



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

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SEANAD ÉIREANN

Dé Céadaoin, 24 Iúil 2013

Wednesday, 24 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 Colm Burke that, on the motion for the Adjournment of the House today, he proposes to raise the following matter:

The need for the Minister for Health to have the HSE review the current practice of sending medical samples directly to overseas laboratories in view of the fact that the necessary expertise to carry out this work is available within Ireland.

I have also received notice from Senator Mary Moran of the following matter:

The need for the Minister for Health to address the funding issues in St. Mary's Drumcar, County Louth, resulting in the recent announcement of the closure of catering facilities for those with an intellectual disability in day services.

I have also received notice from Senator Trevor Ó Clochartaigh of the following matter:

Cén barántas gur féidir leis an Aire Comhshaoil tabhairt do phobal na hÉireann go bhfuil sé sábháilte dóibh uisce a ól ó na córais soláthar uisce poiblí, go h-áirithe an 47 córas atá aitheanta ar an liosta EPA RAL reatha, a ndeirear go bhfuil siad i mbaol ó cryptosporidiosis.

I regard the matters raised by Senators Colm Burke and Moran as suitable for discussion on the Adjournment and they will be taken at the conclusion of business. I regret I have had to rule out of order the matter raised by Senator Ó Clochartaigh as the Minister has no official responsibility in the matter.

Order of Business

Senator Maurice Cummins: The Order of Business is No. 1 - Thirty-third Amendment of the Constitution (Court of Appeal) Bill 2013 [*Dáil*] — All Stages, to be taken at 11.45 a.m, with the contribution of group spokespersons to the debate not to exceed eight minutes and all other Senators not to exceed five minutes, with Committee and Remaining Stages to be taken immediately on the conclusion of the debate on Second Stage; and No. 2 - motion re statement for the information of voters on the referendum, to be taken on the conclusion of No. 1, without debate.

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Senator Mary M. White: Yesterday, Enterprise Ireland published its annual report and accounts for 2012. While we have been preoccupied with austerity and troika targets, in the real economy the annual report of Enterprise Ireland tells us Irish companies and Irish entrepreneurs have achieved record export sales in 2012, breaking the €16.2 billion point for the first time. Enterprise Ireland client companies exported more in 2012 than at any time in the history of the State. Hundreds of Irish entrepreneurs, from web companies established by young people to major companies like Kerrygold, Glanbia and Dairygold, achieved a rise of €1 billion in sales last year, bringing the total in the year to €16.2 billion. Ireland is a small, open economy with a population of just over 4.5 million. Companies must grow their export sales in order to grow the company and to increase employment. The Enterprise Ireland annual report shows that client companies generated a net increase in full-time employment of 3,300, primarily driven by the record export performance. The major multinational companies are located in major urban population centres. Irish companies are regionally based, and the salaries and wages they provide are spent in shops and cafes in every community in the country, keeping the local economy alive. The annual report also deserves to be number one on the bestseller list and recommended for summer reading to read about the Irish heroes, small and big, who are turning around our economy and laying the basis for prosperity for the future. Entrepreneurship is recognised both nationally and internationally as a key driver of economic growth, playing a critical role in creating employment and fostering innovation. International studies show that women entrepreneurs are seriously lagging behind their male counterparts and Ireland reflects this international trend with women early-stage entrepreneurs in Ireland outnumbered two to one by men. It is a very sad story. Increasing the number of women entrepreneurs in Ireland will add jobs for both men and women and will make a significant contribution to our economic recovery.

All Members will have received this morning a copy of the policy paper - Promoting Women Entrepreneurs in Ireland: Fresh Thinking on Employment Solutions for Promoting Women Entrepreneurs in Ireland.

Senator Deirdre Clune: Yes.

Senator Darragh O'Brien: We have.

Senator Mary M. White: It is a Fianna Fáil policy paper authored by me and it will be launched this afternoon.

An Cathaoirleach: We cannot have political launches in the Chamber.

Senator Terry Leyden: Why not?

Senator Darragh O'Brien: It is a very important document.

Senator Mary M. White: This is very important; it is about Irish women. Unless we include in our competitiveness Irish women's talents and potential we are not internationally competing-----

Senator Darragh O'Brien: Hear, hear.

Senator Mary M. White: -----we are not generating the potential and encouraging Irish women, and developing the potential of Ireland. In my report Members will read that there are many barriers to women entrepreneurs.

Senator Terry Leyden: That is certainly a Dáil speech for Dublin South, Fine Gael should

step aside.

Senator Mary M. White: We will have to have a proper debate on the budget and on the employment issue in the autumn.

An Cathaoirleach: The Senator is way over time.

Before I call Senator Bacik, I am sure the Members of the House would like to join me in welcoming Mr. Jo-Anick Proulx, the manager of Grosse Île and the Irish Memorial National Historic Site Parks in Canada. He is very welcome to Seanad Éireann and the Irish Parliament, and we wish him well during his stay here. I call Senator Bacik.

Senator Ivana Bacik: I commend Senator Mary White on the publication of that paper which raises an important issue. It should be a matter of concern to Government that so few entrepreneurs are women, like so few politicians are women and again we have to look at positive action measures to increase the number of women. I welcome that paper.

In this session Senator White has also been responsible for producing an excellent Bill on paternity leave, which was accepted by the Government on Second Stage. This is the kind of work that the Seanad excels at, like Senator Quinn's Construction Contracts Bill that we finally passed yesterday.

Senator David Cullinane: Hear, hear.

Senator Darragh O'Brien: Hear, hear.

Senator Ivana Bacik: That is the sort of initiative that we should be promoting in this Chamber more and more, and that is where the Seanad really shows its strength.

I agree with Senator White on the need for a pre-budget debate and I have already called on the Leader to facilitate that. In that debate we need to examine fairly the issue of stimulus packages and the need for stimulus. Earlier this week a stimulus package was announced which went under the radar. I refer colleagues to it and ask that we would consider more measures like these in our debate in the autumn. This is the initiative of Minister of State, Deputy Jan O'Sullivan, in which she has allocated €10 million of funding this year alone and plans to allocate more funding over future years under the energy efficiency programme for local authority homes. This will have huge benefit in terms of stimulating the economy by creating jobs in retrofitting local authority homes. It will also have a knock-on effect of reducing energy bills for families and increasing our commitment to sustainable measures to combat climate change. On a number of levels this is an important package and it is the sort of measure that we should be looking at increasing in the coming budget. Even €10 million spent on a project like retrofitting existing local authority homes can have a hugely beneficial impact on local economies and the national economy.

I welcome the passage last night, by a decisive majority, of the Protection of Life During Pregnancy Bill. It was an historic day. I am very proud that this Government has finally after 21 years legislated to protect the lives of women. Many of the contributions in this House were excellent and we had in general very measured contributions by many Senators. Not to be harping on Senator White again, and apologies for focusing on her, but her contribution was strong in terms of acknowledging the failures of successive Governments, including Fianna Fáil, Fine Gael and Labour during those 21 years in failing to legislate until now.

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I wish everyone well for the break ahead and look forward to a very dynamic few weeks of Seanad activity in September before the referendum on 4 October. It is up to all of us to make the case for Seanad retention and reform. The focus will be on this House in September like never before. We can all expect that. I look forward to a robust campaign in which we make the case very strongly, through our own conduct, initiatives and work we do in this House, for retention and reform of the Seanad.

Senator Rónán Mullen: I would also like to join in wishing all colleagues well for what is a well-earned summer break. We have a good deal of work to do in the autumn. I obviously could not agree with what Senator Bacik said about the passage of the Government's abortion legislation. Many people - more than those who voted against it in the Seanad - realise that this is a tragic moment for Ireland. What generally happens when abortion is legalised is that the problem does not end, it only starts. One issue on which we could all unite-----

An Cathaoirleach: We are not opening up yesterday's debate today.

Senator Rónán Mullen: Yes, I agree. One issue on which we could all unite in the autumn, and I ask the Leader if he would agree with me on this, is that we need a debate on how we can work together to prevent abortions from happening. We have to look out for women and children in that respect. In recent days we have had the tragic story - the detail of which I will not go into - of a woman who died in England after an abortion in a Marie Stopes clinic and the 20-week old child who died. They have to be at the heart of our concern. One matter that concerns me, in particular, was the hypocrisy of the Irish Family Planning Association - this is very relevant - which said and used the strategy-----

An Cathaoirleach: Has the Senator a question for the Leader?

Senator Rónán Mullen: I ask the Leader if he would agree with me that it was wrong of it to use this tragic case to make the case for legalising abortion in Ireland when in fact there are serious questions-----

An Cathaoirleach: Has the Senator a question for the Leader?

Senator Rónán Mullen: I am asking the Leader about the serious questions that this organisation may have to face because we know-----

Senator David Norris: What about the hypocrisy of the Iona Institute and all the lies it told-----

An Cathaoirleach: Senator Norris, please. Senator Mullen, all those points were made during the debate yesterday.

Senator David Norris: Let us hear it for the Iona Institute.

An Cathaoirleach: Senator Norris, please. Senator Mullen, all those points were made during the debate yesterday.

Senator Rónán Mullen: Here is a brief quote from a counsellor in the IFPA counselling headquarters in Dublin to illustrate why this is important:

Now there is one clinic that I would not advise you to go to ... is Marie Stopes. Don't go near them, okay? So I am not saying they are dirty or anything but we've got a lot of

complaints about them, okay? I don't send anyone there, and I wouldn't. So if Abortion Support Network suggest Marie Stopes, say "No".

An Cathaoirleach: Senator Mullen, those points were made yesterday.

Senator Ivana Bacik: On a point of order-----

An Cathaoirleach: Senator Bacik, on a point of order.

Senator Ivana Bacik: Senator Mullen is persisting in making unfounded allegations against an organisation, against which he has made unfounded allegations before in this House. He should stop.

Senator Fidelma Healy Eames: Is that a point of order?

An Cathaoirleach: Senator, resume your seat.

Senator Fidelma Healy Eames: Again, we have a breach of points of order in this House.

An Cathaoirleach: Senator Healy Eames, please, you have indicated that you wanted to speak.

Senator Fidelma Healy Eames: Senator Bacik is very good at doing that.

Senator Rónán Mullen: I am concluding. That was said by a counsellor in the IFPA counselling headquarters in Dublin.

Senator Ivana Bacik: Unfounded allegations.

Senator Rónán Mullen: We know that at the time this unfortunate woman died, the IFPA and other-----

An Cathaoirleach: Has the Senator a question for the Leader?

Senator Rónán Mullen: Yes. This is my question. The IFPA and other State-funded counsellors were advising women not to go to Marie Stopes but did they blow the whistle publicly? Did they tell the crisis pregnancy programme, did they tell the HSE or did they tell the Minister for Health?

An Cathaoirleach: Senator Mullen, all those points were made during the debate yesterday. The Senator is completely out of order.

Senator Rónán Mullen: It seems that if they did not do that not only are they guilty of hypocrisy-----

An Cathaoirleach: The Senator is completely out of order.

Senator Rónán Mullen: -----and not only may they be indirectly responsible for botched abortions that endanger women's health and lives-----

Senator Darragh O'Brien: It is a Government organisation. It is a valid question.

Senator Rónán Mullen: -----but they may very well be in the criminal zone as well and be liable for gross negligence. Instead of Senator Bacik trying to-----

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

Senator Rónán Mullen: We need a debate about this in the autumn because how can we be serious about preventing abortions if State-funded crisis pregnancy counselling agencies are not putting the word out that there are concerns about Marie Stopes and other abortion providers? It is not enough to be whispering to women who come to their clinics that they should not go to Marie Stopes.

An Cathaoirleach: The Senator is way over time.

Senator Rónán Mullen: There is a very serious human dignity issue here.

Senator Catherine Noone: I was interested to note today that Dublin City Council's research on Dubliners' attitudes towards a directly elected mayor show that approximately 61% of the 1,200 people surveyed were interested in having a directly elected mayor while only 14% were against the proposition, citing costs as the main reason against it. It seems there is a great appetite for having a directly elected mayor who would have functions with regard to planning, waste management and resource provision. One interesting comment I note from the current mayor, Oisín Quinn, was that he believes, and I would agree with him, that the mayor and his managers should be brought before councillors once a month for a grilling on how they are running Dublin services and spending its money. I agree with this.

Senator Darragh O'Brien: That is matter for a city council meeting.

Senator Catherine Noone: Yes, a city council meeting, but the chairman at present does not get-----

Senator Darragh O'Brien: Perhaps he does not understand how it works yet.

An Cathaoirleach: Has the Senator a question for the Leader?

Senator Catherine Noone: My question for the Leader is to call for a debate with the Minister for the Environment, Heritage and Local Government on this issue in the new term.

Senator Darragh O'Brien: On behalf of my colleagues I commend the Fianna Fáil acting leader, Senator Mary White, on the production of what is an excellent document and I wish her well on its launch. I also commend her on the Parental Leave Bill 2013 and I commend the Government for accepting it on Second Stage. I hope we can move through Committee and Report Stages quickly. I commend Senator Quinn on his Bill which was completed yesterday. He stated it took 1,168 days to get the Bill through the Houses. I do not want to see Senator White's Bill take the same length of time and I do not see any reason why it should.

In the main this has been a productive session and I wish all my colleagues on all sides of the House a restful break with time to spend with their families and friends. Will the Leader confirm the date on which we will return? I do not agree with the House being adjourned *sine die*. It does not send out a good sign-----

Senator Mary M. White: Hear, hear.

Senator Darragh O'Brien: -----from the House, particularly in advance of the referendum, and it does not reflect well upon us. The Leader has done his level best to ensure, during this and previous sessions, that the House, as far as possible, projects itself very well, and I ask

him to set a date for our return before we leave.

Senator John Gilroy: Senator White will never be allowed to be acting leader of the Opposition again because she said positive things about the country.

On a more serious note, I call for a debate when we return in the autumn on the appropriateness of Members of either House accepting gifts from far-right groups in the United States, such as fully funded trips. I call for a discussion on this.

Senator Darragh O'Brien: What is the Senator speaking about?

An Cathaoirleach: It is covered under ethics legislation.

Senator Darragh O'Brien: On a point of order, very serious allegations were made in the House by another Labour Party Senator last week which have not been substantiated and which he will not take any further-----

An Cathaoirleach: The Senator has spoken already and I ask him to resume his seat.

Senator Darragh O'Brien: The privilege of the House should not be used by Senator Gilroy to make unfounded remarks.

An Cathaoirleach: Senator O'Brien, please resume your seat.

Senator Darragh O'Brien: Labour Party Senators are making such comments one day after another.

An Cathaoirleach: The Senator has spoken already.

Senator Darragh O'Brien: It is important-----

An Cathaoirleach: The Senator has spoken already.

Senator Darragh O'Brien: -----that the integrity of privilege-----

An Cathaoirleach: That is not a point of order.

Senator Darragh O'Brien: -----is protected. Senator Gilroy cannot throw out something like that and not back it up.

Senator John Gilroy: I am not making any-----

An Cathaoirleach: This is a matter for the Standards in Public Office Commission.

Senator John Gilroy: I am not sure SIPO will comment on it, but it is important that we in the House have a conversation on it.

An Cathaoirleach: It is a matter for the legislation.

Senator John Gilroy: I am not making an allegation about anyone in particular. I am just stating if such practices are occurring it might be no harm for the House to discuss it.

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

Senator John Gilroy: My question to the Leader is whether we can discuss the matter

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among ourselves in the House. I am absolutely certain-----

Senator Mark Daly: Did the Senator get donations from any labour union for his campaign?

Senator John Gilroy: I did, and they were fully accounted to SIPO.

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

Senator John Gilroy: This is my question for the Leader. I hope we might be able to organise a conversation about it.

Senator Sean D. Barrett: I join in the good wishes to everybody for an enjoyable and restful summer. One person in Leinster House who will not be coming back, because he is retiring after 40 years of service, is Kieran Coughlan, the Secretary General. He has had a long career during which he was the Clerk Assistant of the Seanad, which is undoubtedly a post that leads to great things, as well as being involved in the New Ireland Forum, and he is now the Clerk of the Dáil. I can say I have known him longer than anybody else in the House because we lived next door to each other as infants. We had lost touch, and one of the most pleasant surprises I had upon coming here was to find my former next door neighbour in the position he holds. I wish him, and all our staff who look after us so splendidly, an enjoyable summer.

I endorse the welcome for Mr. Jo-Anick Proulx, the manager of the Grosse-Île and Irish Memorial National Historic Site park on the Saint Lawrence river. It is a very moving place. He has custody of the largest Celtic cross in the world, which commemorates approximately 7,000 Irish people who left the famine ships and died there. It is an aspect of the diaspora to which we have not paid much attention. Many Irish migrants to Quebec became French speakers, and this is a very strong tradition, notably in Montreal, where Thomas D'Arcy McGee is celebrated with his own pew in Saint Patrick's Basilica. Mr. Proulx is looking forward to meeting Senator Brennan, who told us the artefacts from Thomas D'Arcy McGee, one of the founders of the Canadian Confederation, were stored here but have been removed to Carlingford, his home town, in County Louth.

Interestingly, yesterday I received an e-mail from one of my former classmates in Canada who stated he would not worry about the Taoiseach's plan to get rid of our crowd, because it is almost impossible to jettison senators, as they know well in Canada. He expects it is a ploy to distract the electorate from the real problems of government, which he states in Ireland's case are rather overwhelming. I commend this Canadian intervention in the debate.

Senator David Norris: Hear, hear.

Senator Martin Conway: For the first time I wish to commend SUSI, the centralised third level grants organisation. In recent days I received a call from somebody in SUSI inviting me to the facility. This invitation is open to all Oireachtas Members who wish to see the new streaming system which has been put in place for the upcoming academic term. Let us hope the young people of Ireland in need of third level grants will receive them much more quickly and that lessons will have been learnt from last year's scenario.

I wish Kieran Coghlan the very best in his retirement. He has always been an absolute gentleman and full of friendly advice. When I started here first he was always available and gave advice, and in his contribution to the House and politics in general has been outstanding.

Senator Sean D. Barrett: Hear, hear.

Senator Martin Conway: I hope the fine weather has not finished and we will have a few more weeks of it. I wish everyone a very nice holiday, and I suggest those holidaying at home could not pick anywhere better to go than County Clare.

Senator Mark Daly: We will stay in Senator Conway's place.

Senator David Cullinane: I wish to raise an important case concerning whistleblowing which has been brought to my attention. I will not name the individual because I know it is not the practice of the House. A 59-year-old German national who is a former employee of IBM Ireland's sales division reported apparent and alleged irregularities in IBM Ireland's sales figures this year. She was brought to court by the company because it was seeking equipment she had - namely, a laptop and a USB stick.

An Cathaoirleach: If the case is before the courts it is *sub judice*.

Senator David Cullinane: I wish to make a point and I can stray from the court case to do so. The woman is being pursued through the courts. She has lost everything, including her job, and is effectively homeless. She is facing jail-----

An Cathaoirleach: She is readily identifiable.

Senator David Cullinane: With respect, this is in the context of-----

An Cathaoirleach: Does the Senator seek a debate on the issue?

Senator David Cullinane: Yes. This is in the context of the Protected Disclosures Bill 2013, which has been published. We must have a debate on it and see it progress. We must protect whistleblowers. Consider the stark contrast between the treatment of whistleblowers and others. Here is an individual who has lost everything and is facing jail, but not one of the bankers who brought down the State is facing jail. This appals people and I appeal to the Leader of the House to ensure the legislation is on the agenda during the next term. Let us ensure we protect whistleblowers and that we do not have situations in which they face custodial sentences, homelessness and job loss for telling the truth.

Senator Aileen Hayden: I wish colleagues a pleasant break. Contrary to all the reports in the media, we will not be spending all of our time sunning ourselves. I remind Senator Mullen, in case he is not aware of it, that a file has been sent to the Crown Prosecution Service in the UK about the particular case he mentioned and that the couple concerned-----

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

Senator Aileen Hayden: -----who are resident in Ireland-----

An Cathaoirleach: All of these points were raised during yesterday's debate.

Senator Aileen Hayden: -----had investigated the possibility of the termination in Ireland on health grounds. This is something we may be visiting in the Chamber.

Senator Ivana Bacik: Hear, hear.

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

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Senator Aileen Hayden: Yes, I do. Colleagues may have noticed that the CSO has reported that property prices have increased annually for the first time since January 2008. Other colleagues in the House have been very concerned about the issue of mortgage-based repossessions. The first tranche of reporting on mortgage arrears resolutions, which require the banks to reach agreements with distressed borrowers, is due to take place in September.

11 o'clock

I ask the Leader to facilitate a debate, to be taken by the Minister for Finance, on the issue of mortgage repossessions and the banking system in general, at the first possible opportunity after the recess.

Senator Jim Walsh: I join Senators in complimenting my colleague, Senator Mary White, who has championed the cause of women very effectively in this House. I agree with her fully regarding the need for greater participation by women in different sectors of society, particularly enterprise.

I support Senator Darragh O'Brien's comments regarding the recess. It is imperative that we do not adjourn *sine die*. In fact, I would suggest that we return the week before the Dáil resumes to facilitate debate on a range of issues, particularly in the run-up to the referendum on the abolition of this House. We should do so not in our own interests but in the interests of democracy in this State.

Reference was made to the views of people who were described as being on the far right. All I can say in response is that if it considered "far right" to seek to defend human rights, including the right to life, and protect the most vulnerable, then it says a lot about the mindset of those making that accusation.

I join Senator Sean Barrett in paying compliment to the Clerk of the Dáil, Mr. Kieran Coughlan, with whom I served on the Houses of the Oireachtas Commission for several years during the last Seanad. I found him to be an absolute gentleman with a very sound guiding hand on the workings of the Oireachtas.

Will the Leader inquire whether information that was in the hands of the Irish Family Planning Association regarding dangerous practices at Marie Stopes clinics was brought to the attention of the Minister for Health and the Health Service Executive and, if so, what was been done in response? While every woman does not die during an abortion, many are seriously afflicted subsequently by anguish and guilt. The truncation of yesterday's debate meant that-----

Senator Aileen Hayden: Why is the Senator raising this issue now?

Senator Ivana Bacik: A Chathaoirligh, the Senator is out of order.

An Cathaoirleach: That debate is concluded, Senator Walsh.

Senator Jim Walsh: I am putting a question to the Leader. I asked the Minister yesterday to outline what support services and counselling are being put in place for women who have abortions.

An Cathaoirleach: All of those issues were raised during the debate, over many months.

Senator Jim Walsh: No, they were not. With absolute respect, the only reason I am raising

this issue now is that we did not have an opportunity to do so yesterday. We broke unnecessarily for an hour and a half, as the Cathaoirleach knows.

An Cathaoirleach: The Senator is over time.

Senator Jim Walsh: The debate was truncated. I am merely asking the Leader that we have a debate on this issue in the autumn, in the interests of those poor women who suffer anguish as a consequence of abortion. The first week of our return would be a good time to have that discussion with the Minister.

Senator Paul Coghlan: In regard to charges and allegations of bribery and corruption against certain individuals, I suggest that we have a debate on our return on the most recent report of the Standards in Public Office Commission. That will afford us an opportunity to discuss these matters more fully.

I do not wish to return to anything that was raised during the debate on a particular Bill, but I hope the Cathaoirleach, in his capacity as a member of the Council of State, will be paying a visit to Áras an Úachtaráin shortly. It is my hope that the President will call in the council and thereafter refer this particular legislation to the courts.

An Cathaoirleach: We are not discussing the role and functions of the President.

Senator Paul Coghlan: I am fully respectful of the fact that this is a matter for the sole discretion of the President. We all had our own difficulties with the legislation-----

An Cathaoirleach: The Senator knows well that the President is entirely independent in the exercise of his powers.

Senator Paul Coghlan: I am moving away from that. I wish to tell the story of two very wise retired nuns I met some time ago when I was agonising over the legislation in question. Everybody knows my view on the suicide clause and so on.

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

Senator Paul Coghlan: I am not seeking to do so. When I was discussing the matter with these two good ladies, who served their full working lives on the missions in the Philippines and elsewhere, I put a hard case to them and confided that I was agonising over the issue myself. They asked whether I really thought women would wait around to be certified by three doctors, possibly go to appeal and so on-----

An Cathaoirleach: I have already said that we cannot revisit yesterday's debate. I am calling Senator David Norris.

Senator Paul Coghlan: I have no intention in the wide earthly world of reopening the debate.

An Cathaoirleach: It is not relevant to today's Order of Business.

Senator Paul Coghlan: It is relevant to what I am recommending and what I hope will happen, which would involve the Cathaoirleach himself.

Senator Fidelma Healy Eames: Does Senator Coghlan have a guilty conscience?

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An Cathaoirleach: I have called Senator Norris.

Senator David Norris: I propose an amendment to the Order of Business that No. 18, Medical Practitioners (Amendment) Bill 2013 - Second Stage, be taken today. We have already agreed in principle that the Bill should proceed, and I see no reason that it should not be taken today. If we are going to do our work, this is how we should do it. Let us deal with the legislation and then send it down to the Dáil to make whatever amendments it wants. That House has been dithering on this issue for four years while, in the meantime, people's lives are at stake. The Bill is necessary to protect people in this State.

I watched with ironic amusement yesterday as the Minister of State, Deputy Brian Hayes, talked about giving the people the chance to have their say on the future of the Seanad. He and his colleagues in government did everything they could, throughout their political careers, to keep the people as far away as possible from the Seanad. That type of hypocrisy must be exposed. Even if the referendum is endorsed by the people, there will be two and a half years for the crowd in the other Chamber to find their courage. I expect the dead sheep will give them a bit of a push-----

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

Senator David Norris: Yes. I have proposed an amendment to the Order of Business.

Second, as co-ordinator of our group, I democratically orchestrated a situation whereby Senator Rónán Mullen was permitted to speak first. I have no difficulty with that, but I wish to disassociate myself completely from his outrageous remarks.

An Cathaoirleach: Senator, please.

Senator David Norris: There is no respectfulness when we have the professional reputation of organisations and individuals being impugned and semi-criminal charges being made in this House. I disassociate myself totally from those remarks.

(Interruptions).

An Cathaoirleach: Will the Senator respect the Chair?

Senator David Norris: On the other hand, I support colleagues' remarks regarding the retirement of the Clerk of the Dáil, Mr. Kieran Coghlan, with whom I served for many years. He is a classic example of the best kind of parliamentary officer, being quiet, totally professional and widely knowledgeable. I wish him well in his retirement. I also take this opportunity, on the last day of the session, to express my thanks to the staff of the House who, despite very poor resources and backup, do an excellent job and are thoroughly professional. Likewise, the staff of the Oireachtas Library do an outstanding job in circumstances where they do not enjoy the support and technical advantages they should. We should be very grateful for their level of professional expertise.

Senator Jimmy Harte: Senator David Norris made reference to dead sheep. I have been called many things in my time, but that is a new one. I do not appreciate the remark.

Senator David Norris: I cannot hear what the Senator is saying.

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

Senator Jimmy Harte: I congratulate Senator Mary White on her initiative. Any effort to promote local business is vital to the economy and to local communities. I wish her well in her endeavours.

We learned this week that the closing date for third level grant applications to Student Universal Support Ireland is next Friday week. Will the Leader invite the Minister for Education and Skills to the House when we return in September to update us on progress in the processing of grant applications? There was almighty confusion last year and I have no doubt we will all have received representations by that stage. It is important that students, their parents and the public know what is happening. It certainly would be good to have an update from the Minister rather than through the press.

I take this opportunity to wish colleagues an enjoyable and sunny summer break. Perhaps Senator Martin Conway will consider driving up from Clare to Donegal, where there are more beaches than anywhere else in the country. The Leader and Cathaoirleach might also pay us a visit.

Senator Fidelma Healy Eames: I wish the Cathaoirleach and colleagues on both sides of the House an enjoyable summer break. We would all agree that it has been a tough term which has tested us greatly. We deserve a break. We are in a very privileged position, as Members of the Oireachtas, to seek out and defend the truth. Truth must be at the heart of everything we do. Previous speakers referred to seeking the results of the investigation initiated by the Minister for Health, Deputy James Reilly, into serious allegations and real concerns about the protection of women's lives on the part of the Irish Family Planning Association, IFPA.

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

Senator Ivana Bacik: Those were unfounded allegations.

Senator Fidelma Healy Eames: I am not going to go there. I merely wish to make a request. A senior and very fine public servant, Ms Bridget McManus-----

An Cathaoirleach: The Senator cannot place on the record of the House the names of individuals who are not here to defend themselves.

Senator Fidelma Healy Eames: The woman in question was appointed to head up the investigation to which I refer. I request that the relevant report be made available in the autumn. We have gone to bat in the context of protecting women's lives. Let us ensure that they will be protected in every jurisdiction. I have seen transcripts which indicate that the IFPA has been whispering to girls that they should not go to the Marie Stopes clinic.

Senator Ivana Bacik: These are unfounded allegations.

Senator Fidelma Healy Eames: If that is the case, let us have the truth. There should be no cover-up. I take issue with the fact that Senator Bacik seems to have a difficulty with my trying to protect women's lives.

Senator Rónán Mullen: One would think Senator Bacik was on some kind of-----

Senator Fidelma Healy Eames: I would appreciate it if the results of the investigation - which has been in train for eight months - could be finalised and made available in the autumn.

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Senator Jim Walsh: Senator Bacik is only a pseudo-----

Senator Ivana Bacik: I will not take abuse from Senator Walsh, who recently brought low the reputation of this House with his antics.

Senator Colm Burke: I support Senator Norris with regard to the Medical Practitioners (Amendment) Bill 2013. As the Cathaoirleach is aware, we debated the matter to which the latter relates when I introduced that legislation in December of 2012. While a welcome was given earlier in respect of Bills drafted by Senators on the opposite side of the House, I request that consideration also be given to legislation produced by those on this side.

Senator Sean D. Barrett: Hear, hear.

Senator Colm Burke: I published two Bills, one of which is the Medical Practitioners (Amendment) Bill 2012. Senator Norris and his colleagues published similar legislation - the Medical Practitioners (Amendment) Bill 2013 - and I welcome that. I feel strongly about this issue because at present there is no law under which medical practitioners are required to have insurance. As a result, people who do not possess adequate insurance are coming in from abroad and providing medical treatments. This matter must be dealt with and it should not be placed on the back burner for a further four years. The first legislation relating to this matter was introduced by the current Minister for Health when he was in opposition, on 13 October 2009.

An Cathaoirleach: Is the Senator seconding the amendment to the Order of Business or is he supporting it?

Senator Colm Burke: I am outlining my view that Bills produced by Members of this House should be given serious consideration by the Government. In view of the fact that we have taken on board Bills drafted by those on the opposite side, I ask the Leader to afford the same treatment to those produced by Senators on this side.

Senator David Norris: Congratulations are due to Senator Colm Burke on the excellent Bill he produced and the good debate to which it gave rise.

Senator Mary Ann O'Brien: I wish to confirm that in the context of remarks I made on the issue of hard-core pornography on Monday's Order of Business, I failed to attribute credit for some of them to the excellent journalist Eleanor Mills of *The Sunday Times*. I was in contact with Ms Mills this morning and I take this opportunity to urge Senators to read her article. I wish to place on record the fact that it was not my intention to claim credit for Ms Mills's remarks and I wanted to ensure that such credit is given where it is due.

Senator Fidelma Healy Eames: Hear, hear.

Senator Mary Ann O'Brien: We need investigative journalists such as Ms Mills because they bring issues such as that which was the subject of the article in question into the light. I thank the Leader for stating on Monday's Order of Business that he would make time available for a debate on this issue, to which Senator Clune referred during the course of last evening's debate. I welcome the indication from the Minister for Communications, Energy and Natural Resources, Deputy Rabbitte, that he will prioritise the issue of protecting children from the dangers of hard-core pornography. I look forward to the debate on this matter.

I support Senator Healy Eames in her seeking of information with regard to the investiga-

tion she mentioned. I also echo Senator Norris's comments about the staff. They deserve a break much more than we do and I thank them for the work they do and for the support they have provided during the current term.

Senator Susan O'Keeffe: I support Senator Paul Coghlan's request for a debate on the role of the Standards in Public Office Commission and our role in respect of the latter. What Senator Gilroy was rightly trying to raise was the issue of lobbying. Part of the Government's reforms will be a register of lobbyists. If the Seanad engaged in a debate on how lobbyists work, how we are involved with them and how they interact with us - regardless of whether they are located here or abroad - that would be a valuable exercise in order to at least show that we understand the importance of this matter.

Senator David Norris: Hello?

An Cathaoirleach: I ask Senator Norris to turn off his phone.

Senator David Norris: It is not my phone. I left mine outside.

Senator Susan O'Keeffe: I was about to say that using terms such as "dead sheep" probably shows less respect for the Seanad than Senator Norris would like. Others on this side of the House who used expressions to the effect that we will all have "blood on our hands" are being equally disrespectful.

Senator David Norris: I never said that.

Senator Susan O'Keeffe: That is correct. However, the Senator did use the expression "dead sheep".

Senator David Norris: Yes, I did.

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

Senator David Norris: I am glad to see that the dead sheep has been revived.

Senator Rónán Mullen: The description is well deserved.

Senator David Cullinane: That is disgraceful.

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

Senator Susan O'Keeffe: I have supported Senator Paul Coghlan's call for a debate in respect of the Standards in Public Office Commission. I was about to state, in the context of disrespectful comments, that when we return in the autumn there may be a calmness in the House. In that context, I thank the staff of the Seanad for their endless patience during a difficult few weeks. We look forward to Jody Blake's return in the autumn.

I wish to inform those who may be available in August that next week, as part of the Yeats Summer School, I will be hosting possibly the first debate on the future of the Seanad with two wonderful former Senators, Dr. Mary Henry and Mr. John Horgan. We will be discussing the importance of scrutiny, the role the latter plays in politics and the role the Seanad has played in this regard. I trust this will form part of a robust debate on the Seanad and its future.

Senator Diarmuid Wilson: I second Senator Norris's amendment to the Order of Busi-

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ness. I wish to pay tribute to the acting leader of our group, Senator White, not only in respect of her contribution on the Order of Business but for the work she has done with regard to the policy document she and our party leader, Deputy Martin, will be launching this afternoon. I wish all Senators and the staff a happy holiday season.

Senator Mullen raised a very serious matter. Some other Senators may not like to hear this, but it is extremely serious when an organisation funded by the State is aware of information which indicates that an abortion clinic is dangerous to women's health and does not pass it on to vulnerable individuals who are in crisis. Some months ago, thanks to an undercover investigation conducted by the *Irish Independent*, we discovered that the Irish Family Planning Association was endangering-----

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

Senator Diarmuid Wilson: -----the lives of vulnerable women by failing to pass on information regarding the Marie Stopes clinic.

Senator Ivana Bacik: On a point of order, once again, very serious allegations are being made.

An Cathaoirleach: That is not a point of order.

Senator Ivana Bacik: A number of Senators are making such allegations on a continual basis.

Senator Diarmuid Wilson: The organisation was passing on dangerous, illegal and life-endangering information.

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

Senator Diarmuid Wilson: This is a serious matter and it should not just be brushed aside by some Members of this House.

(Interruptions).

Senator Michael Mullins: I support the call in respect of the publication of the McManus report. It is important that we be confident that State-funded organisations are providing safe and legal information to the women of this country. I will say no more on the matter.

I agree with Senator White that Enterprise Ireland's annual report paints a very positive picture of the country turning the corner with regard to job creation. I welcome the major emphasis the Government has placed on job creation and I take this opportunity to wish the Minister of Jobs, Enterprise and Innovation, Deputy Bruton, well for the remainder of his trade mission to China and Japan. I also welcome the opening of an IDA Ireland office in Beijing. This is a very positive development which will hopefully result in further investment in this country by Chinese companies.

I congratulate Senator White on her fine policy document which she presented to us this morning.

Senator David Norris: Hear, hear. It is a pity the wrong picture was included in The Irish Times.

Senator Michael Mullins: Absolutely. Senator White has done this House some service. I hope the document she has produced will provide encouragement for the future to the many female entrepreneurs in Ireland.

I join colleagues in wishing the Cathaoirleach, the Members and all the staff of the House a safe and enjoyable holiday. I hope many of them will get an opportunity to enjoy many of The Gathering events being held throughout the length and breadth of the country. I wish everybody involved in The Gathering events well.

Senator Rónán Mullen: Hear, hear.

Senator Michael Mullins: On behalf of the State we should thank them and congratulate them on the huge effort they have put in to ensure we have a substantially increased number of visitors to our country this summer.

Senator Rónán Mullen: Particularly in sunny east Galway.

Senator Feargal Quinn: There was some criticism of the Meath East by-election in the opening hours of the polls on that occasion.

(Interruptions).

Senator Feargal Quinn: There was criticism. I want to inquire of the Leader about the likely hours the polls will be open for the referendum on the abolition of the Seanad. We should make sure that a healthy vote takes place and that whatever are the correct hours of opening that criticism will not be levelled at the referendum for abolition of the Seanad, as happened during the Meath East by-election.

Senator Norris's amendment has been seconded and therefore I do not need to do that.

Senator David Norris: I thank the Senator for his support.

Senator Feargal Quinn: I want to thank the staff of the House for their work in the past year and wish them well for the summer. I include in that all the other helpers, including those in the Library and elsewhere. It has been a tough session. I think we deserve a break but I hope we will come back invigorated, enthusiastic and ready to fight for the survival of this House. I refer not just to the retention of the House but a reformed House in the future.

Senator Cáit Keane: I congratulate Senator White on the launch of her policy document today and wish her well. Women entrepreneurs are important. I have three children, two of whom are now women, and both of them are self-employed entrepreneurs. The policy document is to encourage people to become entrepreneurs. My compliments to Senator White on raising it in the Seanad.

I compliment Senator Quinn also on the Construction Contracts Bill passed here yesterday evening. This House has done a service for contractors in Ireland that is second to none. Debates on legislation are rarely covered in the media, although the Order of Business is covered, but I want to congratulate Senator Quinn on that initiative. It will serve the construction business, and small builders, well.

I am spokesperson on the environment. The Minister, Deputy Hogan, has been busy in recent months. In the context of the Dublin mayoral election he established a Dublin forum

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last July under the stewardship of the then Lord Mayor, Naoise Ó Muirí, which is examining the agenda for the proposal. The Minister has said that the referendum on the mayor for Dublin will be held on the same day as the local elections but when we are discussing that in the Seanad we should have input from that report, which will have the benefit of the wisdom of the four mayors and the councillors. The Minister had asked them to consider far-reaching powers, functions and budgetary capacity that could be devolved to local government. That is a major initiative on which I compliment the Minister, Deputy Hogan, because he is serious about doing that. We have seen the changes he has made, including devolution of functions. All of that should be included in the upcoming debate on local government reform. We have been concentrating on the Seanad referendum but I refer to the issue of lowering the voting age, as recommended by the Constitutional Convention, to 16 and the age at which one can vote in a presidential election from 35 to 21 on which there will be a referendum before the end of 2015. Many referenda are due to be held and when the House returns in September, with the benefit of the reports from the councils and the Constitutional Convention, we should have a full debate on the many major initiatives the Minister for local government has announced. I, too, want to thank the staff for all the help they have given us over the years.

Senator Trevor Ó Clochartaigh: Ba mhaith liom aontú leis an Seanadóir agus gach rath a ghuí ar ghach duine don bhriseadh. I wish everybody well for the summer break, particularly the staff and everybody who supports us in Leinster House.

Yesterday, many Members of this House were caught up in our own dramas but it was a very dark day for people who stayed in another house over the years, namely, the people from the Bethany Home. An appalling decision about them was made yesterday and they are dismayed by the approach that is being taken to their plight.

I note also that we have not seen further progress on the Magdalen laundries issue, which we need to examine in the autumn. We should have a debate on redress for people who found themselves in State institutions who were not treated properly. I would include in that cohort the victims of symphysiotomy.

I accept the Cathaoirleach's ruling on my Adjournment matter but it is surprising that the Minister, Deputy Hogan, told us when we debated septic tanks in this House that he was very concerned about the standard of water in the State yet drinking water from 47 public systems is not under his official remit. It is important that we have a debate on the quality of public water because according to the Environmental Protection Agency remedial action list, RAL, report 47 public water systems in this State are in danger of being infected with cryptosporidium. We saw the damage that did in Galway, Roscommon and other areas. This is a very serious issue that poses a very serious danger and while Senators are reading Senator White's report during the summer they might read the EPA report as well because it affects many areas in their constituencies that might be dependent on these services.

On the Enterprise Ireland report, it is welcome that there has been an upturn in the export area but I am not sure if Senator Mullins noted that there is a regional imbalance in that respect. For some reason the west has not had the same job gains as other areas, which adds to the calls I have been making for specific debates on the regions, and the development of the regions, in the autumn.

Senator Mary Moran: I welcome that the Minister, Deputy Quinn, secured Cabinet approval in the meeting yesterday to continue to seek a 50-50 share of the costs by the four reli-

gious orders that we discussed last week for the victims who suffered abuse in residential institutions. It is very important that decision was made and I hope it will be strenuously pursued.

I welcome also the statement last night by the Minister, Deputy James Reilly, that an *ex gratia* payment will be paid to the 35 women who were left out of the original Our Lady of Lourdes hospital redress scheme on the grounds of their age. I spoke with some of the ladies last night who were relieved that this was the end of a very long journey and that their pain and suffering has finally been acknowledged. Speaking with them I knew that meant more to them than even the financial compensation they are due. While I was disappointed that we did not have the Walsh report, something I have called for continuously in the past two years, I understand the matter was taken up at Cabinet yesterday where further information was sought by Cabinet members and that the Minister and the Minister of State, Deputy Lynch, will meet with various representatives of the women next week. I hope we will have a successful outcome to that in the near future because it was promised before the end of this term. I call on the Leader again to ensure we have a debate on this matter. I share Senator Ó Clochartaigh's disappointment at the announcement that the Bethany Home survivors were not included.

Senator David Norris: Hear, hear.

Senator Mary Moran: That is another issue on which we should have a debate in the autumn. I thank the members of staff in every department throughout the House and wish them, and my colleagues, a happy summer break.

Senator Mark Daly: I wish to inform the Leader and the House that I will seek the recall of the Seanad in August. I do so for the 650 people in Ireland awaiting organ transplantation. I will be asking 20 Senators to sign a letter to bring the Minister for Health before the Seanad to explain the reason he signed a flawed piece of legislation on organ donation and transplantation into Irish law. The Minister must be held to account and must be asked the reason he signed this European Union directive directly into Irish law without consulting the Seanad, the Dáil or the Joint Committee on Health and Children. The Government's lack of scrutiny and debate on this measure, which is the first organ transplantation legislation in the history of the State, was a missed opportunity on its part to bring Ireland's infrastructure up to the 21st-century standards the citizens awaiting organ transplantation deserve. Mark Murphy of the Irish Kidney Association has described-----

An Cathaoirleach: The Senator should refrain from using people's names on the record of the House, as they are not here to defend themselves.

Senator Colm Burke: The Senator's party did nothing for ten years on this issue.

Senator Darragh O'Brien: What is Senator Burke talking about?

An Cathaoirleach: Senator Daly, without interruption.

Senator Mark Daly: Mark Murphy of the Irish Kidney Association-----

An Cathaoirleach: Senator, I asked you to refrain from using people's names on the record of the House, as they are not here to defend themselves.

Senator Mark Daly: I thank the Cathaoirleach. The Irish Kidney Association has described the Minister's signing of this European Union directive directly into Irish law without scrutiny as the worst implementation of this directive by any European Union member state.

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Last year, as the Leader is aware, I tried to have the Seanad recalled on this issue and was blocked unlawfully by the Government. If it tries to do that again this year, I will go to the High Court to seek a court order to ensure this directive is scrutinised before the deadline for its scrutiny expires on 28 August.

Senator Paschal Mooney: I join my colleagues in complimenting Senator White on her initiative and to wish her well in the launching of her report later today. Moreover, one should reflect on the praise that has been heaped on the Minister, Deputy Hogan. Having proposed the dismantling of local democracy at the lowest level and of regional democracy through the lack of elections to *Údarás na Gaeltachta*, the thought has struck me that had a constitutional restraint not been placed on the Government in respect of this House, it also would have brought forward proposals seeking its abolition and would have used its unprecedented majority in both Houses to push them through. I hope people will be aware of that.

The referendum will come within a week or two of what probably will be another severely austere budget, in which €3 billion will be taken out of an Irish economy that already is staggering under the weight of heavy taxation and in which the most vulnerable are being attacked and the people should remember this. I also issue a challenge to the 35 nominating bodies, which represent hundreds of thousands of people nationwide, as if this referendum is passed, they also will be deprived of a direct line to the democratic process. These professional people, grouped in 35 nominating bodies that have been involved actively in lobbying and in making representations to Senators over many decades, should mobilise their people because they also will lose this important arm of the democratic process. I also join colleagues who have wished Kieran Coughlan well in his retirement.

Senator Darragh O'Brien: Hear, hear.

Senator Paschal Mooney: I had the honour and privilege of serving in my first term in this House when Kieran Coughlan was Clerk of the Seanad before Deirdre Lane took over. He subsequently went on to continue a distinguished public career. I wish him well and endorse the views from all sides of the House in wishing the staff well in the break and I thank them for all their help and co-operation.

An Cathaoirleach: Before calling on the Leader, I wish Jody Blake, the Clerk Assistant, a speedy return to good health from her recent illness. I also thank the Clerk, Deirdre Lane, and Martin Groves, who has been thrown in at the deep end in recent weeks. I also thank Debbie Canning, Jason Kiernan and Aisling Hart in the Seanad Office for the tremendous work they have done in the face of their heavy workload in recent weeks. I also thank and wish a good holiday to the staff of the House, who are tremendous to work with. Finally, I wish the Secretary General, Kieran Coughlan, a good and happy retirement. He was both Clerk Assistant and Clerk of this House from 1984 to 1990 before becoming Clerk of the *Dáil* and subsequently becoming both Secretary General and Clerk of the *Dáil*. He has been an outstanding public official over many years and Members wish him well in his retirement, as well as a happy and long retirement.

Senators: Hear, hear.

Senator Maurice Cummins: I commend Senator White on the publication of her document in respect of women entrepreneurs and am in complete agreement with her. Most of the entrepreneurs I know are women and are excellent people. I commend her on her efforts to

bring forward this document, as well as noting her comments in respect of the Enterprise Ireland annual report and on the success of, and upturn in, exports and the work of entrepreneurs nationwide. Whatever about reading the report during the summer, I certainly will read it before the summer is out.

Senator Bacik spoke on energy efficiency measures and the retrofitting of local authority houses. I agree with her and that matter has been raised by Senator Hayden and others in recent days. Senators Mullen, Walsh and others spoke on the McManus report and matters that may have arisen in respect of the Protection of Life During Pregnancy Bill. I will not enter into that debate again, as Members have had comprehensive debate on the matter in recent weeks.

Senator Rónán Mullen: There was no comprehensive debate on the pregnancy counselling agencies.

Senator Maurice Cummins: Senator Noone spoke on the attitudes of Dublin people regarding directly-elected mayors. I also note Senator Keane's remarks to the effect that a Dublin forum has been set up involving all four local authorities. I look forward to its report and to debating that matter. However, it is interesting that it appears as though the vast majority of Dublin people would like to have a directly-elected mayor.

Senator Darragh O'Brien spoke to compliment his colleague, Senator White. The Senator also sought the date on which the House would return and for the information of Members, the Seanad will return on 18 September. Senator Gilroy raised matters relating to ethics and the Standards in Public Office Commission, as did Senator O'Keeffe. That matter should be referred and Senator O'Keeffe also sought a debate on the role of lobbyists. Perhaps this can be arranged in the context of the Standards in Public Office Commission annual report. Senator Barrett and many other Senators wished the Secretary General of the Houses of the Oireachtas Service, Kieran Coughlan, well. He has given tremendous service to the Houses of the Oireachtas and to the Irish people and I am sure all Members will join me in wishing him well in his retirement.

Senator Conway and others raised the issue of third level grants and Student Universal Support Ireland, SUSI, and the fact the system has been streamlined. All Members hope the problems everyone witnessed in this regard over the past year will have been sorted out by the time people again apply for grants.

Senator Cullinane raised the Protected Disclosures Bill and I will try to find out when it will be debated in the House, that is, whether it will be in the autumn session or whatever. Senator Hayden spoke on property prices and the Central Statistics Office, CSO, report, as well as calling for a debate on mortgage repossessions and the banking system when Members return. I certainly will try to arrange such a debate.

Senator Norris moved an amendment to the Order of Business that No. 18, the Medical Practitioners (Amendment) Bill 2013, be taken. I acceded to the request on Monday to have that Bill published but I do not propose to accept the amendment to the Order of Business that the matter be dealt with today. The Bill is very similar to that which Senator Colm Burke had accepted on Second Stage but I reiterate I do not propose to accept the amendment to the Order of Business.

Senator Colm Burke also spoke in respect of the Private Members' Bill. May I compliment Members from both sides of the House who have gone to the effort of introducing Private

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Members' Bills to the House on a wide range of subjects? It is not easy to prepare such a Bill and regardless of whether they are accepted, I compliment all Members who have gone to the trouble of proposing such Bills in the House. I also compliment Senator Quinn on having the Construction Contracts Bill finally concluded yesterday. Senator Mary Ann O'Brien clarified the source of her remarks on Monday. We have issued an invitation to the Minister for Communications, Energy and Natural Resources, Deputy Rabbitte, to come in to debate that subject of the use and control of the Internet.

Senator O'Keeffe spoke of the Yeats Summer School debate on the role of the Seanad and its future. I wish the organisers of that event every success also. I am sure Senator O'Keeffe is there among the organisers. Anytime that Yeats is mentioned, Senator O'Keeffe's name is mentioned as well at this stage.

Senator Darragh O'Brien: He will never be dead, that is for sure.

Senator Maurice Cummins: Senator Quinn asked about the hours of opening of polling stations for the referendum. I am not sure what the hours are but I am sure they will be notified well in advance of the referendum.

Senator Keane raised the Dublin forum, which I have mentioned. She also mentioned that there could be quite a number of referenda coming up but I suspect that Members of this House will be focusing on one referendum which will be coming up in October.

Senator Ó Clochartaigh raised the EPA report on water quality. That is an important issue. He also called for a debate on the development of the regions for which we will try to have the Minister for the Environment, Community and Local Government, come in early in the new session.

Senator Moran, on the contribution of the religious orders, stated that it is still on the agenda. It is only right that it is on the agenda. On symphysiotomy, she raised the publication of the Walsh report. The report has taken a hell of a long time and I would hope that it will be published soon. It is something that Senator Moran has raised on a constant basis in the House and I would hope that the matter will be rectified soon.

Senator Daly spoke of recalling the House on organ transplantation and he had a similar motion last year. I wonder what has happened between last year and this year that the matter has not been raised within the 12 months.

Senator Mark Daly: I asked for a debate on it and we lost the vote, 27 to 17.

An Cathaoirleach: The Leader without interruption. Senator Daly should resume his seat.

Senator Mark Daly: For the information of the Leader, I asked for a debate on that particular statutory instrument last week and we lost the vote, 27 to 17.

Senator Maurice Cummins: It is absolutely extraordinary that the Senator would not have raised that matter in the past 12 months.

An Cathaoirleach: The Leader without interruption. Senator Daly should resume his seat.

Senator Mark Daly: When the Leader looks at the legislation, he will realise that one must wait two months for it to be debated by the Seanad.

Senator Maurice Cummins: It is extraordinary for the Senator over the past number of days to be calling the House back again in August.

Senator Mark Daly: If the Leader had accepted my amendment to the Order of Business last week, we could have debated it last week.

Senator Maurice Cummins: Senator Daly had 12 months.

An Cathaoirleach: Senator Daly should resume his seat.

Senator Maurice Cummins: As usual, it is a publicity stunt.

Senator Mark Daly: The Leader did not accept my amendment to the Order of Business last week to have it debated.

An Cathaoirleach: Senator Daly should resume his seat.

Senator Maurice Cummins: Senator Daly had 12 months to do it and he could not do it.

Senator Mark Daly: If he did that last week,-----

Senator Maurice Cummins: Senator Daly had a little too much sun over the past number of weeks.

Senator Mark Daly: -----we could have debated it last week.

An Cathaoirleach: Senator Daly should resume his seat.

Senator Mooney also raised the question of referendums, in particular, the Seanad referendum which we have debated at length. As the Cathaoirleach stated, the people will now decide on our future.

I wish the Cathaoirleach well and thank him for his stewardship during the term. It has been a difficult term for all, the Members, the Cathaoirleach and the staff of the House. I thank the staff, I thank the Clerk of the Seanad, Ms Deirdre Lane, Mr. Martin Groves and all the staff and, as the Cathaoirleach did, I wish the Clerk Assistant of the Seanad, Ms Jody Blake, a speedy recovery to good health. I also thank the ushers and all the staff of the House who have been so good to every one of us. They are a tremendous staff and we should thank each and every one of them. Finally, I wish all the Members from all sides of the House a happy holidays. I am sure that they will come back suitably refreshed and reinvigorated to raise matters on the Order of Business and elsewhere.

Senator Mark Daly: On a point of order, on the earlier issue, there are 650 persons waiting on the transplant list in Ireland and they want that legislation changed.

An Cathaoirleach: That is not a point of order. Senator Daly should resume his seat.

Senator Maurice Cummins: What did Senator Daly do in the past 12 months?

Senator Mark Daly: The Leader should look at the record of the House.

Senator Maurice Cummins: What did Senator Daly do in the past 12 months to raise it?

An Cathaoirleach: Senator Daly should resume his seat.

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Senator Maurice Cummins: What did Senator Daly do?

Senator Mark Daly: There are 650 persons waiting on the transplant list and 1,800 on dialysis-----

Senator Maurice Cummins: What did Senator Daly do in the past 12 months to raise it?

An Cathaoirleach: Senator Daly should resume his seat.

Senator Mark Daly: -----and they want that legislation changed.

Senator Maurice Cummins: What did Senator Daly do?

An Cathaoirleach: Senator Daly should resume his seat.

Senator Norris has moved an amendment to the Order of Business, "That No. 18 be taken today". Is the amendment being pressed?

Senator David Norris: Yes. I am grateful for the moral support of Senator Colm Burke, whose Bill this was in the beginning.

An Cathaoirleach: Senator Norris has spoken already on this.

Senator David Norris: I pay tribute to Senator Colm Burke. I hope that Members will be able to vote with their conscience because this is an opportunity for us to do the work of the Seanad and send this back to the Dáil.

Amendment put:

The Seanad divided: Tá, 17; Níl, 28.	
Tá	Níl
Barrett, Sean D.	Bacik, Ivana.
Cullinane, David.	Brennan, Terry.
Daly, Mark.	Burke, Colm.
Leyden, Terry.	Clune, Deirdre.
Mac Conghail, Fiach.	Coghlan, Eamonn.
Mooney, Paschal.	Coghlan, Paul.
Norris, David.	Comiskey, Michael.
O'Brien, Darragh.	Conway, Martin.
O'Brien, Mary Ann.	Cummins, Maurice.
Ó Clochartaigh, Trevor.	D'Arcy, Jim.
Power, Averil.	D'Arcy, Michael.
Quinn, Feargal.	Gilroy, John.
van Turnhout, Jillian.	Harte, Jimmy.
Walsh, Jim.	Hayden, Aideen.
White, Mary M.	Henry, Imelda.
Wilson, Diarmuid.	Higgins, Lorraine.
Zappone, Katherine.	Keane, Cáit.
	Kelly, John.

Seanad Éireann

	Landy, Denis.
	Moran, Mary.
	Mulcahy, Tony.
	Mullins, Michael.
	Naughton, Hildegarde.
	Noone, Catherine.
	O’Keeffe, Susan.
	O’Neill, Pat.
	Sheahan, Tom.
	Whelan, John.

Tellers: Tá, Senators David Norris and Diarmuid Wilson; Níl, Senators Paul Coghlan and Aideen Hayden..

Amendment declared lost.

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

The Seanad divided: Tá, 34; Níl, 11.	
Tá	Níl
Bacik, Ivana.	Barrett, Sean D.
Brennan, Terry.	Leyden, Terry.
Burke, Colm.	MacSharry, Marc.
Clune, Deirdre.	Mooney, Paschal.
Coghlan, Eamonn.	Norris, David.
Coghlan, Paul.	O’Brien, Darragh.
Comiskey, Michael.	Power, Averil.
Conway, Martin.	Quinn, Feargal.
Cullinane, David.	Walsh, Jim.
Cummins, Maurice.	White, Mary M.
D’Arcy, Jim.	Wilson, Diarmuid.
D’Arcy, Michael.	
Gilroy, John.	
Harte, Jimmy.	
Hayden, Aideen.	
Henry, Imelda.	
Higgins, Lorraine.	
Keane, Cáit.	
Kelly, John.	
Landy, Denis.	

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Mac Conghail, Fiach.	
Moran, Mary.	
Mulcahy, Tony.	
Mullins, Michael.	
Naughton, Hildegarde.	
Noone, Catherine.	
Ó Clochartaigh, Trevor.	
O'Brien, Mary Ann.	
O'Keeffe, Susan.	
O'Neill, Pat.	
Sheahan, Tom.	
van Turnhout, Jillian.	
Whelan, John.	
Zappone, Katherine.	

Tellers: Tá, Senators Paul Coghlan and Aideen Hayden; Níl, Senators Paschal Mooney and Diarmuid Wilson..

Question declared carried.

12 o'clock

An Bille um an Tríú Leasú is Tríocha ar an mBunreacht (Cúirt Achomhairc) 2013: An Dara Céim

Thirty-third Amendment of the Constitution (Court of Appeal) Bill 2013: Second Stage

An Cathaoirleach: I welcome the Minister for Justice and Equality, Deputy Alan Shatter, back to the House. We are on Second Stage of the Thirty-third Amendment of the Constitution (Court of Appeal) Bill 2013. The motion pursuant to section 23 of the Referendum Act 1994, prescribing a statement for the information of voters to be included in the polling card, will be debated in conjunction with Second Stage of the Bill and moved when the debate on the Bill is concluded.

Tairgeadh an cheist: "Go léifear an Bille an Dara hUair anois."

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

Minister for Justice and Equality (Deputy Alan Shatter): I am pleased to present the Thirty-third Amendment of the Constitution (Court of Appeal) Bill 2013 to the House. The Bill brings us a further step along the road towards the establishment of a court of appeal which is a

commitment in the programme for Government.

The case for the establishment of a court of appeal has been well rehearsed. The previous Government established a working group on a court of appeal in 2006. The group which published its report in August 2009 was chaired by the current Chief Justice and comprised members of the Judiciary, representatives of the Bar Council and the Law Society and senior officials from the Attorney General's office, the Department of the Taoiseach and my Department. The report includes a comprehensive analysis of the then position in the Supreme Court, a review of the position in other common law countries and sets out a path, including proposed constitutional change, that has garnered the support of most parties interested in the reform of the courts system.

I have mentioned that the report reviews the then position in the Supreme Court. When it was written, the waiting time for cases before that court was two and a half years. In the intervening years that delay has lengthened to over four years, meaning that someone lodging an appeal with the Supreme Court today could not expect to have his or her case decided before 2017. Delay is truly the enemy of justice or, as the old maxim goes, "Justice delayed is justice denied". The former chief justice of the United States of America, William E. Burger, put it well when he spoke about inefficiency and delay draining "even a just judgment of its value". Citizens have a right, recognised in Article 6 of the European Convention on Human Rights, to a fair and speedy trial. Ireland has already had to pay compensation to individuals who have successfully taken cases to the European Court of Human Rights in relation to delay.

It is not just our reputation from the point of view of human rights and the rule of law that is in the dock. Today's international business world works best where the law is clear, the Judiciary is independent and those who find themselves either asserting their rights or defending their actions before the courts can expect to know the final outcome without undue delay. All things being equal, international investors will favour a country with an efficient and effective legal system over one without such a system. To put it simply, I also believe citizens of the State who feel the need to engage in litigation should know that as regards litigation which is conducted in the High Court, even if there is an appeal, that the outstanding issues in dispute can be resolved within a reasonable period of time.

It is worth going back to see how Ireland has reached the current pass in relation to delay in the Supreme Court. When the Courts (Supplemental Provisions) Act was passed in 1961, it provided for four ordinary members of the Supreme Court and five ordinary members of the High Court, a more or less equal allocation of resources. There are now 36 High Court judges, a sixfold increase, whereas the number of Supreme Court judges has only doubled from four to eight ordinary judges. As Members of the House may know, the Courts and Civil Law (Miscellaneous Provisions) Bill has now completed its passage in both Houses. It allows for the appointment of two additional judges to the Supreme Court on being signed by the President. Even at that, there will not be an adequate number of judges in the Supreme Court to ensure appeals are addressed within a reasonable period, if all appeals from the High Court will continue to have to be dealt with at Supreme Court level in the civil law area.

During the years the volume of litigation has increased dramatically, meaning that there are more cases to hear. However, as important to the growth in the backlog of cases, if not more important, is the fact that litigation has become infinitely more complex. In the commercial field, to take one example, the scope and complexity of transactions and the speed with which they can be effected could barely have been imagined until recently. In the commercial field,

litigation has mushroomed.

A mile down-river from the Four Courts is the International Financial Services Centre, IFSC, home to banks and financial institutions from around the globe and major international accountancy and legal firms whose clients include the largest corporations in the world. The success of the IFSC, or the great work that the IDA does in attracting foreign direct investment into Ireland, is done no favours at all by an overloaded courts system that is incapable of dealing with the administration of justice in a reasonable timescale.

However, structural reform, important as it may be, is never the sole answer to problems such as the Supreme Court backlog, and I am not so naive as to think that the creation of a court of appeal is, of itself, the only answer. Changing structures, appointing new bodies, and so on, can create the illusion of progress and reform while leaving in place the practices and procedures that gave rise, at least in part, to the problems in the first place. The Government appreciates the leadership provided by Chief Justice Denham and her management of the Supreme Court list. The creation of a new court provides an opportunity for the courts and the Courts Service to explore new ways of doing business and, rather than replicate what already exists, to take a fresh look at how work is done and the scope for the deployment of new technologies.

The court of appeal can be an incubator of new approaches and could, in time, become the template for the operation of the other courts. There is an opportunity seldom afforded within an existing system to examine other countries to determine what can be done to ensure that the new court develops its own distinct culture reflecting the importance of its work, and its approach to that work. That approach should be one that is focused on efficiency and the use of all available technologies to deliver value for money and a better experience for users of the service. This is a once-in-a-lifetime opportunity that should not be wasted. The court of appeal's judicial leadership will be entrusted with the pioneering task of establishing a new court. It will be in their hands to seize that opportunity. I assure them they have every support in the task they will be asked to undertake should a referendum be successful.

Usually Bills providing for an amendment to the Constitution are relatively simple and straight-forward. They propose an amendment of an article, the people vote on it and, if it is accepted, the article is changed, and that is the end of the matter. This Bill is considerably more complex because if the people vote in favour of the establishment of the court of appeal, there will be no court of appeal in existence when the President signs this Bill. The reason for that is simple. The establishment of the court of appeal will require the enactment of an implementation Bill that will provide for the court, the appointment of judges, their remuneration and a number of other issues. That Bill cannot be enacted unless the people approve the amendment. Even then, it will take some time from the enactment of that Bill in the first half of 2014 to the physical establishment of the new court, which I expect to take place in time for the start of the new law term in autumn 2014.

There will undoubtedly be some interest in the number of judges to be appointed to the court of appeal. As Senators will be aware, the Courts and Civil Law (Miscellaneous Provisions) Bill provides for the appointment of two additional judges to the Supreme Court, bringing its complement, including the Chief Justice, to ten. This will allow the Supreme Court to sit in two divisions, which I expect will allow it to make progress on the backlog of cases waiting to be heard. By the time the legislation providing for the establishment of the court of appeal is being processed, we will be in a better position to decide on the appropriate number of judges to appoint to the court. It should be noted in this context that the court of appeal will be taking

over the work of the Court of Criminal Appeal. That court, which currently sits on an *ad hoc* basis, with a combination of Supreme Court and High Court judges, has a backlog of cases. My expectation is that the court of appeal will sit in divisions, with a dedicated criminal division, at least in the initial stages. Overall, my preliminary assessment is that the new court will require ten judges - nine ordinary and a president - but that the final decision on this can and should only be made when we have a clearer picture of the backlog that will exist following the referendum, should it be successful. What I can say, however, is that there is no point in creating a court of appeal and then starving it of resources. One does not need me to tell one that if all this exercise achieves is a set of circumstances in which people have to wait four years for their cases to be heard by the court of appeal rather than by the Supreme Court, it will have been an entirely pointless exercise and a failure. Our objective must be that after the court of appeal is established, appeals from the High Court will be heard within a reasonable timeframe.

In the normal course, I would now proceed to go through the Bill section by section and explain each section. Given the way that the Bill is drafted, with most of the content in Schedules, this would be very confusing. Instead, I propose to deal with the different issues in the Bill as units and explain where they occur and what they mean. I hope that will make it easier to understand and for Senators to engage with the Bill and frame any questions they wish to ask or issues they wish to raise.

Section 1 of the Bill provides for the definitions used in the Bill. Notably, “the establishment day” is the day the court of appeal is established on foot of the enactment of “the relevant law”, which is the implementation Bill referred to.

Section 2 deals with the commencement provisions and I will deal with those as I go through the Bill. Section 3 will be commenced on enactment of the Bill. That means that, on enactment, the Constitution will be amended to include the text in Schedules 1 and 2. Schedule 1 provides for the addition of the court of appeal to the list of courts contained in Article 34.2. Schedule 2 is a new article, Article 34A, which will be inserted on enactment but which will not appear in the text of the Constitution once the court of appeal has been established. The new article provides for the enactment of a law, the implementation Bill to which I referred, providing for the establishment of the court of appeal, as soon as practicable after the enactment of the Bill. That law will require the Government to appoint, by order, “the establishment day”, that is, the day the court of appeal is established.

Sections 4, 5 and 6 will commence on the day the court of appeal is established. Section 4 refers to Schedule 3, which sets out a new section 4 to be inserted in Article 34. New section 4 provides that the court of appeal will have appellate jurisdiction from the High Court and such other courts as may be prescribed by law, and the decisions of the court of appeal are to be final, except in the limited circumstances where an appeal may be allowed by the Supreme Court. The section further provides that no law may be enacted to exclude cases concerning the constitutionality of statutes from being heard by the court of appeal. Section 4 also provides for a renumbering of sections 4 and 5 of Article 34 to take account of the insertion of the new section 4.

Section 5 refers to Schedules 4 and 5 of the Bill. The amendment contained in Schedule 4 provides that the Supreme Court will hear an appeal from the court of appeal provided that it is satisfied that it concerns a matter of general public importance or that it is necessary in the interests of justice that the Supreme Court hears the appeal.

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The amendment contained in Schedule 5 provides for the taking of appeals directly from the High Court to the Supreme Court in exceptional circumstances. This so-called “leapfrogging” provision is intended to allow the Supreme Court to hear cases which meet the criteria set out for appeals from the court of appeal to the Supreme Court, where there are exceptional circumstances that warrant it being heard by the Supreme Court. Exceptional circumstances could include cases where there is a particular urgency and where the Supreme Court is satisfied that the case would be accepted by it on appeal from the court of appeal in any event. Section 5 also provides for the renumbering of subsection 4° following the insertion of new subsection 4° in Article 34.4.

Subsections 2(f) and (g) of section 5 provide for the deletion of subsection 5° of Article 34.4. This subsection contains the so-called “one-judgment rule”. That rule provides that the Supreme Court may issue only one judgment when it hears challenges to the constitutionality of legislation. The application of the rule in these circumstances and in regard to Article 26 references was considered in considerable detail by the Constitution Review Group. The group recommended in its report that the rule be deleted from Article 34 but retained in Article 26.

The Government has decided that, rather than imposing this rule on the court of appeal, it would be better to reform the system in line with the recommendation of the Constitution Review Group. I am convinced that justice will be best served by giving the Judiciary the freedom, where it so desires, to give judgments, including minority or dissenting judgments, on important matters concerning the constitutionality of our laws. While it is not intended to change the Article 26 procedure at this time, it is a matter that the Government may return to in the future.

Section 6 deals with a number of other amendments to the Constitution consequential on the establishment of the court of appeal. These are listed in a table set out in Schedule 6.

Article 12.8 is to be amended to provide for the inclusion of the president of the court of appeal among the list of judges before whom the President of Ireland must make his or her declaration or oath. Article 14.2.2° is to be amended to provide for the replacement of the President of the High Court by the president of the court of appeal as the person who would substitute for the Chief Justice on the Presidential Commission, if the position of Chief Justice were vacant or if he or she were unable to act. Paragraph i of Article 31.2 is to be amended to provide that the president of the court of appeal shall be an *ex officio* member of the Council of State. Article 34.3.2° is to be amended to include the court of appeal, with the High Court and Supreme Court, in the list of courts to which an appeal concerning the constitutionality of legislation may be heard.

The amendment to Article 34.6.2°, currently Article 34.5.2°, provides for the swearing of the judicial declaration by judges of the court of appeal. Article 35.1 is amended to provide for the appointment of judges of the court of appeal by the President. Article 35.4.1° is amended to provide for the removal of judges of the court of appeal in accordance with the provisions of that section. I will return to this provision when I deal with section 7.

Paragraph i of Article 36 provided for the regulation by law of the number of judges, their remuneration, age of retirement and pensions. The amendment adds the court of appeal to the list of Courts covered by the provision.

Article 40.4.3° deals with *habeas corpus* cases and is being amended to provide that where

the High Court is satisfied that the person is being detained in accordance with the law but that the law is unconstitutional, the High Court shall refer the question of the validity of the law to the court of appeal rather than to the Supreme Court as at present.

Section 6 also refers to Schedule 7, which deals with how the cases that are before the Supreme Court when the court of appeal is established are to be dealt with.

Schedule 7 contains a new Article 64 that is to be inserted into the Constitution on the establishment day, but is not to appear in texts of the Constitution published one year after that date. This format is modelled on the commencement provision which arose under the 19th amendment following the Good Friday Agreement. It provides that cases that have been heard or part heard by the Supreme Court on establishment day will be determined by the Supreme Court. Where a case has not been heard, the Supreme Court may transfer the appeal to the court of appeal or a party to the appeal may apply to have the case transferred. The Schedule clarifies that the reference to an appeal having been heard in full or in part does not include the hearing of an interlocutory application in relation to the appeal or unless the appeal itself concerns a procedural matter, the hearing by the Supreme Court of any procedural or application or motion in the matter.

Section 7 deals with the interface between this Bill and the Thirty-second Amendment of the Constitution (Abolition of Seanad Éireann) Bill 2013. The Bills intersect in relation to Article 35.4.1^o which deals with the impeachment of judges. The purpose of section 7 and Schedule 8 is to ensure that regardless as to whether the Seanad is abolished or not, and if it is, whether it is abolished before or after the establishment of the court of appeal, judges of the new court will be covered by the impeachment provision in Article 35.4.1^o. Section 8 deals with the citation of the Bill.

The *status quo* of ever lengthening queues of cases lining up to be heard by the Supreme Court is not tenable. Something has to be done and while there will be arguments as to the best approach, the Government has taken the view that the working group chaired by now Chief Justice Denham, which examined the issue for more than two years and reported in 2009 provides the roadmap to the optimum solution. It is the approach favoured by those who engaged in the consultation process on the issue and the only one that delivers a constitutionally based court of appeal. It is the solution that ensures the Supreme Court will only hear cases that merit its attention and there is a coherence to our courts architecture that does not exist at present. I am pleased to commend the Bill to the House and I hope it will have the support of Senators.

Senator Darragh O'Brien: I welcome the Minister to the House. I do not intend to detain him for long on this legislation, which the Fianna Fáil Party fully supports. We will actively campaign for a “Yes” vote on 4 October on the question that will be put to the people on the establishment of a court of appeal, while actively campaign for a “No” vote on the other question related to the ill-considered proposal to abolish the Seanad.

The Minister addressed many of the questions I had planned to ask. It is difficult to state, in advance of a referendum being passed, when the new court of appeal will be established and the backlog of the cases to the Supreme Court will start to clear. However, the Minister addressed these issues as best he could. I note, for example, that he cited a date of autumn 2014 for the establishment of the new court. I had also intended to ask a question on the number of judges but the Minister addressed the matter. It is difficult to ask him to look into a crystal ball. If, however, the referendum is passed and the court of appeal is up and running by autumn of

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2014, in light of his legal experience, when would the Minister expect the number of cases going before the Supreme Court to reduce and the backlog to be cleared?

The Minister correctly noted the importance of having major multinational corporations locate their European and global headquarters in Dublin. For this reason, it is important to ensure there are no undue delays. When does the Minister expect improvements to take place?

The process of appointing judges has been the subject of criticism, some of it justified. We all want this process to be transparent. Successive Governments, including the current and previous Administrations, have been criticised for making certain appointments. The Minister will be aware of the specific cases to which I refer. Is he considering improving the appointment process to make it more transparent? Should the referendum be passed, we will have an opportunity to change the appointment process in respect of the nine or ten judges to the new court. This would ensure transparency in the appointment of judges.

The number of High Court judges increased from seven to 36, whereas the number of judges in the Supreme Court only increased from four to eight over the same period. I am pleased to note the number of Supreme Court judges is set to increase to ten.

The Minister indicated that progress has been made on the establishment of a commercial court to fast-track disputes and that appeals from this court were still subject to the same delays as the Supreme Court. How does he envisage this will work on the commercial side?

As I noted, the Minister's contribution was comprehensive and addressed most of the questions I had intended to ask. I fully support the Bill and my party will advocate a "Yes" vote in the forthcoming referendum.

Acting Chairman (Senator Michael Mullins): Senator Martin Conway has eight minutes' speaking time.

Senator Martin Conway: Brevity is the order of the day. That Senator Darragh O'Brien and his party colleagues fully support the legislation indicates that it has been in the pipeline for some time. The working group chaired by the current Chief Justice made significant recommendations. I pay tribute to the previous Government for establishing the working group and setting this process in train.

Ireland is out of sync with our international counterparts in that we do not have a court of appeal. At present, all material being appealed from the High Court goes straight to the Supreme Court whose function should be to deal with issues of major public interest, matters of a constitutional nature or issue with serious legal implications. It should not have to deal with such a large caseload as is before it at present. It makes eminent sense, therefore, to have a court of appeal.

The Minister, in his comprehensive contribution, outlined how he believes the new court will work in practice. I note there is a delay of approximately four years in cases going before the Supreme Court. If the referendum is passed, it will enable the new court of appeal to quickly acquire some of the current caseload of the Supreme Court and address the logjam. Justice delayed is justice denied. The Minister is proposing comprehensive reform of the courts system. This should have been done long ago and it is welcome that the matter is finally being addressed. I have every confidence that citizens will view the Minister's proposals as a correct step forward and endorse them.

I also welcome the fact that the Minister expects to have the court of appeal up and running in September 2014. While it is 12 months away, it is still ambitious. It is a commitment that was made in the programme for Government. It is very welcome to have a referendum, hopefully successfully over the line, and have the structures in place within three years of the Government taking office.

Senator Darragh O'Brien asked how long it would take to see the results. I would like to hear the Minister's view on that. I expect, however, that once the structure is in place one will quickly see the time delay issue being addressed.

I wish the Minister well. For my part, as Fine Gael's spokesperson on justice in the Seanad, I will be doing everything I can to encourage the Irish people to support this referendum. I look forward to hearing other contributions.

Senator Katherine Zappone: I welcome the Minister and commend him for bringing this Bill forward. It demonstrates great leadership and is another example of the Minister as a reformer. This is a tremendous opportunity for the people to choose "Yes" for access to justice. Like Senator O'Brien, I will certainly be campaigning for a "Yes" vote. As the Minister indicated, access to justice costs money but that has not stopped him from bringing this legislation forward. I am thrilled to see this Bill coming forward in the context of his Ministry.

I am speaking from the perspective as somebody who, as the Minister noted in his speech, has been and continues to be a user of the service. It is particularly in light of that experience that I am so thrilled that this measure is coming before the people. I want to say a little bit about that experience because it relates to the issue of delay. So much about this Bill concerns the delays involved and creating more efficiency for users, as well as presenting an opportunity to administer justice in more innovative ways than the judges and courts have been able to do.

The case that I originally took with my partner was one that we believed was of a constitutional nature - a matter of public importance. We believed that democracy is not an abstract concept, so the decision to go to court had to do with our belief in the right of citizens to engage with this structure of Irish democracy in order to seek justice for ourselves.

Article 34.1 of the Constitution states: "Justice shall be administered in courts established by law by judges appointed in the manner provided by this Constitution ...". That is what the Constitution proclaims, so we wanted to ensure that our fundamental rights were protected in the same way as those of other citizens. This judicial structure is there precisely for that purpose, to provide for citizens to practice democracy in this way. That concerns a belief in a way of practising democracy and the importance of having access to justice in that regard.

In terms of my own personal experience, it was in 2002 that we decided to seek some form of legal recognition of our life partnership, which was a couple of years before we even began the legal process explicitly. I am making this point because those delays between the High Court and the Supreme Court meant a certain amount in the past, but the whole legal journey is considerably longer than that. That is why it is so important to make this system more efficient.

In 2002, we made a decision and in 2003 we got married in Canada. In mid-2004, after being denied an application to the Revenue Commissioners to note our marital status, we applied for a date to seek leave for a judicial review. In November 2004, we got that date whereby we simply sought permission to take a judicial review. In October 2006, we got a date for a court

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hearing for that judicial review, which took a couple of weeks; that was two years after getting leave. In December 2006, we got a High Court judgment and filed for an appeal to the Supreme Court in January 2007. We got first sight of a couple of Supreme Court judges in October 2011. Therefore, our delay was five years, even though that was in the earlier period where it is often noted that the delay was two and a half years. Now it is said to be four years, but our delay was five years.

I am noting that, from the perspective of having had that personal experience, it was in the past - and probably continues to be - quite a bit more lengthy than the average time. One requires an exceptional amount of both physical and mental health in order to take this legal journey. Even if one is supported by lawyers, it still requires a considerable amount of resources in all sorts of dimensions.

We have initiated a new case because we could not get permission before the Supreme Court to amend the proceedings in order to deal explicitly with the issue we wanted to deal with. We are on the journey again and are hoping that, in light of the Minister's leadership, the delay will not be as lengthy in future.

As regards delays, the Minister has noted that the *status quo* is untenable. The explanatory memorandum refers to the importance of our international obligations, including the European Convention on Human Rights. Article 6 of that convention provides that legal proceedings be dealt with in a timely manner. In this instance, it is positive that the Minister and the Government are really taking serious note of those international obligations concerning the European Convention on Human Rights.

Like the Minister, I would also like to commend highly the leadership of our current Chief Justice who took that leadership stance prior to her appointment by insisting that we ultimately get to the point of establishing a court of appeal. I am hoping that the people will agree with that.

I wish to make a couple of more comments about access to justice which, as the Minister noted, is central to establishing this court of appeal. I commend the Minister for saying that he will not starve the court of appeal of resources, while being aware that access to justice costs money.

Taking a holistic approach to access to justice, another long-standing issue is the provision of civil legal aid. Our civil legal aid system is in dire need of reform. Currently, whole categories of actions are excluded from accessing civil legal aid. People who are at risk of eviction are excluded from applying for civil legal aid, as are those seeking representation before the Employment Appeals Tribunal and the Equality Tribunal.

I commend the Minister for retaining the legal aid budget at a consistent level for the last couple of years. However, the cuts to the budget - implemented before the current Government came to power - ensured that it remains under-resourced. We will have access to justice in terms of establishing a court of civil appeal, but we need to ensure that people will have the resources in order to begin the process of taking cases through the courts.

There has been much coverage of the troika's concerns about legal charges in this country and the focus on competition within the legal profession. This Bill, providing for a referendum, will also help us in that regard.

In Schedule 5, Part 2 there is an identification of criteria whereby the decision is made for a case either to leapfrog to the Supreme Court or be heard by the Supreme Court once a judgment has been made by the court of appeal. The decision involves a matter of general public importance and-or being in the interests of justice. Will there be a delineation between how the decision is made and the application of the criteria to determine which cases can be heard by the Supreme Court, either through the leap-frogging process or subsequent to a decision of the court of appeal?

Senator Lorraine Higgins: I welcome the Minister to the House and commend him on introducing this Bill for debate and enactment. He is a reforming Minister and the steps that he has taken since assuming office have been welcome, not only for professionals operating within the legal system, but for consumers of legal services.

Without doubt, the Bill is key legislation and fundamental to the modernisation and reform of the courts and legal services. It provides for the establishment of a new court of appeal. Currently, Ireland is out of line with other common law jurisdictions, in that all appeals from the High Court are heard in the Supreme Court. Other countries, including the United Kingdom, Australia, New Zealand and Canada, have courts of appeal that hear appeals from their High Court equivalents. Only the more important cases, including those involving the development of law, are heard by the Supreme Court. Consequently, the highest courts in countries with much larger populations, such as the US and the UK, deal with proportionally fewer cases than the Irish Supreme Court does. A total of 605 cases were appealed to the Supreme Court last year, representing a 21% increase on the previous year. It issued 121 judgments compared with the 64 judgments issued by the US Supreme Court and the 85 judgments issued by the UK Supreme Court. When one considers their respective population sizes, this is clearly unsustainable.

Should this amendment to the Constitution be passed, a new court of appeal will be established. It will have two prongs - a court of civil appeal and a court of criminal appeal. Much time and deliberation have gone into the Bill's proposals, which are based on the Report of the Working Group on a Court of Appeal, published in 2009. That report concluded that, among other measures, the court's establishment would be necessary and would have a positive effect in terms of the efficiency and effectiveness of the courts system.

The court will be tasked with hearing appeals from the High Court. From my time working as a lawyer in the Four Courts, the new court will be a welcome departure, in that it will assist in reducing the time within which an appeal can be heard and will limit the remit of the Supreme Court, which will only hear cases on appeal from the court of appeal and, in exceptional circumstances, from the High Court. Given the robust economic situation of the Celtic tiger and the fallout from same in the shape of increased litigation, our court infrastructure has failed to keep up to speed. Our population has also grown, given the influx of people and businesses from other jurisdictions. All of these factors place further demands on our court system.

The ultimate appellate court, the Supreme Court, is dealing with a four-year backlog of cases. Exacerbating this situation is the fact that, in the past 40 years, there has been a six-fold increase in the number of High Court judges whereas the size of the Supreme Court has only doubled. Down the years, a plethora of new cases have necessitated the appointment of extra High Court judges in order to allow the system to operate effectively. However, the by-product of same is that more cases have been appealed to the Supreme Court, placing a large burden on the workload of the Judiciary in that court. These delays pose significant issues for consumers

of the legal process.

From the infrastructure outlined in the Bill, it is clear that the appeals clogging up the list system in the Supreme Court will be dealt with by the proposed court of appeal and will not need the engagement of the Supreme Court. This is to be welcomed by legal services, as it is in the interests of justice that a litigant be allowed to litigate a claim within a reasonable time. Under the current regime, this is not always the case, given the aforementioned backlog. The establishment of the new court will change the situation dramatically.

It is important to business nationally and internationally that we have the best court system possible. In particular, a permanent court of criminal appeal is an essential cog in a functional criminal law system. This court will have the benefit of ensuring that those who are found guilty will be able to avail of the appeals process more quickly, as will the Director of Public Prosecutions, DPP, when appealing the leniency of a sentence or otherwise.

From the point at which the referendum is passed, the Supreme Court will be able to focus on cases of general public importance or on cases where there are specific reasons in the interests of justice for an appeal to be taken to that court. In doing this, we will ensure that the current delays will not be repeated. If the referendum is passed, it is important that the necessary courts establishment Bill be moved before the Houses at the earliest opportunity so that this new court can be established immediately.

I will express a reservation about the upcoming referendum. It is important to ensure that the wording is explained in lay man's terms so that the referendum is not seen as being alien to voters. People should not feel isolated by the language used. An all-embracing formula of words should be used, as the establishment of this legal infrastructure is essential to the proper functioning of our court system.

Having worked within Ireland's legal system for a number of years, I will campaign for a "Yes" vote in the referendum, as it is in everyone's interests.

Senator Feargal Quinn: I welcome the Minister and this legislation. I am in awe of the fact that there are so many lawyers in the House. I am not a lawyer, but I have had the honour of defending cases - 37 on one occasion - against me in the High Court. I won and the State appealed that decision against me to the Supreme Court. It was a long time ago and I doubt that anyone who is around would remember that situation in 1971, but I won the case in the Supreme Court on the basis of discrimination on grounds of religion. The Minister would be interested to know that a statutory instrument was used to ban the sale of meat, yet excluded the selling of meat killed using the kosher method. I remembered from my college days that discrimination on grounds of religion was unconstitutional. I do not remember the delay lasting for longer than two years, but that the current delays are even longer has reminded me of the importance of this situation, particularly for small to medium-sized enterprises, SMEs. They should get speedy resolutions.

I welcome the Bill, the words used by the Minister and the court of appeal, but I will touch on a matter that has not received quite the same attention, namely, the Seanad's role in the formation of legislation, resulting in a lesser burden on the courts. The Bill refers to changes in the Bill "if the Seanad were to be abolished". The Bill contains many references to the Seanad and demonstrates how the Constitution is being butchered through the Government's determination to get rid of the Seanad. The public should be aware that the Constitution would be significantly

changed and besmirched were Seanad abolition to come to pass. I do not believe that it will be abolished, and I was delighted to hear Senators state today that they would vote “Yes” on this referendum but “No” on Seanad abolition. The argument has been made that we would be better off with a new Constitution, given the fact that there could be 75 changes to it were the Seanad to be abolished.

It is somewhat illogical that the Government is going ahead with more oversight through this court while doing away with another crucial element of oversight in our society, namely, this House. Our court system protects the rights of citizens. The Seanad also plays a part in that vital process. For example, it has made more than 500 improvements to legislation through amendments in recent years. This fact poses a concern. Other Members should consider that, had we not made these improvements, it is more likely that people’s rights would have been infringed upon. Consequently, it is more likely that they would have sought recourse in the courts.

The Seanad’s role in the formation of legislation results in better legislation and reduces the likelihood of a burden on the courts at a later date. In a nutshell, the Seanad makes legislation more watertight. The Construction Contracts Bill 2010, which we passed yesterday, sets down in primary legislation surety of payment to construction subcontractors with the express intention of reducing the burden on the courts. Surely, in discussing the aim to reduce the burden on our court system, through a new court of appeal, we should acknowledge the crucial role of the Seanad in the area of oversight of legislation. We should also give consideration to the importance of speed.

I welcome the moves being made by the Minister to help clear the backlog in our courts and to bring them up to date and ensure they are fit for purpose within the next year. Currently, the Supreme Court is unable to filter out all but cases of exceptional constitutional and public importance, resulting in a waiting list of up to four years. Supreme courts in other countries hear a limited amount of cases each year. We must move with the times. The writers of the 1937 Constitution could not have foreseen the explosion of litigation we now have.

I often use the analogy of the customer and do so again. There needs to be a better service for customers to allow their cases be held more quickly. It was interesting to hear Mrs. Justice Susan Denham point to Ireland’s international standing as regards the rule of law, which encompasses judicial independence and an effective court system. She said a strong rule of law “propels prosperity”. This is an important consideration for business people and investors when deciding to do business in a country. In particular, delays on appeal from the commercial court in the High Court may impact on the wider economy. Mrs. Justice Denham referred to the fact that the former chairman of the US Federal Reserve often stated that the rule of law is the single most important contributor to economic growth. This is not something I thought of previously, but it is a reminder of why we need to get behind this legislation. I support the Minister on this and wish him every success with it in the referendum.

Senator Colm Burke: I welcome the Minister to the House. I welcome this proposal to amend the Constitution and to set up a court of appeal. In regard to the court system, as far back as 1994 I recall we had a problem in Cork where there were over 6,000 cases on the personal injury waiting list for a hearing in the High Court. I remember being on a “Morning Ireland” show with the Minister at the time, Deputy Willie O’Dea, seeking the appointment of extra judges. At that time we had 17 High Court judges. Now we have 36. In fairness, appointments have been made over past few years and the backlog in the High Court is not as severe as the

backlog we have in the Supreme Court.

I have been in and out of the Supreme Court on a number of occasions over the past few years and one of the problems I see in regard to it is that appeals to the Supreme Court are being used in order to delay judgments. Some people withdraw their case at the last minute, having used the process knowing full well there would be a delay. I know they must file the documentation, but they use the process because of the delay in it. They know there is a waiting list of four years and that gives them some breathing time to try to deal with the issue. These people are using the appeal process wrongly. Setting up the process of an appeal court will eliminate this abuse of the current court system.

One issue with which I have difficulty - the Supreme Court also finds difficulty with this - concerns the number of cases before the Supreme Court where there are lay litigants. I do not suggest that people are not entitled to bring their appeals to the Supreme Court, but the Supreme Court finds it must give additional assistance to people who are lay litigants. This adds to the workload of the Supreme Court. I hope that the speeding up of the appeals process from the High Court will reduce the number of appeals filed. The four-year delay that exists across the board, particularly in the area of family law, has major consequences for the people involved. The Minister has led reform in the area of family law over many years and has been very much aware of the need to ensure appeals are dealt with in an expeditious manner.

I welcome the proposed changes in the court system. The limits in the Circuit Court are being changed and this means the volume of work going to the High Court will reduce. This was dealt with in previous legislation over the past few months. I welcome this legislation and will support the referendum. I agree with colleagues that it is important we provide the correct information to the people that this is not about reducing the powers or the role of the courts, but about making the system more efficient and ensuring everyone who feels entitled to take a case has access to the courts in a timely manner.

I apologise, but I would like to raise the issue of the taxation of costs. I know the Minister cannot deal with this issue today, but it is an area with which we need to deal. I received a letter in the past few days from someone who has been waiting for a decision on the taxation of costs for over three years. In this legislation we are dealing with the development of a new system to get rid of backlogs, so let us not create backlogs in other areas. Taxation of costs is an issue that must be dealt with and perhaps I can talk to the Minister after this debate about it.

Senator Jillian van Turnhout: I welcome the Minister to the House. Unlike the arrangements in other common law jurisdictions, the Irish Supreme Court is the court of final appeal in all appeals from the lower courts. According to recent figures published by the Courts Service and reported in *The Irish Times*, the Supreme Court received 605 appeals last year, a 21% increase on 2011. It issued 114 judgments, up 56% from 2011. This is quite extensive compared with the US Supreme Court, which issued 64 judgments last year, and the UK Supreme Court which issued 85 judgments last year. We are all aware there is currently a four-year backlog of cases at the Supreme Court.

The establishment of a court of appeal would represent a major reform and streamlining of the court system, and will bring Ireland more in line with Article 6 of the European Convention of Human Rights. While retaining the right of appeal from the court of appeal to the Supreme Court, in line with well-defined constitutional standards, it will help reduce the backlog of cases by removing from the Supreme Court's remit cases that are not appeals on constitutional issues

or cases of major importance. This will make the Supreme Court more of a constitutional court in the true sense.

I welcome the abolition of the one-judgment rule in cases involving the constitutionality of laws. This will allow the Supreme Court to issue more than one judgment and will be beneficial to the development of jurisprudence and public interest law. I agree with the Minister, Deputy Shatter, that an efficient and effective court system will help make Ireland more attractive to investors and multinational companies.

My one concern pertains to section 7, which deals with the interface between this Bill and the Thirty-second Amendment of the Constitution (Abolition of Seanad Éireann) Bill 2013. This is not so much a concern about the Bill before us, which I fully support and welcome, but more about the disquiet it raises in me about how uncertain and complex are the ramifications of the possible abolition of the Seanad. This is just one example of many instances of “if the Seanad is retained, then this, and if the Seanad is abolished, then that”. For example, section 7 references the vote on the thirty-second amendment. If the people vote “Yes” to abolish the Seanad - a big if - the date of that decision is not the same as abolition day, which is also mentioned by this Bill. Therefore, is the implementation day of the court of appeal expected for the term of the next Government rather than within the term of the current Government or will we have to have many Bills with all of these choices? There is a question with regard to the day of the vote and the date of abolition, if agreed, because these are not the same.

As I made very clear during yesterday’s debate, the question of Seanad abolition is one for the people and the people alone to answer. However, I remain concerned about the lack of clarity and certainty about what our Constitution will look like without the Seanad and how the gaps that will be left will be filled.

1 o’clock

Senator Trevor Ó Clochartaigh: Cé nach n-aontaíom i gcónaí leis an Aire i dtaobh cúrsaí polaitíochta, cathfidh mé a admháil go bhfuil sé mar cheann de na hAirí is mó oibre. We do not necessarily always agree on policy issues, but I commend the Minister for his work rate, as he has been one of the busiest Ministers and I hope he has a good break over the summer.

The Thirty-third Amendment of the Constitution (Court of Appeal) Bill is before us and we in Sinn Féin are also supporting it. As we know, it provides for the establishment of a new court of appeal, with a referendum required to make the necessary constitutional provision for its establishment. If the referendum is carried, the new court will hear appeals from the High Court, while the Supreme Court will hear cases on appeal from the court of appeal and, in exceptional circumstances, the High Court. This reform will bring about a major change in the courts system. I concur with much of what has been said by colleagues about the backlogs in the courts system. This provision will ease the four year backlog of cases in the Supreme Court which in future will only take appeals on constitutional issues or cases of major importance. We support the legislation and the proposition that the question be put to the people.

I take the opportunity to speak briefly on the issue of judicial appointments. As the Minister knows, Sinn Féin launched the Reform of Judicial Appointments Procedures Bill 2013 early this year. It is part of our campaign to end the political cronyism embedded in Irish society. When launching the Bill, we did so in the hope that it would put an end to the system of political appointees being made judges. The practice of the Government appointing senior judges must

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end if the public is to have any faith in a Judiciary free from political or other bias. This Fine Gael and Labour Party Government promised to be a reforming one and put an end to the “jobs for the boys” culture, but looking at the judicial appointments made so far, it is clear that many political cronies have been given jobs.

It is important to welcome the creation of a new court where proceedings take place within a reasonable time as an inefficient court system is costly. As runaway legal costs hamper even small businesses, I welcome the initiative to end this. I offer my support to the Bill and ask the Minister to take on board some of the concerns I have highlighted. I concur with the sentiment expressed by the Minister that justice delayed is justice denied and cannot let the opportunity pass without referring to an Adjournment matter on direct provision that I tabled for discussion last week and was taken on the Minister’s behalf. In that instance justice has been delayed and denied. The figures we received last week indicated that 1,849 people in the direct provision system had been waiting for over five years for a resolution of their cases. I agree that part of the delay is caused by the fact that people in that position take court cases to clarify the position or challenge rulings. That system is inappropriate and requires reform, as we are denying people the justice they deserve.

As I indicated on the Order of Business, I am dismayed by the Minister’s statement yesterday on Bethany Home. We are disappointed with the treatment of the Magdalen survivors, as well those who suffered as a result of symphysiotomy. In these cases we have also seen justice being delayed and denied and I hope that when the Minister returns reinvigorated after the summer break, he will try to deal with these issues as quickly as possible. I will raise them, in particular the issue of direct provision, as many times as possible. It has been stated not just by me but also by the Ombudsman and Mrs. Justice Catherine McGuinness that we have a scandal on our hands that is in the same league as that involving the Magdalen survivors, Bethany Home and those affected by symphysiotomy and a future Taoiseach will have to make a public apology if we do not act very quickly to effect change.

I note that the Minister, in making statements when he was in opposition, hoped to implement a new system in order that people would stay no longer than six months in direct provision accommodation. That hope has not been delivered on. I note that the immigration, residency and protection Bill has not been brought forward, but I hope it will be introduced quickly as the Minister has indicated that many of the reforms he is willing to implement in direct provision will form part of it. The people in that system deserve better and should not be kept in it as long as they are. There must be reform.

Sinn Féin supports the Minister on this Bill and thank him for bringing it forward.

Senator Ivana Bacik: I welcome the Minister for Justice and Equality, Deputy Alan Shatter, as well as the Bill which has received a general welcome across the House. I agree with the comments made by other colleagues that it is long overdue to enable us to deal with the extensive delays in dealing with the list of cases currently before the Supreme Court. Others have spoken, as the Minister mentioned, about the four year backlog of cases before the court, as well as the announcement by the Chief Justice that the courts simply cannot admit any more cases to its priority list, about which something must be done. The idea of having a court of appeal has been mooted for some time and it is welcome to see the issue being put to the people in the referendum.

The recent excellent series of articles in *The Irish Times* on the operation of the Supreme

Court illustrates the wide breadth of cases heard, including appeals from the High Court and constitutional cases. The establishment of a court of appeal will render the Supreme Court more like the constitutional courts in European jurisdictions or the *court de cassation* in France. We will see the court of appeal constituting an important filtering mechanism, apart from anything else. I absolutely support the provisions of the Bill dealing with it and, as others pointed out, it will improve access to justice for individual citizens, which is very important. I also commend the Chief Justice for her careful stewardship and work in putting forward proposals for reform in this area. A long process has led to the proposed change envisioned in the Bill.

I will focus on another aspect of the Bill that perhaps has received less attention, the provisions in section 5 providing for the deletion of Article 34.4.5° which contains the so-called one judgment rule. As the Minister noted, the rule provides that the Supreme Court can only issue one judgment when it hears challenges to the constitutionality of legislation. The provision indicates that the decision shall be pronounced by such one of the judges of the court as that court shall direct and no other opinion, assenting or dissenting, shall be pronounced. The Constitution review group in 1996 recommended a deletion of the rule to enable judges to give judgments in the normal dissenting and assenting way. If this provision is passed, there will potentially be a multiplicity of judgments on constitutional challenges.

There has been a very interesting debate about the one judgment rule and already a good deal of academic debate on law blogs about this proposal in the Bill. I hope it will give rise to further debate in the run-up to the referendum and that we will consider the history of the one judgment rule both in Article 34 and Article 26. I am glad that the Bill does not propose a change to the Article 26.2.2° rule which is framed somewhat differently in that the decision of the majority of the judges of the Supreme Court on an Article 26 reference shall be the decision of the court. It is clearly set out that it must be a majority decision, but there is a one judgment rule in place for Article 26 references and the referendum will not change that position. The Constitution review group could not reach a decision on the Article 26 one judgment rule, but it recommended change to the Article 34 one judgment rule.

The one judgment rule was inserted on foot of the 1941 amendments and following the 1940 constitutional revision committee review. Dr. Gerard Hogan's excellent book on the history of the Constitution gives us a really good insight into the debate on the one judgment rule at that point and we might revisit it in the course of this referendum debate. Éamon de Valera very clearly put his view forward that while from an educational point of view a multiplicity of judgments might be desirable, for him the desirability of a definite opinion was more decisive, which is why he favoured the one judgment rule in both Article 26 and Article 34. He argued that if we did not have a one judgment rule, it might be bandied about from month to month that a decision had only been made by a mere majority of the Supreme Court, with people saying there were five judges on one side and three on another, which was altogether undesirable. He was very much in favour of having a decisive approach and greater legal certainty.

Against this, the preponderance of academic opinion, as well as that of the Constitution review group, was that not only would abolition of the one judgment rule make it easier for judges but that it also would make it better for the public in general because we would be able to see in a more transparent fashion the reasoning used by judges in coming to a decision. Furthermore, having a number of judgments in any case contributes to the development of jurisprudence. That argument has been brought forward very strongly in the United States. I find the issue fascinating and it would be good for the debate to gain wider interest. I have a somewhat open mind on it because of the strong argument in favour of allowing judges to give individual judg-

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ments in these cases. On the other hand, particularly with an Article 26 reference, there is a strong argument, as Eamon de Valera said, in favour of greater legal certainty.

I teach criminal law and have examined a plethora of judgments such as the *Murray v. Ireland* case which deals with *mens rea* and the definition of recklessness. Therefore, I can vouch that generations of law students have struggled with what actually was the majority judgment of the court in that case. I hope we will not see similar difficulties arising with constitutional judgments in the future, on foot of the change.

Acting Chairman (Senator Michael Mullins): I call Senator Barrett and he has five minutes.

Senator Sean D. Barrett: I thank the Acting Chairman. I do not think that I shall use up my allotted time.

I welcome the Minister and his proposals. He gave numbers today which mean that the number of Supreme Court judges will increase by two up to ten and the number of High Court judges will increase from ten to 46. As his script said, there were four Supreme Court judges and five High Court judges in 1961. I am concerned, as an economist would be, about the growing appetite for law and litigation. We seem to be simply transferring resources from one person to another rather than directly creating anything.

I am concerned about the cost of the IFSC and so on which the Minister also mentioned in his script. As he knows, the National Competitiveness Council has received complaints from small businesses, as other Senators have said, and from large enterprises about the cost of law in Ireland. I have dropped in on cases in the High Court and there were multiple appearances, particularly where the State is involved. One can have in attendance a Minister, a quango, notice parties and so on. There are literally armies of lawyers also present. The citizenship is substantially outnumbered when the State is involved in a case.

I am concerned about statutory instruments. They can become law without being properly assessed here. I have had some connection with Mr. Justice Roderick Murphy who, as the Minister will know, deregulated the taxi business. That industry has been substantially re-regulated by statutory instruments that have never been discussed, as far as I can see, in either House which will lead to all sorts of legal complications down the way. We feel the same way about European directives. I said that as a lead into my next comment. I find the 33rd amendment of the Constitution a much more attractive proposition than the 32nd amendment.

There has been an explosion in the amount of litigation. The appetite of Irish people for litigation and the urge to spend so much resources on it must be of concern when we try to improve the overall competitiveness.

I have noted the new Supreme Court arrangements. When I visited the Supreme Court in Washington it was pointed out by an usher, rather like the great ushers that we have here, that there is a squash court in the attic. In fact, the US Supreme Court is not the highest court in the land because every day people play squash there at lunchtime. My joke must be excusable because this is the last day of term. I thank the Minister and wish his Bill every success.

Senator Rónán Mullen: The Senator's joke is inexcusable on any grounds but I thank him nonetheless.

I welcome the Minister and the legislation. I really welcome his reforming zeal in this regard and his intention to deal with delayed cases in our courts. Students of law well know, we must learn the maxim: “Equity aids the vigilant, not those who slumber on their rights” which is more simply rendered as delay defeats equity. In certain cases a people’s delay in bringing their own case can deprive them of the remedy they seek. As the Minister has rightly said, it is all the more unfortunate and wrong if a delay caused by the administration of justice deprives people of the certainty to which they are entitled, I mean in regard to where they stand regarding the law.

I wish to note what Senator Bacik said about the one judgment rule and she raised interesting issues. She made an interesting comment about Eamon de Valera’s preference for certainty and what one could sum up as a wish to have the law clear, pronounced and settled. I prefer the possibility of having different judgments being on the record even if it leads to some doubt or competition. Senator Bacik’s comment is quite right in terms of the development of jurisprudence and transparency.

Another issue is the avoidance of group think. Judges who deliver decisions that may differ from each other know that their decisions will be made known and their reasoning will be subject to scrutiny. That may make them more conscious of their duty to the society that they serve. I am glad that Mr. Justice Hederman’s decision in the X case is a matter of public record.

The Minister referred to the great work done by the current Chief Justice, Mrs. Justice Denham, in leading the reform process in the area, particularly the report of the working group in August 2009. However, I shall go back further. In the *Judicial Studies Institute Journal* judges often ventilate their views on issues where the realm of public policy and law intersect. In the journal the then Chief Justice, Mr. Justice Ronan Keane, commented on the structure of the hierarchy of the courts. In 2001 he wrote:

Ireland is unusual in having a one tier appeal system in civil cases. It would be far more satisfactory if a permanent Court of Appeal existed which sat in both civil and criminal divisions and which heard appeals from the High Court in all civil cases and cases of serious crime. That court in turn could grant leave to appeal to the Supreme Court where it was satisfied that a point of law of public importance was involved.

If anything, the situation has become more urgent and I agree with the assessment of the current Chief Justice that an appeal tier is urgently needed. The delays before the court are a matter of record and the Minister has set that out very clearly and starkly. He also rightly mentioned the impact on business and commerce.

If a new court of appeal is to be approved by the people then the following key question must be answered. On what basis will leave to appeal be granted, or not granted, by the Supreme Court? The question may be a cause for some concern as the public debate unfolds. The current position is that a full right of appeal from the High Court is *de facto* allowed but it is not the case elsewhere. As the House may be aware, the Supreme Court of the United States of America reviews the appeal dockets before its judges decide in conference which matters will be listed for hearing. They have judicial discretion as to which matters are afforded a full appeal to the highest court in that land.

In this country we guard the right of access to a court to resolve our disputes and protect our rights and good name. Public interest in protecting full access to the courts was seen by the

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rejection of the referendum on committees of inquiry, a referendum that was dear to the hearts of some Ministers. In order to avoid any fear or apprehension that judicial discretion, when listing a matter for appeal in the Supreme Court, would not be clear and based on rational criteria. It is worth considering making provision for reasons for rejecting an appeal from any court of appeal to the Supreme Court to be given in written form and open to scrutiny.

This legislation provides for two situations, where it is a matter of urgent general public importance or necessary in the interest of justice as the Supreme Court may decide to hear an appeal from the court of appeal. The legislation also provides for leapfrogging where the Supreme Court is of the view that a case, in any event, would end up before it. Therefore, the appeal may go straight from the High Court.

I am sceptical about the need for a constitutional referendum. The views of Mr. Justice Ronan Keane are persuasive. He continued:

There would appear to be no necessity to amend the Constitution in order to provide for the establishment of a new appeals structure of this nature. The Supreme Court has already held that there was nothing in the Constitution to preclude the establishment by the Oireachtas of the Court of Criminal Appeal in its present form. It was held that it was open to the Oireachtas to establish both courts of first instance and courts of appeal other than those mandated by the Constitution, i.e., the High Court and Supreme Court.

I commend the Minister's reforming zeal but I am not sure about all of the proposed amendments of the Constitution. Are they all necessary or desirable? The rush to abolish this House is part of that drive. In general, we should treat moves to change the Constitution with great care and debate because it is the basic framework of laws in this country. The Constitution guarantees our liberties and rights and should not be changed lightly.

I wonder whether there is a need to do what needs to be done in terms of establishing the court of appeal in this way. The Minister might be kind enough to address that.

It has been said in relation to the composition of any court of appeal that the experience in criminal cases would be that a permanent court of appeal would not suffer from the problems that now arise from the fact that the current Court of Criminal Appeal consists of three judges chosen for a particular list of cases. Mr. Justice Keane has suggested, and I quote, that the cycling of judges led to serious inconsistencies in the jurisprudence of that court-----

An Cathaoirleach: The Senator is way over time.

Senator Rónán Mullen: -----and in particular in the all-important area of sentencing. I see the Minister is proposing to address that. The appointment of permanent judges would appear to be central and it is essential that we would have a fixed complement of permanent judges chosen for the task.

Minister for Justice and Equality (Deputy Alan Shatter): I thank all those who spoke and for the support expressed by the overwhelming majority of Senators for this Bill. I was very pleased to hear what Senator O'Brien had to say, which mirrored what his colleague in the Dáil said. I hope we will actively engage both within the political parties and those who are Independent in seeking support for this measure. I am not sanguine about the outcome of referendums. I am conscious that there is another referendum that has created a great deal of excitement in this House and a great deal of media interest. There is a possibility that the focus

on that issue will result in the general public being unaware of what this proposal is about and it could create a difficulty in securing the “Yes” vote required.

It is notable that the issues relating to the Seanad and the Protection of Life During Pregnancy Bill got so much media attention and focus, both of which were entirely understandable. The court of appeal referendum Bill passed through the other House with practically no media notice. I believe it is important that the general public are informed as to the reason this is a reform that is in their interests and the reason they should vote “Yes”.

Senator Jillian van Turnhout: Hear, hear.

Deputy Alan Shatter: All of us know that as politicians we can make speeches and discuss the reason this is in the public interest but if the broadcast media go deaf and do not report any of it, and if the print media ignore it, communicating a message becomes extraordinarily difficult. People get so much material put through their letterboxes these days that the traditional way of informing people by leafleting and other methods is not always successful in grabbing people’s attention from other matters of greater importance to them in their daily lives. I would hope, if this Bill is passed by the Seanad today, that as a public service broadcaster RTE will give adequate attention to reporting that it has been passed by both Houses and that two referendums will be held on 4 October next, first, on the issue that has given rise to an amount of controversy in this House but, second, on an issue that has given rise to practically no controversy in either House and which is universally recognised as being in the public interest. It is of crucial importance that people vote “Yes” for this reform.

It is important to touch upon some of the issues raised. Senator O’Brien asked when people will see reductions in the waiting times for appeals. There will be an introductory phase of this process. I would hope the appointment of two additional members to the Supreme Court will, during the remaining part of 2013 into 2014, contribute to some extent to reducing the time delays but the creation of the court of appeal will be crucial. When it is created, based on the provisions contained in this proposal, certain appeals may be retained by the Supreme Court. There will be other appeals that will find their way into the court of appeal. We will then be in a position where we will have a Supreme Court that can sit in two divisions dealing with appeals and a separate court of appeal that had not previously existed dealing with appeals. It will take a little time for the backlog to be dealt with but we are providing an architecture which will facilitate that, and it will be for the new members of the court of appeal, as independent members of the Judiciary, to ensure that court does its business in a manner that is efficient but in which any appeal coming before it is fully and properly addressed.

Senator Conway made the point that this reform should have been in place some years ago. I believe, not simply wearing my political hat but both as a practising lawyer and as an academic who has written about various legal issues, this reform should have been put in place 20 years ago. An interesting statistic was given. If we look at the large number of cases our Supreme Court deals with for a population of 4.5 million people compared to the number of cases heard and in which judgments are delivered by the United States Supreme Court, it is extraordinary that our court deals with almost 50% more cases per annum in respect of which judgments are delivered and heard than the US Supreme Court. If one does the population comparator it makes no sense, and it is one of the reasons we need a court of appeal that can deliver justice in the determination of cases which are of individual importance to those engaged in them but which are not of general public importance and where it is not necessary, in the interests of justice, that the Supreme Court be engaged.

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A number of Senators made reference to the connectivity between this proposal and the Seanad referendum. In circumstances in which the people are being asked to make a decision on whether to abolish or retain the Seanad and where we have a Constitution which deals with a number of issues that are interconnected, this measure had to address where we would be should the Seanad referendum result in a vote to abolish or in a vote to retain. We had to ensure that there were alternative legal mechanisms in place so that there was no issue surrounding the validity of the court of appeal and no issue arising relating to members of the Judiciary in the area of impeachment in respect to which there could be any uncertainties. It was necessary to address those issues in a comprehensive way. I appreciate that that means that the Bill looks complex but it is easily explained. It is explained to people who vote on the basis that as citizens of this State they are entitled to know that should they unfortunately have to resort to our courts system to have something of importance in their lives addressed and resolved, we are making a change which would ensure that their court case is heard and dealt with within a reasonable timeframe to ensure that whatever the issue is, it can be resolved and they can get on with their lives. It is as simple and straightforward as that. It is crucial that we deliver justice in an efficient, effective and reasonable way and within reasonable timeframes. The debate need not become unduly complex. If we look at neighbouring jurisdictions in the European Union, many states would have a court which deals with appeals under the type of structure we will have should the referendum be successful.

Senator Zappone raised the issue of how the leapfrogging provision might work where there is an issue in respect of an appeal involving exceptional circumstances that warrant the appeal to be dealt with urgently, where it is a matter of general public importance and therefore is necessary in the interests of justice, and where it is a case which would pre-qualify for the Supreme Court deciding it should be dealt with. What we provide in the constitutional amendment is what I describe as the fundamental legal architecture, namely, the base law on which this is relied upon. Clearly, rules of court will be provided by the court rules committees which will set out the way one goes about dealing with that in a formal context. I presume it would arise in circumstances where a case is determined in the High Court and one or all of the parties to the proceedings will make an application to the Supreme Court setting out the reason they believe the case is one in respect to which the leapfrog mechanism should apply. The Supreme Court will hear that as a preliminary issue and would then make a decision. If the Supreme Court decided the case on appeal should come to it, it would be a case to be heard by the Supreme Court. If the Supreme Court took the view that it was not a case of exceptional urgency and of general public importance, and decided there was not a necessity in the interests of justice that the matter be dealt with by it, obviously it would decline to agree to the leapfrogging mechanism and the case would go to the court of appeal in normal course. I expect that the courts themselves may develop some rules of court in relation to that matter.

Senator Barrett referred to competitive issues and issues in the business area. One of the litmus tests when multinational companies are deciding whether to locate in Ireland relates to our rule of law provisions. They want to know what happens if they get engaged in a commercial dispute and have to go to the Irish courts. When they ask whether we have an independent Judiciary, the answer is that we do. They look at whether delays might occur if a dispute arises because delays can create major difficulty in business. Any undue delay could have a detrimental impact on the commercial capacity of a business to conduct its day-to-day affairs and thereby affect its financial stability or liquidity. It is important for us to address this issue in a commercial context. There is little point in having a High Court that deals with speed with issues of commercial dispute, only for a logjam to arise if one of the parties in dispute decides

to travel the Supreme Court route. There is a concern that people occasionally lodge an appeal simply as a tactic, in the knowledge that it serves to delay by three or four years the economic impact of the judgment that will inevitably be confirmed against them. I think we have to ensure our courts system is not misused in that way. I think this proposal will resolve that.

Senator Bacik raised the interesting issue of whether we will have a one-judgment rule when legislation is constitutionally challenged. We are proposing to allow each member of the Supreme Court to deliver a judgment. I agree with the views of the review group that examined this. I have always felt that the one-judgment rule is extraordinarily artificial. There are various circumstances in which our courts may deliver what I would describe as constitutional interpretations. I have no wish to re-enter the frame on the X case other than to point out that in that case, the Supreme Court was called on to interpret a constitutional provision. Each member of the court could deliver their judgment. There was transparency regarding how each of them regarded the factual background and the legal submissions they heard. If it is logical for each member of the Supreme Court to deliver a judgment on a constitutional interpretation within that type of legal application, I believe it would be completely illogical to provide for a single judgment in the case of a challenge to the constitutionality of legislation. It makes no sense. It is important for us to acknowledge that law evolves, society's values change and people's insights and perceptions change. Some of the greatest judgments delivered by the US Supreme Court have been dissenting judgments that became a majority judgment some decades later in changed circumstances, when the issue was revisited in a new era of greater understanding and insight.

One of the rights that people enjoy as citizens is an entitlement to have a visibility of the manner in which our courts reach decisions - the thought processes that are used and the manner in which judgments are framed. I think this measure provides an important additional degree of transparency. The one-judgment rule would have created a dilemma in this case. Most courts of appeal across the world, such as the one we are proposing to establish, allow for judges to deliver a multiplicity of judgments, regardless of whether they sit as three-judge courts or a five-judge courts. It would be very odd if we allowed this new court of appeal to deliver a multiplicity of judgments while allowing the Supreme Court to deliver a single judgment in the case of a constitutional challenge. One might have all three judges of a divisional court of the High Court delivering the same judgment, and another group of judges in the court of appeal agreeing with the High Court, but one judgment from the Supreme Court where one judge appears to disagree with everyone who has previously delivered a judgment on the matter. It is important for us to have this level of transparency. It is important for members of the Judiciary to be able to deliver the judgment they individually believe to be correct, as opposed to some composite judgment they have to agree among themselves, which could result in a member of the court not fully buying in to the compromise reasoning that is being given. I do not know whether that happens in practice, having never been a member of the Supreme Court-----

Senator Lorraine Higgins: Yet.

Deputy Alan Shatter: -----but I think it is preferable. I have no ambition to be a member of the Supreme Court either.

Senator Rónán Mullen: It is below the Minister's pay grade.

Deputy Alan Shatter: It is a good idea that we have that level of transparency.

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I was asked why we need a referendum. We need a referendum so that the people can make a decision. Our Constitution presently provides that appeals go from the High Court to the Supreme Court. If we are going to put a new legal architecture in place, it is important for the people to be given an opportunity to express their views on that. The people are sovereign. They are being given an opportunity to express their views on an issue of importance because we are creating an architecture in which the vast majority of appeals from the High Court will be dealt with in the court of appeal and will never enter the Supreme Court. The Supreme Court will deal with cases that are seen to be of general public importance, or where it is necessary in the interests of justice for that court to deal with such cases. The principles that will be applicable are similar to those that are applied by supreme courts in other states across the world. The idea is to ensure the Supreme Court is called into duty in such circumstances only. It is important to make sure the people approve of that change. The current position is that once a case is determined in the High Court, it can automatically be appealed to the Supreme Court.

It is worth mentioning that it is important for appeals in cases in the criminal justice area - an individual may be appealing against a conviction or against the length of the sentence imposed on him or her, or the DPP may be appealing against the leniency of the sentence - to be heard without undue delay as well. There is a very substantial public interest in that regard. We have a Court of Criminal Appeal that is established by statute, but it does not sit five days a week. It is composed of members of the High Court and the Supreme Court. I think the constitutional foundation that will result in the establishment of a general court of appeal that will be able to sit permanently if necessary in two divisions - one dealing with criminal cases and the other dealing with all the other areas of civil law - will ensure we protect the civil rights of those who are charged with offences and convicted and the rights of the public. If the DPP believes that a sentence is too lenient, this measure will ensure the issue of leniency will be addressed with speed. I believe this change has the capacity to bring about a system that reflects the type of court structure we should have in the 21st century. I hope all of the Senators who have expressed support for this measure will support it enthusiastically during the referendum campaign and use their local media to urge people to vote "Yes". I am looking forward to knocking on a few doors, hopefully in weather that is as good as the weather we have had recently, to urge a "Yes" vote on this issue.

Senator Rónán Mullen: Can I ask the Minister to comment on what I had to say about the transparency of the Supreme Court?

Cuireadh agus aontaíodh an cheist.

Question put and agreed to.

An Cathaoirleach: When it is proposed to take Committee Stage?

Senator Martin Conway: Now.

An Bille um an Tríú Leasú is Tríocha ar an mBunreacht (Cúirt Achomhairc) 2013: Céim an Choiste agus na Céimeanna a bheidh Fágtha

Thirty-third Amendment of the Constitution (Court of Appeal) Bill 2013: Committee and Remaining Stages

An Cathaoirleach: Before Committee Stage commences, I would like to deal with a procedural matter relating to Bills to amend the Constitution. The substance of the debate on Committee Stage relates to the wording of the proposed constitutional amendment which is contained in the Schedules to the Bill. The sections of the Bill are merely technical. Therefore, in accordance with long-standing practice, consideration of the sections is postponed until consideration of the Schedules has been completed. Is that agreed? Agreed.

Aontaíodh Sceidil 1 go 8 go huile.

Schedules 1 to 8, inclusive, agreed to.

Aontaíodh ailt 1 go 8 go huile.

Sections 1 to 8, inclusive, agreed to.

Aontaíodh an Réamhrá.

Preamble agreed to.

Aontaíodh an Teideal.

Title agreed to.

Tuairiscíodh an Bille gan leasuithe agus glacadh é chun an breithniú deiridh a dhéanamh air.

Bill reported without amendment and received for final consideration.

Tairgeadh an cheist: “Go rithfear an Bille anois.”

Question proposed: “That the Bill do now pass.”

Senator Averil Power: I commend the Minister on his introduction of this Bill. It is very important legislation. The Supreme Court is completely overburdened at the moment, with 121 judgments considered last year, which is twice the number that went through the US Supreme Court. The Minister strongly made the point in his speech that justice delayed is justice denied. As things stand, people are waiting four years for their cases to be heard. This Bill will make a real difference in ensuring that people’s rights can actually be vindicated by the courts in a timely fashion. An article in *The Irish Times* pointed out that it has gone from four months to four years. That has had a negative impact on many people, so I welcome the passing of this Bill.

I welcome the provision in respect of the one judgment rule. This will make a big difference. Things change over time, and from reading judgments in the past I have seen it is often the minority judgments that are of greater interest and which in time, as societal attitudes change, become the majority view. I welcome the fact that for cases referred in this manner, we will benefit from that same diversity of opinion and legal approaches, rather than being forced to have a compromise approach in which many views are dumbed down.

I welcome the Bill and I would like to assure the Minister that our party will do everything we can to ensure it is passed following a referendum. As he pointed out, a referendum should not be taken for granted. I have no doubt he learned that lesson last year. I hope the people will rebuff the Government’s efforts in the Senate referendum, but we understand the importance of this Bill in giving people recourse to the courts. If they have to wait for years there is often no

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point, and people already have been affected in a negative way by the time they get a chance to have their day in court. We will do everything we can to ensure it is passed by the people as well.

Senator Trevor Ó Clochartaigh: Gabhaim buíochas leis an Aire as ucht na reachtaíochta seo a thabhairt os ár gcomhair. Guímid gach rath air. Sílimid go bhfuil sé riachtanach go mbeadh a leithéid ann agus beimid ag tacú leis. We will support this Bill, as I said previously. On Second Stage I brought up the issue of direct provision, and I noted the 1,850 people who have been in that system for more than five years. The Minister indicated to me previously that many of those cases are being held up because they are taking appeals through the court system. If this new court system were to be approved by the people, does the Minister think it would alleviate those waiting lists and the length of time people are waiting in that area?

Senator Darragh O'Brien: It is fitting that the Minister is here for the last piece of business we have in this session. While we have had some heated and detailed exchanges on various Bills in this session, I fully respect the detail he brings to the debates here in the Seanad. I wish him a good break and would like to say there was nothing personal in the various issues I have raised over this term. I hope he enjoys the break. He has proven to be an effective and reforming justice Minister and we will certainly support that from this side.

Senator Jillian van Turnhout: Hear, hear.

Senator Darragh O'Brien: I will still argue about issues with which I do not agree, but that is democracy. I wish the Minister a good break over the summer.

Senator Martin Conway: I concur with Senator O'Brien. We have had some extremely informative and interesting discussions with the Minister for Justice and Equality. He treats the Seanad with utter respect and the forensic detail in his contributions is certainly a lesson to many other Ministers. I wish him an enjoyable summer break, because it is well earned.

Senator Katherine Zappone: We are fighting to wish the Minister a great rest and to thank him sincerely for his robust debate, for speaking the truth as he sees it, and for his commitment to access to justice. If that means at times that he speaks with gusto as well as guts, then so be it. I thank him and wish him a good rest.

Senator Lorraine Higgins: Such was my enthusiasm to add to the chorus of well wishers, I could hardly keep myself in my seat for such a long time. I would like to add my good wishes. I have always enjoyed listening to the Minister in the Seanad and his articulate speeches. He has been outstanding with his reforms and there is no doubt about that. As somebody who worked in the Irish courts system for seven years, I recognise that the system is outdated and I must commend him on his efforts in trying to reform the courts system. I thank him on behalf of the Labour Party group in the Senate and I wish him a great break.

Senator Sean D. Barrett: I concur with all those wonderful sentiments towards the Minister.

Minister for Justice and Equality (Deputy Alan Shatter): I can only say that I am overwhelmed with all the love. I think we should have the last day of sittings every day. I thank Senators for their kind comments and I wish all Senators some relaxation as we head into the summer break. With other matters coming down the track, I am conscious that many of them will be very engaged, but I urge people to take some time out. The one thing I have learned

in political life is that everyone needs to recharge their batteries. I thank everybody for their comments.

Many of the cases in the asylum area are judicial reviews. Many of them are awaiting hearings in the High Court, and some of them have been long delayed because they awaited decisions from other courts outside the State. If we make this change, it should ultimately ensure that matters which might have suffered a further logjam will be broken up. I hope that when we come back from the summer break, I will finally be able to bring in the immigration and asylum Bill. This has been delayed for no other reason than the demands on the Office of the Attorney General of a raft of other legislation that I have been bringing forward. I wanted to prioritise this area from the start, but some of the same people who were drafting this had to draft Bills in other areas to which the troika demanded we give priority. It is almost unfortunate that this was not an issue to which they demanded we give priority. There is a limit to what personnel can do and those who work with me in my Department are probably heartily sick of me at this stage and I am sure they will be glad to be rid of me for a couple of weeks over the vacation period. I hope they and the Senators have a good vacation. I look forward to further interesting and constructive engagements in this Chamber when we all come back rested in September.

Cuireadh agus aontaíodh an cheist.

Question put and agreed to.

Ráiteas mar Fhaisnéis do Vótálaithe i ndáil leis an mBille um an Tríú Leasú is Tríocha ar an mBunreacht (Cúirt Achomhairc) 2013: Tairiscint

Statement for the Information of Voters in relation to the Thirty-third Amendment of the Constitution (Court of Appeal) Bill 2013: Motion

An Cathaoirleach: Item No. 2 is a motion re a statement for the information of voters in connection with the Thirty-third Amendment of the Constitution (Court of Appeal) Bill 2013. The motion was debated in conjunction with Second Stage of the Bill.

Senator Maurice Cummins: Tairgim:

GO ndéanfar an ráiteas atá leagtha amach sa Sceideal a ghabhann leis an Rún seo a fhorordú mar fhaisnéis do vótálaithe, de bhun alt 23 d'Acht an Reifrinn, 1994 (Uimh. 12 de 1994), i ndáil leis an togra chun an Bunreacht a leasú atá ar áireamh sa Bhille um an Tríú Leasú is Tríocha ar an mBunreacht (Cúirt Achomhairc), 2013 agus is ábhar do reifreann bunreachta.

An Sceideal

Fiafraítear díot an aontaíonn tú leis an togra—

(a) chun an Bunreacht a leasú chun cúirt dar teideal an Chúirt Achomhairc bhunú,

(b) dá dhroim sin, chun forálacha eile den Bhunreacht a leasú, go háirithe na forálacha a bhaineann le dlínse na Cúirte Uachtaraí chun achomhairc aghaidh breitheanna ón Ard-Chúirt agus ó chúirteanna eile a éisteacht agus a chinneadh, agus

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(c) chun fo-alt 5^o d’Airteagal 34.4 den Bhunreacht, ar a dtugtar riail ‘an aon bhreithiúnais amháin’, a scriosadh, ar fo-alt é a bhaineann le breitheanna ón gCúirt Uachtarach ar cheist i dtaobh dlí a bheith bailí nó gan bheith bailí ag féachaint d’fhorálacha an Bhunreachta.

MÁ THOILÍONN TÚ leis an togra, cuir X os coinne an fhocail TÁ ar an bpáipéar ballóide.

MURA dTOILÍONN TÚ leis an togra, cuir X os coinne an fhocail NÍL ar an bpáipéar ballóide.

I move:

THAT the statement set out in the Schedule to this Resolution be prescribed for the information of voters, pursuant to section 23 of the Referendum Act 1994 (No. 12 of 1994), in relation to the proposal to amend the Constitution which is contained in the Thirty-third Amendment of the Constitution (Court of Appeal) Bill 2013 and is the subject of a constitutional referendum.

Sched-
ule

You are being asked if you agree with the proposal—

(a) to amend the Constitution for the purpose of establishing a court to be called the Court of Appeal,

(b) as a consequence, to amend other provisions of the Constitution, in particular, the provisions relating to the jurisdiction of the Supreme Court to hear and determine appeals from decisions of the High Court and of other courts, and

(c) to delete subsection 5^o of Article 34.4 of the Constitution, known as the ‘one judgment’ rule, relating to decisions of the Supreme Court on a question of whether a law is valid having regard to the provisions of the Constitution.

IF YOU APPROVE of the proposal, mark X opposite the word YES on the ballot paper.

IF YOU DO NOT APPROVE of the proposal, mark X opposite the word NO on the ballot paper.

Cuireadh agus aontaíodh an cheist.

Question put and agreed to.

An Cathaoirleach: When is it proposed to sit again?

Senator Maurice Cummins: At 2.30 p.m. on Wednesday, 18 September 2013.

The Seanad adjourned at 1.50 p.m. until 2.30 p.m. on Wednesday, 18 September 2013.