. In England and Wales, for instance, automatic discharge applies 12 months after commencement of bankruptcy, while in Australia and New Zealand a period of three years applies.

The commission recommended that bankrupt debtors should be automatically discharged on the expiry of a period of three years from the adjudication of bankruptcy. The report points out that having a more flexible regime on bankruptcy will provide a way of encouraging and promoting entrepreneurship and that this has been an influential consideration in leading policy makers to propose bankruptcy reforms. That view of bankruptcy is not present in our current law. We are moving towards it with the provision that people may apply to the court after five years and will be automatically discharged after 12. However, this reform is insufficient. I was threatened with bankruptcy at the age of 21, having been taken to court by the Society for the Protection of Unborn Children because of work I did in Trinity College’s students union. My colleagues and I were told that if declared bankrupt, it would be 12 years before we could apply for discharge. At that age it seemed an unfeasible long time, almost a lifetime. It is still
seems to me an unfeasibly long term under any modern legal system. I urge a review of those provisions before Committee Stage.

The changes in regard to coroner’s courts are largely technical and the Minister has indicated that comprehensive legislation in this area is in preparation. I take this opportunity to commend the work of AdVIC, a non-governmental organisation which advocates on behalf of the families of victims of homicide. It has made useful commentary on the law on coroner’s courts and the reforms that could be introduced.

We all welcome the good samaritan provisions which are in keeping with the recommendation of the Law Reform Commission that we have a different approach in regard to the liability of the passing stranger and of those engaged in voluntary work. I echo concerns raised by others as to the definition of voluntary work in section 4. Does this go far enough in protecting everyone? For example, persons involved in providing voluntary tuition for children do not seem to fall within any of the categories of voluntary work catered for in section 4. Perhaps further consideration might be given to this matter.

I commend the Minister for his comments on the Licensed Vintners Association and the Vintners Federation of Ireland and their withdrawal of support for the MEAS code. That is an extraordinary decision, of which I was not aware until the Minister referred to it. There is no doubt that it is worthy of criticism in the House.

There was a need to reform the law on immigration in the wake of the decision in the Dokie case and this is being done in Parts 10 and 11. Why are Irish-born non-nationals not specifically referred to in section 24 which amends the Immigration Act 2004? We may return to this matter on Committee Stage because there is an amount of interest in it.

Like Senator Jillian van Turnhout, I welcome section 37 and the broadening of the protections for victims of domestic violence. It is commendable that we are moving away from the geographical constraint and recognising that the reality is that persons with a child in common, even if they have never lived together, may well be at risk in circumstances where one partner is abusive. I echo the concerns expressed by others about the stalking of ex-partners. The provision on stalking in the Non-Fatal Offences Against the Person Act provides for a very high threshold. In that context, it would be preferable if victims had a remedy available to them which would be equivalent to a barring or a protection order.

It would have been useful if the wording used in section 38 which amends the Official Languages Act of 2003 had been included in the Ministers and Secretaries (Amendment) Bill. We debated this matter yesterday in the context of the delay in its translation. As the formula used in section 38 of the Bill before the House might be more useful, there is an argument in favour of a greater degree of joined-up thinking on the part of the Parliamentary Counsel in this regard.

Senator Sean D. Barrett: I wish to share time with Senator Rónán Mullen.

An Cathaoirleach: Is that agreed? Agreed.

Senator Sean D. Barrett: I reiterate my apology for interrupting the Minister and the Leas-Chathaoirleach. However, the absence of pages 10 and 11 from my copy of the Minister’s script meant that my narrative moved from publicans withdrawing from the MEAS code to somebody falling over on a ship or an aeroplane and the Minister for Jobs, Enterprise and Innovation, Deputy Richard Bruton, intervening. That was too much excitement for me and the script is much better with the missing pages restored.
Deputy Alan Shatter: I hope the individual involved did not fall down because he was intoxicated.

Senator Sean D. Barrett: There were obviously gremlins in the works when it came to the my copy of the Minister’s script. It is said that if Sam Goldwyn, the Hollywood studio mogul, was sent a script with two pages stuck together, it was returned — rejected — with the two pages still stuck together. That did not happen today. It is also said the same thing happened in the Abbey Theatre when a frustrated playwright received a script back with two pages stuck together.

Section 33 of the Bill relates to the Taxing Master. I agree with Senator Paul Bradford on the retirement age. On several occasions the Minister referred to the EU-IMF agreement which specifies that the retirement age will move to 66 years in 2014, 67 in 2021 and 68 in 2028. He has also stated a great deal is being done to comply with the agreement to which I refer. The retirement age should be extended even further. As several Senators indicated, there is a general principle when it comes to the retirement age. The retirement age for gardaí is far too low. It was challenged by a number of officers, but they lost their cases. It is anomalous to be reducing the retirement age when people are living longer and the pension burden is increasing.

Section 33 also contains a provision which extends the eligibility criteria relating to those who may be appointed to the position of Taxing Master to accountants. The Minister should delay the implementation of this provision because there is a great deal of dissatisfaction regarding — this is not the case with the Minister’s profession — the lack of a disciplinary procedure. We are still waiting for the Chartered Accountants Regulatory Body, CARB, to decide on issues such as the movement of funds in and out of banks. In order that accountants might qualify to be appointed to the position of Taxing Master, this matter should be put in order. If the Minister wishes to launch a campaign to make accountants accountable, I will join it. They should certainly satisfy the standards which those in other professions are obliged to meet.

The final matter on which I wish to comment is bankruptcy. I suppose the Minister who has reduced the term from 12 years to five will believe us to be ungrateful. There are those who are of the view that the term should be three years, while the Master of the High Court, Edmund Honohan, has indicated that in the United Kingdom the term is only 12 months. On 15 May the Master of the High Court also stated:

It’s strange that the Law Reform Commission of 2004 recommended that special and careful consideration be given before any family home was sold, but this has not yet been put into law. Now is the time to do it.

In the context of the reduction in the period of bankruptcy from 12 years to five, the waters have been muddied by the conduct of the banks, upon which no such constraints have been placed. One almost gets the impression that bankers in Ireland are giving those who are bankrupt a bad name. While I strongly support the direction in which the Minister is moving, I ask that he consider the context and perhaps examine the possibility of reducing the bankruptcy term even further.

Senator Rónán Mullen: Gabhaim buíochas leis an tSeanadóir Barrett as ucht a chuid ama a roinnt liom. I welcome the Minister.

Like Senator Jillian van Turnhout, I am also taken by the diverse and varied nature of the Bill. I was not so much thinking of a lost and found department as a builder’s snag list. It is certainly one of those items of legislation in respect of which everyone will find something on which they wish to speak.
I understand there is a desire to pass legislation as the summer recess approaches, but, on balance, more time should be made available to consider the issues to which the Bill before us gives rise. We were allocated some time, but the digest we received from the Oireachtas Library and Research Service was only issued yesterday. However, I accept that much of what is contained in the Bill is highly desirable and do not wish to stand in the way of its passage.

I particularly welcome what is proposed in respect of the victims of human trafficking, namely, the provision of legal advice on criminal matters by the Legal Aid Board. However, on matters of this nature we sometimes give to the victims of human trafficking with one hand and take with the other. The US State Department’s Trafficking in Persons Report 2011 which has just been issued states the Irish Government must engage more with the NGO sector when it comes to service provision for victims of human trafficking. There is a concern that NGOs have been written out of the national referral mechanism to some degree. I am aware of a case in which an NGO was dealing with a victim of trafficking who required repatriation but where, in order to access State support for such repatriation, the person was obliged to approach the relevant State services. The latter refers to the sometimes unsuitable facilities provided by the Refugee Integration Agency. These facilities are really not designed to suit the needs of victims of human trafficking. There should be a greater degree of integration of NGOs into the system in order that they might collaborate more directly with State agencies.

I wish to ascertain the Minister’s intentions in respect of an issue I have raised on many occasions in the House, namely, criminalising the users of persons involved in prostitution. We took a great step forward with the enactment of the human trafficking legislation a couple of years ago. It is interesting to note that the British legislation offers much less comfort to those who would claim that they had no knowledge that they were availing of the services of a trafficked person involved in prostitution. They way ahead in this regard is clear. We should move in the direction the Nordic countries have taken and which they do not regret taking. We would make this country a colder house for traffickers if we criminalised the users of persons involved in prostitution. The previous Government seemed to be moving in that direction towards the end of its term and even though it is not directly related to the Bill before the House, I would be interested in hearing the Minister’s view on the matter.

I welcome the good samaritan provisions. It is the right test that it should be a standard of gross negligence before a good samaritan, or somebody who intervenes to assist another, is held to be liable as distinct from the test of ordinary negligence which would apply to voluntary organisations. We need to promote a culture of assistance, not a culture of people watching their backs or worrying about whether they will be found to be civilly liable in the event that they do what their instincts tell them they ought to do.

It is excellent that Part 5 provides for the statutory underpinning of codes in regard to alcohol. As the Minister said, it is not intended to be a substitute for enforcement but it is desirable that codes in this area, and compliance or otherwise with them, would be taken into account when consideration is being given to the renewal of licences. We are staring into the a very tough future around the issue of alcohol. I do not believe we fully realise the pressure there will be on the health service in the future as a result of current unhealthy patterns of alcohol consumption. We are staring down the barrel of a very nasty gun in that area.

I ask the Minister to consider an issue I have raised in the past and on which I know others share my view, which is that we need to break the link between alcohol advertising and the sponsorshop of significant sporting and cultural events. I would like tight legislation to be introduced in that area.
I am concerned about the proposed amendment to the Official Languages Act. When it comes to the status of the Irish language, principles are very important. An important principle is that the Irish and the English language versions of legislation would be available to people simultaneously. There has already been instances of exceptions created in the NAMA legislation and in the social welfare and pensions legislation, but that is the slippery slope. When it comes to protecting and promoting the Irish language, an aspiration which most people claim they share, it is important to get it right in the little things. With the greatest of respect, I did not hear of any significant injustice caused by any delays in the provision of the final version of legislation passed because people were waiting for translations. Translation takes a certain amount of time but there would have to be compelling evidence of problems arising, as distinct from mere inconveniences, before we undermine the principle that legislation is to be made available simultaneously in both national languages. That applies a fortiori because of the constitutional status of Irish as our first national language. Beidh m é ag caint le comhleacaithe eile faoi leas úáirithe ansin agus b’fhéidir faoi leasuithe eile. Fága dh mé mar sin é anois.

**Senator Deirdre Clune:** I am pleased to have this opportunity to contribute to the debate on this Bill. I welcome the Minister to the House again. He has been here frequently and I am sure we will see much more of him judging by the legislative programme coming from the other House and from the Department.

I will focus on a few measures in this Bill. Part 8 deals with amendment of the Family Law (Maintenance of Spouses and Children) Act. This legislation will now empower the District Court to regard as contempt of court the failure by a debtor to pay a maintenance order to comply with a maintenance agreement. I welcome this measure as it is long overdue. It was initiated in legislation in the previous Dáil as a result of a judgment in the McCann case, which the Minister mentioned in his contribution. What has tended to happen in many cases, as is happening in my area in Cork, is that spouses or partners to a maintenance agreement ignore it and they have been advised to do that in many cases. I have learned from speaking to court officers that a difficulty they now find is that many people ignore their commitments and obligations to pay maintenance because the threat of imprisonment has been removed. Implementation of this measure will go a long way towards improving conditions on the ground for those who are failing to get maintenance payments they are due. The consequences of that for them is that they then approach community welfare officers for financial support which those officers cannot give them because there is a maintenance order in place. Many of them are in a catch-22 situation. The measure introduced here will, I hope, alleviate that difficulty and change the position back to what it was pre-2009.

I will focus briefly on the proposal on bankruptcy. The Minister said this is an interim proposal and that he hopes to bring forward legislation on personal insolvency in the next nine months or so. In this context, the period of three years and five years has been mentioned. We welcome that there will be changes in the legislation on this area. I look forward to the introduction of a personal insolvency Bill. That is what people need. It will provide a method or process, other than bankruptcy, whereby an individual or business in financial difficulty can re-establish themselves. The proposed changes to bankruptcy law have been mooted for several years. The innovation task force and Forfás have recommended changes in our bankruptcy law if we are to encourage entrepreneurs which includes people who are willing to start up their own businesses. It is small and medium-sized enterprises that are currently experiencing difficulties. The examinership process is not open to them as it is too expensive and involves many visits to the High Court. What is needed is recognition that some businesses, although not all, can be saved and, in turn, jobs can be saved. We are speaking in a climate where there is not much sympathy for people who have been reckless, of which here are many examples to which we can point. However, there are also people who find themselves in a difficult financial position through no
fault of their own because of the economic situation. Debtors have not been meeting their obligations and these people have not been paid and have consequently found themselves in financial difficulties.

The Minister is aware of the Law Reform Commission’s report in this area. It recommended that a voluntary process be set up whereby individuals and small companies could go forward under the umbrella of an officer of the court. This would be a person who has expertise in financial matters and that they would have some security and protection for a while to discuss with debtors money owed and what can be paid. It is a means of providing breathing space for companies. It exists in Northern Ireland and in UK where it has been very successful.

We want to encourage entrepreneurs, people to start their own businesses and employers to take on additional employees. It will be an important part of the recovery of this economy. We need to create the climate where that can occur. As matters stand, our bankruptcy laws are a disincentive towards establishing businesses. That needs to change. They have been described as archaic and not fit for purpose. There is a list of complaints and a list of alternatives that can and should be implemented if we are to get this country moving again. I hope we will have sight of the personal insolvency Bill. The country is crying out for it. It is not about rewarding those who have been reckless but about supporting those who find themselves in a difficult financial position. There is almost a stigma attached to becoming bankrupt here. Bankruptcy carries a bad name, but in other countries, particularly in the US, if one’s business fails, one can move on within a certain period. If one’s business fails, one can move on within a certain period. It is almost recognised as a badge of honour. One learns from one’s failures. One pays one’s debts to society in whatever way one can, but at some point a line is drawn and one’s energy, enthusiasm and commitment to creating jobs and developing opportunities for oneself and others are recognised and allowed to flourish. Perhaps on Committee Stage the Minister will tease out why the relevant period is five years rather than three. A change to the duration seems to be a common request from both sides of the House today. I welcome the Bill and look forward to the Minister’s deliberations on Committee Stage.

Senator Averil Power: I welcome the Minister. Like other speakers, I welcome the proposed changes concerning the provision of legal advice for victims of human trafficking but agree the provisions do not go nearly far enough. We will be giving legal advice to victims but will not be providing them with legal representation in court. As Senators Jillian van Turnhout and Ivana Bacik pointed out, the legislation will not protect victims in the sex industry who fall outside the very narrow definition of trafficking.

When considering trafficking, it is not good enough to consider the crime on its own; we need to consider why it happens. The reality is that women and many children are generally trafficked for the purpose of sexual exploitation. Ruhama and the Stop the Red Light coalition published figures showing the sex industry in Ireland was worth €180 million. This is a shocking figure. When talking about trafficking, therefore, we need to recognise it happens only to serve the prostitution industry. It is driven by the demand for prostitution and our shameful failure in this state to recognise prostitution for what it is, namely, the most extreme form of violence against women and children, and also our failure to punish the perpetrators.

As Ruhama documented in various reports, the reality is that a woman rarely chooses to be a prostitute. Rather, prostitution is seen as a survival strategy. International research highlights that the majority of women involved in prostitution were victims of sex abuse in childhood. Typically, prostitutes are poverty stricken and many are addicted to drugs or homeless. The unfortunate reality is that a large proportion of those who enter prostitution do so in their youth or mid-teens. The figures clearly belie the fact that it is choice. By contrast with these
circumstances, men who buy the services of prostitutes obviously have the money to do so and also have power in the transaction. We need to see prostitution for what it is.

Our laws on prostitution are totally out of place, increasingly so in an international context. The buying and selling of sex are still not considered crimes. Soliciting is the only crime and it applies equally to the buyer and the seller. Instead of seeing women as victims, we criminalise them for soliciting and stigmatise them. By doing so, we make it harder for them to report abuse. We also make it harder for them to access health and social services and leave the very industry we claim to be opposed to, especially if they have a criminal record that they must declare if applying for a job.

I agree strongly with Senator Rónán Mullen on the need for Ireland to adopt the Nordic approach. We need to become serious about tackling prostitution and criminalise the purchaser with tough penalties. We need to recognise that the women and children involved in prostitution are victims; we should not criminalise them. We should enact spent convictions legislation for women convicted of soliciting to give them a genuine choice to have a new future.

As the Minister will be aware, as long ago as 1999, Sweden changed its law in order that it would no longer be illegal to be a prostitute but rather illegal to exploit a prostitute. This has had the very clear effect, documented in numerous studies, of reducing demand very quickly. It made prostitution unacceptable to Swedish society. Figures show that, within a few years of the enactment of the legislation, 60% of women left the industry. We should adopt this model.

We need to increase the penalties for organising prostitution. While we have penalties, they are very small and clearly not working. I hope the Minister will examine this.

We should consider measures to address the role of technology in organising and advertising prostitution. A key aspect of the Swedish approach is that not only did Sweden change its law, it also provided a network of support for the women involved in prostitution and specific initiatives to help them to exit the industry and enter a new life. I hope the Minister will consider this.

If we are genuinely committed to equality in Irish society, we must reject the idea that women and children are commodities that can be bought and sold. We must send a clear message to everybody that the paid abuse of women is a practice we will not tolerate as a society. We should enact legislation in that regard now.

I hope the Minister will take account of the fact that there are ten aspects to this Bill. While it is an omnibus of Bills, there is one aspect on which several Senators focused, namely, the exploitation of women not just through trafficking but also through prostitution. Perhaps the Minister might take a signal from this that the subject is an issue of concern to the House.

There is a growing coalition outside the House that wishes to tackle this issue. The Minister will be aware of the Stop the Red Light campaign. At its conference in April the Irish Medical Organisation passed a motion stating the use of prostitutes should be made illegal. A growing number of Members of all parties want to see real change in this regard.

I hope the Minister will return on another day for a debate on trafficking and prostitution which comprise only one aspect of the Bill. I hope legislation will be introduced that will bring about real change. I welcome and support the changes being made to the domestic violence legislation and the provisions to improve the enforcement of maintenance orders.

**Senator Trevor Ó Clochartaigh:** Cuirim failte roimh an Aire go dtí an Teach arís. Tá sé gnóthach go maith leis a chuid reachtaíochta. Bail ó Dhia air. The Minister is very welcome. I welcome the chance to speak in this debate.
Many metaphors have been used to describe the legislation before us, but I would like to compare it to a smorgasbord of legislation. It covers 40 Acts with 15 Parts. Unfortunately, the Sinn Féin perspective is that this is a little like saying, “Eat your Brussels sprouts with the meat, gravy and potatoes that you like.” Although we welcome most of what is being suggested in the legislation, there are a number of sections, particularly sections 10 and 11 and the section on the Official Languages Act, that we find very difficult to support. I will outline why this is so.

The discussion on the retirement age of the Taxing Master, 65 years, was interesting. It is a little unfair to compare this discussion to the one we had earlier in the week. The argument against increasing the retirement age to 68 years in the normal course of events is that certain individuals who might have been in blue-collar employment all their lives might have worked a lot harder than others, possibly physically. Many issues must be considered in this debate rather than just focusing on the circumstances of the Taxing Master.

I agree with a large number of provisions in this legislation, which I welcome wholeheartedly. I welcome, in particular, the Good Samaritan provision which Sinn Féin believes is a wonderful move forward. The provisions on maintenance payments and domestic violence are also welcome.

Sinn Féin also welcomes the provisions for the security industry, although some questions arise in this regard. If we had legislation such as this when the Corrib oil and gas controversy was occurring, some of the incidents might not have happened in that there would have been better vetting of the security firms used. The use of private security firms begs the question as to how one vets their staff. How does one take their experience into account, in addition to their places of origin and backgrounds? If they come from another jurisdiction or have experience in another country, how will this be taken on board?

How can those who work for private security companies be vetted? Moreover, if external inspectors are to be brought in to do the work of the agency, could that potentially be open to abuse? Who are the people concerned and from where will they come? Will they be connected to some of the companies that provide services, etc.? Sinn Féin considers this to be an issue that should be re-examined before Committee Stage.

On the issue of licensing laws, I have a particular interest in the subject of alcoholism and I strongly support the comments of previous Members, particularly those of Senator van Turnhout. Senator Mullen suggested that we would be staring down the barrel of a gun on this issue in the future but I disagree with him in one sense. We already have gone far down that barrel and Ireland already faces a crisis in respect of alcoholism that has been left unattended. Part of the problem concerns the lack of resources being devoted to the addiction services, which are completely underfunded and overstretched. People in communities who already suffer from these problems are unable to access services to help them in a timely fashion.

I agree with the call for the vintners to come back on board in respect of the MEAS organisation. It is important that the alcohol industry should live up to its responsibility in respect of alcoholism. However, as Senator van Turnhout noted, it should not simply be the industry that comes on board as all partners in society must do so to ensure that alcoholism is dealt with in a timely fashion with those who suffer from alcoholism being in the primary position.

Sinn Féin welcomes the developments in respect of bankruptcy law and I wish to turn the debate towards a different scenario. The important point concerning the bankruptcy issue in this debate is to consider what caused people to become bankrupt in the first place. Some people have entered bankruptcy through their own fault and as Senator Clune noted, have reached this position through their recklessness and failure to manage their affairs properly. However, many people have become bankrupt because of the actions of third parties and
perhaps the legislation should address this point. Should banks be held to account because of their role in over-extending credit facilities to those who should not have been given access to so much credit?

As for third parties, I have in mind a number of scenarios pertaining to construction. For example, I am familiar with a number of small subcontractors in the Connemara Gaeltacht and the Galway area who found themselves bankrupt through no fault of their own. They had been working for larger companies and had done jobs in good faith but were either never paid or were underpaid for their work and are now bankrupt. What is to be done with those who created the conditions that made those subcontractors bankrupt? The crux of the issue is that there should be leniency in respect of someone who has become bankrupt through no fault of their own. In the opposite case, when someone has become bankrupt through their own volition because of their own recklessness and a failure to manage their affairs properly, this also must be taken into account.

Another point is that bankruptcy should not become an easy way out for people. One should avoid enabling people to become serial bankrupts, that is, where they get into a particular difficulty and go bankrupt but then return to the system two or three years later only to delve into reckless trading once again. I am sure the Minister will take into consideration such questions in the context of the legislation.

The area of the legislation under discussion with which Sinn Féin has greatest difficulty is Part 11, which pertains to immigration and which raises a number of issues. My party is concerned by the provisions in the proposed new sections 11 and 12 and in particular, wishes to express its concern and to raise questions on the provision to allow naturalisation fees to be charged on application. The State already charges an extraordinarily high fee of €950 upon approval of the application. The Minister should indicate whether two charges are to be levied or whether the approval fee will be removed. If not, this process appears to be prohibitively expensive. Will people be charged twice?

On the one hand, I concur with previous Members who spoke of aiding people who were trafficked here to get free legal aid and on how such people should be given representation. On the other hand, Part 11 provides that were such people to walk down the streets of Galway, Limerick or Dublin without passports or were they to have no passports through no volition of their own, they could be arrested for a criminal offence. Sinn Féin has great reservations about the use of enforcement measures by the Garda, as well as criminalising such people through a failure to carry their passports. Sinn Féin also has concerns regarding the potential undertaking of racial profiling under this provision.

Le filleadh ar mo theanga dhúchas, mar dhuine a labhraíonn Gaeilge de ghnáth, is minic a d’aitheofáí ar mo chuid Béarla nach bhfuil mo chuid Gaeilge ró-mhaith. Tá fadhbh an-mhóir againn agus cuireann sé as go mór dom an méid atá tarlaithe maidir le hAcht na dTeangacha Oifigiúla. Tugadh isteach é i gcás nó dó roimhe seo agus is cosúil anois go bhfuil sé i gceist é a bheith mar ghnáth chleachtas ag an Rialtais neamhaird a dhéanamh ar mo chearta bhunreachtúla agus ar chearta bhunreachtúla phobal na Gaeilge, agus Acht na dTeangacha Oifigiúla a chaiththeann i dtraipsí. Aontaím leis an Seanadóir Ó Maoláin go bhfuil seo míchearc agus mícheidh.

Tá an Rialtais ag dul in aghaidh a pholasá féin maidir le Straitéis 20 Blaíon don Ghaeilge, is é sin an Ghaeilge a cur chun cinn ar gach leibhéal. Munar fheidir linn ceannródaíocht a thaispeáint anseo i dTithe an Oireachtais maidir le sin bheadh sé chomh maith ar straitéis ar fad a chaithteann i dtraipsí.

Chuir sé an-diomas go deo orm gur thacaigh an Seanadóir Bacíg go hiomlán leis na moltaí atá á dhéanamh ag an Aire maidir le hAcht na dTeangacha Oifigiúla a chur ar leataobh nuair
Senator Trevor Ó Clochartaigh:

A thagann sé go dtí foilsíú Bille. Níl aon chruthúnas ann gur deineadh éagóir ar dhuine ar bith mar gheall ar Acht a bheith foilsithe níos deireannaí i dteanga oifigiúil amháin nó sa cheann eile. Bhéinn ag iarraidh ar an Aire é seo a thógáil ar bord. Beimid á phlé aris nuair a thagann an Bille os ár gcomhfarthaí ar Chéim an Choiste. Beimid ag cur i gcóise an Bhille seo ar an mbunú sin amháin, más gá sin, chomh maith leis na forálacha atá i gceist maidir le Roínn 11.

Senator Michael Mullins: I join with other Members in welcoming the Minister to the House and in complimenting him on the comprehensive legislation he has introduced today. I wish to pick up on two points. First, I greatly welcome the proposed good samaritan provision and it is right and proper for it to be enshrined in legislation. Will GAA clubs and other sporting organisations be regarded as organisations covered under this Bill?

Second, I greatly welcome the section on intoxicating liquor. As previous speakers have observed, this pertains to one of the greatest crises within our society, particularly within the rural area from which I come. While the drugs issue is a major problem in cities, as well as in rural Ireland, alcohol is the major addiction problem in the latter. I am greatly concerned by the increase in the number of outlets in recent years from which young people in particular can so easily access alcohol. It can be procured in petrol stations, supermarkets, off-licences and many other outlets to which people have access and which do not appear to be regulated or controlled as well as one might wish. Consequently, I support what the Minister is attempting to do.

I would welcome any measure whereby the numbers of outlets from which alcohol may be purchased could be reduced because of the human costs and the cost to the State of providing facilities for those who suffer addiction problems remarked on by previous speakers. I agree with Senator Ó Clochartaigh’s point that the resources provided to facilities for people who are addicted to alcohol are inadequate. My home town of Ballinasloe had a fine facility that rescued many people from the depths of despair and who now are playing a major role in society. They were saved by that fine facility before the old Western Health Board in its wisdom decided to close it. It was never replaced and facilities were never provided to allow access for ordinary people who needed help with their addictions.

I compliment the Minister on the comprehensive nature of the Bill. Like other Senators, I am a little concerned that it is not possible to provide Bills in the Irish language on as timely a basis as Members of the House would like. This is a section to which the Minister should give further consideration to see whether progress can be made that would satisfy all Members of this House. We owe it to citizens to make legislation available in the first official language.

In general, I strongly support what the Minister is doing here and I commend this legislation to the House.

Senator Feargal Quinn: It is a delight to find a Minister who hits the ground running, comes into office and states he will get things done. It is quite novel to come up with a civil law (miscellaneous provisions) Bill where one lumps so many matters together and the Minister has done so with an ability to get them passed quickly. I encourage him to continue doing that.

Numerous matters were covered by the Minister to whom I listened carefully here today. In particular, I do not understand the area of gross negligence and negligence in law. It seems that the law is correct. It states that if one is negligent, one is guilty. However, it seems on so many occasions the courts state that a poor woman fell in a shop or house or on a street, it was not her fault and she must get an award. I do not quite understand that. Particularly in the case of public parks and other places where children are running or something happens, the
law states that one must be negligent and I do not understand cases where negligence is not enforced on that basis. The Minister’s good Samaritan provision is good.

There was an incident years ago in one of our supermarkets where a customer entered in the whole of her health, slipped on a grape and cracked or hurt her ankle badly, and she later sued and we went to court. We were able to bring in to court in our defence that at the time we had two trained staff working on cleaning the floor and they were interviewed by the judge. The judge then stated that he could not find the company negligent. Even though the woman entered the store in the whole of her health and cracked or broke her ankle, she did not get a penny. She could not understand that because her lawyer had said she would get a few thousand for this. The law is quite solid, stating if one is negligent then one pays.

It is interesting that we are using the term “good Samaritan” from the Bible. On one occasion in Israel, the guide showed us where it all occurred and it was only after we had gone away that we realised this was a parable and did not actually happen. It is a reminder of how the term has come into the language, and what a good way to come in. I am sure the Samaritans were not terribly happy with always being treated in a different way. I mention it because recently I saw two men on the road where I live and spoke to them about what they were doing there. They were repairing potholes on a voluntary basis. I did not know them but they lived somewhere in the locality and there were potholes, and they were merely going around repairing them. Somebody said to me afterwards that if they were volunteers, there was a danger that they could be found negligent if somebody had a fall. I hope this provision will be able to solve that.

I am particularly pleased that the Minister outlined the instance of those who clean the footpath outside their shops. On a programme I have been doing recently, we got a number of the traders in one area to agree that they all would sweep the street outside their shops on the days the local authority did not do so, but then one stated that there is a danger they could be held liable. That is good Samaritan territory. We should find a way in Ireland where we are able to do things on a voluntary basis. Others have mentioned it, for instance, Senator Mullins spoke about sporting activities. There is little doubt that much can be done in that regard.

I really was impressed with what the Minister stating about the voluntary MEAS code for moderate drinking if it is not accepted by the two organisations, which I did not realise were not supporting it. It is quite serious if an organisation will not abide by that voluntary code. There is something else behind this, although I am not quite sure what. Maybe the organisation must pay a good deal of money for it or, more likely, feels it favours off-licences over public houses and there may be a split in that regard. The way to proceed is to state that where one is in danger of being in breach of that code it would be taken into account on applying for a licence.

A number of Senators, including Senator O’Donovan, spoke of bankruptcy. I am delighted the Minister has reduced the waiting period from 12 years. On Senator O’Donovan’s point, we must take into account that in Britain the waiting period is only one year under certain conditions. I well remember many years ago a man who had opened a business, done his best and not succeeded; he was still being blamed years afterwards. I do not think he went bankrupt but when he got a job elsewhere, those to whom he owed money and had let down did not forgive him. He was able to get back on his feet, although he had not actually been bankrupt. F.W. Woolworth, 130 years ago, went bankrupt three times before he succeeded in becoming the wealthiest man in America. There is a different attitude in the United States and in other parts of the world that entrepreneurs do not always succeed first time to which we need to give consideration. I question whether five years is even too long, particularly if Britain finds that it is working quite well with one year. I can well understand the concerns of those who have
been let down, are owed money and are deeply frustrated at the fact that they see the person who owes them money back on his or her feet again and in business, but we need to encourage entrepreneurship.

Senator Bradford mentioned Senator Leyden’s Registration of Wills Bill 2011. I am not sure what is happening to that reintroduced Bill. If the Minister has such civil law legislation covering so many matters, perhaps something like that could be considered at this stage as well.

I congratulate the Minister. Today’s debate was good, but the areas he covered were much wider than I had anticipated. It is valuable to have the Bill introduced in the Seanad.

**Minister for Justice and Equality (Deputy Alan Shatter):** I thank everyone who contributed to this debate. This really is a potpourri of legislative proposals. I am sure we all could go on inventing different ways of describing it. Mention was made of a smorgasbord and I must say, as we got to a quarter to two, I would have been delighted if someone had brought one into the Chamber, but I am sure it is contrary to the rules of the House.

I will try to address most of the issues that Senators have raised. If I do not address all of them, perhaps they will forgive me because we will have an opportunity to deal with them on Committee Stage.

I will deal with bankruptcy issue first. I emphasise that the provisions in the Bill are very much a first step. The insolvency Bill, on which substantial work has been done, will provide an entirely new legal architecture for dealing with bankruptcy and insolvency issues. This is by way of an interim step. It is also by way of facilitating, if I could put it this way, tidying up the legacy of the old law. From the work that has been done, by allowing for automatic discharge after 12 years it allows that part of the Courts Service which deals with this area and the official assignee to terminate in excess of 300 legacy bankruptcies, and there is a certain administrative procedure required for that when we enact this law. That, in a sense, will prepare for the insolvency Bill that is coming along.

I thought long and hard about what should be the timeframe, in the context of the three-year issue, five-year issue and six year issue. I had a concern that the six year term the previous Government provided for in this particular part of the legislation that my predecessor published was too long. We wrestled with three, four or five years and there is no wisdom of Solomon on this issue.

I am conscious that in the United States in a spirit of entrepreneurship, issues of insolvency are addressed a good deal quicker than in our legal system. The one-year rule which operates in the UK is now giving rise to difficulty. We have to remember that when people are rendered bankrupt it is because they are incapable of paying their debts. There are some people who, as a victim of circumstance, are incapable of paying their debts. They may have conducted their lives in a reasonable fashion and operated their businesses in a reasonable fashion and applied some degree of business intelligence to the way they have operated. A business can fall, for example, because another business it is dealing with has been managed extremely badly and there was anticipation that they would have no difficulty in such businesses meeting their financial obligations. That business collapses. It may have been fraudulently trading or far too much money was being drawn by those engaged in that business by way of payment in circumstances where the turnover did not provide for that level of withdrawals and expenditure, and a related business which was acting as a supplier can collapse in those circumstances. There is a good reason the business which does so collapse and if an individual is rendered bankrupt as opposed to a company liquidation, that person should be able to extricate from bankruptcy a good deal quicker.
There is also a good reason as to why in the business which traded fraudulently or very ill-advisedly or with gross negligence, to come back to Senator Quinn’s phrase, the person responsible for that business should not necessarily extricate from bankruptcy with great speed. That is because of all those to whom money is owed who were essentially taken on some business ride by those responsible for that business.

What we have to do in our bankruptcy laws is to provide a balance between allowing people who have got into major financial difficulties, through no fault of their own, or who have traded and operated a business in good faith which is the victim of circumstances, to start anew while ensuring that those who deliberately run businesses into the ground and deliberately misuse their position, for example to acquire supplies from others, are not let off the hook and retain some real obligation to pay their debts.

My understanding is that in the UK there is a concern that the one-year rule is facilitating people who have traded in a very ill-advised and negligent fashion to extricate themselves from all indebtedness. We have a problem in this State. Bankruptcy affects individuals personally. We have a problem where people who trade through the company structure are trading in a manner which is irresponsible and does not result in Garda investigations when their company goes bust, or the Director of Corporate Enforcement becoming involved because the company may be small. However, when the company fails it leaves a trail of indebted individuals, often including employees whose wages have not been paid for a considerable period, and within a few weeks they form another company and start trading in exactly the same way. That is not an issue for our bankruptcy laws unless the individuals concerned have gone personal guarantors for debts which have arisen or for bank borrowings which have occurred. There is a problem in achieving a balance.

I am not going to pretend that the five-year rule has some magical impact on all of this but what we want to do by way of an interim measure is put in place some initial reforms and see how they work in practice and make sure we are not creating unintended consequences or not giving rise to a situation where those who have traded irresponsibly and who have caused great difficulty for others to whom they owe money, feel there is a simple way out 12 months later and can start all over again.

We decided to initially insert a period of five years and to see how it worked in practical terms. We also wanted to learn more from experiences elsewhere as we are developing the insolvency Bill and we will come back to this issue to dealing with the general insolvency area.

I acknowledge my colleague, Senator Clune, who has some particular expertise in the area of insolvency and who as a Fine Gael Front Bench colleague in the previous Dáil did considerable work and research in the insolvency and bankruptcy area and produced a very important report on how we should reform our law. That report will influence the development of the insolvency Bill. I hope to bring that Bill forward with reasonable speed and we will have a very different structure for dealing with insolvency and bankruptcy when it is enacted.

On the consideration of the 12-year period which Senator O'Donovan and others mentioned, we have a situation in our legal system where if one is rendered bankrupt one has the capacity to be bankrupt until the day one is buried. It is a reasonable coincidence that this Bill is dealing with bankruptcy and coroners because there is an odd connection between them in that context.

On the 12-year period to facilitate a discharge from bankruptcy even in circumstances regarded as priority debts which normally must be discharged, again that is to allow us to do some initial work in dealing with legacy bankruptcies. All these issues will be given further consideration as we develop the insolvency Bill. However, because this is a Bill dealing with a variety of measures I wanted to start the process and at least give the Houses an opportunity...
to give further consideration to this area of our law which will feed into the work we are doing on the insolvency Bill.

I was particularly taken by Senator O’Donovan’s contribution in respect of walks on Sheep Head. I appreciate the invite but I do not know if I will be able to join in. This legislation refers to an organisation or volunteer group, as defined in the legislation, and if one is a member of such an organisation one falls within the ambit of the protections provided in the legislation. If a group of individuals goes for a walk together but they are not an organisation, I am not sure how a negligence issue could arise which would result in someone being sued unless, arguably, I fall over the cliff because someone trips me up along the route. That does not fall within the ambit of this legislation.

**Senator Denis O’Donovan:** I was referring to volunteer guides.

**Deputy Alan Shatter:** That is a different issue. If one is talking about a professional guide who is guiding a group along the route there is a separate area of the law which would be applicable. If the guide leads people over the cliff, there is a certain protection and it is a good idea we have it in place to cover the people who might be the victims of the cliff fall and who are fortunate to survive it as a consequence, perhaps, of the guide being blind drunk as he led them along the side of the precipice. It is reasonable that there are some protections in place for that scenario.

A number of Senators spoke about the vintners. I appreciate the support given for my comments. It is regrettable that the announcement to which I referred was made on 20 June. It got little public notice at the time because there are so many controversial issues for the media to cover. As Minister for Justice and Equality, I thought it was a serious step and I am very concerned about whatever disagreements there might be between those engaged in the on-licence and off-licence trade. There is a social duty and responsibility and the guidelines put in place by MEAS fulfilled a very important function. They were of considerable advantage to the drinks industry. Not only did they prescribe an appropriate socially responsible roadmap, in a sense they also put down a marker that those engaged in the sale of alcohol were prepared to recognise certain social responsibilities and obligations and abide by them. It is unprecedented that it would be announced that we were now ditching and abandoning them and no longer complying with them. I greatly appreciate the support given by Senators for what I have had to say on the issue.

Senator Paul Bradford, like Senator Denis O’Donovan and others, raised the bankruptcy issue. Others raised the issue of the retirement age for the Taxing Master. In the context of where matters stand, we believe it appropriate to provide for a retirement age of 65. It is not an issue of major consequence, but there is an issue as to the length of time an individual can undertake work of this nature. This is very much an interim measure and the particular provision will fade into irrelevance once we enact the legal services Bill. We will look at this issue.

Senator Sean Barrett made reference to accountants. There may be a little confusion. The job of the Taxing Master of the High Court essentially is to determine issues of dispute in relation to legal costs. The Taxing Master will deal with a situation where there has been litigation and an order has been made by the courts which requires the losing side to pay the legal fees of the winning side. Where there is a dispute as to what the fees should be, the Taxing Master will adjudicate on the appropriate sum payable by the losing litigant by having regard to the nature of the work undertaken by the solicitors and counsel who represented the successful litigant. The Taxing Master also has a function where there is a dispute between a client of the legal profession about the fees charged by a solicitor or a solicitor and a barrister.
The only individuals who can be appointed Taxing Masters are solicitors. Barristers are excluded from such appointment, which does not make a huge heap of sense. The other persons involved in the process are not ordinary accountants but legal cost accountants. Legal cost accountants are individuals who are expert in the law relating to legal costs, the preparation of legal cost bills, assessing the fairness of such bills and determining and recommending to the legal profession appropriate fees to charge based on work undertaken.

This proposal does not envisage accountants generally been appointed as Taxing Masters; they would not have the skill or expertise to take up such an appointment. It will extend the possibility of appointment to those who, frankly, have the greatest expertise in this area because they are the ones who regularly appear in the Taxing Master’s court to make submissions and debate these issues. When it comes to the Taxing Master’s court, even to members of the legal profession, some of the principles applicable and the comparators used in previous cases would be something of a mystery. It is the legal cost accountants who have the expertise. Many years ago I believed they should have been eligible for such appointments because they were very much specialists in the area and as such it is an appropriate step to take.

Senators Paul Bradford, Ivana Bacik, Jillian van Turnhout and others have raised the issue of human trafficking and the tragedy that afflicts women and children who are the victims of such trafficking, and, in particular, the provision in the legislation which essentially deals with the provision of legal aid. What we are doing is putting in place a statutory mechanism to ensure the victims of human trafficking will have a legal entitlement to legal advice. The criticism is that we are not providing for legal representation in court cases. The reality is that in our criminal justice system court cases are prosecuted by the Garda or the Director of Public Prosecutions; the defendant is represented and those who are the victims of a criminal offence give evidence. We do not provide for legal representation for those who have been the victims of a criminal offence.

I do not want to diminish the impact on individuals of human trafficking or being forced to engage in prostitution as a victim of human trafficking; I do not want to diminish in any way the effect on their lives of being caught in such appalling circumstances, but let us consider other areas of the law. If any of us in the House is mugged on the street tomorrow or if any member of our families is the victim of a burglary or other criminal conduct, the Garda will investigate, the Director of Public Prosecutions will prosecute and the defendant and the State will be represented by lawyers in court. None of us would go along with our lawyers to court, even if we could afford to pay them, because we would have no role or function in the prosecution process. What is important — on occasion there is confusion about this — is that those who are the victims of human trafficking understand their legal rights and the legal process, the benefits to them of co-operating with the Garda and that they have a lawyer who can explain to them the workings of the criminal justice system if there is to be a criminal prosecution. These are very important issues to be addressed and for the first time in this legislation we will provide for, by way of statutory provision, such legal assistance.

I thank Senator Jillian van Turnhout for mentioning the citizenship ceremony. Senator Ivana Bacik raised the issue of delays in processing citizenship applications. When I became Minister for Justice and Equality, there were 22,000 citizenship applications outstanding in the Department. Of these, 17,000 had been waiting for a decision for in excess of six months and far too many had been waiting for a decision for in excess of two years. Some had been waiting for a decision for closer to two and a half or three years. When the figure was averaged out, 17,000 had been waiting for a decision for approximately 25 months.

As someone who in opposition had been critical of the delays in processing citizenship applications, in my early days in the Department I had meetings with officials. I inquired about the
systems applicable in processing such applications. What Senators may not realise is that the Minister must sign off on all applications. Citizenship is either granted or refused, but, ultimately, it requires the signature of the Minister.

The section of the Department which deals with citizenship applications, which is based in Tipperary, explained to me how the system worked. We examined where the problems were and I looked at putting in place a new business system and adopting a new approach to dealing with applications. I brought the matter before the Government and advised it on many of the changes introduced. There is available a statement which details them at some length. The effect is that I have dealt with more applications and made more decisions in my first three months or so as Minister than were dealt with last year. Just over 5,000 applications were dealt with in 2010. As of last week, more than 6,000 applications had been processed. My objective, which I believe is achievable, is to get to a position by late spring or early summer next year whereby all citizenship applications will be processed within six months unless some exceptional difficulty or circumstance arises.

On how we deal with applications, the system has been modified to ensure that it is more efficient and that information which comes to me, as Minister, is more readily accessible in terms of dealing with, for example, bulk applications in relation to which there is no controversy or an application in respect of a spouse who is married to an Irish citizen, in respect of which no great difficulty or complexity should arise. We have arranged for different streams of applications to be dealt with.

Senators may not be aware that up to now a person granted citizenship would not receive his or her letter from the Minister for Justice and Equality until two or three years after the application was made. The letter would instruct the person to go to the local District Court to obtain an appointment — which may be two to four months later — to swear a declaration of fidelity to the State in front of a district judge. A person might have had to hang around the court watching a couple of criminal trials before being called or the judge might have dealt with the case at the end of the day when tired. The system attached no importance to becoming an Irish citizen. As a consequence, we have devised an appropriate ceremony that makes the event meaningful and shows that we as a country respect those who wish to become citizens of our country.

The first citizenship ceremony was held a few days ago. It was, for me, an emotional event. Everyone who attended was extraordinarily emotional. Some 73 new Irish citizens were sworn in on the day. That leaves approximately 4,000 people who have been granted Irish citizenship, with whom the courts cannot possibly cope. I want to ensure the backlog we are addressing does not become a court backlog. There will be a series of further ceremonies during which large numbers of people, properly granted citizenship, will be sworn in as citizens. The pilot worked well and we hope to hold more ceremonies at the end of July through to September. To ensure that those who have been granted citizenship get their papers at as early a stage as possible, we may, to assist them, truncate the ceremonies so that a number of people can become Irish citizens.

The template of how we are to this into the future is that set down in Dublin Castle. There will be a series of ceremonies of that nature. Those ceremonies will become the manner in which we deal with citizenship ceremonies on a permanent basis once we get back to the six months’ rule. In the meantime, individuals who are not available to participate in a ceremony can still use the District Court system. People will not be prohibited by an ability to attend at a particular ceremony. People will be informed of dates of ceremonies. I will also on occasion invite Members of this House to attend such ceremonies.
The feedback for what occurred last week has been extraordinary. The people who engaged in the ceremony expressed great support for the new approach being taken by Government. It is important we send out the message that we welcome those who lawfully live and work among us, are part of their community and wish to obtain citizenship and that we welcome the contribution they will make to Ireland. I am not sure we have always approached it in that way.

A number of Senators commented on the domestic violence legislation. It is my objective to bring forward a codified reformed single domestic violence Act. I take the point that this is not a great way to legislate. As I stated, 40 different Acts had to be examined to produce this legislation. It is hoped we will have an opportunity to not alone reform areas of law but to codify them. Had I tried to address each of these areas in a single Bill, three-quarters of the reform would not have seen daylight until 2012 and there would not have been parliamentary time to deal with them.

Senators referred to domestic violence and maintenance issues. Senator Clune mentioned her experience in Cork. It is of particular importance that we provide the protection necessary. Other amendments are necessary in this area. For example, there is no reason an individual stalked by someone should not be entitled to an order that is the equivalent of a safety order. While there is protection in other legislation for someone who is the victim of stalking, I am examining this issue. The nature of the amendment that had to be framed to deal with that issue is a little different because of the definition issues that have to be addressed. If it is possible to include such provision in adequate form in this Bill, as we go through it, I will do so. If not, it will form part of the codified reforming measure I hope to produce in the future.

I have dealt with most of the issues raised by Senators. Senator Power and others raised the issue of criminalising those who use prostitution services. This issue is under review in my Department. An examination is being conducted and the Department has received a report on it, which I have yet to consider in terms of how we might proceed. The Department is examining what the Swedish Government has done in this area. I want to be careful in terms of how we deal with it. I am conscious of the difficulties surrounding women who engage in prostitution. From time immemorial, prostitution has been a reality. Governments of different centuries have tried to address it in different ways, often not succeeding in their efforts. We will examine this issue carefully. I have no doubt we will come back to it on another occasion. I do not want to express any definitive or final views on the matter.

Senator Mullins asked if the legislation will cover GAA clubs. Organisations — which GAA clubs are — engaging in volunteer work are, as I understand, volunteers within the definitional provision in the legislation. Senator Quinn raised issues around negligence and told us the grape story which relates to the success of his company when a person slipped on a grape in a store. I suppose that could be described as the grapes of wrath case. Obviously, the judge listened to the evidence and the finding was that business which employes people who carefully mind premises cannot be found to be negligent. As customers are going through, every issue arising cannot be addressed within a few moments. There are occasions in the courts when people take cases alleging negligence against others and the cases may be nothing more than somebody trying something on. They would have no substance but the hope is that where people litigate, they will only do so in good faith, with the courts hearing such cases with care and making appropriate decisions.

There have been instances of the courts throwing out cases, with judges harshly criticising people who have taken what could be described as vexatious or frivolous actions. Some years ago there was a concern that some people were regularly taking actions seeking damages for negligence, and on a repetitive basis such people appeared to have themselves injured. The courts took a very strong line when that became apparent. Negligence plays an important role.
in the provision of protection in civil law for the public in particular areas, and it is of some concern and importance that it is not a grounds for litigation that is abused and misused. It should not put those against whom litigation is taken under unfair pressure, resulting in them incurring unnecessary expense.

I hope I have covered most of the issues raised today and that Senators will forgive me if I have not. We will have an opportunity to tease our way through the Bill on Committee Stage and I thank the House for the helpful and constructive comments made. I look forward to the Committee Stage in this House as it will be my first occasion as Minister to take Committee Stage of any Bill we have published. It will be a first for me in the Seanad.

Question put and agreed to.

Committee Stage ordered for Tuesday, 5 July 2011.

Message from Dáil

An Cathaoirleach: Dáil Éireann has agreed on this 30th day of June 2011 to the amendments made by Seanad Éireann to the Ministers and Secretaries (Amendment) Bill 2011.

Ministers and Secretaries (Amendment) Bill 2011: Motion for Earlier Signature

Senator Ivana Bacik: I move:

That, pursuant to subsection 2° of section 2 of Article 25 of the Constitution, Seanad Éireann concurs with the Government in a request to the President to sign the Ministers and Secretaries (Amendment) Bill 2011 on a date which is earlier than the fifth day after the date on which the Bill shall have been presented to her."

Question put and agreed to.

An Cathaoirleach: When is it proposed to sit again?

Senator Ivana Bacik: At 2.30 p.m. on Tuesday next.

Adjournment Matter

National Asset Management Agency

Senator Deirdre Clune: I thank the Minister of State, Deputy O'Dowd, for attending the House. I raise this issue as it has come to my attention twice in the past two weeks. I met representatives of the Construction Industry Federation in Cork recently when they had a regular briefing for Members. Among a number of issues raised was the need to ensure commercial properties with loans under the auspices of NAMA would be developed and brought to market. The issue is considered to be an impediment to attracting investment from abroad and domestically.

Last week, the National Competitiveness Council produced one of many reports which I follow with interest as best I can. It concerned the cost of doing business in Ireland and one of the recommendations was that NAMA move to provide certainty for the commercial property market. The manner in which NAMA will deal with unfinished developments must be addressed, along with how assets will be disposed of. It recommended that an orderly programme of disposals and interventions is desirable at this stage. Properties should be brought
to market on a phased basis over the next few years. A lack of information on these properties is creating an atmosphere of uncertainty. The report also recommends that the property service regulatory authority compile data on purchasing and leasing relating to price, floor space, quality, location and finish.

The Minister of State may argue that if there is a survey of available office and commercial spaces in the country, there would be an excess, but there is a lack of grade 4 high-quality office space, especially in the Dublin area. There will be a shortage in the next 18 to 24 months in that respect, so if we are to get to a position to attract new investment, many properties must be brought up to required standards. This will ensure IDA Ireland, Enterprise Ireland and others can attract businesses.

Recently I attended a meeting where Mr. Frank Daly, chairman of NAMA, outlined the progress of the agency to date. I recognise that in the past 18 months it has done much work in getting EU approval, acquiring a portfolio of loans, engaging with developers and recruiting staff. That takes time. Mr. Daly indicated that the agency is working with loans related to properties that are well-tenanted, such as office blocks, shopping centres and other retail and industrial premises. However, these active properties are not the kind I am discussing. I refer to properties that could have a high level of occupancy such as fourth generation office space instead of older office space that does not have the kind of future we need if we are to move forward.

I know the argument may seem irrelevant at this time but the issue is important if we are to create certainty in future markets and get to such a point in the next 18 to 24 months when it is predicted that we will need this type of office space. Now is the time to move forward and create certainty in the area. The point was made to me that NAMA can borrow up to €5 billion if it needs money to facilitate the development of properties to make them marketable. That has not been touched so far and I hope the Minister of State can answer that query. Why has NAMA not touched the funding as some would argue it should do now to get a return on those properties? I thank the Cathaoirleach for making time available and I look forward to the Minister of State’s response.

Minister of State at the Department of the Environment, Community and Local Government (Deputy Fergus O’Dowd): I thank Senator Clune for bringing this matter to my attention and I will report the issues she raised directly to the Minister for Finance. NAMA has advised the Minister for Finance that the matter of unfinished estates is complex with no readily available solutions. Although NAMA must strive to achieve and set an overall strategy, solutions may need to be tailored individually to the environment and could include sale, rent or completion. In some cases, the only available option may be restoration to agricultural use.

NAMA participated in a working group set up by the Government to examine the issue and the extent of unfinished estates in Ireland. The group’s report was published in June by the Minister of State responsible for housing and it identified 2,800 unfinished estates, categorising them by reference to the extent to which they required remediation. The report identified about 225 category 4 estates, which are deemed to require immediate remedial attention. NAMA debtors have loans with an exposure to 28 of those category 4 estates and the agency has committed to undertaking an analysis of the 28 estates with a view to developing site resolution plans which will address the most pressing issues that require remediation.

The board of NAMA has advised that it wants to realise 25% of its portfolio by the end of 2013 and this has been factored into the debtor business plan process. The rate of progress in this sales process will be affected by the demand in the market and the availability of purchasers. It will be a matter for the NAMA board to manage and deal with acquired properties in a commercial fashion case by case to maximise value and generate the best achievable
financial return for the State. The chairman of NAMA has explained that the best commercial return will not be achieved by engaging in a fire sale of assets. This is consistent with the approach recommended by the National Competitiveness Council that a programme of disposals should be orderly.

Under the NAMA legislation, the agency has power to borrow up to €5 billion in working capital for the purpose of advancing new money to complete developments or projects where it is commercially advantageous to do so. All approvals of working and development capital are subject to a credit decision-making process which has been approved by the board of NAMA. This is a point the Senator raised. To the end of April 2011, NAMA had approved over €800 million in new money advances, for example, NAMA advanced new money for the completion and sale of the high profile Montevetro building to Google for almost €100 million.

NAMA is aware of the need to enhance the availability of information with regard to properties. In that regard, under an initiative currently in preparation, NAMA will include on its website a database of properties which are under the control of receivers appointed to enforce against NAMA debtors, appointed either directly by NAMA or by participating institutions working on its behalf. This will provide a single source of information on NAMA assets which are for sale and it will be updated on a very regular basis. NAMA is currently undertaking a risk assessment of the project and is conducting a rigorous process of data verification to ensure that the information is factually correct. The agency expects this risk assessment and data verification process to be completed shortly, which would enable it to launch the site within the next few weeks.

**Senator Deirdre Clune:** I welcome the fact that the website will be up and running shortly. That will contribute to the debate and towards moving matters forward by ensuring that properties, particularly commercial properties, reach a marketable position.

The Seanad adjourned at 2.55 p.m. until 2.30 p.m. on Tuesday, 5 July 2011.