



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

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SEANAD ÉIREANN

Dé Céadaoin, 18 Meitheamh 2014

Wednesday, 18 June 2014

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

Machnamh agus Paidir.
Reflection and Prayer.

Business of Seanad

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

The need for the Minister for Education and Skills to review the situation whereby public servants would be entitled to more days off to attend local council meetings.

I have also received notice from Senator Colm Burke of the following matter:

The need for the Minister for Justice and Equality to amend current legislation to enable her to appoint a third taxing master in the High Court in view of delays in dealing with the taxation of costs.

I have also received notice from Senator Denis Landy of the following matter:

The need for the Minister of State at the Department of Communications, Energy and Natural Resources to clarify whether snap net fishermen who have operated on the River Suir for more than 1,000 years will be allowed to resume this important tradition following the ruling by Inland Fisheries Ireland banning them from doing so based on disputed salmon counts.

I have also received notice from Senator Averil Power of the following matter:

The need for the Minister for Children and Youth Affairs to provide immediate funding for an independent helpline and counselling service for adoptees and birth relatives to outline if and when he will bring forward legislation to ensure that all adoptees have an automatic right to their birth certificate once they reach the age of eighteen, and if he will establish a proper adoption information, tracing and reunion service to assist adoptees and their birth relatives.

I have also received notice from Senator Fidelma Healy Eames of the following matter:

The need for the Minister for Social Protection to explain why she plans to press ahead next week with measures that will disincentivise up to 9,000 one-parent families from working and, by so doing, act counter to stated Government policy.

I have also received notice from Senator Martin Conway of the following matter:

The need for the Minister for State at the Department of Health to outline when she plans to introduce a personal budget model so that people with disabilities or their families have the flexibility to make choices that suit their needs best.

I regard the matters raised by Senators Daly, Burke, Landy and Power as suitable for discussion on the Adjournment and they will be taken at the conclusion of business. Senators Healy Eames and Conway may give notice on another day of the matters they wish to raise.

Order of Business

Senator Maurice Cummins: Our schedule has been curtailed due to a number of factors. The Committee Stage of the Companies Bill finished last evening. We had allocated three hours today for that Bill. The Housing (Miscellaneous Provisions) Bill, which was due in the House this evening, did not finish in the Dáil last evening.

The Order of Business is No. 1, statements on the 750th anniversary of the first Irish Parliament, to be taken at 11.45 a.m. and to conclude no later than 1.30 p.m., with the contributions of group spokespersons not to exceed eight minutes and those of all other Senators not to exceed five minutes, and the Minister to be called on to reply to the debate no later than 1.25 p.m.; and No. 2, Irish Human Rights and Equality Commission Bill 2014 - Second Stage, to be taken at 2 p.m., with the contributions of group spokespersons not to exceed ten minutes and those of all other Senators not to exceed six minutes.

Senator Marc MacSharry: Can I propose that No. 14, which seeks leave to introduce the Suicide Prevention and Mental Health Fund Bill 2014, be taken before No. 1? We all welcome the U-turn that the Government has made in terms of the discretion on medical cards. The Minister referred to unintended consequences. Having listened to one lady on the radio today, I find that expression disturbing. Were they the unintended consequences of all the councillors in Fine Gael and Labour who lost their seats? Was it the unintended consequence of the suffering that people have endured in the past 12 months? God knows, if any Minister had listened to anybody on any side of this House in the past 18 months, it would have been crystal clear on a daily basis. Senator Kelly from Roscommon, along with other colleagues on all sides of the House, gave daily examples of the individual cases of unintended consequences throughout the country and the suffering that was endured.

One of my colleagues will propose an amendment to the Order of Business later that we might have the Minister in the House today. Given that we have so much time to spare because the Dáil is not doing its business as efficiently as us, perhaps we could have a debate and get to the bottom of the situation. By the Government's own figures, 30,000 people have lost discretionary medical cards in the past 18 months. On the one hand, we have the Taoiseach saying that 13,000 medical cards will be refunded or returned, while, on the other, the Minister, Deputy Reilly, has said that 15,300 people will have their cards returned. What is happening to the other 15,000 people? What is happening to the 7,000 people in their 70s and 80s who,

having had the life scared out of them by a letter saying that they would have to be reviewed and asking them to send in information, did not bother because of their fear of the process and of not being able to go through it because of their ailments, because of their fear or because of their senior years? What about those 7,000 people? What happens if a child or elderly person is struck down with a serious illness? We now know by the Leader's own admission that the expert group will not report for almost a year on who is going to be eligible for discretionary cards based on illness. What happens to the person who is struck down by MS, lung cancer or motor neurone disease tomorrow, or by the countless other illnesses that people have? It will be of little consolation to the people who have lost their seats, with the governing parties having been rightly savaged in the election for this blunder, but do the people not deserve to be told what is going on? Who is getting what back? Are we to give the cards back and say: "By the way, here's your card back now, but you see that money, which can be anything up to €1,200 per month according to the Carers Association, that some of you had to dish out over the last three years? Tough on that. We are not paying you that back, but, because we got savaged in the election, here is the card back now." We want a full breakdown of what is happening to all 30,000 people. We want a full breakdown of what is happening to the sick child or sick elderly person of tomorrow. We also want to know precisely what is going to happen to those people who have been fleeced in the interest of a Government which was not listening to its own backbenchers never mind the Opposition.

Senator Ivana Bacik: I welcome the Government's decision yesterday on discretionary medical cards. I know that quite a number of colleagues referred to it yesterday on the Order of Business and I meant to do so myself. It will offer great reassurance to many. The Minister for Health, the Taoiseach and the HSE officials who have spoken in the media have done their best to clarify the circumstances of the decision and its consequences.

I also welcome the arrangements made by the Ministers, Deputy Ruairí Quinn and Deputy Frances Fitzgerald, for the international language students who have been left in a difficult position following the closure of five private language schools. They will now be offered discounted places at existing language schools. That will offer great reassurance to them and it is important that that decision has been made. Perhaps not enough credit has been given to the Ministers for that.

I also welcome the news last night that the Department of Social Protection had published the redrafted scheme of the Gender Recognition Bill, which would provide for the first time a mechanism for transgender persons to register a change of identity. The Bill has been a long time in preparation following the legal action taken against the State by Lydia Foy, whom I commend for her long campaign to secure this legislation. I welcome the new scheme that has been published, in particular that it has taken account of the recommendation of the Joint Committee on Education and Social Protection that it should be possible to register a change of gender at 16 rather than 18. That was the unanimous recommendation of the committee. There are outstanding issues to be dealt with, but I welcome the redrafted scheme.

The Department of Social Protection recently released records from the General Register Office to enable us all to see the full details of the deaths registered at Tuam in the mother and baby homes. It is a poignant and tragic fact that 79% of the babies whose deaths were registered died at under one year of age. I know that Senator Power has a matter on the Adjournment concerning tracing, but this case raises the question of the right to information about one's origin and a right to know one's identity. We have made a recommendation in the justice committee that such a provision be included in the Child and Family Relationships Bill. I know that we

will be pressing on that further.

Senator Sean D. Barrett: I welcome the inaugural flight yesterday to Ireland from St John's, Newfoundland. It is a new service that has been 90% booked for the season, with 16,000 people booking seats on the very first day that bookings opened. It reunites Waterford and its cultural heritage with Newfoundland. They have common music and the same kind of accents and so on. It brings people from Canada to Ireland without going by way of Heathrow. We should look at the possibility of opening up more direct routes, because going by way of Heathrow would mean four or five hours spent hanging around. The travel time between Newfoundland and Ireland was almost halved yesterday by not having to go via Heathrow.

I hope that the statements made by certain Ministers about the banking inquiry, talking about coups, stunts and strokes and so on, will be filed on the website *Daft.ie*. The idea that Senator Norris, Senator Cummins and Senator O'Donovan got together in some kind of conspiracy is absurd. This time tomorrow we will have our first meeting. We need to examine what bank boards were doing; what their auditors were doing; what the senior officials were doing; what the Central Bank which was supposed to be regulating the sector was doing; how much the EU intervened; whether there were design faults in the euro currency from the day we joined; why we did not look at the small print while Gordon Brown and his opposite numbers in Sweden and Denmark did; measures to prevent a recurrence; the cost; and why Canada, under its finance Minister, Jim Flaherty and Mark Carney as Governor of the Bank of Canada, managed to avoid both the banking crisis and a public finance crisis. I thank the House for its unanimous endorsement of me as a member of the committee and we will take suggestions. After the ridiculous start, I am sure it will do valuable work for the country. I need assurance that we have made sufficient institutional changes to ensure such a crisis will not happen again. We need far stricter regulation of the financial sector and under the Chairman, Deputy Ciarán Lynch, I am sure we will proceed in that direction. We will try not to let the House down.

Senator Terry Brennan: Yesterday the Leader, Senator Maurice Cummins, said he would occasionally like to hear some good news in the House. I have some good news for it.

Senator Paul Coughlan: It is very welcome.

Senator Terry Brennan: This morning PayPal and the Taoiseach announced the creation of another 400 jobs which will be based at the Ebay European operations centre in Dundalk and are in addition to the 1,000 PayPal posts announced almost two years ago.

Senator Martin Conway: Well done, Senator.

Senator Terry Brennan: It will bring the combined PayPal and Ebay employee numbers in Dundalk to 18,050 by 2018. The investment is supported by the Department of Jobs, Enterprise and Innovation through IDA Ireland. PayPal is a world leader in online and mobile payments, making it easier, more secure and more intuitive for people to pay whenever and wherever they want. Its centres in Dublin and Dundalk manage 60 million active accounts in Europe, the Middle East and Africa. The 400 jobs announced this morning will be filled by 2018, bringing PayPal's total Irish workforce to 2,900. The Government was delighted to support the creation of these new jobs in Dundalk which will provide new opportunities for people across the north east. The announcement further enhances Ireland's reputation as a prime location for global businesses and is a tribute to our talented and flexible workforce.

An Cathaoirleach: Is the Senator requesting a debate on it?

18 June 2014

Senator Terry Brennan: It is good news and the Cathaoirleach should give me another minute. Mr. Barry O’Leary, CEO of IDA Ireland, who is about to retire said, “PayPal’s growth in Dublin and Dundalk is one of the largest projects the IDA has ever been involved in bringing to Ireland.”

An Cathaoirleach: The Senator is way over time.

Senator Terry Brennan: We can have a debate to see if we can get 300 or 400 jobs in the Leader’s home city of Waterford.

An Cathaoirleach: I call Senator Diarmuid Wilson.

Senator Terry Brennan: It is nice to bring good news.

Senator Diarmuid Wilson: I join Senator Terry Brennan in welcoming the additional 400 jobs PayPal will provide in Dundalk. I pay tribute, yet again, to the European vice president of PayPal, a native of County Laois, Ms Louise Phelan, who has been instrumental in enlarging the workforce in the company. As Senator Paul Coghlan has pointed out, her brother was a former colleague of ours, the late Senator Kieran Phelan. Ms Phelan is going from strength to strength in providing employment in the country. The additional 400 jobs in Dundalk will prove very beneficial to whole north east of the country, including counties Cavan, Monaghan, Louth, Meath and further afield. I very much welcome the news to which Senator Terry Brennan alluded.

I propose an amendment to the Order of Business that the Minister for Health, Deputy James Reilly, come to the House to clarify what he means by reversing the decision on discretionary medical cards. As Senator Marc MacSharry outlined this morning, 30,000 people have lost the so-called discretionary medical cards. The Minister said 15,300 would be restored, while in the Dáil the Taoiseach said 13,500 would be restored. Whoever is correct, more than 15,000 people will not have their discretionary medical cards restored. It is important that the Minister come to the House this afternoon to outline what he means by the reversal of the decision to take discretionary medical cards from the most vulnerable in society. As I said a number of weeks ago, it is time for backbenchers - in particular Fine Gael backbenchers since Labour Party backbenchers are obviously being ignored by their party - both Deputies and Senators, to stand up and outline what is happening on the ground. It did not happen when we were in government. We were not listened to and look what happened in the general election that followed. Backbenchers should stand up for the people they are here to represent and not let the Government get away with what it is doing.

Senator Aileen Hayden: I welcome the visit over these two days of the Tánaiste and Minister for Foreign Affairs and Trade, Deputy Eamon Gilmore, to Washington. He is focusing particularly on the plight of the undocumented Irish in the United States. He will meet Republican and Democrat politicians in the hope of making progress on the immigration reform Bill. We are all aware of the approximately 50,000 undocumented Irish in the United States, which is a source of great distress for a large number of Irish families on both sides of the water. While Skype is wonderful, it is no consolation to somebody who cannot pick up his or her grandchild. It is a very important issue and I am delighted that the Tánaiste is making it a priority.

I highlight the worrying deterioration of the situation in Iraq, particularly a YouTube video showing the assassination of a Shia prisoner in front of a large crowd of Isis militants which included children as young as eight years of age holding guns and watching the execution. It

is a tragedy of the highest order to have children involved in such a conflict. Can we have a debate with the Tánaiste on his return from Washington to discuss the undocumented Irish and general foreign affairs issues, including the situation in Iraq and other places around the world that are causing great concern?

Senator Kathryn Reilly: In recent weeks there has been much talk about the national finances and potential tax cuts in the upcoming budget. This morning the Minister for Public Expenditure and Reform, Deputy Brendan Howlin, and the Minister for Finance, Deputy Michael Noonan, said the accounts looked positive so far. The IMF post-bailout review is to be released at 4 p.m. Will the Leader facilitate a debate on the issue of tax? Every year coming up to the budget we ask for a broad discussion on it. Yesterday the Minister, Deputy Brendan Howlin, said there would be some leeway for tax cuts. In May, before the local and European elections, the Minister for Finance, Deputy Michael Noonan, said he intended to widen tax bands to increase the level at which people began to pay at the higher rate of tax. Yesterday the Irish Fiscal Advisory Council warned that there was no leeway for budget cuts. The draft report from the European Commission on its first post-bailout review indicated that statements by the Ministers were creating expectations that would be difficult to manage. Given these comments, it is important that we have a broad discussion on where we are going. Although the national accounts will not be examined properly until the end of the summer and the Minister, Deputy Michael Noonan, would be restrained in what he could tell us and would give no fixed view, it would be worth having a discussion on taxes. It would be good for Senators to have an overview when formulating their budget submissions, especially when the two Ministers are giving opinions that there is leeway, which are in conflict with what the Irish Fiscal Advisory Council has stated. If we had some idea on whether there was flexibility, it would help us in the budgetary process. As has been said many times before, the Seanad can play a very productive role in having an input into the budgetary process prior to October.

11 o'clock

Senator Martin Conway: I commend Senator Terry Brennan and all those involved in securing another 400 jobs for Dundalk. If every Senator could make such an announcement every day, the country would be in a better place.

Much has been said in recent weeks in this House and beyond about the banking inquiry. I wish Senators Marc MacSharry and Sean D. Barrett the best of luck in what will be an extremely important inquiry, not only for the future of the country but also to ensure history is written correctly.

Senator Sean D. Barrett: I thank the Senator.

Senator Martin Conway: We should all endorse the two Senators and our other two colleagues, Senators Susan O'Keeffe and Michael D'Arcy, for their commitment to and agreeing to take part in the banking inquiry. It is clear that some people wish they had never been appointed to the banking inquiry committee and have jumped off. I see this as a reneging of responsibilities. I wish the four representatives from this House well in their deliberations.

I thank the Government for recognising the mistake made in respect of discretionary medical cards. It is one thing to realise a mistake was made but an entirely different matter to turn around and rectify and apologise for it. If ever there was a clear demonstration of understanding the electorate after an election, it is reflected in that decision. I regret, however, that it took

an election to create this new reality. Everyone makes mistakes, including governments. I would not want to be ruled by a Government that did not make a mistake, but the key challenge is to learn from them. I hope we will move on to a fresh and more positive environment because the people want positivity from their politicians, not the negative drivel they are getting day in, day out.

Senator Labhrás Ó Murchú: I second the amendment proposed by Senator Marc MacSharry. I understand it relates to the suicide prevention and mental health Bill.

Later we will have statements on the 750th anniversary of the first Irish Parliament when I understand the Minister for Arts, Heritage and the Gaeltacht, Deputy Jimmy Deenihan, will be in the House. In many ways, he Minister epitomises what is good about a parliamentary democracy through the consultative processes he has put in place. I ask the Leader to invite him back to discuss the programme marking the centenary of the 1916 Rising. There is an opportunity to make suggestions and proposals or enhance some of the proposals already being made. Recently I attended a function at which a pipe band played and on the drum were the words, "The Thomas Ceannt Pipe Band". Each time I hear that pipe band play people ask who was Thomas Ceannt. He was executed in 1916 and buried in Cork gaol. On at least half a dozen occasions in the past ten or 15 years I have asked that serious consideration be given to transferring his mortal remains to a much more fitting setting. I was involved previously with the project on the forgotten ten volunteers, including Kevin Barry, in Mountjoy Prison. On that occasion it was agreed that their remains be transferred to a more fitting location. One of my great memories was the manner in which the cortège carrying the remains of the volunteers was received by the general public. There was absolutely nothing that could upset or worry anyone. Some discussions have taken place with the Ceannt family who, I understand, are prepared to facilitate this process. During the period mentioned all of the Ceannt family played a very significant role. Would it not be an ideal opportunity marking the centenary of the 1916 Rising to take the final steps and do what is right in this context? I raise the issue today, but we need a broader discussion of the programme on which the Minister is working. I would appreciate it if the Leader endeavoured in the very near future to bring the Minister back for a debate to give us all an opportunity to contribute to the evolution of that programme.

Senator Denis Landy: Last December during the debate on the Animal Health and Welfare Bill I referred to the serious allegations made against the greyhound industry and Bord na gCon. At the time I was informed by the Minister of State at the Department of Agriculture, Food and the Marine, Deputy Tom Hayes, that he had commissioned a report from Indecon on the alleged doping of greyhounds and the waste of money at various tracks around the country. The report was intended to cover issues such as policy governance, the regulatory framework and financial controls. As some 30 issues had been raised by the Irish greyhound breeders organisation with the Minister, I requested that they be included in the issues to be covered by the report. Six months on Indecon has not published its report, even though the Minister indicated in the Lower House that the report would be available at the beginning of June. In correspondence I have received in recent days it has been indicated that it will not be available until the end of June, but that the Department will need a few extra weeks to examine it. Effectively, therefore, it will not be made available until after the summer recess. Thousands rely on the greyhound industry for their livelihoods. In my county the largest tourism attraction during the year is the Irish coursing festival which takes place in February and is worth approximately €5 million to the local economy. All of this will be jeopardised and damaged by the fact that question marks lie over greyhound racing on the track and coursing owing to allegations of doping, malpractice

and other practices. It is not acceptable that a report which a company was commissioned in January to produce - it indicated to the Minister that it would be available within eight weeks - is not available 25 weeks later. I ask the Leader to request the Minister to come to the House to update us on the matter and to ask Indecon to deliver the report it promised to deliver three months ago.

Senator James Heffernan: I concur with Senator Denis Landy and call for the immediate publication of the report on the greyhound industry.

I differ slightly with Senator Martin Conway on the banking inquiry. I wish Senator Marc MacSharry and Senator Sean D. Barrett, a man of the highest integrity, the best of luck. Following the shenanigans in the Chamber last week, it is time for Senator Michael D'Arcy to go to Mount Leinster-----

An Cathaoirleach: We are not revisiting that debate.

Senator James Heffernan: -----and for Senator Susan O'Keeffe to take a boat trip on Lough Gill and consider the opposition to the inquiry.

An Cathaoirleach: The House has made a decision on that matter.

Senator James Heffernan: There was blatant disregard for democracy in this Chamber last week.

I draw to the attention of the House an issue that has annoyed me every week since I became a Member. I have two bills from Government Publications last week, each for €8.89, giving a total of €17.78. Let us make it €20 and multiply it by 60. It amounts to €1,200 per day to have Bills printed and provided for us in our pigeon holes. Add the 166 Deputies and the figure is €3,320 per day for this stuff to be printed for us when we can pick it up from the General Office or the table just outside the Chamber if we want to.

Senator Mary M. White: There are jobs in that printing company.

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

Senator James Heffernan: It costs the bones of €500,000 to do this. We were all issued iPads at a cost to the Exchequer. It is time to get with the programme. We do not need all of these papers. The information is outside or in the General Office if we need it. Let us stop wasting money and spend it where it is needed.

Senator Michael Mullins: Like Senator Hayden, I welcome the Tánaiste's meeting with American politicians in the US today. I hope it will help the undocumented Irish. This is a long-running saga, with many people living in the US unable to return to Ireland for important family events. It is time the issue were resolved and I wish the Tánaiste well. I also support the call for a debate with the Tánaiste on the various human rights issues throughout the world that are causing many people great distress.

A significant conference, entitled Our Ocean Wealth, is taking place in Dublin Castle today. When the Government entered into office, it took the issue of the wealth beneath our ocean seriously. The Minister for Agriculture, Food and the Marine, Deputy Coveney, has been driving a programme to harness our ocean wealth and produce an integrated marine plan. It is important that the House debate the progress on the plan, and I ask the Leader to schedule such a debate

in early course.

Senator Mary M. White: It is my pleasure to congratulate the Leader and Senator Cullinane on their efforts to ensure the sustainability of the Bausch & Lomb plant in Waterford. Yesterday, more than 800 employees voted for the conditions proposed by Valeant, the parent company. These include pay cuts and approximately 200 redundancies. It is also my pleasure to compliment the members of the Technical Engineering and Electrical Union, TEEU, employed by Bausch & Lomb. Mr. Paddy Kavanagh, its regional secretary, stated: “The cuts to pay and conditions arising from these proposals are particularly harsh and will impact greatly on the workers affected.” This is a great tribute to all involved in maintaining the company. Members of the Seanad do not realise the considerable pressure being applied in the US by two New York Senators with a view to moving Bausch & Lomb from Ireland to Rochester. At the same time, Valeant is moving its manufacturing and research and development work from Rochester to New Jersey. There is a cycle, and the situation is not as clear as people might believe. A major effort has been made to hold onto a company, which is nearly more important than announcements of new jobs.

I draw the House’s attention to the 2013 Global Entrepreneurship Monitor report for Ireland, which was launched yesterday. It is published annually. I seek a discussion on this document soon. People forget that most new jobs are created by start-ups, when businesses are at their point of greatest innovation and creativity.

I also wish to debate the issue of the 11.8% of people who remain unemployed. The percentage sounds small, but the situation is fundamental to each human’s life, heart and soul. Yesterday afternoon, I had to go on a mercy mission to a young person who, when he reached the age of 18, was let go. We must discuss this issue again, as the minimum wage comes into play when someone turns 18 years of age. Many unfair practices are being used beneath the radar. For those who are not highly educated or well placed in society, there is a great deal of cruelty.

Senator John Kelly: I welcome the Government’s move to address the discretionary medical card issue. As Senator MacSharry rightly pointed out, I have spent two years highlighting the matter in the House with various Ministers, but to no avail. All I ever received in response was the claim that we did not have the money. In itself, this was an acknowledgement that the Government was aware of what was happening. I have been fighting for individual cases with the Primary Care Reimbursement Service, PCRS, for two years. It has been my greatest struggle since entering the House. Despite being a community welfare officer who dealt with medical cards for 28 years, I have dealt with more contentious cases since becoming a Senator three years ago.

The announcement was confusing. We do not know who will have their medical cards returned, whether the financial assessment will be removed or whether people will only be assessed on their medical needs. We need clarity. My mother left hospital last Friday and her consultant changed her medication. She is 86 years of age. She went to the chemist to get her new medication last Friday, only to be told her medical card had been removed. There had been no correspondence from the PCRS, be it a review form or a notification of any description. Perhaps not today, but the Minister should attend the House as soon as possible for a debate to provide clarity on what will be happening.

Senator Feargal Quinn: The House has heard me speak on the length of time it takes to get something done by the Government. Four years and one month ago, the Construction Con-

tracts Bill was introduced in the Seanad. It became law last year but has not been implemented yet. I mention this because I received a letter from Australia from someone who was wondering what was keeping it. The person takes an interest in such matters. Yesterday, I read an article that claimed the Government did not have a date for the Act's implementation. We must be able to do something differently. The Bill was passed by both Houses, but nothing has happened for the past year. Actually, I am sure that something has happened, but the former Minister of State, Brian Hayes, MEP, was handling it. I wonder whether his departure has delayed it. I am unsure of the reason, but people everywhere are asking about it. The Act is worthy legislation.

Senator Jim Walsh: Hear, hear.

Senator Feargal Quinn: People have been crying out for it for three years and I received nothing but praise for introducing it, but in recent weeks I have been asked about what has happened to it. People are suffering and going out of business because the Act has not been implemented.

I read an interesting article during the week by a former adviser to Mr. Tony Blair. He believed that the National Health Service, NHS, should copy Britain's supermarkets. He made the interesting point that supermarkets have superstores, in the same way as there are a small number of large hospitals, but that the supermarkets also have many small shops around the country. He believes the NHS should operate in a similar way. By 2024, 50% of the NHS will be run on this basis, not by central government. We have something to learn from this idea and should move on it immediately.

Senator John Whelan: I am looking forward to the imminent Cabinet reshuffle, which cannot come soon enough. I hope it is robust and radical and that the Taoiseach takes the opportunity to appoint Ministers and Ministers of State who will listen to the public and their representatives.

An Cathaoirleach: The Seanad has no role in the Cabinet reshuffle.

Senator Mary M. White: Of course it does.

Senator John Whelan: It is a reasonable point.

Senator Mary M. White: Members of the Seanad can be appointed to the Cabinet.

An Cathaoirleach: Senator Whelan without interruption.

Senator John Whelan: I thank the Cathaoirleach.

Senator Mary M. White: Senators Kelly and Landy are available.

An Cathaoirleach: This House has no role in regard to that appointment. Please allow Senator Whelan to continue without interruption.

Senator John Whelan: The Taoiseach said this week that he would like to think that we would learn from the situation in Rosport. I would also like to think that we would learn from it. However, there is no evidence in the planning process that we are. Only this week, An Bord Pleanála overturned the decision of Offaly County Council and Laois County Council to grant planning permission for gigantic and monstrous industrial wind farms in Rhode, County Offaly and Cullenagh Mountain in Ballyroan, County Laois. What is the point in a planning process

when the decision of the inspector of An Bord Pleanála recommending refusal of permission can be overturned by the board of An Bord Pleanála? The Minister for the Environment, Community and Local Government promised that new planning regulations and binding statutory guidelines for the development of wind farms would be introduced. A year on, we are still waiting for them.

Last week, Senator Barrett exposed a further fraud that is being perpetrated on the Irish taxpayer and people in terms of the energy regulator moving to increase the subsidy to wind farm developers by 50%. This is not cheap or free energy; it is the most expensive energy. It provides no economic or environmental dividend.

An Cathaoirleach: Is the Senator seeking a debate on the issue?

Senator John Whelan: Yes. I ask the Leader to invite the Minister for the Environment, Community and Local Government to the House to explain the reason planning permission for wind farms the length and breadth of the country is being granted at a time when there is a vacuum in terms of planning regulation and guidelines in this regard.

An Cathaoirleach: The Senator is way over time.

Senator John Whelan: I believe the delay in introducing the guidelines is a tactic to ensure that the planning permissions have been approved before they come into force. It is a scandal and must be stopped.

Senator Ned O'Sullivan: I second the amendment proposed by Senator Wilson. I support Senator Brennan in welcoming the proposed new jobs for the Dundalk area and compliment all those involved in securing them. Coming from the opposite end of the country, my initial reaction is that of the dog in the manger in that for many years now the only announcements in regard to jobs in my area have been job losses.

Senator Fidelma Healy Eames: The Senator should raise the matter with the Minister, Deputy Deenihan.

(Interruptions).

An Cathaoirleach: Senator O'Sullivan without interruption please.

Senator Ned O'Sullivan: There is a need to address the clear imbalance in terms of industrial development and investment between the Pale and the west of Ireland. It was Benjamin Disraeli who in the 19th century famously described England as being made up of two nations. There are two nations in Ireland in terms of rural Ireland getting an unfair crack of the whip.

Senator Mary M. White: Hear, hear.

Senator Ned O'Sullivan: Following the recent local elections there are now approximately 1,000 new men and women working away in their new councils on matters relevant to the council, committee work, representation on education boards, regional forums and so on. They will also have to take on additional work because there are no longer any town councils and the regions are larger and will be far more difficult and costly for them to service. It is surprising, therefore, that on the day the results were announced the Minister, Deputy Hogan, announced swinging cuts in subsistence and travel expenses for county councillors. In my view, that was the most unseemly and untimely act of all time. There is no such thing any more as a part time

councillor. Most people, including the Cathaoirleach who came up through that system, know well that a councillor's job is a full time job that deserves full pay and pension, contributory or otherwise.

I ask the Leader to invite the Minister, Deputy Hogan, to the House to outline the duties of these new councillors and their entitlements. I look forward to putting in place a proper regime of rewards and payments for them.

Senator Colm Burke: I concur with Senator Ó Murchú on the need to have the remains of Thomas Ceannt moved to a more fitting location. It is a matter that should be attended to within a short timeframe.

On the cost of professional indemnity insurance for medical practitioners, the announcement in the past few days that in some cases the cost of this insurance has increased by 60% underlines the call I made previously on the need for a restructuring of how we deal with medical negligence in this country. The system in relation to personal injuries resulting from industrial accidents has been changed. The system for dealing with car accidents was also changed more than ten years ago. At that time, it was suggested that the manner in which claims of medical negligence are handled should also be changed. However, no change has occurred. It is time we had a debate on this issue.

The reason for the dramatic increase in this insurance, in particular as it applies to people in private practise in private hospitals, is not so much that the level of compensation paid out has increased and, in some cases, by more than 40%, but because of the increase in the number of claims. It is time we had a debate on the direction in which we are going long term in relation to this issue. If this cost continues to rise, many of the people now providing service in a private capacity will leave this country. This is something we cannot afford to happen. Enough of our medical people have already left the country. Let us ensure this issue does not go unchecked. We need to have a debate in this House on how the manner in which we manage medical negligence claims can be changed.

Senator Jim Walsh: I ask the Leader to arrange for the Taoiseach to come to the House to explain why the Government specifically provided in the legislation establishing the banking inquiry that access to Cabinet minutes and supporting documents that gave rise to decisions being taken would not be available to the banking inquiry. It seems incongruous that any inquiry could get to the heart of fundamental decisions made without having access to the documents that may have underpinned those decisions. The Taoiseach should be asked to come to this House to explain how and why this happened.

Given the manner in which the banking inquiry has been established, it is perceived as a political charade. I believe it will be devoid of credibility, which is unfortunate. I suggest that even at this late stage an independent judicial inquiry be established. That is the only process that would have the power to access all of the documentation necessary and have the powers of compellability and so on that will be essential in getting to the heart of what gave rise to the banking collapse and economic crisis in this country. I believe we should have that debate.

I would like to ask each of the group leaders to take up an issue raised yesterday by one of my colleagues, namely, the case of Meriam Ibrahim, the south Sudanese woman who has been incarcerated now for a number of months and gave birth to her baby in prison. She has not, as suggested by some people, been released. While it has been suggested on numerous occa-

sions that she is to be released this has not happened. In fact, she has been sentenced to 100 lashes and execution. We are told that her execution will take place when her child is two years old. This woman has been incarcerated because she is a Christian. As a Christian country, we should have empathy with her. This is a huge human rights issue. I ask that the group leaders come together to draft a cross-party motion calling for her release as early as possible, which motion could be put before the House and would, I am sure, be supported by all who believe in human rights.

Senator Fidelma Healy Eames: I support Senator Walsh's call for the drafting of a motion calling for the release of Meriam Ibrahim. This is an appalling abuse of a woman. She is pregnant and about to have a baby, yet she is in this absolute state and sentenced to death just because she wishes to remain with her religious faith. The very least we can do is stand together in solidarity and support people's religious views, whatever they are.

My reason for rising is to say that on 26 June, a week from tomorrow, 9,000 people in one-parent families, comprised largely of women, will more than likely be incentivised to give up their work due to a measure brought forward by the Minister for Social Protection in budget 2012, which I voted for. They will experience a cut of €30, or 16%, in their one-parent family allowance, which is massive. The Senators and I voted for the cut because we were promised it would not come into play until a Scandinavian-style child care model was put in place. However, the new model has not been introduced. I ask the Leader to arrange a debate on the issue. The Minister is doing her best to become the next leader of the Labour Party and I wish her well. I say to my colleagues, and the Minister, that we must work to ensure this cut does not happen. We must ensure that the 9,000 people in one-parent families, who statistics show are at a high risk of poverty, will not be disadvantaged in this way. The cut should at least be put on hold - it would be better still if it were reversed - until a child care model is put in place to enable these women to stay at work. The cut runs counter to stated Government policy and is appalling.

Senator Mary M. White: Hear, hear.

An Cathaoirleach: The Senator is way over time. I call Senator Crown.

Senator Fidelma Healy Eames: Please let us stand together and insist that these one-parent families are not further disadvantaged by the measure on 26 June.

Senator Mary M. White: There is a boys' club in here.

Senator John Crown: Nigella Lawson, a person who is greatly admired by many Members of these Houses, Kate Moss, the Gallagher brothers, Noel and Liam, and Russell Brand all have something in common. They have all been prevented or impeded from entering the United States because they have either had a prior record or made a public admission of using rather illegal drugs. The American attitude to such behaviour is sometimes seen as quite draconian. If reciprocity was in place it would mean that none of the last three Presidents of the United States would have been allowed to enter the United Kingdom, because they have all, to a greater or lesser extent, or with greater or lesser degrees of frankness, admitted having interactions with illicit drugs, albeit, in the case of President Clinton, without inhaling.

Senator Marc MacSharry: They are not here to defend themselves.

Senator John Crown: Deputy Luke 'Ming' Flanagan, our newly elected MEP, is a man

who has done a remarkably good job for his constituency and a person for whom I have a lot of admiration, even if I do not always agree with him.

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

Senator John Crown: Yes, I do, but I need a little bit of patience in order to get to it.

An Cathaoirleach: A number of Senators have indicated a wish to contribute.

Senator John Crown: If an Irish person decided tomorrow to openly admit that he or she had sold death-causing addictive drugs in the United States, he or she would be in real trouble when trying to get into the US. I strongly suspect that the FBI would launch subpoenas in American law and have them extradited. Yesterday, it came out in the papers that Thomas Donohue, the head of the United States Chamber of Commerce, based in Washington, had been in contact with the Taoiseach, probably on more than one occasion, in an attempt to influence the Cabinet's decision on the Minister of Health's plain packaging tobacco Bill. It now also transpires that five other business interests represented by Mr. Donohue have contacted the Irish Government. I ask the Leader to find out from the Minister for Foreign Affairs and Trade whether such contact contravenes the UN framework convention on tobacco control. The framework legally sets out very specific guidelines for the tobacco industry, or those representing the tobacco industry, on how they can interact with governments. I ask the Leader to think of an appropriate response from this House but I do not know whether we can do it as a cross-party motion or whatever. I want him to send a letter to Mr. Donohue telling him in the strongest possible terms that he has no business encouraging the sale of cancer-causing chemicals for profit to children in our country, and if he continues to do so he will have to answer to us.

Senator Mary Ann O'Brien: I shall not shout like the Senator. I wish to follow up on the views expressed by Senators Kelly and MacSharry regarding the welcome return of discretionary medical cards. The Jack and Jill families feel greatly relieved by their return. There is no point backdating and asking whether people have kept their receipts because those options will not happen.

Like Senator MacSharry, I wonder what will happen to the sick children of tomorrow. What will happen if a baby in need of palliative care is born next week? Parents who are suffering anguish and grief will have to go down the same excruciating route of paperwork in order to get a medical card for their baby.

This morning I spoke to the head liaison nurse in the Jack and Jill Foundation. She wondered about the expert panel of consultants who will work for a year on the conditions and illnesses that will be discussed and put in a report in order to help us form the legislation next year for the new medical card system. There is no nurse on the panel - not one nurse. For example, there are 300 Jack and Jill babies who have 110 different life-threatening illness. Along with the consultants, we should have real people on the expert panel.

The return of the discretionary medical card is welcome but it will cost €13 million of new money which must be got elsewhere. We know that we do not have new money. Therefore, it interested me this morning to see that the Royal College of Nursing congress, being held in Liverpool today, has recommended that free GP visits be stopped in England. Also, the National Health Service, operated across the water, will have a deficit of £30 billion - a black hole - by the end of the decade. What are we doing giving everyone under six years of age free GP care before we have ourselves sorted? Let us assume it costs £10 to visit a GP in England. To echo

what has been said by Senators Kelly and MacSharry, I ask the Leader to keep medical cards on the agenda and for the Minister to come in here for a debate on the matter.

Senator Denis O'Donovan: I ask the Leader to arrange a debate on the beef industry in this Chamber as soon as is practicable. I asked for the debate some months ago and, in fairness, he facilitated my request. It is not normal during benign weather for farmers to travel all the way to Dublin to protest about the price offered for their beef. Prices in the beef industry are an ongoing and serious problem. I ask the Minister concerned to make progress in breaking up the cosy cartel of beef processors that operate in this country and the UK, who deny its existence. However, there are strong facts that prove that it does exist. Farmers are faced with all sorts of regulations. For example, once a calf is born it must be registered so that the animal can be traced all the way from birth through the butcher's and all the way to the plate. Yet farmers have been offered an appallingly low price for their beef. If one goes into a butcher's shop and orders a side of beef, a loin or whatever, the price paid by the consumer does not reflect the input made by farmers, the producer of the product. I will not go so far as to repeat what was said by the president of the IFA, Mr. Eddie Downey, last night when farmers held a protest on Kildare Street. He said that the Minister for Agriculture, Food and the Marine was asleep at the wheel. Certainly, if he is not asleep at the wheel then he has taken a doze on this issue. When we had a strong debate here about four months ago he assured me and the House that he was doing everything possible to ensure that progress would be made on the crisis facing beef farmers.

An Cathaoirleach: Is the Senator looking for a debate on the matter?

Senator Denis O'Donovan: I seek a debate on the matter. If this debate does not take place within the next two weeks, I will demand that the Minister come to the House and call votes every day.

Senator Mary M. White: He is thinking about being the next Taoiseach.

Senator Denis O'Donovan: It is not fair that in this fine weather farmers must leave their farms to come to Dublin to protest. There is something radically wrong.

Senator Rónán Mullen: I support Senator Denis O'Donovan's comments. Most people greatly value the work of the farming community and the quality of its output. It is scandalous that farmers might be victimised by concerted activity among processors. It is an issue we must examine. It has been emerging for some time and there is no sense that the bull is being grabbed by the horns, if Members will pardon the expression, on the matter.

I thank Senators Fidelma Healy Eames and Jim Walsh for referring again to the case of Dr. Meriam Yahia Ibrahim which I mentioned yesterday. It is an appropriate subject for an all-party motion and I propose to draft and circulate one. I would be grateful for the support of the House for it. It is also appropriate that the Government give an account of its stewardship in this very disturbing case. For the information of colleagues, a 27 year old woman, a doctor, has been sentenced to 100 lashes and eventually to hang for apostasy. She has supposedly changed her faith from the Muslim faith to the Christian faith. In fact, she was brought up in her mother's faith as an Orthodox Christian, her father reportedly having been absent during her childhood. She married a Christian man from South Sudan, which is a crime in Sudan's version of Islamic law. It is for this crime that Dr. Ibrahim has been sentenced to death. It is a perverted understanding-----

An Cathaoirleach: The Senator is supporting the proposed all-party motion.

Senator Rónán Mullen: I am doing two things. I am giving notice that I will table an all-party motion, but I am also asking the Leader to contact the Government on the matter. This is a life and death case-----

An Cathaoirleach: I know that.

Senator Rónán Mullen: We were rightly concerned about the fate of Irish citizens caught up in the turmoil in Egypt last year. I refer to Ibrahim Halawa. It is also important that the Government seek the support of the Islamic community in Ireland in order that a clear message is conveyed from Ireland-----

An Cathaoirleach: The Senator is way over time.

Senator Rónán Mullen: -----that this is not our understanding of human dignity and human rights, whether we are Christians, Muslims or people of no faith or other faiths.

Senator Thomas Byrne: What madness drove the Seanad leadership to have statements today on the 750th anniversary of the so-called first Irish parliament? A parliament probably met in Castledermot, County Kildare, 750 years ago today, but we have no idea whether it was the first.

An Cathaoirleach: The Senator can make these points during the debate.

Senator Thomas Byrne: Whether it was a parliament, it bears no relationship to the Parliament or people of Ireland and it had no relationship to the people of Ireland at the time. It was the start of the subjugation of the country.

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

Senator Thomas Byrne: A housing Bill has been taken off the agenda, even though there is a massive housing crisis.

An Cathaoirleach: That Bill is before the Dáil.

Senator Thomas Byrne: The Valuation Bill which aims to reduce commercial rates for businesses has been off the agenda for the last year. What is happening about the serious issues and problems the country is facing? As the Parliament, we are abandoning them today to have a history lesson. It is disgraceful, outrageous and a dereliction of duty.

Senator Brian Ó Domhnaill: I agree with other Senators who raised the beef issue. It is a major crisis and the Minister should be invited to come to the House to discuss it. The factories are behaving as a monopoly and the Minister has secured no new markets for live exports. He is failing in his duties as was highlighted by the demonstration on the streets of Dublin yesterday. We should have a debate on the issue in early course.

The other issue I wish to raise is the availability of broadband. It is a major issue. The European Commission states 97% of households and businesses have coverage, but what about the other 3%? The Government is doing nothing for these areas. Dial-up broadband is available in rural areas, but one cannot run a business with such a service. It is disgraceful and shameful that the Government, under the watch of the Minister, Deputy Pat Rabbitte, allowed the €13.5 million available from the European Commission for providing broadband for the 3% in rural areas exclusively such as those in my county not to be drawn down. I raised this matter on

the Order of Business previously and the Minister was due to come to the House to explain his shortcomings. Three months later that has not happened. He must come to the House to explain why he is not rolling out broadband to rural dwellers across the country, given that every report from the European Commission shows that Ireland is the worst in the European Union in terms of the disparity in the availability of broadband between urban and rural areas. There is a divide and the issue is not being tackled.

Senator Jim D’Arcy: Like my colleague, Senator Terry Brennan, I welcome the 400 jobs being created by PayPal in Dundalk. Amid all the doom and gloom we are creating 1,000 jobs a week, as I pointed out last week. The 400 jobs are for English-speaking workers because PayPal has broken into the American market. Many locals will be employed, which will be good for County Louth and the north east of the country.

Senator Maurice Cummins: Senator Marc MacSharry has proposed an amendment to the Order of Business, that No. 14 be taken before No. 1, to allow him to introduce the Bill. I have no problem in accepting the amendment.

Yesterday many Members of the House welcomed the announcement of the review and restoration of medical cards. Regardless of whether it is a U-turn, discretionary medical cards will be restored. This will be particularly welcomed by the families who lost their medical cards. The Government approved the method by which discretionary medical cards could be returned to persons with serious medical conditions who had lost them after completing an eligibility review. The decision covers the period from 1 July 2011 to 31 May 2014. The Cabinet has agreed a method that paves the way for the return of medical cards by the Health Service Executive which does not involve changing the law. Accordingly, the decision to return such medical cards can be implemented within a matter of weeks through actions taken by the HSE. In recent weeks the Government decided to formulate a new policy whereby eligibility for health services could take account of medical conditions, in addition to the existing basis of financial means.

The expert committee has been formed. I accept Senator Darragh O’Brien’s point that there is not a nurse in sight in the expert review and it is something I will bring to the attention of the Minister. As to who will get their medical card backs, the HSE will restore them to people who held a medical card or a GP visit card issued on a discretionary basis to a person with a serious medical condition and who lost it having completed an eligibility review between 1 July 2011 and 31 May 2014. A person must have held a medical or a GP visit card, issued on a discretionary basis, during that period and had it withdrawn on foot of a completed eligibility review. He or she must have completed the review process during that period, that is, provided the information and documentation required to assess his or her eligibility, and must have a serious medical condition which required that their case be referred to a medical officer as part of the review process. It is anticipated that in excess of 15,000 medical cards will be restored to persons with serious medical conditions as part of the process. I hope this will be of assistance to Members. That said, I will ask the Minister to come to the House to outline the position. However, I have shared the explanation I have been given with the House.

Senator Ivana Bacik spoke about the efforts to assist students after the collapse of several private English language schools. They are to be welcomed. I also welcome her comments on the child and family relationship Bill which will be brought before the House in due course.

Senator Sean D. Barrett welcomed the provision of direct flights between Dublin and St. John’s, Newfoundland and the excellent response of the public. There has been a 90% seat oc-

cupancy rate in the first couple of months which will be of tremendous benefit to tourism. As the Senator pointed out, there are strong links between my area of Waterford and the south east and St. John's. I have not visited Newfoundland, but I understand a person will have inflicted on him or her accents like my own on every street.

Senators Terry Brennan and Jim D'Arcy welcomed the wonderful announcement by PayPal of 400 extra jobs in Dundalk.

Senator Paul Coghlan: As did Senator Diarmuid Wilson.

Senator Maurice Cummins: Senator Diarmuid Wilson also welcomed them and stated, in response to Senator Ned O'Sullivan, that they would be for people well outside the Pale, including from County Cavan. The jobs will bring the workforce to 2,900 by 2018, a tremendous vote of confidence in the country and its young people. We are creating 1,000 jobs a week, but we need to continue at that rate and these jobs will certainly assist us in doing so.

Senator Diarmuid Wilson also commented on the chief executive officer of PayPal, Ms Louise Phelan, whose brother was a former Member of the House. Her efforts in driving the success of the company are to be acknowledged.

Senator Aideen Hayden raised the issue of immigration reform in the United States and mentioned the efforts by the Tánaiste, who is in Washington to raise this and other issues. The Senator also called for a debate on the situation in Iraq in early course.

Senator Kathryn Reilly referred to budgetary decisions, which will certainly be based on the figures for revenue, taxes and economic growth. It is far too early to predict what will prevail in October, but I will ask the Minister for Finance to come to the House after the recess for a pre-budget debate.

Senator Martin Conway wished members of the banking inquiry committee well in their deliberations and praised the Government's decision on discretionary medical cards.

Senator Labhrás Ó Murchú spoke about the commemoration of the 1916 Rising. The Minister, Deputy Jimmy Deenihan, will be in the House shortly and if the Senator raises the issue, it will assist me in getting him to come to the House for such a debate. I note his point and that of Senator Colm Burke on moving the remains of Thomas Ceannt, in which I am sure the Minister will be very interested and to which I am sure he will respond.

Senator Denis Landy spoke about the greyhound industry and the obvious delay in producing the Indecon report. The practices referred to by the Senator are reprehensible and do nothing for the image of the industry. I will inquire of the Minister when the report will be published with a view to having it circulated as soon as possible.

Senator James Heffernan called for greater cost-cutting measures in the public service so far as the printing of Bills is concerned.

Senator Rónán Mullen spoke about the undocumented Irish. He also spoke about the Our Ocean Wealth conference and called for a debate on the integrated marine plan.

Senator Mary White spoke about the position at Bausch & Lomb. All that Senator David Cullinane the other Oireachtas Members, including me, did was to support the unions and the workers in their efforts. I praise them for their very responsible attitude in this very difficult

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dispute. Their decision involved major sacrifices for themselves and their families. I also compliment the unions and all those involved on the retention of so many jobs in Waterford that are very badly needed. I urge the company to immediately put measures in place to provide for the promised capital investment which would ensure a brighter economic future for the workers.

I note Senator John Kelly's points on medical cards, an issue he has raised on a number of occasions and on which I have responded.

Senator Feargal Quinn asked when we would implement the Construction Contracts Bill. I will inquire and revert to him.

Senator John Whelan referred to the Taoiseach's decision on a Cabinet reshuffle. That is entirely a matter for the Taoiseach and I am sure he will make the decision at the appropriate time. Regarding the granting of planning permission for wind farms before guidelines are introduced, I will invite the Minister for the Environment, Community and Local Government to come to the House to discuss the matter.

Senator Ned O'Sullivan spoke about swinging cuts to councillors' expenses. There was a cut to their representation allowance. Many people do not know that the allowance of approximately €16,000 is taxed. Councillors also pay PRSI on it, even though they are not entitled to a pension. The public is not aware of some of these points and, as we all know, many councillors do tremendous work in their communities. They have suffered many cuts since the election.

Senator Colm Burke spoke about restructuring the way we deal with medical negligence cases and called for a debate and action on the matter. I will bring it to the attention of the Minister for Health.

Senator Jim Walsh referred to the case of Meriam Ibrahim, an issue which was also raised by Senators Fidelma Healy Eames and Rónán Mullen yesterday. We welcome the efforts of Senator Rónán Mullen in drafting an all-party motion which we will certainly consider. On the actions of the Government to date, I suggested yesterday that the Senator raise the matter on the Adjournment.

Senator Fidelma Healy Eames spoke about social welfare matters. I understand a social welfare (miscellaneous provisions) Bill will be brought before the House in the coming weeks and it will provide an ideal opportunity for the Senator to raise the matters to which she referred.

I wondered where Senator John Crown was leading us to. We debated the plain packaging of tobacco Bill in the House. As we learned, there was very strong lobbying by the US Chamber of Commerce and the Senator asked for an appropriate response. The most appropriate response is for both Houses to pass the Bill at the earliest possible opportunity.

Senator Darragh O'Brien spoke about the expert panel on medical cards and stated nurses were not involved in it.

Senators Denis O'Donovan and Brian Ó Domhnaill called for a debate on the beef industry and action in dealing with the alleged cartel of beef processors in controlling prices. I will certainly invite the Minister, Deputy Simon Coveney, to the House to discuss the issue. I am under orders from Senator Denis O'Donovan to have a debate on the fishing industry also. We will have the Minister in the House. He has been very responsive to requests for debates in the House; it is a matter of finding out when he can come and the subject on which we will have a

debate.

If Senator Thomas Byrne had been here earlier for the Order of Business, he would have known that the debate on the housing Bill was not guillotined in Dáil Éireann. That is the reason it is not before us today.

(Interruptions).

Senator Maurice Cummins: Senator Jim D’Arcy also welcomed the announcement of the additional jobs in PayPal.

I do not propose to accept the amendments proposed to the Order of Business.

12 o’clock

Senator John Crown: Will the Leader take a question?

Senator Maurice Cummins: I have responded to matters raised on the Order of Business.

An Cathaoirleach: The Leader has responded. It is too late for questions.

Senator Maurice Cummins: I asked a specific question.

An Cathaoirleach: The Senator has already spoken on the Order of Business.

Senator John Crown: Is that a “No”?

An Cathaoirleach: Yes, it is.

I welcome the members of the Ulster Architectural Heritage Society from Belfast who are in the Visitors Gallery.

Senator Marc MacSharry has proposed an amendment to the Order of Business: “That No. 14 be taken before No. 1.” The Leader has indicated that he will accept the amendment. Is the amendment agreed to? Agreed.

Senator Diarmuid Wilson has proposed an amendment to the Order of Business: “That a debate be held today with the Minister for Health on the details of his decision to reverse the withdrawal of discretionary medical cards.” Is the amendment being pressed?

Senator Diarmuid Wilson: It is.

Amendment put.

The Seanad divided by electronic means.

Senator Diarmuid Wilson: Under Standing Order 62(3)(b) I request that the division be taken again other than by electronic means.

Amendment put:

The Seanad divided: Tá, 24; Níl, 25.	
Tá	Níl
Barrett, Sean D.	Bacik, Ivana.

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Bradford, Paul.	Brennan, Terry.
Byrne, Thomas.	Burke, Colm.
Crown, John.	Burke, Paddy.
Daly, Mark.	Coghlan, Eamonn.
Healy Eames, Fidelma.	Coghlan, Paul.
Heffernan, James.	Comiskey, Michael.
Leyden, Terry.	Conway, Martin.
MacSharry, Marc.	Cummins, Maurice.
Mooney, Paschal.	D'Arcy, Jim.
Mullen, Rónán.	D'Arcy, Michael.
O'Donovan, Denis.	Gilroy, John.
O'Sullivan, Ned.	Hayden, Aideen.
Ó Clochartaigh, Trevor.	Henry, Imelda.
Ó Domhnaill, Brian.	Higgins, Lorraine.
Ó Murchú, Labhrás.	Keane, Cáit.
Power, Averil.	Kelly, John.
Quinn, Feargal.	Landy, Denis.
Reilly, Kathryn.	Moloney, Marie.
van Turnhout, Jillian.	Mullins, Michael.
Walsh, Jim.	Naughton, Hildegard.
White, Mary M.	O'Keeffe, Susan.
Wilson, Diarmuid.	O'Neill, Pat.
Zappone, Katherine.	Sheahan, Tom.
	Whelan, John.

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

Amendment declared lost.

An Cathaoirleach: The result was Tá, 24; Níl, 24. As there was an equality of votes, pursuant to Article 15.11.2° of the Constitution, I exercised my casting vote against the question.

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

The Seanad divided: Tá, 26; Níl, 22.	
Tá	Níl
Bacik, Ivana.	Barrett, Sean D.
Brennan, Terry.	Bradford, Paul.
Burke, Colm.	Byrne, Thomas.

Coghlan, Eamonn.	Crown, John.
Coghlan, Paul.	Daly, Mark.
Comiskey, Michael.	Healy Eames, Fidelma.
Conway, Martin.	Heffernan, James.
Cummins, Maurice.	Leyden, Terry.
D’Arcy, Jim.	MacSharry, Marc.
D’Arcy, Michael.	Mooney, Paschal.
Gilroy, John.	Mullen, Rónán.
Hayden, Aideen.	O’Donovan, Denis.
Henry, Imelda.	O’Sullivan, Ned.
Higgins, Lorraine.	Ó Clochartaigh, Trevor.
Keane, Cáit.	Ó Domhnaill, Brian.
Kelly, John.	Ó Murchú, Labhrás.
Landy, Denis.	Power, Averil.
Moloney, Marie.	Quinn, Feargal.
Mullins, Michael.	Reilly, Kathryn.
Naughton, Hildegard.	Walsh, Jim.
O’Keeffe, Susan.	White, Mary M.
O’Neill, Pat.	Wilson, Diarmuid.
Sheahan, Tom.	
van Turnhout, Jillian.	
Whelan, John.	
Zappone, Katherine.	

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

Question declared carried.

Suicide Prevention and Mental Health Fund Bill 2014: First Stage

Senator Marc MacSharry: I move:

That leave be granted to introduced a Bill entitled an Act to make provision whereby a levy shall be fixed on all alcoholic beverages sold from, but not intended for consumption on licenced premises, such levy shall be paid into a fund, to be known as the “Suicide Prevention and Mental Health Levy Fund” the monies from which shall be directed towards the support of suicide prevention (as set out in the policy document “Action Speaks Louder Than Words”), the accelerated role out of the policy document “A Vision For Change” and to provide for related matters.

Senator Diarmuid Wilson: I second the motion.

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Question put and agreed to.

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

Senator Marc MacSharry: Next Tuesday, 24 June 2014.

An Cathaoirleach: Is that agreed? Agreed.

Second Stage ordered for Tuesday, 24 June 2014.

750th Anniversary of First Irish Parliament: Statements

Minister for Arts, Heritage and the Gaeltacht (Deputy Jimmy Deenihan): I thank Senators for the invitation to come to the House to mark the 750th anniversary of the first known Irish parliament. As Senator Ivana Bacik was instrumental in issuing the invitation, I thank her. I understand she has a number of historical perspectives to reveal to us.

The Parliament in Iceland dating from 930 is regarded as the oldest Parliament today, while the legislature on the Isle of Man which celebrated its millennium in 1979 is regarded as the oldest “continuous” parliament. Considering our shared heritage, Ireland probably also had ancient assemblies at the time in both the Gaelic and Viking traditions. It is great to see the interest this House shows in tracing the foundations of our parliamentary legacy over the centuries and, in particular, the assembly which met in the then important administrative and religious centre of Castledermot, County Kildare, on 18 June 1264.

All of us will agree that the evolution of public assemblies through representative government to modern democracy in Ireland is a worthy topic for discussion. The 750th anniversary of the first Irish Parliament is an ideal opportunity to discuss some of the many milestone events throughout the evolution of our democracy. I understand we do not have many records from the first parliament, but it marked the beginning of regular meetings of councils and parliaments of the English colony in Ireland. This particular Parliament sought to inquire into the role of the Archbishop of Dublin and the broader question of the division of authority between the church and the state in the administration of justice.

In 1264 pressure from the aristocracy forced Henry III to sign the Provisions of Oxford under which a new form of government, namely, a council of 24 members - 12 selected by the Crown and 12 by the nobles - would be appointed to supervise ministerial appointments, local administration and the custody of royal castles. According to the provisions, parliament was to meet three times a year. Baron De Montfort’s Great Parliament held in January 1265 in Westminster is regarded by historians as the first bicameral parliament in English history held under these provisions, but the parliament in Castledermot preceded the English parliament by several months. As we can imagine, these were chaotic times in Ireland, with parliaments composed of Anglo-Irish nobles, bishops and some Gaelic Irish. They were not representative of the people of Ireland. Some Members may be aware of the Parliament of Kilkenny which passed the Statutes of Kilkenny in 1366. These forbade inter-marriage between native Irish and English, as well as more general Irish customs and language.

The areas of influence of the parliaments depended on the fluctuating control and jurisdiction of the British authorities. It was not until the late 14th and into the 15th century that the parliaments become more representative, with increasing and more regular attendance by

elected representatives of ordinary people and lower grades of clergy. Sittings of parliaments in Ireland were inconsistent, as was the power available to the people concerned at parliament. During the 16th and 17th centuries there were entire years when no Irish parliaments met. Even in the 18th century, the Irish Houses of Parliament were at a standstill, with the majority of members representing tiny constituencies, effectively under the control of single individuals.

Irish legislation was reviewed and rejected in England before the Irish parliament had any opportunity to act. This unrepresentative system, largely unconcerned with the needs of the people of Ireland, confronted Henry Grattan when, inspired by the Irish Volunteer Convention at Dungannon and the wider republican movement in Europe and America, he led the calls for real power to be given to Irish parliamentarians. For a short time, the Grattan Parliament sat in the world's first purpose-built, two chamber parliament building in College Green. For all its faults, this chamber gave a glimpse of what might have been. Catholic Emancipation was firmly on the agenda and Irish matters were being considered in Ireland. I was delighted to bring forward plans to develop a new cultural and heritage centre in this building recently. The centre will be accessible via the Gandon designed entrance to the College Green buildings on Westmoreland Street. The project will open up part of the former House of Lords. With this new entity, I hope a new generation of Irish people and visitors alike will avail of the opportunity to explore aspects of our Irish history represented in this iconic building.

The achievements of Irish parliamentarians did not stop with the untimely end of Grattan's Parliament. I have long been an admirer of Daniel O'Connell and his great legacy of non-violence. He used the parliamentary channels available to him. This was pivotal in his achievement in bringing about Catholic Emancipation. We can only speculate about the transformation that might have followed if his campaign for repeal of the Act of Union had succeeded and autonomous government had been established in Ireland. The absence of such local and accountable government contributed significantly to the tragedy of the Great Famine and the strife that followed. I am pleased that new plans have been brought forward to commemorate Daniel O'Connell, including the restoration of the staircase in the tower of the O'Connell monument in Glasnevin Cemetery which will open in the coming months.

In our centenary commemorative programme this year we reach the passing of legislation for Irish Home Rule. In association with the Speaker of the Commons at Westminster, this historic achievement of John Redmond and the Irish Parliamentary Party will be commemorated. Building on the work of Charles Stewart Parnell and the Land League, John Redmond and his party finally delivered the Home Rule Act. Too long in coming, passed on the eve of the Great War and incomplete in final form with painful issues unresolved, it was perhaps too late and soon overtaken by events. Nonetheless, we must acknowledge the work of Irish parliamentarians in keeping the cause of self-determination alive and sustaining hope through some of the darkest periods of our history. It is appropriate that John Redmond's leadership will be remembered with a series of events, exhibitions and lectures to take place this year in Wicklow, Wexford, Waterford, Dublin and Westminster. I think it appropriate also that the restoration of John Redmond's vault in Wexford is being addressed in the context of the centenary commemorative programme.

In 2018 we will mark the centenary of the general election of 1918 and, thereafter, the centenary of the first Dáil in 1919. This election reflects not only the terrible experience of the world war and revolution in Ireland but also the changes of electoral reform. Our programme will continue to examine the parliamentary development in Northern Ireland and the Irish Free State. It is very important that the evolution over many years of our legislative structures is

widely known and the deliberative procedures in law-making are understood. In an age of unrelenting media and instant reporting, the legislative processes of consultation and reflection can seem out of date. It is sometimes easy to complain about our painstaking system but care should be taken not to undermine institutions.

Remembering that first Parliament held on this day 750 years ago, we can stand justly proud of our legacy of parliamentary tradition. It is, nevertheless, a fragile and precious legacy, requiring nurturing and respect if it is to continue to serve succeeding generations of Irish citizens. Each generation, each era, brings new challenges, maybe new ways of conducting parliamentary business, but the essence of that business remains the same. We must always be conscious that it is our great privilege to be chosen to sit in these Houses of Parliament and that we are here to represent not ourselves but to represent those people who have elected us.

Again, I thank the House for this opportunity to mark the anniversary of the 1264 Parliament and to reflect on our traditions. I look forward to the various contributions by the Senators. I am sure many others will want to contribute along with Senator Bacik.

Senator Labhrás Ó Murchú: Cuirim fáilte roimh an Aire. Níl aon amhras faoi ach go bhfuil ábhar thar a bheith suimiúil á phlé anseo inniu. Is dócha gur fiú, ó am go chéile, dul siar ar bhóithrín na smaointe agus ar bhóithrín na staire. Tá stair an-shuimiúil ag an tír seo agus tá an-chuid ceachtanna le foghlaim ón stair. Sin an chúis go bhfuil an t-ábhar seo ar an gclár inniu, chun seo a thógaint suas chun dáta agus chun go mbeidh sé lárnach d’aon rud atá ag tarlú sa tír i láthair na huaire.

I welcome the Minister. I wish to pay tribute to him because he epitomises some of the things I regard as very essential in parliamentary democracy, namely, accessibility and consultation. Those marks are very evident in the Minister, Deputy Jimmy Deenihan.

It is a very interesting subject before us today. When it appeared on the schedule, every person I met in the corridor asked “What is this about?”, and we had the same on the Order of Business this morning. There is nothing wrong with that. I had to do a little homework myself just to be brought up to date. It is interesting that it is on this very date - 18 June - 750 years ago that what is now known as the Irish Parliament came into existence. It is true that Ireland has had parliamentary assemblies down through the centuries and right up to Grattan’s Parliament, which lasted for 18 years and, to some extent, was seen as an independent Parliament.

Following the 1798 rebellion in Wexford it became evident, from a British point of view, that they had to do something about the Irish situation, and the Act of Union followed two years later. We all know what the Act of Union did to Ireland. It was absolutely and utterly devastating in every sense of the word, so much so that millions of people had to leave this country. As a result, the Irish diaspora today is one of the most powerful elements of the Irish nation, with 70 million people of Irish extraction throughout the world. When one compares that to the number of people still left on the island of Ireland, it gives an indication that, at times, there may be good in something that may be bad in a given sense.

There is no doubt the Irish diaspora has played a big role, even in the more modern political issues of the Northern Troubles. The Irish diaspora played an exceptionally big role in the United States in being able to get across to President Bill Clinton the importance of the issue which was being discussed. I would also say the same was true of the British Prime Minister, Tony Blair. I have always felt that he too, with his own Irish background, took on board in a

more serious manner some of the issues which had to be addressed. Even among those who had great desires for the future, I do not believe the people really saw the peace process or the Good Friday Agreement becoming what it did become.

The first real Irish Parliament was Dáil Éireann, where the will of the people was sovereign or, in other words, the people were responsible for putting Dáil Éireann in position. That is why, at all times, we will look to 1919 as the period when the Irish people were given an opportunity to truly represent themselves in a sovereign independent State without any outside interference whatsoever.

With regard to those who questioned me in the corridors of Leinster House as to why this was on the agenda, we can be exceptionally busy, and we are busy at present because of the challenges with which we are faced, particularly economic challenges and so on. However, there is a lot to be learned from history. If we make the same mistakes again that were made in history, then we must take the blame for that. There is so much to be learned from Irish history that I truly believe it is good to have a debate like this.

I raised an issue on the Order of Business and our good Leader, Senator Maurice Cummins, told me to avail of this opportunity to raise it. The issue is in regard to the programme for the 1916 centenary commemoration in 2016. While I am not opening a debate on that here, I would love to see the Minister come back on another day to discuss that with us.

I wanted to take the opportunity to raise a particular issue, which relates to Volunteer Thomas Kent, who is buried in Cork Jail. It is an issue I have raised in the Seanad over the past ten to 12 years. Really and truly, we owe it to his memory and to the memory of all the people of 1916, those who were executed, those who died and those who sacrificed themselves for Ireland. It is not fitting to have his mortal remains lying in Cork Jail. When I campaigned for the forgotten ten volunteers in Mountjoy all those years ago, including Kevin Barry, in order that they would be repatriated, as they were, I still remember the affection and admiration from the thousands of people who turned out to witness that cortege. I must say RTE did a fantastic job on that occasion. I ask that the Minister might put this at the top of his priority list. We have interacted with the family and they are in agreement, so there is really no obstacle to doing this, perhaps in 2016.

To come back to the matter under discussion, and the point on the importance of learning from history, I believe we should always be reforming legislators. In regard to this House, there are opportunities that we can use to bring about reform. Our history is multifaceted and colourful in many ways. At the same time, if we are really learning, we must ask why this House has not been used as a forum for people in Northern Ireland to speak. We should change the rules so they can be represented here. If we do that we will not only commemorate the past but celebrate it. It would be lovely if people of both traditions from Northern Ireland could be part of proceedings in this House, rather than merely read the official record subsequently. When the Orange Order made a presentation here it was said to be mould-breaking. The representatives were open in their views and apologetic for some things that happened.

I believe the severity of the Whip should be reduced in this House, even if this does not happen in the Dáil. We should have free votes to allow people to express themselves freely rather than say what the Whip wants. This should not apply on all issues but if it can be done in the House of Commons it can be done here. If we want to commemorate what happened 750 years ago in Castledermot we should try to go further. In 750 years, when people look back on what

we did in this House they might see that we tried to create a link between the present and the past.

Senator Terry Brennan: We will not care what they say in 750 years.

Senator Labhrás Ó Murchú: We will not be here in 750 years.

Senator Terry Brennan: Ar dtús, ba mhaith liom fáilte a chur roimh an Aire go dtí Seanad Éireann ar an lá stairiúil seo.

Today is a special and historic day for our country as it marks the 750th anniversary of the first known Irish Parliament. It met on this day in 1264 in Castledermot, County Kildare, as the Minister noted. The Normans were the first to give Ireland a centralised administration and many of the systems under which we still operate, including our legal system and courts of law, survive from that time.

The first Irish Parliament was the pre-Union Parliament that operated for over 500 years. During that time much happened, as we know, including colonisation, Brehon law, the Nine Years War, the flight of the earls, the plantation of Ulster, the invasion of Cromwell and the penal laws. At the beginning of the 18th century most people in Ireland lived off the land, which was predominantly owned by powerful landlords and the Church. In Ireland at that time most land owners and senior officials were of a different race and religion to the general population. Around 1700 most of the social elite were first generation English settlers or descendants of English people. There was extreme division in Irish society and the normal Irish citizen had no political rights.

Towards the end of the 18th century the Irish nation was mentioned for the first time and recent Protestant settlers and converts to Protestantism led the way. They were known as the Protestant ascendancy and were known to be highly aspirational. Companies of volunteers were established and in 1782 Grattan's Parliament began work towards political reform in the form of Catholic emancipation. Real revolution came with Wolfe Tone, the United Irishmen and the 1798 Rebellion.

Grattan's Parliament lasted just 18 years. The Act of Union of 1800, which came into operation on 1 January 1801, created the United Kingdom of Great Britain and Ireland and united the Parliaments of the two kingdoms. From then until independence in 1922 Irish Members of Parliament held seats in the Parliament of the United Kingdom of Great Britain and Ireland, which had its seat at the Palace of Westminster.

In the aftermath of the Easter Rising of 1916, Sinn Féin, the party founded by Arthur Griffith in 1905, was recognised and grew into a nationwide movement. Abstention from Westminster and the establishment of an independent Irish Parliament had long been part of Sinn Féin's policy. The party contested the general election of 14 December 1918, which was called after the dissolution of the British Parliament, and swept the country by winning 73 of the 105 Irish seats. Acting on the pledge not to sit in the Westminster Parliament but to instead set up an Irish legislative assembly, 28 newly elected Sinn Féin representatives and constituted themselves as the first Dáil Éireann. The remaining Sinn Féin representatives were either in prison or unable to attend for other reasons.

The first Dáil met in the Round Room of the Mansion House on 21 January 1919. The Dáil asserted the exclusive right of the elected representatives of the Irish people to legislate for the

country. The Members present adopted a provisional Constitution and approved the Declaration of Independence. The Dáil also approved a democratic programme based on the 1916 Proclamation of the Irish Republic and read and adopted a message to the free nations of the world. The following day, 22 January 1919, a private sitting was held which elected Seán T. Ó Ceallaigh as Ceann Comhairle and Cathal Brugha as President of the Ministry. The Dáil also approved the President's nominations to the Ministry. Cathal Brugha resigned and Éamon de Valera was elected President of the Dáil on 1 April 1919.

Following the outbreak of the War of Independence in January 1919, the British Government decided to suppress the Dáil and on 10 September 1919 it was declared a dangerous association and was prohibited. The Dáil continued to meet in secret and Ministers carried out their duties as best they could. In all, the Dáil held 14 sittings in 1919 and of these four were public and ten private. Further private sittings were held in 1920 and four were held in 1921 while the formal Government of Ireland remained with Westminster.

In an attempt to settle the Irish question the United Kingdom Parliament passed the Government of Ireland Act in December 1920. This Act created a separate state of Northern Ireland consisting of the six north-eastern counties of Ulster. It proposed separate Parliaments for the North and South. On 24 May 1921 elections were held for the return of Members to serve in the new Parliaments. At a private sitting of the Dáil on 10 May 1921 the Sinn Féin representatives who refused to accept the British concession of a Parliament for southern Ireland adopted a resolution declaring that the parliamentary elections that were to take place should be regarded as elections to Dáil Éireann.

All Sinn Féin candidates in the Twenty-six Counties were returned unopposed and took 128 of the 132 seats. The remaining four seats were filled by Unionists representing the University of Dublin, Trinity College. Continuing in the footsteps of their predecessors, Sinn Féin Members constituted themselves as the second Dáil, which held its first meeting on 16 August 1921 in the Mansion House. The inaugural meeting of the Parliament of southern Ireland was held in Dublin on 28 June 1921 but as Sinn Féin refused to recognise the Parliament only four Members of the House of Commons from the University of Dublin and 15 Senators attended. The Parliament met for a brief period and then adjourned.

Following the truce between Britain and Ireland in July 1921, which led to the suspension of the War of Independence, peace negotiations between the two countries were initiated. This culminated in the signing of Articles of Agreement for a Treaty between Great Britain and Ireland on 6 December 1921. The Treaty provided for the establishment of the Irish Free State with jurisdiction over 26 of the 32 counties.

1 o'clock

After a bitter debate which began on 14 December 1921, the second Dáil approved the Treaty by 64 votes to 57 on 7 January 1922. Éamon de Valera resigned as President on 9 January 1922 and Arthur Griffith was elected President on 10 January 1922. In accordance with the terms of the Treaty, a meeting of the Members elected to sit in the House of Commons of Southern Ireland was held on 14 January 1922. The meeting, which was attended by the pro-Treaty Members of the Dáil and the four Members for the University of Dublin, formally endorsed the Treaty to set up a provisional Government under the chairmanship of Michael Collins to administer the Twenty-six Counties pending the establishment of the Free State Parliament and Government. The provisional Government and the Government of Dáil Éireann, which was

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not recognised by Britain, existed in parallel and with overlapping membership. Following the death of Arthur Griffith, President of the Dáil, on 12 August 1922 and the death of Michael Collins on 22 August, William T. Cosgrave became both President of the Dáil and chairman of the Government.

Article 12 of the Irish Free State constitution states:

A Legislature is hereby created, to be known as the Oireachtas. It shall consist of the King and two Houses, the Chamber of Deputies (otherwise called and herein generally referred to as “Dáil Éireann”) and the Senate (otherwise called and herein generally referred to as “Seanad Éireann”).

I am deeply honoured to be a Member of Seanad Éireann on this historic day.

Senator Sean D. Barrett: Cuirim fáilte roimh an Aire. It was a great day on 18 June 750 years ago when Parliament was instituted. The alternative, as my schoolteacher used to say, was robber bands - except that he pronounced it “rubber bands”, leaving us to wonder what on earth were these rubber bands to which the alternative was Parliament. I am glad that we are here. It is a terrific occasion. The last time the Minister came, it was to honour Seamus Heaney. It was one of the finest sessions we ever had, with the tributes and the poetry.

Senator Fidelma Healy Eames: Hear, hear.

Senator Sean D. Barrett: That volume of the Seanad’s proceedings must be one of the most poetic that one will find in a Parliament anywhere. The words of Henry Grattan come to mind when he achieved legislative independence in 1782:

I found Ireland upon her knees, I watched over her with a paternal solicitude; I have traced her progress from injuries to arms and from arms to liberty. Spirit of Swift! Spirit of Molyneux! your genius has prevailed. Ireland is now a nation!

As the Minister has said, what a pity it is that that did not last. It was a major disaster for this country.

Grattan’s Parliament was endorsed by the Parliament of Great Britain in an Act of 1783, which states:

... the said right claimed by the people of Ireland to be bound only by laws enacted by His Majesty and the Parliament of that Kingdom, in all cases ... shall be, and it is hereby declared to be established and ascertained for ever, and shall, at no time hereafter, be questioned or questionable.

But a negotiation that we thought was to last forever did not last longer than 18 years. The great parliamentarian and the Minister’s fellow county man, Daniel O’Connell, speaking in Drogheda in June 1843, said:

I want to make all Europe and America know it - I want to make England feel her weakness if she refuses to give the justice we require - the restoration of our domestic parliament.

In that period, our contribution to Parliaments has been immense. I think of Burke, Butt, Redmond, Parnell, O’Connell, Henry Grattan and Thomas D’Arcy McGee in Canada. We are good at Parliaments, and we should never forget that. I am glad that in the centenary celebra-

tions the parliamentary tradition is being honoured by the Minister. The bullet at Sarajevo that killed the archduke also killed Home Rule for this country, and we could have achieved through Parliament much of what caused so much trouble and violence afterwards. I am glad that Redmond is being honoured in our celebrations.

Sometimes in the Parliaments they enjoyed themselves, no one being better at that than Boyle Roche, the MP for Tralee. I think Senator Ned O'Sullivan continues some of his traditions. Roche had great sayings and was the master of the mixed metaphor, including "Half the lies our opponents tell about us are untrue," "The cup of Ireland's misery has been overflowing for centuries and is not yet half full," "The only thing to prevent what's past is to put a stop to it before it happens," and "Mr. Speaker, I smell a rat; I see him forming in the air and darkening the sky; but I will nip him in the bud." That was a great tradition of Kerry wit which Senator O'Sullivan brings to the House. He said the other day that one should always quit when one is behind, which is probably just as beneficial as quitting when one is ahead.

In recent times, I have been delighted to see Parliaments reinstated in Edinburgh, Belfast and Cardiff. That is a wonderful development. I compliment our Sinn Féin colleagues, the DUP, the SDLP and the Ulster Unionist Party on making Parliament work in a society which was traditionally one of violence. I commend the Leader on his reforms here and on the distinguished speakers whom he has invited. I commend him on today's commemoration and on inviting the Orange Order here. I commend Senator Bacik on her part in it, too. I commend also the Joint Committee on Public Service Oversight and Petitions, through which citizens can relate to what goes on here.

Have I worries? Yes, I do. The Executive is far too powerful in Ireland and seeks to dominate the Parliament. We see instances of this all the time. It was a mistake to abolish democratic elections in Gaeltacht areas. It was a mistake for the Government to try to abolish this House and not to accept its recent decision on the composition of the banking inquiry committee. We are going to do a good job anyway, but sometimes the Executive has to have more respect for Parliament. I agree with speakers who have said that the whip tradition demeans Irish politics. Could we not have even 2% or 3% of votes where people are allowed out from the scourge of the whip?

We have to be wary of the undermining of Parliament by budget-maximising bureaucrats, many of whom bristle when one tries to call them to account in this House of Parliament. We have to resist that. We are not dealing quickly enough with the well-funded lobbyists, the termites, who undermine Parliaments everywhere. Why are there far more lobbyists in Washington than parliamentarians?

We have to be vigilant for Parliament. It is a precious flower. It is a major gift to the better ordering of society and the alternative to robber barons. Elections, as we find out from time to time, bring us back in touch with the electorate. This is a great day. We are talking about a tradition that extends through Henry Grattan, Edmund Burke, Daniel O'Connell, Charles Stewart Parnell and Isaac Butt. It is a terrific tradition and long may it continue. I thank the Minister for addressing us today.

Senator Ivana Bacik: I welcome the Minister, Deputy Deenihan, to the House. He is as welcome as always, and he is particularly welcome today on this auspicious date, the 750th anniversary of the first recorded sitting of a Parliament in Ireland, on 18 June 1264. That date is particularly auspicious because it was the first Wednesday after the feast of the Holy Trinity

and, interestingly, the 750th anniversary occurs on the same day and religious calendar date.

I welcome my many distinguished visitors in the Gallery and in the Distinguished Visitors' Gallery, who are here specifically for this debate. I apologise that we had to delay the start of the debate due to the workings of Parliament, about which others have spoken. We have distinguished visitors from Trinity College, who have a particular interest in the history of parliamentary democracies, but also members of the Castledermot Historical Society in County Kildare, who are very welcome. However, I should single out one of the guests, Assistant Professor Paul Horan, a colleague of mine in Trinity in the School of Nursing and Midwifery who instigated this commemorative debate today. Paul e-mailed me some time ago, bringing to my attention the fact that this year marked the 750th anniversary of the first parliamentary sitting. I met Paul, we spoke about it, and I did a bit of research into it. I checked the Oireachtas website and found to my surprise that it states:

The earliest known Irish Parliament for which there is a definitive record met on 18 June 1264 at Castledermot in County Kildare.

So it was already noted on the Oireachtas website. I then brought the proposal to the Committee on Procedure and Privileges in this House and got unanimous support. I thank the Leader for arranging the debate on the foot of the CPP's agreement. It is important that we mark important historical dates with commemorative debates such as this.

The Minister has been to the fore in ensuring we have appropriate commemorative ceremonies in this decade of centenaries. While 750 years goes back much further than any of the other events we are marking in this decade, it is important we commemorate it and I thank the Minister for taking the time to be with us.

It is also important to mark particularly important dates in the history of parliamentary democracy in Ireland. In December 2008, shortly after I had been elected for the first time, I arranged an event to commemorate the first election in which women had the right to vote and were elected, the election of December 1918 to which others have referred. It was a very significant election in many ways in Irish history, but was also significant because it was the first time women had the right to vote and a woman was elected to either the British or Irish Parliament. I refer to Constance Markievicz, the first female MP and TD. We marked the election with a photograph in the Dáil Chamber of all the women still alive who had ever been elected to either House of the Oireachtas. For guests who have not seen it, the photograph is on display in the corridor of Leinster House. That was the 90th anniversary of the 1918 election and I very much hope that when we come to the centenary of the election we will mark it as an important date for women as well as in general Irish history.

Although there is no photograph or visual image of the parliamentary gathering 750 years ago, thanks to the great work of Paul Horan we have a good deal of information about it. I am grateful for the recording by the archbishops. There is a record of the meeting on 18 June 1264 in the *Liber Niger*, the Black Book of Christchurch, which is the register of the key diocesan archives of Dublin and Glendalough from the 12th and 14th centuries, normally on display to the public in the crypt of Christchurch Cathedral in Dublin. We are very fortunate that the record exists because with the destruction of so many ancient State records in the blowing up of the Public Records Office in the Four Courts in June 1922, we lost a great many records of such early gatherings.

An article by Mr. Horan in the current issue of *History Ireland* provides the background and a summary of the material in the diocesan register. He writes about his interest in this coming from his family connection to Castledermot in County Kildare. He then describes what the document says about the gathering. I have the record from the archbishop's register. I will not trouble colleagues with the Latin version. The English translation says, "The 1264 June 18 inquisition at the parliament of Tristledermod [as it was then called] Wednesday after the feast of Holy Trinity, 48, Henry III before Sir Richard de La Rochelle, Chief Justice of Ireland." It goes on to list the 32 members present. Others have spoken about these people, who were described as knights and jurors and also included the Bishop of Meath and Treasurer of Ireland, Hugh of Taghmon, the Chancellor, the First Baron of Trim and various others. These were key officials, magnates of State and land-owning knights. It goes without saying, at that time, that they were all men.

The inquisition was about the conduct of Archbishop Fulk de Sandeford and, as Mr. Horan wrote, sought to adjudicate on the matter of the rights of the archbishop as against those of the then Lord of Ireland, Prince Edward, son of Henry III. There was an interesting footnote that at the time Henry III and his son were prisoners of Baron Simon de Montfort, who subsequently summoned the first parliament of elected members in England in December 1264, some months after this first parliamentary sitting in Ireland. Yet again, we beat the English to another important historic date. Not only did we elect the first female MP, but our parliamentary sitting predated the first one in England.

The inquisition was about whether the church, that is the archbishop, or the State, in the form of the English king's representative as Lord of Ireland, could hold courts and exercise justice. It was a classic church-state struggle as to whether the archbishop, in his time "took arbitrarily to the loss and prejudice of the Lord Edward and his liberties". It goes on to say the archbishop had pleaded in his court "all pleas of the crown". It appeared that the archbishop had been taking it on himself to deal with matters that should have been matters of state. This brings us to a very contemporary theme of church-state relations, the state allowing the church to take on many aspects of governance the state should have been taking on.

Many have spoken about the history of the struggle for independence in Ireland, Home Rule and the subsequent events in 1916. Since the emergence of the Irish State in the 20th century we have seen a continuing tendency by the State to allow a different church, the Roman Catholic Church, to take on the mantle of a "shadow welfare state", to run our education, health care and social provision institutions to the great detriment of the people of Ireland. There was also great benefit and I do not underestimate the immense work religious orders did in carrying out the work the State should have done. However, the system lacked the democratic legitimacy and accountability to Parliament that institutions of the State would have. Overall it has meant our Republic has not been as strong as it should have been.

We are remedying this, and the debates we have had in recent years about the Magdalen institutions and mother and baby homes have been very important. It is also very important that our Constitution guarantees freedom of religion, although this can only truly be exercised in a republic where we have genuine separation of church and State, where no single religion is elevated above others. Reading the record of 750 years ago reminds one that *plus ça change, plus c'est la même chose*.

Senator Ned O'Sullivan: I am delighted to welcome the Minister, Deputy Deenihan, to the Chamber and commend him on a very interesting paper he presented to us. I also welcome

our distinguished guests and members of the Castledermot community. I know it well and have a brother-in-law living there. It is a source of pride to them to have an association with a key event in our history. Although I studied history, the event is not famously well known, and it is no harm that it should be elevated and highlighted here. The word “parliament” comes from the French word “parler”, or, in its modern corruption “parley”, to talk. Prehistoric man’s idea of democracy was that the person with the biggest club was the boss and every conflict was resolved by seeing who could knock the most heads.

Senator Fidelma Healy Eames: They are still at it.

Senator Ned O’Sullivan: Somewhere along the line it was decided that talking was better, jaw-jaw, not war-war. Early democracy began in ancient Greece. The Minister, Deputy Deenihan, is a great student of Greek, and remembers much more of it than I. It was the Greeks who perfected representative democracy with their assemblies, and that was continued into ancient Rome with its senate. Although we criticise the British for much, British parliamentary democracy is the foundation on which most representative democracies and parliaments have been based ever since, and we should give them credit for that. That was continued and adapted in countries such as the USA, which had its own very interesting experiment in democracy and is now probably the biggest democracy in the world.

Ireland’s experience with parliamentary democracy is conflicted because we were never in a position to talk just among ourselves. Over our heads was constantly a sword of Damocles, or a big club, and it is still there in the form of the country with the biggest nuclear missiles. Democracy is very fragile, and must survive in an atmosphere where people will resort to other means. We have seen this in our country up to very recently. Where there is no parliamentary democracy there is a vacuum, and chaos follows. That is why it is so important to us to protect and preserve our democracy. Our experience was shadowed. Despite all the wonderful work of “Grattan’s Parliament” by Henry Flood, William Molyneux and Jonathan Swift, when it suited the British to put an end to it with the Act of Union 1800, it was *kaput*. Bagairt, bréaga agus breab was what we learned at school. Britain closed the Parliament down by means of threats, lies and bribes. That is how our Parliament voted to dissolve itself.

Only Daniel O’Connell was able to fill the ensuing vacuum, and thank God he did. It is hard to imagine what would have happened in this country for that 50 year period when he was virtually the voice of Ireland. Then there was Parnell, Redmond and all those great parliamentarians who fought a great fight, once again, under circumstances where they could only go so far because Gladstone agreed to bring in the 1886 Home Rule Act which would be very important had it gone through at the time and might have obviated some of the many problems that occurred in the North later. His own party rebelled because it did not suit certain sectors. Once again, Ireland’s interests, even though represented properly and democratically in parliament were overthrown in the vested interests of what the British saw was good for Britain. Right through until modern times we have had that.

Parliaments do not always guarantee democracy. We have seen where parliaments have been used to subvert democracy. I got into trouble last week for mentioning a certain gentleman from Germany. The Nazi party was democratically elected, admittedly it did not have a majority. It had something of the order of 30% of the poll and got into government legitimately but was not in five minutes when it started to subvert that parliament and eventually set fire to the parliamentary building, the Reichstag, and moved on. We must always remember that we are privileged to be in parliament. We in this House had to fight a very hard battle to preserve

this particular Parliament.

Senator Fidelma Healy Eames: Hear, hear.

Senator Ned O’Sullivan: I commend my colleagues opposite who supported the Opposition battle because the loss of the Seanad would have been a very serious loss to democracy. We had a little incident last week where democracy was fiddled around with too much for my liking. All in all, this is a happy day. I will finish on a happy note. The Minister, Deputy Jimmy Deenihan, is doing a tremendous job. I echo the sentiments expressed last week by our colleague, Senator Tom Sheahan, who expressed the hope that when this dreaded reshuffle takes place that we in Kerry will not be left without our captain on the field.

Senator Maurice Cummins: I would not like to get between three Kerry men and disagree with any of them. I am delighted the Minister, Deputy Jimmy Deenihan, came in for the debate. I was criticised on the Order of Business this morning for making such statements on the Order of Business but I am happy I did so. We have had some very interesting comments from the Members who have contributed.

Senator Ivana Bacik stole my thunder totally in respect of Mr. Horan’s paper and the historical facts in respect of the parliament. As has been stated, the first recorded sitting of the Irish parliament is a unique milestone in the history of national and international parliamentary democracy. It is only right that it is marked in some way and I am delighted that we are able to do so here today in the Seanad.

Today, 18 June 2014, marks the 750th anniversary of the first documented sitting of the administrative gathering calling itself “parliament” in Ireland, of which an original record on manuscript still remains accessible. The first meeting took place in Castledermot which was known at the time as Tristledermod, as has been stated, and this sitting predates the first sitting of De Montfort’s bicameral parliament in England by seven months and two days. This pre-Union version of the Irish parliament continued to sit for about 500 years. The Houses of Parliament, Lords and Commons later met in the first purpose built parliament house in the world on College Green in Dublin, which was constructed between 1729 and 1739.

I read with interest the Minister’s paper. As a Waterford man, I am proud to say that John Redmond represented Waterford for so many years and the Redmond family up to the 1950s. I am glad his memory is being commemorated in such a way. It is my belief that both parties after Sinn Féin, both anti-treaty and pro-treaty parties, Fianna Fáil and Fine Gael, attempted to write out the Irish Parliamentary Party from history. It is fitting that John Redmond and the Home Rule party, the Irish Parliamentary Party, should be commemorated. It saddens me when I go to Westminster and see a bust of John Redmond that we do not have such a bust of him in this Parliament.

Senator Fidelma Healy Eames: Hear, hear.

Senator Maurice Cummins: We have one of Parnell but we need to do more to commemorate the Irish Parliamentary Party.

Acting Chairman (Senator Imelda Henry): In accordance with the Order of Business I have to call the Minister at 1.25 p.m.

Senator Maurice Cummins: May I extend it for five or six minutes?

Acting Chairman (Senator Imelda Henry): Two other speakers have indicated they wish to speak.

Senator Maurice Cummins: May we extend the debate for ten minutes? I am aware the Minister had an interview.

Senator Ned O'Sullivan: We are happy to agree with the Leader.

Acting Chairman (Senator Imelda Henry): Is it agreed to extend the sitting by ten minutes? Agreed.

Senator Fidelma Healy Eames: Will everyone get in?

Senator Maurice Cummins: I will conclude in one minute. It was unfortunate, as the Minister has stated, that on having Home Rule passed we had the intervention of the Great War and many items were unresolved. Were it not for the intervention of war, John Redmond would probably have been the first Prime Minister of Ireland but things obviously intervened in the meantime. I am glad the decade of commemorations is commemorating so many great events but as a Waterford man I am pleased John Redmond's memory is being commemorated as well as that of the whole Irish Parliamentary Party and their efforts to keep the issue of self-determination on the agenda in very difficult years.

Senator Trevor Ó Clochartaigh: Cuirim céad fáilte roimh an Aire. Caithfidh mé a rá go bhfuil díomá orm go bhfuil muid ag plé na ceiste seo inniu. Cé gur ceist thábhachtach í, ní dóigh liom go bhfuil sí chomh h-ard sin ar liosta na dtosaíochtaí againn. I believe we are doing ourselves no favours in the Seanad by scheduling items such as this. I do not think it is as high on the list of priorities as other issues on which we have called for debates. What are we marking with these statements? It is an obscure event that happened 750 years ago which, I believe, is wrongly described as the first Irish parliament. There was no such thing. It was a meeting of the English colonisers who occupied the shrinking Pale, a century after the Anglo-Norman invasion of Ireland. These were the descendants of the robber barons and their followers who attempted to grab Ireland for their own profit and for the English Crown. A century later, in 1366, they would hold another so-called parliament and try to impose the Statutes of Kilkenny, a medieval form of apartheid, designed to hold back the Irish language and Gaelic culture which was undermining their colony, because many in the Pale had, by then, begun to regard themselves as Irish and preferred Irish ways and Irish laws to those imported from England.

No disrespect to the people of Castledermot, but I believe the attempt to elevate this event in 1264 is a poor effort and unhistoric. Yet, the Seanad has had no statements on the centenary of the 1913 Lock-out. It has had no statements on the founding of the Irish Citizen Army, the founding of the Irish Volunteers and the founding of Cumann na mBan, all of which occurred in the past year. We need to do our business better here and they should have been commemorated properly. We should never forget that it was the plain people of Ireland through centuries of the struggle and endurance, to which we owe our freedom, and not some land-owning aristocrats who people would seek to honour today. The bottom line is that there was no democracy in Ireland until the Irish people took it for themselves.

The real and pressing issue we should be discussing today is reform or the lack thereof of our political system. In October 2013, the Government's referendum proposal to abolish the Seanad was rejected by the people. However, all participants and parties involved in the referendum campaign were clear in saying that the Seanad, in its current form, is elitist, un-

democratic and unacceptable. The result cannot be viewed as a vote to return the Seanad in its present form and piecemeal reforms are not enough. It should be fundamentally redesigned to better serve the people. The Seanad must become a fully inclusive, representative and accountable institution. This requires direct election by way of universal franchise for all Irish citizens on the same day as the Dáil vote, Northern and diaspora representation, 50% women members and representation of marginalised minority groups within Irish society. For the Seanad to truly fulfil its potential of acting as a balancing function in the Oireachtas, its powers must be increased and it must also have a distinct and complementary role and functions that do not merely replicate those of the Dáil in a weaker form.

To best represent the general public interest and reflect the priority of public accountability in decision-making, the Seanad should also act as a forum for dialogue between the many interests in Irish society, ensuring the inclusion of those sectors with less power and influence. It should use public consultation and deliberative democracy for enhanced citizen participation. The Seanad should also include the representation of regional interests on a non-population basis to redress the power and balance for those currently marginalised by reason of residence in the North, the west, Gaeltacht areas and the diaspora.

Sinn Féin believes in one person, one vote and the universal franchise. We need a properly reformed Seanad that is democratic, accountable and egalitarian and works in the best interests of good governance. Piecemeal cosmetic change reinforces elitism, to which we need to bring an end. Extending the vote to everyone is the first step towards real reform. We need a parliamentary system that is genuinely accountable and transparent.

It is also important to note the anti-democratic contraction of local government under this Government, with part-time councillors covering large areas, a significant reduction in the number of councillors and the removal of decision making from local communities, which is a retrograde move. The community and voluntary sector has seen savage cuts. However much we may wish to delude ourselves today with this nonsensical debate, the fact is that we have yet to create a free Republic in which all people are treated with respect and dignity and where justice and equality are embedded in the body politic.

Senator Fidelma Healy Eames: The Minister is welcome. According to Senator Barrett, the Minister last attended the House when we commemorated Seamus Heaney's great contribution to this country. That day was a momentous one, as it was the day before the Seanad referendum. Seamus Heaney played no small part posthumously in retaining the Seanad, as other Senators have mentioned. I support Senator Ó Clochartaigh's comments. We must move to use the mandate given by the people to reform the House so that everyone in Ireland can vote on its Members.

Today marks the 750th anniversary of the sitting of the first Parliament in Castledermot. As Senator Bacik mentioned, it predated the first sitting of De Montfort's Parliament in England by seven months and two days. That is not bad. There is nothing new about parliamentary assemblies in Ireland. The Normans, who began settling Ireland in 1169, were the first to give it a centralised administration. Our legal system is, in large measure, inherited from them. So, too, is our Legislature, which is directly descended from the Parliament that developed in medieval Ireland.

The Minister stated that the first Parliament was not representative of the people of Ireland, but it developed incrementally and covered citizens of the lordship of Ireland based on Norman

laws and English practices. In 1217, the Magna Carta was extended to the Great Charter of Ireland and membership was based on fealty to the king and the preservation of his peace. The fluctuating number of autonomous Irish Gaelic kings were outside the system. They had their own local Brehon law and taxation arrangements. To be fair to the Irish people, we had to fight to develop our local system until we achieved the independent Dáil and Seanad Éireann after 1921.

I am not bemoaning the lack of a monarchy, but I am concerned about the demise of democracy and the rise of some autocratic tendencies during this Government's term. Four people ruling over the Cabinet is not constitutional. The Taoiseach's tampering with the selection of Senators to the banking inquiry was an undemocratic move. We need to be careful and avoid supporting such behaviour. We are fortunate to have a democracy. I could echo Senator Bacik's words of *plus ça change, plus c'est la même chose*.

The 1297 Parliament held in Dublin was noteworthy for a number of reasons. It is the earliest Parliament from which substantial legislation survives and many consider it our first real Parliament because representatives were sent by the shires and provinces of Ireland with the full power to speak and decide for all and its legislation was fully binding.

Some Senators have been sent to this House, but Senator Bradford and I have no formal speaking time unless time is left over.

Senator Maurice Cummins: The Senators are doing a good job of it.

Senator Fidelma Healy Eames: Yes. We must regularly beg our neighbours on this side for speaking time. I tabled my first Bill last week but will receive no Private Members' time. We have to say-----

Senator Maurice Cummins: The Senator got the Bill through.

Acting Chairman (Senator Imelda Henry): I must call the Minister.

Senator Fidelma Healy Eames: Hold on one second, as this is an important point. We were elected to the House.

Acting Chairman (Senator Imelda Henry): The Senator's time is up. I must call the Minister.

Senator Fidelma Healy Eames: We must respect that privilege. I ask the House to reconsider.

Senator Maurice Cummins: The Minister has to respond.

Senator Fidelma Healy Eames: There is value in commemorative events.

Acting Chairman (Senator Imelda Henry): It is time to sum up.

Senator Fidelma Healy Eames: I am summing up. It is nice to compare and contrast to see how much we have improved or, in some cases, disimproved. Let us not be afraid-----

Acting Chairman (Senator Imelda Henry): The Senator is ignoring the Chair.

Senator Fidelma Healy Eames: I am finishing.

Acting Chairman (Senator Imelda Henry): I must call the Minister now. He has five minutes to conclude.

Senator Fidelma Healy Eames: Let us not be afraid of some criticisms. I look forward to the Minister's summation.

Minister for Arts, Heritage and the Gaeltacht (Deputy Jimmy Deenihan): I thank Senator Bacik for arranging this useful discussion. The anniversary is of such historical significance that it is appropriate that we mark it. Generally, discussions such as this cannot be held in the Dáil, which is why the Seanad is so important. A number of Senators used the opportunity to make other points, but we are discussing parliaments and democracy and that is what democracy is all about. I welcome the recent development that has seen all graduates of third level institutions afforded the right to vote for the Seanad.

Senator Ó Clochartaigh mentioned that we did not hold a similar discussion to recognise the establishment of the Volunteers or Cumann na mBan, but we did. I attended the Seanad for those statements, which were open to everyone. It was a good debate on the commemorations programme. I found it useful, as I was influenced and better informed by it.

I thank those Senators who contributed to this debate - Senators Ó Murchú, Brennan, Barrett, O'Sullivan, Cummins and Ó Clochartaigh. In particular, I thank Senator Bacik for ensuring this debate was held. I welcome our guests, members of the Castledermot Historical Society, as well as our academic friends who influenced this debate. They may not derive much contentment from it, but the fact that the matter was discussed will be recorded for when future historians consider its historical significance when we come to the event's millennium. We can always say that it was discussed in the Seanad 250 years ago.

Senator Ivana Bacik: Hear, hear.

Sitting suspended at 1.40 p.m. and resumed at 2 p.m.

2 o'clock

Irish Human Rights and Equality Commission Bill 2014: Second Stage

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

Minister for Justice and Equality (Deputy Frances Fitzgerald): I am pleased to present this Bill to the House. It is now 15 years since the Equality Authority was established and 14 years since the establishment of the Human Rights Commission. In that time, the demographic, social and economic fabric of the State has changed profoundly. In particular, public expectations of the high standards of visibility, transparency and accountability to be achieved by our public bodies has increased significantly. The commitment and professionalism of the members and staff of the Equality Authority and Human Rights Commission during this time are to be commended. There is no question about that. However, these bodies have overlapping roles and it has become increasingly obvious that there is a compelling need for a more comprehen-

sive approach to the protection of human rights and equality and to institutional arrangements in that regard.

Drawing together in a single, leaner and more streamlined body the main strands of the vital equality and human rights agendas will positively strengthen the ability of the new commission to effectively, efficiently, and cohesively promote a culture that respects the human rights and equal status of everyone in our society. The new commission will be positioned to maintain and build upon the reputations for excellence of the current Equality Authority and the Human Rights Commission.

The promotion and protection of human rights is at the heart of Ireland's domestic and foreign policies. Ireland has been and continues to be active in this regard in Europe and further afield. During our Presidency of the Council of the European Union last year, my predecessor put questions about the rule of law and protection of fundamental rights on the agenda of EU Ministers for Justice. Ireland was concerned, in particular, at the apparent rise in xenophobia, including anti-Semitism and other extreme forms of intolerance, including racism and homophobia, within the European Union and the failure in some cases to respond adequately. We were also concerned that justice institutions, the courts and police in particular, should function effectively so that fundamental rights are protected.

On 11 March last, as its response to the debate on fundamental rights and the rule of law initiated during our Presidency, the Commission published a communication on the rule of law. The proposed three-stage framework is a very solid response to the issues that we, and others, including the European Parliament, raised and will be considered in detail by our partners in the Council. Ireland continues to be proactive in this area. Along with several other member states and the EU Agency for Fundamental Rights, Ireland is involved in a co-operative project to identify a methodology which will enable us to measure adherence to the rule of law and our shared EU values across all member states. I believe that this work has a vital role to play in protecting the fundamental rights of all EU residents and in tackling extreme intolerance across the European Union.

I mention our Presidency initiative on the rule of law and fundamental rights because it is directly relevant to the subject matter of this Bill. Just as coherence as between the internal and external dimension of EU human rights policy is important, and just as it is of critical importance to our credibility in the EU that we are seen to practice what we preach, so too must Ireland's active support for human rights in the wider world be supported by the existence of a credible national human rights infrastructure and robust legislation in this field. Extreme intolerance and flagrant abuse of human rights is also evident on the wider international stage. As Ireland prepares for a constitutional referendum on equal marriage for same-sex couples in 2015, in contrast, certain states are working hard to restrict the rights and fundamental freedoms of gay people. Our contributions to the protection of human rights in Europe and internationally would carry little weight without robust protection of human rights and equality here at home. The new commission has a key role in reminding us of our obligations and in offering independent and principled advice to our Government and indeed to Irish society generally in respect of issues that need attention.

I firmly believe that our society will benefit from having a strong and effective human rights and equality body. I also believe that this Bill gives the new commission a very strong mandate to carry out this vital work. The levelling up of powers and functions, the introduction of a new role in supporting public bodies to have due regard to equality and human rights issues in

their work and the creation of a sliding scale of possible interventions and powers, which can be exercised in a nuanced way commensurate to the nature of the problem, including, as a last resort, an effective power of inquiry and powers to initiate court action, will all serve to make this a more effective body with stronger powers than its two predecessors combined. The new body will also in due course seek accreditation with the UN as Ireland's national human rights Institution. This is of crucial importance to ensure it achieves the highest domestic credibility and international standing in respect to its independence and remit. The explicit intention of this Bill is to strengthen the new commission and ensure that it complies unequivocally with the Paris Principles. I am confident that the new body will maintain the high standard and the high standing and reputation the Human Rights Commission has achieved internationally and that this legislation stands comparison with the legislation underpinning national human rights institutions anywhere in the world. The commission will take over from the Equality Authority as Ireland's designated equality body under the EU antidiscrimination directives.

The legislation will also amend the European Convention of Human Rights Act 2003, most importantly to give effect to the judgment of the European Court of Human Rights in the DG case by providing for an enforceable right of compensation in the case of unlawful deprivation of liberty due to judicial error in contravention of Article 5 of the convention.

I will outline the main features of the Bill. Sections 1 to 7, inclusive, are mainly technical provisions. Section 2 contains the necessary definitions, including a broad definition of "human rights", which ensures the commission is not limited to human rights recognised in existing Irish legislation in its promotion and awareness-raising work but can undertake work to promote human rights in the broadest sense. We had a detailed debate on that in the Dáil.

Part 2 comprises sections 8 to 28, inclusive. Section 8 is a standard provision which provides for an establishment day for the new commission, replacing the Equality Authority and Human Rights Commission.

Section 9 contains a number of provisions regarding the establishment of the commission as a body corporate with perpetual succession. It also sets out that the commission will be independent and be guided by best international practice in the area of human rights and equality. Most notably, these standards include the Paris Principles, as the set of informal rules relating to establishment and functioning of national human rights institutions are known.

Section 10 lists the detailed functions of the commission. These include providing information to the public on human rights and equality, keeping under review the adequacy and effectiveness of law in this area, practical assistance, including legal assistance to an individual under equality or equal status legislation and carrying out equality reviews, which are essential, and action plans. It also provides for the commission to appear before the High Court and Supreme Court as *amicus curiae* in proceedings before either court that concern the human rights or equality rights of a person. The section provides for continued participation with the Northern Ireland Human Rights Commission in the joint committee as provided for under the British-Irish Agreement Act 1999. The section is also a principles section and sets out the principles that underpin the functions of the commission in encouraging and supporting the development of a society that respect and protects each person's dignity and human rights.

Section 11 is a technical provision allows for the Minister with the consent of the Minister for Public Expenditure and Reform and with the agreement of the commission to confer additional functions on the commission. It will be important as time progresses that such a section

will allow this to happen.

Section 12 contains the provisions in relating to terms of membership of the commission. Members shall hold office for a term not exceeding five years, which can be renewed. The commission shall comprise not more than 15 and not fewer than 12 members, one of whom shall be chief commissioner. We had some discussion in the Dáil on that position as well. The section provides that the members designate who were appointed on 19 April 2013 shall become the first commission, with each member being appointed for a term of either three or five years to ensure continuity of expertise and experience for future commissions by avoiding a scenario where the term of all members expires at the same time.

Section 13 outlines the selection and appointment process for membership of the commission. Members of the commission will be appointed by the President, on the advice of the Government following the passing of a resolution by each House of the Oireachtas. The commission is being established with the intention of being recognised, as the Human Rights Commission currently is, by the UN as Ireland's national human rights institution. Such institutions are accredited for UN purposes in accordance with the provisions of the Paris Principles, which are the internationally-recognised standards that apply to such institutions. The persons to be appointed will be selected by the Public Appointments Service following a Paris Principles compliant selection process to be undertaken by the service. To underpin the independence of the selection process, the section provides that the Government shall accept the persons recommended for appointment by the service, save in exceptional circumstances and for stated and substantial reasons.

Section 14 lists the conditions of membership including the circumstances in which the Government may remove a member of the commission. These circumstances are failure without reasonable excuse to discharge the duties of the office, incapacity to perform those duties or stated misbehaviour. A member may only be removed from office with the agreement of both Houses of the Oireachtas.

Section 15 provides for filling of casual vacancies on the Commission and section 16 outlines how the commission shall organise its meetings. The commission shall meet not less than once every three months. Subject to the Act, the commission regulates its own procedures.

Section 17 provides for the commission to appoint from its membership Ireland's representative on the management board of the EU Fundamental Rights Agency as is provided for under Council Regulation No 168/2004. This is a new provision because, previously, the Government made this appointment. However, this new approach better reflects the requirements of the Council regulation and is designed to establish a structured relationship between the commission and the agency in the promotion of fundamental rights within the EU context.

Section 18 allows for the establishment of advisory committees and other formal methods of consultation with civil society. Such committees will allow for the commission to establish and maintain contact and co-operation with relevant agencies and with NGOs and other civil society interests. There is no doubt the commission would want to do this anyway but it will be spelled out in statute.

Section 19 is a standard provision providing that members of the commission will cease be members when elected to either House of the Oireachtas or to the European Parliament.

Sections 20 and 21 provide for the appointment of a director for the commission and outline

his or her functions. The director will be the Accounting Officer for the commission, which will have a separate Vote.

Sections 22 and 23 provide for the accountability of the director to both the Committee of Public Accounts and other Oireachtas committees. These are standard provisions.

Section 24 provides for staff of the commission and their remuneration. This section should be read in conjunction with section 45, which provides for the transfer to the commission of the existing staff of the Equality Authority and Human Rights Commission. The Bill provides for the commission to undertake its own recruitment in accordance with the standards set out in the procedures and codes of practice applicable to civil service recruitment generally. This section also provides that staff of the commission on transfer from the Equality Authority and Human Rights Commission shall become civil servants of the State and that the commission will be the appropriate authority within the meaning of the Civil Service Commissioners Act 1956 and the Civil Service Regulation Acts, 1956 to 2005, in respect of its officers. This is in line with the staffing arrangements of other independent organisations of a constitutional nature such as such as the Ombudsman, Garda Síochána Ombudsman Commission, Director of Public Prosecutions and including the Oireachtas. As civil servants of the State, the staff of the commission are not amenable to instruction by Government or by any Minister. These arrangements are designed to ensure the independence of the commission in full compliance with the Paris Principles, which require that the national human rights institution be legislatively empowered to determine its staffing structure and to select its staff in accordance with national law.

Section 25 requires the commission to prepare a strategy statement not later than six months after the commencement of this section. This statement will be for a period of 3 years. The commission will be directly accountable to the Oireachtas regarding its strategy statement. There will, therefore, be opportunities for discussion on this. The section also provides for the renewal of the statement every three years.

Section 26 outlines how funding will be made available, section 27 sets out how the commission shall prepare its accounts and section 28 requires the commission to prepare an annual report. In Part 3, comprising sections 29 to 42, inclusive, the commission's legal and enforcement powers are set out. Section 29 contains a number of definitions relevant to this part of the Bill, again, including a definition of human rights that is appropriate to enforcement of rights guaranteed by the Constitution or otherwise given force of law within the State, including the European Convention on Human Rights and other international instruments that are ratified by the State.

Section 30 requires the commission to provide information to the public and keep under review the effectiveness of any legislation relating to the protection and promotion of human rights and equality.

Section 31 deals with a very important issue, namely, the preparation of codes of practice. These are a very important tool of the commission and can address issues such as the protection of human rights, elimination of discrimination, promotion of equality of opportunity in employment and promotion of equality of opportunity in regard to matters covered by the Equal Status Act 2000. Obviously, the commission would be required to consult widely, including with relevant Government Departments, prior to the submission of a code of practice. Once signed into law by the Minister of the day, a code of practice is admissible in evidence in proceedings before a court or tribunal. Therefore, the codes of practice are a very important power that will

be available to the commission.

I regard this as a power that can be of crucial importance in improving standards of compliance with best human rights and equality practice. It is interesting to note that, to date, only one such code of practice has been prepared and approved, namely, that in regard to sexual harassment and harassment at work. I believe there is great potential for the commission to break new ground with these codes of practice. Instead of relying only on law and enforcement, it should not lose sight of the importance of organisational culture and the impact it can have on equality, and the contribution an appropriate code of practice can have is something we should encourage. I have no doubt the commission will use that power.

Sections 32 to 39, inclusive, are a continuation, with technical amendments, of provisions of existing equality legislation. Section 32 allows the commission to invite an undertaking to undertake an equality review and, following such a review, to prepare and implement an equality action plan. This is another important opportunity to have higher standards. The commission may also carry out a review or prepare an action plan on its own volition if it considers it appropriate to do so. To be subject to such a review and action plan, an organisation must have 50 or more employees.

Section 33 provides that, in connection with preparing either an equality review or an equality action plan, the commission may serve a substantive notice on a person to supply information with regard to an equality review or action plan. Again, this is a very useful and strong power to ensure equality is in place. Such a notice may also be served if an organisation fails to implement the requirements of an equality action plan as outlined in section 32. This section provides an opportunity for an organisation to appeal such a notice. Section 34 details how such a substantive notice might be appealed.

Section 35 introduces another important power. It outlines how the commission may, of its own volition or at the request of the Minister, conduct an inquiry. This section continues in force the existing powers of the Equality Authority and of the Human Rights Commission to conduct inquiries, which have not been used in practice in the precise manner set out in the existing Acts. In order to ensure that the power to be vested in the new commission is a real one which can in future be invoked in practice, the inquiry power has been redesigned, modelled on that contained in the Commissions of Investigation Act 2004. Hopefully, that will be used in the years ahead.

The detailed procedural and other rules in regard to an inquiry are set out in Schedule 2. In brief, it is intended that an inquiry may be carried out in respect of a public or private organisation, institution, sector of society or geographical area if there is evidence of a serious violation of human rights or equality of treatment obligations in respect of a person and the matter is of grave public concern. Prior to conducting such an inquiry, terms of reference must be drawn up and laid before each House of the Oireachtas and then published in the national media. This is a very serious initiative to take. The details on how it should be used are laid out very clearly in the legislation.

Section 36 provides for the publication of the equality and human rights compliance notice following or in the course of an inquiry, and goes into detail on how that would be addressed. Section 37 provides an appeal mechanism. Section 38 provides a register of all equality and human rights compliance notices.

Section 39 provides that, on the application of the commission, the Circuit Court may grant an injunction against a person who does not comply with a human rights and equality compliance notice. Again, there is recourse to the Circuit Court in that provision.

Section 40 provides for the provision of legal and other assistance by the commission. That can include the provision of legal advice and powers of the Equality Authority and the Human Rights Commission to conduct inquiries.

I have a lot of detail on many other sections. Senators will be clear that there are quite a number of examples of initiatives that have been taken already in terms of human rights, for example, in regard to the Garda Racial, Intercultural and Diversity Office and the human rights conference in Dublin in December, where we discussed best practice in human rights education and training for civil and public servants. There has also been the Irish Prison Service initiative, the human rights training programme, which has received a lot of international acclaim and led to many international visitors coming here to see the work being done in that area.

The point I want to draw out here is that the work already undertaken by the commission with its human rights education and training project across the civil and public service is an excellent example of the “soft” and “persuasive” powers which I believe will be influential, along with the strict enforcement powers, in the development of this positive duty. This will ensure our front-line public servants are sensitive to the specific difficulties that arise in various situations, for example, in dealing with migrants to our shores. This can be very important in ensuring fair treatment of people who may have been marginalised in their country of origin. Many types of training can be undertaken by the commission which are very helpful in terms of the development of a key understanding of human rights and the international challenges in that regard.

Moving on to Part 4, sections 43 to 51, inclusive, make provision for a range of technical and transitional issues consequential on the dissolution of the existing bodies and to ensure continuity as between these bodies and the new commission which replaces them. These are all standard provisions.

Part 5 comprises sections 52 to 55, inclusive. Section 52 is a technical section, to provide a definition of the European Convention on Human Rights Act 2003. Section 53 includes references to Protocols Nos. 11 and 14 in the definition of the convention in our domestic legislation. Protocols Nos. 11 and 14 both relate to the workings of the European Court of Human Rights. The reforms in Protocol No. 14 are designed to address the problem created by the large number of inadmissible or repeat cases so as to enable the court to concentrate on the most important cases. Protocol No. 14 also made new rules concerning the terms of office of judges of the European Court of Human Rights. The definition of “convention provisions” is also amended by including reference to Protocol No. 13, which relates to abolition of the death penalty.

Section 54 provides for a new section in the principal Act which will allow an enforceable right to compensation for a person whose detention is found to be in breach of Article 5 of the European Convention of Human Rights and where the detention was as a result of judicial error. This is a requirement of Article 5(5) of the convention. There is a background to this, with which I am sure Senators are familiar. In 1997 it was decided that D.G., then a minor, who was considered to have a personality disorder and be a danger to himself and others should be placed in a high support therapeutic unit for 16 to 18 year olds. However, in June 1997 the High Court decided, as there were no secure educational facilities available, that he should be

detained in St. Patrick's Institution. His detention was appealed to the Supreme Court which held that a child could be detained in a penal institution for a temporary period until secure detention was arranged for the child outside the jurisdiction. The Supreme Court's decision was appealed to the European Court of Human Rights which found that Ireland was in breach of the convention in that the detention was not for the purposes of educational supervision in accordance with Article 5(1)(d) and that there was a further violation of the convention as there was no enforceable right to compensation in accordance with Article 5(5) in the case of unlawful deprivation of liberty on foot of a judicial error.

Ireland is required to execute this judgment. This means ensuring persons who are detained in contravention of the provisions of Article 5, no matter what the circumstances are, including judicial error, have an enforceable right to compensation. The amendment is the only one remaining for implementation in regard to the judgment. Currently there is no enforceable right to compensation where the detention was brought about by a judge because there is judicial immunity in Irish law. Section 55 provides for the inclusion of the up-to-date version of the convention and Protocol 13 as Schedules to the Bill.

The Dáil completed its examination of the Bill on 4 June and, as Senators will know, there were some amendments. They will arise during the discussion, but I will mention some of them briefly.

In section 10(2)(d) and (e) we separated the wording to give greater clarity to the provisions on human rights. This suggestion was made on Committee Stage by a number of Deputies.

In section 21 we made an amendment arising from discussions on Committee Stage to make the director the Accounting Officer for the Vote of the commission.

In section 25, following an input by non-governmental organisations and other bodies, with Deputies in the House, we included an amendment to provide that the chief commissioner should set out his or her personal key priorities and objectives for his or her term of office. This amendment was made in response to points on the need for clarity on the objectives. It was considered useful that they be spelled out.

I emphasise the importance of the Bill in the context of the Government's commitment to strengthening the State's human rights and equality infrastructure. I am looking forward to our discussion and hearing the contributions of Senators. I am very keen to see the Bill enacted at an early date in order that the commissioners designate can be formally appointed to the new body. Senators will agree that the merger has been a long time in the making and I know that the commissioners designate are as keen as we are to have a reformed and solid legislative base in place for their important work on human rights. I commend the Bill to the House.

Senator Denis O'Donovan: I welcome the Minister for this debate on the Irish Human Rights and Equality Commission Bill 2014. My party opposes a Bill that will restrict the independence of the two authorities concerned in a short-sighted measure. Government control of the new amalgamated body will limit its capacity to have a real impact in forwarding the founding vision of the two bodies. A narrow interpretation of human rights, restrictions on initiatives and investigations and control over membership will hamper the role of the new body. Cutbacks to the funding of the two organisations concerned in 2008, while understandable in the economic circumstances of the time, constrained their capacity to operate while maintaining integrity and independence. The Government's relationship with the interim board does

not bode well for the likelihood of it respecting the independence of the new body in the future. The Bill will undermine critically the independence of the new commission and is out of line with international norms.

I will outline the reasons for my party's principled opposition to the Bill. The Bill will amalgamate the Irish Human Rights Commission, IHRC, and the Equality Authority into a single organisation, the Irish Human Rights and Equality Commission. Fianna Fáil believes the integrity and independence of the two bodies in pursuing their founding missions will be lost. The Bill gives the Government significant control over the newly merged organisation through a limited interpretation of human rights, control over membership and restrictions on the investigations the body can undertake. This move fails to recognise that the two bodies to be merged have separate and distinct, if complementary, roles. The amalgamation will be detrimental to their respective missions and impinge on the spirit of the 1998 Good Friday Agreement which initiated the bodies. The roles of human rights and equality are central in public policy and it is important that the Government maintain a commitment to these pivotal concerns. It must not seek to covertly control the bodies set up to protect them. The Bill involves the merger of two independent statutory bodies that have clearly defined mandates and have been active for over a decade in Irish public life. Given this context, the argument for integration is not as self-evident as in other cases.

The IHRC was entrusted with the oversight and monitoring of human rights in Ireland. It was founded as part of the Good Friday Agreement. Human rights law in Ireland is drawn primarily from the provisions of Bunreacht na hÉireann, the fundamental law of the land. This is complemented by EU law and the Charter of Fundamental Rights of the European Union enshrined in the Lisbon treaty in 2009. The Equality Authority was founded in 1999 and is charged with combating discrimination on various grounds, including gender, sexual orientation, race and religion. The two bodies play distinct roles in ensuring Ireland adheres to the highest ethical standards and lives up to its international and domestic legal and moral obligations. The current structure adheres fully to Ireland's obligations under the European Convention on Human Rights and the United Nation's Paris Declaration principles. The new body will have to submit again for accreditation under the Paris Declaration.

The number of people contacting the Irish Human Rights Commission rose steadily from 5,112 in 2011 to 6,104 in 2012. The increase was driven by a sharp rise in economic cases affected by austerity, which accounted for one third of all cases last year. Civil and political rights were raised by 35% of the people who contacted the commission in 2012, followed by economic, social and cultural rights. There were 203 cases related to cultural rights. The commission also offers opinions on laws from a human rights perspective.

The Equality Authority deals with around 8,000 inquiries annually. They focus primarily on issues such as disability, race and gender discrimination.

Both the IHRC and the Equality Authority experienced severe budget cuts in 2008. In November that year the then Minister for Justice, Equality and Law Reform, former Deputy Dermot Ahern, announced cuts of 43% for the Equality Authority and 32% for the IHRC. These significant cuts were heavily criticised at the time, but they were necessary given the financial climate and severe budgetary constraints. The reductions did not impact directly on the structural independence of the bodies or their organisational capacity to pursue their objectives. Fianna Fáil did not proceed with a proposed merger at the time. The Government did not address the issues facing the organisations and kept funding at the level mentioned until this year,

despite the heavy criticism dished out at the time.

The United Nation's principles on the status of national institutions, the Paris Principles, are international principles that set a benchmark for national human rights bodies in terms of structure and functions. They ensure effective independent operation. They emphasise the need for complete independence and a broad interpretation of human rights that the relevant body must be empowered to pursue. Ireland is accredited with an A rating in accordance with the Paris Principles, but this may be jeopardised in a forthcoming review, given the significant encroachment by the Government with this legislation on the work of the IHRC.

The announcement of the amalgamation was made in September 2011, but it has only now reached the legislative stage. The interim period was marred by hostility from the Department that undermined the IHRC. The selection panel headed by the former Ombudsman, Ms Emily O'Reilly, was stood down by the Department as it sought to expand the criteria in selecting a chief executive of the interim commission. It is a clear case of the Department exercising control over the organisation. The independent panel is firmly subjugated to the demands of the Department, which did not want certain people being involved in or applying for such positions.

The stance that we take is one of principle. We feel that a merger is inappropriate and will do more harm than good. That is not to take away from the sincere case that the Minister has made. I respect her views and, as I have said before, I think that she is a very good Minister. In this instance, however, I will have to tender a different view on the legislation. That is part of democracy. I shall oppose the legislation.

Senator Martin Conway: I welcome the Minister, Deputy Fitzgerald, to the House and this legislation. The Government announced in September 2011 that it was going to merge the Irish Human Rights Commission and the Equality Authority. That made eminent sense and honoured the commitment made in the programme for Government to be smarter, to reduce the number of agencies and to ensure that there was no doubling-up, with those agencies which had done similar work being brought together.

The Irish Human Rights Commission was and is a very good body. Maurice Manning was its president and was a former Member of this House. As Senator O'Donovan has quite rightly pointed out, it has an A rating when benchmarked against the Paris Principles, which is no mean achievement. Sometimes we forget what we have achieved in this country in terms of human rights compared to other countries. Certainly, we have a long way to go, but we have come a long way as well. It is interesting to note that 32 states in the United States still allow the death penalty. We heard recently about an appalling case where that went horribly wrong. At least we do not have that in this country. It is important every now and then that we should see the glass as being half full. I think that most citizens in this country espouse equality and want to see fair opportunity for everybody.

On the Equality Authority, I would not necessarily agree with the assessment that it has always been up to the mark that we would expect. I think of the case of the Equality Authority v. Portmarnock Golf Club, where the Equality Authority lost. It spent millions of euro of taxpayers' money fighting a case against a golf club. I would consider golf clubs by their very essence to be elitist places. I read an application form for one golf club recently which wanted to know what the applicant's parents did for a living, what the applicant did for a living and what school they went to, along with other similar elitist questions designed to help the club decide whether they were going to be accepted as a member.

Thankfully, the state of the economy in recent years has dictated whether such clubs take members, but the Equality Authority was not honouring its mandate in taking that case, which it lost. A former Minister had asked the Equality Authority to produce a code of conduct on equality for golf clubs - the Minister has referred to such codes as being an integral part of the upcoming legislation - but it did not do it. It was more interested in the headlines that it was going to get by beating Portmarnock Golf Club on the issue of female membership. I did not agree with the judgment of the Supreme Court, but it is the highest court in the land. The main point was the waste of resources in picking that type of battle when one looks at the many other equality issues which affect ordinary people.

Bringing these organisations together will future-proof this type of thing from happening again. The legislation, which I have gone through in detail, outlines many checks and balances. If we were able to achieve all that the legislation facilitates, we would be the best country in the world for human rights and equalities. It is a smart move to bring the two agencies together. I said to the former Minister, Deputy Shatter, that I would have liked the legislation to be enacted a lot sooner, but I know that the current Minister, Deputy Fitzgerald, is committed to having it over the line before term ends, so we have about four weeks in which to do that. It is utterly achievable with co-operation from all sides of the House.

I am disappointed that Fianna Fáil is opposing Second Stage, because I do not believe it is against the principle of what we are trying to achieve. I believe that many people will realise that two agencies doing similar work is not a smart use of resources. There is a better way of doing business. Human rights and equality are intrinsically linked. They are not different or separate; they are one of the same kind. As such, it makes absolute sense that the Government should have a single national agency promoting the principles of human rights and equality. As I said, they are two sides of one coin. It makes absolute sense to channel our resources as effectively as possible. On a conservative estimate, this measure will save the taxpayer €500,000 per year. I note the Government's commitment to make available that €500,000 to ensure that the agenda of equality is driven and that certain actions can be taken.

For the various sectors where there may be issues to do with equality, writing national standards and expecting people and organisations to cohere with them is the right thing to do. The code of conduct to which the Minister referred is a key aspect of that. More than the Portmarnock Golf Club, if there are elements of an industry or a sector which do not espouse the high levels of equality that we would expect, a code of conduct for that sector or area of society is the right way to go. If the code of conduct is not being adhered to, there is always the option of going down the judicial route, but that should be the last step rather than the first, because every agency has a responsibility to respect the public purse. That clearly did not happen in the Portmarnock Golf Club case.

The Equality Tribunal is not affected by the legislation, but we need to look at that as well. I have attended some cases and I know that it does fantastic work, but there are areas where the legislation is being abused. I know of one example where a local authority had thousands of complaints. Each one of those complaints had to be investigated by the Equality Tribunal, but not one has stood up. All have been dismissed. I tabled an Adjournment motion on this matter a year ago. I do not know whether a case has been upheld in the past 12 months, but that was a flagrant abuse of the Equality Tribunal system by an individual making a complaint against a local authority. The upshot of it was that the local authority spent hundreds of thousands of euros preparing defences against those bogus complaints. That is a classic example of a waste of resources. In response to my Adjournment motion, the Minister of State, Deputy Lynch, said

that she was not inclined to examine whether situations where one had hundreds or thousands of complaints could be stopped, but it is worth looking at in the future.

However, it is important at this point that we get this legislation over the line, so that the Human Rights and Equality Commission can start doing its work, start putting its five-year plan in place and start to identify the areas within our society where inequalities need addressing. We have a very good international reputation and there is much more we need to do. By the end of its term, this Government will have significantly advanced human rights and equality in this country compared to when it took office in 2011. Across the political divide there is political support for this because we recognise our international responsibilities and recognise the difference between right and wrong. We are, hopefully, moving towards the ratification of the UN Convention on the Rights of Persons with Disabilities, which will be another significant step forwards in the battle for equality of opportunity for all sectors.

The Oireachtas Joint Committee on Justice, Defence and Equality, of which I am a member, has had lengthy debates on this legislation which have fed into this comprehensive Bill. The principle of the Minister referring legislation to his or her line committee for examination of the heads of the Bill works very well, and this is a classic example. While it might be slow building blocks, we are getting there and this agency will be a crucial step in the right direction for human rights and equality in this country.

Senator Katherine Zappone: I welcome the Minister to the House. When the then Minister for Justice and Equality, Deputy Shatter, announced the merger of the Irish Human Rights Commission and the Equality Authority in 2011, it had been a very long time coming, subsequent to the disproportionate funding cuts to both bodies in 2008. Because Ireland's human rights and equality infrastructure has been significantly damaged, this Bill before the Seanad, having passed the Dáil, must be robust and imaginative enough to make up for much lost ground.

Three years on from that announcement, Ireland needs an independent, influential, "A" status and powerful body to support the people of Ireland in the protection and equal respect of their rights. Ireland also needs, as Deputy Shatter noted on Committee Stage in the Dáil, an Act that will "set in motion a potentially constructive dynamic to promote the development of creative human rights thinking on new challenges in the field". There is a great sense of urgency for us to complete the legislative work on this Bill, and I welcome the Minister's swift engagement with this, and her declaration at the end of her speech of her sense of urgency, so soon after taking up her duties as Minister for Justice and Equality.

Having reviewed all of the legislative debates on this Bill, and having previously contributed recommendations for substantive changes to the heads of the Bill in 2013 as a member of the Oireachtas Joint Committee on Justice, Defence and Equality, my view is that the Bill before us today is almost there. It reflects genuine engagement by the Minister and officials of the Department of Justice and Equality with Oireachtas Members, civil society and the IHREC designate. This must be welcomed and I do so heartily. I am in agreement, though, with the recent views of a coalition of civil society, expressed in the Irish Council for Civil Liberties, ICCL, publication of the shadow report submitted to the UN on Ireland's compliance with its obligations under the International Covenant on Civil and Political Rights, ICCPR, that "some aspects [of the legislation] may require further amendment if the new body is to meet fully its mandate to promote and protect human rights in accordance with international standards and norms governing national human rights institutions".

First, we need an effective integrating vision, to avoid the overlap the Minister referred to in her speech, of human rights and equality in what this body can do. In the practice of its functions, the body must protect and promote human rights so all people are held equal in dignity and are equally respected. This means protecting and promoting human rights in different ways for different people. The new body must be able to protect and promote human rights in such a way that real, substantive equality will be the outcome. There is a missed opportunity in section 32 of the Bill, which spells out the detail of the commission's function of undertaking equality reviews and action plans, about which the Minister spoke.

Equality reviews are a feasible alternative to the more complex option of undertaking an inquiry if, combined with a human rights review, this mechanism could provide a means of building better practice. This would provide a prime opportunity to think through and provide recommendations to practice ways of ensuring equal protection and promotion of human rights for various industries, sectors and public bodies. There is an opportunity in this Bill to amend an aspect of existing equality law that does not rise to the EU standard as outlined in the framework Directive 2000/78/EC. Under our existing equality legislation, the definition of religious belief is not sufficient. Our law refers to "religious belief" and should be changed to "religion or belief" to meet the requirements of the framework directive. I have raised this issue in the Employment Equality (Amendment) Bill put forward by Senator Bacik that seeks to amend the offensive section 37 of the Employment Equality Act. It could be done in that Bill or this Bill, so why not this Bill as it seems to be moving more quickly than the other?

My second substantive concern with the Bill in its current guise relates to the double definition of human rights, which the Minister mentioned in her speech. This has been covered at various Stages in the debate on this Bill. I have read Deputy Shatter's initial response to these concerns and the Minister's more extended response to these concerns on Dáil, Report and Final Stages. I respectfully submit that I remain unconvinced by the arguments the Government put forward to maintain the double vision on human rights.

I have two points to add to the ongoing debate about this issue. First, it is a retrograde step. Under the Human Rights Commission Act 2000, which governed the past IHRC of which I was a member, there were two definitions of human rights, but the broader one referred to all the functions of the IHRC bar one, namely, the function to institute legal proceedings. This made great sense because those human rights that might become the subject of some form of legal proceedings must have the force of law in the State. However, in its exercise of all of the other functions, IHRC drew on the broader definition of human rights to guide its work. Therefore, the substantive body of work developed by the IHRC not only provides a human-rights based analysis of many issues, laws, inquires, research and information, it also developed a very valuable method of applying a human rights based approach to its work, and international standards and norms were integral to this, even though they may not have the force of law in Ireland.

Second, this historically developed method will have to be set aside now. Although the Minister has argued that this reflects the way the High Commissioner of Human Rights uses definitions of human rights in light of a meeting with officials in the Office of the Deputy High Commissioner of Human Rights, I still find this strange. Could I be provided with any references, such as speeches or publications of the High Commission that would help me better to understand why this is the new best practice model? I found nothing on the UN website. It does not seem necessary. For example, under section 30 of the Bill, on the one hand the commission can only review the effectiveness of enactments relating to the protection and promotion of human rights and equality under the narrow definition. This means it does not consider

international standards that do not have the force of law here. However, when it comes to recommendations subsequent to the review or analysis, it seems it can refer to these international standards, as the Minister said on Report Stage. This sounds like analytical gymnastics that are just too restrictive to ensure our new IHREC will develop robust muscles. Instead of freeing up its limbs, it sounds like putting unnecessary chains around it.

I will mention one more key issue, namely, the commission's independence, and will raise other issues on Committee Stage. There have been many significant improvements in the Bill regarding a legislative foundation for the commission's independence, for example, regarding its staffing, and these are to be welcomed. However, some Government changes to the Bill, as the Minister pointed out on Report Stage in the Dáil, allow for increased engagement by the commission with the Parliament through work in committees. This is a very good thing. The commission's independence of Government can be strengthened considerably by more effective parliamentary involvement in the oversight of human rights issues. One of the key ways to do this is to ensure dynamic engagement between parliamentary committees and the national human rights institution. This is part of the resolution of a report published in May 2014 by the Parliamentary Assembly of the Council of Europe, entitled Improving Co-operation between National Human Rights Institutions and Parliaments in addressing Equality and Non discrimination Issues, of which I was the rapportuer.

3 o'clock

There is scope to include amendments to the Bill in sections 23, 25 - and the Minister spoke at length about the strategy statement issue in section 25 - and 28 to specify that the commission engage with parliamentary committees, particularly the justice committee, in the course of its work, and not only on general administrative matters. The justice committee should be specified.

Furthermore, I formally propose that in parallel with the adoption of this legislation the justice committee change its name to the Oireachtas committee for justice, defence, equality and human rights. This proposal was mentioned by Deputy David Stanton in his Second Stage speech on this Bill in the Dáil. Such a change would, in the first place, allow the importance the State places on human rights to be reflected in the functioning of the Oireachtas. Second, it would provide greater potential for the Irish human rights and equality commission to engage in a consistent and accountable way with Members of the Oireachtas whose specific responsibilities would extend to human rights oversight.

To conclude, there must be an independent, influential national human rights and equality institution in Ireland if we are ever to recover fully and ensure respect and dignity for all our people in an equal manner. Otherwise, although our GDP might start to grow, and please God it is growing, it will simply be more of the same for those who are vulnerable, violated or poor.

Senator Ivana Bacik: I welcome the Minister, Deputy Fitzgerald, and the introduction of this legislation. It has already been passed by the Dáil and the Minister referred to some of the amendments made there. It is a long-awaited Bill. The Minister stressed the urgency with which it is being brought forward and some of us - clearly not all of us - hope it will be law before the summer. The members of the commission-designate are also very keen to have the legislation brought into force.

The Minister mentioned the key events to which the Government is committed, such as the

marriage equality referendum in spring next year. It is vital that we have the statutory framework, such as that set out in the Bill, for a human rights body in advance of that referendum. It is extraordinary that Fianna Fáil is opposing it. In my innocence I had not realised it would take that view. It is particularly extraordinary given that party's history on this. Senator O'Donovan has kindly reminded us that some years ago, when the former Minister, former Deputy Dermot Ahern, made 43% cuts to the Equality Authority budget in 2008, I wrote at the time that a very quiet coup was taking place and that the Equality Authority was being undermined by the then Government.

Other Members have correctly paid tribute to Maurice Manning, the former president of the Human Rights Commission, but I wish to pay tribute to Niall Crowley, former director of the Equality Authority, who played a huge role in the promotion of equality issues, the protection of equality and in taking ground-breaking cases. I utterly reject my friend and colleague, Senator Conway's, critique of the Equality Authority in the Portmarnock Golf Club case. It is easy to dismiss that as a misguided case due to the outcome in the Supreme Court. Many of us disagree fundamentally with the reasoning in the Supreme Court judgment. It was not necessarily a predictable outcome and the authority was quite entitled to take that case.

I conducted a study with colleagues some years ago on gender discrimination in the legal profession. We found golf clubs to be significant sites of discrimination for women working in the legal professions. They were being excluded from golf outings and therefore excluded from the type of client-solicitor gatherings that would bring in money, enhance their reputation in the firm and so forth. It is easy just to dismiss golf clubs as elitist, and I agree with Senator Conway on that, but the action taken by the Equality Authority was not simply a populist act but an important one in terms of trying to promote the rights of women and their rights to be equal members in very influential and large institutions, such as that golf club.

To return to the Bill, it is vital that we move forward with the new merged body and ensure it can be as effective as possible in the protection and promotion of both equality and human rights. The justice committee has conducted hearings on the Bill and members of the commission-designate appeared before it. As Senator Zappone eloquently pointed out, it is hugely important to continue that strong interaction between the justice committee and the new merged entity. I am glad that aspects of the independence of the commission and of its links to the Oireachtas have been highlighted and strengthened in this Bill. The justice committee, on the initiative of Senator Zappone, is considering adding human rights to its title so it will have specific jurisdiction to deal with human rights issues as well as equality and justice issues.

We have received useful observations from the Irish Council for Civil Liberties, ICCL, and the human rights and equality commission-designate. I read them carefully in terms of trying to analyse the Bill and considering what aspects of it must be highlighted on Second, Committee and Report Stages. There are some key themes in the Bill. The first theme I wish to discuss is the definition of equality and human rights. I am glad there is no definition of equality in the Bill. It is appropriate that it is left undefined. I note the difficulties between the two definitions of human rights that have been highlighted by Senator Zappone and in the observations of the ICCL and the human rights and equality commission-designate. There is a narrow definition of human rights in section 29, in the part of the Bill dealing with enforcement and compliance. In some ways that is simply a practical issue. I am trying to get my head around it because-----

Senator Katherine Zappone: Exactly.

Senator Ivana Bacik: I agree in principle that the broader definition in section 2 should be there, particularly for the work of promotion and advocacy of human rights for a commission, but I can see a practical difficulty if a commission is trying to hold bodies within the State, either private or public, to account by reference to a set of human rights standards that are not contained in the Constitution or in any international treaty or in the European Convention on Human Rights, to which the State is a party. There could be a problem. I note the human rights commission-designate says that even if one uses the wider definition of human rights more extensively in Part 3, one would still have to exclude certain provisions. One could not have compliance notices, for example. It recommends that the wider definition be used, save for section 41 and sections 36 to 39, noting that those functions could only relate to law that is enforceable. It does, however, recommend that a wider definition be used in other sections of Part 3. I wonder if a middle ground could be devised here, because there could be a practical difficulty with extending it throughout all of the provisions of Part 3. That is one issue with the definition.

The second issue is the establishment of the new commission. Independence is a hugely important issue. Section 9 provides a guarantee of that. The funding issue has been highlighted along with the fact that the commission must have adequate resourcing to be effective. We have seen that from the rather controversial history of the Equality Authority, in particular. It is welcome that an amendment was made in section 21 on Committee Stage in the Dáil to make the director the Accounting Officer for the Vote of the commission. The commission will have its own Vote and the Minister has said that administrative arrangements for this are in train. That is hugely important because it was an issue in the observations on the first published version of the Bill produced by the commission-designate and the ICCL.

The third theme is enforcement. An amendment the Minister did not mention but which I consider important was to the title of Part 3, which was originally “Enforcement” and is now “Enforcement and Compliance”. That is something the human rights commission-designate recommended because it is a more accurate depiction of the wide range of provisions contained in Part 3.

I wish to refer to three aspects of Part 3. The Minister highlighted some of them. First is the codes of practice issue. The sexual harassment code is a good example of the type of important promotional work bodies can do in seeking to ensure compliance with human rights standards. I hope to see more of that under section 31.

Section 35 deals with the power to conduct an inquiry. There have been recommendations from the ICCL and the human rights commission-designate that changes should be made. I looked carefully at the wording in section 35 - I realise we will deal with this in more detail on Committee Stage - and I believe it is of particular significance now, in the wake of the report Judge John Cooke produced on the Garda Síochána Ombudsman Commission, GSOC, bugging allegations. Judge Cooke devoted a significant part of his recommendations to the public interest inquiry power of GSOC. He said that one of the problems, and this was highlighted in the political controversy surrounding those allegations earlier this year, was the lack of specificity of criteria as to when GSOC could conduct a public interest inquiry. It is hugely important that there are very specific criteria in section 35 and that the commission may conduct an inquiry of its own volition, so it does not have to wait for a ministerial request. Also, if one looks carefully at the wording, even if it is requested by the Minister, it does not have to do it. It “may” conduct an inquiry if the commission considers it appropriate and so forth, and the criteria are set out. This is the sort of power that was in the previous legislation, but was not practicable. This is a more practicable section, but this is not a power that should be or will be exercised lightly. It

is important the initiative is left to the commission and that the criteria are clearly spelled out for it and that the procedures are set out in Schedule 2. I am pleased to see this. The GSOC example is an important example of where we are not specific enough and of how we can run into problems where we set out power to conduct a public interest inquiry.

I welcome the new provision in section 42. This new provision was promised in the programme for Government and was sought by different NGOs. It concerns public sector duty and provides that a public body, in the performance of its functions, shall have regard to the need for equality and human rights protection. This is hugely important. At the Joint Committee on Justice, Defence and Equality this morning, we heard of some impressive examples of the work being done currently in the Defence Forces by Commandant Jane Lawlor, gender equality officer, and of the practical way she has begun to ensure gender equality is not just an aspiration in the Defence Forces, but a reality. There is, for example, the insertion of a requirement for people at every stage of promotion to receive some gender and equality training. A requirement is also being introduced to provide that before any members go on a tour of duty abroad, they will complete training on gender based violence and so on. There are practical examples of how Irish troops serving with the UN abroad have made life safer for women and girls who must leave camps to collect water and so on. This work recognises the need to ensure protection. There are impressive examples in practice of how this positive duty on public bodies can be implemented, which is why I believe section 42 is so important.

I welcome Part 5, section 54 and the new enforceable right to compensation in case of judicial error and deprivation of liberty. In regard to the *D.G. v. Ireland* case, I was in practice and acting in cases where juveniles were detained following the precedent set in that case. Many of us were troubled by that judgment, but it was often used where parents were begging us for some way to ensure a child's safety. However, it was problematic and I am glad to see we have now remedied the issue addressed in the European Court of Human Rights decision.

This merger has been a long time in the making and most of us are keen to see the Bill come into being. I am very disappointed it will be opposed. I assumed, perhaps naively, we might have cross-party consensus on this, because it is essentially a good Bill. I agree there are areas that can be tweaked and discussed, but it is imperative we have a statutory framework for our national human rights and equality body.

Senator Rónán Mullen: Ba mhaith liom fáilte a chur roimh an Aire. This is the first time I have had the opportunity in the House to wish her well in her new duties. I would also like to wish the Human Rights and Equality Commission the best for its work. This is an important body and it has important and sensitive work. As the Minister has said, the commission will be Ireland's internationally recognised body with responsibility for human rights.

I wish to make some general points. The Minister has invoked important ideas and concepts. For example, she referred to best international practice, including the Paris Principles, underpinning our approach to human rights and the work of the commission. The new commission will nominate members to the fundamental rights agency of the European Union and so on. The describing and circumscribing of circumstances in which members can be removed seems appropriate also.

Looking to the future, we must continue to reflect carefully on human rights, what they are, how we identify human rights, how we define them and how we go about enforcing them or ensuring compliance with best international practice or authentic human rights standards as

identified. On the issue of having regard to best international practice, the identification and promotion of human rights goals must never become the exclusive province of any closed or elite group, however well educated, academically qualified or connected with the Government, civil power or the public service. Human rights work must be done with passion, but also with humility and in a listening spirit. It must have particular regard to the people it must serve, particularly minorities or those who are vulnerable, because these are the groups who most depend on our spirited defence of human rights. Our identification and defence of human rights and equality must be done in the context of respect for the letter and spirit of Bunreacht na hÉireann. Our constitutional values might even be sometimes in tension with what might be regarded as best international practice and this is an area in which we need to tread very carefully and with great respect for our Constitution and its important role in the work we must do.

We must recognise that the idea of human rights in itself poses particular challenges. After the horrors of the Second World War, states rightly came together to establish international laws, treaties and conventions and to promote human rights standards. This has been a positive and progressive development for the human race. However, in the absence of recognised concepts of natural laws and rights, we will always remain vulnerable to the possibility that the most powerful elements in our world will redraw the human rights map from time to time.

For example, the right to life of the unborn is not well championed by what we might call the identifiable human rights fraternity, in the western world in particular, at this time. Various human rights committees repeatedly interrogate countries that have sought in their laws to protect the unborn. Some of these so-called human rights defenders seek to restrict freedom of conscience in the case of certain health care workers for example. I am not aware of any international human rights body that sought to challenge our, frankly, corrupt abortion legislation, which was passed here last year, with all of the dangers and contradictions it entailed.

Language is also frequently abused. Notions such as “reproductive rights” are used as a Trojan horse when what is really being referred to are rights to abortion. People even talk about a concept such as a safe abortion, which is a concept foreign to anybody who realises an abortion can never be a safe experience for the unborn child involved. I cite the example of the unborn, simply because the unborn is, perhaps, today’s victim of what can often be the arbitrary and selective nature of human rights discourse.

Given the demographic changes that are occurring in our world and in Europe, if we think, for example, about the emerging strength of Islam and the existence of particular strains of Islam, these have very different ideas about human rights and human dignity to the ideas that would be shared by a majority of those in this Chamber. Think of the emergence of China and its enormous economic power. Only yesterday, we saw our British friends kowtowing to the Chinese authorities, because China must now be propitiated because of its huge economic strength. This has enormous implications for our attempts to continue to vindicate human rights and to raise important concerns about human rights in China. We must constantly reflect on these issues, instead of just looking at the mechanics of this legislation or the balancing of rights or the extent to which the legislation facilitates or spencels the members of the commission, although I do not deny these are important questions. We also need to think about the concepts we as legislators must struggle to address and the issues on which the members of the commission must continue to reflect.

I referred to the emerging strength of Islam and of China. We can ask, legitimately and with great concern - with burning anxiety one might say - what is the future for human rights when

it comes to determining women's full participation in civil and political life, or people's right to full participation in a democratic system of decision making. I suggest we must move from seeing things in terms of what we decide is right or wrong at a given time, according to the current international consensus or current shared consensus of those within the human rights circle. We must struggle at least to try to establish clearly in our minds what we believe is objectively right and wrong. In a world in which many believe in God but in which many others do not, we face an ongoing challenge of trying to locate an absolute source of authority for concepts we all wish to take for granted, such as respect, tolerance, inclusion, and the protection of the vulnerable and marginalised.

The Minister mentioned that Ireland's active support for human rights in the wider world must be supported by the existence of a credible national human rights infrastructure and robust legislation in this field. She is absolutely right. However, it also works in reverse in that the existence of a credible national human rights infrastructure and robust legislation in the field of human rights protection in Ireland must be reflected in Ireland's active support for human rights in the wider world.

This morning I asked the Leader to report back to us on what the Government has said and done, or intends to do, about the very disturbing case of Dr. Meriam Yehya Ibrahim, the Sudanese woman who has been condemned to flogging and, eventually, hanging for the crime of apostasy. She was raised in her mother's faith, orthodox Christianity, because her father, apparently, was absent in the course of her upbringing. The Sudanese authorities regard as a crime her marriage to a South Sudanese Christian. This is not something that any civilised government can just let go by or just shake its head at. It needs to be raised. Ireland needs to raise issues such as this continuously at international fora. This particular issue raises complex enough issues about the role of religion within states but also raises more obvious questions about people's freedom to practice and manifest their religious belief or the fact that they have no particular religious belief. Ireland must not be shy about raising these issues and being awkward on the world stage, irrespective of what economic issues arise. We should enlist the support of Muslim groups in our country, just as we rightly have done in expressing concern about the fate of Irish citizens who have been caught up in the turmoil in Egypt. I have one case in particular in mind, namely, that of the student who, as of a number of weeks ago, had been in jail for seven months awaiting trial. We need to co-opt the support of Islamic groups in the State, for example, to help us to communicate that what is happening is no true reflection of Islam and that human dignity entails necessary respect for freedom of religious belief and conscience. Freedom of conscious is another vital concept.

The Minister said that as Ireland prepares for a constitutional referendum on marriage equality for same-sex couples in 2015, certain states, by contrast, are working hard to restrict the rights and fundamental freedoms of gay people. That is terrible. It is important that there be listening and humility in regard to identifying what human rights are in this case. There will be those who will oppose the referendum. The former editor of *The Irish Times* and former Deputy, Geraldine Kennedy, says she expects the referendum not to succeed. If that is the case, it will be because a majority of people with total respect for human rights may regard human rights in terms other than those envisaged, and may not regard having our current definition of marriage redefined as a human right. Those affected must not be marginalised or stigmatised; they must be listened to. We must work out our understanding of what human rights entail, not by deciding what we must get the people to decide but by listening carefully to what the people actually decide. We must allow that to inform public thinking on this issue.

There is much more that I could say. I thank the Chairman for his indulgence. Difficult issues will arise and differences of opinion simply cannot be wished away. We must search for the truth together in a mutually respectful way and take their lead from, rather than dictate to, the considered, reflected position of the people, in whom all decision-making ultimately resides.

Senator Jillian van Turnhout: The Minister is warmly welcome. Having this Bill before us represents a good day. I certainly welcome it and I will not reiterate what previous speakers have said. The Bill will provide a framework for human rights, which is so important. Human rights issues pose a challenge to all of us. My experience in dealing with the UN Convention on the Rights of the Child is such that I believe it is always great to have a framework document to return to in order to examine the language and vision. It is an important lens to be used in the work we do.

There are really just two points on which I am not entirely comfortable. I want to ask about both. We all agree about the importance of having an independent human rights and equality commission. We have a choice, namely, to invest in such a commission now or wait for years to pass, at which time we will have to invest in a commission of investigation into various violations of citizens' rights. There is a choice that the State can make. I would choose investing now because of the direct impact on people's lives.

I note what the Minister said about the amendments to sections 21 and 25 that have already been made. I am very cognisant of the cuts, in the order of 43%, to the Equality Authority in 2008. I was associated with the Children's Rights Alliance at the time. The cuts had a chilling effect, not just on the authority but also on civil society organisations, advocates and others because of their nature and the manner in which they were made. It is with surprise that I hear Fianna Fáil is opposing this legislation.

How can we actually protect from disproportionate cuts? Although I understand that the State may decide in a recession to make cuts, nobody would quibble with the fact that a 43% cut is totally disproportionate. Is it possible that we could consider a requirement on the Minister to explain to the House any cuts that affect the human rights and equality commission. The commission will have a distinct Vote. Therefore, could there be a protection mechanism? We want to ensure re-accreditation in Geneva. When I examined the principles relating to the status of national institutions, the Paris Principles, as they are known, I noted they refer to the composition and guarantees of independence and pluralism. The literature states:

The national institution shall have an infrastructure which is suited to the smooth conduct of its activities, in particular adequate funding. The purpose of this funding should be to enable it to have its own staff and premises, in order to be independent of the Government and not be subject to financial control which might affect its independence.

Is there something more we can do in this legislation to have a clear accountability mechanism if a future Government is to cut funding, for whatever reason?

My other question was partly answered through the amendments the Minister made. With regard to staffing, how can we ensure that no obstacle will be put in place if temporary staff need to be taken on for a specific project? There is potential for the commission to be told it cannot take on additional staff owing to a moratorium. The commission's funding and statutory function are not the issue, rather, it is a question of our not putting obstacles in place preventing the taking on of staff.

I support Senator Zappone on strengthening the relationship with the Oireachtas. Perhaps we should broaden the name of the justice committee. It does considerable human rights work at present but, perhaps, the human rights aspect should be very clearly reflected in its title. This would be very much welcome. We then need to see the structures put in place to ensure regular engagement not only with the committee but also other aspects of work in the Oireachtas.

I am not sure if legislation can resolve the next issue I wish to raise. In reading the Bill it is not entirely clear what the chief commissioner's role is versus that of the chief executive. I wonder if we will see conflicts. How do we ensure there is clarity and a distinction between the roles? I have a fear of overlapping. I acknowledge it can be in the nature of things and a difficult issue. Many organisations I have seen have suffered greatly where there has been a breakdown in the relationship between the chair - the chief commissioner in this case - and the chief executive. Will the Minister elaborate on whether there is something that can be done to strengthen the legislation or articulate clearly the difference between the roles? I support the Bill fully.

Senator Mary Moran: I welcome the Minister. I am delighted to have the opportunity to speak on Second Stage of the Irish Human Rights and Equality Commission Bill 2014. I acknowledge the hard work of the Irish Human Rights Commission, IHRC, and the Equality Authority which together have ensured equality, human dignity and human rights have been at the heart of the ethos of legislation and policy in the State. The IHRC was formed following the Good Friday Agreement and established under the Human Rights Commission Act 2000. Similarly, the Northern Ireland Human Rights Commission was established at the time.

As a member of the United Nations since 1955, Ireland has been a long-standing advocate of human rights and international peacekeeping. The IHRC has been recognised internationally for its autonomy from the State and its commitment to and credible reporting on human rights. It received an "A" accreditation rating from the National Human Rights Institutions Forum under the auspices of the United Nations, which was a fantastic achievement. It also demonstrates the autonomous nature of the commission under the Paris Principles, the informal set of rules created by the United Nations.

The Equality Authority was established in 1999, having formerly existed as the Employment Equality Agency. It has worked tirelessly to eliminate discrimination, which unfortunately continues in our society. The authority has highlighted and subsequently worked to eradicate discrimination in employment law and parental leave policy and worked towards the promotion of equality for carers and in policies affecting those with disabilities.

With the enactment of the Bill which proposes to merge the IHRC and the Equality Authority, the nation will continue to ensure the safeguarding of human rights and equality but in a more efficient, cost-effective and coherent way. Since the coalition Government took office in 2011 in the wake of the banking collapse of the previous years, among the priorities in the programme for Government has been a reduction of the number of public bodies. The merger is not only potentially saving taxpayers €500,000 but ensuring greater efficiency in the operation of the bodies since the IHRC and the Equality Authority have overlapping mandates, particularly in respect of discrimination legislation and policy. The new commission will be able to formulate policy and legislation in a more integrated way, making it easy for people to navigate the system, while ensuring greater efficiency in the output of policy and legislation.

Part 3 of the Bill outlines the enforcement powers of the commission, as well as providing

for the dissolution of the IHRC. The Bill proposes amendments to the European Convention on Human Rights Act in Part 5 by providing for the right of compensation where a person believes his or her freedom is deprived by judicial error in breach of article 5 of the convention. That is a very welcome measure.

In 2007 the UK Government enacted legislation to merge a more cumbersome number of public bodies than is proposed here. It legislated to amalgamate the Commission for Racial Equality, the Disability Rights Commission and the Equal Opportunities Commission to form a single body, the Equality and Human Rights Commission. The merger was successful and we find ourselves following in those legislative footsteps today. I am disappointed that Fianna Fáil intends to oppose the Bill. I am aware of the concerns raised about the Bill, in particular regarding the two definitions of “human rights” in Parts 1 and 3. The inconsistency means the human rights that can be at issue before the newly formed commission must be agreed to by force of law in the State. In other words, to be considered by the commission, rights must be enshrined in the Constitution, the European Convention on Human Rights and existing equality legislation.

The Bill proposes to introduce a positive duty on public bodies, which is reflective of a commitment made by the Government under the Programme for National Recovery. The positive duty obliges the commission to provide guidelines and codes of practice for public bodies, which is a progressive measure. This ensures greater transparency in the governing of public bodies with a human rights and equality centred approach.

The powers of inquiry of the new commission will, in fact, be greater than the previous powers of inquiry of the Equality Authority, a very notable and welcome measure. It ensures the autonomous nature of the commission is maintained and that what is proposed is a commission independent of the Government. The enforcement powers outlined in the Bill ensure it will maintain the “A” rating received from the United Nations body which oversees the independence of human rights based commissions internationally.

I appreciate that the logistics of the Bill entail changes and a transitional process for both public bodies in terms of staff, management, the amalgamation of mandates, powers and the body of work which must be teased out and agreed. However, in time the newly formed commission will overcome the immediate obstacles and ensure the nation will have an independent, cohesive commission underpinned by legislation to strengthen and give voice to the human and equal rights of the people for a more equal present and a fairer future.

Senator Kathryn Reilly: I also welcome the Minister. This is my first opportunity to congratulate her on her new role. She did good work in her previous portfolio and I welcome her appointment to her new one.

Like Fianna Fáil, Sinn Féin will oppose the legislation, as it did in the other House. When the merger of these bodies was originally proposed, Deputy Eamon Gilmore, now Tánaiste, described it as an attempt to turn back the clock on the equality agenda. The legislation will undermine the human rights provisions of the Good Friday Agreement and may lead to a loss of focus and expertise. For that reason, we oppose the Bill.

The Bill dissolves some of the bedrock of the Good Friday Agreement, of which both Governments are co-equal guarantors and which was endorsed by the vast majority of people across the island. The Bill undermines the Agreement as a whole by sending the message to any party

to it that there is the possibility to hollow it out one component at a time and that there is flexibility around its foundations. That is not acceptable. It could be seen as a betrayal of the vote of the people and undermining the political, democratic peace process. Sinn Féin wonders why the Government would seek to undermine or in any form unravel the very fabric of peace on the island or to give any signal that the Agreement is open for dismemberment or *à la carte* implementation. In that regard, I ask the Minister to say what consultation was engaged in on the implications for the Agreement.

The British-Irish Parliamentary Assembly has acknowledged that the potential of the Good Friday Agreement has not been fully realised. Some elements have not been implemented. With so much left to do under the Agreement, why would we take a step that might be seen as undermining it? It may cause the Government to lose the moral authority to challenge those who want to unpick the Agreement in the context of other aspects of society and what is happening in the peace process. We cannot afford to let that happen. Monumental work has taken place to get us to where we are today. As a co-guarantor of the Agreement, the Government has a duty to take it seriously. Rather than to send this signal with the Bill, it should be seen to promote and progress the Agreement. We should not be removing parts of it that need to be changed.

While we acknowledge that savings could be made by implementing the Bill, such savings could be realised elsewhere. We must question whether any savings could be lost down the line should peace on the island be jeopardised in any way from any potential ramifications. The proposal is counterproductive. Like my colleagues in the Dáil, I am calling on the Government not to proceed with it.

Since 2011, my party has called on the Government to ensure that the bodies continue to benefit from the equivalency of human rights provisions set out in the Good Friday Agreement. As was mentioned by other Senators here this afternoon, under the UN Paris Principles, the Irish and Northern Ireland human rights commissions hold an “A” status rating, meaning that they must be appropriately mandated and financially secure so they are able to conduct their work effectively. It is imperative that the human rights and equality body is resourced and mandated adequately in order to carry out the work.

My colleague, Deputy Jonathan O’Brien, introduced a Bill in the Dáil to strengthen the Irish Human Rights Commission following the Government’s proposal of a merger with the Equality Authority. This Bill would have the effect of increasing the commission’s remit and would have given it the protection it deserves as a crucial element of the human rights provisions of the Good Friday Agreement. My party and I stand by the Human Rights Commission (Amendment) Bill 2011.

If the Government is to live up to the commitments under the Good Friday Agreement, which is an internationally recognised agreement, we need to make sure that these institutions are protected. It is for those reasons that we are opposing this legislation.

Minister for Justice and Equality (Deputy Frances Fitzgerald): I thank the Senators for their responses to the introduction of this Bill to the House today. I believe that it is important and robust legislation and an important part of the architecture of the protection of human rights in this country. Quite a number of Senators have remarked on the various provisions in the legislation for equality review, protocols and inquiries. In particular, I note Senator Bacik’s comments about public inquiries and that is spelled out in the legislation. I thank all Senators

for their comments and welcome the range and scope of the discussion here today.

I join with Senators in thanking former Senator Maurice Manning and Niall Crowley, whose work in the Equality Tribunal I was also very familiar with, for the body of work in which they have been involved over a long period of time. As a number of Senators have remarked, this work has taken us quite far in terms of human rights obligations in this country and having appropriate responses and mechanisms to deal with human rights issues.

Clearly, there were very severe funding cutbacks to both bodies. It has been recognised across the House today that they have had their impact but it is really important that we move forward and support the work of the new body. For the information of the House, I would say that an extra €2 million has been allocated in 2014, which brings the funding up to €6.29 million, and that there has been approval for 15 extra staff, which is very important and worthy of note, bringing staff to 47. There has also been an agreement that there would be a review in 18 months. I pay tribute to the former Minister, Deputy Alan Shatter, for the work he has done on the Bill generally. I certainly remember him making the case for extra staff and extra funding so that the body could do its work effectively. I certainly want to pay tribute to him. We all know his huge commitment to human rights and his work in that area over a long period of time.

A number of points came up to which I wish to refer. In response to a point made by Senator Reilly, I want to put my next point on the record because it is very important. My predecessor consulted with the then Secretary of State for Northern Ireland around the time this proposal was announced. I can assure the House that there are no adverse implications for our commitments under the Good Friday Agreement or indeed for our relationship with Northern Ireland. Equivalence of protection relates to substantive human rights law and not to questions of institutional structures, which will always operate differently in different jurisdictions. Our body of human rights law under our Constitution is at least equivalent to that which exists in Northern Ireland. I made that point in the Dáil and again here. We do not have anything to apologise for in terms of the architecture we are proposing. Certainly, we have no reason to believe that it is viewed in that light.

Another area that was commented on by a number of Senators is the question of the definition of human rights. I will say a bit more about this definition. The definition in section 2 gives the commission a mandate to promote human rights in the widest sense, not limited to Irish law, conventions we have ratified or any existing international convention. The commission can seek to develop and promote new human rights standards and its discretion in that regard is unfettered. The definition in section 29 deals with legal or enforcement powers and, accordingly, it is appropriate that it refer exclusively to human rights that are recognised in Irish law. A number of Senators made that point.

My Department met with the Office of the UN Deputy High Commissioner for Human Rights in October 2012 as part of the consultative process with that office following publication of the general scheme of the Bill. At that meeting, the Department explained that the rationale of having two separate definitions was to give the new body every possible freedom to work towards the enhancement of the human rights environment in Ireland. I would make the point that there was discussion about that and an understanding of why we were taking this approach.

There have also been calls for one unified definition of human rights in the Bill. Human rights are, of course, indivisible and inviolable but the technical device of having two definitions does not challenge that principle in any way. If we had to have just one definition, it would

have to be a narrow definition confined to Irish law because we cannot give the commission or any other State agency legal or enforcement powers in respect of matters that are not part of Irish law. One narrow definition would be a retrograde step because the commission would lose much of its ability to be creative in the promotion of human rights. What we can do and what we are doing in the Bill is giving the commission the freedom to promote human rights on as broad a basis as possible and reflect new normative developments at international level in its work. In doing that, we must be clear that its mandate in monitoring compliance with specific human rights standards is limited, as it must be, to those enshrined in Ireland's legislative framework in accordance with the rule of law. The intention is to allow the commission to be creative in its promotion of human rights principles as broadly understood but to observe the rule of law in the area of enforcement of standards. I have said that there was discussion with the Office of the UN Deputy High Commissioner for Human Rights. It noted that this approach seemed very close to how the UN High Commissioner for Human Rights sought to describe her own role relating to the protection of clearly defined rights and the promotion of broader human rights principles. It stated that it thought the two definitions approach is a good model of best practice which it thought other member states could look at. I am sure we will discuss this further but I wanted to put that on the record of the House because it is important to note.

In respect of re-accreditation, a new application later this year is required anyway regardless of whether we have a new commission or not. Existing accreditation expires before the end of this year. I want to clarify that there is no Government control in respect of control of appointments to the commission. The Public Appointments Service is responsible for making the selection and appointments will be passed by the President following the resolution passed by both Houses. Obviously, there is the opportunity in the Bill for engagement with Parliament. The commission and the Houses are free to engage. The Bill cannot impose obligations on Oireachtas committees for procedural reasons and for the Oireachtas itself under Standing Orders. I believe the change in name of the committee is a good idea and I support it but I do not believe it can be done under this Bill. Perhaps it can be taken up in another forum and followed through on by Senators. It is, as Senators have said, an important message.

Senator van Turnhout raised concerns about potential cuts. As in the case with many other bodies, one would like to have a more protective mechanism built in but I do not think that is feasible. Obviously, the commission will have its own Vote but it is not possible, I believe, to build in that sort of protective mechanism. The fact that the legislation is robust and has potential for action in the area of human rights is illustrative of the Government's commitment to human rights and to having in place robust architecture in that regard. It cannot be denied that it has been a difficult time for the two bodies that are now being amalgamated. Given the basic legislation in place and the will that is evident across both Houses that this body work, there is great potential for good work to be done in the area of human rights and to build on the positive work that has been done by the two bodies in the past. I believe that with the improving economic situation Government will want to support these bodies to do the best they can to deal with the many new and challenging human rights issues that need to be addressed in this country.

There is no room for complacency. I agree with Senator Mullen that there must be open discussion on human rights. We cannot become complacent in the assumptions that we have about human rights one way or the other. Human rights in this country will, I am sure, always be subject to robust discussion by the citizens.

I thank all Senators for their contributions to the debate. I look forward to Committee Stage

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and to hopefully finalising this legislation in the Seanad prior to the recess. People definitely want to get on with this work. I hope from a legislative point of view we can ensure that that happens.

Question put:

The Seanad divided: Tá, 29; Níl, 10.	
Tá	Níl
Bacik, Ivana.	Byrne, Thomas.
Barrett, Sean D.	Leyden, Terry.
Brennan, Terry.	MacSharry, Marc.
Burke, Colm.	Mooney, Paschal.
Coghlan, Eamonn.	O'Donovan, Denis.
Coghlan, Paul.	Ó Clochartaigh, Trevor.
Conway, Martin.	Ó Domhnaill, Brian.
Crown, John.	Power, Averil.
Cummins, Maurice.	Reilly, Kathryn.
D'Arcy, Michael.	Wilson, Diarmuid.
Gilroy, John.	
Hayden, Aideen.	
Henry, Imelda.	
Higgins, Lorraine.	
Keane, Cáit.	
Kelly, John.	
Landy, Denis.	
Mac Conghail, Fiach.	
Moloney, Marie.	
Moran, Mary.	
Mullen, Rónán.	
Mullins, Michael.	
Naughton, Hildegard.	
O'Donnell, Marie-Louise.	
O'Keeffe, Susan.	
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.

4 o'clock

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

Senator Maurice Cummins: Next Tuesday.

An Cathaoirleach: Is that agreed? Agreed. Committee Stage ordered for Tuesday, 24 June 2014.

An Cathaoirleach: When is it proposed to sit again?

Senator Maurice Cummins: At 10.30 tomorrow morning.

Adjournment Matters

Local Authority Meetings

Senator Mark Daly: I welcome the Minister of State. The issue I wish to raise is the need for the Minister for Education and Skills to review the situation whereby public servants would be entitled to more days off to attend local council meetings. There is an increased requirement for public representatives, many of whom are involved in the education system, to attend not only council meetings but also the new municipal district meetings, in addition to other meetings related to the council. They should be afforded more flexibility and more time off from their work to attend those meetings on behalf of their constituents.

Minister of State at the Department of the Environment, Community and Local Government (Deputy Fergus O'Dowd): Gabh mo leithscéal as bheith déanach, ach bhí mé gnóthach in áit éigin eile. I am replying on behalf of the Minister for Education and Skills, Deputy Quinn. The current position is that where a teacher in a primary or post-primary school is an elected member of a local authority, paid absence of up to ten school days in a school year may be availed of in order to attend meetings, but only where such meetings are held during school opening hours. Prior approval must be obtained from the employer, who, in approving any such leave, must take into consideration the welfare and educational needs of the students.

The terms and conditions applying to teacher absences are agreed under the auspices of the Teacher Conciliation Council, a body established in accordance with the terms of the conciliation and arbitration scheme for teachers. The council is composed of representatives of teachers, school management, the Department of Education and Skills and the Department of Public Expenditure and Reform and is chaired by an official of the Labour Relations Commission. Teacher Conciliation Council meetings are held six times per year, with sub-committees held as required to discuss issues in more detail. It is open to either side to request the placing of any matter on the agenda. Implicit in this is the question of when council meetings are held. Whether one is a teacher or not, it is very hard to attend a morning or afternoon meeting if one is in full-time employment. There is an issue with regard to work hours and meetings being held that people cannot attend because they are working. Holding meetings at night or at other times, or staggering or changing the days or the times, is probably the only way of dealing with it. I accept it is a problem but in this case it should be raised at the conciliation council.

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Senator Mark Daly: I thank the Minister for attending and giving me valuable information on how to make progress on this issue.

Legal Costs

Senator Colm Burke: I welcome the Minister. This is my second time in 18 months to raise this matter on the Adjournment. I stand over what I said previously and nothing has occurred since. This is about the appointment of a third Taxing Master. The current position is that if someone wins their High Court action their solicitor will want to get the costs taxed. If an agreement has been reached the matter comes before the Taxing Master in the High Court but there are only two Taxing Masters. The problem is that there is huge delay. I have read the reply the Minister gave to Deputy Michael McGrath and I am sorry to say that the information in that reply is incorrect. It is correct in that from the date a case is set down for taxation it takes ten weeks before one will get an initial hearing but the decisions being made are not made at the end of the ten weeks. I was involved in one case where after 12 months a decision still had not been made. I know of numerous solicitors who have furnished all the evidence, both from the defendants and the plaintiffs, and seven to eight months later a decision has not been made. While the reply given by the Courts Service is technically correct, what the Courts Service is not giving is details of decisions.

I will give the Minister the figures. In 2011, 1,820 summonses were issued for taxation and 796 certificates issued. In 2013, 1,350 summons were issued. The reason summons were not issued is because people are aware of the considerable delays and they are trying every other means to try to resolve the issues. In 2013, only 345 certificates were issued by the Taxing Masters. That figure has decreased by more than 50% in less than two years, not because the work is not being presented but because decisions are not being reached.

In fairness to the Taxing Masters I will not go into the reasons for the delays but the process has come to a standstill. I understand one legal practice has taken the matter before the High Court for it to rule on how it should be dealt with.

This matter will not go away, and the response given to Deputy McGrath is not an accurate picture of what has been happening on the ground. If one talks to a legal practitioner or legal costs accountants, who employ quite a number of people, they will say that many of them have had to let staff go because of delays in getting decisions. That indicates the seriousness of the situation. Small legal practices in rural areas might deal with two or three big cases in the year and they are waiting three years to get paid. We are talking not only about solicitors but barristers, engineers, quantity surveyors and medics, and none of them are getting paid. This matter cannot be left as it is and I will not accept the response given in last few days to Deputy Michael McGrath.

Deputy Fergus O'Dowd: I am taking this matter on behalf of the Minister for Justice and Equality who unfortunately cannot be here, and I apologise for keeping the Senator waiting. The Minister appreciates that people, especially legal practitioners, are very interested in the matter of taxation of costs and efficiency.

As the Senator is aware, there are two Taxing Masters who perform functions of a judicial nature in respect of legal costs. Their aim is to establish a fair relationship between services rendered and the cost of those services. The Taxing Masters are independent officeholders at-

tached to the High Court. The positions are governed by the Court Officers Act 1926 and the Courts (Supplemental Provisions) Act 1961.

The Courts Service has informed the Minister for Justice and Equality that the current waiting time from lodgment of a new application to the first date on which it will be listed is ten to 11 weeks. The Courts Service also stated, however, that the volume of work being dealt with is such that delays can occur in delivery of considered rulings, particularly in the more difficult cases.

A number of measures have already been introduced to tackle the backlog. These include improved scheduling of cases. Practitioners have also been informed that all requisite documentation is to be lodged at the commencement of the taxation process. It has been necessary to inform parties that taxation cannot be completed due to the documents either not being lodged or where proofs are not in order.

The Minister was also advised that practitioners have been informed that any application for urgent taxation can be brought to the attention of the Taxing Masters' office, and this process has been availed of regularly. Complaints should be brought directly to the attention of the Taxing Masters' Office.

Regarding the modernisation of the current legal costs regime and of the framework for the "taxation" or determination of disputed legal costs, the programme for Government undertook to "establish independent regulation of the legal profession to improve access and competition, make legal costs more transparent and ensure adequate procedures for addressing consumer complaints". The Legal Services Regulation Bill 2011, which has completed Committee Stage in the Dáil and in respect of which the Minister expects Report Stage to be completed in the current session, provides for the establishment of a new office of the legal costs adjudicators to replace the Taxing Masters' office. The new office will modernise the way disputed legal costs are adjudicated upon, with greater transparency. The determinations of the adjudicators will be guided by legal costs principles. A publicly accessible register of determinations, which will include the outcomes and reasons for determinations about costs, will be established and maintained. The Minister is considering further amendments on the management and efficiency of the operation of the Office of the Legal Costs Adjudicator under the Bill.

It should be recalled also that the two existing Taxing Masters have been appointed by public competition under legislation enacted to prepare the way for the legal costs reforms contained in the Legal Services Regulation Bill. The Bill is set to introduce a range of structural reforms that will make legal costs far more amenable to public scrutiny and competition and subject to more modern and business-like adjudication. As the necessary reforms are already under way, the matters raised by the Senator can continue to be resolved as part of the managed transition and as may be considered appropriate by the new Office of the Legal Costs Adjudicator. That said, serious concerns about the effects of delays in processing of cases have been raised with the Minister and she is having the situation examined with a view to establishing whether any other short-term measures are necessary and possible.

Senator Colm Burke: I thank the Minister for his response. I have got the figures on the stamp duty collected for 2012. In order to take up one's certificate of taxation, one must pay stamp duty. The total stamp duty paid in 2012 for 367 certificates was €805,000. As I said earlier, the number of certificates issued in 2011 reduced from 796, therefore, all we needed to do to pay for a third Taxing Master was to issue an additional 200 certificates. The State is

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now losing money by not having a third person appointed. A total of €805,000 was brought in in 2012, when the number starts to decrease substantially. The new procedure about which the Minister spoke will not be in place until this time next year. In the meantime many people throughout the country will not get paid until certificates are issued, and that is taking eight to 12 months. I will raise this matter again with the Minister for Justice and Equality. The solution to this problem is to appoint a third Taxing Master for 12 months to deal with this issue. It will be cost neutral from the State's point of view; in fact, it will make more money for the State. I seriously ask that that be taken on board.

Deputy Fergus O'Dowd: I assure the Senator that I will bring the points he has raised to the attention of the Minister for Justice and Equality, particularly the statistics and the point that the income to the State could be increased if a third person was appointed. The Minister is examining all these issues and I will ask her to revert to the Senator directly on the particular issues he raised.

Inland Fisheries

Senator Denis Landy: I thank the Minister for coming to the House to respond to this matter, which concerns an area directly dealt with in his brief. The Minister will be very familiar with the River Suir because it rises in the Devil's Bit and flows down through many areas including Thurles, from where his own people originally come. It flows through Tipperary, Kilkenny and on into the Waterford estuary. It is one of the longest rivers in the country.

The Minister is *au fait* with the issue I raise. He was with us in Carrick-on-Suir almost 12 months ago and travelled part of the river with us that day. He is very familiar with the river and the fishing situation. In preparing for this Adjournment Debate I want to acknowledge the help I got from staff of Inland Fisheries Ireland, particularly David McNerney in the Clonmel office, for providing me with some background information. I have previously raised in the House the concern among snap net fishermen who fish out of small boats along the River Suir in places such as Carrick-on-Suir, Fiddown and Mooncoin into the estuary. They are licensed and each licence has 20 tags per year. In other words, a licence holder is permitted to take out 20 salmon. They have been prevented from fishing this year based on evidence provided by Inland Fisheries Ireland, IFI. The conservation limits are so low that IFI will not permit snap net fishing for salmon this year.

There are 148 salmon rivers in the country, 25 of which have fish counters on them, 40 are monitored by way of analysis of rod catches while the remaining 83 are subject to a more convoluted and complex system of measurement, which includes salmon red counts and juvenile salmon index counts. I will not go into detail on this but the clearest way to measure the salmon stock in a river is to use a fish counter. Before the Minister of State took up office, there was a botched effort to install a salmon counter on the River Suir west of Carrick-on-Suir. No planning permission was sought for the counter and the project was abandoned. A salmon counter is the only way to guarantee accuracy. For example, changes in the weather and so on can change the basis of salmon red counts and juvenile salmon index counts from one year to the next and, therefore, the only way to be accurate is to use salmon counters. However, it is on the basis of the other counts and information that snap net fishermen have been prevented from fishing this year.

I acknowledge that members of the independent standing scientific committee addressed

members of the snap net group a number of times earlier this year and explained why they were taking them off the river but this was presented as a *fait accompli* and no arbitration was available. The fishermen had to accept the position and not fish this year. Such fishing is not a commercially viable enterprise anymore because of the limited numbers but it is a tradition that goes back more than 1,000 years, which has been passed on from family to family along the River Suir. The fishermen are disappointed that they have been prevented from fishing the river this year without proper mechanisms to analyse the fish stocks in place. Rod catches are used to measure stocks but it is forgotten that angling is only permitted for a number of months annually and, therefore, one can only measure the number of fish caught through the use of tags during those months. That system is incomplete and cannot be used as an accurate fish count.

I ask the Minister of State to re-examine this issue for all these reasons and to provide clarity for the fishermen affected in counties Tipperary, Waterford and Kilkenny.

Deputy Fergus O'Dowd: I thank the Senator for raising the matter and it is important to set out the background. I visited the area with the former Minister of State at the Department of Public Expenditure and Reform, Brian Hayes, and we had an enjoyable and useful interaction with the community.

Ireland manages salmon stocks on an individual river basis and this is carried out by IFI. The individual river management strategy is based on the fact that each of Ireland's 143 salmon rivers, including the River Suir, has its own unique stock of salmon, which migrates to sea as juveniles and returns to the same river in adulthood to spawn and create the next generation of fish exclusive to that river. Our wild salmon management regime is now viewed by North Atlantic Salmon Conservation Organisation, NASCO, parties and others as exemplary in the international context. The work of IFI ensures Ireland leads the way internationally in how it manages salmon rivers. This proactive approach to conservation and meeting international obligations is not without cost and, in this regard, significant resources are expended every year to ensure everything is up to date.

IFI is supported in its management of salmon stocks by a statutorily based scientific committee comprising scientists from IFI, Bord Iascaigh Mhara, BIM, the Loughs Agency, the National Parks and Wildlife Service, the Marine Institute, the Agri-Food and Biosciences Institute, AFB, Northern Ireland other State bodies and third level institutions. This independent scientific committee assesses and offers advice on the predicted stocks status in all 143 salmon rivers each year against that their conservation limit using the most recent five years of available data. The conservation limit is the number of adult salmon required to maintain a healthy population - the stock level that maximises the long-term average surplus.

The Atlantic salmon is a protected species and Ireland's current salmon management regime complies with the EU habitats directive. The conservation imperative means that exploitation of salmon is only permitted where the independent scientific committee determines that the stock exceeds its conservation limit. The annual advice of the committee is available on our website.

For 2014, of the 143 rivers assessed, 57 are open to harvestable surplus, 30 are open to catch and release and 56 are closed. Each of the rivers will be reviewed again as part of the annual scientific assessment later this year. Commercial harvest fisheries, including snap netting, are only permitted on individual river stocks that are shown to have a surplus of fish in excess of the conservation limit. Fisheries in estuaries may also be permitted where the stocks from

individual rivers entering the estuaries meet their individual conservation limits but if one of the rivers does not, one cannot fish in the estuary because one cannot be sure where the salmon came from.

District committees comprising commercial and angling stakeholders, as well as IFI and BIM, have been established to discuss the sharing of a surplus if there is one available. The conservation limit for a river is the number of spawning salmon required to produce the next generation. The conservation limit is calculated similarly for all of Ireland's 143 salmon rivers based on the wetted area, latitude and other river specific factors such as the proportion of one sea winter salmon and multi-sea winter salmon in the population, the average weight of these salmon, proportions of male and female salmon and average numbers of eggs per female fish. "Adult salmon returns" are determined on the basis of the counter figures where one is in operation or the rod catch figures from mandatory logbooks using the most recent five years of data. The data are used to determine whether the river has a surplus for exploitation or a deficit. Following the advice of the independent scientific committee, the proportion of a river's conservation limit being met enables IFI to make recommendations on the catch options.

These recommendations are submitted to me as Minister and, following a 30-day consultation period, usually in November, a decision is made in December on the future catch options associated with each river. I have been advised that the River Suir conservation limit is fixed at 14,408 salmon. The 2014 advice is the river is only achieving 11,959 adult returning salmon, some 2,449 below the established conservation limit. This indicates that the river is meeting 83% of its conservation limit. IFI management advised that the river should be closed to harvestable fishing - commercial and recreational - and that the precautionary approach should be used. I am advised by IFI that the independent scientific committee has emphasised the value of having reliable information to provide a population estimate to support the conservation and management of wild salmon on an individual river basis. Since 2007, to provide a population index on rivers where no harvest fishery is permitted, it has been recommended that catch and release angling may be permitted on catchments achieving in excess of 65% of the conservation limit. If it exceeds that, catch and release can be used.

Previous assessments of the River Suir indicated it did not meet its conservation limit for 2008 and was open for catch and release angling only, with no commercial fisheries. The river remained below the limit for 2009. In providing scientific advice for the following year, the scientific committee applied a low exploitation rate for rod catches made in 2008 and 2009. For 2010, it was estimated that it was meeting 96% of its conservation limit. A low exploitation rate was also applied to the rod catch in 2010 for the 2011 period. A rod catch of 1,501 salmon was reported for the Suir in 2011 and a commercial salmon fishery was also in operation. The scientific committee reviewed the 2011 rod catches and applied a medium rod exploitation rate for 2012 advice on the River Suir given the increased angling effort with this river fully open for harvesting salmon by rod, and a medium rod exploitation rate has been used for subsequent assessments.

The 2013 estimate is only 35% of the 2009-12 average rod catch and 861 salmon fewer than the previous five-year time series used in the catch advice for the 2013 season. Therefore, applying the most recent data, a significantly reduced salmon stock level is in place for 2014. Any future decision on a harvesting a fishery, commercial or recreational, can only responsibly be taken in the context of the river being above its conservation limit.

While I am advised that the best scientific and management advice is being utilised to man-

age the salmon stocks in the River Suir, Ireland must be particularly careful to ensure that all national and international legislation and other obligations are met in any future management regime. In that regard, as the River Suir is below its established conservation limit, the conservation imperative and the application of the precautionary principal dictate that no harvest fishery can be permitted for 2014. As already mentioned, the River Suir was previously closed for a number of years and re-opened when stocks recovered, and exploitation could take place without damaging the long-term viability of the stocks. The status of the Suir, as with all 143 salmon rivers in Ireland, will be reviewed again later this year and will continue on an annual basis.

Senator Denis Landy: I thank the Minister for a very comprehensive reply, which contained a lot of detail that I had tried not to go into in my contribution. However, I accept that in order to explain it, one has to go into that type of detail. I would ask that during the lead-up to the decision time, which is in November, and then the final decision in December, there is more engagement with local people involved in this aspect of fishing, but also all aspects of fishing, because there seems to be a vacuum of information and people find there is a *fait accompli*.

Will the Minister of State comment on the issue of there being no fish counter on the River Suir? As I said in my opening remarks, there are only 25 rivers with fish counters out of the 148, as I have it, or 143, as the Minister of State has it, salmon fishing rivers in the country. Has he any information as to whether the other rivers have fish counters? Where there are salmon fish counters, it is a clear black and white situation. The other methodologies such as the salmon red surveys and the juvenile salmon index survey are much less scientific, given the results depend on weather and many other factors, and, therefore, cannot be as accurate. The Minister of State might respond on the issue of salmon counters on the rivers that do not have them. Is any budget being provided for those and what is the current situation?

Deputy Fergus O'Dowd: I am happy to assure the Senator that the question he raises in regard to fish counters is addressed in what I said, but I will get him the detail of how many there are and on how many rivers. I know that a significant number of rivers do not have them. What the Department relies on is the catch log book and, as it has done on other rivers, including the River Boyne, it will work with local fishermen and through other surveys during the year to find out what juniors are present. It undertakes as broad as possible an analysis and involves the local fishermen as much as possible. At the end of the day, however, if the fish are not there, or if there are not sufficient fish to make a catch, then there is no point. With regard to snap net fishermen in particular, who catch and release, this would not help them because that is not how catch and release operates. That location would then be at a disadvantage in terms of their activity.

I will ask IFI to contact the Senator directly following today's discussion. I thank him for putting this off until today so I could be here to give the issue the answer it deserves and to see if there is further progress we can make. As I said, the solution is to communicate with the fishermen, deal with them, listen to their point of view and see whether there is other analysis or extra work that can be done to analyse this and get a better figure than the counter would otherwise get.

Adoption Services Provision

Senator Averil Power: As I am sure the Minister of State can imagine, given all the focus

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on the mother and baby homes and the issue of adoption over the past few weeks, voluntary organisations are being inundated with requests for support from adoptees and their birth relatives and the wider group of people affected by the mother and baby homes. Groups like the Adoption Rights Alliance are trying to help as many people as they can but they have been completely overwhelmed by the number of people who need assistance and who need quite sensitive support and counselling. Those involved are women who may not have talked about some of these issues for a long time, women who went through the homes or who were forced to separate from their children many years ago. Many have not told their families, their husbands or their children, and have dealt with the emotion of all of this by themselves for a long time. Now, they are reaching out for the first time and looking for someone to talk to, but the services simply are not there to help everybody who needs support.

This is the feedback I have been getting very strongly from the different groups involved. Barnardos provides a fantastic service, which is the only independent service for adopted adults and their birth relatives outside the HSE and other State organisations. However, it only has funding from the HSE for one post-adoption services post, which is obviously completely insufficient.

I tabled this matter yesterday and the Minister for Children and Youth Affairs issued a press release today referring to a number of services that are available. He referred to the HSE helpline so I rang that helpline to see whether it was a new service or an existing one. I was told it was the general HSE helpline that is in place to deal with people with different HSE issues but that it can refer people to more specific services. The press release also refers to the Connect free telephone out-of-hours professional service. I understand that service was set up for people who suffered abuse in residential institutions and, again, it would be specialised in dealing with those people who were in the industrial homes. The press release also refers to the national counselling service, which, again, is an existing HSE service which is usually to help survivors of institutional abuse.

My query is whether new services or additional posts are being put in place. The strong feedback I have had in the past week is that the existing services are not sufficient and that people are reaching out for support but not finding the services available to respond to them. In particular, because I was fortunate enough to find my mother and connect with her through Barnardos, I would stress that it has a phenomenally good service to provide people with helpline assistance but also individual one-to-one counselling, which is crucial in these situations. I was shocked to hear it only has one person as a result of cuts in recent years. The Government should step in straight away and provide it with more funding so nobody looking for help has to be turned away.

I want to raise the issue of access to birth certificates. Adopted people in England have had a right to their birth certificates since 1975 but, 40 years later, Irish adoptees still do not have that right. The Taoiseach said last week that introducing such a right in Ireland might require a referendum. I have done a lot of reading into this. I read the main Supreme Court case, which is the *I.O'T v. B* case, and also the article that was printed on it last week by Dr. Conor O'Mahony, who is a constitutional law expert from Cork. Dr. O'Mahony has argued very persuasively that a referendum is not needed. In fact, he has highlighted sections of the judgment in that case where the court referred to the fact there are, of course, competing rights, for example, the right to privacy of the mother, on the one hand, and the right of the child to an identity, on the other. The court said that neither right was absolute but that it was a job for the Oireachtas - the Members of this House and of the Dáil - to strike that balance. The legislation would benefit from the

same presumption of constitutionality as all other legislation when it leaves the Oireachtas, and the courts would only interfere if they felt it was unreasonable. Therefore, the Supreme Court has clearly said to us, as politicians, that it is our job to legislate. I appreciate it is a sensitive issue but that has not stopped other countries from putting in place a system.

It is hard to describe to anybody the hurt, as an adoptee, that comes from not knowing who you are. I did not find my mother for 29 years and did not know my original birth name for 29 years or any of the circumstances in which I was born. It is hard to explain that gap to anybody so all I can say to the Minister of State is that there are thousands of people around the country who have those feelings every day, particularly on birthdays and at Christmas, and have been living with the pain for a long time. It is long past time for the State to step up and help them.

The basic right of adoptees is the right to a birth certificate. We also need a proactive information, tracing and support service for adoptees and birth relatives, like the service provided by Barnardos, which acted as an intermediary in our case. Barnardos facilitates only a small number of people because it receives HSE funding for only one post. The service should be replicated on a national level so that adoptees who apply to the service for their birth certificates would be offered counselling and have the opportunity to talk through their feelings with a counsellor. If the counselling service were aware of the birth mother's intentions, circumstances and whether or not she wished to be reunited, that could be taken into account.

There has been much scaremongering over recent weeks about adopted people turning up on birth mothers' doorsteps, unwanted, in the middle of the night. We are all sensitive people. All we want to know is who we are. Some adoptees do not wish to reunite, and anyone who does is sensitive to the possibility that finding his or her mother could be a difficult experience for the mother. They appreciate that they do not know the circumstances in which they were born and that there could be great pain associated with it for their mothers. They do not want to make their mothers' lives any more difficult. This cannot be an excuse for a blanket robbery of people's rights to their identities through a ban on birth certificates which does not exist elsewhere.

When people approach birth relatives cold, it is due to the absence of a right to information through the State and proactive support. The only way people can get the information is by hiring private detectives and retracing steps. They find out what town they are from and go around the town asking people if they know Mary X who had a baby in 1973, and suddenly they are standing on the lady's doorstep or writing her a letter. If there were a proper intermediary and support service, this would not happen. A proper service would also be an invaluable support for mothers, who would have somebody to talk to. Some might still decide they do not want to reunite. Yesterday I met with one of the mothers' groups, Adoption Loss, and its members feel that the fact that mothers signed confidentiality agreements is often overstated in public debate. Adoption Loss pointed out that in most cases it worked the other way around, with mothers being forced to sign consent forms and swear oaths saying they would never try to contact their children. They did not seek confidentiality.

While I appreciate that it is a sensitive issue and needs to be handled carefully, I urge the Government to act on all the issues I have outlined. We need a comprehensive response to all this and must finally give people justice for what they have gone through.

Deputy Fergus O'Dowd: I thank the Senator for bringing this very important issue before the Oireachtas and for the clarity with which she has presented the case and outlined her per-

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sonal circumstances. She speaks on behalf of thousands of people and articulates the need for the State to meet their needs. I am taking this Adjournment matter on behalf of the Minister for Children and Youth Affairs, Deputy Charles Flanagan.

Following the Government's announcement last week to establish a statutory commission of investigation into the mother and baby homes, the Minister has this morning announced a series of arrangements to provide public access to further information and counselling services for those needing support regarding these issues. These services are operational from today, and full details, together with an update on the cross-departmental work of establishing the commission, are available on the website of the Department of Children and Youth Affairs, www.dcy.gov.ie. The Minister is conscious of the demand for information following the recent disturbing revelations about mother and baby homes. Last week, he directed his officials to work with the HSE on arrangements to ensure that the HSE national information line can assist people seeking information or details of available support. Those seeking such information may telephone the national information line on 1850 24 18 50, Monday to Friday from 9 a.m. to 5 p.m.

There is also an out-of-hours professional counselling and support service where those affected can contact the Connect free telephone service and talk in confidence with a trained counsellor. Connect is an out-of-hours service which is available from 6 p.m. to 10 p.m. It normally operates from Wednesday to Sunday, but is currently operating seven evenings per week as part of the response to these issues. The Connect out-of-hours service is contactable at Freefone 1800 477 477 from the Republic of Ireland and 00 800 477 477 77 from Northern Ireland and the UK. The HSE national counselling service is also available to assist those affected. It is a professional, confidential counselling and psychotherapy service that is available free of charge in all regions for adults who have experienced trauma and abuse in childhood, with priority given to adult survivors of institutional abuse. Callers to the HSE National Information Line will be connected to a local service.

The Government is committed to providing as much information as possible to adoptees who seek information regarding their identity. The Government fully appreciates that the desire to know one's identity, or to re-establish contact with a child, is very fundamental, human and entirely reasonable. The Minister for Children and Youth Affairs is pursuing a range of measures, both legislative and administrative, in the area of adoption information and tracing. The constitutional and legal barriers to providing access to adoption records, including birth certificates, without the consent of the birth mother give rise to the need for careful drafting of legislative proposals, and this important work is receiving priority attention from the Minister, Deputy Charles Flanagan. Any legislation in this area is subject to legal and constitutional complexities, balancing the right to identity with a parent's right to privacy where prior parental consent has not been forthcoming. The Minister is committed to going as far as possible through legislation to facilitate improved access.

A great deal can also be done operationally to support any new legislative scheme through, for example, support and counselling to address fears about giving consent to the release of records. The Minister will, as soon as possible, finalise legislative proposals and submit a general scheme and heads of the adoption (information and tracing) Bill to Government. Under the provisions of the Bill, a national tracing service will be established, the operation of which will be subject to guidelines to be set out in regulations. The Bill will also provide for the placing of the national contact preference register on a statutory basis.

Subject to Government approval, it is the Minister's intention to refer the general scheme to

the Oireachtas Joint Committee on Health and Children for its consideration, where the competing issues can be fully debated. It is envisaged that the committee's consideration will include invitations to advocacy groups and interested parties to outline their views. The Minister has indicated that he is looking forward to having an opportunity to engage with Members on the complex issues arising in the proposed legislation. The Minister has asked me to convey his regret that he was unable to attend the Seanad and to thank Senator Power for raising this urgent and important issue. The Minister has indicated that he intends to meet with Opposition spokespersons and a number of key advocacy groups next week on the matter of mother and baby homes.

Senator Averil Power: I thank the Minister of State, Deputy O'Dowd, for his reply. I appreciate that he was answering on behalf of the Minister, Deputy Charles Flanagan. Could he pass on my query about whether the information services he mentioned are additional? I hope they are, because there is an urgent need for extra services. This is the feedback I am receiving, and the Minister is probably getting similar feedback. There is an urgent need for a properly staffed helpline. Could the Minister of State pass on to him my call for additional funding for Barnardos? It has been doing this for years and has the expertise. In addition to my experience, I have had fantastic feedback from many other adoptees and birth parents who have been through Barnardos. They could not talk more highly of the service. Perhaps I will table the issue on information and tracing again with the Minister because I would like to tease through the legal issues with him. I look forward to the proposals being brought before the Joint Committee on Health and Children. Although I am not a member of the committee, I intend to attend and contribute to the process.

Deputy Fergus O'Dowd: I assure the Senator that I will speak to the Minister for Children and Youth Affairs, Deputy Flanagan, and ask his private secretary to make contact with her immediately to provide the very important clarifications she is seeking.

The Seanad adjourned at 5 p.m. until 10.30 a.m. on Thursday, 19 June 2014.