



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

Business of Seanad	633
Commencement Matters	634
Rural Development Programme Projects	634
Syrian Conflict	636
Waste Management	638
Mental Health Services Provision	640
Order of Business	642
Standing Orders: Motion	655
Gender Recognition Bill 2014: Committee Stage (Resumed)	655

SEANAD ÉIREANN

Dé Máirt, 10 Feabhra 2015

Tuesday, 10 February 2015

Chuaigh an Cathaoirleach i gceannas ar 2.30 p.m.

Machnamh agus Paidir.
Reflection and Prayer.

Business of Seanad

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

The need for the Minister for the Environment, Community and Local Government to provide funding to rural men's clubs and rural men's shed projects.

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

The need for the Minister for Foreign Affairs and Trade to outline what Ireland and the European Union are doing to help bring about an end to the conflict in Syria, to stop the aerial bombardment of civilians, to ensure that food aid is getting through, to assist Syrian refugees many of whom are risking their lives to get to Europe on overcrowded and unsafe boats, to address the root causes of the conflict and to secure a brighter future for Syrians without either ISIS or Assad.

I have also received notice from Senator John Whelan of the following matter:

The need for the Minister for the Environment, Community and Local Government to confirm the status and expected publication of the EPA report into the issue of unregulated and unlicensed emissions from the Envva Ireland plant in Portlaoise which was sought by his predecessor on 9 July 2014.

I have also received notice from Senator Darragh O'Brien of the following matter:

The need for the Minister for Health to report on the progress of the establishment of the National Forensic Hospital at St. Ita's, Portrane, County Dublin.

I have also received notice from Senator Kathryn Reilly of the following matter:

The need for the Minister for Finance to discuss the flexibility arrangements that will be put in place by the Revenue Commissioners for the application of section 82 of the Finance

Bill.

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

The need for the Minister for Justice and Equality to outline why speed vans are not located in dangerous driving black spots but appear to be placed instead in areas where speed limits increase, thus prioritising revenue collection over enabling positive driving behaviour.

I have also received notice from Senator Hildegard Naughton of the following matter:

To ask the Minister for Transport, Tourism and Sport whether a consultation process will be held under the Taxi Regulation (Small Public Service Vehicle) Regulations 2015 before a list of vehicles suitable for licensing in the limousine category will be issued.

I regard the matters raised by Senators Kelly, Reilly, Healy Eames, Power, Whelan and Darragh O'Brien as suitable for discussion. I have selected Senators Kelly, Power, Whelan and Darragh O'Brien and they will be taken now. Senators Reilly and Healy Eames may give notice on another day of the matters they wish to raise. I regret I have had to rule out of order the matter raised by Senator Naughton as the Minister has no official responsibility in the matter.

Commencement Matters

Rural Development Programme Projects

Senator John Kelly: I am seeking funding for the rural men's shed projects and clubs. I do not know whether funding for these projects comes from the Departments of Health, Social Protection, the Environment, Community and Local Government or Agriculture, Food and the Marine. There is no doubt these men's sheds do fascinating work. I recently brought the Tánaiste and Minister for Social Protection to view two such projects in County Roscommon, one in Boyle and the other in Dysart. It is amazing the work that has been done in local communities by bringing elderly people together. This initiative is in line with the Government's 2013 policy on ageing, dealing with rural isolation and protecting people who might suffer from depression. It is designed to empower people and does what it says on the tin, namely, it works. All of this great work assists the Government by cutting down on health expenditure, keeping people living in their communities longer, and easing pressure on nursing homes and hospitals. However, there does not seem to be any financial appreciation for all the work these projects do because they have to fund-raise to sustain their projects. These are worthy projects and a little amount of funding will go a long way. I hope the Minister of State will be able to find some way of finding funding for these projects.

Minister of State at the Department of Foreign Affairs and Trade (Deputy Sean Sherlock) (Deputy Sean Sherlock): I am taking this matter on behalf of the Minister for the Environment, Community and Local Government, Deputy Alan Kelly.

The Department of the Environment, Community and Local Government has funded men's shed projects under both the rural development fund and the Leader element of the 2007 to 2013 rural development programme. Funding has been provided to renovate buildings to house

these types of initiatives and also for tools and equipment.

Since the downturn in the construction industry in particular, some men have found themselves becoming unemployed and, in some rural areas such as Boyle and Dysart, County Roscommon, this has led to situations of isolation for individuals. Men's shed projects have played an important part in addressing these situations, supporting initiatives where new friendships have been developed and communities have benefited from the products and services provided. There are almost 220 men's sheds in Ireland with over 7,000 members. Some wonderful projects have grown from these initiatives such as the restoration of old farm machinery to the production of some fantastic wooden pieces. They have helped men in several communities to come together to work on initiatives which they might not have done otherwise.

The Government, through the Department of the Environment, Community and Local Government, provides supports and funding to communities, urban and rural, which enables them to identify and address issues and priorities for action in their own areas. Communities have identified men's shed projects as a priority for funding in their areas. Many projects of this nature have been funded under the Leader element of the Rural Development Programme 2007-2013. On future funding of these projects, €250 million will be provided under the forthcoming Leader element of the Rural Development Programme 2014-2020 to support the sustainable development of rural communities across the country. This funding will be delivered using a community-led local development approach based on local development strategies. These strategies will be designed and implemented by local action groups. It should be noted that all decisions relating to funding for specific projects, including those relating to men's sheds will be a matter for the local action group and will be made based on the needs and priorities that the group have identified in their local development strategy. This type of decision-making is at the heart of sustainable development in rural communities. We are all firm believers in leaving decisions in the hands of the people who know their communities best.

I can assure the Senator that funding for this type of activity will be eligible under the programme, provided that it is included in the relevant area's Leader strategy.

Senator John Kelly: I thank the Minister of State for his response. It is important that it be set in stone that when rural men's clubs or men's shed projects apply to Leader for funding the response should not be a blanket "No" so that there is an opportunity for them to access funding. Much more needs to be done. I appreciate the Minister of State's response and ask that he relay to the Minister that this has to happen.

Deputy Sean Sherlock: I will relay the issues raised by Senator Kelly to the Minister. There is also an opportunity for the national men's shed umbrella organisation to potentially use its leverage to attain membership of the local action groups. I believe that the stakeholder model, in terms of the funding that has been espoused by Senator Kelly, in which the HSE is an actor, could become a major influencer for funding these activities. I do not see any reason the umbrella organisation could not become part of the local area groups and thereby influence funding decisions at the most democratic level.

I will certainly relay the Senator's concerns to the Minister.

Syrian Conflict

Senator Averil Power: I am interested in hearing what Ireland and the EU are doing to help bring about an end to the conflict in Syria, to stop Assad's aerial bombardment of civilians, to ensure food aid is getting through and to assist refugees fleeing their homes in terror. I also take this opportunity to stress the need for the international community to help address the root causes of the conflict and secure a brighter future for Syrians, without either Assad or ISIS.

ISIS are barbarians intent on imposing by force a particularly regressive form of religious fundamentalism on the people of Iraq and Syria. While the killing of foreign journalists and aid workers has attracted the greatest attention internationally ISIS has been mounting a vicious campaign against innocent Iraqi and Syrian civilians. Countless civilians have been injured or killed, while half of the population have been forced from their homes. In addition, ISIS has kidnapped school children, reportedly to turn the boys into terrorists and the girls into sex slaves. They are committing appalling atrocities and must be stopped. Blindly backing the current Syrian regime of Bashar al-Assad is not the solution.

Assad is a tyrant who has used chemical weapons against his own people. His Government and secret police have routinely tortured, imprisoned and killed political opponents and those who speak out against his regime. Now, he is using the fight against ISIS to barrel-bomb innocent civilians. As pointed out by Human Rights Watch, Assad's barrel-bombs are the greatest threat to civilians in Syria. Assad does not use these bombs on the front line between government troops and ISIS as he is worried, because they are such an indiscriminate weapon, that Syrian soldiers could be killed yet they are routinely unleashed in civilian areas in opposition controlled territory in an attempt to petrify innocent civilians.

If the international community is serious about stopping ISIS it must address the root causes of its rise. Religious fundamentalism is one cause, but probably a minority one. President Assad's murderous reign is more significant. For some Syrians, ISIS is the only group they see standing up against President Assad. If the international community is serious about delivering justice for the people of Iraq and Syria, it must stop both ISIS and President Assad and support the development of a democratic and legitimate government in Syria. In 2013, President Obama described President Assad as a dictator and said he must step down. Now the US is working with him against ISIS. This short-term approach will not address the underlying causes of the conflict. There is a need for much longer-term thinking and bravery in helping genuine opposition groups in Syria and standing on the side of civilians against both President Assad and ISIS.

I have tabled this debate to ask what the Irish Government is doing to further this aim internationally, particularly through the European Union. The international response to date has been very weak. First it was to criticise President Assad but now, with the rise of ISIS, the US and others are backing President Assad against ISIS. However, there does not seem to be any long-term or intelligent engagement with a view to moving beyond both of these goals. What is the Irish Government doing to address that issue?

I also want to raise the issue of the refugees. The vast majority of refugees who make it out of Syria are living in neighbouring countries but increasingly, thousands are risking their lives, many of them dying on overcrowded boats, paying people traffickers to get them to the EU. They are being abandoned and are drowning at sea because the EU has not been able to come up with a collective approach to accepting its fair share of the refugees. What is the Irish Government doing to address that?

Deputy Sean Sherlock: I fully endorse the concerns expressed by Senator Power. The

Syrian conflict has been a litany of unimaginable horrors. More than half the population has been displaced by violence and almost two thirds of Syrians, 12 million people, are in need of humanitarian assistance. Less than half of Syria's hospitals are fully functioning and around one quarter of schools have been damaged, destroyed or converted into shelters. This has left more than 2 million children without full-time education, jeopardising the future of the next generation.

The Assad regime's permissive approach to the rise of jihadist terrorist groups like ISIS proves that the regime is indifferent to the safety of its own people and to the survival of minorities, including the ancient Christian and other religious minorities across Syria. Countering the horrific brutality and extremist ideology of these groups is essential to the protection of vulnerable minorities across the Middle East. Ireland has called on the Security Council to refer the Syrian conflict to the International Criminal Court. In 2014, Ireland provided €14.9 million in funding to address the Syria crisis via NGO partners, the United Nations and the Red Cross and Red Crescent. This includes €2.4 million provided in 2014 to the World Food Programme for food assistance. This brings the total funding we have provided since the beginning of the crisis to almost €30 million.

The needs are enormous. It is not just a matter of providing aid but also of ensuring that it can get through to the people who most need it. This is particularly difficult inside Syria due to government bureaucracy, the hazards of the ongoing conflict and the threats to humanitarian personnel, which make it all but impossible to work in ISIS-controlled areas. The UN has authorised the delivery of cross-border assistance even without Syrian Government permission, as well as delivery across conflict lines, in an effort to reach as many people as possible. Ireland uses a number of different partners to deliver our aid in order to ensure the greatest access possible and to support refugees and host communities in neighbouring countries. Due to the violence and the lack of access to aid, huge numbers of people have left Syria, primarily overland into neighbouring countries. Some 3.8 million Syrians have fled their country and that number grows every day. Essential services such as health, education and access to water are under pressure in Lebanon, Jordan and Turkey. One in three people in Lebanon are refugees, placing the entire country under great strain. Syria's neighbours are also suffering security incidents from the spillover of the conflict. Ireland and its EU partners have consistently supported the core principles of an end to violence and a political transition to a representative government representing Syrians from all communities, as set out in the 2012 Geneva communiqué. We have also expressed our support for the conflict freeze initiative proposed by UN special envoy, Staffan de Mistura, who met with EU foreign Ministers in December. Despite the failure of past efforts to negotiate an end to the violence, we have a duty to continue working for a political resolution to the conflict and will continue to work towards that end.

Senator Averil Power: I thank the Minister of State for his response. Although he said that Ireland and the EU have been pushing for an end to the violence and a transition to representative government, there is no sign of that getting anywhere. It is not something that has been getting any international attention. As a result, there is very little faith. I have met with Syrian representatives here in Ireland and there is very little confidence within Syria among the ordinary population that any real effort is being made to find a third way out of this conflict or to support the establishment of a genuinely peaceful and representative government. I ask the Minister of State to stress to the Minister for Foreign Affairs and Trade, Deputy Flanagan, the need to redouble those efforts. We need to see a serious effort. Words criticising Assad are not enough when we are also backing him because, in the short term, ISIS is seen as a greater evil.

It is not enough. There is a need for proper and real engagement.

The other issue was barrel bombs. The Minister of State might ask the Minister to push for a no-fly zone over those areas because Assad is cruelly attacking civilian areas. His regime has bombed markets and places like that.

I welcome the fact that Ireland and the EU are contributing to food aid but the reality is that it has not been getting through. Given our own history of famine, I ask that a greater effort be made in order that the aid gets through. People are starving and they are starving to death, not because aid is not being provided but because Assad is cynically stopping it from getting to civilians in opposition-controlled areas, ostensibly as a way of trying to put pressure on ISIS, but really just killing innocent civilians. I appreciate that efforts are being undertaken but we need to do so much more. This is the greatest humanitarian crisis in the world and there seems to be so little international attention on it.

Deputy Sean Sherlock: I agree with everything the Senator is saying. In fairness to Ireland, from a humanitarian point of view the commitment of €30 million since 2011 is significant. There is a major challenge in getting that through to the people who need it the most. The Senator will be aware that there is a donor pledging conference, Kuwait III, coming up on 31 March to seek support for the UN's humanitarian response. We are currently considering our pledges in respect of that conference.

On the security situation, the no-fly zone and the conflict on the ground, Ireland is playing its part and it has to be stated that the United Nations, and in particular the Security Council, has to address the failure to uphold international humanitarian assistance in Syria. It has to look at the deliberate targeting of civilians and minority groups. There is a function there for the Security Council and, through its own diplomatic channels, Ireland has also been seeking a resolution.

Syria has now moved from being the world's second-largest refugee hosting country to being the largest refugee producing country within a span of just seven years. As a Government and as a nation, we fully recognise the extent of this crisis. I believe strongly that we can deliver a further commitment of funding towards the humanitarian element through working with the NGOs on the ground.

I note the points that have been made on the bonds and the no-fly zone and will certainly relay them back to the Minister, Deputy Flanagan.

Waste Management

Senator John Whelan: I welcome the Minister. It is my view, and it is well-founded, that our country has had a sorry and pitiful experience and relationship with many of its regulators and watchdogs. That is particularly the case with the Environmental Protection Agency, EPA, which is charged with protecting the environment and local communities. My specific question pertains to a debate conducted in the Seanad on 9 July last year when the then Minister for the Environment, Community and Local Government, former Deputy Phil Hogan, in one of his final functions as Minister, on foot of a debate in this House, fairly instructed the EPA to conduct an investigation and report on the activities of the Enva waste oil recycling plant in Portlaoise, with particular regard to the ongoing concerns about the unlicensed and unregulated open vent

10 February 2015

emissions, which I believe are potentially carcinogenic and toxic. The Minister took our concerns very seriously. He asked the EPA to carry out an inquiry and report into the matter and directed on that day that the report would be made public.

Furthermore, as recently as 4 November, before the Oireachtas Joint Committee on the Environment, Culture and the Gaeltacht, the director general of the EPA, along with other senior officials, in response to a question from my colleague, Senator Denis Landy, indicated that such a report had been concluded and that its publication was imminent. In view of this we have been patient but at this stage the public and public representatives are entitled to have this report put into the public domain so we can see what the EPA has cooked up on this occasion.

Deputy Sean Sherlock: I am taking this matter on behalf of the Minister, Deputy Alan Kelly, and the Senator might want to check what I say against delivery.

Under section 60(3) of the Waste Management Act 1996, the Minister for the Environment, Community and Local Government is precluded from exercising any power or control regarding the performance by the Environmental Protection Agency or a local authority in particular circumstances of a statutory function vested in it, including enforcement functions. Issues concerning the enforcement of waste management legislation in particular cases, therefore, fall to be pursued with the EPA or the relevant local authority, as appropriate.

The treatment and management of waste material is subject to a registration and permitting system by local authorities or licensing by the EPA, depending on the circumstances. The particular facility the Senator refers to is licensed by the EPA and it is understood that the EPA, in the context of its role as the licensing authority, is preparing a report which will be made available on completion. The primary purpose of the licensing, permitting and registration system is to facilitate appropriate controls on waste facilities and activities so as to ensure good and consistent waste management practice and the implementation of high standards of environmental protection.

I refer to the Government's waste policy published in 2012, A Resource Opportunity - Waste Management Policy in Ireland. I acknowledge there is a group comprised of representatives from local authorities also and that this group has made recommendations for the rationalisation of waste enforcement functions. However, for the purposes of addressing the concerns of the Senator it is acknowledged on the record that the former Minister directed the EPA to carry out a report and that the report would be made available on completion. I am reinforcing that message today. I do not have a definitive timeframe as to when it will occur but I would be happy to engage further with the Minister for the Environment, Community and Local Government to see if we can get further information as to when we could expect the publication of the report. Speaking on behalf of the Government, we fully expect the report to be published.

Senator John Whelan: I appreciate the Minister of State's reply but I believe he will share my concerns, not least in regard to the delay. I was not asking the Government or the Minister for the Environment, Community and Local Government to interfere unduly with the functions or operations of the EPA, but the agency made a commitment to conducting a report as far back as July of last year and to make that report public. Eight months later when there is still no sign of a report, or whatever whitewash it comes up with this time, it is not unfair to suggest that the Minister or his Department should ask that the report be published expeditiously. Far from constituting interference, he would be acting in the public interest. We are entitled to that much.

3 o'clock

Deputy Sean Sherlock: I accept the Senator is not suggesting that we should exercise undue influence. The legislation is very clear in that regard. However, it could be pertinent to ask when we might expect the report to be published. To my mind, that would be entirely appropriate.

Mental Health Services Provision

Senator Darragh O'Brien: I thank the Minister of State at the Department of Health, Deputy Kathleen Lynch, for taking my Commencement Matter on the proposed national forensics mental health services hospital in Portrane, County Dublin, for which a planning application has been lodged. I am sure she has had an opportunity to visit the St. Ita's campus. The people in Portrane, Donabate and elsewhere on that peninsula have a long-standing tradition of caring for people with mental and physical disabilities, particularly in psychiatric services. My friend and colleague, Councillor Adrian Henchy, who is newly elected to Fingal County Council, has done considerable work to engage with residents prior to the submission by the HSE of a planning application to An Bord Pleanála.

The vast majority of residents on the peninsula support this proposal. It will breathe new life into St. Ita's, and the proposed 175-bed hospital is badly needed. The jobs and additional services that will be created will also benefit the area. However, I have raised this issue because Councillor Henchy has asked me to bring to the attention of the Minister of State some of the concerns that have been expressed by residents.

The proposal as currently drafted by the HSE leaves a lot to be desired, particularly given that the construction of the hospital is expected to take two years. I ask the Minister of State to set out a timeframe for construction. Local schools and sports clubs have also raised major concerns which we do not believe the HSE has addressed in its application. We have made submissions to highlight that but we want these concerns to be taken on board. There is only one access point at present, and the only way to deal with this is to construct a separate haul road. Donabate is an area with a young population and there will be thousands of vehicle trips over the two years of construction, with heavy traffic travelling through the village. That is not going to work. I hope An Bord Pleanála takes account of these concerns.

I take it the Department of Health has an interest in ensuring this facility is delivered on time and within cost. If this objective is to be achieved, the HSE should engage with the local community through public representatives like me or Councillor Henchy, or directly with the community council.

The HSE has tried to pull a fast one with its proposals for community gain, as provided for in the Planning and Development (Strategic Infrastructure) Act 2006. The proposals are pathetic, amounting to little more than handing over the leases for a couple of football pitches. A project of this magnitude should include a specific budget of between 4% and 5% for community gain. I recognise the HSE is probably starting with its lowest offer but there are many good initiatives it could be supporting. The community broadly welcomes the facility but it is important for the HSE to be a good neighbour to people in Donabate and Portrane. Councillor Henchy, our colleagues and I have highlighted in our submissions that the HSE needs to go further regarding community gain and consider our existing senior citizens, sports clubs in the area, community facilities that the HSE can assist on a once-off basis of funding and getting involved in the local community. Councillor Henchy and I have made a submission on the basis

10 February 2015

of supporting this, and most people in Donabate and Portrane support the development of this very important national facility and we want it to work. We want the HSE to be reasonable about construction, which is the central issue, and the community gains. I thank the Minister for coming here. I appreciate her time.

Minister of State at the Department of Health (Deputy Kathleen Lynch): The Senator will understand that the question as framed does not go into the type of detail he has just given me. However, I take on board his point on construction issues. I was very heavily involved in planning for the redevelopment of my area in Cork and I fully understand the type of disruption, dust, mud, traffic and times for cessation of works involved. I am hopeful that An Bord Pleanála will take it all on board, as it usually does. Sometimes the difficulty is that people who make submissions - I fully recognise that we are discussing submissions rather than objections - are not always aware of the need to specify, for example, that they would prefer if work did not begin at 8 a.m. on bank holiday Mondays. I have learned this through personal experience through the years. I am very conscious that the community in question, while it had a facility for a long time, has allowed the passage of this without obstruction. As the Senator said, it is a national issue for which we should have made provision a number of years ago but did not.

The modernisation of all aspects of our mental health services in line with A Vision for Change remains a key objective of the Government. The HSE has been provided with funding of just over €790 million for mental health services in 2015, which reflects the Government's commitment to this vital service area. The additional €35 million we provided for mental health in the 2015 budget brings to €125 million the new investment in mental health since 2012. The additional funding this year will enhance a range of services including general adult teams, psychiatry of later life, and child and adolescent community based care. There will be further recruitment and investment in agencies and services to achieve consistent provision across all areas. I fully recognise that this will bring significant employment into the area. While not all of it will come from the area, services that will have to be provided should come from as local an area as possible, and the services will be significant.

The Government's policy on mental health also recognises the clear need to address historic infrastructural deficiencies, including delivery of new facilities for the national forensic mental health service, NFMHS. Therefore, a major capital project is under way to replace the Central Mental Hospital in Dundrum with an appropriate modern facility, allied to corresponding development of regional intensive care rehabilitation units, ICRUs. This should not be forgotten because it is part of the overall plan. This capital project, known as the national forensic mental health services project, is being delivered in two phases. Phase one comprises a number of core project requirements at St. Ita's, Portrane, namely, a 120-bed national forensic hospital to replace the Central Mental Hospital; a ten-bed mental health intellectual disability forensic unit; and a ten-bed child and adolescent mental health forensic unit. As public representatives down through the years we have all seen people desperately seeking facilities for people with intellectual disabilities as well as mental health issues.

Following completion of phase one of the project, phase two will involve, subject to resource availability in future years, the provision of three 30-bed ICRUs at Portrane, Galway and Cork. A fourth intensive care rehabilitation unit, ICRU, is planned for Mullingar through reconfiguration of an existing facility. Essentially, what the experts tell me - because as I state continually, I am not an expert - is there are people within the Central Mental Hospital, CMH, who could be catered for much closer to home to allow them to stay connected to their families but who still need the type of intensive rehabilitation they get within the Central Mental Hospi-

tal. Project and design teams have been appointed for this important new initiative. The existing Health Service Executive, HSE, capital programme allows for phase one of the project, that is, the Portrane facilities, to be operational towards the end of 2018 and for design work to be progressed on phase two, that is, the three ICRUs. The capital project for the replacement of the CMH on the site at St. Ita's, Portrane, has been designated as a strategic infrastructural development. The site has been rezoned and a planning application was lodged by the HSE with An Bord Pleanála in September 2014. Allowing for the planning process, it is expected that a decision on the project will be made in the second quarter of this year. Subject to a grant of planning, enabling works will commence on the site at Portrane shortly thereafter. Construction is expected to commence in early 2016 and to be completed around mid-2018. As is normal in major health capital projects, the equipping stages and final works then will be undertaken. In this context, it is envisaged that the new facility subsequently will become operational towards the end of 2018. Bearing in mind all the circumstances, I am satisfied that good progress has been made and will continue to be made on this important project. Equally however, I take on board the Senator's comments regarding construction and disruption to the population and the general area around it.

Senator Darragh O'Brien: Briefly, I thank the Minister of State for the comprehensive response and for taking on board the issues I have raised about construction. It is important to get community buy-in for all health facilities nationwide. St. Ita's always has been linked inextricably to, and has been part of, the community and everyone wants that to continue. The HSE can help with this by way of what I have suggested with regard to community gain and in examining how the HSE can assist our sports. This is a major project that probably will run to €100 million and more in construction costs and I believe the HSE must give a little more. However, I thank the Minister of State and will keep her abreast of the position in Donabate and Portrane. I thank her for her commitment to this facility because the community has really engaged on it. I also wish to commend Donabate Portrane Community Council, all the sports clubs, the local representatives and, in particular, my friend and colleague, Councillor Adrian Henchy, on the work they have done. Through working together on this, a world-class facility can be produced, which is what is sought. I again thank the Minister of State for taking the time to come into the House today, which I appreciate.

Deputy Kathleen Lynch: Briefly, as I would not like the impression to go around, the Senator understands it would be highly inappropriate for me to interfere at this point.

Senator Darragh O'Brien: No, I do not want her to do that.

Deputy Kathleen Lynch: However, his concerns will be relayed to those who eventually will be carrying this out.

Sitting suspended at 3.15 p.m. and resumed at 3.30 p.m.

Order of Business

Senator Ivana Bacik: The Order of Business today is No. 1, motion re the report of the Committee on Procedure and Privileges on the adoption of new Standing Order 103N and the amendment of Standing Order 90, to be taken on the conclusion of the Order of Business, without debate; and No. 2, Gender Recognition Bill 2014 - Committee Stage (resumed), to be taken on the conclusion of No. 1.

10 February 2015

Senator Darragh O'Brien: We agree to No. 1, without debate, which is to facilitate the banking inquiry. People worked together on that.

I wish to bring two matters to the attention of the Deputy Leader. Can we arrange a debate on pension provision in this country? I listened with great interest to her party leader, the Tánaiste, Deputy Joan Burton, announce another report into how to improve pension provision. I agree with her that less than 50%, there or thereabouts, of people in this country make provision for their pension. However, one can understand the reason when this Government has taken €2.5 billion out of the pension pots of people who went to the bother of actually saving for pensions and when it did more to undermine pension provision than any other Government in the history of the State when it brought forward the State Airports (Shannon Group) Bill 2014 to butcher airport employees' pensions and take benefits from people who are legally entitled to them.

Having said all of that, I would like to look to the future which is about how we can improve pension propositions available currently. The Tánaiste has some ideas which I have read in media reports and it would be worthwhile for us to arrange a debate in the future - it does not need to happen next week – where we can feed into that. I do not think another expert report will do much. I will not labour the point but the Tánaiste and this Government have much making up to do in regard to restoring people's confidence that if they save for a pension, they get what they put in.

I bring to the attention of the House quite a dangerous and, I do not mind saying, sinister incident, although some of these Socialist Party protesters and Sinn Féin pseudo-protesters have a problem if one actually says “sinister”. I refer to what happened to my colleagues and the colleagues of those opposite last night in Fingal County Council. Councillors who had attended a council meeting, along with staff of Fingal County Council, were prevented from leaving the council car park for two hours. More sinister was the type of selection these protesters used. They wanted to go after one Independent councillor purely on the basis that he had put down a motion saying that people had the right to protest but that people had the right to work and that those installing water meters should not be treated in the way they are being treated and that they are there to do a job. The protesters asked the Socialist Party councillors to point out that councillor and the Labour Party councillors on Fingal County Council. They were asked by Deputy Paul Murphy's crew – he was obviously busy yesterday and detained elsewhere – to point out the Labour Party members and, along with the Sinn Féin lot, they then decided who would be let out of the car park and who would not be let out. That is an absolute disgrace.

These scumbags, which is all they are, blocked people-----

An Cathaoirleach: That is unparliamentary language.

Senator Darragh O'Brien: I am sorry. It really infuriates me because while they are perfectly entitled to protest, and Sinn Féin members of Fingal County Council said it was a peaceful protest, they did not allow people to leave the car park for two hours to get back to doing what they had to do. Socialist Party guys tried to seek out the Labour Party councillors so that abuse could be hurled at them, as was hurled at my own colleagues. The local authority has no role whatsoever in water charges or water rates. One Independent councillor, Mr. Jimmy Guerin, who tabled a very reasonable motion was singled out by this bunch of thugs for abuse.

An Cathaoirleach: Senator, that is unparliamentary language. Do you have a question for the Deputy Leader?

Senator Darragh O'Brien: I bring this to the attention of the House because it is obviously going to be a trend across the country. If a councillor or a public representative tables a motion at a meeting with which this bunch of people does not agree, they will stop him or her going about his or her business, protest and do the devil and all.

People are entitled to their own opinions but I would say to the protestors, Deputy Paul Murphy's crowd, Éirígí and all these other people, that people are entitled to disagree with them. However, we are getting into a really dangerous situation, which I deplore. I ask the Deputy Leader to join with me in deploring those actions which took place in Swords yesterday evening.

Senator Pat O'Neill: I agree with Senator Darragh O'Brien that what happened at Fingal County Council is an attack on democracy. Councillors in Kilkenny had to face the same thing recently in regard to a central access scheme. When they left the chamber after debating the issue, they were verbally assaulted and attacked, and some of them actually had to get into cars to be escorted from the council premises.

With regard to the issue Senator O'Brien raised about pensions, I would like to remind him what party caused the crash in this country-----

Senator Darragh O'Brien: The Senator does not understand.

Senator Pat O'Neill: No. People lost pensions. They invested in bank shares-----

Senator Diarmuid Wilson: What about the radioactive Bill?

(Interruptions).

Senator Darragh O'Brien: Maybe the Senator could talk about farming or something.

An Cathaoirleach: Senator O'Neill, without interruption.

Senator Pat O'Neill: With regard to a bit of good news, I would like to welcome the announcement that Irish beef will be on the US market within the next couple of weeks. Hopefully it will give a spur to this trade-----

Senator David Norris: I hope Larry Goodman is paying his taxes.

Senator Pat O'Neill: I hope that this American trade will continue and prosper.

On another issue, I ask the Deputy Leader to contact the Department of Foreign Affairs and Trade and the Minister, Deputy Charlie Flanagan, in regard to the Baha'i religion and the persecution it is facing in Iran at present. The Baha'i religion is the largest minority religion in Iran, where there are 300,000 Baha'i people. Since the early 1980s they have been denied third level education. In 1984 they set up their own institute of higher education but it has been closed down at least six times by the Iranian Government. Education is not a crime and everybody is entitled to education. The issue of a minority being treated like this by Iran has to be dealt with. I ask that the Deputy Leader contact the Department of Foreign Affairs and Trade and the Minister to raise the issue either at EU level or UN level. As I said, education is not a crime. The Baha'i people are being persecuted in Iran for their beliefs and it should be raised at a higher level.

Senator Fiach Mac Conghail: I congratulate the Minister for the Environment, Com-

10 February 2015

munity and Local Government, Deputy Alan Kelly, on publishing the consultation paper on the establishment of an electoral commission in Ireland. We know it is late and that the current Government promised substantial political reform four years ago. However, I believe the House should congratulate itself for the debate it had a couple of weeks ago, where it was announced that the Minister, Deputy Kelly, would publish this. We should bear that in mind and try to make sure an electoral commission that is fit for purpose for a 21st century democracy is established before the general election.

In supporting my colleague, Senator Marie-Louise O'Donnell, I want to put the House on notice regarding the establishment of the public water forum pursuant to section 7 of the Water Services Act 2014. We have published a motion on the Order Paper around that because it is something that has been promised. It came out of a late debate and is one of the main reasons I voted for the water services charge, along with the fact I agree with water service charges. I am putting this House on notice that we want the Minister to appear before the House as soon as possible to outline the roadmap regarding establishing this very important public water forum in advance of any of the metered or unmetered bills that will be issued in April.

The Climate Action and Low Carbon Development Bill has been published and will be debated in the Lower House this week. At 4.30 p.m. today we have a briefing for all Senators on the Bill but, again, there are issues with it. This is probably one of the more important Bills to come before us in the lifetime of this Seanad yet the Government and the Minister have ignored the proposals coming out of the joint Oireachtas committee following pre-legislative scrutiny. There is no point having pre-legislative scrutiny when key issues are not included in the Bill. I am very unhappy about it and I intend to bring it up strongly on Second Stage and Committee Stage when it comes to the Seanad.

The Title of the Bill is the Climate Action and Low Carbon Development Bill yet there is no definition of "low carbon" included, there is no independent advisory body, which was one of the key recommendations coming out of the committee and is something I and some of our group will be supporting, and there is nothing around the timely publication of the report on the Bill to which I referred.

Senator David Norris: I must disagree strongly with my good friend, Senator Darragh O'Brien, whom I greatly admire. An attempt is being made to demonise Deputy Paul Murphy, who is a duly elected public representative. People should be able to disagree, but why call it "verbal abuse"? Come on. Has the Senator any idea what I went through over 30 years? I went through death threats and filthy abuse. I laughed at them. People should grow up. They are adults and should be able to take verbal abuse. I do not say it is pleasant or always appropriate, but it is not the bloody third world war.

The police knocked on the doors of those they arrested before dawn - at 7 a.m. - getting people out of their beds.

Senator Darragh O'Brien: Good.

Senator David Norris: Is that good?

Senator Darragh O'Brien: Absolutely.

Senator David Norris: That is what happened in Munich and Nuremberg and Berlin.

Senator Darragh O'Brien: Come on. Who is being dramatic now?

An Cathaoirleach: Senator Norris, without interruption, please.

Senator David Norris: It is happening now at the instigation of Ma Merkel. I have no time for this kind of action. They had every opportunity-----

Senator Pat O'Neill: On a point of order, is Senator Norris condoning the imprisonment of a member of the Government in a car?

An Cathaoirleach: That is not a point of order.

Senator David Norris: Frankly, I would imprison the whole bloody lot. It was not imprisonment. For heaven's sake, being delayed in a car for a couple of hours is not imprisonment. I know a little about prison. I used to visit people in prison and know the conditions they were in. This incident was nothing like that. Grow up. The Germans should grow up too.

The man from Syriza raised the question of the outstanding debt - the €180 billion or so the Germans squeezed forcibly out of the Greek banks at the end of the war - and asked for it to be repaid and was told there was nothing to repay. The *Frankfurter Allgemeine Zeitung* said Greece brought this situation on itself whereas Germany, at the debt conference in 1953, had completely clean hands. Hello? There were two world wars and approximately 30 million or 40 million people were killed. I do not know the exact number. Let us have some realism. This country should be ashamed of not supporting the Greeks. They are right to call for a debt conference.

Senator Pat O'Neill: We gave them €350 million.

Senator David Norris: The €350 million would get lost in a hole in a tooth in this game. It is what is provided for the roads in County Clare.

The second issue I wish to raise concerns the Ruhama campaign, Turn Off the Red Light. Ruhama is a plague formed out of the order of nuns who instigated it, who were in charge of the Magdalen laundries. One must temper one's listening to them.

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

Senator David Norris: I put this question directly to the Leader. Where is the other side in the Ruhama debate or in the debate on same sex marriage? We have this little tit of a yoke - the Iona Institute. Nobody knows where it gets its money from. It is financed from pizzas in America. We have every academic crank and a few half-baked gay men on it, always talking against gay marriage and about the necessity for equality. Where is the equality with regard to criminalising the purchase of sex, when we know damn well it has not worked in Sweden and is a disaster-----

An Cathaoirleach: The Senator is way over time.

Senator John Whelan: I ask the Leader to arrange a debate in due course with the Minister for Justice and Equality on the operations of the Courts Service. Last week, my colleague, Senator Denis Landy, raised concerns regarding reforms that intimated the courthouse in Carrick could be lost or closed as part of rationalisation. I have good news for him. There is a courthouse in Port Laoise he can have. It is located on the town's main street, in a building that

10 February 2015

dates back to the 17th century. It is a totally unsuitable building and location. Last Thursday, in what can only be described as mayhem, a mass brawl broke out on the main street in Port Laoise, involving up to 60 people, and brought the town centre to a standstill for a couple of hours. Two car loads and more of gardaí had to be despatched to quell what was a mini riot on the town's main street. The town is already struggling in terms of business, without having to cope with that kind of conduct and behaviour.

We have appealed to the Minister in the past to relocate the Portlaoise court house to a more suitable, safe, secure and appropriate location. I know that the Department of Justice and Equality has plans to build a much-needed new Garda station for Portlaoise which is long overdue. I suggest that as the Department tries to acquire a suitable site for said Garda station, it should co-locate a new courthouse on the same site, in an appropriate and safe setting. Senior citizens, mothers with buggies and others cannot go about their normal daily business in the town because of the level of anti-social behaviour and intimidation taking place on the main street of Portlaoise, which reached new heights - or lows - last Thursday when a mass brawl broke out and brought the main street to a standstill. The main street is no place for a courthouse in a modern society.

Senator Paschal Mooney: I have often raised issues relating to rural Ireland in this Chamber as we have seen the continuing withdrawal and reduction of services in the context of the closure of one-teacher schools, Garda stations, post offices and so on. The latest issue is the crisis that will develop, if left unchecked, in the library service. Several local authorities across the country have already passed motions condemning the proposals for mergers and so-called "efficient rationalisation". Whenever I hear efficient rationalisation linked to population, I immediately start shuddering at the prospect of the negative impact on vast swathes of this country which do not meet the criteria in that regard.

The background to this, which I raised on the Adjournment with the previous Minister for the Environment, Community and Local Government last summer, is that the libraries development committee of the Local Government Management Agency set up a strategic working group to review library services. The review determined that efficiencies could be achieved through a shared-services approach. It suggested that some new shared services should be established for library authorities and that a proposed minimum population target of 100,000 would be an appropriate basis for determining a library shared-services structure which would be in line with the local government efficiency review report of 2010. Who decided that the figure would be 100,000? More than likely it was someone up here, in the Custom House, who probably would not know what rural Ireland looks like, let alone have ever visited it. By putting a figure of 100,000-----

Senator Pat O'Neill: The Senator is scaremongering again. This is typical Fianna Fáil-----

Senator Paschal Mooney: I am not scaremongering.

Senator Pat O'Neill: He is scaremongering.

An Cathaoirleach: Please allow Senator Mooney, without interruption.

Senator Paschal Mooney: I am talking about the facts which were contained in the Minister's own reply. I can put that reply on the record of the House again for Senator O'Neill-----

Senator Pat O'Neill: I know exactly what the reply was.

Senator Paschal Mooney: The Minister said that seeking efficiencies is not about a diminution of library services in County Leitrim and in associated counties. Tell that to the people of Ballymote in County Sligo who are now under threat of losing their library, on which thousands of euro of taxpayers' money was spent only three years ago. That library is now threatened with closure as a result of these so-called efficiencies. What is the Government going to do next? It has shut down the Garda stations, the post offices, the one-teacher schools and now it is going to attack a service which is used by some of the most vulnerable people in our society-----

An Cathaoirleach: The Senator is way over time.

Senator Paschal Mooney: -----the county library system. It is a shoddy decision by this Government. If there is any compassion left in this Government then the Deputy Leader will accede to my request for a debate on this issue. I wish to table an amendment to the Order of Business to call on the Minister for the Environment, Community and Local Government to come to the House today to discuss the future of library services, as outlined in the strategic report, as well as the adverse impact on the lives of those living in rural Ireland. I ask that such an amendment be put to the House and that the Minister would come before us to explain his actions.

Senator Jim D'Arcy: Given all of the travails relating to the Narrow Water Bridge, I am very pleased that a recommendation to grant planning permission for a ferry service between Greenore in County Louth and Greencastle in County Down was made at Thursday's meeting of Newry and Mourne District Council. This is a tremendous boost to the area's tourism prospects and provides a much-needed link between two areas of outstanding natural beauty, the Mourne Mountains in County Down and the Cooley Mountains in County Louth. It will stretch the tourism trail from Newgrange right up through Dundalk, Carlingford, Omeath, Kilkeel, Warrenpoint and on to Newcastle. This is a game changer.

Senator David Cullinane: Hear, hear.

Senator Jim D'Arcy: I am glad of the support of Senator David Cullinane, a great Border man himself. I ask the Deputy Leader to invite the Minister of State with responsibility for tourism, Deputy Michael Ring, to the House to outline how the links between Fáilte Ireland and the Northern Ireland Tourist Board can be recalibrated to reflect this new situation.

Senator Sean D. Barrett: I welcome the work of journalists in dealing with the HSBC bank's facilitation of large scale tax dodging. Margaret Hodge, MP, the chair of the Westminster Public Accounts Committee, said that Her Majesty's Revenue and Customs has been far too lenient in taking up battles against corporate tax avoidance. The famed French economist, Thomas Piketty, said the offshore industry is a major threat to our democratic institutions and our basic social contract. I ask for the Minister for Finance to report to the House on the tax avoidance industry here, to state how much of it is connected with the IFSC and to set out the dangers the development of this industry poses to the Exchequer given our experience on previous occasions with the DIRT inquiry and financial institutions. They owe us better than to be part of the international tax avoidance industry. It is something we should debate in the House.

Senator Susan O'Keeffe: I agree with Senator Sean Barrett and commend the work done by the various journalists in a truly international collaboration which showed the strength of joining together the forces of investigative journalism to allow monumental work to be undertaken. As someone who worked for "Panorama", I know exactly the kind of commitment that

takes, particularly in taking on large organisations, including corporations like HSBC. It is not an easy task. What the journalists have revealed is disturbing and Senator Sean Barrett is right to call for a debate to consider how we can ensure we are not caught up in it. Unfortunately, one cannot legislate for individuals who may choose to avoid and evade paying their taxes, but we certainly can be seen to have more than a passing interest in it.

I also take the opportunity to commend the work of a Sligo man, Mr. Pat Spellman, who Members may have seen on the recent television programme on obsessive compulsive disorder, or OCD. As an ordinary individual, he took it on himself to set up a self-help group, which is the only one of its kind in Ireland. It is a very difficult condition to have, but he has provided enormous support for people and shown great generosity of spirit. If we are to have a debate on mental health issues, I ask the Deputy Leader to include OCD as it does not get enough attention. While it is not as common as other aspects of mental health, it has a devastating effect not only on the individuals who have the condition, but also on their family members. It also affects people's capacity to find and hold work. I commend Mr. Spellman on his work and ask for a discussion of OCD and the way it is coped with in the community as part of a wider debate on mental health.

Senator David Cullinane: I second Senator Paschal Mooney's proposed amendment to the Order of Business. I appeal to the Deputy Leader to arrange for a debate in the House on the debt burden and the debt conference for which many people are calling, not just in Ireland but across Europe. In his responses in the past two weeks, the Leader has given the Government's policy position on this, which is fair enough notwithstanding that I do not agree with it. What we are calling for is a debate, however.

It strikes me as quite bizarre if we are afraid even to have a debate on the issue in either the Dáil or Seanad given the high level of indebtedness this State has so I again ask for this debate.

I also raise the arrest of a Deputy and two councillors in the early hours of Monday morning. We have just had a discussion on the HSBC clients, 360 of whom were Irish. As we know, potentially huge levels of tax evasion took place. We know that many bankers, politicians and others who were cheerleaders for the property bubble and the crazy policies that led to the collapse of our economy are the people who are responsible for that. Not one of them has been held to account. On the day a report about massive tax evasion by the elites and the wealthy was published, three anti-water charges protesters were arrested. I do not agree with the nature of all of the water charges protests that have taken place but it was heavy-handed to say the least for 20 members of An Garda Síochána to arrest a Member of the Oireachtas and two councillors. At the same time, people are walking around who got away scot free with collapsing the economy. It is frustrating for citizens and it is wrong and appalling.

I want to get back to the first issue, which is a debate on the need for a debt conference.

Senator Michael Mullins: I highlight the fact that today is Safer Internet Day, which is an EU-wide initiative to make young people in particular more aware of the dangers posed by the amazing resource that has revolutionised all aspects of our lives, business and commerce. There is a need for constant vigilance to ensure that young people in particular are protected from some of the vile material that is available on the world wide web. Many young people and adults seem to be totally unaware that material put on social media can be shared universally so a split-second decision to upload something can come back to haunt them in years to come.

It is important that parents and teachers take time to make children aware that anything shared on the Internet is public property. I am told that the new craze of selfies, which I would not be into, can give rise to very serious incidents of bullying and other forms of abuse. Modern technology is fantastic. It gives access to huge amounts of information but also huge amounts of dis-information and a lot of very sordid material. As we all know, children cannot be protected all of the time but they must be educated in how to use the Internet safely and to be aware of the dangers and some of the vile material that is available on it. We are all very conscious of criminality and the scams we come across on a daily basis. I am asking the Leader for a debate in this House on how we can raise awareness among the general public about the dangers of the Internet - the criminality, the scams and the sordid material that is there - so that we can ensure that the children of the nation are protected against the worst excesses of what is available on the Internet.

Senator Labhrás Ó Murchú: It is to the eternal credit of the Irish people that in spite of the very severe austerity measures we have had, they have not resorted to anti-social behaviour which, as we have seen, is so damaging in other countries. There is certainly no justification for the manner in which the Tánaiste was treated, which was quite despicable, and certainly no justification for the manner in which the city councillors were treated because it was anti-democratic. Having said that, there is a very strong perception abroad that the manner in which a Member of the Oireachtas and two councillors were arrested in the early hours of the morning by between six and 12 gardaí in one or more cases has left a big question mark. We are all well aware of arrests that take place for much more serious crimes than those alleged in these cases. It would be a matter of one or two gardaí turning up to arrest the person or the person in question going to the local barracks by appointment. We have seen that with some major figures.

The Garda Síochána is one of the finest police forces in the world. The Garda serves us well. The Garda puts up with a good deal of abuse, physical and otherwise. We must be careful that the message we have seen on television does not in some way indicate that a Member of the Oireachtas and two councillors are treated differently because of a water protest. I have registered to pay my water charges. I never advocated that people should go down that negative road. There is always a tipping point and we need to be careful that we put the lid on this issue of the past few days. Let normal procedures apply. Let due process apply as well. Let us be careful of the histrionics. From my experience contrived histrionics always backfire.

Senator Catherine Noone: I join with Senator Mullins in highlighting Safer Internet Day. Vigilance is definitely called for. With the amount of trolls and the number of unidentified people online who are willing to lash out abuse willy-nilly, this is something we need to watch. It was very disturbing to discover recently that bullying is now more common online than it is in person or in schools. It is important to raise awareness on this very pertinent issue.

I wish to raise another issue briefly, childhood obesity. I was shocked by new research conducted in the US by the centres for disease control and prevention, revealing that 40% of children born in the years 2000 to 2011 would develop Type 2 diabetes in their lifetime. That figure is alarming. It is alarming that Ireland could be on course for such an epidemic with one in four Irish children being classified as overweight or obese. Studies have shown the same parts of the brain light up with alcohol as with sugary drinks. Parents would not allow their children to smoke a cigarette or drink a glass of wine. It is imperative that society adopt the same attitude to daily consumption of sugary drinks. The obesity crisis in Ireland is now affecting children as young as three and four years. According to the Growing Up in Ireland study-----

10 February 2015

An Cathaoirleach: Is Senator Noone looking for a debate on this issue?

Senator Catherine Noone: Yes, I am always seeking to raise this issue.

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

Senator Catherine Noone: I have been speaking for about 30 seconds.

Ireland's only dedicated childhood obesity treatment programme at Temple Street hospital has had a 400% increase in referrals of children under five year in just one year. More recent findings by another group show that children under 15 years are showing early signs of heart disease and the build up of plaque in their arteries. This is very frightening. I would welcome a debate.

Time seems to fly when I am on my feet.

An Cathaoirleach: Absolutely. I call Senator Quinn.

Senator Feargal Quinn: I will do my best to stay within 30 seconds.

On a number of occasions I have asked for a debate on fracking, that is a process to take gas from way down under land or sea. There was a very interesting debate yesterday in the House of Lords and it is worthwhile reading some of what was said. One month's work leads to 25 years of gas flow from a tiny box of tricks that can be hidden behind a hedge. I know it is only 1 mm wide and it goes down 1 km into the ground. The benefits, however, that have come from this are enormous but it has not been debated here in Ireland. Some people have even been scared of having the debate. I am not saying shale gas is correct but we, at least, should have a debate on this matter.

I will give some figures from yesterday's House of Lords debate on shale gas. It is more reliable than wind, cleaner than coal, more flexible than solar, cheaper than nuclear, safer than biofuels and less land hungry than hydro. The reduced fuel costs that come from this have been of significant benefit to the United States economy. It has given the economy of many individual states a boost while reducing the cost of importing oil. I accept the price of oil has gone down dramatically but shale gas has been of immense benefit to the US.

I am not sure we have even touched on the debate here. All it needs is one or two voices to say we do not like the thought of shale gas and we do not want it to ensure we do not even have a debate on it. I urge the Deputy Leader to find time to ensure there is a debate on this issue. I know Senator Mooney is not at all enthusiastic about this and that is why he has come back into the Chamber to say something about this. I would happily have that debate with him.

Senator Paschal Mooney: I know where Senator Quinn wants fracking. He will not have it in County Leitrim. He can have it in Dublin 4.

An Cathaoirleach: Unfortunately, Senator Mooney has already spoken on the Order of Business.

Senator Terry Brennan: I welcome the announcement this week by the Minister for Arts, Heritage and the Gaeltacht, Deputy Heather Humphreys, of funding of €624,000 for the upgrade and protection of heritage buildings under the structures at risk fund 2015. This fund is used to safeguard heritage structures in private and civic ownership. Continuing the scheme

this year will allow individuals, heritage trusts, community councils, Tidy Towns groups and local authorities to work together to take positive action to protect heritage buildings and structures in their areas. Heritage is an incredibly important asset for tourism and the pride and enjoyment of local communities and visitors alike. By continuing to support best practice in the conservation of protected structures, we can preserve our built heritage for present and future generations, as well as boosting our attractiveness as a tourist destination while contributing to local employment.

I welcome this announcement and hope heritage trusts, community councils, Tidy Towns groups and local authorities will take advantage of this available funding for their respective areas.

Senator Mary Ann O'Brien: I support the calls by other Members for a debate on the subject of Internet safety for children. I am not sure whether such a debate with the Minister for Communications, Energy and Natural Resources should include the Minister for Education and Skills because this area covers a wide spectrum of our society. It is an area on which we are really and truly ignorant. Most Members will have a child or grandchild under 18. What effects do computer screens have on our children? What is the difference between a child reading a Kindle or reading a book? What are the effects on one's child's values, confidence, self-esteem and behaviour when using social media and posting pictures of themselves on it? What is the effect on a child's self-perception when social media pictures make them ask themselves if another girl is that little bit more beautiful or thinner than them or a boy wonders if another boy is more muscular than him? Then, of course, there is the vile hard pornography that every child these days, unfortunately, gets to see which parents will never know about.

We must have a debate on Internet safety to raise awareness of the issue and educate ourselves - the older generations - because the future of our young human beings and citizens is at risk while none of us really knows with what we are dealing.

Senator Ivana Bacik: In response to Senator O'Brien, I agree that we need a debate on pension provision. I am happy to look for that. I also agree with his comments on the intimidation of councillors and staff at Fingal County Council. I was horrified to hear about it. I heard some reports on the radio, but had not been aware quite how sinister it was until the Senator spoke. To identify and single out individuals seems particularly reprehensible and anti-democratic and I am happy to join him in deploring it.

Senator O'Neill spoke in similar terms about that intimidation last night and generally on an increase in anti-democratic protest. Not only is it anti-democratic and intimidating, but it undermines people who are legitimately engaging in peaceful protest. It is wrong for all kinds of reasons. Senator O'Neill also welcomed the fact that Irish beef is back on the US market. That is good news, which we could all agree is very welcome. He also asked me to contact the Department of Foreign Affairs and Trade and the Minister, Deputy Flanagan, about the persecution of the Baha'i faith and its members in Iran. I am happy to raise that issue with the Minister. It might also be raised with him by way of a debate on the Commencement, but I am certainly happy to write to him in those terms.

Senator Mac Conghail congratulated the Minister for the Environment, Community and Local Government, Deputy Alan Kelly, for publishing the consultation paper on the electoral commission. This is a welcome step. We could all very much welcome this long-overdue reform. He also supported Senator O'Donnell on the establishment of a public water forum. I

10 February 2015

agree with Senators Mac Conghail and O'Donnell on the importance of the forum and the need for its establishment without delay. Senator Mac Conghail also spoke about the climate action Bill and mentioned his briefing this afternoon. Along with many others, I attended the Stop Climate Chaos briefing in Buswells earlier today and hope to make the briefing later. There may be improvements to be made to the Bill that has been published, but it is long overdue. Even the Green Party in government with Fianna Fáil previously could not get it through. It is very welcome to see it finally get to this stage and all of us who have environmental concerns would be delighted with that.

Senator Darragh O'Brien: One does not often hear, “even the Green Party.”

Senator Ivana Bacik: Senator Norris commented on the arrest yesterday of a number of individuals, including one Deputy. I do not want to get involved in discussing that. It is important that we do not in any way look like we are politicising what is in fact an ongoing criminal investigation. That is all I intend to say on it.

Senator Norris also spoke on Syriza and on Greece. The Irish Government is supportive of any resolution to help the Greek people. We would all like to see that. The Irish taxpayer has already invested approximately €350 million, as Senator O'Neill has said, as part of the Greek programme.

Senator Whelan asked for a debate with the Minister for Justice and Equality on courthouse closures. We will look for that. He also referred to worrying developments in the street in Portlaoise. That is certainly of concern.

Senator Mooney spoke about a crisis in the library service. I am very happy to look for a debate on that. It is an issue that is also close to my heart. It is a matter of great concern if we are seeing any downgrading of library services. Clearly, it is generally a matter at local authority level, but we should look for a debate on that in this House, and I will seek one soon.

Senator Paschal Mooney: I am very grateful to the Deputy Leader.

Senator Ivana Bacik: Senator D'Arcy referred to the ferry service from Greenore to Greencastle in County Down. The Senator has raised similar issues on many occasions and I am happy to invite the Minister of State, Deputy Michael Ring, to speak about ensuring there are strong links between Fáilte Ireland and the Northern Ireland Tourist Board. It is important that we ensure those links are strong, to maximise tourism across the island.

Senator Barrett spoke on the Swiss bank accounts and the revelations in the newspapers about those. Like Senators Barrett and O'Keeffe, I commend the International Consortium of Investigative Journalists, which worked on exposing this issue. I agree with Senator Barrett in that we should invite the Minister for Finance to speak to us about the impact here. Revenue has reported that there have been a number of investigations and 20 settlements to date related to the data, so one can anticipate that it would be good to hear the Minister for Finance reporting on that.

Senator O'Keeffe again commended the journalists and also Mr. Spellman, the founder of an OCD support group. He is seeking a debate on mental health issues and OCD. We certainly agree to that.

Senator Cullinane seconded Senator Mooney's amendment but I have already addressed

that and the importance of that debate. The Senator is also seeking a debate on the proposed debt conference. I can look for that. In the Dáil this evening there is a debate on a Private Members' motion on European debt, so it is a debate worth having in this House as well. I have already commented on the arrest yesterday, I do not intend to comment further.

Senator Mullins spoke about Safer Internet Day. It is good to see it highlighted. Other colleagues, Senators Noonan and O'Brien in particular, also spoke about Safer Internet Day and sought debates on awareness-raising on this issue. Those are important debates to have. Senator Ó Murchú spoke on the issue of anti-social behaviour, again referring to some of the earlier points and to the Garda. Senator Noone spoke on Safer Internet Day and also looked for a debate on the issue of obesity. There is a worrying rise in childhood obesity. As a mother of small children I am concerned, as everyone is, about this issue and would be happy to look for that debate. Senator Quinn looked for a debate on fracking and I thank him for raising the issue of the House of Lords debate. I was not aware of that. Like the Senator, I would like to have the debate about fracking and about other issues.

Senator Paschal Mooney: I would like to have one too - I would shoot him down in flames.

Senator Pat O'Neill: Is Senator Mooney threatening Senator Quinn?

Senator Ivana Bacik: I did not hear what Senator Mooney said, perhaps it is just as well. Senator O'Neill advises me that the issue might be best addressed first by the joint Oireachtas committee. It is really the sort of area where we would want to hear experts who would put different sides of it. To have a debate on the report from the joint Oireachtas committee might be the better way to approach it. It is certainly an issue on which I would like to see more up-to-date information presented.

Senator Brennan welcomed the announcement by the Minister for Arts, Heritage and the Gaeltacht, Deputy Humphreys, of funding for heritage buildings and the positive consequences for local employment. We would all join in that welcome.

Finally, Senator O'Brien supported the other speakers on raising the issue of Internet safety and seeking a debate. The Senator is quite right in saying it falls between a number of Ministers, and mentioned the Minister for Communications, Energy and Natural Resources and the Minister for Education and Skills. I would say perhaps also the Minister for Children and Youth Affairs, and maybe that is where we should start. I agree that we need to look at Internet safety for children and young people using the Internet who are under 18. As parents and as legislators, we might want to address it in that context first.

An Cathaoirleach: Senator Paschal Mooney has proposed an amendment to the Order of Business, "That a debate with the Minister for the Environment, Community and Local Government on the future of library services in rural Ireland be taken today." Is the amendment being pressed?

Senator Paschal Mooney: No. I am satisfied with Senator Bacik's response on that issue. I would like to withdraw the amendment and hope that the Deputy Leader will be successful in having the Minister, Deputy Kelly, come before the House this week. Otherwise I will proceed.

Amendment, by leave, withdrawn.

Order of Business agreed to.

10 February 2015

Standing Orders: Motion

Senator Ivana Bacik: I move:

“That the Report of the Committee on Procedure and Privileges on the adoption of new Standing Order 103N and the amendment of Standing Order 90 be adopted, laid before the House and printed.”

Question put and agreed to.

Sitting suspended at 4.25 p.m. and resumed at 4.45 p.m.

Gender Recognition Bill 2014: Committee Stage (Resumed)

SECTION 2

Debate resumed on amendment No. 4:

In page 6, between lines 2 and 3, to insert the following:

“ “general medical practitioner” means a medical practitioner who is registered in the Specialist Division of the register of medical practitioners under the medical speciality of “General Practice” or in the General Division of the register of medical practitioners;”.

-(Senator Katherine Zappone).

Acting Chairman (Senator Diarmuid Wilson): Amendments Nos. 4 to 6 inclusive, 12, 13, 19 to 21, inclusive, and 29 are related and will be discussed together by agreement. Senator Cullinane was in possession.

Senator David Cullinane: I gave way to the Minister of State who very kindly responded to some of the amendments. I am speaking on amendments Nos. 12 and 19, which were tabled by Sinn Féin. They deal with two separate issues. I am not sure why they were grouped because one refers to under-16s.

The purpose of amendment No. 12 is to delete the requirement for a medical input into the Bill. The proposed medical practitioner requirement is in our view unfair, arbitrary and unworkable. Senator Norris was the last to speak on this issue before progress was reported and he made all the arguments I would have made as to why this is unnecessary, intrusive and unfair. Section 9(1)(g) deprives individuals of the right to self-determination and places insurmountable obstacles in the way of legal gender recognition. The inclusion of the medical evaluation condition, which was not mentioned in the heads of the Bill, is a worrying development and may be interpreted as requiring that transgender persons submit to unwanted and unnecessary health care treatments. It is our very clear view that legal recognition must be de-coupled from medical issues. I will not go over the ground already covered by Senator Norris and others on that issue because the points have been well made.

Amendment No. 21 is on a separate issue but the amendments have been grouped for a specific reason. This one deals with the issue for under-16s, which we have already discussed. The rationale for this amendment is to make the process accessible to those under 16. We had

a lengthy debate on this issue. I will not go over all of it again.

The criteria in our view are insufficient and do not take into account the transgender child's needs. The reduction from 18 years to 16 years of the minimum age requirement in the Government's Bill is a welcome development. The Bill, however, retains the blanket exclusion preventing children under the age of 16 obtaining legal recognition. This represents a failure on the part of the State to acknowledge the existence of trans and intersex young people and the extremely high levels of prejudice they may encounter because of their gender. As children, large aspects of our education, sports and activities are gendered. It is important that trans and intersex young people are able to participate fully in school life and activities. The Gender Recognition Bill 2014 should make provision for children and young people by removing the criterion relating to minimum age that prevents them obtaining legal recognition of their preferred gender. Our preference would be that persons of 16 could apply in their own right and under-16s go through the process outlined in the amendment, with some changes to the process the Government is putting in place for those aged between 16 and 18.

I am absolutely opposed to the inclusion of the medical practitioner because I find it offensive that the person has to be a primary treating endocrinologist or psychiatrist. It should not be included and our amendments seek to remove those elements of the Bill.

Senator Hildegarde Naughton: If the medical model is to be kept I agree that it should move towards the person's general practitioner who has the primary duty of care. I understand the Minister of State will accept Senator Marie Moloney's amendment who is seeking the deletion of the line, "based on a medical evaluation of the applicant". That would be appropriate in this case. Certainly if no diagnosis is required, I believe a psychiatrist or an endocrinologist is not required either.

Senator David Norris: The Minister of State's gracious acceptance of Senator Marie Moloney's well-worded and carefully thought out amendment makes me wonder whether one has to be a member of the Labour Party to get an amendment accepted.

Senator Marie Moloney: I have put in a lot of work in the background.

Acting Chairman (Senator Diarmuid Wilson): Senator Norris, without interruption, please.

Senator David Norris: I am well aware the Senator has put in a lot of work on these and related issues and I greatly respect the Senator. I was just making a cheap crack because I felt like doing it. It lightens the atmosphere. I think the medical model is completely discredited. I am not nearly in tears, it is just that I have a chill and that is why my voice is wavering. I remember on the "Gay Byrne Show" crossing swords with a very nice man who was an endocrinologist, Dr. Austin Darragh. He was mad keen to get hold of gallons of pee from the gay community and wanted my help so that I could litmus test them to see if there was something funny about the pee of gay people. I do not know whether he ever succeeded but I just laughed it out of the place. It was absolute nonsense. This morning on RTE on "Today with Sean O'Rourke", Sean O'Rourke did not know which end of him was up. He was talking about an "indoctrinologist" instead of an endocrinologist - there are plenty of them around the place, particularly in The Iona Institute which is absolutely stuffed with indoctrinologists. I am so old - I will end on this - and things are changing so very rapidly.

This morning I was with one of my consultants in St. Vincent's Hospital, a very nice man.

10 February 2015

He told me that last week they had a visit from a very distinguished international professor, Professor Stan Monstrey, who is openly gay and a world leader on gender reassignment and all kinds of urological problems and situations. He is from the University of Ghent in Holland. The Royal College of Surgeons in Ireland, which in my day was one of the most conservative organisations, welcomed him and gave him a special prize. He absolutely wowed them. That shows how things have changed, and in terms of people's perceptions as well. I will not repeat this but it is no harm to have the odd personal reminiscence. When I was about 11 years old I desperately wanted to be loved by a man and society told me authoritatively that the only way one could be loved by a man was by being a woman. I thought I would do my best to turn into a woman. I did not know how to do it but my friends said, "you are half way there", because I was a pretty useful athlete and I had very good pectoral development which looked like breasts. I went to bed at night saying, "Please God, let me wake up in the morning as a woman", but I did not want to be a woman, not at all. It was the last thing I wanted. In that situation, where there was a complete dearth of knowledge, I am glad I did not get turned into a woman. That would have been awful, absolutely awful. Just to end on another note and on how curious things are.

Senator Marie Moloney: It is not bad at all being a woman.

Senator David Norris: It is lovely for the Senator but it would be awful for me. It would be a disastrous liquidation of the assets which from a financial point of view is a complete and utter mistake but I will not go into all of that. We had a most interesting discussion in the surgery this morning. There was another point I wanted to make about gender reassignment, but it has escaped me. I am completely in favour of it now, much more so than I was six months or a year ago, through meeting repeatedly with some of these very remarkable people. I know now what I was going to say.

When I was young 60 years ago, everything was tidied up and edited so that everybody could have a nice, neat, tidy life and nobody would be upset and the neighbours would not talk about somebody wearing a pair of rugby trousers and coming in a skirt or any of
5 o'clock this sort of stuff. All of this was tidied away as if it did not exist. To be a citizen of this country one has to be republican, Roman Catholic, heterosexual and white, naturally enough, and there are a few other things. I only hit one of them. I was kind of pink so I got away with being white, but I was not any of the other things and it was quite uncomfortable. Therefore, I am very glad this legislation is being put in place and the Minister of State has graciously accepted an amendment, apparently, which I very much welcome. It shows the constructive way in which he is facing legislation and I promise not to speak quite so much on the following amendments.

Acting Chairman (Senator Diarmuid Wilson): The Minister of State gave a fairly comprehensive reply the last time but if he wants to-----

Minister of State at the Department of Social Protection (Deputy Kevin Humphreys) (Deputy Kevin Humphreys): I will be brief. In case Senator David Norris did not notice, we accepted the first amendment from an independent Senator in respect of the review.

Senator David Norris: Splendid, bravo. I knew the Minister of State was a decent guy.

Deputy Kevin Humphreys: The first amendment that was accepted was in respect of the review.

Senator David Norris: Well done.

Deputy Kevin Humphreys: I compliment Senator Moloney on her amendment which I will bring forward on Report Stage. Senator Bacik highlighted the fact that there will also be alternative reviews. That will be done.

At this stage I am not proposing to accept the amendments other than to say that providing a birth certificate is a significant and serious step by the State. The purpose of this legislation is to recognise and validate people in their gender. I accept that for most people transitioning to their preferred gender, there is absolutely no doubt about their choice to live the rest of their lives in their preferred gender and they will make a declaration to that effect to the State as part of their application.

There has been absolutely no consultation or involvement with GPs. There would have to be extensive consultation with GPs if we were to go down that road as some Senators said earlier. My concern is that the Bill is robust and not susceptible to attack. That is the reason we have looked carefully at the mechanism to protect minors as envisaged in Articles 42.5 and 40.3 of the Constitution. The flip side of some of the arguments that are made is to try to defend vulnerable minors, for which various statistics have been given. I noted going back over the debate that the percentage given by Dr. O'Shea in the committee was 20%. We should be conscious that there is a group of minors who need to be protected. That is the reason I refer Members to Articles 42.5 and 40.3 of the Constitution. I accept that everything put forward here has been done in good faith to protect the vulnerable. It is important to note again that a review is provided for and will take place within two years. Therefore, there will be an opportunity to review the legislation quite quickly and see how it is working in practice. As this is legislation that is being introduced here for the first time the review period is too long. The review mechanism being looked at is a two-year review. That will provide a speedy opportunity to review the practice of the Bill. It will be for the next Seanad and the next Dáil to review it and the mechanism will be set out in legislation.

Amendment, by leave, withdrawn.

Amendment No. 5 not moved.

Section 2 agreed to.

Sections 3 to 6, inclusive, agreed to.

Amendment No. 6 not moved.

Section 7 agreed to.

SECTION 8

Government amendment No. 7:

In page 8, line 19, to delete “not” where it secondly occurs.

Deputy Kevin Humphreys: This amendment seeks to correct a grammar error.

Amendment agreed to.

Amendment No. 8 not moved.

10 February 2015

Acting Chairman (Senator Diarmuid Wilson): Amendments Nos. 9 to 11, inclusive, and 14, 27, 28 and 31 are related and may be discussed together, by agreement. Is that agreed? Agreed.

Senator David Norris: This is about divorce. I will speak on that, if I may.

Senator Mary M. White: I move amendment No. 9:

In page 9, to delete line 10.

I welcome the Minister of State, Deputy Kevin Humphreys, and wish him continued success with his portfolio.

I wish to discuss the rationale for amendments Nos. 9 to 11, inclusive, and 14, 27, 28 and 31 which focus on the concept of the single criteria. In a country where divorce was only made legal in 1996, it is ludicrous that it is about to be made compulsory for some. The single criteria which demands that applicants be single if they are to apply for recognition in their preferred gender forces married transgender people to choose between their family and their identity. Imagine being told that the State will not legally recognise one's identity unless one first divorces one's husband or wife. The explanation given for this is that otherwise it would allow for the existence of same sex marriages which are currently not allowed by law in Ireland. This requirement fails to acknowledge that transgender families exist and fails to offer their marriage the constitutional protection offered to every other marriage in Ireland. Under the Bill and in line with Irish divorce law, transgender applicants would have to live separately from their spouse for four years and convince a court that their relationship had broken down in order to secure recognition in their preferred gender. They would be forced to lie.

It has been suggested that the forthcoming referendum on civil marriage equality would effectively resolve this issue. However, the human rights of transgender people to be recognised should not be contingent on the right to marry. The issue was addressed by the German Federal Constitutional Court in 2008. The court maintained that individuals had a right to realise their self-determined identity. It stated that it was unacceptable to force transgender people to choose between their marriage and their right to recognition, and declared that the relevant section of the German transsexual Act was unconstitutional. Germany has since accepted the court's decision and has made no attempt to reinstate the single status criteria despite the fact that it does not, as yet, allow same sex marriage.

While this Bill is a step forward, the legislation is still not good enough. Barack Obama was the first American President to use the word "transgender" during his historic State of the Union address on 20 January. His acknowledgment marks the end of a cloak of isolation and silence that the transgender community has been forced to suffer, demonstrating a positive step forward in the fight for the rights and equality of the transgender community. However, we need to keep pushing for the voices of the transgender community to be heard. Laws should be practical and reflect reality. This legislation does not go far enough. Transgender people are some of the most marginalised in this country. We have an opportunity to introduce legislation that truly protects them.

However, transgender people are saying this legislation will not fully protect them. Why should anybody be forced to choose between their family and human rights? Omitting the criterion to be single is the only way to avoid interfering with the constitutional provision of protecting the family. If the Government chooses to listen to the voices of the transgender community

and sees the human rights issue inherent in forced divorce to achieve gender recognition, then there is an opportunity to put Ireland at the forefront of progressive legislation which empowers all of its citizens.

Senator Katherine Zappone: I welcome the Minister of State back to the House and thank him for meeting with some trans people and Senators since. I have spoken about this particular issue, which these amendments cover, for the past several years. It was one of the first issues I spoke about with the excellent civil servants in the Minister of State's Department. I also gave evidence to the committee on social protection and spoke on Second Stage on this issue. I understand the State's view on this but mine has not changed.

I am not going to use my words this time but those of the trans community, many of whom are again here in the Visitors Gallery, including Victoria Mullen who has spoken eloquently on this aspect of the Bill in the media and in other settings. When we held a civic forum on gender recognition the week before the Bill started in the Seanad, one of the areas we covered was the implication of the single criterion, the forced divorce as it is called. The report of the forum states:

The single criteria, forced divorce, disrespects valid marriages and forces those of us who are married to choose between our family and our right to legal recognition. Ireland's draconian divorce laws, which require four years living apart, will cause a significant delay in accessing legal recognition. The legal costs of attaining a divorce are prohibitive. Couples that are happily married do not qualify for divorce as we have an amicable relationship. In these cases, the court will not award a divorce and, therefore, the trans spouse will be unable to avail of gender recognition. [This is a key aspect of this issue].

The exclusion of married and civilly partnered trans people will have a detrimental impact. For example there will be an intolerable burden on our families which have not been placed upon any other Irish families. We will experience stress and anguish as we are forced to make an impossible decision between breaking up our families or having the legal right to be recognised. This will seriously disadvantage and hurt our children and spouses both emotionally and financially. [They have gone through so much already]. Those of us that cannot fulfil the single criteria for legal gender recognition will be excluded. This may also mean the roll back of our other documentation, e.g. driver's license, which could have devastating effects on us.

I will leave it at that.

Senator David Norris: The Minister of State is a very decent person. I will remind him of the Minister's Second Stage speech in which it was stated, "I accept this is not ideal but the existing constitutional prohibition on same-sex marriage is a blockage in that respect". I disagree that there is a constitutional prohibition. The late Declan Costello - I think he is the late. Did he die? Nobody knows, so he is of no relevance because nobody remembers him. He has gone from the pages of history. Declan Costello, a very decent man, pointed out in the 1967 constitutional review that the Constitution was wide open to same-sex marriage. He was very concerned about it as he did not like the idea of it at all but he drew attention to it. There is a one-time Attorney General saying this in 1967 about the constitutional prohibition.

In his letter to the Minister for Social Protection in November 2012, the Council of Europe's Commissioner for Human Rights, Nils Muižnieks, stated, "Divorce should not be a necessary

10 February 2015

condition for gender recognition as it can have quite a disproportionate effect on the right to family life". That is the Council of Europe's Commissioner for Human Rights, a strong voice, not somebody off the street. This is someone with a professional interest in the area.

The United Nations Human Rights Committee in concluding its observations on the Irish periodic report under the Covenant on Civil and Political Rights stated:

[It was] concerned that the new heads of the gender recognition Bill approved by Cabinet in June 2014 retained the requirement for married transgender persons to dissolve existing marriages or civil partnerships to have their preferred gender formally recognised.

There are some cases where it might appear to go in the opposite direction but one has to be very careful in parsing and analysing them. The European Court of Human Rights, for example, took a less clear-cut view in the case of *Hamalainen v. Finland* in July 2014. In that case, a transgender woman who had married in her former male gender was barred from recognition of her female gender unless she and her partner converted their marriage into a civil partnership or divorced, which they did not want to do. The Grand Chamber of the Court held that the requirement was not disproportionate in that case because the transition from marriage to civil partnership in Finland was almost a formality and the differences between the status of both were minimal. That does not apply here as Finland is a very different jurisdiction. We are used to being told Greece is not Ireland. Ireland is not Finland either.

Fergus Ryan, an authority in this area, in an article in *The Irish Times*, stated, "It remains an open question whether requiring couples to divorce to gain a particular benefit amounts to an attack on marriage, contrary to Article 41 of the Constitution". Here is a noted constitutional expert saying this requirement amounts to an attack on marriage, and presumably the family.

The European Parliament's 2010 paper on transgender rights cautioned that forced divorce may be in breach of Articles 7 and 9 of the Charter of Fundamental Rights, namely respect for private and family life, right to marry and right to found a family. The authors noted the Austrian constitutional court has granted a transsexual woman the right to change her sex to female while remaining married to her wife. The German constitutional court has made a similar ruling.

The Equality Authority stated the single status provision was unnecessary:

It is the gender of each party at the date of marriage that counts in determining the validity of the marriage. As such, the concern that gender recognition would convert a heterosexual marriage into a marriage between parties of the same sex is legally unfounded.

The last contribution I will quote was one that greatly moved me. The lady who wrote the e-mail is in the Visitors Gallery. I am not sure we are supposed to put names on the record. If they are not supposed to be on it, then somebody in the Editor's office can block it out. It is Victoria Mullen.

Acting Chairman (Senator Diarmuid Wilson): People outside the House should not be referred to.

Senator David Norris: Too late. She is inside the House. She is there waving her arms, proudly.

(Interruptions).

Acting Chairman (Senator Diarmuid Wilson): The Senator knows to what I am referring. She is not a Member of the House.

Senator David Norris: I do and it is all balderdash.

In an e-mail which really moved me - like Tom Jones on "The Voice", it went through to my heart - she stated:

I myself am trans and still married. While we live apart, my wife and I still work together in our tax consultancy practice and we raise our children together. Our property, bank accounts, etc. are all owned jointly. [She goes on to list the practical ways in which they still co-operate].

Recently, while watching TV, there was a reference made to a "broken home". My then 12 year old daughter innocently asked me what a broken home was. I explained it to her and to cement the explanation, I embarrassedly admitted that ours was probably a broken home. Laura leapt to her feet and demanded that I take back that comment. "I am not from a broken home," she proclaimed, as hands on hips she stamped her foot on the floor. "I love my two homes and my family. I love my life and I am really happy. I am not from a broken home," she said again. "Now take that back", she insisted. I did.

She continued:

This little story is 100% true and not in any way exaggerated ... Ours is not a broken family ... The thought that in this, the 21st Century, my own Government (democratically elected) is demanding that I destroy my family for the sake of my identity is quite sickening and distressing. It is a morally corrupt stance, hidden behind some vague and unpublished legal opinion, supposedly issued by the Attorney General.

Members have heard a lot about the Attorney General and opinions on abortion and I am unsure how that is going. Does the Minister of State know whether the vote on that matter has got under way in the other House?

Acting Chairman (Senator Diarmuid Wilson): Will the Senator, please, speak to the amendment and the section?

Senator David Norris: It will be interesting to learn how many Labour Party rebels there are - good for them.

The letter writer continues by noting that the Constitution is clear and that it:

...provides that "The State, therefore, guarantees to protect the Family in its constitution and authority, as the necessary basis of social order and as indispensable to the welfare of the Nation and the State." Paragraph 3 ... provides that "The State pledges itself to guard with special care the institution of Marriage, on which the Family is founded, and to protect it against attack." There is nothing vague about these articles. The State guarantees to protect the family; it pledges to guard the Institution of Marriage [and so on].

She goes on to write:

I have asked but neither I nor anyone in TENI have ever received a reply to the question of how the State meets these obligations under the Constitution by trying to force me to di-

10 February 2015

voiced. My wife, my children and I are all citizens of this Country. Why is our family being singled out for such an attack? Well, it is simply my fault. I am TRANS. My identity is very important to me. But my family is my life itself. I should not be asked to give up one for the other. The legislative requirement that I do is an obscenity.

I acknowledge that I have spent a long time reading this letter and apologise for doing so, but it is such a powerful letter. It stands as a declaration of freedom, a declaration of independence and a declaration - whatever the Iona Institute and its cronies might say - of support for the family as an institution. Perhaps it is a modified form of the family, but are we not all celebrating the fact that our institutions and arrangements are being broadened constantly? I believe this will only last for a short time. The referendum will be held in May and the Government appears to be calculating that nothing disastrous will happen before then. However, that means that there is an absolute obligation on everybody in this House who believes in equality to propagandise, walk the streets and talk to people in shops and their cousins. I met my cousin and his wife in the Kildare Street Club on Sunday and over lunch he told me he was voting against equality in marriage. There was nothing I could say to change his position and he is a consultant physician. He told me he liked to vote against in referendums and while he has this pie-eyed approach, he is only one and can be dismissed. Unfortunately, because his wife who is 25 times more intelligent and would vote in favour with great alacrity is an English double-barrel as I call her - a reader of *The Daily Telegraph* and all that - she does not have a vote, being a loyal subject of Her Majesty the Queen. This is a wrong that is being done to people, but I hope it will be transient. It is not legally justifiable, but there are different opinions and one can take one or another.

I will leave that thought with the Minister of State, but it is important, for the illumination of anybody who cares to read the record of Seanad Éireann, that the speeches of Senators Marie Maloney, Hildegard Naughton, Katherine Zappone, Averil Power, Mary White and so on be read and that this human testimony from the transgender community be written into the history of Ireland.

Senator Gerard P. Craughwell: For the first time, I understand the difference between a classical graduate from the honourable house of Trinity and a poor economics graduate from the London School of Economics. While I will try to follow that contribution, it will be rather difficult to do.

On behalf of all the groups that have made representations to me on the single requirement of the Bill, including Amnesty International, The Equality Authority of Ireland, LGBT Noise and Transgender Equality Network Ireland, TENI, not to mention the people in the Visitors Gallery who have been adverted to and openly discussed their own situations with me, I ask the Minister of State to bring this issue back to the Attorney General for further examination. The Joint Committee on Education and Social Protection's report on the general scheme of a gender recognition Bill 2013 recommended that the civil status requirement be reconsidered. While the joint committee acknowledged the difference of opinion between the Attorney General and others on the legal issues around gender recognition for persons who were married or in a civil partnership, it thought that not being single should not prevent a person from qualifying for a gender recognition certificate and urged the Minister to revisit the issue. I am asking the Minister of State to revisit it again and revert to the Attorney General. In recent days there has been much discussion about the Attorney General and what she has or does not have to say. It really bothers me that Members are expected to accept the word of the Attorney General as a dogma that must be followed blindly by Governments. The Attorney General is but one barrister. I

suggest the Attorney General form a committee in the Law Library to ascertain what the other legal brains have to say. One person's opinion should never be taken as dogma.

As legislators, Members are not alone in requesting reconsideration of this requirement in that there has been considerable interest abroad in the Bill. Senator David Norris referred to the Council of Europe Commissioner for Human Rights who wrote to the Tánaiste to advise that divorce should not be a necessary condition for gender recognition as it could have a disproportionate effect on family life, which has been cherished in Ireland for as long as I can remember. Moreover, I am sure those who are older than me can remember it for even longer. Given the constitutional protection afforded to marriage and the family, it is arguable that this precondition may be unconstitutional owing to its negative effect on the integrity of the constitutional protection of the family. Amnesty International reminds Members that the right to marry and form a family is protected by several instruments to which Ireland is a party, including the International Covenant on Civil and Political Rights and the European Convention for the Protection of Human Rights and Fundamental Freedoms. Neither does the single requirement meet the standards laid out in the Yogyakarta Principles which state "No status, such as marriage or parenthood, may be invoked ... to prevent the legal recognition of a person's gender identity".

It appears that this unnecessary precondition is based, erroneously, on the premise that recognising the preferred gender of a married person would convert the marriage or civil partnership into a same-sex marriage and that it would be same-sex marriage by the back door. However, the Minister of State should note that even countries in which same-sex marriage is not allowed have also rejected this precondition and that courts in Luxembourg, Germany and Austria have all rejected the single requirement. Given that gender recognition is of prospective effect and the marriage was a heterosexual one and that the validity of the marriage is tested against the factors existing at the time, as my colleague, Senator David Norris, has noted, there is no legal basis for the fear that gender identity recognition would suddenly make it a same-sex marriage. If the Bill did have a retrospective effect, the parenthood and all other rights attached to the marriage should also change. In short, the Bill contradicts itself.

Legal issues aside, as I have told the Minister of State previously, there is a human factor. A loving couple who wish to stay together have come through what must have been the most horrendous set of difficult and challenging circumstances. I refer to a marriage which is intact, within which the couple have made some very serious changes to their lives and who have decided to stay together. These are not couples who have lived apart for four or five previous years and who have irreconcilable differences. Does one seek to have them lie or pretend they are living apart? Does one seek to have them pretend there are irreconcilable differences? They are a tiny minority of couples who have the right to have recognised both their preferred gender and their marriage. To impose an either-or scenario on couples who have successfully navigated this unenviable terrain is inhumane and degrading.

Let us not forget that the only reason that we have this Bill at all is that Ireland has been in breach of the European Court of Human Rights. This Bill should be actively seeking to redress the balance and to mitigate against further injustices and human rights violations. Transgender persons have already been subjected to inhumane discrimination. Let us not build further discrimination into a Bill which is meant to be progressive.

Again I ask the Minister of State to go back to the Attorney General and ask her to consult with colleagues. Hers is only one opinion.

Senator David Norris: Hear, hear.

Senator Gerard P. Craughwell: There are people who desperately need this. In the context of what Senator Norris was talking about, I am far from convinced that the marriage equality referendum will be passed. It has been said that 80% of the people are going to support it but the chances are that 40% of that 80% will sit at home and do nothing.

Senator David Norris: Hear, hear.

Senator Gerard P. Craughwell: As Senator Norris has said, unless we, as legislators, actively go out and drive the referendum, it is possible, if not likely that it will be defeated because huge forces will be gathered to try to ensure that it does not pass.

We cannot bank everything on the possibility that there will be a review at some stage in the future which will allow us to revisit this particular section of the Bill. While I appreciate the Minister of State's difficulty, I would ask him to go back to the Attorney General and discuss it further with her.

Senator Paschal Mooney: I have had great respect for Senator Norris - bordering on affection - for a long number of years, of which he is fully aware. Senator Norris regularly entertains this House with his oratorical skills, which we all envy but he also educates and informs us with his many very serious contributions. However, I respectfully suggest that to rubbish and dismiss the legitimate arguments of those who oppose same-sex marriage in the manner in which he has done, could help those who are opposed to it, as Senator Craughwell has outlined. I would suggest to Senator Norris that perhaps in the future he might respect those people whose opinions run counter to his own. I am not ---

Senator David Norris: Absolutely, but only when they respect me.

Senator Paschal Mooney: I am not in any way disrespecting the opinions that are held by Senator Norris in this regard. All I am suggesting is that, as Senator Craughwell has correctly pointed out, referendums are very strange animals. On many occasions in this country we have seen examples of referendums which, in advance of polling day, were shown in opinion polls to have overwhelming popular support but which have subsequently been lost. The most recent example of that was the proposal regarding the abolition of this House, of which Senator Norris is fully aware because he was heavily involved in the campaign.

In the context of this amendment, to dismiss and rubbish the very sincerely-held and legitimate views, which I have heard from many people who are not in favour of same-sex marriage is unwise. Those views should be respected. Senator Norris would be more familiar with Voltaire than I am. Voltaire argued that while he would not necessarily agree with the opinions of the opposition, he would fight to the death to defend their right to voice them. In the forthcoming debate between now and referendum day, I hope Senator Norris and others who agree with him will desist from rubbing the views of others. It is a strange ingredient among liberal people - which Senator Norris would claim to be - that they are, in some cases, among the most intolerant of other people's opinions.

To get to the nub of this issue, several references have been made to best practice in other countries, specifically to the constitutional courts in Germany. I will narrow this down to one simple point, namely, that the legal advice holds that the constitutional reality is that this State does not recognise same-sex marriage, full stop. Is that not the conundrum that the Minister of

State has had to face in this regard? I am totally opposed to this proposal. I absolutely agree with everything that has been said so far in this debate about respect on the one hand, constitutionally, for the institution of marriage and on the other hand, that this legislation is actually going to force a marriage apart. I find that very difficult to accept and absorb but it seems to me that the Minister of State has little choice in this regard because of the constitutional reality in Ireland - not in Germany, Finland or anywhere else. This is about this country, its laws and its Constitution and until that is changed, the Minister of State has little choice but to bring forward this legislation. I wish it were otherwise. Perhaps the Minister of State will clarify that for those who may feel the Government is being obdurate and obstinate in this regard.

Senator Hildegarde Naughton: I feel great empathy for those who find themselves in this impossible situation. Senator Norris outlined the human impact of this as described in that e-mail which we all received. As legislators, however, we need to be mindful of the legal advice we have been given here, which is that this legislation could prove to be unconstitutional. There is little point in putting legislation onto the Statute Book that would later be deemed unconstitutional.

When I spoke during the Second Stage debate I raised the issue of a sunset clause. As others have already said, the elephant in the room is the forthcoming marriage equality referendum. We will all be out there campaigning for that and I hope we get a positive outcome. In that context, is there the possibility of putting a sunset clause in place now, at this point, pending the outcome of the referendum? That would go some way towards easing people's concerns. Also, the fact that we have unanimously agreed on a review of this legislation might come into play further down the line. I ask the Minister of State to outline his views on the issue of a sunset clause.

Acting Chairman (Senator Diarmuid Wilson): Does Senator Norris have any additional comments to make on amendment No. 9?

Senator David Norris: Yes I have. We rest with the position that the legislation itself is unconstitutional because it represents an attack on existing families. To return to the question of legal advice, Attorneys General are conservative by nature and they give the most timid of advice. The Minister of State has said - or perhaps it was Senator Naughton - that a preponderance of legal opinion is in favour of the Government's position but it is not. That is why I spent some time putting the case from the United Nations, the European court and so forth. An overwhelming preponderance of international opinion is behind those of us who believe that forcing people to divorce is simply morally wrong. Why do we not pass the Bill and let it take its chances? Let Michael D. Higgins, Uachtarán na hÉireann, call the Council of State together and refer it to the Supreme Court. That would be a very good way of settling the matter.

I wish to express my great gratitude to Senator Mooney for his completely unjustified celebration of my various talents. I am well aware of my misdoings and the fact that I sometimes walk on people's corns but there are occasions when those corns deserve a bloody good walking on. The Iona Institute is one such body and I will not take back a single syllable of what I said. These are unelected people who refuse to disclose their accounts to the Standards in Public Office Commission. They just tell the commission to bugger off. That is what they say and they get away with it.

Acting Chairman (Senator Diarmuid Wilson): Senator, I must ask you to speak to the amendment.

10 February 2015

Senator David Norris: This is all on the amendment.

Acting Chairman (Senator Diarmuid Wilson): It is not, actually.

Senator David Norris: There are quite a lot of pizza companies in the United States-----

Senator Paschal Mooney: On a point of order-----

Acting Chairman (Senator Diarmuid Wilson): Senator Mooney has a point of order.

Senator Paschal Mooney: I want to make it absolutely clear that I have no interest, good, bad or indifferent, in Senator Norris's views on the Iona Institute, which I know little about.

Acting Chairman (Senator Diarmuid Wilson): That is not a point of order.

Senator Paschal Mooney: I am talking about genuinely held beliefs of a variety of individuals in this country. I am not talking about any institutions. I am talking about the legitimately-held views of people who oppose same-sex marriage.

Acting Chairman (Senator Diarmuid Wilson): Thank you, Senator Mooney.

Senator Paschal Mooney: They should at least be respected in their opinions. That is all I have argued; nothing more-----

Acting Chairman (Senator Diarmuid Wilson): Senator, you have made your point.

(Interruptions).

Senator Paschal Mooney: -----and nothing less. As Senator Craughwell has pointed out, we must wait and see the result of the referendum and whether 80% of the people-----

Acting Chairman (Senator Diarmuid Wilson): Senator Mooney, you made that point very well, thank you.

Senator Paschal Mooney: -----will support it. That is the only point I am making. Senator Norris does not do the campaign a great service by his remarks which are critical of people who genuinely hold opposing views to his own.

Acting Chairman (Senator Diarmuid Wilson): Senator Norris, on amendment No. 9 please.

Senator David Norris: I wish to say at this point that-----

Acting Chairman (Senator Diarmuid Wilson): Senator, we have given the arguments a very good airing here now.

Senator David Norris: I know but I have not aired this point and I am going to air it.

Acting Chairman (Senator Diarmuid Wilson): We have not yet heard the Minister of State's reply.

Senator David Norris: My point is that Senator Mullen says he believes in equality. On every single issue reflecting gay people, he has spoken, voted against and put down motions-----

Acting Chairman (Senator Diarmuid Wilson): This amendment is not about the Iona

Institute or about another Member of the House.

Senator David Norris: He is always talking about respect. How respectful was it for him to say on RTE radio a couple of years ago that gay men wanted children as a fashion accessory? That is the kind of respect I can live without and I will challenge it at every point.

Acting Chairman (Senator Diarmuid Wilson): Senator Mullen is not here to defend himself and that is not relevant to the amendment.

Senator Mary M. White: I wish to put on the record that I have no problem with people having opinions that are different from mine while others-----

Senator Paschal Mooney: Senator Norris obviously has.

Senator David Norris: I do not.

Senator Mary M. White: I want to put on the record that I do not judge my personal relationship with people because they have a different opinion. It would not even cross my mind.

Senator Gerard P. Craughwell: There are opposing views but the majority of people I have met are very much in favour of not splitting up a family. I have two children. I am not sure about the Minister of State. I love my two children who have forgiven everything I have ever done to them. They have forgiven every mistake I have ever made and every decision I have ever taken. The children of one transgender person in this room have stuck by her through thick and thin. We heard an e-mail earlier from that woman. That is the issue. All the rest is only fluff and window dressing. At the end of the day, it is about not breaking up a family. I ask the Minister of State to bear that in mind.

Deputy Kevin Humphreys: I thank everybody for their contributions. In response to Senator Zappone, I do not believe somebody will lose a driving licence, as she outlined, but I will check that and come back to her to be fully clear. There is no doubt that drafting this Bill has been very complex. It has also been very challenging constitutionally in respect of marriage.

In response to Senator Craughwell, it is not just the Attorney General who has taken that opinion. She has also consulted eminent senior counsel in consideration of it. The Cabinet has been very careful in considering the Bill as well. It is complex but I am not in a position to accept the amendment.

I accept what Senator Norris is saying but there are various different opinions. The Attorney General is the legal adviser to the Government. I received the e-mail from the same person the Senator mentioned and it is very moving. I have listened to the debate in this House, as has the Tánaiste. When she moved the Bill, she said she would move very quickly to bring forward an amendment once the referendum took place. The vast bulk of this Bill will be dealt with quickly and efficiently. After talking and listening to quite an amount of information, I want to inform the House that I have agreement from the Minister for Justice and Equality that the implementation Bill will include provisions to amend this legislation to remove the requirement to be single.

Senator David Norris: What Bill did the Minister of State refer to?

Deputy Kevin Humphreys: I am happy to inform the House that I have agreement from the Minister for Justice and Equality that the implementation Bill will include provisions to

10 February 2015

amend this legislation to remove the requirement to be single once the referendum is passed. We are not going to wait for a social welfare Bill. If the referendum is passed, it will be included in the implementation Bill so that will, hopefully, be a speedy and efficient way to resolve the issue. This decision was taken after long consideration by the Tánaiste and me and following consultation with other members of the Government. It will give some comfort at this stage that this is the level of commitment by this Government to deal with it in a very speedy manner. I have had discussions with several people. While it does not satisfy everything and some people will say it is a small gain, it is an important one. I am not accepting the amendment but I give the House the undertaking that we have reached agreement with the Minister for Justice and Equality that it will be in the implementation Bill if the referendum is passed.

Senator Gerard P. Craughwell: The Minister of State is a man of his word. What he has just announced is heartening but still leaves an element of doubt, which is regrettable. In respect of Attorneys General taking advice from other eminent senior counsel, I long for the day when an Attorney General will actually publish his or her advice for the country to see and tell us which eminent counsel provided assistance. I get very tired of these people in the shadows who we never know. We do not see what they are saying and we must continue to act on the basis of accepting what they say. The bottom line is that we need to radically change the way we do business in this country. If an Attorney General is appointed by the State to offer legal advice, there is no reason why that legal advice should not be made public - Cabinet confidentiality be damned. Let us see the advice. For every barrister the Minister of State can cite with an opinion, I can cite one with a counter opinion. In the end, we rely on the lawyers to make a decision, which is no way to do business.

Acting Chairman (Senator Diarmuid Wilson): Is amendment No. 9 being pressed?

Senator Mary M. White: No.

Amendment, by leave, withdrawn.

Section 8, as amended, agreed to.

Amendments Nos. 10 to 13, inclusive, not moved.

Section 9 agreed to.

Amendment No. 14 not moved.

Section 10 agreed to.

Amendments Nos. 15 to 25, inclusive, not moved.

Section 11 agreed to.

SECTION 12.

Acting Chairman (Senator Diarmuid Wilson): Amendments Nos. 26, 30 and 32 are related and may be discussed together, by agreement. Is that agreed? Agreed.

Senator David Cullinane: I move amendment No. 26:

In page 12, to delete line 25 and substitute the following:

“(c) an indication of the person’s gender using the abbreviations M (male), F (female) or X (indeterminate/unspecified/intersex).”.

This amendment seeks to allow a facility for those who do not identify with being male or female. In Australia there is a provision to allow inclusion in a passport as male or female or X to indicate indeterminate, unspecified or intersex. As the Minister of State is aware, gender is a complex spectrum and that there are many persons who are trans for whom this legislation will not cater as there is no provision for those of a non-binary gender. This, however, is not a particularly complex legal question which has been addressed in other jurisdictions. We can do so also in the context of this Bill.

Senator David Norris: I wish to make one small point on the question of gender being indeterminate or intersex. This is not something that has been adverted to very much in public discourse. There was a report - I think yesterday - in the English newspapers on a young man, a perfectly ordinary working man. When he presented for a routine medical procedure, the doctor called him aside and said: “By the way, you have a fallopian tube and a womb and you could actually have a child.” It was extraordinary. These are the anomalies on the edge that previously were ironed out. This is to make the point that, although statistically it is a rarity, sex can be indeterminate.

Deputy Kevin Humphreys: Amendment No. 32 seeks to amend section 18 to replace a reference to “mother and father” with “a parent”. If we were to accept this amendment, it would upset the concept of guardianship as currently applied; therefore, there would be an unintended consequence. We need to be cautious in that regard. I do not propose to accept the amendments based on the principles set out in section 17(1) which states:

Where a gender recognition certificate is issued to a person the person’s gender shall from the date of that issue become for all purposes the preferred gender so that if the preferred gender is the male gender the person’s sex becomes that of a man, and if it is the female gender the person’s sex becomes that of a woman.

The Bill does not provide for a third category. I have had discussions outside the House with different groupings that have taken issue with this - Senator Katherine Zappone has also been involved in civic engagement - but at this stage I am not prepared to accept the amendments. The issue is complicated and there would be knock-on effects within the Bill in that it would upset the concept of guardianship. We, therefore, need to look at the issue more closely.

Senator David Cullinane: I can understand the concerns about amendment No. 32 but not about amendment No. 26 which seeks to provide a facility in the case of documentation, including passports and so on. It seeks to delete line 25 and substitute an indication of a person’s gender using the abbreviations M for male, F for female, or X for indeterminate, unspecified or intersex. When the Minister of State mentioned unintended consequences, I am not sure if he was referring to amendment No. 26 or amendment No. 32. Perhaps he might explain them. Has he looked at the Australian model and the model in countries that have gone some way towards dealing with this issue? If so, why have we not learned from or adapted what they have done? If other countries can do it, I am puzzled why we cannot do it also. The issue does not appear to be all that complex; it is a little more straightforward than the Minister of State said. Perhaps he might explain the unintended consequences in respect of amendment No. 26, not amendment No. 32.

10 February 2015

Senator David Norris: Somebody in the Visitors Gallery thinks the Minister of State is saying, "I won't because I won't." I am not sure that is 100% fair to him, but it is a legitimately held point of view.

I raise an accidental issue which hinges on this matter tangentially, that is, a recent development which I very much welcome - I deplore the lack of legislation in this regard - in respect of the use of mitochondrial DNA to eliminate genetic disorders in children. The tabloid press in England has stated this relates to three-parent babies and so on. The writers have gone off on this issue in the same way as they went off about marriage; they say one could marry one's dog or marry three or eight people, all of which is utter rubbish. I actually think pointing out that something is rubbish is respectful as it gives people an opportunity to repent. There is greater celebration in the courts of heaven over one black sheep that repents than there is over the 99 already in the fold. I am just pointing out that there is the added complication of mitochondrial DNA which we will have to face sooner or later.

Deputy Kevin Humphreys: There is no facility in the civil registration system to deal with the issue. In respect of the Australian model, I have had engagement outside the House on the passport elements and undertaken to engage with the Department of Foreign Affairs and Trade which issues passports to see whether we can find a solution. Australia is the country that has done this. I have not had an opportunity to look at exactly what it has done, but I have given a commitment to people outside the House that I will try to facilitate engagement with the Department of Foreign Affairs and Trade. Other than this, there is no facility within the civil registration system to do what the Senator is asking to be done.

Acting Chairman (Senator Diarmuid Wilson): Is amendment No. 26 being pressed?

Senator David Cullinane: No; I might resubmit it on Report Stage.

Amendment, by leave, withdrawn.

Section 12 agreed to.

Section 13 agreed to.

SECTION 14.

Senator Paschal Mooney: I move amendment No. 27:

In page 15, to delete line 11.

Amendment put and declared lost.

Senator Paschal Mooney: I move amendment No. 28:

In page 15, to delete line 15.

Amendment put and declared lost.

Senator David Cullinane: I move amendment No. 29:

In page 15, to delete lines 20 to 28.

Amendment put and declared lost.

Question, “That section 14 stand part of the Bill”, put and declared carried.

Sections 15 and 16 agreed to.

SECTION 17

Senator David Cullinane: I move amendment No. 30:

In page 18, lines 28 to 30, to delete all words from and including “so” in line 28 down to and including “woman” in line 30.

Amendment put and declared lost.

Senator David Cullinane: I move amendment No. 31:

In page 18, to delete line 35, and in page 19, to delete lines 1 to 7.

Amendment, by leave, withdrawn.

Section 17 agreed to.

SECTION 18

Senator David Cullinane: I move amendment No. 32:

In page 19, line 20, to delete “the father or mother” and substitute “parent”.

Amendment, by leave, withdrawn.

Question proposed: “That section 18 stand part of the Bill.”

Deputy Kevin Humphreys: I want to put the House on notice that there will be a technical amendment to come afterwards. The sections of the Bill are linked in regard to wills.

Question put and agreed to.

SECTION 19

Question proposed: “That section 19 stand part of the Bill.”

Deputy Kevin Humphreys: For information purposes, I want to put the House on notice that there will be a small change to section 19 on Report Stage. Where the section currently refers to when “the Act” comes into operation, the amendment will propose to change that to when “the section” comes into operation.

Acting Chairman (Senator Diarmuid Wilson): We will discuss that on Report Stage.

Question put and agreed to.

Sections 20 to 25, inclusive, agreed to.

SECTION 26

Senator Gerard P. Craughwell: I move amendment No. 33:

In page 23, between lines 7 and 8, to insert the following:

“(6) A certified copy, a copy or a certified extract of an entry in the register of gender recognition shall not disclose the fact that the entry is contained in the register of gender recognition.”.

Deputy Kevin Humphreys: I do not propose to accept this amendment as it is unnecessary. Section 26 of the Bill inserts a new section 30C in the Civil Registration Act 2004. A statutory instrument will be made under section 30C(5) of that Act in regard to the certificate drawn from the register of gender recognition. The statutory instrument will in its schedule include a certificate setting out the entire content of the certificate, including the title of the certificate and its relationship with the birth certificate. The certificate will not contain any reference to the register of gender recognition and it will look, to all intents and purposes, identical to a birth certificate drawn from the register of the birth. Therefore, the amendment is not necessary.

Amendment, by leave, withdrawn.

Section 26 agreed to.

Sections 27 to 35, inclusive, agreed to.

NEW SECTION

Senator David Cullinane: I move amendment No. 34:

In page 29, between lines 5 and 6, to insert the following:

“**Offence of disclosing information contained in a Gender Recognition Certificate**

36. (1) It shall be an offence for a person who has acquired protected information concerning a person’s gender in an official capacity to disclose the information to any other person.

(2) “Protected information” means information which relates to a person who has had their recorded sex changed, or made an application to have it changed and concerns either that application or the information changed or concerns the person’s previous recorded sex.

(3) A person acquires protected information in an official capacity if the person acquires it—

(a) in connection with the person’s functions as a member of the civil service, a member of An Garda Síochána or the holder of any other public office or in connection with the functions of a local authority, or statutory body, or of a voluntary organisation,

(b) as an employer, or prospective employer, of the person to whom the information relates or as a person employed by such an employer or prospective employer, or

(c) in the course of, or otherwise in connection with, the conduct of business or the supply of professional services.

(4) It shall not be an offence under this section to disclose protected information relating to a person if—

(a) the information does not enable that person to be identified,

(b) that person has agreed to the disclosure of the information,

(c) the information is protected information by virtue of *subsection (2)* and the person by whom the disclosure is made does not know or believe that a full gender recognition certificate has been issued,

(d) the disclosure is in accordance with an order of a court,

(e) the disclosure is for the purpose of instituting, or otherwise for the purposes of, proceedings before a court,

(f) the disclosure is for the purpose of preventing or investigating crime, or to the National Vetting Bureau,

(g) the disclosure is made to the Registrar General,

(h) the disclosure is made for the purposes of the operation of payments administered by the Department of Social Protection,

(i) the disclosure is required by law.”.

The rationale for this amendment is to insert a provision that would make it an offence to disclose information about a person’s gender identity that was received in the course of official business. We ask that the Minister of State would consider this, given the level of stigma and discrimination which is faced by transgender people. A person’s gender status should only ever be disclosed with the person’s consent. We find it remarkable that no consideration has been given to this despite TENI raising it during the original discussions around the scheme of the Bill when it was first published.

We will raise this matter on Report Stage as well so I do not intend to press the amendment, and I know the matter was also raised on Second Stage. I have some further points to make but I will listen to the Minister of State’s response. We think it important, given the sensitive nature of this, that a person’s right be protected. The amendment proposes a new section to make it an offence for someone who is working in an official capacity to divulge information in regard to a person’s application in this manner. I look forward to the Minister of State’s response.

Senator David Norris: I am not sure that I heard the Minister of State discussing this previously but it seems to me a worthy amendment. My own experience with the gutter press would lead me to conclude that quite a number of red-top newspapers would glory in getting hold of this kind of stuff and splattering it right across the front page, with a lot of sanctimonious praise for the transgendered person - “Tranny Granny drops kids off at school”, and that kind of crap.

I notice there is no penalty. Had the Senator considered sticking them in the stocks and providing rotten vegetables?

Senator David Cullinane: I will come back to that.

Senator David Norris: That would be very good. However, a law is not much use if there is no penalty attached to it.

I would be interested to hear what the Minister of State has to say but I am all in favour of it. It is private information. If people want to make it public, let them make it public. However, I do think people in the media who leak this kind of thing should be got at.

Something has just come to mind, if I may have the indulgence of the House. About 30

10 February 2015

years ago, I was at an AIDS event in Christchurch Cathedral. I helped myself to a couple of gin and tonics and then I sailed off to North Great Georges Street, my principal domicile and main seat in the Republic of Ireland. I looked out to see if there was any place to park the car, and I parked it end-on, so I could come back and re-park it later. I went into the house, opened up a bottle of madeira and the Sunday newspapers, and looked out every so often to see what was happening in the street. Eventually, about 11 o'clock or so, a space developed so I went out. While I was there, I thought, "I have run out of cigarettes" - I beg Senator Crown's pardon, this was 30 years ago - so I said I would scoot around the block and see if there were any fags. Off I went, and at the bottom of the road there was a group of cheery police persons. They waved at me, and I waved back and said, "Hi lads", and I pulled up beautifully, parallel to the kerb outside my front door. To my astonishment, a big red face emerged and said, "Blow into the bag", and I was got; I was done.

It was perfectly legitimate, a fair cop and all the rest but, at Christmas, when the case was in the court, the judge failed to turn up - wonderful - so the press did not get hold of it at all. It was held after Christmas very privately and nobody heard a word until, six weeks later, I was walking down Grafton Street and there it was, right across the front page - "Senator on drunk driving charge". I was only a Senator about three weeks and it was humiliating. A reporter asked me, "Did you not know you could say you were on Government business?". The incident occurred about 2 a.m. so I asked him what precisely I could say I was doing in my pyjamas at 2 a.m. However, a Minister of State who took eight hours to get as far as Rathmines used the excuse of Government business and Charlie Haughey belaboured him and told him he should have taken his lumps, like Senator Norris.

Acting Chairman (Senator Diarmuid Wilson): We have given the Senator a fair bit of latitude on this.

Senator David Norris: I investigated this and discovered that what had happened was that some little S.H.I.T. from the fines office said, "That little shit Norris, that little queer is not going to get away with this", and telephoned the *Evening Herald* and told it the whole story

Acting Chairman (Senator Diarmuid Wilson): Thank you, Senator.

Senator David Norris: It was all over the papers. That is the kind of thing that can happen with irresponsible journalism.

Senator David Cullinane: Senator Norris raised the issue of there being no sanction in this. This was done deliberately because what we are trying to do is to get the Minister to agree to the principle of an "offence". If that is agreed we can come back on Report Stage and consider an agreed sanction. We deliberately left out a sanction on the basis that we would ask the Minister to look at the issue as a stand-alone issue. This is an important issue, which has been raised by TENI. These are all sensitive issues and if the Minister agrees that we could consider a new section that would make it an offence to disclose information, he could then come back with recommendations in regard to what he would consider would be an appropriate sanction.

Deputy Kevin Humphreys: This is a very wide-ranging provision, which would give rise to significant and unforeseen implications across both the public and private sectors and would, therefore, require further detailed consideration, including consultation with all of those actually and potentially impacted by the provision. The Bill already contains provisions on maintaining confidentiality.

In regard to the administration of the application for gender recognition certificates, the existing legislation in regard to confidentiality of information, such as the Official Secrets Act and Data Protection Act, applies. Therefore, I believe there is already adequate protection in our legislation. The Senator may consult me further on the issue and I will take a further look at the issue, but I do not propose to accept this amendment.

Senator David Norris: What section of the Bill provides protections? Are there sanctions?

Deputy Kevin Humphreys: As I pointed out, the existing legislation relating to confidentiality on information, such as the Official Secrets Act and the Data Protection Act, applies. These two Acts apply, but perhaps the Senator has a different view on that.

Senator David Cullinane: That was my point, and Senator Norris already articulated this point. Hypothetically, somebody might divulge sensitive information on somebody who was seeking a certificate of transition from officials and that information might then be leaked to the media or somebody else. However the individual who made the transition might have wanted that information kept confidential as it is their private business. The Minister of State mentioned the Official Secrets Act and the Data Protection Act, but I do not believe that protection is robust enough given the seriousness of the issues we are discussing. The amendment seeks to make it a specific offence to divulge information a person has no business divulging.

Deputy Kevin Humphreys: The only people this applies to is the person involved or the surviving kin. I am not sure what sanctions are provided in the Official Secrets Act or the Data Protection Act, but I will look at those. Historically, the register has not been leaked to my knowledge. I understand what the Senator seeks to do, but I believe the legislation we have currently is robust enough to deal with the issue. I will take a look at what sanctions are provided for, but I would imagine there are grave sanctions for any breach of the Official Secrets Act.

Amendment, by leave, withdrawn.

Sections 36 and 37 agreed to.

NEW SECTIONS

Acting Chairman (Senator Diarmuid Wilson): Amendments Nos. 35 to 39, inclusive, are related and may be discussed together by agreement.

Senator Katherine Zappone: I move amendment No. 35:

In page 29, after line 28, to insert the following:

“Use of public bathroom facilities

38. (1) Without prejudice to the generality of *section 17* or to the provisions of the Equal Status Acts 2000 to 2011, where public bathroom facilities are assigned based on gender, a person to whom this section applies may use the public bathroom facilities allocated to the gender that is the same as his or her preferred gender.

(2) In this section —

“public bathroom facilities” means a toilet, bathroom or similar facility that is made available for use by members of the public, or that is located in a place that is open to the public, whether for a fee or otherwise;

10 February 2015

“a person to whom this section applies” means a person whose preferred gender is different from the gender assigned to the person at birth, whether or not the person is a person to whom a gender recognition certificate has been issued.”.

This amendment relates to the use of public bathroom facilities. I decided it was important to include this provision following conversations with advocacy groups, including TENI, because the issue of the use of public bathroom facilities often arose in the context of discussions with members of the trans community. The Bill is based on the principles of enabling the rights of the trans people to be recognised and on providing adequate protection for them in that regard. They have not had that kind of protection previously, particularly in circumstances where there could be significant harassment. In the context of public bathroom facilities, they have found there could be harassment and even violence because of wanting to use a bathroom assigned to their preferred gender identity.

The amendment uses the term “Without prejudice to” and makes a general statement in terms of the effect of the gender recognition certificate, but without prejudice to that. We consider it is important to include an amendment that specifies and clarifies that transgender people can use public bathroom facilities allocated to the gender that is the same as their preferred gender. This applies to facilities in theatres, restaurants, pubs, conference centres, schools and even Leinster House. It is important to include this amendment to help clarify they are entitled to use those facilities that are appropriate to their preferred gender, whether they are recognised under the Act or not.

Throughout debate on this, we have been made aware and now know that there will be trans people who are not recognised under the Act, some between the ages of 16 and 18, all under the ages of 16, and some who are married who will not divorce their family in order to get the gender recognition certificate. Therefore, a number of trans people will not come under the Act, if enacted in its current form. This amendment relates particularly to them, but also to all transgender people. It is important this amendment is included in order to clarify that these people have this protection. The amendment strives to facilitate the safety of trans people in public facilities and to combat the negative stereotyping of trans people, particularly young trans people.

Senator David Norris: It is very humiliating for trans people to be forced into a lavatory of a sex to which they do not feel assigned. Interestingly, Professor Monstrey of Ghent University, who was honoured by the College of Surgeons as an international world figure, asked my consultant what he thought was the most important element in gender reassignment. To my amazement, he said it was being able to pee standing up. I find that extraordinary, but it is an important and practical aspect of the situation.

In my radio reminiscences, I remember an occasion 25 years ago when I was on a Pat Kenny show.

Acting Chairman (Senator Diarmuid Wilson): Pat Kenny is not here to defend himself.

Senator David Norris: He does not need to be. He was just the person who gave his name to the show and he wisely kept out of the debate. Somebody telephoned into the show from Clonmel saying, “I have great sympathy with you lot of homosexuals and I have noticed in the town on the fair day there is a lavatory for men and there is a lavatory for women and I’m on the council and I’m going to suggest there is another one for homosexuals”. In those days, 20 or 30 years ago, the idea of people queueing up to go into a lavatory labelled “for homosexuals

only” is wonderful. It is a bizarre attitude but very kindly meant.

Senator Gerard P. Craughwell: I would like to cover some matters not included in this Bill. We have the perfect opportunity now to address not just the issue of gender identity recognition but other areas where discrimination against transgender persons occurs. Articles 2 and 5 of the European Convention on Human Rights guarantee the right to life and security of every person. In spite of this, many transgender people live in fear and face violence in the course of their lives. This violence ranges from harassment, bullying, verbal abuse, physical violence and sexual assault to hate crimes resulting in murder.

Transphobia, understood as the irrational fear of, and or hostility towards, people who are transgender, or who otherwise transgress traditional gender norms, can be considered as one of the main causes of violence and intolerance that many transgender persons face. Aggression against transgender people cannot, however, be excused as resulting from ignorance or lack of education and is a serious hate crime. In Ireland we could be forgiven for believing the raft of equality legislation which has been introduced over the years provides protection from discrimination to trans people but in reality it does not. Studies have shown that transgender men and women have a high risk of becoming victims of a hate crime or a hate-motivated incident.

An authoritative Organization for Security and Cooperation in Europe, OSCE, report states that homophobic hate crimes and incidents often show a high degree of cruelty and brutality. They often involve severe beatings, torture, mutilation, castration, even sexual assault. They are also very likely to result in death. Transgender people seem to be even more vulnerable within this category. Despite these findings, gender identity as a possible ground for hate crimes is not explicitly recognised in the legislation of most Council of Europe member states. One of the very few exceptions is the recently adopted Scottish hate crime Bill which explicitly mentions transphobic hate crime. It is also not clear whether states include “gender identity” under the category of “gender” or “sex” in their hate crime legislation.

As a result, transphobia is usually not considered an aggravating factor for hate crimes committed against transgender persons, as shown by the sentences for perpetrators of hate motivated killings in, for example, Portugal and Turkey. Therefore, one can only conclude that transgender people are excluded from specific legal protection, despite their high risk of falling victim to hate crimes. The OSCE has pointed out that explicitly condemning bias motives sends a message to offenders that a just and humane society will not tolerate such behaviour. By recognising the harm done to victims, states convey to individual victims and to their communities the understanding that the criminal justice system serves to protect them.

Moreover, most states do not record or monitor hate crimes or hate motivated incidents of a transphobic nature. These crimes normally go unreported by the police. This was also noted by the OSCE report which observed that transphobic hate-motivated incidents are among the most under-reported and under-documented. One of the few exceptions is the UK, which has a policy of documenting the number of hate crimes committed against transgender people. In practice, transgender people are often afforded little protection by law enforcement officials in the event of a transphobic hate crime or incident. In many cases transgender people who turn to law enforcement agencies for protection are often ridiculed, harassed or just ignored, despite the positive obligation of states under the European Convention on Human Rights to investigate these crimes and bring the perpetrators to justice.

I ask the Minister of State to give serious consideration to providing enhanced protection

10 February 2015

not just to those seeking gender recognition certificates but to all trans persons. In light of this I am suggesting several amendments to existing legislation. I could read out the legislation but will spare the Minister of State this evening. My first suggestion, however, is an amendment to the Prohibition of Incitement to Hatred Act 1989. Explicitly stating that “gender identity”, “gender expression”, “intersex” and “any gender that is not standard male or female gender identity” will enhance protection for trans persons, intersex persons and those with a non-binary gender identity. I will send the wording of the amendment to the Minister of State.

The second amendment I am proposing is to the Employment Equality Act 1998. The purpose of the amendment is to make it explicitly clear that all transgender persons are protected under the 1998 Act. Currently, equality legislation provides quite robust protection to transgender people who have undergone, are undergoing or planning to undergo gender reassignment. This protection is offered under the gender ground in the Employment Equality Act 1998 and the Equal Status Act 2000 as interpreted in the light of European Union law. The effect of this protection is illustrated by the Hannon and O’Byrne decisions, where the Equality Tribunal found that in failing to accommodate the transition of two transgender women, an employer and a bank respectively had infringed gender equality rules. There are, however, three key difficulties with the current legislative protection for trans persons. First, it is unclear whether transgender people who have not transitioned and do not plan to transition are protected by the law. It is possible that the European Court of Justice would take an expansive approach and say that they are, but at the moment, protection is confined to those who have transitioned, are planning to transition or are undergoing transition. There is, at least, some ambiguity.

Second, it is not clear whether transition requires a physical reassignment, surgery or hormonal treatment, or whether a social transition living in the preferred gender without undergoing surgery is sufficient. The better view may be that physical treatment is not required under EU law, but the issue is legally unclear and would benefit from clarification.

Finally, the issue of gender identity is not explicitly named in the 1998 and 2000 Acts. Naming it explicitly means that there will hopefully be greater consciousness of the need to protect transgender people in employment and in the provision of goods and services. It will also mean that for the first time in Irish legislation gender identity and gender expression will be explicitly named and defined. Hence I am recommending that my amendments Nos. 37 to 39 be also included in this Bill. I have typed up the amendments and with the Minister of State’s permission will e-mail them to him and ask him to take them on board.

Senator Jillian van Turnhout: I support amendment No. 35 proposed by Senator Zappone. It seems quite simple and straightforward but is greater because it involves the State sending out a clear signal about public facilities and that it wishes to build a respectful and inclusive society. It would be regrettable that we would ever think somebody had to prove his or her gender in order to use State public facilities. There is more to the amendment than we see in the text.

It reminded me of our privileged role as Senators. We receive briefings and information on issues such as this and meet people from different communities. This not only gives us insight but also a responsibility for leadership and to ensure that we build the society we all wish to be part of. Senator Zappone introduced me to the issue, encouraging me to read more about it and because I am passionate about children’s rights I realised the issues arising for them. I support this amendment and Senator Zappone.

Senator Averil Power: I refer to amendment No. 36. It is a Fianna Fáil amendment to amend the Education Act 1998. I also second the amendments proposed by Senators Craughwell, Zappone and van Turnhout concerning public facilities. It is important, regardless of whether people have a gender recognition certificate, that they have full access to public services and the support they need in education and elsewhere. From the point of view of education, if the Bill proceeds and is enacted in its current format, which is restrictive and does not provide recognition for those under 16 years of age, it is incumbent on us to provide guidelines and other support to assist young people, particularly in the school setting.

In that context, we tabled amendment No. 38 which ensures that, regardless of whether a person has a gender recognition certificate-----

An Cathaoirleach: Is the Senator referring to the amendment No. 35?

Senator Averil Power: No, amendments Nos. 35 to 39 are grouped. Amendment No. 38 ensures schools will be told the young person should be supported in terms of how he or she is addressed and is entitled to use the preferred name and gender, that person will be permitted to wear the uniform or clothing appropriate to the preferred gender and entitled to use the facilities appropriate to the gender. This is important as there are many practical difficulties. Recognition is one issue but, as I previously argued, we should ensure the recognition process is as inclusive as possible. Even that aside, there are many practical difficulties people face on a daily basis, particularly young people in our schools. Many schools are looking for guidance on this and are not sure what to do when the first transgender young person presents. They would welcome guidance from the State and from the Department in assisting them and showing them what is best practice. In that vein, we propose amendment No. 36.

Deputy Kevin Humphreys: I thank the Senators. The amendments proposed are beyond the scope of the Bill, which is primarily to recognise the change of gender and the provision of gender recognition certificates. I can see why some of the specific grounds of discrimination would make it a strong message but it is not within my remit. Many of the points raised fall under the remit of the Minister for Justice and Equality.

With regard to discrimination in the use of school facilities, I understand why the Senator has raised the issue. There is a real need for transgender children in schools to be protected and respected. The Tánaiste has met parents of transgender children and I discussed the matter with the Minister for Education and Skills, Deputy Jan O'Sullivan. Last week, the Minister launched an anti-bullying policy in primary schools. She is about to launch further information on that.

Incitement to hatred is going far outside the remit of the Bill. With regard to Senator Power's comment about schools, there is a role for the Minister for Education and Skills, who must take up the issues and deal with them. I will take it up further with her. I talked to her briefly about some of the issues raised by the amendments. There is a real need for guidance to ensure transgender children are treated with the respect they deserve. Many of the amendments tabled by Senator Craughwell do not fall within the remit of the Bill but we can take that up with the Department of Justice and Equality.

Senator Gerard P. Craughwell: Given my rather short experience of Bills passing through this House, it would be great if the Minister of State can have a word with the Minister for Justice and Equality about the 1998 and 2000 Acts and the Prohibition of Incitement to Hatred Act

10 February 2015

and she can bring forward these issues. I appreciate they fall outside the scope of the Bill before the House but apparently the Minister of State has understood their importance.

Senator Katherine Zappone: With respect, does the Minister of State have a comment on amendment No. 35? I do not see how it falls outside the remit of the Bill.

Senator Averil Power: I understand what the Minister of State is saying about introducing separate amendments to different Bills covering incitement to hatred legislation, education legislation and others. The unfortunate point then is that we will have to wait for separate Bills to come through. There is no reason it cannot be done here. Is the Minister of State saying that this cannot be included for legal reasons or is it a political decision? My understanding is that it is a political decision. The provisions are not so wildly different to the purpose of the Bill that they could not be included. We frequently have Government Bills where the primary purpose is to do one thing but the Bill also includes amendments to other legislation to address broader issues in the area. That is the case here and it would be a shame to await separate items of justice and education legislation. This may or may not happen in the rest of the term of the Seanad, one year or 14 months. There is an opportunity to include them in this Bill.

Deputy Kevin Humphreys: The use of bathrooms falls under the area of discrimination so it is not within the remit of this Bill. With regard to Senator Zappone's point, I am certain the Minister for Justice and Equality, Deputy Frances Fitzgerald, will facilitate a meeting because Senator Craughwell has thought out the proposals.

We have not considered taking other elements in this Bill. We are keeping it to gender registration.

Senator Averil Power: Is that a political decision or legislative constraint?

Deputy Kevin Humphreys: It moves into education legislation. I will have to consider it and consult with the Department of Education and Skills. The Minister is very active in that area and will launch a number of initiatives. She will deal with this in a speedy manner. I do not propose to accept the amendments.

Senator Katherine Zappone: I thank the Minister of State for his response. The Equal Status Act has been referenced. Does that mean the State will not protect transgender people to use the public bathroom facilities of their preferred gender?

Deputy Kevin Humphreys: The equality legislation already covers transgender matters. The Senator is talking about the specific use of bathrooms. We must examine the equality legislation and my understanding is that it already covers the area.

Amendment, by leave, withdrawn.

Senator Averil Power: I move amendment No. 36:

In page 29, after line 28, to insert the following:

“Amendment of Education Act 1998

38. The Education Act 1998 is amended by the insertion of the following after section 37:

“37A. (1) In this section ‘a person to whom this section applies’ means a person

whose preferred gender is different from the gender assigned to the person at birth, whether or not the person is a person to whom a gender recognition certificate has been issued.

(2) Without prejudice to sections 22 and 23 and the provisions of the Equal Status Acts 2000 to 2011, the Principal and staff of a recognised school shall ensure, in so far as it is practicable to do so, that a person to whom this section applies who is attending a recognised school—

(a) shall be addressed in and entitled to use his or her preferred name and their preferred gender,

(b) shall be permitted on the premises of the school to wear the uniform or clothing appropriate to their preferred gender, and

(c) shall be entitled to use the facilities appropriate to his or her preferred gender.

(3) Without prejudice to sections 22 and 23 and the provisions of the Equal Status Acts 2000 to 2011, the Principal and staff of a recognised school shall take such steps as are reasonable to ensure that the safety and welfare of a person to whom this section applies is not compromised or diminished by the conduct of the school, its employees or by any person who is likely to use the facilities of the school or be in attendance on the school premises.”.”.

Amendment put:

The Seanad divided: Tá, 13; Níl, 20.	
Tá	Níl
Barrett, Sean D.	Bacik, Ivana.
Byrne, Thomas.	Burke, Colm.
Craughwell, Gerard P.	Comiskey, Michael.
Healy Eames, Fidelma.	D’Arcy, Jim.
Heffernan, James.	D’Arcy, Michael.
Mooney, Paschal.	Gilroy, John.
Norris, David.	Hayden, Aideen.
Ó Clochartaigh, Trevor.	Higgins, Lorraine.
Ó Murchú, Labhrás.	Keane, Cáit.
O’Brien, Mary Ann.	Kelly, John.
Power, Averil.	Landy, Denis.
van Turnhout, Jillian.	Moloney, Marie.
Zappone, Katherine.	Moran, Mary.
	Mulcahy, Tony.
	Mullins, Michael.
	Naughton, Hildegard.
	Noone, Catherine.
	O’Keeffe, Susan.
	O’Neill, Pat.

10 February 2015

	Sheahan, Tom.
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Tellers: Tá, Senators Paschal Mooney and Averil Power; Níl, Senators Aideen Hayden and Michael Mullins.

Amendment declared lost.

Amendments Nos. 37 to 39, inclusive, not moved.

Title agreed to.

Bill reported with amendment.

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

Senator Ivana Bacik: Next Tuesday.

Report Stage ordered for Tuesday, 17 February 2015.

An Cathaoirleach: When is it proposed to sit again?

Senator Ivana Bacik: Tomorrow at 10.30 a.m.

The Seanad adjourned at 7 p.m. until 10.30 a.m. on Wednesday, 11 February 2015.