



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

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SEANAD ÉIREANN

Dé hAoine, 19 Iúil 2013

Friday, 19 July 2013

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

*Machnamh agus Paidir.
Reflection and Prayer.*

Business of Seanad

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

An gá go dtabharfaidh an tAire Dlí, Comhionannas agus Cosanta sonraí maidir le líon na ndaoine, le briseadh síos idir fhir, mhná agus páistí, atá ag fanacht i ngach ceann de na caoga trí ionad cóireáil dhíreach sa Stát faoi láthair agus briseadh síos de réir fír, mhná agus páistí ar líon na mblianta atá siad sa chóras sin - níos lú ná bliain, bliain go dhá bhliain, dhá bhliain go trí bliana, trí go cheithre bhliain agus mar sin di suas go dtí an duine is faide atá ag fanacht.

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 Maurice Cummins: The Order of Business shall be No. 43, motion re the non-use of motor vehicles, to be taken on the conclusion of the Order of Business without debate; No. 1, motion re committee membership, to be taken at the conclusion of No. 43 without debate; No. 2, Houses of the Oireachtas (Inquiries, Privileges and Procedures) Bill 2013 - Committee and Remaining Stages, to be taken at 11.45 a.m. and to conclude no later than 1.45 p.m., if not previously concluded; No. 3, Electoral, Local Government and Planning and Development Bill 2013 - All Stages, to be taken at the conclusion of No. 2, with the contributions of group spokespersons on Second Stage not to exceed eight minutes and those of all other Senators five minutes, and Committee and Remaining Stages to be taken immediately on the conclusion of Second Stage; and No. 4, motion re the earlier signature of the Electoral, Local Government and Planning and Development Bill 2013, to be taken at the conclusion of No. 3 without debate.

I advise Members that we intend to sit on Monday, Tuesday and Wednesday of next week to complete all business awaiting disposal.

Senator Darragh O'Brien: I do not support the proposal that No. 1 be taken without debate. We should be afforded the opportunity to discuss this matter. Deputy Denis Naughten was removed from committee membership yesterday without any consultation with him. That is not the way to conduct business in the Oireachtas.

Yesterday we learned, without any debate in either House, that 3,000 families currently in receipt of one-parent family payment will see cuts of €50 per week arising from the decision by the Minister for Social Protection to remove them from the scheme. It is most concerning that this is being done without any reference to this or the other House. A cut of €50 is a substantial reduction in weekly income for the households concerned. It is clear that the Government sought to get this through the gap, so to speak, just as the Dáil was rising for the recess yesterday. It is a convenient coincidence of timing that the Minister will not have to answer questions in regard to it. In that context, I propose an amendment to the Order of Business that the Minister come to the House today to explain why she considers it equitable and fair that €50 per week is being taken from 3,000 lone parents.

Senator Ivana Bacik: I remind Senator Darragh O'Brien that we had a very full discussion on the changes to the one-parent family payment during the recent debate on the Social Welfare and Pensions (Miscellaneous Provisions) Bill, in the course of which the Minister, Deputy Joan Burton, outlined the proposal for an amended form of jobseeker's allowance to allow flexibility for single parents.

Senator Darragh O'Brien: She did not tell us she was going to do this.

Senator Ivana Bacik: We had a full debate on the issue.

I commend the Minister, Deputy Burton, on the launch yesterday of the Pathways to Work programme. She is making strenuous efforts to ensure we have as many measures as possible in place to enable people to return to employment or engage in upskilling and training. This, coupled with the announcement earlier this week of a refocused prioritisation of job creation, is very welcome. On the other hand, reports that the IMF is urging that there be no easing off on austerity in the coming budget, despite the fact that the Government is set to exceed its deficit reduction targets this year, are regrettable.

Senator Thomas Byrne: The Government's own Fiscal Advisory Council has advised the same.

Senator Ivana Bacik: I ask the Leader to accommodate a debate in the autumn on the big picture in advance of the budget.

Yesterday we learned that fixed-penalty fines will be introduced for cyclists who breach road traffic law. As a person who cycles to work here every day, I have strong views on the matter. I have no difficulty with the imposition of fines on cyclists who break traffic law. However, there seems to be something of an open season on cyclists from a range of commentators, including in the other House and in the media. It is most unfortunate that the focus should be on cyclists in terms of the flouting of traffic law. Every morning and evening I see motorists breaking laws and thereby endangering other road users, particularly pedestrians and cyclists. However, because motorists tend to dominate the airwaves and their numbers are far greater than those

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of cyclists, we see a disproportionate focus on rule-breaking by cyclists. Such behaviour does happen and it is not excusable. Nonetheless, it is nothing like as dangerous as rule-breaking by motorists. We should push harder for a greater priority to be given to cyclists as road users and to taking account of their needs during the planning and development process. Dublin City Council has been very good in this regard, and much better in recent years than previously, but we still see appalling examples, for example, of cycle lanes which go straight into oncoming traffic. There is often no real provision for cyclists.

I add my voice to colleagues who yesterday wished Nelson Mandela a happy 95th birthday. Senator Sean Barrett reminded us that the student union in Trinity College renamed its office as Mandela House. Many student unions across this country and in Britain did the same and subsequently claimed some credit when Mr. Mandela was eventually released, which might have been a bit of a stretch. It was a real privilege to have served as student union president in Mandela House and to have witnessed his release from prison. It is great to see the celebrations surrounding his 95th birthday yesterday.

Senator Rónán Mullen: Further to what Senator Ivana Bacik said, the trouble with student unions doing anything like that is that the following year, a new regime comes in and might choose to do something entirely different.

Senator Ivana Bacik: I understand the student union office in Trinity College is still called Mandela House.

Senator Rónán Mullen: I am glad to hear it. I find myself in happy agreement with Senator Bacik - shock, horror - on the subject of the need to defend the rights and dignity of cyclists. I am not as frequent a cyclist as the Senator, but I am trying. She makes an excellent spokesperson for the cause.

I share Senator Darragh O'Brien's concerns regarding the proposal that No. 1, which overrules Standing Orders, be taken without debate. I propose a second amendment to the Order of Business that the motion not be taken today. I do so for the very good reason that the Government clearly has not considered the implications of what it is doing. It is normally a matter for the Committee of Selection of Seanad Éireann to decide the make-up of the membership of Senators on the various Oireachtas committees. As well as nominating Senators, it also has power to discharge their membership from time to time for non-attendance or at Senators' requests and to appoint others in substitution for those discharged. In this instance, I understand the Committee of Selection, which is chaired by Senator Denis O'Donovan, has not met.

There is a serious issue here in terms of the misuse of power by political parties. The latter are not mentioned in the Constitution. In fact, Article 15.10 is quite clear that the Houses, in making their own rules, do so in order to ensure freedom of debate. Parties moving in ruthlessly and immediately to dismiss people from committees of the Oireachtas because they sought their own freedom of debate and freedom of voting is an abuse of the committee system in party political interest.

Senator David Norris: Hear, hear.

Senator Rónán Mullen: Even though I understand this has not been tested in the courts, I would suggest it is an area in which they might well intervene if such misfeasance by parties were challenged.

Perhaps of most relevance to us today is the question of the proportionalities that must be maintained in the membership of Oireachtas committees. This proposal would remove three former Government Senators from various committees and replace them with three different Government Senators. Where we are dealing with committees that have five Senators as members, it seems to me that if the numbers were worked out, the representation of the Fine Gael Party should be reduced from two to one. In proposing this, the Government-----

An Cathaoirleach: Is the Senator proposing an amendment to the Order of Business?

Senator Rónán Mullen: Yes, and I am setting out my reasons for doing so. This is a serious matter and I would like to know whether the Government has done the math in respect of it. Has it even considered whether it is disturbing the proportionality relating to membership of the committees or does it give a damn at all about that? What is being done sends out a very bad message and illustrates the dangers of what might occur if a unicameral parliamentary system comes into being here. If this is how people are intent on using the force of numbers available to them, it does not augur well for the future.

An Cathaoirleach: The Senator is way over time.

Senator Rónán Mullen: In such circumstances, I wish to propose an amendment to the Order of Business to the effect that No. 1 be deleted from today's Order of Business.

Senator Jim D'Arcy: I pay tribute to Senator Darragh O'Brien in the context of the call he made yesterday in respect of the use of temperate language-----

An Cathaoirleach: We are not reopening yesterday's debate.

Senator Jim D'Arcy: The Senator is a very honourable man and he possesses great qualities. I note the fact that the Senator's party leader has given him his support in respect of what he said. We all have consciences. With the exception of matters relating to horse and greyhound racing, I also have a conscience.

In the context of the introduction of on-the-spot fines for cyclists by 2014, I recognise the difficulties experienced by cyclists. People who cycle down Dawson Street takes their lives in their hands. In 2011, nine pedal cyclists were killed on the roads and 395 were injured. I am sure everyone will agree that if cyclists are a danger to themselves and others, then protections must be put in place. The fine for breaking a red light will be €50, while those for cycling on the footpath or failure to yield right of way at a yield sign will be slightly lower. If the Minister for Department of Transport, Tourism and Sport is intent on introducing fines, he should bring forward one in respect of people who use mobile phones while cycling. That is a very dangerous practice.

Senator Ivana Bacik: He should ensure that the relevant provision in that regard is enforced in respect of drivers.

Senator Jim D'Arcy: I support the basic premise put forward by Senator Bacik. The Minister of State at the Department of Transport, Tourism and Sport, Deputy Alan Kelly, should be invited to come before the House in order that he might outline his strategy in respect of cycle lanes. I am aware that pilot schemes in this regard are in place in some towns in order to make roads cycle-friendly. The Minister of State should come before the House in the autumn to address this issue.

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Senator Thomas Byrne: I second the amendment tabled by Deputy Darragh O'Brien and I take this opportunity to endorse the comments he made yesterday.

I am seeking a debate on the subject matter of an article in this morning's edition of the *Irish Examiner*, which appears under the headline "Debtors protect assets in private trust". The article in question refers to a scheme being operated out of County Kilkenny which is being accessed by people throughout the country. Said scheme purports to place mortgages into a private trust, thereby removing from the banks their ability to repossess the properties to which they relate. I met one of the promoters of this scheme in Leinster House on Tuesday and, as a result, I am deeply suspicious of the scheme. The promoters charge people €250 to enter the scheme and claim that by using trust law, assets can be put beyond the reach of the banks. The individual I met informed me that the promoters had discovered a flaw in mortgage deeds which allows this to happen. As someone who is very familiar with such deeds and details relating to them, I requested information about this flaw. The promoters refused to divulge the details of the flaw to me. I was also informed that the scheme operates on a referral-only or invite-only basis. This fact is attested to in the article in today's edition of the *Irish Examiner*, which also indicates that 600 people have joined the scheme and paid €250 each for the privilege. The promoters actually informed me that the number of individuals who have signed up to the scheme is in the low thousands.

One interesting feature of my meeting with one of the promoters was that I was asked if I am familiar with the New Beginning organisation. I stated that I am familiar with it and that I know many of those who have been involved with that organisation in its various incarnations. I further stated that I am very proud of the work done by New Beginning and that I was glad to have worked with it in respect of a number of issues. The meeting ended when I outlined my relationship with members of New Beginning. As Members are aware, I continually raise the issue of mortgages in the House in the interests of trying to obtain answers for people. If, therefore, someone informs me that they have an answer, I want to discover what it involves. That is why I agreed to the meeting to which I refer. However, the secrecy, the fee involved, the unknown legal basis for what is being done here and the fact that the person I met clammed up when New Beginning was mentioned, have led me to reach the conclusion that this scheme bears all the hallmarks of a scam.

I urge the public to be wary of the scheme and those promoting it. I also urge the *Irish Examiner* and other media outlets to highlight this matter, about which I have genuine concerns. I have spoken to some experts in this field and they agree with my assessment. I compliment New Beginning which discovered a real loophole two years ago and which was involved in obtaining the relevant judgment in the Dunne case. I understand that none of the mainstream organisations assisting people who are experiencing difficulties with their mortgages endorse the scheme to which I refer.

Senator Susan O'Keeffe: I agree with Senator Bacik in respect of her comments on cycling. The Senator is a keen cyclist and perhaps she would come to County Sligo and avail of the facilities it has to offer to cyclists. In the past two to three years Sligo County Council has invested a great deal in order to encourage people to cycle there and this has made a remarkable difference. The Minister of State at the Department of Transport, Tourism and Sport, Deputy Alan Kelly, visited Sligo in order to discuss issues relating to cycling, particularly moves to encourage primary school pupils to cycle. If we are to discuss this matter, then encouraging children to cycle should form part of the debate. We must ensure, as happens in the UK, children are taught how to cycle safely. I expect the reason they are not taught this aspect of road safety

here is due to the availability of resources. In the context of the effect it can have on obesity, people's health, etc., cycling should be promoted.

I wish to thank an organisation, *Talkaboutit.ie*, which is based in Mayo and the work of which relates to ensuring that suicide is discussed in the public domain. I encountered a number of people who work for this organisation in a field in Ballintogher, County Sligo, last weekend and they were surrounded by sheep, cattle and hens. In a very ordinary way, they were engaging in a remarkable exercise, namely, being normal about suicide. They were there to raise awareness of suicide among people who were out and about buying things and enjoying the countryside in a very ordinary way. I pay tribute to them for their efforts. While there has been a great deal of discussion of suicide in the House during the past year, I am of the view that we have taken our foot off the pedal in respect of it. Perhaps in September we could discuss this matter - even in the absence of a Minister - in order to assess what resources we might have to offer in respect of it. We have taken our eye off the ball. There are 60 Members of this House and we must assist in raising awareness with regard to suicide. We cannot do enough in respect of this matter. The people I met last Saturday are operating on a voluntary basis. They were working out of a tent, in stifling heat, at the annual Ballintogher village fair and were due to head off to another festival on the following day. Surely there is something the 60 Members of this House can do to assist the efforts of this organisation and the many others like it. I pay tribute to those to whom I refer.

Senator Sean D. Barrett: At 3.26 p.m. yesterday the Department of Finance informed my office that it had decided not to respond to the European Commission's consultation paper on structural reform of the banking sector. I raise this matter in the context of No. 30 on the Order Paper and of discussions in which I, as a Member of this honourable House, engaged with the Department. I took it upon myself to make a submission in respect of the consultation paper because structural reform of the banking sector is absolutely vital in light of the problems that sector has created for this country. I am pleased to inform Members that the Seanad went to bat for Ireland in respect of this major issue-----

Senator David Norris: Hear, hear.

Senator Sean D. Barrett: -----when the Department of Finance would not do so. It is particularly ironic that the Minister of State at that Department, Deputy Brian Hayes, who agreed to the arrangement whereby there would be no response to the consultation paper, will yet again be seeking the abolition of the Seanad or perhaps the cycling Taoiseach will take a day off from his bike in order to come before us on that matter. At present, this House is the only arm of the Oireachtas or Government which is making submissions in respect of this vital matter. We sent copies of our submission to Senators who we thought might be interested in it and we would be delighted to forward copies to others. This is another example - there have been dozens of such examples in recent days - of the vital role the Seanad plays.

The G20 is meeting in Moscow today in order to discuss matters relating to corporate taxation. This is a follow-on from the discussions held by the G8 in Enniskillen. The report from the OECD identified a raft of loopholes used by companies in the technology, pharmaceutical and consumer goods sectors to reduce their liability. I am proud of our 12.5% rate and I have sought to have it extended to Northern Ireland, but tax lawyers and accountants, the so-called fiscal termites, have been working to reduce it. Parliaments have to be on guard against that.

A report on the NTMA's activities was released yesterday. Page 20 of it notes that the State

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Claims Agency now has 2,652 clinical claims under management, with an estimated liability of €969.8 million. We have discussed this issue with the Minister, Deputy Reilly. The HSE urgently needs to address the number of claims against the health service. We have undertaken many initiatives to improve safety on our roads and in other areas but there is the best part of €1 billion in claims against our hospital system, and it is increasing rapidly. The hospitals, consultants and everybody involved should address this problem, the scale of which is increasing and the addressing of which will be extremely expensive.

Senator Catherine Noone: I would like to join other speakers who spoke on the proposals to introduce on-the-spot fines for cyclists who flout traffic laws. As Senator Jim D'Arcy said, an on-the-spot fine of €50 will be issued in three circumstances: where cyclists cycle on the footpath, break a red light or partake in dangerous overtaking. The introduction of such a fine is long overdue. We have given cyclists improved facilities around cities, with bike lanes, shelters and tax incentives to purchase bikes, and the Dublin Bikes scheme has been a huge success, but these improvements also come with responsibilities, now that there are more people on our roads. It is beyond the time when the voluntary approach to regulating cycling is effective. Cycle tourism is a major development nationwide and regulation needs to be enforced on cycling, as in the case of initiatives such as the Greenway, which have been hugely successful. The Taoiseach's interest in cycling is a positive thing-----

Senator Jim D'Arcy: Hear, hear.

Senator Catherine Noone: -----because we lead by example when it comes to cycling and such matters. Cycling is regularly done at weekends, when most people are free of ordinary work. With more and more cyclists choosing to commute, which is a great development and something I would like to see more of, these laws are necessary and will ensure that cyclists are safer. I would like the funds that will be collected to be put to use to build more cycle lanes, such as the one along the Grand Canal, where cyclists are safely and properly separated from the road by a small ridge and where they have their own traffic signalling facilities. Such funds raised could be invested to improve the cycling network.

From a legal point of view, I have regularly been involved in cases in which a cyclist was the real reason an incident occurred but because of our legal system and the way insurance works in this country, drivers are generally held responsible because they are the ones with pockets, so to speak, in term of litigation. Such cases result in the hiking up of premiums. Cycling is an important area to regulate.

Senator Trevor Ó Clochartaigh: I ask the Leader to call on the Minister for Health to ask HIQA to initiate an immediate review of hospital procedures regarding CJD in light of the discovery that potentially CJD-infected instruments were used on patients at Beaumont Hospital in Dublin. It is important that this be done.

In light of the BAI report on public service broadcasting, I ask the Leader to arrange for the Minister for Communications, Energy and Natural Resources to come to the House to discuss that report, particularly the sector that relates to the Irish language media. The Crowe Horwath report is based on flawed methodology, using only JNLR statistics, which do not take into consideration that most of the people who speak Irish live in a Gaeltacht area. Therefore, I believe it is flawed. Also, some of the suggestions in it might be in contravention of the 20-Year Strategy for the Irish Language. I would welcome a debate on the Irish language media, particularly TG4 or Raidió na Gaeltachta.

I note we have another press conference this morning on job creation. We had one yesterday. The Government is very good at doing press conferences about creating employment, but the long-term unemployed need work, not promises. There has been a good deal of talk but not as much delivery. We have had the 2012 Action Plan for Jobs, which promised that 100,000 new jobs would be created by 2016. We were promised 10,000 extra jobs in financial services and an extra 20,000 in the manufacturing sector, but the Government during its term of office has overseen a loss of 24,000 jobs for young people. Some 187,000 people have left these shores and 10,700 full-time jobs have been replaced by 40,400 part-time jobs. Many of the job plans are based on a growth figure of 2%, but we do not have that level of growth. It is important that when we return after the recess we have some focused debates on job creation, as this is the main challenge facing the country.

Senator Cáit Keane: I want to raise the issue of a Supreme Court decision yesterday and to pose a question to the Minister for Justice and Equality. A death sentence was imposed on Noel Callan in 1985 following a robbery in Ardee in County Louth. The death penalty was commuted to 40 years and yesterday's judgment means that this man may be considered for release. The head of the Association of Garda Sergeants and Inspectors has said it is going to petition-----

An Cathaoirleach: That is a specific case. We do not deal with cases on the Order of Business.

Senator Cáit Keane: Can we not?

Senator Darragh O'Brien: No. The Deputy cannot.

Senator Cáit Keane: Can I rephrase it another way? There was policy in Ireland that we had a death sentence for capital murder, and when this person's sentence was commuted that policy changed, as the sentence was lessened. I do not know if the Minister for Justice and Equality makes policy that covers the murder of a garda. If a person murders a garda, the punishment should fit the crime. Our gardaí are on the streets every day and they take chances for us. We should make sure there is a policy in place to ensure the punishment fits the crime. I am not talking about any particular crime or incident, but in general we have to know the policy. I am asking for a statement in that regard. If a garda is murdered, what will be done about it? Will a 40-year sentence mean 40 years?

An Cathaoirleach: That is a matter for the Director of Public Prosecutions.

Senator Cáit Keane: Is it?

Senator Darragh O'Brien: Yes.

Senator Denis O'Donovan: I rise to support a comment made by the Leader and Senator Mullen regarding item No. 1 on the Order Paper. As Chairman of the Committee of Selection, I want to put on the record that we had no meeting; neither was I requested formally to have a meeting. Not alone should the Committee of Selection have met, but the Committee on Procedure and Privileges should have met. This particular attempt is like a diktat from the Politburo, a kitchen cabinet in a kangaroo court or a firing squad to get rid of certain people, and in my view it contravenes the constitutional rights of all Members. I am disappointed that this is the route we are going down.

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Senator Sean D. Barrett: Hear, hear.

Senator Denis O'Donovan: It is like a kangaroo court. There have been no meetings. There has been no attempt to do this in a fashion, as is normal, that complies with the Standing Orders that have applied in this and the other House for many years. I am disappointed at the way in which the power and duties of the select committee have been usurped. We have been sidelined. Maybe we should be disbanded. I am not sure. Perhaps that is a matter for another day.

On another matter, I ask the Leader to request the Minister for Finance or the Taoiseach to come to the House to set my mind at rest on a matter that has been bothering me for a number of months. Is there a serious attempt, in a most abnormal fashion, to delay the payment of various grants in an effort to appease the troika or to cook the books in order that the balance of payments position looks better at the end of the year? It is appalling that there has been a delay of 12 months in the case of some students in the issuing of SUSI grants. The processing of some medical card appeals - I have been involved with several - has taken nine to 12 months. I know of a case in which a woman has been waiting 18 months for processing of her carer's allowance application. The home help service has suffered significant cuts. I have been told by a social welfare officer that the delays involved in the processing of payments for people in my area who have applied for farm assist are between nine and 12 months. I appeal to the Leader, which is something I rarely do, to ensure such shenanigans are not allowed to continue. After all my time in politics, I now find it is taking an abnormal length of time to process payments for which the applicants are eligible, be it social welfare payments, farm assist payments, medical cards or benefit appeals. Moreover, the position is getting worse, and this practice should come to an end. Next week, I intend to propose an amendment to the Order of Business to have either the Minister for Finance or the Minister of State at the Department of Finance come to the House to offer an explanation in this regard.

Senator Colm Burke: Senator Barrett raised the important issue of medical negligence, and it is timely that this entire area should be reviewed because of the cost to the State and to consider what can be improved within the health service to reduce the level of mistakes made. The figures the Senator quoted are absolutely frightening, but the matter touched on during yesterday's debate, namely, the possibility of staged payment of claims, also is important. This is how such payments are managed in Canada, and we should move to a similar system here. In cases for which I have acted over the past ten years, people received substantial compensation payments and put them into investments and property. However, they now find the compensation they received has disappeared, whereas with a staged payment process, people at least are guaranteed to cover their losses into the future on foot of suffering serious injury or whatever. I support Senator Barrett and it is time for this matter to be reviewed. Perhaps Members should have a debate on the issue during the next term.

Senator David Norris: First, I second Senator Rónán Mullen's amendment. In addition, I seek permission to print a Bill in my name and that of Senator Barrett entitled the medical practitioners Bill 2013, which is with the Bills Office at present. I also wish to comment on the position regarding the Committee of Selection. It appears quite extraordinary that Members are bypassing-----

An Cathaoirleach: Senator, is the aforementioned Bill on the Order Paper?

Senator David Norris: It is with the Bills Office.

An Cathaoirleach: It is not on the Order Paper.

Senator David Norris: Very well. I will move it on Monday.

An Cathaoirleach: It must be on the Order Paper to do that.

Senator David Norris: In that case, I will concentrate on the question of the Committee of Selection. It seems extraordinary that every regulation of this House is being violated by the present Government in its own party interests. I have never seen anything like it - that is, the concentration of power. Fine Gael in particular is treating Seanad Éireann as though it were the party's own private club, and-----

An Cathaoirleach: Do you have a question for the Leader, Senator?

Senator David Norris: Yes, I do. Does the Leader consider this to be proper practice, and will he convey to the Government Members' strong concern regarding party control of committees? All Members have tried to fight against this on the committees on which they serve. I have been a member of the Joint Committee on Foreign Affairs since its establishment. I consider it to be one of the most significant committees because it deals with such profound issues. It is non-partisan and it is not helpful when people are removed from it, not because of a disqualification of their ideas or their capacity to serve, but simply because they apparently engaged in some misbehaviour in respect of their parties. It simply is perceived as a reshuffle in which people are being punished. As for the people concerned, Senator Healy Eames has spoken passionately in the Seanad. She has brought views from the committee on-----

An Cathaoirleach: Senator, we are not debating the motion at present.

Senator David Norris: I am outlining the reason I believe it should be debated.

Senator Terry Leyden: That is it.

Senator David Norris: The motion should be debated because it is completely wrong that people who have capacity should be removed from committees such as the Joint Committee on Education and Social Protection, on which Senator Healy Eames has also spoken. Senator Bradford is one of the best speakers in this House. He always maintains a cool, detached, logical, non-offensive and non-aggressive mien and adds enormously to the Joint Committee on Justice, Defence and Equality. It is outrageous.

I will move on to the other House and the extraordinary, cataclysmic stupidity of the present Administration in removing the only person who got the financial situation right in the entire Dáil, namely, Deputy Mathews. He got it right, but the Government-----

An Cathaoirleach: Senator Norris, we are not speaking about the other House. You are out of order completely. We are not speaking about the other House here. Do you have a question for the Leader on the Order of Business today?

Senator David Norris: Yes. Will the Leader protest in the strongest possible terms on behalf of Seanad Éireann at the stripping away of necessary talent such as Deputy Mathews, the only person who got it right? He is being fired out because he voted.

An Cathaoirleach: I call Senator Michael D'Arcy.

Senator David Norris: Moreover, the Taoiseach talks all the time about Denmark.

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An Cathaoirleach: The Senator is way over time.

Senator David Norris: Let us have Denmark, then, because he would not get away with it there.

An Cathaoirleach: Senator, you are way over time.

Senator David Norris: It would be compensated for by allowing a free vote - that is, a vote of conscience. He picks and chooses, and so this is a bad day for democracy.

An Cathaoirleach: Senator, you are way over time.

Senator David Norris: It is a complete disgrace that people such as Deputy Creighton and Deputy Timmins, who is a splendid Member, have been kicked out.

An Cathaoirleach: I call Senator Michael D'Arcy.

Senator David Norris: It is not because they are not qualified, as they are all qualified. They should be retained. It is illegal to remove them this way.

Senator Michael D'Arcy: Reports on the troika's latest review state that it is very concerned about legacy tracker mortgages. I also note the percentages of tracker mortgages on the mortgage books of Permanent TSB, AIB and Bank of Ireland are 50%, 40% and 30%, respectively. These mortgages all are losing money for the aforementioned three institutions. I call on the Leader to ensure that nothing happens with tracker mortgages for those lending institutions until such time as some reciprocation from them towards their clients and customers is evident. The expectation of both the previous Government and the present Administration always has been that if the financial institutions could be placed back onto a sound footing, they would reciprocate through funding for businesses and those who are in mortgage distress and would help out those people in difficulties. Unfortunately, every time the present Government and its predecessor have helped out the financial institutions, there has been no reciprocation. Nothing is coming back from these lending institutions. The best example I can give relates to Bank of Ireland, about which it was suggested that the old parliament building facing Trinity College on College Green could come under State ownership. The suggestion was that it could be made into a museum that would act as an important focal tourism attraction for the city of Dublin. However, nothing was forthcoming from Bank of Ireland. It is clear that for these lending institutions, it is all take. I say "Stop". They should be given nothing until they are seen to be coming around to helping out the citizens who are their clients and customers.

Senator Paschal Mooney: I also wish to support the amendment proposed by Senator Darragh O'Brien calling on the Minister for Social Protection, Deputy Burton, to come before the House. This issue has been raised from the time it was first introduced as a budget measure, and I raised it again earlier this week. Despite comments from the Government side, the simple fact is that this week alone, 25,000 lone parents will be deprived of €60. As for the suggestion that this measure will encourage more people to go back into the workforce, I agree with that philosophy and agree entirely that this should be its purpose. However, what happens when there is no work or employment available? The unemployment rate remains stubbornly high in spite of all the Government's initiatives. It needs no reminders from me about the challenge it faces, and the rate still remains high. While I welcome all job announcements - and even this morning 75 new jobs were announced nationwide - the simple facts are that the unemployment rate, particularly in respect of long-term unemployment, has not been reduced to any great extent.

In addition, there has been a great deal of comment and speculation in the media about comments that have been made on this side of the House in respect of debates that have taken place during the week. While I am deeply uncomfortable with contributions that have been made by colleagues on this side of the House, at the same time it must be remembered - and those in the media should remember - that the Fianna Fáil party took a decision that there would be a free vote on that issue. Therefore, it is entirely a matter for the individual Members as to what conclusion they arrive at. This is not a collective party decision and I believe the party leader, Deputy Martin, took a courageous decision in allowing the parliamentary party a free vote in this regard. I believe he will be strengthened as a result of it, rather than diminished in any way.

Senator Fidelma Healy Eames: While an attempt may be made to remove me from the Joint Committee on Education and Social Protection, it does not prevent me from speaking on education issues. I raised this issue last week with the Leader and in other ways. The Minister for Education and Skills, Deputy Quinn, must state his position on how he intends to help children with Down's syndrome. A huge movement is gathering on this issue in every county. These little children are not having their needs recognised. They are specific needs in addition to them getting learning support. They have a very distinctive syndrome that stands alone. So many other disabilities are recognised and theirs is not. They deserve resource teaching and resource hours but are not getting them. They are being lumped into the general allocation model with all other children with learning difficulties but they have extra learning needs specifically because of Down's syndrome. They have needs for speech therapy, language issues, physical issues and gross motor issues.

The Minister told us he would give us a statement before the summer. I understand the House will go into recess next Tuesday or Wednesday. I ask the Leader to ensure that statement is read to this House before we go into recess. These parents are looking to us to ensure their children get a level playing field by 1 September. We both know that unless that is done before we go into recess, parents will be left high and dry for the rest of the summer and those children will be lumped in with everyone else again some next September. That is fundamentally unfair and unjust. We are either going to help the children of the country - the born children - or we are not.

Senator Terry Leyden: I support the Leader of the Opposition's proposal to amend the Order of Business to allow a debate on a very important issue that has arisen here today. When I received the document this morning I was quite surprised at the undue haste in removing excellent people from joint committees of the Houses. Senator O'Donovan, chairman of the said committee, has made a very important statement and the Leader should note it. I recommend that Senators Healy Eames and Bradford go to the High Court to seek a review in accordance with natural justice as Senator Norris has done previously.

Senator Martin Conway: Will Senator Leyden pay for it?

Senator Terry Leyden: This is a very important and significant move.

An Cathaoirleach: Is the Senator proposing an amendment?

Senator Terry Leyden: I am supporting the amendment and I am explaining why.

Senator Martin Conway: No one thinks of the cost of going to court.

An Cathaoirleach: Senator Leyden without interruption.

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Senator Terry Leyden: Seemingly there is no other recourse. If there is no provision for debate in this House on a very important issue, then there is no other recourse under natural justice other than going to the courts. That is the choice open to any member of the House if he or she is dissatisfied with the situation. The motion seeks to remove excellent people. The people replacing them also have potential and ability but they were not appointed-----

Senator John Gilroy: The Senator was criticising precisely the same people this time last week.

An Cathaoirleach: Senator Leyden without interruption.

Senator Terry Leyden: The Senator seems to be a great convert from the great Fianna Fáil Party.

Senator John Gilroy: I saw the light. After what I witnessed here-----

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

Senator Terry Leyden: These are the questions I put to the Leader. I am asking about the procedure adopted which breaks the rules of the House. Senator Heffernan was asked by the Labour Party to resign from a joint committee and refused. He is now being booted out. The Leader of this House has obviously signed this document and it has been authorised by the Government, which has no legal authority in this House in this particular regard. That is a fact. What the Leader is doing is questionably illegal.

Senator John Gilroy: Call the Garda.

Senator Terry Leyden: The Senator can call the Garda, himself.

An Cathaoirleach: The Senator is over time.

Senator Terry Leyden: It deeply encourages me that when a Government is so anxious to get rid of this House it appoints an inept director of elections, the Minister, Deputy Bruton, and a most inept sub-director of elections, Deputy Regina Doherty,-----

An Cathaoirleach: The Senator is way over time.

Senator Terry Leyden: -----who never heard of the Seanad's existence.

An Cathaoirleach: I call Senator Moloney.

Senator Terry Leyden: She is the most Rip Van Winkle of all time.

An Cathaoirleach: The Senator is completely out of order. I ask him to resume his seat.

Senator Terry Leyden: It is insulting to this House to appoint a sub-director who never heard of the Seanad's existence.

An Cathaoirleach: Senator-----

Senator Terry Leyden: She must be the most inept Deputy in Dáil Éireann.

An Cathaoirleach: I ask the Senator to withdraw that.

Senator Terry Leyden: She is the Rip Van Winkle of Irish politics.

An Cathaoirleach: The Senator is completely out of order.

Senator Maurice Cummins: That statement about a female Member of the other House should be withdrawn. They are disgraceful statements again, another attack on a Member of the House,-----

Senator Terry Leyden: The Leader must be joking.

Senator Maurice Cummins: -----who is not here to defend herself.

Senator Terry Leyden: What has the Leader been doing for the last seven years?

Senator Maurice Cummins: It is disgraceful.

Senator Terry Leyden: She never heard the Senator Cummins was here or was Leader of this House.

Senator Maurice Cummins: It is disgraceful for Senator Leyden to make these remarks.

An Cathaoirleach: I call Senator Moloney.

Senator Terry Leyden: If the Leader was doing his job, Deputy Regina Doherty would know all about this House.

An Cathaoirleach: Senator Leyden, please.

Senator Terry Leyden: She is a dunce.

An Cathaoirleach: I ask the Senator to withdraw that.

Senator Terry Leyden: I will withdraw nothing.

Senator Martin Conway: For once in his life, Senator Leyden should do the decent thing.

Senator Terry Leyden: I am under parliamentary privilege and when a Deputy gets up and says she has never heard of Seanad Éireann-----

Senator Catherine Noone: On a point of order-----

Senator Terry Leyden: -----that person must be totally incompetent.

Senator Catherine Noone: I do not know if it is a point of order, but this kind of outburst-----

An Cathaoirleach: Senator Noone, please.

Senator Catherine Noone: ----- will put the nail in the coffin of this House. We need to calm down.

An Cathaoirleach: I ask Senator Noone to resume her seat. I ask Senator Leyden to withdraw the last comment he made.

Senator Terry Leyden: Withdraw what?

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An Cathaoirleach: The last comment he made - dunce.

Senator Terry Leyden: Certainly she is not a dunce, but she must be very inept.

An Cathaoirleach: I ask the Senator to withdraw.

Senator Terry Leyden: Dunce, yes. It is only a word.

Senator Marie Moloney: Why it is always when it is my turn to speak that this carry-on breaks out?

Senator Trevor Ó Clochartaigh: The Senator brings out the best in us.

Senator Terry Leyden: The Senator should not get emotional.

Senator Marie Moloney: I promise not to today. I am composed.

Senator Mary M. White: The Senator is entitled to be emotional.

Senator Marie Moloney: That is the woman in me - that is the female side of me.

I thank the Senators from all parties who came to me yesterday and showed such compassion and support following my revelation in the Seanad yesterday. I met Senator Walsh in private and we had a discussion. Senator Walsh and others are entitled to their point of view. I will listen to their point of view and respect it. However, I had an issue with the way they were putting their point of view across. I thank all Senators because the debate took a turn after that and it was carried out in a dignified and sensitive manner. That is all I will say on that matter.

Senator Mooney is right in talking about a crisis of unemployment in the country that we are working hard to try to resolve. Governments do not make jobs but put in place incentives to create jobs. That is what we are continuing to do. Yesterday the Minister for Social Protection, the Tánaiste and the Taoiseach launched Pathways to Work. We are doing our best to put in place incentives for the employers to help people get back to work. I welcome the initiative.

I welcome the increase in the uptake of science and maths courses in college - something we have all been looking for in recent years.

Senator Ned O'Sullivan: I second the Senator Mullen's amendment to the Order of Business.

An Cathaoirleach: It has been seconded already by Senator Norris.

Senator Ned O'Sullivan: I join others who have expressed deep concern about bypassing the selection committee. It is another example of the creeping arrogance we are witnessing all the time. The Leader needs to take on board the statement made by the Leas-Chathaoirleach and Chairman of that committee, Senator O'Donovan, who is a moderate man.

On the theme of arrogance and coercion, a report in today's *Irish Independent* is absolutely hilarious. It is reported that the Taoiseach, or the führer as he might be better called now, has instructed all the Fine Gael Senators not only to vote for the abolition of the Seanad in the referendum, but he has instructed them to get out and canvass. He will be watching them and expects them to turn up at the rallies. He expects them to make speeches in favour of the abolition.

Senator Darragh O'Brien: I have no doubt they will all turn up.

Senator Ned O’Sullivan: He obviously succeeded in getting turkeys to vote for Christmas, but now he wants them to chop their own heads off.

Senator Trevor Ó Clochartaigh: More likely he stuffed them.

Senator Maurice Cummins: The Senator is good at that.

Senator Ned O’Sullivan: I have referred a number of times to the poor platform crossings in rural railway stations. As I was waiting for my train in Charleville last Tuesday morning, I witnessed two elderly people with luggage trying to mount the metal bridge to cross from one platform to the other. I went to their assistance. It is ridiculous in this day and age that lifts cannot be provided in rural railway stations as they are in all the suburban ones.

Senator Martin Conway: I welcomed the news yesterday that we are to have a recruitment campaign in the autumn to encourage people to join An Garda Síochána. Some 27,000 people have already expressed an interest in becoming a member of the force. I welcome the announcement by the Minister for Justice and Equality, Deputy Shatter, that he has got the consent of the Minister for Public Expenditure and Reform, Deputy Howlin, to proceed with a recruitment campaign. It is a good day for justice and the force. I encourage citizens who are interested in becoming members of the very proud police force to consider seriously making an application when the recruitment process gets under way. I pay tribute to the Minister for Justice and Equality for persuading the Government to start recruiting again. It represents a very good day.

Senator Paul Bradford: My head is a little swollen with all the words of praise I am receiving from my friends on the opposite side of the House. I am sure they are very well meant. Senator Leyden is suggesting a trip to the High Court. We will get free legal advice from Senator Coghlan. That would be much more appropriate.

On a serious matter, I missed the commencement of the debate but I am familiar with the motion proposed. The personal side of this does not concern me in the slightest but I believe the issue of proportionality as it applies to Oireachtas committees is one that we cannot remove ourselves from. I understand the make-up of the committee system reflects the balance in the Oireachtas. Unfortunately, due to events beyond our control, the balance in the Seanad has now changed. It is not as simple as saying one can replace A with B. Therefore, I would like the Leader to inform us about the actual legal position on the requirement for proportionality.

Apart from the political musical chairs, on which we can debate and reflect, I want to bring to the Leader’s attention a matter that I would like us to discuss, perhaps next week. Today would not be appropriate. I refer to the financial musical chairs arising from recent political events. Through no fault of individuals in most cases, ten Members of the Dáil and three Members of the Seanad have now left their political parties. As we know, the political parties receive a substantial sum from the taxpayer in respect of their Deputies and Senators. With ten Members of the Dáil and three Members of the Seanad having left their parties, voluntarily or otherwise, some €500,000 will be handed over to political parties for individuals who are no longer members. I would like us to reflect seriously on the appropriateness, or otherwise, of that next week. We all know about the need to save money. It was pointed out as part of the Seanad abolition campaign-----

An Cathaoirleach: I would say this is a matter for the Minister, Deputy Howlin.

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Senator Paul Bradford: It is a matter I would like to have discussed in the House next week. I am not sure of the legality of party allowances being retained for Members who are no longer in their parties. It is a serious matter. Half a million euro per annum is at stake based on current figures. We will need an adjudication on that. I would like to see the money returned to the taxpayer, if possible. If it is not being spent by a political party on a member for whom it is given, it should be returned to the taxpayer. I would like us to set aside time next week to discuss that. Half a million euro is not a small sum and it appears the parties are keeping the allowance. The money should not go to the individuals concerned but back to the Exchequer. I would like us to debate that next week and ascertain the legal position.

Senator Michael Mullins: On Senator O'Sullivan's contribution, there is an old saying, "You can bring the horse to the water but you cannot make him drink".

I very much support Senator Moloney in welcoming the strong emphasis of the Government on job creation. It is appropriate that we welcome the announcement of jobs this morning under the Succeed in Ireland project. I was somewhat surprised that my good friend Senator Ó Clochartaigh did not welcome the additional jobs for Galway. I refer to the 15 jobs for Kinvara. Flagship Management has confirmed-----

Senator Trevor Ó Clochartaigh: What about all the people emigrating?

Senator Michael Mullins: -----it is locating its maritime consultancy headquarters and recruitment business in Kinvara, which will create 15 jobs over the coming years. It is very much to be welcomed but we need to redouble our efforts to have many more such job announcements during the coming months.

As with other speakers, I very much welcome the upsurge in cycling throughout the country. It is a great healthy way of keeping fit and, as was mentioned, to see the countryside. However, there ought to be great emphasis on safety. Fines proposed for cycling on footpaths and breaking red lights are appropriate.

It is important, during this very hot weather, that we redouble our efforts to ensure farm safety. There have been some tragedies in recent days, and also some unfortunate drownings. The roads are particularly dangerous during this hot weather. Temperatures are very high and people are quite likely to nod off and cause accidents. This House needs to send out the message during the summer that people should be safety conscious, be it on the farm, roads or water. We must ensure that people are safe and that we reduce the number of lives lost unnecessarily this summer.

Senator Maurice Cummins: Senators O'Brien and Mooney asked about lone parents. That matter was discussed at length in the House when the Minister was present dealing with the Social Welfare and Pensions (Miscellaneous Provisions) Bill 2013. There was a long debate on it in the House.

Senator Bacik and several other Senators referred to on-the-spot fines and planning for cyclists. There is no doubt that local authorities have made great strides in providing facilities for cyclists but there is obviously a lot more to be done in that regard in local authority areas throughout the country. I note the points made by several Senators and I will ask the relevant Minister of State, Deputy Kelly, to discuss the matter with us in September.

I do not propose to accept Senator Mullen's amendment to the Order of Business. The

changes have been made in line with a reshuffle of spokespersons. It is not upsetting the balance in any way. Those occupying positions on the Government side are not being replaced by anyone other than Members on the Government side.

Senator D'Arcy referred to cycle lanes and on-the-spot fines. As I stated, I will ask Minister of State Deputy Kelly to address the House on that matter.

Senator Byrne referred to the practice of putting mortgages into trusts, as mentioned in a newspaper today. He referred to secrecy and fees and implied the public should be made aware of what is occurring. I agree there is a need for public awareness and for legislative change in regard to trust law, as has been spoken about for quite some time. It is long overdue.

Senator O'Keeffe requested a further debate on suicide awareness. I will consider this when we return in the autumn.

Senator Barrett mentioned the submissions that have been made on structural reform of the banking system. I note his support for the 12.5% corporation tax rate.

Another important matter was addressed by Senator Colm Burke, which is the amount of claims against the Irish hospital system. That issue was raised previously with the Minister for Health, Deputy Reilly, when he was in the House, and with the Minister of State, Deputy Alex White. It is something that will have to be kept on the agenda in the coming months.

Senator Ó Clochartaigh called for a debate on the Irish language media. As regards the action plan for jobs, as Senator Mullins said, 75 jobs were announced yesterday, 15 of which are in Kinvara. I am sure that Senator Ó Clochartaigh welcomes those job announcements. It is positive news and I am sure he is a very positive person in addressing matters in this House.

As regards Senator Keane's point, the Criminal Justice Act 1990 provides for a 40-year minimum sentence, which replaced capital punishment.

Senator O'Donovan referred to social welfare appeals, which are dealt with by an independent appeals body. I appreciate what the Senator said and I agree with him that we have unacceptable delays in the system. If he tables an Adjournment matter, he could get an update on the question of social welfare appeals.

As regards the point raised by Senator Norris, when that Bill is put on the Order Paper on Monday, I will have no problem in accepting that it be published.

Senator David Norris: I thank the Leader.

Senator Maurice Cummins: If the Senator does not mind, I will not comment on matters in the other House. I will leave it to Deputies to look after that.

Senator D'Arcy mentioned the troika report and matters relating to tracker mortgages. I will bring those points to the attention of the Minister for Finance.

As regards Senator Mooney's point, I am certainly not going to delve into Fianna Fáil matters. I will leave it to that party's members to deal with.

Senator Healy Eames referred to the needs of children with Down's syndrome. I will check to see when the Minister intends to make that statement which, as the Senator said, is overdue at this stage.

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I wish to thank Senator Moloney for her dignified comments this morning. A lot is going on concerning the JobsPlus and Pathways to Work initiatives. There are improvements and, while there is a lot more to be done, the tide is turning for job creation. Well over 2,000 jobs per month are being created, which is a significant change. In the three years prior to the Government taking office, over 250,000 jobs were lost. Things are changing but it will not happen overnight. The Government is listening and tailoring matters to the requirements of employers and the unemployed.

Senator O'Sullivan raised a question about the metal bridge in Charleville railway station, seeking that it be brought to the attention of the Minister for Transport, but it is an issue for Irish Rail. I will have no problem in bringing it to the company's attention and the Minister's attention also.

Senator Conway welcomed the increase in Garda recruitment. As of last month, the force numbered 13,200 so it is to be welcomed that Garda recruitment will recommence soon.

Senator Bradford mentioned the Leaders' allowance for political parties, but I am not qualified to address that. It is a matter for the Oireachtas Commission which, I am sure, will consider it in its deliberations if it is brought to the commission's attention.

Senator Mullins referred to job creation and, in addition, we would all echo his sentiments on farm safety, water safety and road safety. The message is to be safe and bí cúramach in the coming weeks and months.

An Cathaoirleach: Senator Darragh O'Brien has moved an amendment to the Order of Business, "That a debate on the reduction of €50 per week in the lone parent allowance be taken today". Is the amendment being pressed?

Senator Darragh O'Brien: Yes.

Amendment put:

The Seanad divided: Tá, 14; Níl, 32.	
Tá	Níl
Barrett, Sean D.	Bacik, Ivana.
Daly, Mark.	Bradford, Paul.
Leyden, Terry.	Brennan, Terry.
Mooney, Paschal.	Burke, Colm.
Mullen, Rónán.	Clune, Deirdre.
Norris, David.	Coghlan, Eamonn.
O'Brien, Darragh.	Coghlan, Paul.
O'Donovan, Denis.	Conway, Martin.
O'Sullivan, Ned.	Cummins, Maurice.
Ó Clochartaigh, Trevor.	D'Arcy, Jim.
Reilly, Kathryn.	D'Arcy, Michael.
Walsh, Jim.	Gilroy, John.
White, Mary M.	Harte, Jimmy.
Wilson, Diarmuid.	Hayden, Aideen.

Seanad Éireann

	Healy Eames, Fidelma.
	Henry, Imelda.
	Higgins, Lorraine.
	Keane, Cáit.
	Kelly, John.
	Landy, Denis.
	Moloney, Marie.
	Moran, Mary.
	Mulcahy, Tony.
	Mullins, Michael.
	Noone, Catherine.
	O'Donnell, Marie-Louise.
	O'Keeffe, Susan.
	O'Neill, Pat.
	Sheahan, Tom.
	van Turnhout, Jillian.
	Whelan, John.
	Zappone, Katherine.

Tellers: Tá, Senators Ned O'Sullivan and Diarmuid Wilson; Níl, Senators Paul Coghlan and Aideen Hayden.

Amendment declared lost.

An Cathaoirleach: Senator Rónán Mullen has moved an amendment to the Order of Business, "That No.1 be deleted from today's Order of Business." Is the amendment being pressed?

Senator Rónán Mullen: Yes.

Amendment put.

The Seanad divided by electronic means.

Senator Rónán Mullen: Faoi Ordú 62(3)(b), ba mhaith liom go dtógfaí an vóta ar bhealach eile seachas ar bhealach leictreonach.

Amendment put:

The Seanad divided: Tá, 20; Níl, 27.	
Tá	Níl
Barrett, Sean D.	Bacik, Ivana.
Bradford, Paul.	Brennan, Terry.

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Byrne, Thomas.	Burke, Colm.
Daly, Mark.	Clune, Deirdre.
Healy Eames, Fidelma.	Coghlan, Eamonn.
Leyden, Terry.	Coghlan, Paul.
Mooney, Paschal.	Conway, Martin.
Mullen, Rónán.	Cummins, Maurice.
Norris, David.	D'Arcy, Jim.
O'Brien, Darragh.	D'Arcy, Michael.
O'Donnell, Marie-Louise.	Gilroy, John.
O'Donovan, Denis.	Harte, Jimmy.
O'Sullivan, Ned.	Hayden, Aideen.
Ó Clochartaigh, Trevor.	Henry, Imelda.
Reilly, Kathryn.	Higgins, Lorraine.
van Turnhout, Jillian.	Keane, Cáit.
Walsh, Jim.	Kelly, John.
White, Mary M.	Landy, Denis.
Wilson, Diarmuid.	Moloney, Marie.
Zappone, Katherine.	Moran, Mary.
	Mulcahy, Tony.
	Mullins, Michael.
	Noone, Catherine.
	O'Keeffe, Susan.
	O'Neill, Pat.
	Sheahan, Tom.
	Whelan, John.

Tellers: Tá, Senators Rónán Mullen and Trevor Ó Clochartaigh; Níl, Senators Paul Coghlan and Aideen Hayden.

Amendment declared lost.

Question put: "That the Order of Business be agreed to."

The Seanad divided by electronic means.

Senator Diarmuid Wilson: As a teller, under Standing Order 62(3), I propose that the vote be taken by other than electronic means.

Question put:

The Seanad divided: Tá, 27; Níl, 22.

Seanad Éireann

Tá	Níl
Bacik, Ivana.	Barrett, Sean D.
Brennan, Terry.	Bradford, Paul.
Burke, Colm.	Daly, Mark.
Clune, Deirdre.	Leyden, Terry.
Coghlan, Eamonn.	Mac Conghail, Fiach.
Coghlan, Paul.	Mooney, Paschal.
Conway, Martin.	Mullen, Rónán.
Cummins, Maurice.	Norris, David.
D'Arcy, Jim.	O'Brien, Darragh.
D'Arcy, Michael.	O'Brien, Mary Ann.
Gilroy, John.	O'Donnell, Marie-Louise.
Harte, Jimmy.	O'Donovan, Denis.
Hayden, Aideen.	O'Sullivan, Ned.
Henry, Imelda.	Ó Clochartaigh, Trevor.
Higgins, Lorraine.	Ó Domhnaill, Brian.
Keane, Cáit.	Ó Murchú, Labhrás.
Kelly, John.	Reilly, Kathryn.
Landy, Denis.	van Turnhout, Jillian.
Moloney, Marie.	Walsh, Jim.
Moran, Mary.	White, Mary M.
Mulcahy, Tony.	Wilson, Diarmuid.
Mullins, Michael.	Zappone, Katherine.
Noone, Catherine.	
O'Keeffe, Susan.	
O'Neill, Pat.	
Sheahan, Tom.	
Whelan, John.	

Tellers: Tá, Senators Paul Coghlan and Aideen Hayden; Níl, Senators Ned O'Sullivan and Diarmuid Wilson.

Question declared carried.

Non-Use of Motor Vehicles: Motion

Senator Maurice Cummins: I move:

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That Seanad Éireann approves the following Regulations in draft:

Non-Use of Motor Vehicles (Section 3) Regulations 2013,

copies of which have been laid in draft form before Seanad Éireann on 17 July 2013.

Question put and agreed to.

Membership of Committees: Motion

Senator Maurice Cummins: I move:

That, notwithstanding anything in Standing Orders—

Senator Fidelma Healy Eames be discharged from the Joint Committee on European Union Affairs and Senator Catherine Noone be appointed in substitution for her;

Senator Fidelma Healy Eames be discharged from the Joint Committee on Education and Social Protection and that Senator Imelda Henry be appointed in substitution for her;

Senator Paul Bradford be discharged from the Joint Committee on Justice, Defence and Equality and that Senator Tony Mulcahy be appointed in substitution for him;

Senator Catherine Noone be discharged from the Joint Committee on Environment, Culture and the Gaeltacht and that Senator Pat O'Neill be appointed in substitution for her;

Senator Paul Bradford be discharged from the Seanad Committee on Procedure and Privileges and that Senator Deirdre Clune be appointed in substitution for him; and

Senator James Heffernan be discharged from the Joint Committee on European Union Affairs and that Senator John Kelly be appointed in substitution for him.

An Cathaoirleach: I call Senator Kelly who wishes to raise a point of order

Senator John Kelly: It was brought to my attention that I have been nominated to the Joint Committee on European Union Affairs. Whereas I am honoured at being nominated for membership of the joint committee, I was not aware of the circumstances as to how the vacancy arose. On that basis I am not prepared to take up that position.

An Cathaoirleach: That is not a point of order.

Senator John Kelly: I ask the Leader to have me formally removed from the committee. I fundamentally disagree with the bully boy tactics of removing Oireachtas Members from committees.

An Cathaoirleach: The Senator is out of order.

Senator John Kelly: I disagree that Deputies and Senators are expected to park their conscience at the front door of Leinster House and act like robots for five years.

Senator David Norris: Well said.

An Cathaoirleach: Senator Kelly, resume your seat. Is the motion agreed?

Senator David Norris: On a point of order-----

An Cathaoirleach: I will allow the Senator to make a point of order.

Senator David Norris: Can you force a Member onto a committee? Apparently one can break all the rules and force them off a committee. A motion that nominates a Member against his or her will cannot be moved.

Senator Jim Walsh: I wish to raise a point of order.

An Cathaoirleach: I call Senator Walsh.

Senator Jim Walsh: Would any other Members like to emulate the principled position that Senator Kelly has taken? I think this is the opportunity to do so.

An Cathaoirleach: Will Senator Walsh resume his seat?

Senator Darragh O'Brien: I request a direction from the Chair on motion No. 1. On the basis of Senator Kelly's contribution in which he stated he was now unwilling to take up his nomination to replace Senator James Heffernan on the Joint Committee on European Union Affairs, how can we pass it when it refers to Senator Kelly in the body of that motion? Would it not be better for the Leader to withdraw it until a replacement is found?

An Cathaoirleach: This motion sets aside Standing Orders. Senator Kelly can take up his issue with the leader of his group, Senator Bacik, and resign from the committee.

Senator David Norris: The shape of things to come.

Senator Darragh O'Brien: I respect the rulings of the Chair, but it would be outside of Standing Orders on the basis of passing a motion. When a Member does not want to go on the committee, it does not make sense. The Member has made a statement. Can we withdraw motion No. 1 and return to it on Monday?

Senator Denis Landy: I would like a direct answer to my direct question. Can this matter be deferred until-----

An Cathaoirleach: The matter is-----

Senator Denis Landy: It is amazing that the Chair can interpret and respond to something I have not said. May I please ask a question?

An Cathaoirleach: Yes, Senator.

Senator Denis Landy: Senator Kelly has publicly indicated on the floor of the House that he is not prepared to take up the position on the committee. Can we defer No. 1 until Monday and deal with it in a proper fashion?

An Cathaoirleach: We cannot defer it. The motion is before the House.

Senator Denis Landy: A Chathaoirligh, may I finish, please? I would like to be able to

listen to the Chair.

An Cathaoirleach: The motion is before the House. I cannot withdraw or defer the motion.

Senator Diarmuid Wilson: A committee of this House is charged with the responsibility of appointing people to committees and discharging them from committees. The courtesy was not given to that committee to deal with its business.

An Cathaoirleach: This motion is setting aside Standing Orders.

Senator Diarmuid Wilson: Setting aside Standing Orders is to side-step my party. It is a disgrace.

An Cathaoirleach: I have to deal with what is put before me. I am putting the question. Senator Mullen on a point of order.

Senator Rónán Mullen: From time to time it falls to the Chair to make Cathaoirleach's rulings in circumstances where there is an absence of clarity in the Standing Orders. I think there is a potential legal difficulty here perhaps of constitutional significance. I was certainly unaware when I raised the concerns this morning that the proposals being made were not based on consultation with all of the people involved. The Cathaoirleach would be within his rights, given the dubium that has arisen, to make a temporary Chairman's ruling that this motion not be taken, notwithstanding that things have got to the point they have come to this morning. It would be more seemly to do that.

An Cathaoirleach: That is outside my remit as Chairman. I cannot set aside or defer a motion. This motion sets aside Standing Orders. I must deal with the motion before the House.

Senator Terry Leyden: On a point of order, I think the Cathaoirleach would be well advised to take legal opinion now.

An Cathaoirleach: The House sets its own rules.

Senator Terry Leyden: I commend Senator Kelly for his outstanding contribution to the House by the stand he has taken. As a fellow Roscommon man, I am very pleased with the position he has taken.

An Cathaoirleach: Will Senator Leyden resume his seat? I call Senator Norris on a point of order.

Senator David Norris: I pointed out at the beginning that it seems extraordinary and *ultra vires* to nominate somebody without his or her consent, bypassing the committee, and the Cathaoirleach said this sets aside Standing Orders. This is nothing short of tyranny. I think this is the shape of things to come under this Government if we abolish Seanad Éireann. It is unparalleled. I am here more than a quarter of a century and I have never witnessed anything like it in my entire life.

An Cathaoirleach: Resume your seat, Senator.

Senator David Norris: It is a violation of democracy. A man can be forced onto a committee when he does not want it. He wants to withdraw from it. Where are we going with this?

An Cathaoirleach: Please resume your seat. Does Senator Walsh wish to raise a point of

order?

Senator Jim Walsh: It is a point of order in light of the unprecedented announcement which nullifies the motion before the House.

An Cathaoirleach: It does not nullify it.

Senator Darragh O'Brien: It does, he is correct.

An Cathaoirleach: Senator, please.

Senator Jim Walsh: Can I ask the Chair to hear independently a point of order? I will be very brief. I have one sentence. If the Chair stopped interrupting it would be so helpful to us to get through the business of the House, if the Chair does not mind me saying so. My point of order is because the motion is now nullified by the withdrawal of one of the individuals mentioned in the motion, I am proposing an amendment that it be referred to the appropriate committee for consideration. That is an amendment to the motion - that it be referred.

An Cathaoirleach: It is too late to put an amendment. It does not nullify it.

Senator Jim Walsh: I will table an amendment if there is a seconder.

An Cathaoirleach: You cannot put an amendment at this stage.

Senator Paul Bradford: Be it a point of order or an observation, I want to put on the record of the House that it is historically unprecedented, not just in this House but perhaps in the entire Oireachtas, that we apparently are set to vote onto a committee a person who does not wish to be a part of that committee. I ask that in a moment of reflection and calmness, we do what is the only right thing to do and withdraw the motion and reflect and make a decision on Monday. If this House has any respect not just for its traditions but for its possible future, it must reflect and withdraw this motion and consider it on Monday.

An Cathaoirleach: Only the Leader can withdraw the motion.

Senator Paul Bradford: I appeal to the Leader to do so.

Senator Paschal Mooney: I have never come across this situation. I appreciate the dilemma the Cathaoirleach is facing but if we are being requested to pass a motion which is worded in the manner in which it is worded, and now that those words are inaccurate and no longer relevant, surely we cannot as a House pass this motion. We are legally constrained.

An Cathaoirleach: The Leader has moved a motion and it is before the House.

Senator Paschal Mooney: The motion he put before the House is now inaccurate. It is naming a person who has stated publicly that he does not wish to be part of the motion.

An Cathaoirleach: The House can take that into consideration.

Senator Labhrás Ó Murchú: It would seem to me that the Cathaoirleach has been placed in a difficult and unprecedented position. Is it within his remit to adjourn the House for 15 minutes to give us an opportunity to take advice on this matter? The Whips might want to have a discussion on it as well. I do not think it will help if we just go forward with this. An adjournment of 15 minutes might help everyone.

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Senator Darragh O'Brien: Hear, hear.

An Cathaoirleach: I am not adjourning the House.

Senator David Norris: I have a point of order.

An Cathaoirleach: I call Senator O'Sullivan.

Senator Ned O'Sullivan: My point of order has been made by Senator Ó Murchú. I was also going to ask whether it would be in order for the Attorney General to be called here to deal with the Leader and the Cathaoirleach.

An Cathaoirleach: It is not in order. I call the Leas-Chathaoirleach, Senator O'Donovan.

Senator Denis O'Donovan: I have a brief point of order. I am usually brief anyway. I have been in this House for approximately 14 years. This is the first time I have stood up to raise a point of order. I am deeply concerned that what has been proposed is an abuse. I want to get the advice of the Leader and the Cathaoirleach. This Standing Order is usually used in emergency situations, such as severe economic difficulties or war. Is it being used now to usurp existing committees which are being passed over? I ask for time to be provided for calm reflection. I have been told to consult senior counsel with a view to taking this matter a step further.

Senator Darragh O'Brien: On a point of order, I want to say-----

An Cathaoirleach: Have you a point of order, Senator?

Senator Darragh O'Brien: It is a point of order. I want to back the Leas-Chathaoirleach up. As Leader of the Opposition, I am formally asking the Cathaoirleach to consider adjourning the House. We are going to seek legal advice on this immediately. I ask that the House be adjourned until 2 p.m. to facilitate that. The Cathaoirleach has heard from Members. I am asking formally that the House be adjourned. I am putting it on the record of the House that we are going to seek legal advice on this matter.

An Cathaoirleach: Does Senator Norris have a point of order?

Senator David Norris: I would like to make a simple and quick point. I think it is a point of order.

(Interruptions).

An Cathaoirleach: Can we have silence in the House, please?

Senator David Norris: If, as this motion purports, Standing Orders are suspended completely, I do not see any reason the Cathaoirleach could not take an amendment because there are no Standing Orders governing it.

(Interruptions).

Senator Marie-Louise O'Donnell: We are not able to hear the Senator.

Senator David Norris: I was saying to the Cathaoirleach that this motion purports to suspend Standing Orders. As we are in a kind of vacuum with no rules and regulations, the Cathaoirleach cannot rely on Standing Orders to rule out an amendment. I would have thought we can table an amendment because Standing Orders have been lifted.

An Cathaoirleach: Standing Orders are being set aside in relation to this motion only.

Senator David Norris: Yes, but an amendment to the motion would relate to the motion.

An Cathaoirleach: The Leader of the House has moved a motion.

Senator Darragh O'Brien: Tá brón orm, a Chathaoirligh. Gabh mo leithscéal. I asked you a specific question. I have formally proposed that the House be suspended until 2 p.m. Will you do that?

An Cathaoirleach: I cannot do that.

Senator Darragh O'Brien: Why not? You can adjourn the House.

An Cathaoirleach: I can only do that in the event of disorder. There is no disorder in the House at the moment.

Senator Darragh O'Brien: On that basis-----

An Cathaoirleach: I have a proposal from the Leader.

Senator Darragh O'Brien: No, sorry-----

An Cathaoirleach: Is the motion agreed to?

Senator Darragh O'Brien: I will not agree to that.

An Cathaoirleach: I am putting the question.

Senator Darragh O'Brien: No, no.

An Cathaoirleach: Will those in favour say "Tá"?

Senator Darragh O'Brien: No, no.

An Cathaoirleach: Will those against say "Níl"?

Senator Darragh O'Brien: No, no.

An Cathaoirleach: I think the question is carried.

Senator Darragh O'Brien: Excuse me, a Chathaoirligh. The question is not carried. You cannot move a division at this stage.

An Cathaoirleach: Vótáil.

Senator Darragh O'Brien: You are bang out of order there, a Chathaoirligh.

An Cathaoirleach: I am not out of order.

Senator Darragh O'Brien: You are bang out of order. Senator Kelly wishes to speak.

An Cathaoirleach: Vótáil.

Senator Darragh O'Brien: You cannot move to a voting situation now.

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An Cathaoirleach: I have no choice.

Senator Diarmuid Wilson: A Chathaoirligh, the Fianna Fáil Party in this House will withdraw from this House and from all the proceedings of this House today because of the outrageous lack of democracy that has been shown here this morning. My party is leaving this House now and will take no further part in the proceedings of this House. It is a disgrace.

Senator John Gilroy: Good luck with your opportunism on that one.

Senator John Kelly: I was prepared to offer a compromise.

An Cathaoirleach: The vote is being taken, Senator.

Question put.

The Seanad divided by electronic means.

Senator Trevor Ó Clochartaigh: A Chathaoirligh, faoi Ordú 62(3)(b), ba mhaith liom go dtógfáí an vóta ar bhealach eile seachas ar bhealach leictreonach. Iarraim vóta siúil.

Question put:

The Seanad divided: Tá, 27; Níl, 22.	
Tá	Níl
Bacik, Ivana.	Barrett, Sean D.
Brennan, Terry.	Bradford, Paul.
Burke, Colm.	Daly, Mark.
Clune, Deirdre.	Leyden, Terry.
Coghlan, Eamonn.	Mac Conghail, Fiach.
Coghlan, Paul.	Mooney, Paschal.
Conway, Martin.	Mullen, Rónán.
Cummins, Maurice.	Norris, David.
D'Arcy, Jim.	O'Brien, Darragh.
D'Arcy, Michael.	O'Brien, Mary Ann.
Gilroy, John.	O'Donnell, Marie-Louise.
Harte, Jimmy.	O'Donovan, Denis.
Hayden, Aideen.	O'Sullivan, Ned.
Henry, Imelda.	Ó Clochartaigh, Trevor.
Higgins, Lorraine.	Ó Domhnaill, Brian.
Keane, Cáit.	Ó Murchú, Labhrás.
Kelly, John.	Reilly, Kathryn.
Landy, Denis.	van Turnhout, Jillian.
Moloney, Marie.	Walsh, Jim.
Moran, Mary.	White, Mary M.
Mulcahy, Tony.	Wilson, Diarmuid.
Mullins, Michael.	Zappone, Katherine.
Noone, Catherine.	

O’Keeffe, Susan.	
O’Neill, Pat.	
Sheahan, Tom.	
Whelan, John.	

Tellers: Tá, Senators Paul Coghlan and Aideen Hayden; Níl, Senators Rónán Mullen and David Norris.

Question declared carried.

Houses of the Oireachtas (Inquiries, Privileges and Procedures) Bill 2013: Committee and Remaining Stages

Section 1 agreed to.

Amendments Nos. 1 and 2 not moved.

Section 2 agreed to.

SECTION 3

Question proposed: “That section 3 stand part of the Bill.”

Senator Sean D. Barrett: The reason none of the amendments is being moved is that the Fianna Fáil Party Members have left the House, because the House just conscripted a man onto a committee from which he tried to resign. I am afraid it is the atmosphere of Leinster House these days which is really worrying. I say that as a person who supports this Minister in his reform, because it is absolutely essential. We have been through it so many times and we all have to reform given the condition in which the country finds itself. There is not much reform around the Houses these days.

Members can be fired off a committee if the Taoiseach does not like them. Deputy Peter Mathews knew more about finance than anyone else on the finance committee. He also spoke more about finance than all the other members of the finance committee.

Acting Chairman (Senator Jillian van Turnhout): Senator Barrett-----

Senator Sean D. Barrett: If I am to be removed as well as all the other Senators, then that is fine, but I think it is very important that we have some guarantees that there will be balance in the committees, because the committee structure stands discredited.

Acting Chairman (Senator Jillian van Turnhout): We are on section 3 and not amendment No.3

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Minister for Public Expenditure and Reform (Deputy Brendan Howlin): Section 3 states that “expenses incurred in the administration of this Act shall be paid out of moneys provided by the Oireachtas.” I do not think that should be controversial.

Question put and agreed to.

Sections 4 and 5 agreed to.

SECTION 6

Senator Sean D. Barrett: I would like to move amendment No. 3.

Acting Chairman (Senator Jillian van Turnhout): Unfortunately, I would have had to receive prior permission from Senator Byrne that you would be moving the amendment on his behalf. I apologise.

Senator Sean D. Barrett: Then I will join Senator Byrne outside the House. This has been a disastrous day for the House.

Acting Chairman (Senator Jillian van Turnhout): You can talk about section 6, if you wish. I apologise.

Amendments Nos. 3 and 4 not moved.

Section 6 agreed to.

Sections 7 to 30, inclusive, agreed to.

Amendment No. 5 not moved.

Section 31 agreed to.

Section 32 agreed to.

Amendment No. 6 not moved.

Section 33 agreed to.

Amendment No. 7 not moved.

Section 34 agreed to.

Sections 35 to 70, inclusive, agreed to.

SECTION 71

Acting Chairman (Senator Jillian van Turnhout): Amendments Nos. 8 to 13, inclusive, and 16 to 18, inclusive, are related may be discussed together by agreement.

Amendments Nos. 8 and 9 not moved.

Senator Kathryn Reilly: I move amendment No. 10:

In page 59, subsection (1), lines 37 to 39, to delete paragraph (a)

I am the last person standing on this side of the House and I will keep my comments brief so

as not to hold up the Minister. Amendments Nos. 10 to 12, inclusive, and 16 to 18, inclusive, seek to delete certain exemptions relating to the inquiries. Amendment No. 10 would delete the exemption of evidence from Government meetings or committees and would allow Oireachtas inquiries to request evidence from such meetings. This section is topical in terms of the banking inquiry and, as it stands, the section could mean that any documents or information from meetings of the Government relating to the bank guarantee or the nationalisation of the banks could not be called for by an inquiry. Our amendment seeks to delete that exemption.

Similarly, amendment No. 12 would delete or remove the exemption for evidence that may be prejudicial to the State in its relations with other states. We fear the exemption could hinder the work of the inquiry in terms of who decides or how it would be decided what prejudicial means or how it could be challenged. We seek to remove the exemption to make any inquiry more transparent.

Minister for Public Expenditure and Reform (Deputy Brendan Howlin): I thank the Senator for the series of amendments. I will take amendments Nos. 10 and 11 together first because they relate to the confidentiality of Cabinet discussions. Section 71(1)(a) provides that the committee shall not direct a person to give evidence or documents relating to discussions at a meeting of the Government or a committee appointed by the Government whose membership consists of members of the Government. This section is based on section 5(1)(a) of the Committees of the Houses of the Oireachtas (Compellability, Privileges and Immunities of Witnesses) Act 1997. Section 71(1)(b) relates to sub-committees of Cabinet and is based on section 5(1)(b) of the 1997 Act. A number of strict conditions must be met before a committee enjoys the protection of this section. It must be a meeting authorised by the Government, the proceedings of the meeting must be required by the Government to be reported to it and the Secretary General to the Government must confirm the position in a signed document to the Oireachtas committee of inquiry.

Amendments Nos. 10 and 11 propose to delete the protections related to discussions at Government. However, the Bill respects, as it must, the constitutional protection for the confidentiality of discussions at Cabinet. Article 28.4.3^o was inserted in the Constitution following the judgment of the Supreme Court in *Attorney General v. Hamilton (No. 1)*, deriving a principle of Cabinet confidentiality from the general principle of collective responsibility in Article 28.4.2^o of the Constitution. The purpose of the amendment to Article 28.4 was principally to establish exceptions to the absolute principle identified by the Supreme Court, that is, to allow for disclosure of Cabinet discussions in the interests of the administration of justice by a court and the conduct of tribunals of inquiry. Article 28.4 does not provide for an exception in the case of Oireachtas inquiries. There is no constitutional means to do that by law. To do what the Senator has requested would require a further constitutional amendment.

Amendment No. 12 proposes to remove the exemption related to evidence that could be prejudicial to the State in its relations with other states. The existing provision aims to strike the appropriate balance between the interests of a committee conducting an inquiry and the interests of the State in maintaining its diplomatic relations with other states. It is important the committee would not request information that would prejudice the State internationally. I am certain that no committee would wish to do so in any event. I understand that Senators may have concerns about possible misuse of that provision. Consequently, I draw the attention of the House to section 94, which allows a person to seek direction from the courts about whether the prohibition set out in section 71(1) appropriately applies to a direction of a committee of inquiry. For these reasons I do not believe the amendment is necessary.

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Amendment No. 18 proposes to remove the exemption relating to evidence that could be prejudicial to the State in its relations with other states for committees conducting their ordinary business, that is, not only in respect of an inquiry but in the normal business of committees. I have noted previously that this provision is necessary to ensure the State can maintain its diplomatic relations with other nations. Committees currently operate within these confines, which simply replicate the provisions of the 1997 Act that has been in place since the overarching compellability power was enacted by the Oireachtas in 1997. Every committee has managed its day-to-day business within those constraints without seeking to trespass on damage that might happen between this State and its relations with others. This balance should be maintained. The challenge is to strike the appropriate balance between openness and protection of the interests of the State. I wish to reiterate the oversight rule of the courts in respect of any improper use of those provisions.

Senator Kathryn Reilly: I thank the Minister for his response on the constitutional issue.

Amendment, by leave, withdrawn.

Amendments Nos. 11 to 13, inclusive, not moved.

Section 71 agreed to.

Acting Chairman (Senator Jillian van Turnhout): Amendments Nos. 14 and 15 have been ruled out of order, as they involve a potential charge on the Exchequer.

Amendments Nos. 14 and 15 not moved.

Section 72 agreed to.

Sections 73 to 85, inclusive, agreed to.

Amendments Nos. 16 to 18, inclusive, not moved.

Section 86 agreed.

Sections 87 to 92, inclusive, agreed to.

Amendment No. 19 not moved.

Section 93 agreed to.

Section 94 agreed to.

Amendment No. 20 not moved.

Section 95 agreed to.

Sections 96 to 117, inclusive, agreed to.

Amendment No. 21 not moved.

Section 118 agreed to.

Sections 119 to 133, inclusive, agreed to.

Schedule agreed to.

Title agreed to.

Bill reported without amendment and received for final consideration.

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

Minister for Public Expenditure and Reform (Deputy Brendan Howlin): I regard this as one of the most important Bills that I have been privileged to introduced. It is an overarching power for the Oireachtas - either each House or both Houses acting in consort - to conduct inquiries into matters of public importance. It was the Government's opinion that we should strengthen the powers of the Oireachtas to find matters of culpability in respect of inquiries, but the people in their wisdom determined to constrain the powers of the Oireachtas in that regard. This Bill is crafted entirely within the constraints of the Constitution. Notwithstanding that, it is robust, overarching legislation that will be of use not only in the conduct of inquiries, but in the conduct of committees generally. It will enable the Houses to prove in the coming months and years that they can do the people's business in a more robust and transparent fashion.

I thank Senators for their consideration of the legislation and for their contributions on Second Stage. A degree of consideration was also given by those Senators who tabled amendments. I was aware from the Second Stage contributions that there was a large measure of consensus on this legislation and that it was not a controversial issue. However, it is important that it be enacted before the end of this parliamentary session so that we can get on with having inquiries established as soon as is practicable.

Senator Susan O'Keeffe: I commend the Minister on this important legislation. I thank and pay tribute to his officials for the efforts they have shown. This has been a particularly difficult Bill to get right. On a day when the House finds itself in a confused state, the consensus on the Bill is worth noting. The House recognises the importance of this kind of legislation, that it is a part of the Government's programme of reform and that the Minister has been pushing this agenda hard, as committed to under the programme for Government, particularly on the part of the Labour Party. In the programme for Government, reform became necessary because people voted for change and reform in the way we do our business, and that is being reflected in this legislation and other Bills, including one to extend the power of the Ombudsman, forthcoming whistleblower legislation, a register for lobbyists and other matters relating to more transparency in the way we do business in this country and in line with other countries in Europe. It is an important day for this House, despite the apparent confusion in it, and we should put it on record that there is consensus for this Bill. We welcome it and I look forward in particular to seeing that the operation of the committees taking part and doing the business of the inquiries is in an independent way of Government. That is what the Minister has striven to put into the legislation, and I look forward to being part of a group of Senators and Deputies who will uphold that independence.

Question put and agreed to.

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

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

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Minister for the Environment, Community and Local Government (Deputy Phil Hogan): The Electoral, Local Government and Planning and Development Bill 2013, which I am commending to this House today, is a diverse bill. As the name suggests, it provides for amendments to existing electoral, local government and planning and development law. The Bill puts in place legislative provisions that are needed now, across the electoral, local government and planning areas, in order to advance implementation of the Government's programme of local government reform. The Bill provides a structure for the review of European Parliament constituencies as well. It also provides for the transposition of an EU directive on nomination procedures that must be in place for next year's European elections. Finally, the Bill presents an opportunity to rectify an omission in the Electoral (Amendment) (Political Funding) Act 2012 and to make two other small but important changes in electoral law.

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

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

In the area of planning and development the reform of local government structures presents an immediate challenge for town councils which are to be dissolved and city and county councils which are being merged. That is because these councils continue to have to meet their statutory obligations in regard to development planning, including where they all have different review cycles for their development plan reviews. In the case of planning authorities that are due to be dissolved, I am of the firm view that reviews of borough and town council development plans, as currently obliged under the Planning Acts, are wasteful of resources and confusing for the public given that the authorities will not likely be *in situ* to finalise and adopt these

development plans.

As regards amalgamated planning authorities, I propose to give them the discretion to not review their plans, particularly given the different cycles they are currently locked into in terms of review of existing development plans. For example, while south Tipperary commenced review of its development plan in February 2013, it is not due for adoption until February 2015 and while north Tipperary is due to commence its development plan review in July 2014, its plan is not due for adoption until July 2016. As Tipperary county council will be a newly merged authority, it would be seeking to finalise two separate development plans for the county, which makes no sense. At the same time, I want to ensure that there will be a timely, cohesive and coherent unitary development plan made by the newly amalgamated planning authorities. Consequently, I am proposing to give those planning authorities which it is proposed to amalgamate or dissolve the discretionary powers under the Planning Acts to extend the lifetime of their existing development plan and to cease any development plan reviews already commenced.

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

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

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

As there is no provision for the establishment of a commission in the period between the taking of one census of population and the next, an amendment to the legislation is necessary to

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provide for a review. The Bill deals with this by providing that whenever a constituency commission has completed its work in the normal course and it is necessary afterwards to review the configuration of European constituencies because of a change in the number of members to be elected in Ireland, then a committee will be established for this purpose. The committee will present its report within two months of establishment, having allowed a period of at least one month for the receipt of submissions from the public during that two month period. Apart from this, the same provisions that apply to a constituency commission as regards terms of reference, membership, procedures and disclosure of information will apply to the committee. It is my intention that this committee should be set up as soon as possible so that the constituencies will be known in good time for next year's European elections. European elections are set to be held again next year. All EU citizens have a right to stand for election to the European Parliament, irrespective of where they live in the European Union, as long as they meet the eligibility requirements. Those set out in Council Directive 93/109/EC are transposed into Irish law in the European Parliament Elections Act 1997. Up to now, non-national candidates putting themselves forward for election were required to produce, with their nomination papers, an attestation from their home member state certifying that they did not stand deprived of the right to stand as a candidate for election to the European Parliament in their home member state. While this measure safeguarded the member state of residence from including an ineligible candidate on the ballot paper, it was not working well in practice. Potential candidates were being deprived of the right to stand simply because they could not get their attestations from their home member states in time. Against this background, new arrangements have been put in place to remove this barrier to the exercise of the right to stand for election. These are set out in Council Directive 2013/1/EU, which amends the earlier directive and which must be transposed by 28 January 2014.

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

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

The preamble to Directive 2013/1/EU recognises that different deadlines can apply for the

submission of nominations by national and non-national candidates. The new arrangements for Ireland proposed under this Bill build on this recognition. They provide for more time between the making of the polling day order and polling day than at present. This should allow sufficient time to check the declarations of non-national candidates. The Bill provides that the polling day order will be made not later than 50 days before polling day, instead of the current 35 days. It provides that, excluding Sundays and public holidays, the returning officer will publish the notice of election not later than the 35th day as opposed to, as currently stands, the 28th day before polling day. This then enables different nomination timelines to be put in place. The current period of seven days, excluding Sundays and public holidays, allowed for submission of nomination papers to the returning officer will continue to apply in the case of non-national candidates. In the case of national and UK candidates, however, this period will be extended to 14 days, excluding Sundays and public holidays. The seven days between these two periods will be used to check the declarations made by any non-national candidates with their home member states. The aim is to ensure that all necessary checks are completed before the end of the period for withdrawal of candidature, at which point the returning officer adjourns the election to take a poll or declares candidates elected, as appropriate. I am satisfied that these arrangements will both address our needs and the requirements of the directive.

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

I am bringing forward two small but important amendments to electoral law in this Bill, and depending on the timing of the enactment of this Bill and the passing of the constitutional amendment Bills regarding the Seanad and the court of appeal, these amendments may not apply to the autumn referenda, having regard to Article 46.2 of the Constitution. That article provides that every proposal for an amendment of the Constitution shall, having been passed or deemed passed by both Houses of the Oireachtas, be submitted by referendum to the decision of the people in accordance with the law for the time being in force relating to the referenda.

The first of these relates to the time that is available following the announcement of an election or referendum for eligible people to apply for inclusion in the supplement to the postal and special voters lists. I note Senators have tabled amendments to this part of the Bill and I welcome their interest. I will address those amendments in greater detail later. I will outline the general position at this stage. The reality is that any eligible person can apply to be included on these lists at any stage. However, it is human nature to put off making the application. If a person waits until after the announcement of an impending election or referendum, he or she then only has a two-day window in which to submit an application to his or her registration authority. These arrangements have been the subject of some criticism. I felt it appropriate, therefore, to examine what could be done to improve the position. The Bill provides that, in future, the timeframe in which to make an application for inclusion in the supplement to the postal and special voters lists will be based on the date of the polling day rather than the date on which the polling day order is made. The Bill provides that applications for inclusion in the supplement

to the postal and special voters lists need to be made 21 days in advance of polling day, excluding Sundays and public holidays, if they are to be considered in the context of the impending election or referendum. This matches the arrangement already in place where applications for inclusion in the supplement to the register need to be made in advance of 14 days before polling day, excluding Sundays and public holidays, if they are to be considered in the context of the impending election or referendum. However, in the case of applications for inclusion in the supplement to the postal and special voters' lists, additional time must be provided. This is to allow for the issue of postal voter documentation in good time and for making arrangements for special voters to cast their votes.

Given the very tight timelines that can arise between the moving of the writ or the making of the polling day order and polling day, the new arrangements will not apply for general elections or by-elections. They will apply for referendums and for presidential, European and local elections, for which the polling day orders generally are made at an earlier date relative to polling day.

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

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

Senator Jillian van Turnhout: I thank the Minister and I agree with his statement that the Bill takes a pragmatic approach. My comments concern participation in elections and I will let my colleague, Senator Fiach Mac Conghail, speak to the issues around the amendment we have put forward as a group. When the Bill was being drafted, was any consideration given to the Constitutional Convention and its results? It is a representative sample of Irish society drawn from 66 citizens and 33 parliamentarians who voted on whether to lower the voting age. I appreciate the Government has decided to refer the matter to a constitutional referendum but, as was discussed at the Constitutional Convention, there is no constitutional bar with regard to local and European elections. Countries like Austria have had trials of lowering the voting age at local and European elections to see if it would work, and they are expanding the concept.

The Constitutional Convention agreed that we should reduce the voting age, with the majority indicating it should be reduced to 16. On 26 March the first report of the Constitutional Convention was laid in the Oireachtas Library, with a recommendation that the voting age for all Irish citizens in elections should be lowered to 16 from the current age of 18. Why? The Minister can do so using similar legislation. This is the perfect type of legislation to include such a provision, and I ask him to consider doing so.

I welcome the changes that the Minister will make to the special voters' list. I view the list from a personal point of view because it deals with persons who reside in hospitals, nursing homes or similar institutions who have physical disabilities or illnesses that prevent them from going to the polling station. They can vote at their hospitals or nursing homes if they are on the special voters' list. Obviously, a person can register each year on 25 November, but one cannot tell if one is going to be in hospital during the year ahead. The Minister has accepted that the provision has been criticised and is trying to make some changes.

I wish to refer to the two-day period. My father was in the Royal Hospital, Donnybrook, receiving stroke care during the children's referendum. As one can imagine, he was particularly keen to vote in the referendum, having instilled the importance of voting in me. I could not believe the amount of bureaucracy that had to be gone through in two days, even though everybody was helpful and co-operative. The hospital is in a different Dublin constituency from his usual one so I had to approach a different authority. Hospitals are not always in one's constituency, which is a matter that must be examined for the special voters' list. Very often - it is happening more and more in Ireland - a person may be in a hospital that is not in their constituency and, therefore, is not used to dealing with the local authority.

The process involves filling out a form and supplying a medical certificate, and I understand the inclusion of the latter. It was just a coincidence that led me to experience the process, because I happened to be visiting my father when he voted. The returning officer and a member of the Garda Síochána went to his hospital bed in order for him to vote. Why was a medical certificate necessary? Was it to prove that he was going to be in that hospital bed at that time? My father was in the rehabilitation wing but young people and older people avail of the rehabilitation services at the hospital. The returning officer informed me that the Royal Hospital in Donnybrook is a polling station, so it was not a big inconvenience to facilitate my father. I was disappointed to learn that my father was the only person there who voted in the children's referendum, which made me think there was a participation issue.

My third question is on referendums. Logically, I understand what the Minister said about An Post making copies of referendum Bills available and the availability of the Internet. Perhaps he could advise us about requests made during the last few referendums, either the children's referendum or the various EU treaty referendums. How many requests were made to post offices for copies of the Bill? I will be more comfortable supporting the legislation when I know the figures. That is all I wish to say, because my colleague, Senator Fiach Mac Conghail, will speak on postal voting.

Senator Cáit Keane: I am pleased to welcome the Bill. As the Minister has said, the legislation allows for the establishment of the European Parliament constituencies. We all know that they will be changed and we will lose one of our Irish MEPs when the European Parliament elections take place. At present, there are many MEPs in the North-West constituency and it must take into account people from one end of the country to another. The constituency is huge and the change will make it larger. The area will be so large that it stretches from Dingle to

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Tramore in the south and from Wexford to Dundalk in the east. Each constituency, including Dublin, has three seats, but the number of MEPs will be reduced from 12 to 11. There will be a change and the Boundary Commission has reported.

Deputy Phil Hogan: No.

Senator Cáit Keane: I thought it had, and had recommended no change.

Deputy Phil Hogan: The Bill is about reform.

Senator Cáit Keane: Yes, I know. The Boundary Commission illustrated the comprehensive reforms that the Minister intends to make in order to ensure the change comes into play.

I have read the Bill and noticed that the constituencies are large. Some countries have single-seat constituencies or a national list system, but Ireland has never considered adopting the system and it has not been mentioned in the Bill. We like the proportional representation system in Ireland. Perhaps we should consider single-seat constituencies, particularly as some of the European Parliament's constituencies are large. I have been talking about section 24, which provides for the total number of European persons.

As a result of Article 29 of the Constitution, the Seanad, when discussing the European Union and changing European laws, must give prior approval to EU proposals for enhanced co-operation as laid out in the Schengen Agreement. We have not used the Seanad to the best of its ability in that regard and often take European issues without debate. It would be good to provide a time slot in the Seanad in order to ensure that European issues are discussed, as provided for in the current European Union proposal.

The Minister outlined changes for residents who are non-nationals, and I shall not repeat his comments. The change is good because it will give such residents an opportunity to participate in elections.

Section 9 provides that notice of the European Parliament election must be given not later than "the thirty-fifth day" before polling, an increase of seven days from the current 28 days. The provision is a welcome change.

Two amendments have been tabled on the supplement for the postal electorate and I received notice of an amendment this morning. Earlier, the Minister said that he would elaborate further on the matter when we reached Committee Stage. Anything that gives the electorate more time to consider a matter is good because people have been at the pin of their collars trying to register their names over two days. The aim and objective of the Minister and Senators is to make participation easier, and we all want everybody to vote. Members will have heard what Senator van Turnhout said about her experience when her father was in hospital. I urge that we remove bureaucracy and simplify the system in order to allow people to easily avail of the postal and special voters' list. The changes outlined by the Minister is a welcome first step. Perhaps the matter should be further examined. I ask him to comment.

At the start of the process the register of electors will be changed nationally due to new local authority arrangements. That must be done and it is welcome. However, we cannot give anyone a mandate to do anything. I suggest that undertakers notify local authorities when somebody dies so that it can remove the person's name from the register. Such notification should be made in all instances.

Senator Denis Landy: This is rural Ireland.

Senator Cáit Keane: Notification should happen. It is legislatively important that death certificates be forwarded. It costs local authorities a great deal of money to maintain the electoral register. We would save money. If a person dies, he or she is dead and cannot vote, yet he or she is still on the register. How can we approach this?

Deputy Phil Hogan: Is the Senator sure? It has happened in the past.

Senator Cáit Keane: That is why I am trying to ensure there is no duplication of votes. The Minister should consider how to approach this issue. There must be a legislative method. Every death is published online. A link between *www.rip.ie* and the local authorities would make the process easier, cheaper, more efficient and more straightforward. The Minister might revert to me on this suggestion. IT works in wonderful ways and it is easy to do things at the stroke of a pen.

Senator van Turnhout welcomed the provision on the availability of Bills containing referendum proposals for inspection in post offices. Bills are not often inspected at post offices, but they may be sometimes. I presume that copies will be available in libraries. The information is online, but those who are not IT-friendly could visit their nearest libraries. Thanks to local authorities, we have a system of local libraries around the country. They are almost as available as post offices.

The Bill sets out additional requirements in respect of political donations, but I will say no more about that other than to compliment the Minister on the openness, honesty and transparency that he has brought to the Government in this regard. Parties must disclose more information about the nature and specifics of donations, making the process more transparent.

Sections 20 and 21 provide for the supplemental register for applications regarding presidential and European elections. Given the Minister's comments on these, I will not reiterate them.

Section 28 deals with planning and development reviews and the Minister has outlined what will happen with the amalgamated counties. That is a welcome change because there is no point in having one development plan going one way and another going the other way. I ask that the new district plans for district authorities be statutory plans. The Minister has mentioned that this new arrangement is being brought in for the counties being amalgamated. In counties in which there will be new district committees instead of town councils I presume the district plan will have the same statutory effect as an area plan to ensure input at local level, statutory rights are given to district councils and a devolution of functions for district plans as well as county plans.

I refer to the devolution of functions to local authorities, about which Senator Michael Mullins who is in the Chair is always talking. The Minister has said the new Bill will be published shortly and I look forward to its publication. He has asked various Departments to give him information on it. He has devolved functions to district councils, but I look forward to even more being devolved to district councils and the principal towns in districts having the same functions as town councils. This is a bold move by the Minister which has had to be made to ensure councils do not duplicate work. However, we must ensure the good work town councils were doing is replicated at district level, particularly at area planning level. We must ensure what was being done by Westport Town Council, for example, will not be lost, but I know it

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will not be because the Minister has this in mind with the district councils and the devolution of functions to same.

The Putting People First report sets out the reforms the Minister has made to the structures which had remained largely unchanged but which should have been changed since 1898. I fully support the Bill and the reforms the Minister is making which no previous Government attempted to make. We look forward to the devolution of functions not only to county council level but also to district council level in order that people will be able to play a good part at that level. I thank the town councillors for the part they played. The district councils will replicate some of the good work done and ensure what the Minister is doing in regard to counties comes into play.

Senator Fiach Mac Conghail: I welcome the Minister on this sunny day. I have three ambitions today - first, to get some sunshine; second, to get the Minister to accept one of our amendments; and, third, to increase voter turnout, at which I hope he will look. We have gone toe to toe before and his doggedness has come through. What we are looking for is very simple. The ultimate objective of every parliamentarian should be to increase voter turnout which would increase trust between citizens and institutions and participation among citizens.

In today's modern world technology is quite efficient, as is online security. I will make most of my arguments on Committee Stage, but this would be a small but visionary, simple and cost effective way for the Government to acknowledge that times are moving on, that people are now much more mobile, that citizens travel, holiday abroad and work all over the country and that the notion of having a fixed abode is no longer applicable. The Minister has gone some way towards this, but Ireland is still significantly behind many other world democracies. In the United Kingdom the earliest postal ballot papers can be sent out is after 5 p.m. 11 working days before polling day. In the state of Oregon there is nothing but postal voting, although its position different in that it is a large state. In Australia the relevant time is 6 p.m. three days before polling day. This is a wonderful opportunity and I look forward to hearing the Minister's response to our amendments on Committee Stage when we will argue the toss with him.

The deadlines the Minister has given do not acknowledge modern lifestyles. His point about everybody leaving it until the last minute is well made and there is no one better than the Irish to always leave it until the last minute, but that is not a good enough reason not to make it easier because we know there is clear evidence of the increased likelihood of postal voting and supplemental postal voting, an issue I will deal with in detail on Committee Stage. I acknowledge that there is some evidence of fraud but not enough, although I expect the Minister will make that argument. One can argue there is much potential for fraud in the use of ordinary ballot papers.

I would like to hear the Minister's vision on why he would not make it easier for Irish citizens to vote because *sine qua non* the rate of turnout will increase and, therefore, voter participation and trust will increase. Ultimately, it is about trust and how we can get citizens to become much more active. I do not think the Minister means it, but this is almost a preventive instrument.

One of the most encouraging things to emerge from the Constitutional Convention is the need for an independent electoral commission which, ultimately, would mean the Minister not coming near us to discuss the date a supplemental postal list should be issued. In fact, we should not be dealing with this issue at all. An independent electoral commission should deal

with everything from online registration, postal voting to registering to vote while an election is taking place. I was in North Carolina four or five years ago and noticed that one could register on the day of an election, which has an impact in terms of increasing trust and participation. I know it is outside the remit of the Bill, but I would like to hear the Minister's views. I hope this will be the last time legislators will deal with this type of technical amendment because an independent electoral commission would be the right body to deal with it.

Senator Denis Landy: I welcome the Minister and commend him and his county for their progress in the championship this year so far.

Deputy Phil Hogan: What has that got to do with the Bill?

Senator Denis Landy: I will link it.

Deputy Phil Hogan: We do well every year.

Senator Denis Landy: I welcome this-----

Deputy Phil Hogan: Tipperary might win.

Senator Denis Landy: The Bill legislates for Tipperary; that will do us for now. We will handle the hurling end of it ourselves.

I welcome the Bill which is practical, pragmatic and necessary. The first thing I noted in it was a reference to my county of Tipperary and also to counties Limerick and Waterford. Given the amalgamations, we will need a new register of electors before the next local and European Parliament elections which are due to be held in 2014. The Minister and I am sure the local authorities involved rightly spotted this in advance and have seen that there is a crossover between Tipperary North and Tipperary South and electoral areas in the county. The Minister, the Department and the local authorities involved have quite rightly spotted the need for this. They have seen that there is a cross-over between north and south Tipperary in electoral areas within the county. It is important for candidates and voters in the election to be aware of exactly where the votes will be cast. There is a great deal of confusion. I can think of one or two councillors who are affected. I know a councillor who was not able to vote for himself before these changes were made because he lives half a mile outside the boundary. Now that he can vote in the area he represents, I am sure he will be telling all his neighbours they can vote for him as well. There are many such cases across the country. I am glad we are doing some work in this regard in this legislation.

I would like to welcome the section of the Bill relating to development plan reviews. The Minister has ensured such reviews are provided for in the Bill. I spoke to him about this issue five or six months ago when it became apparent to me that reviews were about to take place in my own county of Tipperary. Indeed, new development plans were about to be commenced in some urban local authorities. When I communicated with councillors across the country, it became apparent to me that is a national issue and that a great deal of money was about to be spent on plans that would never come to fruition because of the proposed changes in the local government system.

I would like to mention the example of Cashel, which is a very small town in County Tipperary. I was advised by officials in the local authority that it would cost approximately €80,000 to do the work needed on the Cashel development plan. It seemed before this proposal was

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made that the plan in question would be washed away because of these changes. I am glad the Minister has taken account of this and provided for discretion to be given to local authority officials and members to decide to allow the existing plans to roll forward, or not to commence the review stage of the plans. That will ensure money is not unnecessarily wasted. I am glad that pragmatism has again taken centre stage in this instance.

I welcome the Minister's decision to tidy up - if I can use that term - the situation regarding the manager in Waterford. Can the Minister tell the House whether that specific appointment will be a full appointment or an interim one? I live very close to County Waterford, as the Minister knows, and I have an interest in this situation as a result.

I was pleased to note in the Minister's speech that a new local government Bill will "be published later this year". Could the Minister be a little more definitive in relation to the timescale in that regard? We had hoped the legislation would be published before the summer recess, but obviously that has not been possible. Many people are interested in the Bill for various reasons. Can we get some information on it?

As Senator Keane has said, it is hoped that the forthcoming legislation will be groundbreaking in terms of devolving power from central government to local government and providing a full range of powers to the existing town councils, which will give way to the new municipal district councils in due course. When the relevant legislation is passed, in effect the municipal district councils will be the relevant arm of local government in built-up areas that are surrounded by rural areas. As part of that legislation, it is important for financial autonomy to be given to the municipal district councils so that those who are elected at municipal district council level will be able to collect and spend finances at their discretion.

In that context, I would like to ask the Minister about 15% discretion that applies to the local property tax. Will the moneys in question be available at municipal district council level? If, for example, a local municipal district council that has a town within its area wants to undertake a specific project, will the legislation allow them to collect money to undertake that project? This is a very important matter. I would like the Minister to respond to me in this regard.

Can the Minister give the House an indication of when he expects the boundary commission to be established? I know it says in the Bill that it will be established "as soon as possible". Can the Minister indicate when we can expect to have the commission's report? In other words, when will we know where the boundary lines for the new European Parliament constituencies will be drawn?

I will not go into the issue of the transposition of Council Directive 2013/1/EU in any great detail because it is quite self-explanatory. It makes sense. We have to do it. I think we are meeting it in the right way. We are coming forward to tackle that. I am pleased to note that it is the first directive of 2013. Under previous Administrations, many directives were not transposed into Irish law for many years after they had been published.

I am pleased that the Bill provides for further transparency on donations. I welcome the decision to close off the loophole which meant that up to now, it was possible for a donation that was received by someone who had not asked for it not to be included in the report.

With the indulgence of the Chair, I would like to support what has already been said about the postal vote and special voters list. It is a very serious issue. Many people are being deprived of their right to vote. As Senator van Turnhout said, an understanding of that right is generally

instilled in us by our parents. I am sure the Minister and Senator Keane will appreciate the funnier side of this matter. When politicians at local level visit hospitals and nursing homes, the first thing we are generally asked is whether there is about to be an election. That has happened to all of us on many occasions.

Senator Fiach Mac Conghail: I thought the first question they asked was “am I going to heaven?”.

Senator Denis Landy: There is a grain of truth in what they ask because any person worth their salt on the ground should be seeing who is not on the register.

Senator Fiach Mac Conghail: That is right.

Senator Denis Landy: Some people who have gone into a nursing home or a hospital might not be on the register at their home address. They deserve to be given an opportunity - even if it is the local politician who gives it to them - to be made aware that their right to vote will not be made available to them. As I said, there is a grain of truth in what we are asked.

I fully agree that the register of electors needs to be modernised. I appreciate that this legislation does not deal with that. I ask the Minister to comment on the possibility of creating a link between one's right to get a personal public service number at birth and one's right to vote when one reaches the age of 18. If we can provide for the updating of the electoral register to be administered through the PPS number system, we will ensure nobody is deprived of his or her right to vote.

Acting Chairman (Senator Michael Mullins): As there are no other speakers offering, I call the Minister, Deputy Hogan, to respond.

Senator Fiach Mac Conghail: On a point of order, I am disappointed that democratically elected representatives of other parties are not in the Chamber to offer their opposition.

Acting Chairman (Senator Michael Mullins): That is not a point of order. The Senator's point is taken nonetheless.

Senator Cáit Keane: On a point of order, it is especially disappointing that they are not here for a debate on a Bill that is of particular importance for the local government sector.

Acting Chairman (Senator Michael Mullins): That is not a point of order.

Senator Cáit Keane: Is it not? I am disappointed that they have not fulfilled the duties they were democratically elected or selected to do, as the case may be.

Acting Chairman (Senator Michael Mullins): It is not in order to refer to the absence or presence of any Member of the House.

Senator Fiach Mac Conghail: I am not referring to the absence of an individual Senator, but to the fact that a whole party is missing.

Acting Chairman (Senator Michael Mullins): Okay.

Minister for the Environment, Community and Local Government (Deputy Phil Hogan): I thank the Senators who contributed to the practical and pragmatic debate on the issues we are dealing with in this Bill. As I said at the outset, the legislation deals with a few urgent

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issues, such as the setting of electoral boundaries for the European elections. I can inform Senator Landy that I hope to have a report on the matter in early October. We have to allow for a period of time during which people can make submissions. I know it is not the optimum time of the year for people to notice newspaper advertisements, etc. I hope political parties and others who have an interest in this matter will be able to alert those who may wish to make submissions. The Senator also mentioned urgent issues relating to development plans in County Tipperary and other parts of the country. I do not believe in local authorities having to waste money on plans that may be invalid shortly afterwards. The section of the Bill dealing with non-national voters is also urgent.

I would like to refer briefly to a few matters that came up in the course of the debate. The situation described by Senator van Turnhout is the very reason the amendment is being made to the timelines for the supplement to the special voters list. I am taking the initiative in the course of this legislation to do something about that. Yesterday, in the other House, I gave the Government's response to the first report of the Constitutional Convention. We have accepted the recommendation to put to the people a referendum on reducing the voting age. I suspect we will put a number of other matters to the people on the same day. We did not have sufficient time, in a legislative sense, to put this proposal in the context of the forthcoming referendum. Timelines are laid down in the process that must be-----

Senator Jillian van Turnhout: A referendum would not be necessary to reduce the voting age for local and European elections.

Deputy Phil Hogan: The Government wants to do all of this at the same time as part of our comprehensive response to the recommendations of the Constitutional Convention. Irrespective of whether I agree or disagree with the convention's recommendations, I will provide it with the comprehensive response one would expect.

Senator Fiach Mac Conghail made perfectly valid comments on increasing voter turnout, making it easier to vote and encouraging voting generally. The Government is trying to meet all these objectives. The Referendum Commission gives ample notice and provides information, both for and against each referendum. My Department places newspaper, television and radio advertisements reminding voters to check the electoral register, special arrangements are made for some people and voters can register at any time. The political parties have become a little lax in these matters.

Senator Fiach Mac Conghail: Surely the Minister is not referring to the Fine Gael Party.

Deputy Phil Hogan: Yes, Fine Gael has also become a little lax. I would not expect Independent Members to be as involved in the voter registration process as the political parties.

Senator Fiach Mac Conghail: We have the same interest in the matter as the parties.

Deputy Phil Hogan: Independents are not as active in this matter as the political parties. The latter have traditionally played a useful role in providing volunteers to check the registers in all the parishes and polling stations in the country. I regret, however, that they have become a little lazy in this regard.

We must ascertain what other arrangements can be made in this regard and I am making changes in the Bill to deal with the issue. A closing date always applies in respect of the supplementary electoral register but people will always try to get on the register at the last minute.

We made some inquiries regarding post offices and while we do not have figures, anecdotal evidence from the post office network suggests demand from people seeking to check the electoral register is insignificant. We will make alternative arrangements in council offices and libraries, as Senator Keane suggested. Informal feedback suggests there is little demand from members of the public to peruse documents of this nature in local post offices.

Registration authorities have been advised for some years to use the death event publication service, although inaccuracies are inevitable if one takes this option.

Public representatives in Dublin do not generally attend constituents' funerals.

Senator Cáit Keane: One only does so when one knew the deceased well.

Deputy Phil Hogan: People in rural areas know many more people. Busy bodies in every rural community, much more so than in Dublin, make it their business to know who is moving in and out of various places.

Improving the accuracy of the electoral register is a major challenge. Senator Landy referred to using personal public service numbers, PPS, for this purpose. There are approximately 7.4 million PPS numbers compared to approximately 3 million names on the electoral register. One can see immediately what difficulties would arise, particularly in terms of fraud, if one were to use the PPS number system. PPS numbers are not a reliable source of information. While they can help, they are not the be all and end all one might expect.

I agree that an electoral commission is necessary and the programme for Government contains a commitment to establish such a commission. The Government will commence work on this task in 2014 when my Department will give much greater priority to the issue. We had many other priorities recently in respect of the political reform agenda but we will proceed to address this commitment after the local and European elections.

The manager in Waterford city and county will be appointed on a full-time basis. I expect, following the enactment of this legislation, that we will be able to proceed at the earliest suitable time to advertise the post or make an appointment, depending on what the Department decides. I expect an appointment will be made to the role.

The local government Bill will be presented to the Cabinet in September and enacted by the end of the year. The EU boundary report will be available to us in early October. In such a large geographical area, people need time to move around the European Parliament constituencies and make themselves known, regardless of whether they are standing as Independent candidates or for a political party. This requires considerable work and graft on the ground.

I believe I have addressed most of the points raised by Senators whom I thank for responding to this urgent legislation. The purpose of the Bill is to make practical arrangements for various matters that need to be addressed immediately.

Question put and declared carried.

Acting Chairman (Senator Michael Mullins): When is it proposed to take Committee Stage?

Senator Cáit Keane: Now.

Electoral, Local Government and Planning and Development Bill 2013: Committee and Remaining Stages

Sections 1 to 19, inclusive, agreed to.

SECTION 20

Acting Chairman (Senator Michael Mullins): Amendments Nos. 1 and 2 are related and will be discussed together.

Senator Fiach Mac Conghail: I move amendment No. 1:

In page 15, lines 1 to 7, to delete all words from and including “on” in line 1 down to and including “referendum,” in line 7 and substitute the following:

“before—

(a) fourteen days before polling day of a general election of the Dáil,

(b) fourteen days before polling day at a Dáil bye-election,

(c) fourteen days before polling day at a presidential, European, or local election, or a referendum.”

It must have been tough to group the two amendments together and I commend the use of algorithms in arriving at the decision. I acknowledge the role of my colleagues, Senators Mary Ann O’Brien, Marie-Louise O’Donnell, Jillian van Turnhout and Katherine Zappone, in supporting and tabling the amendments. I also acknowledge the support, assistance and input of the Oireachtas Library and Research Service whose staff have been excellent in providing background information. I thank, in particular, Ms Catherine Lynch, a researcher in the service who provided me with great material, despite the tight schedule.

While I acknowledge the Minister has moved on the issue of postal voting, I propose to cite a number of examples to provide an international context to the issue. The amendments relate to the deadlines for supplemental postal voting. I propose that, in the case of general elections, Dáil by-elections, presidential, European and local elections and referendums, this deadline be changed to 14 days.

People who do not vote can generally be categorised as circumstantial or voluntary non-voters. When examining policies designed to increase turnout political scientists distinguish between voter facilitation and mobilisation measures. The theory behind voter facilitation measures is that a good proportion of non-voters are circumstantial non-voters, that is, they choose not to vote because it is inconvenient for them to do so. I expect this appeals to an Irish trait alluded to by the Minister of leaving things to the last minute. This is not, however, a reason to punish people or have measures in place than deter them from voting. We should offer enabling measures, in other words, voter facilitation measures which are primarily aimed at this group. Voter facilitation rules include holding elections on more convenient days of the week, for example, at the weekend, and making available postal, absentee and advance voting. Other measures include holding a poll over two days, although this is not one I would necessarily

advocate.

There is evidence to suggest that other voter facilitation measures have a positive effect on voter turnout. Franklin's 1996 study found that turnout was higher where a postal vote was available. In 2003, Blais *et al* found that the availability of postal, advance and proxy voting has a strong positive association with high turnout. Blais also concluded that it made sense to presume that people are more likely to vote if it is convenient to do so, but the question is which voting facilities matter most in making voting convenient. This depends on many factors, including, how easy it is to use a voter facility, such as postal or advance voting, whether the voting facility measures are well targeted and country specific factors.

For example, we can now pay our bills in any post office. Technology and efficiency allow us to conflate the time, from the time we register to vote. I see no reason the way the property tax was paid cannot be used. It was quite an efficient process and a certain amount of time was allowed. People entered their PPS number and other details and paid their tax. We should try to provide for voting in a similar way. I would like the Minister to make my day and accept the amendment.

In the UK, any eligible voter may apply to be on the postal register by filling out a form and returning it to the local electoral register office. There it is possible to apply for a postal vote for just one election, for a specific period of time or to become a permanent postal voter. The UK uses a system of electoral registration referred to as an annual canvass. This means that all people on the electoral register receive an annual canvass form between August and October each year, which they must fill out to confirm their name on the register. This aims to keep the electoral register up to date.

The Minister spoke about the experience of political parties. I have training as a political scientist. My first training in that area occurred when I was 14 in the constituency of Dublin Rathmines West when, as part of my civic education, my parents took me out of school and took me canvassing for three weeks for former Senator Mary Robinson from the local Labour Party. As a little scut of 14, I had to go around with the electoral register and mark off who was dead or had moved away and distinguish between the different Pat O'Connors.

Minister for the Environment, Community and Local Government (Deputy Phil Hogan): Did she get elected?

Senator Fiach Mac Conghail: She did not get elected.

Deputy Phil Hogan: The Senator must not have done a good job of canvassing.

Senator Fiach Mac Conghail: I got to know who my neighbours were, who was alive and how many votes there were in each house. Is the Minister suggesting I, perhaps, was the cause of her not getting elected?

Deputy Phil Hogan: Not at all, not at the age of 14.

Senator Fiach Mac Conghail: The point I am making is that the Minister is right about the register. Time has moved on and we have better technology. However it is smart to go around and knock on doors, ask for a vote and have the voter register so as to mark on it which way people are going to vote so that one can go back to them again. I learned how important this was when I canvassed for Minister Ruairí Quinn, before I became disillusioned and left the

Labour Party.

In the UK, postal ballot papers are sent out first to the local electoral office. The earliest they can be sent out is after 5 p.m. some 11 working days before polling day. This is because 5 p.m., 11 working days before polling day is the deadline for new applications to vote by post. The electoral office then posts ballot papers out to those on the postal register. It is also possible to avail of proxy voting. British citizens living abroad can use this facility in UK parliamentary and European parliamentary elections. However, they cannot use it in local elections or in elections to the Northern Ireland Assembly.

In the UK, the Representation of the People Act made provision for postal voting on demand. My daughter, for example, might be away on an Erasmus year and might just miss being here for an election. I will not bore the Minister with the various reasons people might miss an election, because he understands them. The issue is about how we can enable more people to vote. Just as people are now watching television on their laptops and are engaging online, postal and electronic voting would be more convenient. Traditional engagement with the State has gone online. Therefore, accepting this amendment would be a small, but important, opportunity for the Minister to show an understanding that the world has changed in terms of communication. A review of 38 pilot projects by the local government association in the UK found that postal voting was the only electoral arrangement to have significant potential to increase turnout.

In Australia, particular categories of people, including eligible voters who will not be in the country on election day, can apply to vote by post. These are both circumstantial postal voters and general postal voters. According to the Australian electoral commission, eligible voters can vote early or can apply for a postal vote if they will be more than 8 km from a polling place on election day, if they are travelling, unable to leave work, seriously ill, infirm or approaching childbirth. These are unplanned events preventing voters from getting to the polls. I believe this Bill should have more of a voter facilitation theme.

In Australia also, a patient who is in hospital, a prisoner or person whose address is suppressed on the public register - a silent elector - can also vote by post. Other people who can apply to become general postal voters are voters with a disability, voters in remote areas and people with religious objections to attending a polling station on election day. This means that ballot papers for all federal elections will be sent to them, without the need to apply each time. For federal elections, eligible voters must apply to vote by post before 6 p.m. on the Thursday before an election. However, the electoral commission warns that if they have to vote by post, they must allow enough time for the ballot paper to reach them and for them to return it by post.

In debating the electoral and referendum amendment Bill in Australia, Andrew Lee, MP, said that while the majority of voters still cast their vote in person at a polling booth, more and more were choosing to cast a postal vote. He went on to say that they needed to make it easier to apply for and process postal votes. In the 2010 election, there were over 800,000 postal votes cast, in comparison with approximately 700,00 in 2007, 600,000 in 2004 and approximately 100,000 in 2001. The same trend could be seen in his electoral area of Fraser. The number of postal votes increased by almost 60% between 2001 and 2010. This demonstrates how enabling a voter facilitation process can be.

Deputy Phil Hogan: I thank Senators for submitting the amendments that give us the opportunity to tease out this issue. I agree with the intent of the amendment, which is why I have put my own to the Bill, which will improve the situation significantly from what it is currently.

I share the views of the Senators that an improvement should be made to the narrow, two-day, window of opportunity that exists currently. However, I am conscious there are practical matters we must be aware of and I consulted returning officers in regard to those.

Senator Fiach Mac Conghail: I thought the Minister was going to say the Attorney General. We would not hear that argument.

Deputy Phil Hogan: I consulted the Attorney General also. The returning officers are people both the Senator and I respect. We must ensure we have integrity in the process and that when somebody signs up for a postal vote that person exists. The timescales suggested by the Senator would not allow that happen.

Senator Fiach Mac Conghail: I disagree. I think they would, as evidenced by what happens in other countries.

Deputy Phil Hogan: I am talking in regard to the people implementing this on the ground currently. We can have all the theory we like, but I must talk to people on the ground in regard to the practical implementation of the process. That is what I did. Arrangements need to be put in place very soon after the close of nominations in an election and returning officers need more time to attend to the tasks relating to postal and special voting than is the case in regard to voting at polling stations. Take for example the case of our military serving abroad. Ballot papers must be printed and distributed as soon as possible and must then be returned safely and on time to returning officers around the country. All of this takes time, more time than would be available if the amendments proposed were accepted. The main criticism levelled at the postal and special voter supplement that I set out to address in this Bill is that, where there is a long gap between the date on which the polling day order is made and polling day itself, the existing law is unnecessarily restrictive. For example, under current arrangements, a polling day order for next year's local elections will be made no later than 50 to 60 days before polling day, requiring applications for inclusion in the supplement to the postal and special voters' list to be made no later than 48 to 58 days before polling day. Under the proposed new arrangements, such applications would be made in advance of 21 days before polling day, excluding Sundays and public holidays, giving people an additional 24 to 34 days to apply to the registration authority for inclusion in the supplementary register. I think that is a major improvement. This does not apply to by-elections or general elections, but the tight time that could arise between the moving of the writ or the making of the polling day order on polling day would make this unworkable.

It is open to people to apply for inclusion on the supplementary register and postal lists at any time. People often leave it until the last minute, including those who sometimes criticise us for the fact that they are not on the registration list. We are all engaged in trying to make it as easy as possible for people who, for one reason or another, wait until an election or referendum is called. We should make improvements. We are making improvements in this Bill, but we want to make sure they are workable. I understand where Senator Mac Conghail and the Independent Senators are coming from. We have made a major improvement and I am prepared to look at this again and look at other ways in which we can improve registration in the context of the electoral commission, which we will be discussing in 2014.

Senator Fiach Mac Conghail: I accept that the Minister has made a significant shift by relating the period to the date of polling, especially for local elections. However, for things like snap elections, the Minister has not addressed the issue of technological advances, as things can go more quickly now, as returning officers tell us. In a snap by-election, given the ICT avail-

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able to the Government, we should be enabling electors to participate who may not currently be able to do so because they are abroad or whatever. I look forward to a future debate on the electoral commission.

Question put:

The Seanad divided: Tá, 22; Níl, 11.	
Tá	Níl
Bacik, Ivana.	Barrett, Sean D.
Brennan, Terry.	Bradford, Paul.
Burke, Colm.	Healy Eames, Fidelma.
Clune, Deirdre.	Mac Conghail, Fiach.
Coghlan, Eamonn.	Mullen, Rónán.
Coghlan, Paul.	Norris, David.
Conway, Martin.	O'Brien, Mary Ann.
Cummins, Maurice.	Ó Clochartaigh, Trevor.
D'Arcy, Jim.	O'Donnell, Marie-Louise.
D'Arcy, Michael.	Reilly, Kathryn.
Hayden, Aideen.	van Turnhout, Jillian.
Henry, Imelda.	
Higgins, Lorraine.	
Keane, Cáit.	
Moloney, Marie.	
Moran, Mary.	
Mulcahy, Tony.	
Mullins, Michael.	
Noone, Catherine.	
O'Keeffe, Susan.	
O'Neill, Pat.	
Sheahan, Tom.	

Tellers: Tá, Senators Susan O'Keeffe and Pat O'Neill; Níl, Senators Fiach Mac Conghail and Jillian van Turnhout.

Question declared carried.

Amendment declared lost.

An Cathaoirleach: Is amendment No. 2, which was discussed with amendment No. 1, being pressed?

Senator Fiach Mac Conghail: I would like to press amendment No. 2.

I move amendment No. 2:

In page 15, to delete lines 12 to 18 and substitute the following:

“(a) fourteen days before polling day of a general election of the Dáil,

(b) fourteen days before polling day at a Dáil bye-election,

(c) fourteen days before polling day at a presidential, European, or local election, or a referendum.”.

Question, “That the words proposed to be deleted stand”, put and declared carried.

Amendment declared lost.

Section 20 agreed to.

Sections 21 to 29, inclusive, agreed to.

Title agreed to.

Bill reported without amendments, received for final consideration and passed.

Electoral, Local Government and Planning and Development Bill 2013: Motion for Earlier Signature

Senator Maurice Cummins: 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 Local Government and Planning and Development Bill 2013 on a date which is earlier than the fifth day after the date on which the Bill shall have been presented to him.

Question put and agreed to.

An Cathaoirleach: When is it proposed to sit again?

Senator Maurice Cummins: At 2.30 p.m. on Monday, 22 July 2013.

Adjournment Matters

Direct Provision System

Senator Trevor Ó Clochartaigh: Cuirim céad fáilte roimh an Aire. Táim buíoch dó as ucht fanacht anseo don díospóireacht seo ar an Athló. I am again raising the issue of direct provision. I have raised it before on numerous occasions from different perspectives. It would

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be good at this stage to get an update from the Minister for Justice and Equality on the 53 direct provision centres around the country. I know that the Minister has made headway in dealing with the number of people waiting for their asylum applications to be processed and that is to be welcomed. In recent times, the Ombudsman, Ms Emily O'Reilly, has been quite scathing of the system. People such as Ms Justice Catherine McGuinness have also spoken out about it. A number of Senators, including myself and Senator van Turnhout, have raised serious concerns that if the direct provision system is not addressed, a future Taoiseach will have to make a similar apology to the one the Taoiseach had to make about the Magdalen laundries.

The question I ask is quite straightforward and is a statistical one seeking the numbers in the system currently and a breakdown of the number of males, females and children. We have particular concerns about the number of children in the system. I also seek a breakdown of how many years these people have been in the system up to one year, one to two years, two to three years, three to four years and so on. I look forward to the Minister's reply and thank him for being here for the Adjournment debate.

Minister for the Environment, Community and Local Government (Deputy Phil Hogan): I thank Senator Ó Clochartaigh for raising this issue and apologise on behalf of the Minister for Justice and Equality, Deputy Shatter, who is at a European Council meeting. The Reception and Integration Agency, RIA, of the Department of Justice and Equality is responsible for the accommodation of asylum seekers in accordance with the Government policy of direct provision and dispersal. The RIA currently provides full board accommodation and ancillary services to 4,627 persons in 34 centres across the State, according to the INIS database.

It is important to note the RIA itself has no function in determining whether someone should stay in its accommodation. Its function is to provide accommodation and related services to those who have sought international protection and who otherwise have no means of supporting themselves. In essence, the RIA accommodates all those who make a claim for international protection and who seek accommodation until such time as they: leave voluntarily; are removed, either by way of deportation or Dublin II transfer; are granted refugee status or subsidiary protection; or are granted leave to remain, either through the process set out in the Immigration Act 1999 or are granted permission to remain in the State on some other basis.

In regard to the first part of the statistics sought, it is not possible in the time provided to give these to the Senator in the format requested. However, it should be noted that similar statistics in respect of the end of 2012 will be provided in the 2012 RIA annual report which will be published on the RIA website, *ria.gov.ie*, in the forthcoming days. The RIA has further expanded its annual report in 2012 and provided a comprehensive centre-by-centre breakdown of the facilities available to children and adults residing in RIA accommodation.

In regard to the second part of the request for statistics, which refers to the length of time that has elapsed since RIA residents made an initial application for asylum, the breakdown is as follows: as at 18 July 2013, there were 575 residents in accommodation centres who had made their application for asylum less than one year previously, 257 females and 318 males; 430 who had applied between one and two years previously, 201 females and 229 males; 484 between two and three years previously, 231 females and 253 males; 599 between three and four years previously, 270 females and 329 males; 690 between four and five years previously, 333 females and 357 males; 702 between five and six years previously, 345 females and 357 males; 543 between six and seven years previously, 298 females and 245 males; and 604 who had made their applications more than seven years previously, 292 females and 312 males. It was

not possible in the time provided to further breakdown the respective male and female statistics as to whether they were an adult or a minor but that should be in the annual report.

The overall length of time taken to process cases to their finality is determined not just by the length of time taken to process the cases by the independent refugee determination bodies and by the Irish Naturalisation and Immigration Service but also by the length of time taken by the applicant and his or her legal representative to respond to requests for further information, etc. In some cases, applicants choose to change their legal representative and understandably it takes some time for the new representative to become familiar with the case. In many cases, applicants will not agree with the decisions reached and will continue to use every avenue open to them, including referral to the courts in that regard. This obviously impacts on the time the same applicants spend in the process and also in the direct provision system. While not suggesting that applicants are not entitled to the protection of the courts and to due process, a consequence of these actions is to extend the length of time the applicant spends in the direct provision system.

INIS has no desire to have applicants remain in the system any longer than the minimum period it takes to process their case. However, ultimately a balance has to be struck between maintaining the integrity of the State's protection and immigration systems and the case put forward by the individual applicant, all of which must be considered within the legal requirements and obligations. In the first instance requirements are set down in primary and secondary legislation and these requirements are constantly evolving, taking into account interpretation of the law by the courts at both national and EU level.

The Minister accepts that the direct provision system is not ideal and many residents spend too long there. However, it is a system which facilitates the State providing a roof over the heads of those seeking protection or the right to remain in the State on humanitarian grounds or other reasons. It allows the State to do it in a manner that facilitates resources being used economically in circumstances where the State is in financial difficulty.

The Immigration, Residence and Protection Bill, which the Minister intends to republish, should substantially simplify and streamline the existing arrangements for asylum, subsidiary protection and leave to remain applications. It will do this by making provision for the establishment of a single application procedure so that applicants can be provided with a final decision on all aspects of their protection application in a more straight forward and timely fashion.

Senator Trevor Ó Clochartaigh: I thank the Minister. I am glad more detailed statistics will be available. Does the Minister accept, on behalf of the Minister for Justice and Equality, that the system was set up as almost a short-term solution to a situation and that it is totally unacceptable that 1,849 people in this system have been waiting more than five years for their applications to be dealt with? We must address this issue as a matter of urgency. It is far too long for people to be staying in what was set up as a temporary solution to a problem we had.

Deputy Phil Hogan: I accept, on behalf of the Minister for Justice and Equality, that there is a problem, which I acknowledged in my contribution. Pending the enactment and commencement of the legislation to which I referred, the Minister for Justice and Equality indicated to me that he proposes to introduce new arrangements for the processing of subsidiary protection applications in the light of recent judgments in the superior courts. His Department, in consultation with the Attorney General, is developing a new legislative and administrative framework for the processing of current and future subsidiary protection applications. This

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work is being given priority by the Minister for Justice and Equality.

The Seanad adjourned at 3.10 p.m. until 2.30 p.m. on Monday, 22 July 2013.