



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

**SEANAD ÉIREANN**

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

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## SEANAD ÉIREANN

*Dé Máirt, 24 Márta 2015*

*Tuesday, 24 March 2015*

Chuaigh an Cathaoirleach i gceannas ar 12 p.m.

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*Machnamh agus Paidir.  
Reflection and Prayer.*

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### **Business of Seanad**

**An Cathaoirleach:** I have received notice from Senator James Heffernan 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 respond to a resolution that was passed by Limerick County Council on 24 November 2014 calling for an external independent investigation in relation to certain planning applications (details supplied).

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

The need for the Minister for the Environment, Community and Local Government to indicate if he has any plans for another public area enhancement scheme given its success last year.

I have also received notice from Senator Paul Bradford of the following matter:

The need for the Minister for the Environment, Community and Local Government to clarify the position with regard to the Government's housing strategy following recent media reports concerning the amount of land available for house building.

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

The need for the Minister for Health to ensure the continuation of a full GP service for Borris-in-Ossory and its hinterland in County Laois, once the incumbent practitioner retires at the end of the month.

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

The need for the Minister for Health and the HSE to increase the number of places available on the clinical adaption course which is being provided to upskill nurses who have trained abroad but who now wish to work in Ireland.

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

Go dtabharfaidh an tAire Ealaíon, Oidhreacht agus Gaeltachta le fios an bhfuil sé i gceist ag an Rialtas maoiniú a chur ar fáil do thionscadal bóithre pobail faoi scáth na Ranna, i gcomhar le hÚdarás na Gaeltachta nó aon ghníomhaireachtaí Stáit eile, le obair fheabh-súcháin a dhéanamh ar bhóithre pobail na Gaeltachta.

I regard the matters raised by the Senators as suitable for discussion. I have selected the matters raised by Senators Heffernan, Conway, Bradford and Whelan and they will be taken now. Senators Burke and Ó Clochartaigh may give notice on another day of the matters they wish to raise.

## **Commencement Matters**

### **Planning Issues**

**An Cathaoirleach:** I call Senator Heffernan.

**Senator James Heffernan:** Before I begin, am I precluded from mentioning names in a Commencement debate?

**An Cathaoirleach:** Yes, you are.

**Senator James Heffernan:** Fair enough. I just wanted to clarify that before I started.

I welcome the Minister of State, Deputy Ann Phelan. My matter is fairly straightforward in that I ask that a response be given to a resolution that was passed by Limerick County Council in November last. As far as I am aware, Limerick County Council has received no response at all from the Department of the Environment, Community and Local Government. It is not acceptable, when councils pass motions and they are forwarded to the relevant Ministers, that no official response comes back to them. It shows a disregard for the work of elected representatives, in particular county councillors, if the Minister in charge is going to ignore them.

I will give a brief history of the particular complaint. I am calling for an independent investigation in regard to a couple of planning matters. To be clear from the outset, the applicant himself does not dispute the fact that he was refused a planning application; that is fine and is accepted. What is in question here is the manner and the method whereby that application was allowed to proceed. There is a perception that there was maladministration on the part of Limerick County Council when it was dealing with the applicant, in that he was left to go too far along a stage with the application while the planners seemed to be of a view that it was never going to be approved in the end. The argument the applicant is making is that, under the guidelines as set out by the former Minister, Mr. Dick Roche, in 2007, if something was going to affect the outcome of a planning decision, the applicant should be made aware of such a problem at the pre-planning stage. The whole argument of this applicant is that this procedure was not followed. This is not about the outcome and it is not the case that he was going to appeal to An Bord Pleanála. He agreed with the outcome. It is just his feeling that it should not have gone so far.

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This matter has been brought to the attention of the Office of the Ombudsman. I am not sure if it was properly picked up that the guidelines as set out in 2007 by the former Minister do not seem to have been followed. All the members of Limerick County Council, of all parties, to my knowledge, are in agreement that an independent investigation should take place because they feel there was certainly maladministration when it came to these particular applications. I would like to hear the response from the Department to the resolution that was unanimously passed by Limerick County Council back in November.

**An Leas-Chathaoirleach:** Although the Cathaoirleach has ruled it is not appropriate to mention names on particular planning matters, it would be fine to give the matters privately to the Minister of State, if he wanted her to investigate it properly, as she may need the extra information.

**Senator James Heffernan:** I think the Department is well aware of the matter.

**Minister of State at the Department of the Environment, Community and Local Government (Deputy Ann Phelan):** I thank the Senator for raising this issue. I am taking this Commencement matter for the Minister, Deputy Alan Kelly.

Under section 255 of the Planning and Development Act 2000, the Minister for the Environment, Community and Local Government has certain investigatory powers in regard to the review of the performance by planning authorities of their functions under the Act. These powers are, however, restricted to the review of the organisation and of the systems and procedures used by planning authorities in relation to their functions. They do not extend to the review of individual planning applications.

Under section 30 of the Planning and Development Act 2000, as amended, the Minister is specifically precluded from exercising any power or control in regard to any particular planning application with which a planning authority, including An Bord Pleanála, is or may be concerned. Section 224 of the Local Government Act 2001 enables the Minister to authorise a person to prepare a report for him or her regarding any matter arising in relation to the performance of functions by a local authority.

I understand that the matter raised relates to a planning applicant who has complained about the handling of two planning applications by Limerick County Council in relation in particular to pre-application consultations entered into by the person concerned with the council. I further understand that the person in question complained about the council's handling of his planning applications to the previous Ombudsman, who did not find any maladministration by the council in this matter, and that this decision was upheld on appeal. I also understand that the Ombudsman, as an exceptional matter, granted a further review of the case, following which the previous finding was upheld. The person subsequently made a further complaint to the current Ombudsman who found that while there were some failings on behalf of the council in this case, these did not constitute significant maladministration.

I am satisfied that the matters complained of have been already comprehensively investigated on a number of occasions by the Office of the Ombudsman on an independent third party basis and, consequently, I am satisfied that no further investigation of the matters which were the subject of the complaints is required.

**Senator James Heffernan:** I take on board the Minister of State's reply. Many people have provided sworn affidavits in this case, including elected representatives and people who

represented the applicant in his consultations at pre-planning level. This is not about the final planning decision. It is about what occurred prior to it. The point being missed by the Department and the Ombudsman is that the guidelines as set out were not followed. That is what the applicant is saying and what Limerick County Council elected members believe, and for that reason tabled the motion referred to.

I understand this matter does not come within the remit of the Minister of State, Deputy Phelan, but I would urge that the Department reconsider the matter in light of the precedent that has been set in County Donegal whereby some applications, in terms of irregularities regarding planning decisions, are being looked into by a third party appointed by the Minister. I believe a similar approach should be taken in this case because it may be that this is not an isolated incident and that there are other people who have suffered similarly as a result of pre-planning meetings not having adhered to the regulations as set out in the previous Act.

**Deputy Ann Phelan:** If I understand the Senator correctly what is at issue is not the decision on the planning application but the pre-planning process. Pre-planning meetings are often open to interpretation in that while one person says one thing, another person hears something else. I have dealt with some planning applications and put a lot of store in pre-planning meetings. I would always advise people to attend pre-planning meetings, but I advise that the pre-planning meeting is not the actual planning process. I am interested to know why, for example, the applicant did not go to An Bord Pleanála. I will outline another avenue that could be pursued. The Senator referred to elected members. The elected members might like to debate such a matter in the chambers of the council in order to examine the guidelines, but perhaps that already happens.

I would like to draw the Senator's attention to political interference in planning applications. It is something we accept is not done in this country any more. Political interference in planning applications led to a lot of tribunals, and long drawn-out tribunals. I think sometimes a local solution to a local problem is a better idea. I shall convey the Senator's concerns to the Minister. It may be a wise course for him to speak to the local authority again. As stated in the report, the Minister is not allowed to investigate individual planning applications.

### **Community Development Projects**

**Senator Martin Conway:** I welcome the Minister of State to the House. The local area improvement scheme was introduced last year by the Department of the Environment, Community and Local Government. To be fair, the Department operates many such schemes in conjunction with local authorities. I am not sure how much was made available for this scheme, but I think it was €7 million. It equipped the local authority with small budgets so that it could engage in a co-operative fashion with local community groups in an effort to make the environment cleaner and improve public areas. The scheme proved successful in Clare because it enabled Clare County Council to enter into partnership arrangements with community groups that improved public areas in a way that the council would not necessarily have had the resources to do. The budget that Clare County Council got would have worked if it had been spent on one project. Instead, it decided to split up the funding and distributed grants, as far as I am aware, to community groups. As a result, the council got a much greater bang for its buck. The scheme has been great.

I do not believe there has been an announcement of a follow-on scheme for this year. Given

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the fact that the scheme was so successful last year, I urge the Minister to announce a similar scheme for this year.

**Deputy Ann Phelan:** I thank the Senator for raising such an important scheme, of which I am a huge supporter. I thank him for providing me with the opportunity to address the House on the success of the public area enhancement scheme.

As the Senator is aware, in March of last year the then Minister for the Environment, Community and Local Government announced that a sum of approximately €3 million would be made available to local authorities for a dedicated public area enhancement scheme.

Following on from the success of The Gathering in 2013, towns and cities across the country were hoping for another successful tourist season in 2014. Last year was a challenging year for local authorities in terms of managing their public spaces due to the exceptionally inclement weather conditions experienced. In light of this, the Minister announced that additional once-off funding was to be provided to support the efforts of local authorities to maintain and present their public areas. The Minister was conscious that this effort would maximise the economic benefits that would result from increased visitors to towns, cities and counties and enhance the overall experience of those visitors.

The public area enhancement scheme supported community efforts by providing grant funding to local authorities for the purpose of enhancing public areas before and during the summer tourist season. The scheme provided funding for such work which was additional to that provided in 2014 in local authority budgets. The provisional grant to local authorities under the scheme was conditional upon 25% matching funding being provided by the local authorities themselves. While funds were provided to city and county councils only, town and borough councils were also assisted in their efforts to improve and enhance their public spaces by the respective county councils.

The Department was not prescriptive in the works to be undertaken. Suggestions included the provision of additional support for initiatives such as local tidy towns committees, improvement works to public parks and recreational walking areas, cleaning and tidying of older graveyards, and cleaning and making safe derelict buildings. Local authorities were asked to undertake works in co-operation with local community efforts, wherever possible. The scale and variety of work undertaken by councils demonstrated the success of the scheme, with all local authority areas benefiting from the enhancements.

As the scheme was conceived in response to the extreme weather experienced in 2014, it was designed to be a once-off intervention. The question of whether the scheme may have a role to play in the future will be kept under review by the Minister, having regard to the needs that may arise and the available resources.

**Senator Martin Conway:** It was probably wishful thinking on my part to hope the Minister, Deputy Alan Kelly, might come here today and announce a new scheme.

**An Leas-Chathaoirleach:** One should always follow one's dreams.

**Senator Martin Conway:** I appreciate the Minister of State's response and her support for this very useful scheme. It would be nice to see it being run again this year.

**Deputy Ann Phelan:** I have some additional information which may be of benefit to the

Senator. I will give it to him before I leave the Chamber.

### **Housing Provision**

**Senator Paul Bradford:** I welcome the Minister of State to the House. While she does not have full control over the Department's housing policy, her role as Minister of State with responsibility for rural development means the issue is very much on her agenda. We all agree there is a very serious housing problem in Dublin, which is having a knock-on effect throughout the country. While my question relates to a story which emanated in the media at the weekend as to how many units of housing it will be possible to build in the very near future in our capital city and a dispute between the Department and media outlets, I am asking the Minister of State to acknowledge that this is a crisis which requires a solution. I have repeatedly expressed the view in recent years that we do not have a housing policy in this country. We clearly have a policy for the construction industry and a policy to regenerate the role of developers. Some of those developers have been tripping in to meet the Minister for Finance in recent times, which reminds one of the politics of the Celtic tiger era. However, we do not have a clear, distinct set of proposals to house the more than 100,000 people throughout the country who are in urgent need of new accommodation.

The story in the *Sunday Independent* at the weekend was disturbing. It referred to an e-mail from the Department of the Environment, Community and Local Government to the Department of Finance which contained an admission that there was a deliberate attempt being made to spin the numbers. The e-mail stated: "We have been spinning that there is sufficient land with planning permission/zoned for housing circa 46,000 housing units across four Dublin LAs but the reality is that this figure includes land not yet zoned for housing." We need clarity as to exactly how much land is available in the short term for housing units in Dublin. In addition, we need clarity as to how the Government intends not just to get the land zoned and obtain planning permission but how the houses are to be built.

The mortgage and debt crisis in this country is very profound and it feeds into the housing crisis. The latter represents the greatest crisis facing the country, with more than 100,000 families seeking housing. It is greatly remiss of us politically not to respond to it more robustly. The nation continues to face economic difficulties and will do for some time. I first entered local government politics in the mid-1980s when the country was in the midst of a profound economic depression. I can only speak for Cork County Council at the time, as can the Leas-Chathaoirleach, where hundreds of local authority houses were being built per annum and, presumably, thousands across the country, because it was part of then Government's housing strategy. We need such a strategy again. One of the aspects I want the Minister to reflect on, which my colleagues and I in the new political movement Renua have been talking about, is that as of today more than €100 billion in Irish pension funds is invested abroad. Can we attempt to devise a scheme to bring some of this money back into our country to provide housing for the people? That is an issue on which we need to reflect. We certainly need new thinking, new solutions and new ways of investing to deal with the housing crisis, as we cannot wait five, ten or 15 years to provide housing for these families. We all know the social knock-on effects arising from inadequate housing.

The Minister of State will be aware from her constituency work that rent allowance in all its formats and mortgage subsidies are still being paid, so taxpayers' money is being spent, but

it is not being well spent. We need a new attempt to define a national housing strategy. I have sought this debate in the House in the past six months and I hope we can have it in the near future. However, today I am asking for clarity. When one Department official is telling another that deliberate spinning is taking place, that is not a positive starting point. Let us get a true picture of how bad the situation is, and let us plan to make it better. I look forward to hearing the Minister of State's observations. I acknowledge that she cannot make up policy on behalf of the Minister, Deputy Alan Kelly. I watched the Minister on television last night, but he did not reveal any new information. We have to take this problem seriously because it is ruining lives, livelihoods, families and communities across the country.

**Deputy Ann Phelan:** I thank the Senator for raising this very serious matter. I would point out, as he has done, that the Minister for the Environment, Community and Local Government, Deputy Alan Kelly, is directly responsible for the social housing strategy. This gives me an opportunity to congratulate the Minister, with whom I work closely, on the determination with which he is pursuing the social housing strategy.

As the Senator is aware, housing supply, public and private, is one of the most significant challenges and priorities currently faced by the Government. In this regard, the Government has set out a range of actions in the Construction 2020 strategy to support expanded housing supply and, in the social housing strategy, has set aside some €4 billion to deal with social housing provision in the period to 2020. The lack of supply of private housing is particularly acute in the Dublin area, where demand well outstrips supply, with consequential effects on house prices and also rents.

To put the issue in context, at the peak of construction activity in 2006, more than 93,000 houses were built nationally, of which just under 20,000 were built in Dublin. Further to the economic and banking crisis, activity declined very sharply. Only around 11,000 housing units were completed nationally in 2014, of which 3,268 were in the Dublin area. There is undoubtedly an urgent need to increase the level of housing supply, particularly in Dublin, in order to return to a market equilibrium whereby supply equals demand, having regard to the increasing population and changing household formation trends.

To help address these issues, and further to the publication of the Government's Construction 2020 strategy for a renewed construction sector, the Dublin housing supply co-ordination task force was established last year with a particular focus on addressing supply-related issues in Dublin. This includes the monitoring of trends in new housing developments, as well as the identification of any obstacles - including the provision of key infrastructure - to the bringing on stream of viable and market-ready developments. One of the first actions of the task force was to analyse the stock of planning permissions and zoned land for housing developments in Dublin.

The first report of the task force, which is available on my Department's website, concluded that across the four Dublin local authorities, approximately 21,000 housing units already had planning permission, equating to three years' supply, which permissions do not have any infrastructural constraints. The task force further reported that an additional 25,000 new homes are considered permissible on existing lands which are zoned for housing, and which do not have any infrastructural constraints. Both of these figures are subject to change as planning permissions are lodged and granted. Given a predicted housing requirement of approximately 7,500 new homes per annum over the coming years, as identified by the Housing Agency, the position is that there is sufficient land with planning permissions, and-or zoned for housing, to meet the

predicted requirements for the next six years in the Dublin area.

The data on Dublin housing supply as published by the Dublin housing supply co-ordination task force is the most recent and up-to-date information available. A further analysis of zoned lands with infrastructural constraints has been undertaken by the task force with a view to ensuring that further supply comes on-stream during that follow-on period. The task force has recently submitted a second report to my Department focusing on this issue and the Minister will give due consideration to its conclusions in consultation with his Government colleagues.

**An Leas-Chathaoirleach:** That is a very comprehensive response.

**Senator Paul Bradford:** It is comprehensive in reiterating the position that is known to us already-----

**An Leas-Chathaoirleach:** I will allow the Senator to ask a supplementary question.

**Senator Paul Bradford:** Will the Minister of State take back to the Minister for the Environment, Community and Local Government, Deputy Kelly, my profound concern that we are failing to acknowledge the fact that tens of thousands of people are awaiting social housing and private housing and that simultaneously, there are thousands of vacant accommodation units across the country? There appears to be no joined-up thinking on finding a solution to these problems. We do not have the investment capacity to build, in the short term, the number of social and affordable houses required. I referred earlier to the local authority politics in which both I and the Leas-Chathaoirleach were involved in the 1980s. It was a long time ago in one sense, yet at that time councils availed of schemes such as housing finance agency loans, share ownership loans and local authority loans and were exceptionally proactive in providing social housing. There is a profound lack of imagination, new thinking and new ideas on how to solve this housing crisis. We can argue about the statistics, whether 30,000 or 46,000 units are ready to go, but the problem is that nothing is happening and houses are not being built in the volumes required. A new national plan is needed. I repeat my request for a serious, in-depth debate on a national housing crisis here in Seanad Éireann, where at least some degree of serious reflection is allowed, in the near future. Let us all work together to bring an end to the misery of the people who are waiting in endless queues for housing and who are living in substandard rented accommodation. We are all paying a high social price for that.

**An Leas-Chathaoirleach:** I do not think that needs a response. Both the Minister of State and Senator Bradford have put their cases well. The Senator has asked the Minister of State to bring the issue back to the Minister, as I am sure she will.

### **General Practitioner Services**

**Senator John Whelan:** I welcome the Minister of State to the House. While the question was directed to the Minister for Health, it is not at all inappropriate that it is being taken on his behalf today by the Minister of State, because of her remit with regard to rural development and rural areas. While it is not directly under the aegis of her Department, one of the newest challenges facing rural Ireland is for rural communities, towns and villages, to retain their GP services. This is a relatively new phenomenon. According to my information, the HSE is experiencing chronic difficulty in filling vacancies where GPs have retired in 30 to 40 towns and villages in various regions throughout the country. In itself, this reflects a change of emphasis

which we have seen manifested in other areas. A GP practice is no longer necessarily a vocational pursuit. Rather, it is often viewed as a career. These days, it must stack up as a business and a sustainable proposition, it must be feasible, and it must meet the demands and lifestyle expectations of people and families.

In particular, I wish to raise with the Minister of State the anxiety and alarm developing in my county, County Laois, due to the ongoing process and the length of time it is taking to find a GP replacement for the village of Borris-in-Ossory. The incumbent, Dr. Seamus Fitzgerald, a long-serving practitioner who has given sterling, loyal, committed and dedicated service, is retiring of his own volition. I wish him a happy, healthy and lengthy retirement. The process to replace him commenced as far back as last November. I am heartened to learn that there have been a number of expressions of interest. Indeed, perhaps up to four qualified candidates were interviewed for the competition to replace the incumbent, Dr. Fitzgerald. However, the vacancy looms large and will arise within a week's time at the end of March.

I hope the Minister of State will have a positive reply today to the effect that the Borris-in-Ossory vacancy has been resolved and successfully addressed by the HSE. In that context there is a wider issue that needs to be considered by the Minister for Health when he is negotiating the GP contract with GPs and the Irish Medical Organisation. A new trend is developing whereby new and younger doctors and practitioners are no longer willing to embrace general practices in smaller towns and villages throughout rural Ireland. As I have said, up to 40 vacancies exist at the moment, and this will accelerate unless it is addressed. With respect, this needs to be addressed by ensuring that the rural practice allowance is restored and that it is sufficient to make the practice attractive, feasible and sustainable. Moreover, we need to address the terms and conditions being sought from GPs, including the rents sought for the clinics they use in these town and villages. Towns and villages such as Borris-in-Ossory are not as lucrative as larger urban areas in the city of Dublin and so on. It is my understanding that the HSE is looking for an extortionate rent of €25 per square metre from the new GP for the clinic in Borris-in-Ossory. This is punitive. It is not consistent with the current market value and it puts a great strain on any doctor trying to provide a dedicated and committed service in Borris-in-Ossory and its extensive hinterland.

**Deputy Ann Phelan:** I thank Senator Whelan. I am taking this Commencement debate on behalf of the Minister. Senator Whelan raises an important issue. Given my role as Minister of State with responsibility for rural affairs, I can see why there are grave concerns in rural parts of Ireland where these situations may arise. The HSE is committed to the provision of high-quality general practitioner services through the general medical services, GMS, contract for GPs. GMS GP posts are filled in line with HSE human resources recruitment guidelines. Periodically, challenges can be experienced in respect of the permanent filling of GP posts. In areas where this challenge is experienced, every effort is made by the local HSE management to ensure the provision of GP services to all GMS patients.

The retiring doctor in Borris-in-Ossory advised the HSE of his intention to resign from the GMS scheme in November 2014. The GP practice is a single-handed rural practice with a GMS panel of approximately 830 patients. The GMS panel was advertised by open competition and interviews took place in late 2014. Two people applied, and both were placed on the panel following a successful interview. Both successful candidates, however, declined the offer of the position. The position was subsequently re-advertised by open competition in early February 2015. Interviews took place in the first week of March 2015. The HSE has engaged systematically with two successful candidates based on their panel position and I am happy to state that

the first placed candidate has accepted the position and will commence work as soon as possible, something I know the Senator will welcome.

While GP numbers are keeping pace with overall demographics, this does not always prevent shortages occurring at local level. GPs once qualified, tend to work for existing GP practices or as self-employed contractors and are free to decide where to establish their practices. Isolated rural areas and deprived urban areas, very often with limited private practice opportunities, may sometimes find it difficult to attract GPs to fill vacant posts, a point the Senator mentioned.

The HSE is actively seeking to address this issue with medical organisations with a view to developing practical measures, including reorganising lists with existing doctors in local areas and through the adoption of a more flexible contractual arrangement which would encourage young GPs to work in such areas. The Department of Health and the HSE are currently in discussions with the IMO about the introduction of flexible or shared GMS contracts. The possibility of extending the current GMS GP retirement age from 70 to 72 years of age is also being considered.

The introduction of shared GMS contracts would provide more family friendly working arrangements better suited to the increasing number of female GPs, thus making it more attractive to pursue working within the GMS. Under the programme for Government, it is intended to develop a new contractual framework for GPs which will be more suited to current needs and will facilitate the planned development of primary care services. Substantive discussions on a new GMS contract will commence shortly with the IMO. Mechanisms for encouraging GPs to set up practices in rural and urban disadvantaged areas will be considered, as appropriate, in the context of these discussions. In the meantime, where GMS GP vacancies arise in an area, the HSE will take the necessary steps to ensure that continuity of service to GMS patients is maintained.

**Senator John Whelan:** I acknowledge and thank the Minister of State for a positive and constructive response. It is heartening and positive news for the people of Borris-in-Ossory and surrounding areas that the HSE has managed to secure a replacement and that a new GP will take up duty imminently. I welcome that. However, it would be easier to recruit GPs to rural areas and other communities which are not as attractive for those setting up new practices if the criteria were more favourable and supportive of young GPs. The rural practice allowance for GPs needs to be reviewed, revised and reintroduced to areas where it has been withdrawn, such as in Borris-in-Ossory. It is scandalous that the funding has been withdrawn in this instance and others where it would help to make practices more viable, attractive and sustainable.

The Minister of State has responsibility for rural affairs and development and has an important role to play. One of the cornerstones of the viability of any village or rural areas is a GP practice in order that families can feel secure and safe and have recourse to such a service. Without it, the sustainability of a rural community is undermined. Will the Minister of State lend her voice and support to this issue? The criteria being applied by the HSE to practices such as that in Borris-in-Ossory are punitive, such as the rent it is seeking for the use of the HSE facilities and clinic there. The rate is €25 per sq. m, which is the price for prime real estate. The clinic is not located in Dublin, and not everywhere is thriving in the same manner as the capital or is as prosperous. There is a strong case to be made for the HSE in this instance and others to waive the rental costs, at least in the first few years, in order that a practice can become established, take root and become committed, dedicated and viable for people in communities such

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as Borris-in-Ossory. The HSE needs to make a better effort and promptly review the criteria it applies. I am glad to hear it is part of an overall review, but time is of the essence because the Minister of State and her Government colleagues, including the Minister for Health, are facing an ongoing challenge across the regions of rural Ireland to fill vacancies for new GPs as they arise.

**An Leas-Chathaoirleach:** I thank the Senator. I think he has made his case. Does the Minister of State wish to respond?

**Deputy Ann Phelan:** I assure the Senator that I will certainly take his case on board. I understand from my work in the rural affairs brief that the family GP is the very fabric of rural life. We will take this very important issue on board and we will refer it to the Minister for deliberation. I thank Senator Whelan.

**An Leas-Chathaoirleach:** I have been listening with great attention because the area I represent is probably one of the most remote in Ireland. I know what it is like to try to keep GPs in places like Castletownbere and Schull.

**Deputy Ann Phelan:** Yes, it is very difficult.

*Sitting suspended at 12.45 p.m. and resumed at 1 p.m.*

### Order of Business

**Senator Maurice Cummins:** The Order of Business is No. 1, motion regarding proposal for a regulation of the European Parliament and of the Council repealing certain Acts in the field of police co-operation and judicial co-operation in criminal matters, referral to committee, to be taken on the conclusion of the Order of Business without debate; and No. 2, Children and Family Relationships Bill 2015 - Second Stage, to be taken at 2.15 p.m. with the contributions from group spokespersons not to exceed 12 minutes and those of all other Senators not to exceed eight minutes.

**Senator Darragh O'Brien:** I want to once again raise with the Leader the issue of the MS drug Fampyra, or fampridine, which I have been raising in this House since February 2014. I gave the Government advance notice that, from June of last year, people would have to pay for that drug. Since then, I have raised the issue here on numerous occasions, including directly with the Minister for Health in this House, with other colleagues. Everyone seems to agree that a drug which costs no more than €270 per month should be available under the drugs payment scheme but there is still no answer from the Department.

I remind Members there are 1,500 people with MS who are dependent on this drug, which has improved people's mobility and allowed them to go back into the workforce and lead a full life. I have met people who can no longer take the drug and who have regressed. Some are back in wheelchairs, they can no longer work and their mobility has disimproved greatly.

I was a little concerned when the Minister, Deputy Varadkar, came to the House. I got a sense from him - perhaps Senator Craughwell will agree with me - that he actually did not believe in the merits of this drug, even though he said he has no particular role in it. I know of people who are willing to come here to meet Senators of all parties to tell them how important this drug is to them. I again ask the Leader to try to use his good offices and I ask him and all

other colleagues to continue to push for the release of this drug that is greatly assisting or had greatly assisted 1,500 people up to now. At 2.15 p.m. today I am meeting MS sufferers who have given their own testimonies about how important this drug is. We are talking about €207 a month, not €3,000 a month.

I will conclude by asking the Leader to arrange, as a matter of urgency, a debate with the Minister for Justice and Equality in regard to policing and crime across the country. In my own area, both in its urban and rural areas, crime is now rampant. Gardaí are so under-resourced that they cannot do the job they are charged to do. In the town of Rush, there is not a shop that has not been robbed by armed robbers over the past year. Garda stations have been closed in both urban and rural areas. It is not just the station closures, however; it is the level of resourcing. In the Dublin metropolitan area, the drugs squad in R district is down 50% in numbers, from having 32 gardaí focusing on the scourge of drugs two years ago, to 16 now. The same type of figures apply in every other unit across the city and county, and across the country, with 40% to 50% reductions in Garda resources.

It is not acceptable. The situation is now at crisis point. I ask the Leader to arrange a debate in the House next week with the Minister for Justice and Equality in order for her to tell us whether the Government is happy to leave the streets of the towns and villages of this country to thieves and burglars. That is what is happening. People are not safe in their homes.

**Senator Ivana Bacik:** I am sure all colleagues will want to join with me in expressing our condolences on the plane crash that occurred just this morning, with some 150 people reported to have been killed in a crash over the French Alps on a flight from Barcelona to Dusseldorf. It is very sad news indeed.

I ask the Leader for a debate at some point on the issue of undocumented migrants. It was very good to see how successful the St. Patrick's Day events around the world were and how well received generally were the Irish Ministers and visitors. However, as the Taoiseach was raising the very important issue of the undocumented Irish in the US with President Barack Obama, the Migrant Rights Centre was highlighting the plight of undocumented migrants living in Ireland who may have been living and working here for many years, but who are undocumented to the extent that they do not have legal papers and legal permissions. A proposal was put before the justice committee in February by the Migrant Rights Centre to regularise the position of the undocumented migrants here in Ireland. This is something we could usefully debate in the House, perhaps while also debating the plight of the undocumented Irish living in the US, for whom we all hope there will be some resolution. I would also welcome a debate on child care which, along with a number of other colleagues, I have called for on a number of occasions. I note in today's edition of *The Irish Times* an article regarding a study which makes some important findings around child care, particularly the high levels of child care provided informally by grandparents, which will be of great interest to all of us. According to that study, 42% of child care is being provided by grandparents. The study also shows the relatively low level of women's participation in the workforce and the relatively high levels of women who remain in the home, which is another issue we might usefully debate. This is particularly notable in Ireland as compared to our European neighbours.

I commend all those who took part in attempting to view the solar eclipse on Monday. I was one of the thousands of people who gathered in the front square in Trinity College hoping to catch a glimpse of the sun being almost entirely covered by the moon. We were not so lucky on the east coast. I think west coast viewers were luckier. It was a remarkable event. What was

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really remarkable was the level of public interest in the science, physics and astronomy around the event, which bodes well for the future of science and science research in Ireland.

**Senator Jillian van Turnhout:** I support the calls by Senator Bacik for a debate on undocumented migrants in Ireland and on child care, both of which issues deserve the attention of the Seanad.

I rise today to raise an issue I have raised in the Seanad on several occasions, namely, the Diageo “Stop Out-of-Control Drinking” campaign. I welcome the additional resignation from that campaign. The first resignation was by Dr. Ciara Kelly. Some ten days ago, the organisation, MyMind, withdrew from the campaign and I have recently received confirmation that St. Patrick’s Mental Health Services has withdrawn from it. I call on the other organisations who are lending their credibility and reputations to a Diageo campaign to withdraw from it. We know from the World Health Organization and from experience in Ireland provided by the substance misuse group that the drinks industry has no role to play in public health campaigns. I believe that is a view which this House should stand over.

This afternoon and again on Thursday, the Joint Committee on Health and Children will hold hearings on the Public Health (Alcohol) Bill. I call on all Senators to fully support that Bill which provides us with an opportunity to do something about the drinking culture in Ireland and alcohol related harm. I also call on my colleagues to sign up to and support the Alcohol Health Alliance Ireland, which comprises the Royal College of Physicians of Ireland and Alcohol Action Ireland and calls on Members to ensure they have no links to the drinks industry. I ask Senators to check out the Alcohol Health Alliance and give it their full support.

I congratulate the Irish men and women’s rugby teams. Last weekend was a very proud weekend for Ireland. It was great to see sporting success on the field. On that note, I ask that Irish women’s rugby be given greater prominence and support by all, including our national broadcaster.

**Senator Feargal Quinn:** I would like to recognise the death yesterday morning of the founder of Singapore, Lee Kuan Yew. This was a man who founded one of the most successful states in the world, Singapore, and did so without any violence or war. I got to know Lee Kuan Yew some 30 years ago. We kept in touch and communicated a great deal. Singapore, although tiny, is now one of the wealthiest nations in the world. This was achieved by Lee Kuan Yew. I take this opportunity to express our sympathy to his family and to the people of Singapore. Lee Kuan Yew was a wonderful man. When I was in touch with him some time back I expressed my disappointment that according to him he ate only half of the plate of food served to him because he was trying to stay healthy and do his bit for world hunger and told him that that was not good for the grocery business. He later responded that he had changed his mind and would in future only order half a plate of food. I wanted to express my sympathy on the death of this man whom I got to know well over the past 30 years.

There is another issue I would like to raise today, which I have been raising twice a year for 21 years now. I refer to the brighter evenings campaign. This coming weekend we will get an extra hour of daylight in the evening, which we will lose in October. The problem would be easily solved by moving to Central European Time. There is quite a movement in Britain to do so and I believe it would be possible for us to do so too. One benefit to more daylight hours is a reduced number of road accidents. There are also huge benefits to be gained in the sport, entertainment and tourism sectors. We should urge the British to do the same, because it is

unlikely that we will find it easy to make a move on our own without Northern Ireland joining us at the same time.

I wish to make one last point. People from Spain have told me they were impressed by our social welfare system, because in Spain they get the dole only for one year, and after that they must do social work. Therefore, in Spain one will see people cutting grass, cleaning streets, sweeping roads and doing similar jobs, because they do not get the dole forever. If a person has received the dole for a year, he or she must undertake social work to retain the payment. We should consider a similar scheme here, because it would encourage people to do a world of good for the area in which they live as well as helping the nation.

**Senator Michael Mullins:** I join with colleagues in extending sympathies to the families of those who have lost loved ones in the horrific airplane crash this morning.

Since we met last, this country has had a fantastic week in many ways, including on the sporting front, with the fantastic achievements of the Irish men's rugby team in winning the Six Nations Championship, and our fantastic ladies who emulated and went one better the following day with their sensational win over Scotland. Coupled with such wins, we had significant St. Patrick's Day parades throughout the country and the world, with Ministers going out into the field to sell the country. They promoted business and enterprise and represented the country well. I wish to pay particular tribute to the fantastic St. Patrick's Day committees at home, who laid on fantastic parades throughout the country. I had the pleasure of attending two of them, one in Ballinasloe and another in Ahascragh. On both occasions I saw at first hand what community groups working together can achieve. It was a fantastic coming together of business, community and sporting organisations and schools. The general feedback from around the country was that the parades this year were bigger and better than ever before. They show that the country is vibrant and prove that rural communities are alive and well. We need to encourage communities to build on what was achieved over St. Patrick's week and weekend. We can revitalise many of the communities that have felt a little neglected. I was delighted to see the work that has been done by the Minister of State, Deputy Ann Phelan. We should invite her to the House again to have a further discussion on the revitalisation of rural Ireland. We need to discuss how we can all work together to make this country better as we attempt to attract more visitors here, given the launch of the plan for tourism for the next ten years.

**Senator Denis O'Donovan:** I ask the Leader for an urgent debate on medical card assessments and anomalies in the system. I will briefly mention three cases. Two of the cases concern farmers in receipt of farm assist who are being forced to get an assessment from the Revenue Commissioners because they are not in the tax net. The Revenue Commissioners have told me quite clearly that they do not want to know these people. The most they can do is issue a statement of affairs written on official Revenue Commissioners paper, which the HSE, at a top level, will not accept.

The Leader might say to me that this is an appropriate matter for a Commencement debate, but I have raised it here before. In one other case I got Deputy Kelleher, who knew the family concerned, to table a question in the Dáil, but he received the same response. I was spurred on to raise this matter today following a call the other day from a man about his 93 year old uncle, who is a retired priest but is currently in hospital. This elderly man received a letter stating that if he did not reply within six or eight weeks, his medical card would be withdrawn. He did not respond in time because he was very ill in hospital and did not know the letter was at home, and now he has lost his card. This type of approach is appalling.

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I have spoken to various Ministers about this, and after a number of inquiries I have established that the Revenue Commissioners are not at fault. In fact, I am told, Revenue has been inundated with telephone calls from elderly sick people inquiring about these issues. These are people who were never in Revenue's net and do not want to be. It is appalling that one branch of the State, the HSE, will not accept an assessment by another branch, the Revenue Commissioners. These assessments should not be taking place in the first instance. Many of these people have spent €300 or €400 going to an accountant to prove they owe nothing. In one instance, a farmer in his late 50s lost his card even though he was diagnosed by a consultant as having severe arthritis and advised to seek disability benefit. In another case, a person suffering from high blood pressure is no longer taking his medication because he cannot afford it.

I am asking that the Minister for Health come to the House to debate this issue. I have tried all other avenues to get it resolved. It is unacceptable that the elderly and most vulnerable in our society are being affected by this practice. Nobody at the top of the HSE dealing with medical cards can get a handle on it. Under the old system, the officer in the locality would know about the priest in his 90s being in hospital. Lives may be lost because people cannot afford their medication. I propose an amendment to the Order of Business that the Minister come here today to debate this issue and undertake to get a handle on it. I was blaming the Revenue Commissioners, but after several telephone calls it became clear that the problem is that the HSE does not accept what Revenue issues in these circumstances. The system is like a revolving door, with information going in one way and out the other. We must ensure people who are entitled to medical cards actually get them. It is appalling that a man in his 90s lost his medical card because he was in hospital for several weeks and unable to respond to the letter he received. When I complained on his behalf, the response was that he would be sent a new application for an over-70s medical card. That is not good enough.

**Senator John Kelly:** I join colleagues in paying tribute to the national men's and women's rugby teams following their Six Nations victories. I pay particular tribute to Larissa Muldoon, a member of the women's team whose father went to school with me. I was glad to see there was Rossie blood on that team. I also take the opportunity to congratulate the Roscommon football team, whose members are playing out of their skins at the moment. They will have an awful job to avoid promotion.

Will the Leader agree to a debate on the future of psychiatric services? Back in the 1980s, the strategy, as set out in a document called Planning for the Future, was to establish hostels and day care centres while we still had a good community-based psychiatric service. When the elderly people concerned were no longer able to avail of those services, they were put into long-term care due to their age and conditions such as Alzheimer's disease and paranoid schizophrenia. Now the HSE is looking to move these people on. In Áras Naomh Chaoláin in Roscommon, for example, residents who have lived there for 25 to 30 years are being vetted with a view to discharging them either into the community or into the private nursing home sector. There is a serious threat hanging over the future of our day care centres and hostels. Effectively, we seem to be going down the road of privatising mental health services, and the word "care" has been taken out of any consideration when dealing with older people. That is what I am hearing from psychiatric nurses across the board. Elderly people are being tossed around like rag dolls just to save money for the HSE. It is totally unacceptable and I will not stand for it. We must have an urgent debate on the matter in this House.

**Senator Sean D. Barrett:** I note the publication of a petition last Wednesday by 51 eminent scientists, including Boyle medal winners, arguing that the new strategy for science should re-

consider balancing the funding of science to strongly support not only applied or oriented basic research but also basic research across the full range of scientific disciplines. There is a view that knowledge cannot be trapped into the categories that Science Foundation Ireland funds and there should perhaps be some free-range allocation of funds, which might be made possible by dropping projects that have ceased to be of relevance. It is very difficult to predict where the return can be. Let us have some degree of flexibility there.

I compliment Michael Longley, our great poet, on being made a freeman of Belfast last night in the presence of President Higgins and the Lord Mayor, Councillor Nichola Mallon. On the day before the referendum on the future of this House we had poets on every side of the House paying wonderful tributes to Seamus Heaney. So, with our great tradition of poetry, I am sure we welcome the elevation of Michael Longley, CBE, to be a freeman of Belfast.

I express concern at a report in *The Irish Times* today that a senior official in the Department of Transport, Tourism and Sport has written to the UK Competition and Markets Authority asking it to force Ryanair to divest itself of its shares in Aer Lingus. This is a case that is pending before the UK courts. I know many of the officials in the Department of Transport, Tourism and Sport cannot wait to get Aer Lingus into the possession of British Airways. I wish they would come in here and debate the issue instead of operating behind the scenes.

**Senator Gerard P. Craughwell:** Hear, hear.

**Senator Sean D. Barrett:** Let us assess this from the point of view of the country, not what suits the officials in the Department of Transport, Tourism and Sport, who have a long tradition of allowing cartels to operate between airlines, with huge fares and so on. They are so keen to have Aer Lingus absorbed into British Airways. It is not in the Irish national interest that it should do so, and we need a debate in the House on it. I regret very much that a senior official is reported to have sent that correspondence to the UK authorities in the way in which it is reported.

**Senator Colm Burke:** I too wish to congratulate the men's and women's rugby teams on their success in the past week. It shows that leadership was provided in the work they have done in achieving successful results at the weekend.

The week beginning 28 March is organ donor week. One of the problems in Ireland is that more than 600 people are waiting for kidney transplants. The number of medical consultants manning the national renal transplant programme is four, half the number it should be, which is eight. There is a need to focus on the recruitment of suitably qualified personnel to bring the number up to eight. In the past two to three years we have faced major problems in dealing with this issue. The cost of having a person on dialysis is approximately €70,000 per annum. When that amount is multiplied by 600, it gives one an idea of the net cost to the Irish taxpayer. The cost of performing an operation is of the order of €30,000. Obviously, the cost of care thereafter is considerably reduced. There is a need to focus on this issue during organ donor week - the importance of organ donation, the recruitment of suitable staff and the upgrading of this facility. The day of cutbacks is over. The day of expanding the service is here, and let us not miss that opportunity by failing to recruit people with the required expertise who can perform these transplants. Let us reduce the number of people who are on dialysis. That is something we should strive to do in the next two to three years.

**Senator David Cullinane:** I second the amendment to the Order of Business proposed by

Senator Denis O'Donovan.

I commend the tens of thousands of people who took to the streets on Saturday in protest at the Government's unfair water charges. This is the fourth occasion on which record numbers of people have come out on to the streets to campaign not only against unfair water charges but against many aspects of Government policy. It was clear to those of us on this side of the House when we debated the water services Bill mark three that at some point we would come back with the water services Bill mark four, because the Government has not learned from the lessons of the last three Bills and the mistakes it made in regard to the creation of Irish Water and all the difficulties it brought upon itself in respect of water charges. We now hear from Ministers that the carrot approach has not worked. The Government is therefore moving to the stick approach - namely, as the Government has put it, to fast-track people through the courts. How in God's name will that be done? It is unworkable. It is smoke and mirrors. It is more hot air from the Government and it is simply a strong-arm tactic to coerce more people into signing up to Irish Water. It is clear that a significant number of people have not registered and many people who have registered will not pay these charges. I call for a debate on the issue of water services. The issue has not gone away. The Government has not listened to the people. It is stumbling from one crisis to the next. Here it is again, threatening and coercing people into registering for a service they already pay for and for which they do not want to pay. I commend those who took to the streets on Saturday, and I call for a debate with the Minister for the Environment, Community and Local Government as soon as possible. I am not tabling an amendment to the Order of Business on that issue, but I second the amendment tabled by Senator O'Donovan.

**Senator John Whelan:** On this day a few years ago, I was born in Portlaoise General Hospital. My own children and my granddaughter were also born there. It is a fine hospital with dedicated staff. Now its reputation and the public's confidence in the hospital are being dragged into an unsavoury row between the HSE and HIQA. I commend the Minister for Health, Deputy Leo Varadkar, on the forthright, common-sense approach he has taken in saying that neither of these agencies, under the auspices of the State, should be taking lumps out of each other in public and threatening legal action to prevent the publication of the independent HIQA report into past shortcomings at Portlaoise General Hospital. The report apparently confirms our worst suspicions: that Portlaoise Hospital, under successive Governments and Ministers for health, was underfunded, understaffed, under-resourced, and subsequently undermined, to the point at which the staff could not safely carry out their duties, work and responsibilities. Now that HIQA has investigated this, the agony and trauma for the families who lost their children are being unnecessarily prolonged, due in particular to the HSE's attempt to prevent the publication of this independent report.

I am calling on the Minister, and I ask all colleagues here to call on the Minister, to knock heads together so that HIQA can get on with its job and put into the public domain its full, unvarnished report. Then we can see for ourselves what went wrong, why it went wrong and what the shortcomings were, and establish for certain that they have been addressed. I commend the Minister for putting additional staff, a new management team and new consultants into Portlaoise so that the public can have confidence. Hundreds of families go there each year to have their babies. It is not acceptable for the HSE to attempt to dilute or to change the contents of an independent HIQA report. It should be ashamed of itself for causing additional trauma to families that have suffered enough. I ask the Minister to immediately bring this unsavoury row to a close and have the HIQA report published in full.

**Senator Ned O’Sullivan:** It would be remiss of me to let it go without wishing Senator Whelan a happy birthday.

I want to raise the important issue of the alleged mis-selling of whole-of-life assurance policies, which was raised in the Dáil in the last week or two by my party colleague Deputy Michael McGrath, who received a lengthy answer from the Minister for Finance. Whole-of-life assurance is where an individual purchases cover that would provide a lump sum for his family, usually his spouse, in the event of his death. It is different from most other types of insurance in that it contains no investment benefit, or only a very minuscule one - there is no surrender value, as such. The problem is that whole-of-life policies are subject to review after ten years and subsequently every five years. The review is carried out by the insurance company. It has all the cards and the customer has no cards. The policyholder has to cough up the additional premium. I am not talking about a normal investment whereby every year we are given the choice of coming up a little extra with the cost of living or the price index or whatever. Some of these jumps in premiums are extraordinary.

I offer one example involving a person who took out one such whole-of-life policy when he was 50 years of age. His premium was €90 per month. The cover for his wife in the event of his death would have been €250,000, a good substantial consolation for the spouse. Some 12 years later, the amount payable to the spouse has risen to €300,000, in other words, by the sum of €50,000. Yet, the premium has gone from €90 to €700 per month, an absolutely shocking swingeing increase in the premium for this unfortunate. There are many others like him. According to the Minister for Finance, Deputy Michael Noonan, the Financial Services Ombudsman has received 836 complaints of mis-selling that he can be sure of. There are probably many more but he is certain of that number. These people are trapped. They have invested so much money after ten or 12 years, upwards of €80,000, €90,000 or €100,000 in premiums. Moreover, the premium could jump up next month or next year by a further couple of hundred euro per month. Where does that leave the customer? Most of them have to give up, bail out and stop paying. There is no recompense whatsoever and no lump sum for the spouse in the event of policyholder death. There is something radically wrong here. The ombudsman seems to be wary of getting involved. The Minister for Finance, Deputy Noonan, should take a personal, hands-on approach in this matter. Hard-working individuals, middle-class people in the main, who have worked all their lives, probably have a small pension and are keen to ensure a little comfort and something to look forward to for their families when they depart are being trapped into throwing away investments of €100,000 plus with nothing to show for it.

**Senator Eamonn Coghlan:** Senator Cullinane referred to the tens of thousands of people who marched down O’Connell Street to protest over one thing or another on Saturday afternoon last, but 750,000 people tuned in to RTE to watch the Irish rugby team win the Six Nations Championship. Millions of people throughout the world tuned in to watch a series of games that took place on Saturday afternoon.

**Senator Trevor Ó Clochartaigh:** The march should have been a lot bigger.

**Senator Eamonn Coghlan:** I congratulate the team, the staff and in particular my dear friend, Joe Schmidt, for the tenacity and sportsmanship they displayed in winning the Six Nations Championship. The day was filled with drama and excitement. It was nail-biting stuff all the way to the end and there was a real cliffhanger ending. Then, on Sunday, the ladies followed the men. It was a wonderful display by the ladies. The athleticism they displayed and the passion to win was exemplary. The positive image of the weekend sporting endeavour of

Ireland that has been brought throughout the world is the type of publicity for Ireland that cannot be bought.

It is another example of the Government's investment in sports through the Irish Sports Council. The Government has invested in recent years in the women in sports programme. The results are evident now, particularly with the great win of the ladies. This is going to encourage more and more young ladies to participate in sports. It is going to be a wonderful inspiration for all these young women coming through, whether they are on our boxing, soccer, GAA or athletics teams. Women in sport in Ireland is alive and well. It brings out the best in people and a very positive attitude in life.

Senator van Turnhout's commented on RTE and encouraged the broadcaster to show more women in sports. Believe it or not, RTE was the only national broadcaster in Europe to show the rugby this past weekend.

**Senator Darragh O'Brien:** That is true.

**Senator David Norris:** I wish to raise a matter that I have raised previously in this House. However, on this occasion I would like to ask the Leader if he would write directly to the Minister for Justice and Equality asking for clarification about the fate of Fitzgibbon Street Garda station. I raised this previously and I was given information that was inaccurate. I was told it was being refurbished for use as a police station. This is not the case. Great secrecy surrounds it. It is indeed being refurbished, but the people refurbishing it have been told to say nothing about what they are doing it for. Once again, it is another hostel, as if Dublin 1 had not played its role in this area. We are stuffed with such institutions and it is time for another area of Dublin to take on some of the responsibility. I have great empathy with people who are homeless and I do what I can to assist them, but there is no information about this and we are being lied to. We do not know what follow-up services will be provided or whether the hostel will be wet or dry. We do not know what monitoring there will be. As I said, this is not a "not in our backyard" argument. Our backyard is full and the authorities are doing nothing for the central area of Dublin.

I would also like to refer to what was said about the Diageo campaign. Of course it is a farce. A drinks company is there to increase its sale of alcohol. It is not there to restrain any damage being done to young people. There is only one way of saving this committee. I have great respect for Fergus Finlay; I do not know what led him astray on this issue. Diageo should immediately turn its funding into a donation, pure and simple, with no strings attached. The Diageo member on the board should be withdrawn immediately, thereby ensuring that the committee is properly financed and seen clearly to be independent. Otherwise, it should be shut down.

**Senator Catherine Noone:** I agree with Senator Norris. I could not agree more that it is inappropriate for Diageo to be involved in a campaign entitled "Stop Out-of-Control Drinking" and it is somewhat cynical, to say the least. His suggestion is a sensible one and would bring some credence and credibility to the campaign. Perhaps he would make his suggestion directly to Diageo because it is positive and would give it some credibility for a campaign which, if it was independent, would be extremely welcome.

I commend Diageo on a recent initiative it has taken, namely, to put information on calories on all of its beverages. We have an absurd situation in this country whereby a food producer

must put every detail known to man or woman about the food it produces on its labels. I am in favour of this, not least the information on calories and everything else, but we can consume drinks without knowing what is in them. The fact that calories would be shown on Diageo's products is very welcome and I hope other drinks companies would follow its lead. It is one very small measure which will help with the obesity crisis in Ireland. Nonetheless, it has been shown to have a significant effect in other jurisdictions.

I also join Senator Coghlan in acknowledging the tremendous achievement of the men's and women's Irish rugby teams at the weekend. It gives us a great lift and I congratulate all involved.

**Senator James Heffernan:** I join others in congratulating the fantastic performances of Irish sporting teams, from hockey right through to rugby. I take this opportunity to once again offer my commiserations to the Kilmallock senior hurlers who have had a fantastic year which ended in heartbreak on St. Patrick's Day. It was another heartbreak for Limerick teams in Croke Park and things do not become easier the more often they happen.

I wish to propose an amendment to the Order of Business. A matter was brought to my attention last week by a concerned customer of the post office network. The person received a letter from the Department of Social Protection encouraging him or her to abandon collection of a payment in a post office in a local town and instead have it transferred electronically into a bank account. The Department is trying to take customers away from using the post office service and make them fork out for bank charges for welfare payments. We are hearing platitudes from the Government. The establishment of the post office business development group, the aim of which is to examine how to further develop the post office network, was well heralded by the Minister of State with responsibility for rural affairs. At the same time, another Department is trying to pull customers away from the post office network. As the Leader knows, there is tremendous fear in parts of rural Ireland that have lost certain services, including banks, Garda stations and creameries. It seems that the post office network is being undermined by one Department at a time when another Department under the same Government is committed to it. One hand does not know what the other hand is doing. The Government seems to be talking out of both sides of its mouth on this issue. We need clarity. We need to hear a response from the relevant Minister. I am not even too sure anymore who that is supposed to be. He or she needs to come in here and express support for the Irish Postmasters Union, which has said that no further transfer of post office transactions to the commercial banks should be pursued-----

**An Cathaoirleach:** The Senator has clarified the amendment.

**Senator James Heffernan:** -----until a longer-term solution which includes the use of post offices is found. The Government needs to stop undermining the post office network and start supporting it.

**Senator Terry Brennan:** I would like to be associated with what has been said about the successful rugby weekend that was enjoyed by the Irish ladies and gents. The whole sporting weekend was a truly magnificent occasion that put our country on the sporting map of the world and will also enhance our bid to host the Rugby World Cup in this country in 2023.

I want to refer briefly to the new tourism strategy, which was launched yesterday by the Taoiseach and the Minister, Deputy Donohoe, in the absolutely spectacular setting of Kilkenny Castle. I have never been in anything like it. I have to add that Kilkenny is a spectacular city

on a beautiful day. The new tourism strategy, People, Place and Policy – Growing Tourism to 2025, sets out a range of objectives and aims to grow tourism over the next decade on a phased basis. It is envisaged that the number of overseas visitors will increase to 10 million, from last year's figure of 7.6 million, and that they will spend €5 billion in our country. It is also envisaged that the number of people working in the industry will increase from 200,000 to 250,000. As I have said on a few occasions, we have witnessed four years of growth in the number of overseas visitors.

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

**Senator Terry Brennan:** I just want to conclude now. It is important to continue this positive momentum because in the long term, it can directly benefit those involved in tourism and the economy as a whole.

**Senator Trevor Ó Clochartaigh:** Ba mhaith liom cuidiú leis an leasú atá molta ag an Seanadóir Heffernan ar Riar na hOibre maidir leis an díospóireacht faoi chúrsaí oifigí poist. Tá géarchéim ann i gcúrsaí tuaithe. It is important that we ask the Minister of State, Deputy Ann Phelan, to come back to the House to discuss the Leader programme and particularly the chaos that is happening at the moment in the rural development area. I have heard many Government spokespersons lauding the amount of money that is being allocated under the Leader programme. While every penny provided under that programme is welcome, the budgets in some counties are being cut by up to 70% compared with what was there previously. I think the centralisation of the whole rural development programme under the county councils is a detrimental step. In my own area of Connemara, we are seeing threats to organisations like Forum Connemara and Comhar na nOiléan, which have been delivering the Leader programme and previously delivered the local development social inclusion programme. The future of such organisations is very much in question.

I ask the Leader to call on the Minister for Health to come to this House to debate another issue, namely, the fact that the HSE in the west of Ireland owes approximately €7.5 million to approximately 400 social care workers in counties Galway and Roscommon in respect of unpaid wages stretching back over a decade. The HSE has acknowledged that it owes the money to workers and has been directed by the Labour Court to pay the debt, but it refuses to do so. The people in question are social care workers and leaders who have been working with the Brothers of Charity Services and Ability West - those who were formerly known as house parents. This issue affects 400 workers. The HSE has paid in full other categories of worker, including managers, nurses and care assistants, but have withheld these so-called twilight payments from social care workers. In regions such as Dublin, their peers have been reimbursed, as is only right and proper, but it is unacceptable that a Labour Court recommendation has not been upheld by an organisation such as the HSE. I call on the Leader to ask the Minister for Health to come to the House to debate the issue with us and to explain to us what he will do to make sure these workers' rights are vindicated, as they should be. It is unacceptable, and I hope other Senators agree with my call.

**Senator Rónán Mullen:** Following on from what colleagues said, I hold no brief for the drinks industry and I have frequently called for restrictions on advertising by the alcohol industry and the curbing of links between drinks companies and sporting events or events involving young people, but I am not impressed by the moral posturing of people in these Houses and outside the House regarding the Stop Out-of-Control Drinking campaign funded by Diageo. I do not agree with many comments made by Fergus Finlay, but it was clear that there was a writ-

ten memorandum of understanding from Diageo that this group would act independently. What I am concerned about is a certain bullying tendency to try to turn groups and individuals in our society into pariahs and not even allow them on board when it comes to assisting them to do good in some way. My approach to Diageo would be to accept their money and then stun them with my ingratitude in proposing all sorts of policy measures that they would not like. That would be the more mature approach to this initiative. Let all companies be involved in helping to promote a culture that avoids out-of-control drinking, and let us decide separately on stringent measures to restrict their activities. It is the same with tobacco. Let us ban smoking or not ban smoking, but if we do not, we have to allow companies to do business in our society. What should we say to a young woman working in a public relations firm that works for a tobacco company? Should she be ashamed of herself-----

**Senator Marie-Louise O'Donnell:** That is a different argument.

**Senator Rónán Mullen:** -----or she should be complimented on trying to earn a living in order that she can help bring up her family? We have to stop the moral posturing and look at issues on their merits.

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

**Senator Rónán Mullen:** Perhaps there is evidence that Diageo is in some way trying to call the shots on this and prevent hard statements from being made or prevent good initiatives to get people to drink less, but I find the moral posturing repellent. We have a massive problem with underage drinking and drinking to excess in our society. We should focus on the issues and work with anybody who will help us to do that. Let us stun the company with our ingratitude as we propose measures it will not like.

I compliment the Seanad Public Consultation Committee on its excellent dialogue and engagement yesterday with different groups on the issue of farm safety. It is a vitally important issue. Although I am not a member of the committee, I took part in the meeting, and it was impressive to hear from young men such as Patrick Duffy and Peter Gohery, who is a farm accident survivor. They have things of tremendous importance to say to us about how we need to provide resources for education in our schools and across society about farm safety and to assist those who have survived. I compliment everybody involved. Will the Leader ask the Minister for Agriculture, Food and the Marine to update the House on farm safety the next time he is here? Will he also ask him to examine the initiatives that have been taken and to consider the report that will follow from this public consultation about what needs to be done now?

**Senator Gerard P. Craughwell:** Like previous speakers, I compliment both Irish national rugby teams on their victories, but I was saddened to see such a small turnout on Sunday for the excellent display of rugby by our female team. I congratulate them, given that it must have been difficult for the players to experience such a small turnout following the hype surrounding the men's team. They deserve great credit.

However, it is what happened on Sunday at lunchtime that has me on my feet. I found out that 23 meetings took place between the then Minister for the Environment, Heritage and Local Government and Bord Gáis Éireann, for 13 of which there are no records. This is outrageous. If one was a member of a residents' association and one of one's officers went off and had meetings and there were no records of them, there would be outrage among the community. There was a call this morning to bring the Minister in here. I believe it is time to bring the chief

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executive of Ireland to this House to explain and put clearly on the record what has taken place regarding these private meetings because I have no doubt that at some stage in the future, we will find this country in front of the courts explaining some verbal agreement made at these meetings. It is simply not good enough.

Have we learned nothing in this country? To have private meetings between the supplier of a service and a Minister is simply not good enough. I am sorry for standing on my feet and calling this into question but I have received phone calls from friends and relations. It is all over social media. People talk about the demonstration on Saturday. I had never attended a demonstration until the water issue arose. I go because I am interested in what people have to say. I meet ordinary decent working people. It is not about water in many cases. It is about their total frustration with the way the world has gone. I am calling for a debate with the Taoiseach so we can put on the record of this House exactly what took place between the then Minister and the chairman of Bord Gáis Éireann.

**Senator Marie-Louise O'Donnell:** In response to Senator Mullen, probably the greatest example of moral posturing is Diageo's posturing regarding its faith in not drinking. I never heard a contradiction like it.

I reiterate what Senator Heffernan said about the post offices and the general secretary and president of the Irish Postmasters Union. I spoke about this in the media last week and I call on the Minister for Social Protection to come in here and tell us how many of these letters are being sent out and who they are being sent to. They are being sent to pensioners to get them to transfer their pensions and social welfare payments to banks. Once I hear that word, I know we are once again capitulating to the banks. I know it might involve only a certain section of social welfare recipients because many people, including many single mothers, would not have a bank account. However, I thought the post offices were going to be the heartbeat of our villages and towns and that we were looking at ways of making them the heart beat of our villages and towns. Capitulating to the banks is not the way to go because most people who come into the post office to get their small pensions use the physicality of money to pay for their gas or electricity, buy their vegetables or go to the chemist so an element of community service is being offered by the post offices. Instead of capitulating to the banks to give them tranches of money they can then bet on the markets with, we were supposed to be developing the post offices electronically so that they would be able to receive money and put it into accounts or process motor taxation. This is very serious because it is a form of chipping away that happens under the radar. Senator Heffernan is right about this. Could the Minister come to the House to tell me the extent of this, who the letters are being sent to, who thought it up, who thinks it is a good idea, what banks will receive payments and why we are taking potshots at the very core of what we believe villages and towns to be, namely, the post office? The post office carries out community service that is unparalleled across our country. This is a very serious question so could the Minister come in here to answer it realistically?

**Senator Maurice Cummins:** Senator Darragh O'Brien raised the issue of the MS drug Fampyra, which costs no more than €270 per month. I will certainly ask the Minister for Health about the current situation. There is no doubt that the benefits of this drug are clearly evident from many people who receive it so I will try to get an update from the Minister.

As the Senator will be aware, the company provided this drug free of charge initially, but it now costs up to €270 a month. I will try to get an update from the Minister on that matter.

The Senator also called for a debate on the under-resourcing of the Garda. The Minister for Justice and Equality has given a commitment to come to the House as soon as her diary permits following the passage of a number of Bills, some of which will go through the House later this week and next week. The Garda network had been unchanged since 1922 before the closure of some Garda stations but we still have 564 stations, which is significantly more than in comparable jurisdictions such as Scotland and Northern Ireland, and there will be no further closures. A total of 94% of the stations that were closed were open for only three hours or less a day. Closures did not result in a reduction in Garda numbers but they facilitated 61,000 additional man hours for front-line services. The force was given capital allocation of €42 million and €27.5 million will be invested in the Garda fleet between 2012 and 2015, including €10 million for 370 new vehicles this year. The Government has provided the force with at least €414 million more than Fianna Fáil proposed for the same period. Templemore training college has reopened with 300 new recruits entering. They are the first since Fianna Fáil stopped recruitment in 2009.

Tackling crime and burglaries is a top priority of Government and the Garda will shortly publish an anti-crime strategy. The civilianisation of many functions has begun, ensuring more gardaí are on the beat. The Government is also examining a law to deal with repeat offenders, including repeat burglars. It is unfair to suggest the force is under-resourced because the data indicate that this is far from the case.

Senator Bacik referred to the horrific plane crash in the French Alps, which we only learned of in recent hours. Our hearts go out to all the families affected by the crash. She also called for debates on undocumented migrants in Ireland and on child care. The Minister for Children and Youth Affairs has agreed to come to the House for a debate on child care and I hope to have a date for that soon.

Senator van Turnhout and many others raised the issue of Diageo and the Stop-Out-of-Control Drinking campaign. Some Members urged people to step down from the campaign committee or called for the committee's abolition while others, such as Senator Mullen, suggested different ways to deal with this issue. It will be addressed by the Oireachtas joint committee dealing with alcohol abuse and I am sure there will be many more comments on this.

Many Members, including Senator van Turnhout again, complimented our sporting heroes on the Irish rugby teams. I am glad a Waterford lady, Niamh Briggs, captained the Irish women's team. I am also glad our national broadcaster covered their game on Sunday. These players are an example to all and I take on board Senator Eamonn Coghlan's comments on the work of the Irish Sports Council regarding the funding of women in sport, which is bearing fruit.

Senator Quinn mentioned the death of the founder of the state of Singapore and he highlighted his meetings with him.

Senator Quinn also raised the brighter evenings campaign, as he has done on many occasions. As he said, if it is to happen, it must happen in conjunction with our counterparts in Northern Ireland and Great Britain. I know there have been ongoing negotiations in that regard. I think Deputy David Stanton and the Oireachtas Committee on Justice, Defence and Equality have been favourably disposed towards this move to join central European time.

Senator Mullins complimented the St Patrick's Day committees and the great voluntary and community effort by all involved. I think we would all agree with that. Senator Mullins also

called for a further debate on the revitalisation of rural Ireland.

Senator O'Donovan spoke about medical cards, the anomalies in the system and the need for more joined-up thinking between State agencies, in particular the Revenue Commissioners and the HSE. I know the case in question is totally unacceptable. Obviously, the solution to it will be giving medical cards to everybody over 70 but that does not solve the problem. If we get the details from Senator O'Donovan, I will take it up with the Minister for Health today. If we do not get a satisfactory answer, the Senator might proceed in respect of an amendment to the Order of Business but I will take up this particular case. It seems ludicrous that the HSE does not look at a person's date of birth when it is looking for this type of information. The person is 93. Common sense obviously does not come into it when one hears of cases like that.

Senator Kelly called for a debate on the future of psychiatric services. I will try to arrange that with the Minister.

I note Senator Barrett's points relating to the strategy for science. He congratulated poet Michael Longley on receiving the freedom of Belfast city. I know the issue of Aer Lingus has been debated at length in the Oireachtas Committee on Transport and Communications and I am sure it will continue to be debated in that forum.

Senator Colm Burke spoke about organ donor week and the need to focus on the recruitment of consultants in that area to bring the complement from four to eight. There is obviously a need to focus on the recruitment of consultants in many disciplines because we are so short of consultants.

Senator Cullinane referred to the Right2Water campaign and said that it was good that so many people took part and that it was a peaceful protest. I think everybody agrees with peaceful protest. Certainly, we will have another Bill relating to Irish Water and penalties and I am sure we will have ample time to debate that when the Bill comes before the House. Over 1.3 million people - over two thirds of the population - have registered with Irish Water. I am sure many others will register in the future.

Senator Whelan spoke about Portlaoise General Hospital and outlined the differences between HIQA and the HSE and the need for the Minister to intervene to ensure the publication of this report. Senator Whelan also outlined the significant increase in investment in the hospital in recent times. The Minister has outlined his disquiet at two State agencies threatening to take legal action against each other, which is not acceptable. I am sure the Minister has his finger on the pulse in this regard. When the report is published, we may be in a position to debate it in this House.

Senator O'Sullivan outlined the difficulties and anomalies relating to whole-of-life assurance policies. If he puts this topic down as a Commencement debate topic, he might get a clear message from the Department of Finance about those policies.

Senator Eamonn Coghlan spoke about the Irish rugby teams and complimented the Irish Sports Council on its work.

Senator Norris spoke about Fitzgibbon Street Garda station. Perhaps the Senator might table this for a Commencement debate in order to get the full details of what is going on. I do not think we should have secrecy relating to this station or any place where hostels are located. The public should be consulted in areas where such developments are taking place. I suggest that

a Commencement debate on that matter might give the Senator more answers than I can give.

**Senator David Norris:** I thank the Leader.

**Senator Maurice Cummins:** I also note the Senator's argument, with which I agree, about the Diageo campaign. Senator Norris argued that Diageo should turn its funding into a donation and withdraw its nominee from the board. This may assist in clarifying the situation.

Senator Noone also spoke about drinks companies, and mentioned calorie counting. Diageo intends introducing this and urges other drinks companies to do likewise.

In response to Senator Heffernan, they say all politics is local. The Senator commiserated with the Kilmallock senior hurlers, who lost on St. Patrick's Day. Senators Heffernan and O'Donnell spoke about An Post and about the Department of Social Protection sending out letters asking people to have pensions and social welfare payments paid into bank accounts. It is despicable for the Department to send out such letters when we are trying to encourage people to use post offices the length and breadth of the country.

**Senator James Heffernan:** Will the Leader support my amendment?

**Senator Maurice Cummins:** I certainly agree that the Minister should investigate that, and I will bring the matter to her attention today and try to get answers. I would point out that 288 post offices closed down between 2005 and 2011 and that 22 post offices have closed since this Government came to power. Those statistics speak volumes for the efforts of the Government to retain post offices. However, I do not think the letters going out from the Department of Social Protection are doing anything to support that effort.

Senator Brennan spoke about the tourism policy of the Government and the need to maintain the momentum. He spoke about the 7.6 million visitors last year and the increase in jobs over the years because of this increase in visitors.

Senator Ó Clochartaigh spoke about HSE social care workers. He suggested that many of them have unpaid wages and that people in similar cases have been paid in Dublin but not in the west of Ireland. The Senator might put down a topic for the Commencement debate. If people have been paid in Dublin, I see no reason they should not be paid in the rest of the country.

Senator Mullen spoke about how he differed from colleagues in respect of the Stop Out-of-Control Drinking campaign, dubbing comment from some Members "moral posturing". That is his personal opinion.

**Senator David Norris:** He would be the one to recognise it. Aithníonn ciaróg ciaróg eile.

**Senator Maurice Cummins:** I agree with Senator Mullen about the Seanad Public Consultation Committee, which met yesterday to discuss farm safety. The committee sat from 2 p.m. until 6.30 p.m. It was an excellent day's work and I compliment the Members who attended. I had hoped there would be more, but I compliment other Members who joined in as well. When the report is complete, the Minister for Agriculture, Food and the Marine will come to the House to comment on it.

Senator Craughwell spoke about meetings between Bord Gáis and the then Minister for the Environment, Community and Local Government, and the fact that some minutes were not recorded. The Senator might put down a topic for Commencement debate to get the full details

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from the Department as to why the minutes were not recorded.

I referred previously to the point made by Senator O'Donnell about post offices. The Senator sought information about the extent of the notifications that have gone out from the Department of Social Protection. I will bring the matter to the attention of the Minister.

**An Cathaoirleach:** Senator O'Donovan has proposed an amendment to the Order of Business: "That a debate with the Minister for Health on entitlement to medical cards and the circumstances pertaining to the recall of existing cards be taken today." Is the amendment being pressed?

**Senator Denis O'Donovan:** Yes.

Amendment put:

The Seanad divided: Tá, 17; Níl, 24.	
Tá	Níl
Barrett, Sean D.	Bacik, Ivana.
Byrne, Thomas.	Brennan, Terry.
Craughwell, Gerard P.	Burke, Colm.
Daly, Mark.	Coghlan, Eamonn.
Heffernan, James.	Coghlan, Paul.
Leyden, Terry.	Comiskey, Michael.
Norris, David.	Conway, Martin.
Ó Clochartaigh, Trevor	Cummins, Maurice.
O'Donovan, Denis.	D'Arcy, Michael.
O'Sullivan, Ned.	Hayden, Aideen.
Power, Averil.	Higgins, Lorraine.
Quinn, Feargal.	Kelly, John.
Reilly, Kathryn.	Landy, Denis.
Walsh, Jim.	Moloney, Marie.
White, Mary M.	Moran, Mary.
Wilson, Diarmuid.	Mullins, Michael.
Zappone, Katherine.	Naughton, Hildegard.
	Noone, Catherine.
	O'Donnell, Marie-Louise.
	O'Keeffe, Susan.
	O'Neill, Pat.
	Sheahan, Tom.
	van Turnhout, Jillian.
	Whelan, John.

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

Amendment declared lost.

**An Cathaoirleach:** Senator Heffernan has proposed an amendment to the Order of Business: “That a debate with the Tánaiste and Minister for Social Protection on her Department’s policy to encourage social welfare recipients to switch from receiving cash payments at post offices to payments to banks by electronic means be taken today.” Is the amendment being pressed?

**Senator James Heffernan:** I will not press the amendment in light of the commitment the Leader has given to hold a debate. However, if the debate does not materialise I will certainly propose another amendment to the Order of Business as early as possible.

Amendment, by leave, withdrawn.

Order of Business agreed to.

### **Police and Judicial Co-operation in Criminal Matters: Referral to Joint Committee**

**Senator Maurice Cummins:** I move:

That the proposal that Seanad Éireann approves the exercise by the State of the option or discretion under Protocol No. 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, to take part in the adoption and application of the following proposed measure:

Proposal for a Regulation of the European Parliament and of the Council repealing certain acts in the field of police cooperation and judicial cooperation in criminal matters,

a copy of which was laid before Seanad Éireann on 23rd December, 2014, be referred to the Joint Committee on Justice, Defence and Equality, in accordance with Standing Order 70A(3)(j), which, not later than 1st April, 2015, shall send a message to the Seanad in the manner prescribed in Standing Order 73 and Standing Order 75(2) shall accordingly apply.”

Question put and agreed to.

### **Children and Family Relationships Bill 2015: Second Stage**

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

**Minister for Justice and Equality (Deputy Frances Fitzgerald):** I am honoured to have the opportunity to introduce the Bill, which provides comprehensive reform of family law to bring it up to date with the realities of family life in Ireland. It is a child-centred Bill aimed at addressing the legal situation of children living in diverse families, which delivers on the pro-

gramme for Government commitment to “modernise and reform outdated elements of family law”.

Intensive work has been undertaken on the Bill since the general scheme was published for consultation in January 2014. The general scheme was referred to the Oireachtas Joint Committee on Justice, Defence and Equality and I thank the committee for the valuable work undertaken as part of its pre-legislative scrutiny of the Bill and for organising a public consultation process, which received approximately 38 submissions. The general scheme was revised in light of the recommendations made by the joint committee and the Bill before the House is based on the revised general scheme published on 23 September 2014. Since the Bill’s publication on 19 February, I have organised a series of briefings for the political parties and Independent Members to inform them of its provisions. I have also held specific briefings for Senators. I would like, in this regard, to thank Senators for their constructive engagement with the Bill.

The starting point in this legislation is the best interests of children. This is the golden thread running through it. The legislation sets out new and updated provisions on guardianship, custody and access for children living with their married parents, their unmarried parents, with a parent and the parent’s partner or with a grandparent or other relative. It also sets out the rules under which parentage of a child born through donor-assisted human reproduction may be established. The Bill does not alter in any way the parentage of children conceived naturally or through fertility treatment which does not involve the use of donor gametes. The parents of these children, who comprise the vast majority of children in Ireland, will continue to be their birth mother and their biological father.

However, the technology of assisted human reproduction, AHR, has created a new reality. Children are currently being born in Ireland to parents who have used donor gametes to enable them to have a child. Ten years ago, the Commission on Assisted Human Reproduction alerted us to the need for action on this issue. It noted in 2005 that, “The issue of legal parentage in Ireland of children born through donor programmes is complicated by the absence of legislation”. Under the law as it stands, the birth mother of a donor-conceived child has certainty as to her situation. Case law confirms that she is the mother of the child, regardless of whether she is genetically linked to that child. Under the provisions of the Bill, she will continue to be the mother of her child. The Bill will not change existing provisions regarding the rights of a birth mother, including of a donor-conceived child. She will continue to be regarded as the child’s mother. She will be recorded as the child’s mother on that child’s birth certificate.

The Bill seeks to address the situation of the intending second parent of a donor-conceived child. Under existing law, the situation of a second parent of a donor-conceived child is much more uncertain. The law currently applies a presumption of paternity in favour of a married father. This allows the married father of a donor-conceived child to be presumed to be the child’s father, even if he is not biologically linked to the child. However, if that presumption is tested such as in the event of a dispute between both parents and that man is found not to be the biological parent of that child, then he loses the right to be the child’s parent. At the moment, the only route by which that man can regain parentage of the child is through adoption, which also requires the birth mother to adopt the child. This would not be possible if there is a dispute between the parents or if the child has attained the age of 18. This example underscores the importance of making new provisions that can secure the legal relationship of that father with his child. The situation even of a married man’s fatherhood of a donor-conceived child is vulnerable to being overturned. It is even more difficult for the second member of a female same-sex couple. She has no means at present of being recognised as the parent of a child who

she may be jointly raising with her partner.

The Government has given certainty in the legislation to donor-conceived children regarding their parentage. It will enable those who have brought a child into being in mutual love and commitment to each other and to the child to be recognised as the child's parents. The Bill addresses the current anomalous situation whereby the second person, who may have shared in all of the joys and fears of pregnancy and birth, is recognised as a stranger in law to a child. It rectifies this situation and provides a pathway to parentage for the second parent. Provisions which recognise two people as the child's legal parents, with full responsibility for caring for and raising the child, are directly beneficial to a child.

At the same time, the Bill recognises the importance of ensuring a donor-conceived child can know his or her genetic identity. The Oireachtas joint committee strongly recommended that provisions be included in the Bill to safeguard the child's right to know her or his identity. This was also a priority for the Ombudsman for Children in a submission she made at the time. Accordingly, provision has been made for the establishment of a national donor-conceived person register, which will be the mechanism through which a donor-conceived child can trace her or his genetic identity. Equally, anonymous donation of gametes is being prohibited, except for limited exceptions, which I will explain, to ensure that donor-conceived children will have the possibility of tracing their identity.

I wish to clarify, however, that this Bill is strictly about the parentage issues that arise. The broader regulation of assisted human reproduction will be undertaken by the Minister for Health in separate legislation, the draft general scheme of which is currently being developed. It became clear, when developing this Bill, as was also indicated by the Oireachtas joint committee, that we could not safely include parentage provisions in respect of donor-conceived children without underpinning them with provisions on identity and consent and without addressing the issue of anonymous donations. We have dealt with those issues but I emphasise that the Department of Health will deal with the broad issues that arise in respect of AHR and DAHR.

I have had discussions with representatives of various clinics and the Institute of Obstetrics and Gynaecology about issues of concern to them. There has been commentary in favour of continuing to use anonymous donations. The argument has been made that prohibiting anonymous donations cuts across parental autonomy. However, our experience, for example, on adoption has shown that it is important for a person to have the means of knowing the truth as to their origins. Equally, there is a growing consensus internationally that it is best practice for states to ban anonymous donation and to provide mechanisms for a donor-conceived child to trace his or her genetic origins. A number of jurisdictions have prohibited anonymous gamete donation, including Austria, Finland, the Netherlands, New Zealand, Norway, Sweden, Switzerland and the UK. Banning anonymous donations to safeguard the child's right to identity is part of the child-centred ethos of this Bill.

Adoption is another critical child-centred issue addressed in the Bill. As I have indicated previously, adoption law has never contained a restriction based on the sexual orientation of an adopter. The important question is whether the proposed adoption is in the best interests of the child concerned. The provisions in the Bill will, for the first time, enable civil partnered or cohabiting couples to adopt jointly. Many people did not realise that cohabiting couples currently cannot apply to adopt jointly. However, this can only happen following a full assessment while all the usual measures relating to adoption must be followed to ensure the proposed adoption is in the best interests of that child. Adoption is a child welfare measure. The suitability

criteria in place will continue to apply. Under these provisions, each couple will be assessed on whether they are suitable to raise the child and to fulfil all parental duties towards that child. A single person will continue to be assessed on that basis. No fundamental changes are proposed to adoption procedures, under which a child's birth mother has an extensive input into who may adopt her child and is involved throughout the process in outlining what she considers to be in the best interests of her child. However, many of the likely adoptions will be in-family adoptions in which the child's parent and the parent's partner jointly adopt the child.

The provisions on guardianship are likely to have the widest application as they will benefit children living in a wide range of family situations. The Bill makes provision for a step-parent, a civil partner or a parent's cohabitant of not less than three years' duration to apply to the court to become a guardian where he or she has co-parented the child for two years. These guardians will generally have restricted powers limited to decisions on day-to-day matters, which we know often arise and cause great difficulty because the powers now being provided do not exist, other than where it is in the child's best interests for the guardian to have full guardianship powers. As such, they strike a careful balance between the responsibilities of parents and the need for the person caring for a child on a daily basis to be able to take day-to-day decisions on behalf of that child.

During debate on the Bill in the Dáil, the guardianship rights of non-marital fathers more generally were raised by a number of Deputies. As Senators will be aware, the Bill provides for a non-marital father to be automatic guardian of his child if he has lived with the child's mother for 12 months, including at least three months with mother and child following the child's birth. A change was made in this area following committee discussion on this issue. The period of cohabitation can of course take place at any time before the child turns 18. This provision creates a new automatic mechanism under which non-marital fathers can become guardians of their children, in addition to the existing mechanisms, which will remain in place. As Senators will be aware, these include the making of a statutory declaration, through which a non-marital father can easily acquire guardianship once the declaration has been signed by the father and mother, duly witnessed. The other option is to apply to the court for guardianship. As emerged during the Dáil debate on this issue, with which I am sure Senators are familiar, many fathers are not aware of the statutory declaration option. As a result of that debate I have taken a number of initiatives to try to deal with some of the issues arising in that regard.

I am conscious of the need to make it easier for non-marital fathers to acquire guardianship. This is the intention underpinning the cohabitation provision. It is quite a radical change in terms of the rights of non-marital fathers. I have devised a new scheme whereby it will be possible for non-marital parents to sign the statutory declaration when registering or re-registering their child's birth. Many non-marital fathers believe that if their name is on the birth certificate this gives them guardianship rights. However, that is not the case. They must also have signed a statutory declaration. I felt that by bringing the two together it would be likely that more non-marital fathers would assert their rights at the point of registration. I have arranged with the Minister for Social Protection that, at the point of registration of the child's birth, the parents will be informed that the inclusion of the father's name on the birth certificate does not in itself confer guardianship. This is to dispel the mistaken impression of many non-marital fathers that their being named on the child's birth certificate is enough to acquire guardianship. The couple will be given a copy of the statutory declaration. It will be possible for them to sign the declaration in the presence of a registrar, at no charge, either at that time or within a fortnight. Obviously, they can still make the declaration at any later time, but when doing so at the same

time as birth registration, the timeframe allowed is a fortnight.

With the agreement of the Minister for Social Protection, I have included in this Bill legislative changes to the Civil Registration Act 2004 which will give registrars the authority to witness statutory declarations for guardianship. I have also removed the requirement in section 2(4)(d) of the Guardianship of Infants Act 1964 which required the parents to have made arrangements in relation to custody of and access to the child prior to signing the statutory declaration. Again, this is an attempt to remove barriers. I am confident that these changes will make it much easier for non-marital fathers to avail of the statutory declaration mechanism to acquire guardianship. I have also given a commitment that the Department will review these provisions within two years to ensure they are working effectively. My objective is to facilitate as many non-marital fathers as possible to become guardians. At the same time, it is important to ensure that a child's best interests are safeguarded and that neither the child nor the mother should be put at risk as a result of these provisions. A number of Deputies who contributed to the debate on the Bill in the Dáil spoke about non-marital fathers acquiring rights but at the same time said there should be exceptions, such as in rape or domestic violence cases. However, when it comes to defining what the exceptions should be the task becomes quite difficult. Others argued that one should not make assumptions about all fathers because some fathers would be in those situations, which is also an important point.

Some organisations have raised the issue of a central register for statutory declarations. The establishment of such a register requires advance planning so that adequate systems can be devised with regard to data accuracy, updating of information and data protection. I want to prevent the register from becoming an additional element of red tape for a non-marital father, whereby a declaration would have to be registered for it to be valid. It is preferable to have a repository in which non-marital parents could deposit a statutory declaration so they have security in terms of seeking additional copies of the declaration if the original copy were lost or destroyed. It is interesting to note that we have not up to now had in place a mechanism to guard these documents. Currently, people keep these documents themselves, which is in line with the arrangements for many other legal documents. However, some people would argue that a central register is so basic that we should have had one in place. It will be difficult to establish a register immediately, but I have announced my intention to develop a pilot project to establish a voluntary repository into which non-marital parents can deposit copies of statutory declarations. The lessons from the pilot project will inform us on whether to proceed with the establishment of a national repository. I have made some inquiries into the type of work that would need to be done, and it is quite substantial.

I will now turn to the description of the Bill. Part 1 sets out standard clauses in terms of collective citation, interpretation and expenses. On the issue of commencement, I have taken into account the concerns raised with me that couples currently undergoing fertility treatments might have their treatment suspended because of the move from anonymous to non-anonymous procedures. Accordingly, I have agreed with the Minister for Health that the provisions relating to donor-assisted human reproduction will not be commenced for a minimum period of one year post-enactment. This is to allow for couples currently going through fertility treatments in Irish clinics to complete those treatments. Putting in place a transitional period of a minimum of one year will allow for an orderly transition to the new arrangements. The Minister for Health, in advance of the establishment of an authority, will have responsibility in this area and for commencing these provisions, as the unit tasked with setting up the national donor-conceived person register will be under his or her auspices on an interim basis. Similarly, the Minister will

have responsibility for preparing the regulations that will underpin these provisions.

Part 2 deals with parentage in cases of donor-assisted human reproduction. A number of important key conditions must be fulfilled if parentage is being assigned. The donor-assisted human reproduction will have to take place in a clinical setting; the birth mother and the intending second parent must give consent in advance that they will both be the parents of any child born through donor-assisted human reproduction, and the donor will also have to state in advance of the procedure that he or she is a donor and does not intend to be a parent of the child. If these conditions are fulfilled, the intending parent will be recognised as a second parent under section 5. Detailed work needs to be done in terms of the consent forms and regulations, which work will be undertaken after the enactment of this Bill. It will be for the Department of Health to work out the details in that regard. Also, to ensure clinics can work with their international partners in this area, they will need advance notice regarding what will be involved in terms of consent forms and regulations.

The Bill makes provision for retrospective recognition of the parentage of certain donor-conceived children. Where a child is born in the State as a result of donor-assisted human reproduction treatment carried out before the commencement of the Bill, sections 20 to 22 outline the procedure that will apply. These are very detailed procedures. There has been a lot of contact from parents who are in this situation. I am sure many Senators have received letters from individuals who are in this situation. Having considered the matter, we felt we should include the following mechanism. If certain conditions are fulfilled, the couple can apply to the District Court or the Circuit Court for a declaration of parentage and the court can issue the declaration if it considers it to be in the child's best interests. Each of these cases will be dealt with individually according to the provisions of this Bill and in a court setting provided certain conditions are met.

Part 3, which I will not go into detail about, sets out the obligations that will apply to donor-assisted human reproduction facilities. They will be prohibited from using anonymous gametes other than in two exceptions.

Part 3 also sets out the procedure that will apply in terms of accessing information from the national donor-conceived person register. A donor-conceived child, once over 18 years, will be able to seek, from the register, all the information held on the donor. I amended these provisions on Report Stage in the Dáil to ensure they fully reflected the objective of enabling the child to trace his or her genetic identity. I was not given legal advice but I had to allow for an exception. For example, there could be an exception if providing the information totally compromised the safety of the child or the donor. I would consider that to be truly exceptional if that situation were to arise. Of course, if it were refused, the case could still be appealed in court. That means there would still be the possibility for the person who had that information refused to go to court.

Part 4 sets out the provisions that will apply with regard to guardianship. In addition to the provisions already mentioned, a guardian parent will be able to appoint a temporary guardian, where the parent is suffering from serious illness or injury which prevents him or her from exercising his or her guardianship responsibilities in respect of the child. This is a practical arrangement that would help families where this situation arose. The appointment can only be activated through a court-based process to ensure the best interests of the child are properly considered.

Part 4 also enables a relative to apply for custody of a child. A parent's spouse or civil partner, or a parent's cohabitant of not less than three years' duration, can apply for custody where she or he shared parenting of the child for two years. A person can apply for custody if she or he has parented the child for a year and if there is no parent or guardian willing or able to exercise the powers and responsibilities of guardianship. That means we are allowing for the range of different situations that can arise in families and where issues of custody and guardianship emerge.

Important provisions have also been included to enable grandparents or other relatives to have access more easily to a child in the context of relationship breakdown. That means we have simplified the process for a grandparent to seek access or custody. Obviously the process would still be done in a court setting but is now a single procedure. Before this it was a two-step process which put a lot of grandparents off even thinking about doing so.

The Bill requires the child's best interests to be the paramount consideration in any of these decisions on guardianship, custody and access. For the first time in legislation we have outlined a series of contexts and criteria for making a decision on a child's best interests. We have also gone into details about the range of issues a court should consider in making a determination, for example, the quality of the relationships with those involved and whether there is any question of household violence, which is very important because of the potential impact on the child's safety and well-being. Provision is also made for the child's views to be heard either directly in the court or by using an expert to speak to the child. For the first time in legislation there is a set of enforcement procedures on custody and access.

Part 5 makes technical amendments. Part 6 amends the Family Law (Maintenance of Spouses and Children) Act. There are also some changes to the Status of Children Act as well. Part 8 amends family law to enable the court to order maintenance payments by the cohabiting partner of a child's parent for the benefit of the dependent child and to make associated provisions. I have already spoken about the changes to the Civil Registration Act which provides for registration. Section 93 inserts a new section in the Civil Registration Act which I mentioned.

Section 95 deals with the situation of donor-conceived children who are born through a donor-assisted human reproduction procedure that has taken place before the Act is commenced. If the parents have secured a court order under section 21 or 22 declaring them to be the parents of the child, they can have the child's birth re-registered. This provision will enable the second parent to be registered as the child's parent on the child's birth certificate.

Part 10 amends the Passports Act. It enables the Minister for Foreign Affairs and Trade in certain circumstances to issue a passport to a child living outside the State and without the consent of a guardian. Part 11 amends the Adoption Act. I have already spoken about the changes in this section.

Part 12 amends the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 to extend the protections of that Act to dependent children of one or both civil partners. These protections relate to maintenance and the protection of the family home. They provide for a civil partner to have a potential maintenance liability in respect of a dependent child of the civil partners.

Part 13 makes a number of changes to other Acts stemming from the provisions of this Bill, for example, legislation on adoptive leave and maternity protection which are a consequence of

the changes in the Bill. We are amending the Bill in order that various people will be entitled to apply for leave.

The Children and Family Relationships Bill is a child-centred and family-centred Bill which will benefit hundreds of thousands of children. It will give stability and certainty to the children of atypical families in terms of their parentage and guardianship. It will place, as I hope I have illustrated, a child's best interests at the heart of key decisions concerning a child's life. It will give the child a voice in the process. I am proud and pleased to be associated with a Bill which sets a child-focused blueprint for family law. I commend this Bill to the House.

**Senator Averil Power:** I welcome the opportunity to speak on this important legislation. There is no doubt that Irish family law is totally out of date and does not reflect the diversity of modern families. It is focused generally, as the Minister has said, on marital families and does not provide adequate protection or support for those living in other forms of loving family environments. That is a huge gap given that one in four children live in a non-marital family, 215,000 families are headed by single parents, 49,000 families are headed by cohabiting parents, 230 families, which is a relatively small number, are headed by same-sex parents, and many other families are headed by grandparents, foster parents and others who have taken the place of the child's biological parents. For too long, Irish family law has treated non-marital families as invisible and, as a result, has denied children the legal protection and support they deserve.

The fact that many people parent without guardianship rights causes a wide range of problems. At the most basic level, it means non-guardians cannot make simple day-to-day decisions such as signing a letter to give permission for a child to go on a school trip. They cannot consent to medical treatment. In the event of a biological parent dying, the child has no legal relationship with their other parent. This means, for example, that someone who has been a parent to the child on a full-time basis for 15 to 17 years of that child's life is deemed not to be their parent in the eyes of the law. This is also the case in family breakdown situations and is extremely distressing for all concerned. The legislation is welcome in this regard. As the Minister has said, the Bill alters substantially the existing guardianship arrangements to address those issues.

The legislation clarifies the parentage of children born through assisted human reproduction which is long overdue. It also provides for a range of other improvements in family law, including provisions for easier access for grandparents, which is important. When a relationship breaks down, it is important for a child to have as much stability as possible in his or her life and to maintain relationships with all of those in his or her wider family circle, which is in the best interests of the child, regardless of how the two adults want to fight it out.

The legislation will affect a wide range of families and, therefore, it is important the legislation is given proper scrutiny both inside and outside of this House. I am somewhat concerned about the media coverage given to the legislation. Due to it progressing at a similar time to the marriage equality referendum, some groups have deliberately misrepresented the Bill. In fact, listening to some of the debates one would think we were debating a same-sex adoption Bill.

The reality is that same-sex families make up a minuscule proportion of the families that will be affected by this legislation. In fact, assisted human reproduction is mostly availed of by heterosexual couples, while the vast majority of adoptions involve step parents or other relatives. Moreover, the adoption rate in Ireland is very low. Of the 70,000 children born here last

year, only 122 were adopted domestically, most of them, as I indicated, by step parents or other relatives.

In all cases, the determining factor under Irish law, before and after this Bill is enacted, is the best interests of the child. I have a huge personal interest in this area, as have others in this House, and it is important to reiterate that the best interests of the child is the paramount consideration. No adult, gay or straight, has a right to adopt; all they have is an opportunity to be considered. The courts will always consider what is best for the child and that will continue to be the case after this Bill passes. It is unfortunate that some people have deliberately sought to portray the legislation as something it is not, which has distracted from a broader consideration of the overall impact of the provisions. That is a shame because it is important that all those affected by it understand how the Bill will affect their lives, be they single parents, step parents, grandparents, foster parents or others affected by the various issues involved.

Overall, the Bill is a very progressive provision that will be of huge benefit to a wide range of families. It is a welcome and important step forward. I take this opportunity to record my appreciation of the Minister's willingness to meet with Senators in recent weeks to deliver a face-to-face briefing and tease out the issues with us. I have written to her on several occasions regarding specific provisions and she has responded to all my queries. I was not necessarily happy with all the answers but I appreciate her making herself available in that way. She has taken an open approach to her brief since taking over as Minister for Justice and Equality. It is a good way of doing business.

Although I welcome the Bill on the whole, I do have some concerns about certain provisions. At present, unmarried fathers have no automatic right to guardianship regardless of the closeness of their relationship with their child. They can only acquire that right if the child's mother agrees to sign a voluntary statutory declaration or by going to court. Many fathers do not realise this is the case until there is a problem such as a relationship breakdown and they are left in a very precarious position when difficulties do arise. That is very unfair not just to the men involved, but also to their children. Moreover, the current arrangements are totally out of step with best practice internationally, which aims to have both parents as involved as possible with their children, even where there may be a difficulty in the relationship between the two adults.

We should always encourage both parents to strive to have the best possible relationship with their child. I appreciate that the Bill improves on the current situation by providing guardianship rights to one set of unmarried fathers, namely, those who have been cohabiting with their child's mother for 12 months, including for three months after the birth. However, this does not go far enough and is problematic for several reasons. First, the criteria set out in the Bill focus on the relationship between the father and mother even though the provisions in the rest of the legislation are very strong on the best interests of the child. Second, the cohabitation requirement is problematic. As Dr. Geoffrey Shannon, Special Rapporteur on Child Protection, has pointed out, it could throw up strange situations where the parents are in an intimate relationship but the father is living away, perhaps because he is in the Army and has been posted abroad for a period. Another example of an anomaly that might arise is where parents are living apart while one is looking after a sick relative. Third, I am concerned that cohabitation is not defined in the Bill as it is in the Civil Partnership and Certain Rights and Obligations of Cohabitants Act. In short, the criteria are simply not clear enough for such an important issue.

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I would favour a system of presumptive guardianship such as that which operates in the United Kingdom, with appropriate safeguards to deal with the minority of situations where a child or mother might be at risk as a consequence of the father's involvement. We should be legislating on the presumption that children benefit from having both parents involved. We are doing it backwards, however, which is to the disadvantage not only of fathers, but also of children. I appreciate the Minister's positive response to the proposal tabled by my Dáil colleagues about encouraging mothers to sign the statutory declaration earlier and making fathers aware of their rights at the very start. That is a positive step and will help to alleviate some of the difficulties. However, I urge her to look again at the overall position on fathers' rights. Penalising all fathers because of a minority, and thereby penalising their children in turn, is wrong.

Will the Minister re-examine the proposals for a register of guardianship agreements? She has indicated her intention to consider initiating a pilot scheme, which is welcome. I note her concern about the red tape that might be involved in a compulsory national system, but I do not expect it would be overly cumbersome. It is important that there be as much clarity as possible in family law and that we keep these issues out of the courts. There will be saving in terms of court time if we can ensure documents are properly recorded on a national register in the first instance.

In regard to assisted human reproduction, I welcome the increased clarity in respect of parentage for children born after the Bill comes into effect. It is unfortunate that so many children have been born in the past ten years in the absence of our dealing with this issue. What is contained in the Bill is a positive step forward. I also welcome the decision to outlaw anonymous sperm donations. It is extremely important that all children have their right to their identity vindicated. We have had difficulties in this regard, as discussed here previously. Senator Jilian van Turnhout and I are trying to address those issues as they relate to adopted persons in legislation we will bring forward. It is vital that we do not inflict the same hardship and pain on children born through assisted human reproduction. Some of the clinics have claimed the restrictions will lead to a decrease in donations. My response to that is, "So what?". The primary interest here must be the rights of the child, and children are entitled to know the identity of their biological parents. If it is the case that people seek to circumvent the restrictions by travelling to other European countries, then we need to address the issue at a European level. I would like to see all the countries that have signed the European Convention on Human Rights honouring the protection it provides for family life, in Article 8, by agreeing collectively to outlaw anonymous donation. This should be dealt with as a human rights issue.

The assisted human reproduction provisions do not go far enough in providing protection for children conceived in this way. I understand that under the first draft of the Bill, as brought forward by the former Minister, Deputy Alan Shatter, all donor-conceived children would automatically have had their intentional parents recognised as their legal parents. Under the current provisions, children conceived in Irish fertility clinics with the assistance of donor sperm will automatically have their intentional parents legally recognised. Those conceived in foreign fertility clinics or in Irish clinics prior to the enactment of the Bill with the assistance of donor sperm will have the opportunity for a court to set out the situation, but only if the identity of the donor is unknown to the intentional parents. Children conceived with known donor sperm, whether in a clinic or outside a clinic, are completely excluded from any opportunity to have their intentional parents legally recognised. That is problematic. All children should have a right to their identity and I urge the Minister to reconsider the matter.

I also have concerns regarding the adequacy of the information that is being collected

about donors. I would like to see more information included on the register, including the type of medical information that is extremely important to the individual. People conceived through assisted human reproduction should have more access to non-identifying information about the donor, which could be helpful to them as they grow up. As I said, the lack of retrospective rights for those born before the legislation comes into effect is a cause for concern. The Minister indicated that in some circumstances, a Minister may refuse to release information about the donor to his or her son or daughter. The courts can look at this, we are told, but I am strongly of the view that the Bill should set out the criteria that will be considered. There is reference to well-being as a standard but it is not clear what exactly that means. It is a very important right to know one's identity and we should be clear on these matters.

Another cause for concern is the lack of provision for step parent adoption. The Minister indicated that the Minister for Health will look at that issue in due course, but it is something we expected to be addressed in this Bill. While I understand why the surrogacy provisions were taken out of the legislation, I am concerned the issue might not be dealt with in the lifetime of the Government. We have children who do not know where they stand because they were born through surrogacy. That issue has been considered in the courts but, as it stands, it is all up in the air.

Finally, if this legislation is to be as child centred and positive as intended, there is an urgent need to reform the family law courts. As Dr. Geoffrey Shannon said at the conference the Minister and I recently attended, there is no point in having Rolls Royce legislation if we do not have the machinery to enforce it. I urge the Minister to make that a priority.

**Senator Martin Conway:** I welcome the Minister to the House for what is groundbreaking legislation which successive Governments should have introduced many years ago. Governments right across the political divide are at fault in this regard. The situation in regard to guardianship and the law relating to it is outdated, but not for long. The legislation before the House reflects a new Ireland in which, as Senator Averil Power has rightly said, there are different types of family units, and there are children in these family units. All children deserve to know both their parents. I share Senator Averil Power's concern about certain limitations. Most will agree that we will be 80% to 90% of way with this legislation. It is an enormous start. It is a reflection of what the Government has achieved by having created a Minister for Children and Youth Affairs in 2011 followed by the children's rights referendum. The Government's legacy certainly will be that it is bringing all matters relating to children up to date, which is only right and proper.

I look forward to a constructive debate as the Bill goes through its various Stages this week. What we are doing is crucial not only for people now but for generations to come. I will not detain the House any longer. An e-mail has come forward in recent minutes indicating that a number of amendments will be tabled on Committee Stage. We need to debate these and our obligations to children and children's rights will be put centre stage in terms of the legislative process.

**Senator Jillian van Turnhout:** I welcome the Minister and her officials to the House. I thank her for the consultation in advance of the debate and the opportunity for pre-legislative hearings on the general scheme of the Bill in committee. My colleague, Senator Katherine Zappone, was very active in the committee on that issue.

As a person who has advocated for children's rights for many years and has the privilege

of being a voice in the legislative process, this feels like a really important day, and I believe it is. The Children and Family Relationships Bill will bring about essential and long overdue reform, modernisation and legal clarity to many aspects of family law, particularly to diverse parenting situations and diverse family forms. When I say overdue, that is not a criticism of the Government. I commend the Minister, Deputy Frances Fitzgerald, her predecessor, Deputy Alan Shatter, and the officials in the Department of Justice and Equality on their courage and expertise in drafting the Bill and bringing it before the Houses. It is an indictment rather of many previous Governments that it has taken us all until now in 2015 to introduce what will be the greatest reform of child and family law for a generation and finally to put children at the heart of family law. It is the first major reform of guardianship laws since the 1960s. I read an article by Colette Browne in the *Irish Independent* in February in which she noted that 3% of births in the 1960s were to an unmarried mother. I looked at figures in preparation for today's debate solely in regard to these areas as married families can break down and issues can happen. Figures which I received from the Children's Rights Alliance show that 308,000 children are living with 186,000 lone parents, 104,000 children are living with 60,000 unmarried cohabiting couples, 43,000 children are living with 29,000 lone fathers, and there are 230 same-sex couples with children. I want us all to have a perspective on the figures and to understand that these are many of the children we are talking about in debating the legislation.

As indicated by the figures, an increasing number of children live in diverse parenting situations and diverse family forms other than the traditional model of a household headed by married parents. I could use all my time to outline the areas I think will significantly contribute to children's lives and their positive outcomes. For me the Bill is very much based on children's rights. It is based on the best interests of the child being the paramount consideration and ensures issues such as continuity of care, right to identity, and the voice of the child are all becoming normalised and part of the legislative process. That is welcome.

I will use my time to indicate the areas where I think we could go further. For example, the Bill does not include definitions of guardianship, custody and access which would be essential to reduce the level of family conflict that may take place when relationships break down and to avoid the existing confusion among the public, professionals and the Judiciary. I understand the options about guardianships and the different levels of guardianship, but will it be difficult for the public to understand which levels of guardianship one person has *vis-à-vis* another? In future Bills, perhaps we should look at the Law Reform Commission report of 2010 which examined the legal aspects of family relationships. It suggested new terms such as parental responsibility, day-to-day care and contact rather than the word "access". These are much more child-friendly terms and state the roles the adult would play in the child's life. However, I recognise and support the Bill as a monumental step in the right direction and the foundation from which child and family law can continue to be developed and bolstered to meet the needs of our ever-evolving society.

Given the breadth of the Bill, it is disappointing that the debate around it has been limited to a few narrow strands, albeit challenging and emotive issues by *nouveau* children's rights proponents, whose premise I do not always agree is children's rights centred. I am especially saddened by the talk of a hierarchy of family structures or some sort of Olympics of family structures meeting a gold medal standard where we now have silver and bronze who do not even get to compete. I am conscious that there are children who will listen to parts of the debate. I am not suggesting that they would be tuning in to the Seanad, although they come and visit us regularly, but I am concerned that in some way we are putting affirmation on one sort

of family form or another. There are many different reasons for different family forms. We do not need to look too far beyond our families to understand the different types and diverse types of families in which children are living.

On Committee Stage I will be looking at section 63 which deals with the best interests of the child, particularly in relation to the Guardianship of Infants Act 1964. It provides a new and detailed definition in Irish law of the best interests of the child. The factors and circumstances enumerated thereunder are not exhaustive, and therefore the court will be capable of looking beyond them in making a determination concerning the child. The Bill will allow the courts to consider the physical, emotional, psychological, educational and social needs of the child, including his or her need for stability, having regard to age and stage of development. That is welcome.

As has been mentioned, Dr. Geoffrey Shannon, special rapporteur on child protection, suggests that in tandem with this welcome legislative development, structural reform also needs to take place, namely, we need to establish a distinct and separate system of family courts. I am aware there is a commitment in the programme for Government to provide a fair and effective forum to vindicate the rights of children and families.

The Child Care Act 1991 is silent on the qualifications, roles and duties of guardians *ad litem*. A properly funded guardian *ad litem* agency in Ireland is long overdue. We have a blueprint for this in the Children Acts Advisory Board report of 2009 which gives a voice to children's wishes, feelings and interests. I hope that as we progress the Bill, we can ensure the voice of the child is certain and guaranteed.

An issue that has been raised with me by Barnardos is the court welfare service. This service would provide a crucial link between the family and the Judiciary, offering services such as mediation, undertaking assessments of the child's welfare and best interests, ascertaining their view through a child view expert, guardians *ad litem* and conducting family risk assessments. It would ensure judges received up-to-date holistic information on each case to help them in making their decision. The service would also provide, where appropriate, support such as child contact centres to assist the children in highly contentious and acrimonious splits. Perhaps we should look at other systems in operation, such as the Children and Family Court Advisory and Support Service in the UK.

I will move on to the issue of the right to identity, which my colleague Senator Power has raised. When I see all our colleagues raising the issue of right to identity, I wish many of them had been here when we were debating the Adoption (Information and Tracing) Bill, but we will wait and see. I am concerned that people are misrepresenting and misconstruing the principle underlying a child's right to identity to fit their own agenda. They are talking about the child's right to identity from the mother's and father's perspectives, rather than from the child's perspective. This Bill approaches the issue from the child's perspective, based on children's rights. We had a good debate in the Seanad on the Civil Registration (Amendment) Bill, during which I tabled an amendment on the child's right to identity. Hopefully, as we evolve in our thinking, we can assert this right to identity more and more. The focus of these groups is often selective, to further an ideological end, rather than a genuine concern for the vindication of the child's right to his or her identity. This is the crux of our continuous failure on the issue of a child's right to identity. Historically and culturally, we have constructed a hierarchy of rights, a veil of secrecy, to deny children the right to their identity. What the Minister is putting forward in this Bill and in the Bill on assisted human reproduction is to be welcomed. There are groups that

wish we would go further or that we would allow for anonymous donation. The Minister has struck the right balance. I have sympathy with the position of Senator Power in that I would like to see the right to identity here. We have a history of not acknowledging it, but this is a welcome start. The transition period the Minister has proposed is fair and pragmatic. I would prefer that a child have a right to his or her identity, but I am willing to accept what the Minister is putting forward as a strong change, with a focus on children's rights and ensuring they have their right to identity.

I also want to raise the issue of unmarried fathers. I am worried that we still have a long way to go on this issue. We often feed into the negative stereotypes of unmarried fathers as feckless, irresponsible flakes. It is all too easy for us to do this. Worse still, the justification for not granting automatic guardianship rights to fathers appears to have been conflated with concerns about domestic and sexual violence. These heinous crimes can happen in any type of family, not just unmarried ones. It is wrong, prejudicial and discriminatory to link it exclusively to unmarried parents. The law should presume that the majority of unmarried parents are responsible and reasonable. Where they are not, this should be addressed through relevant legislation. The solution is not to penalise the majority. Colette Browne, in her article on the Children and Family Relationships Bill, says that it compounds our unfair treatment of unmarried parents. She says that currently unmarried fathers have zero legal rights over their children, which means that:

[...] if your partner is away and your child falls ill, you cannot authorise medical treatment. It means that if your relationship breaks up and your partner decides to move abroad with your child, you are powerless to stop her. It also means that you have no automatic right to custody or access to your child. By law, the mother is entitled to sole custody of the child if the father has not been made a guardian. Imagine a worst-case scenario in which your partner dies and you are left alone to care for your child.

How can we make it more natural and how can we ensure that guardianship rights are there?

I have much more to say, but one of the issues I want to raise relates to statutory declarations. All of us have lost precious documents. For example, I lost my driving licence years ago. We are talking about a piece of paper. If one loses it, it is gone and one's rights are extinguished. I welcome the Minister's suggestion of piloting a repository. I wonder if we need to do more than that. I acknowledge what she is saying - that she does not want to make it compulsory and add another hurdle - but we have to find a way in which those statutory declarations can be lodged.

I want to be absolutely clear, so that there is no misunderstanding, in saying that I wholeheartedly welcome this Bill. I support it and I will do everything I can do ensure it is brought into law. Its potential is manifold, but at its heart it is about children's rights. I thank the Minister for bringing the Bill to the House.

**Acting Chairman (Senator Diarmuid Wilson):** I call Senator Norris.

**Senator Marie Moloney:** Senator Ivana Bacik is the Labour Party spokesperson.

**Acting Chairman (Senator Diarmuid Wilson):** I will return to Senator Norris, but I must first call Senator Bacik. I have to cross the floor.

**Senator David Norris:** My God. I yield to the forceful woman.

**Senator Ivana Bacik:** I am happy for Senator Norris to speak first.

**Senator David Norris:** I thank Senator Bacik for yielding so graciously. I will share my time with Senator Quinn, who has indicated that three minutes would be sufficient.

I welcome the Bill. The Minister has quite rightly said, and I know this comes from the heart, that the starting point is the privacy and the best interest of the child. Everyone in this House agrees with this. She made reference to a Supreme Court judgment regarding the birth mother of a donor-conceived child. That seems to be one of the maddest decisions of the Supreme Court. It is absolutely daft. A mother who is a host to a fertilised egg is the mother of the child, despite having no biological connection with it? I do not understand it. We will leave that to one side, however.

The Minister said that anonymous donation was being prohibited so as to ensure that donor-conceived children would have the possibility of tracing their identity. I want to make this point very strongly, because it is an issue the Minister might look at. It is actually not opening up the possibility; it is forcing the information on the child, because this information is contained in the birth certificate. I ask her to look at that again. She is quite right when she says that a child should have the possibility of accessing the information, but it should be only the possibility. There may well be some children for whom this comes as an unwelcome piece of information.

Then there is the question of the interim period, the kind of flow-in period of 18 to 24 months. That is inadequate. The Minister probably had correspondence from the Institute of Obstetricians and Gynaecologists which makes this very plain. There is a considerable difference of opinion here.

Senator van Turnhout quoted many statistics. I welcome this. I have received the same information from the Children's Rights Alliance. It is worth putting on the record that 500,000 children are growing up in different types of families. That is a significant number of children. It is not only the 308,000 children living with unmarried, cohabiting parents, lone mothers and so on, but also those living with the 42,960 people who have divorced and remarried. Of these, 56% of remarried women and 22% of remarried men are living with children. Some 6,454 children are living in State care. There are no statistics for children who are living full-time with grandparents. Approximately 70% of heterosexual couples using donated sperm or eggs have opted for anonymous donation. That is a substantial majority of people who are in this situation, and this will be violently altered. Some 40% of single women or lesbian couples also go for anonymous donations. In addition, 2-4% of fathers raising children are not the biological parents of the child.

Many of us may not have realised that there is no sperm donation in this country. All sperm donated and used here is imported, mostly from Denmark, and donor eggs used to come mostly from Ukraine. Denmark allows both anonymous and non-anonymous donation, while donation in the Ukraine is all anonymous. The majority of couples having egg donation travel to Spain or the Czech Republic, where donation is anonymous. This practice will undoubtedly continue for quite a number of years. It will take a slow cultural change for the majority of Irish heterosexual couples to move to open donation. Again, there is a strong argument for this long link-up period.

Another point that needs to be made but that has not been made so far relates to the language in the Bill. In reference to prohibition on anonymity, the Bill refers to procedures taking place in the State "leading to the implantation of an embryo". We need some clarification in this regard because the whole question of facilitating is so general that it opens up a very wide area.

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As we know, an increasing number of couples travel abroad for this treatment and this will expand considerably when the Bill passes. It would be a great shame if people who provide scans, obstetric and psychiatric counselling and so on were inadvertently criminalised by this Bill.

I forgot to say well done to the Minister earlier for bringing in this Bill. The political arithmetic guarantees it will slide through. It will tear the hypocritical veil away from people like those in the Iona Institute who are making out that the equality referendum is all about children, but that has nothing whatever to do with it. When this Bill is finished, that one will be gone to hell forever. Let it never be confused: the equality referendum is about equality. The other side had better lump it because this Bill deals with adoption and guardianship of children.

I put it to the Minister that I would not have voted for the Civil Registration Bill. It did not go to a vote in this House - I believe the Minister was a Member of this House at the time - but I said I would not vote for it because of the way it completely and scandalously neglected children. This Bill, and well done to the Minister, is the antidote to that legislation.

There is a question of the run-in time, time limits and exceptions. Correspondence I have from the Institute of Obstetricians and Gynaecologists states that those who already have gametes or embryos donated anonymously and frozen before the commencement date will be allowed to use these gametes and embryos for three years after the commencement date. The institute “feels that this period is medically inappropriate”, a very strong sentence. The correspondence continues with the view that if a person or couple wishes to have several children, it would not be possible to fit these pregnancies into a three-year timeframe. It is common for several surface embryos to be produced in a donor egg *in vitro* fertilisation cycle. Best practice is to transfer a single embryo with a view to a singleton rather than multiple pregnancy and to cryopreserve the rest. A time limit of three years on embryo use will raise a clinical and ethical dilemma. It may pressurise parents to undergo transfer of their frozen embryos in a shorter timeframe than medically advised. It may also encourage a transfer of more than one embryo, leading to multiple pregnancies and higher risks for mothers and babies. For patients who are not in a position to use their embryos within the three-year timeframe, the ethical dilemma of destroying embryos will have to be faced. Now let us hear the pro-life brigade on the matter of forcing embryos to be destroyed. The institute strongly believes that the duration of the time limit of exceptions outlined in head 12 should be extended from three to ten years.

I have received a very disturbing letter on this point from a man who is unable to have children because he does not produce sperm. He and his wife decided to accept a sperm donation anonymously and they had a son, who gave radiance and beauty to their life. They wanted to continue and have another child who would be a sibling child for their existing child. The clinic held some of their donor sperm and last year they started again. They were unsuccessful. However, they are on the routine again. The crucial paragraph in the letter states:

We were devastated to hear this morning that our clinic would not proceed as we had planned due to the new Bill. Our next opportunity to conceive will be after the legislation is due to come into effect on 24 March. The legislation, as it is proposed, will not allow our son to have a true genetic sibling and force us to use a different donor, if we can find one. This is a terrible blow to my wife and I.

**Acting Chairman (Senator Diarmuid Wilson):** You have three and a half minutes remaining, Senator.

**Senator David Norris:** I will use the half minute to raise another question.

**Acting Chairman (Senator Diarmuid Wilson):** That is 30 seconds.

**Senator David Norris:** The rights being offered for children with a known donor are limited to the non-biological parent being able to apply only for guardianship and only after two years. This blocks a pathway to parentage that other donor children are being offered. Guardianship offers far fewer rights for the children.

Finally, I have received another communication that states:

Children conceived in Irish fertility clinics with the assistance of donor sperm will have their intentional parents legally recognised. Children conceived in foreign fertility clinics can apply to the court, but children conceived with known donor sperm, whether in a clinic or outside of a clinic, are completely excluded from any opportunity to have their intentional parents legally recognised.

That is another point.

**Senator Feargal Quinn:** I appreciate Senator Norris sharing his time and I thank Senator Bacik for allowing us to take precedence on this Stage. I agree entirely with Senator Norris when he referred to the Minister's enthusiasm. The Minister and I were together at the Project Arts Centre on Thursday last. It was great to hear her enthusiasm for the legislation. I might not agree with all of it but certainly her enthusiasm is worthwhile.

I welcome the Government's efforts to take into account how the family structure has changed dramatically in recent years. However, I have some reservations about the Bill as it stands and certain amendments could improve the Bill substantially. The vast scope of the Bill means that the changes should have been put to a referendum. I know the Government is highly unenthusiastic for referendums now but let us consider the fact that we have put more minor changes to referendums in the past. Indeed, the sheer number of changes that this law will bring about is likely to mean there will be changes and challenges to the Bill. When I have introduced legislation in this House, one of the major Government arguments is that my Bills may interfere with the Constitution or may be unconstitutional. However, this Bill, which runs to 114 pages and 180 sections, is supposedly completely watertight. I find that somewhat hard to believe, but let us see how it goes.

A man was on the radio on Saturday week last discussing adoption. He impressed me. He was gay, but he was going to vote "No" in the referendum. His reason was that he believes every child should have a mother and a father.

**Senator David Norris:** There are crackpots everywhere.

**Senator Feargal Quinn:** That may be, but his point was that he grew up with a mother and father. When he went to his father to explain that he was gay, the father found it very difficult to take, while his mother was very sympathetic. He was of the opinion that every child would be better having a mother and a father. That has certainly influenced me to think in a way that I might not otherwise have thought. Professor Ray Kinsella has argued that the legislation would promote arrangements where children are intentionally denied either a mother or a father. Whether that is correct, I do not know.

I got a letter only this morning. I am not going to read the entire letter but I can offer a

flavour of it:

We are writing to ask your help with a proposal regarding fostering and adoption. In 1989 my husband and I long-term fostered two brothers who were three years old and one year and eight months old when they came to us. We have no other children. They are still with us at age 29 and 28. When they were small we asked several times to adopt them but their birth mother would not give consent. Now that they are adults we still wish to adopt them and the boys themselves also wish it. As far as I understand, it is not possible for an adult to adopt another adult in Ireland at present.

Perhaps the Minister could handle the matter privately rather than in the Chamber but the letter continues: “It is done in other countries, the United States being one.” Specifically, their proposal is that long-term foster parents be allowed to adopt their adult foster children:

We feel that it would ensure that they are full members of the family, especially in terms of inheritance rights, decisions on elder care, and, I am sure, the many other aspects that would emerge. This seems to us infinitely more than just the situation which now prevails.

I do not know the situation, but the last sentence was, “So with change in the air because of the upcoming children’s Bill we are hoping that there is still some time that you can help us.” They gave their names, addresses and telephone numbers. I will give the Minister the letter and she can follow it up. It seems to me that this Bill needs a lot of debate. I regret that we will have a short time to deal with it, but that is our fault. The Minister will welcome a good debate on this. There was a good debate in the other House; let us make sure we have a good debate here.

**Senator David Norris:** On a point of order and for the edification of Senator Quinn, could I put on the record that I caused a survey to be done by *Gay Community News*? In a survey of several thousand people, it found that 96% were strongly in favour of gay marriage, 2% were a little confused and 4%, a tiny number, were against it for some daft reason. Where these nut-cases are fished out from I simply cannot imagine.

**Senator Ivana Bacik:** I welcome the Minister to the House. I strongly welcome this Bill, which is a very progressive reform of family law. It is long overdue and is child- and family-centred reform, which for the first time properly recognises the diverse forms of family life in Ireland. Others have commented on the figures which show that the use of the term “atypical” is no longer appropriate, something the Minister acknowledged in her speech. It is extremely positive for many of us to have the Bill recognise that there is no longer any typical family form, which is what is reflected in the Bill.

Others have commented on the Bill’s long genesis. It is indeed long overdue, and the Government is to be commended on its introduction. An original general scheme was introduced in January 2014. I was very privileged to be a member of the Joint Committee on Justice, Equality, Defence and Women’s Rights which examined the Bill, held hearings on it in April 2014 and published a report last May, which, as the Minister said, fed into the Bill. I will mention some of our recommendations and the way in which the Bill took on board much of what we said at the time.

I very much welcome the fact that the Minister has engaged so closely with many of us who were interested, from the time the new scheme of the Bill was published in September to its publication and passage through the Oireachtas. It reflects some of what was said in the report of the Commission on Assisted Human Reproduction in 2005, as the Minister said, which

shows how overdue it is.

The Children's Rights Alliance has said, very succinctly, that this Bill is to be welcomed for two key reasons. It protects the child's right to family life and ensures decisions are made in the best interests of the child. That encompasses the range of aspects of child and family law that are covered in the Bill. A broad range of issues are covered, including donor-assisted human reproduction, parentage and pathways to parentage for children, guardianship and adoption. The overarching theme of the best interests of the child runs through the Bill.

Some have commented on the Bill's relationship with the Constitution, but this is a Bill which does not require a constitutional referendum and is entirely separate. That is very clear to anyone who reads the Bill closely.

The Bill was broadly welcomed by the many stakeholders who made submissions to those of us on the joint committee. As we said, it is intended to create a legal structure to underpin diverse family forms. A nice way of putting it is that it creates a new architecture for family forms and guardianship, custody and access to children. We know our current law is rather dated, as the 1964 Guardianship of Infants Act still governs this area. Much of the Bill will amend the 1964 Act, the Status of Children Act 1987 and other pieces of legislation.

Senator van Turnhout commented on the language of the Bill. The joint committee recommended that new and revised forms of wording should be used to better reflect our day-to-day language. Instead of guardianship we should speak about parental responsibility, instead of custody we should refer to day-to-day care, and instead of access we should speak about contact. I appreciate that the Bill is primarily amending existing legislation and what is needed in the future is a much larger piece of codifying law to bring together all of the relevant legislation into one global statute to deal with this area.

I am also conscious that until the Supreme Court rules on the children's referendum there are other aspects that cannot be dealt with, such as the right of adoption for children who were born into a marriage. Some things will still need to be done.

As others have said, we know that family forms have become much more diverse. Some 35% of all children are now born outside marriage, and 500 couples participate in civil partnerships every year. Many couples, predominately straight couples, avail of IVF or assisted human reproductive facilities, something of which we are all aware. This Bill will reflect all of that.

I want to mention a couple of aspects of the Bill in more detail. I refer to donor-assisted human reproduction, which is set out in Parts 2 and 3 of the Bill. Like many others, I have been contacted by individuals and couples who are concerned about some of the provisions in the Bill, on which Senator Norris had a briefing earlier. It is a difficult and complex task to balance the interests of the people who contacted us with the pre-eminent right of a child to access information concerning his or her genetic identity. In the joint committee report we emphasised that the right to identity should be acknowledged and recognised in the Bill. That is the genesis of sections 24 to 38, particularly the introduction of a register of donor-conceived persons. Recommendation 22 of the report of the Commission on Assisted Human Reproduction in 2005 was about the need to ensure a right to identity. That balance has been achieved effectively in this Bill.

I appreciate the real concerns of couples who have children born through donor-assisted human reproduction and want to have a genetic sibling. The three-year exemption will deal

with that for some people. It may take some time to conceive a child through this method, and therefore some people are concerned that the period is too short. I am grateful to the Minister for her agreement to delay the commencement of those provisions, which will address many of the concerns of those individuals, families and clinics. Some lead-in time will be needed to establish the new procedure whereby certain information will be required for donations.

There has been a little bit of scaremongering around the idea of people travelling abroad. They are already doing so to avail of assisted human reproduction facilities in other countries for all sorts of reasons, something of which we have to be aware. A careful reading of section 24 gives some comfort to people who are concerned about this. I understand embryos formed pre-commencement will not be subject to the three-year time limit, but we need to clarify the effect on people of the provisions on access to information for children conceived in this way.

Issues in respect of guardianship have been raised. Section 49 is greatly improved and reflects a recommendation from the joint committee. The original provision in the Bill for unmarried cohabitant fathers was that they would have to cohabit for at least 12 months prior to a child's birth, which has been changed. The new provision is much more flexible. A careful balance has to be struck, as the Minister said, to ensure that the child's best interests are safeguarded. I am glad she said there would be a two-year review of the provisions on automatic guardianship.

It is very welcome to hear the Minister say that, in a non-statutory way, she has also arranged for procedures to be made simpler for people to sign a statutory declaration. Currently, many of us who have gone through a statutory declaration process do so with a solicitor, who keeps a copy, as do the individuals concerned. It is done in a very *ad hoc* way by individuals who are aware of the process. The simple method whereby at the point of registration of a child's birth parents will be informed of the existence of a statutory declaration procedure will go a long way to ensuring greater recognition of guardianship rights for non-marital fathers, and this is very important from a child's perspective.

The joint committee recommended that a central register be established. I listened with great interest to what the Minister said about it, the difficulty of establishing it and the danger that it would result in more red tape. The idea of a pilot project for a voluntary repository will address the issue of people losing documents, wondering where the copies are and so on. That is another very welcome decision. In terms of the other aspects of the guardianship part of the Bill, the justice committee was concerned about sanctions for breaches of court orders on access and custody. I think section 60 reflects the committee's recommendation in this regard by ensuring the enforcement provisions will not penalise the child. For example, children should not be denied access because of breaches by parents. I am glad to see some creative provisions included in section 60, for example, requiring parents to go on parenting courses. That is very welcome.

I would like to welcome the adoption provisions in Part 11, which will ensure that couples in a civil partnership and cohabiting couples will be eligible to apply to adopt. As others have said, there is no right to adopt. It is very welcome that such people will be considered for adoption for the first time. Our adoption laws are hugely anomalous. Along with Senator Norris and many others, I pointed out during the debate on the Adoption Act 2010 in this House that it was anomalous that cohabiting or gay individuals could apply to adopt as individuals but could not apply as part of a couple.

I would like to mention an aspect of adoption that is not being reformed in this legislation. It is disappointing that it is not being addressed. The justice committee recommended that step-parent adoptions should be covered in this Bill. I know this issue has been raised with the Minister by some individuals. As Senator Power said, there were just 122 domestic adoptions in Ireland last year. The vast majority of those cases involved in-family adoption by step-parents who were usually adopting the child of the birth mother. I know plenty of people who have had to go through this ridiculously cumbersome procedure, which involves the birth mother relinquishing her rights so that she and her husband can re-adopt as a couple.

There should be some mechanism that reflects the reality of the diverse family forms in Ireland today. As increasing numbers of children are living in blended families, it should be possible for step-parents to adopt through a simplified procedure whereby the birth mother does not have to give up her rights in respect of the child. Again, it is in the interests of the child to have his or her parents regarded as such. We need to make a very important change in this regard. I know that other reforms to adoption law will need to be made, assuming the children's rights referendum is upheld. It may not be possible to make those changes in this legislation. I would love to see us amend this legislation to that end. I am conscious of the long genesis that this Bill has already had. It is important for us to see it brought in. I think the position of step-parents needs to be considered,

I will conclude by speaking about the broad issue of diverse family forms. As we all know, the text of Article 41 of Bunreacht na hÉireann - the Constitution, which is the supreme law of the land - unfortunately still recognises only the family based on marriage. The definition of marriage may extend if the marriage equality referendum is passed, as I hope it will be. Nonetheless, it will still remain the case that only those families based on marriage will be recognised in our Constitution. I think there is a broader issue about looking to amend our Constitution at some point to reflect the diversity of family life that we have all mentioned and to ensure there is no sense in which there is a hierarchy of family types, or in which some family types are regarded as being superior to others.

This welcome legislation goes a long way to ensuring children have equal rights under the law regardless of the family form in which they are being brought up. I think that is what really makes us all welcome this Bill. Indeed, it is great to see it getting this very broad welcome across the House. I hope we will see it passed into law without delay.

**Acting Chairman (Senator Diarmuid Wilson):** The Senator has concluded right on the button. She is an example to all of us.

**Senator Ivana Bacik:** I thank the Chair.

**Senator Hildegarde Naughton:** I welcome the Minister to the House. We live in a time when, for various cultural and economic reasons, we can no longer think of traditional marriage when we discuss the family. The traditional stereotype of mum, dad and two kids is just that - a stereotype. Until the introduction of the Status of Children Act 1987, the concept of bastardry and illegitimacy was alive and well in our system. Eighteen so-called fallen women remained in the Magdalen laundry in Galway until it closed in 1984, within the living memory of Members of this House. Since the foundation of the State, brutality was meted out to men and women in religious and other institutions by a society that saw some people as lesser individuals due to what were considered their lax morals. In fact, the people in question refused to conform to the stifling and brutal moral certainty of the time. This dictatorship of the majority

was hugely wounding to society. We should have learned by now that there are no certainties and no absolutes. People are different and should be respected in their difference. They should not be seen as second-class citizens with lesser rights than those who conform to the majority.

According to the State's special rapporteur on child protection, Dr. Geoffrey Shannon, almost all the proposals contained in the draft Bill are progressive. Given that there has been no more than piecemeal reform to the law on the family outside marriage since the Guardianship of Infants Act 1964, this consolidated approach is to be welcomed and should considerably improve the position of the family outside marriage. Until the enactment of the Status of Children Act 1987, children born in this country to unmarried parents were considered illegitimate. The 1987 Act abolished the concept of illegitimacy. A seismic change has occurred in Irish society, in terms of the structure of the modern family, in just over 25 years. This Bill is a welcome step to ensure the law keeps pace with the status of the modern family and the myriad legal issues associated with it.

Objections to this Bill seem to be based on the suggestion that the State is seeking to promote an unstable form of family. Nothing could be further from the truth. The State is seeking to give legal certainty to actual families that are living in this country but have no support and are discriminated against. The State is making families more stable. It cannot close its eyes to the actuality of family life in 2015 and beyond. A subliminal message of disapproval of other lifestyles, on the part of those who seem to think everyone should have the same form of family unit, can be noted throughout the objections to this legislation. These people seem to think the State should not support those who do not have the same type of family unit and definitely should not try to make their lives easier or happier. The State's simple message is that it cannot and will not disapprove of, and certainly will not discriminate against, our fellow citizens just because they do not conform to what others believe.

Much of the commentary on this legislation has related to question of same-sex adoption. I concur with my colleagues who have said that the provisions addressing this question form a very small part of the Bill. Many other important elements of it relate to questions like father's rights, the ability of relations acting *in loco parentis* to gain legal protections, etc. As the issue of same-sex adoption has unfortunately gained the most traction, I would like to deal with it here. The reality is that single people who are gay or straight have been lawfully able to adopt in this jurisdiction for decades and have done so. The opposition to the provision in this Bill allowing gay couples to adopt makes very little practical sense. I say this for a number of reasons. Principally, I would ask whether people objected to single gay people being able to adopt here for many years. Why is there opposition to two gay people in a stable relationship being able to adopt, when there was no opposition to one of them being able to do so? Are those who advocate for stable families seriously suggesting it is better for a child to be brought up by one person than by two people in a stable relationship who are able to share the task? It seems to be less preferable for two people to love and care for children than for one of those people to do so, if the people in question are gay.

We need to make it clear that not one properly conducted and peer-reviewed study has indicated that children raised by gay couples are in any way disadvantaged. The Members of this House must proceed on the basis of fact rather than suspicion and fear. The most-often quoted study against gay adoption or marriage is one conducted by Mark Regnerus. I would like to record what the American Sociological Association, which is the foremost association of its type in the world, had to say about that study. During the course of its amicus brief to the US Supreme Court, the association said that "the Regnerus study does not specifically examine

children born or adopted into same-sex parent families”, but instead examines those who seem to recollect one of their parents ever having a same-sex relationship”. Regnerus compared the people in that group, most of whom had experienced family dissolution, to people from stable married opposite-sex families. He ignored whether the children lived with or were raised by the parents who had a same-sex relationship. He identified these gay parents on the basis of the recollection of the children, rather than on the basis of how the parents actually identified or lived their lives. Most of the factors analysed by Regnerus were adult outcomes, rather than childhood outcomes, and could have had nothing to do with the relationships of the children’s parents. In the conclusion of its submission to the US Supreme Court, the American Sociological Association argued that “the social science consensus is both conclusive and clear: children fare just as well when they are raised by same-sex parents as when they are raised by opposite-sex parents”.

Again, we must look at the reality and the lived lives out there. There are hundreds of gay people in this country with children, either biological or adopted. Many are in stable relationships, with their partners acting as de facto parents. At present, if the child or children require any form of parental consent, only one can provide it. Only one can provide a sick note, only one can attend a parent-teacher meeting, and the list goes on. No matter how long the de facto parent has been caring for the child concerned, this is the case. The State has an obligation to provide legal certainty and stability to these families and this Bill does just that.

I would like to raise what seems to be a similar case to that raised by Senator Quinn and which was brought to my attention in recent days. It involves a couple who fostered two baby boys a number of decades ago and were never in a position to adopt them as the birth mother rejected this at every effort. The two boys are now in their late 20s and they would like to be adopted by this couple. However, looking to the future and to their parents growing old, or to the position when they die, they will always be considered as strangers. I believe it is hugely unfair to have all these four citizens in this situation. Perhaps a change is possible in the context of this Bill, and I would ask the Minister to look at what can be done in regard to inheritance and all of the issues that surround this case.

I welcome the legislation. I think it is important that Ireland adapts to our changing society and that we look forward and not back when we consider the family and society and what that is built on.

**Senator Mary M. White:** I am delighted to have the opportunity to speak on the Bill in Seanad Éireann today. It is without doubt the most important and groundbreaking reform of child and family law for a generation. Irish families are far more complex today than our legislation recognises and this Bill will modernise the law regarding the parental rights of children living in diverse family forms. The Bill recognises the reality of diverse family types and has the potential to impact positively on the lives of almost 500,000 children who are growing up in many different types of families in Ireland. That is nearly one in every two children in the country. Children should not be punished because of the circumstances of their birth or the marital status of their parents. That is why this Bill is so urgently needed.

As the Minister said in the opening part of her speech, the starting point in this Bill is the best interests of children. This is the golden thread running through the Bill. The proposed legislation is intended to put children at the heart of family law, provide legal clarity against various family types and address discrimination faced by children in non-marital families. It will make the best interests of the child paramount in decisions on guardianship, custody and

access, and it addresses key issues relating to maintenance, adoption, parentage and assisted human reproduction. It is a shocking criticism of our political system that this Bill marks the first big reform of guardianship laws since the 1960s when just 3% of births were to unmarried mothers. Today, that figure is one third and growing every year.

Regrettably, one area where the Bill does not go far enough is where it concerns the rights of unmarried fathers. Treoir, the National Federation of Services for Unmarried Parents and their Children, has argued there is nothing in the Bill for unmarried fathers unless they have co-habited with the mother for the requisite time of 12 months, a minimum of three of which must be post-birth. Therefore, unmarried fathers will continue to have to resort to the courts if the mother does not agree to sign a statutory declaration for joint ownership witnessed by a peace commissioner or a commissioner for oaths.

Another issue raised by Treoir is a scenario where a statutory declaration for joint guardianship is signed and subsequently mislaid or destroyed, resulting in no evidence of the fact that the father has guardianship rights to his child. This can have dire consequences, such as a father losing contact with his child or not being able to consent to medical treatment for his child. The Bill needs to provide for the establishment of a guardianship register to keep a record of statutory declarations agreeing guardianship rights.

This is groundbreaking legislation. While I do not want to throw bouquets at the Minister, I am continually impressed by her stewardship of the ministries she has had, and this is a fantastic personal achievement for her. None the less, the Bill still fails to address the current discriminatory situation of unmarried fathers. It is not acceptable to treat them as second-class citizens.

Next year we are commemorating the 100th anniversary of the 1916 Rising by the patriots of our country who led us to independence after 800 years of practically being a colony. I would like to read a few words on this. The Proclamation of the Irish Republic, read outside the GPO by Pádraig Pearse during the course of the Rising, states: “The Republic guarantees religious and civil liberty, equal rights and equal opportunities to all its citizens, and declares its resolve to pursue the happiness and prosperity of the whole nation and all of its parts, cherishing all of the children of the nation equally”. At times, I have said we are not really a true republic because so many do not have equal rights. However, this Bill and the forthcoming Bill on marriage equality are bringing us closer to the aspiration and visions of the people who laid down their lives for our country in order that it would cherish all the citizens and all the children of the nation equally. I offer my congratulations to the Minister.

**Senator Marie Moloney:** I commend the Minister on bringing forward this long-awaited, groundbreaking and progressive reform of family law legislation. I believe this Bill will ensure the safety and security of children and it is a huge step forward. I thank the Minister’s officials for meeting us in advance of this Bill. The legislation is very detailed and comprehensive and I note how many other pieces of legislation it impacts upon, such as the Succession Act, the Family Law (Maintenance of Spouses and Children) Act, the Status of Children Act, the Family Law Act, the Civil Registration Act, the Passports Act and the Adoption Act. One can imagine the amount of work and time the Minister and her officials have put into this. Once again I congratulate the Minister on bringing the Bill forward.

There are some very welcome measures in the legislation, such as the provision for cohabiting couples to be able to adopt jointly, the provision for same-sex couples to be able to adopt, and the provision to appoint as a guardian a relative or a grandparent in the case of illness or

serious injury. I discussed this last point with the Minister's officials at one stage. For example, if, God forbid, both parents were killed in a car crash, there would be a need to appoint a guardian. If both sets of grandparents come forward and wish to file for guardianship, I guess the matter would have to end up in the courts. I believe many things will end up in the courts with regard to guardianship under this legislation.

I particularly welcome the provision for the child's voice to be heard, which is very important. There are very important issues affecting the child's life but the child might not have a say in regard to guardianship, custody or access. This is a very important point for children who are of age. Obviously, if the child is too young and cannot make that decision, it would be different. As children get older, however, they are well able to make the decision as to who they would like to live with, who has had the most impact on their lives and who has been involved in their lives as they have been growing up. In Ireland the unspoken gender roles in child rearing and the unspoken thought that children are always better off with mothers have a bearing on present family law. It is a right of children to be looked after by their parents. Legal parenthood lies in the idea that genetic parents are the parents of the child. In the past there has been a change in the concept of a family. Our views of the nuclear family are no longer the only socially accepted structure. Families have been reconstituted where single parenthood, having unmarried parents and growing up with parents of the same sex has become more common. If we ask ourselves who are the parents of a child, the quickest response will always be that he or she is the child of Mrs. so and so. Automatically we think that the birth mother is the mother of the child. Paternity on the other hand is viewed as intent, based on marriage. We are bound to the idea of marriage as proof of paternity where there is an assumption that the man to whom the woman is married is the biological father of her children. Our traditional view of paternity is that this situation is easier to establish.

A section in Part 4 of the Bill provides that an unmarried father can automatically be the child's legal parent provided he is cohabiting with the mother of the child for 12 consecutive months. Under the Icelandic children's legislation, a man who is a registered cohabitee with the woman who gave birth is automatically considered as the father. I have grave concerns about unmarried fathers and non-cohabiting fathers who play an important role in the child's life and want to become a legal guardian. Often the courts come down very hard on fathers, a separated father or an unmarried father. Many unmarried or separated fathers find it very difficult in the courts to get access to their children. The judge always seems to be intent on making sure they pay maintenance but when it comes to custody of or access to the children, they come down very hard on the father. I have had many cases where a father came to me saying he did not get a chance to speak in the court as the judge did not seem to want to listen. He is willing and able to help rear his child even though he is not in a relationship with the child's mother. There is many a good father out there. We all know about those who are reckless and feckless, for want of a better word, where after the birth of the child they do not pay maintenance and do not want to have anything to do with the child. While there are many of those there are also the good fathers who seem to be overlooked. I have a concern about those people.

In her contribution the Minister outlined a provision whereby a biological father when he is being registered as the father can become a guardian. The provision also provides for a step-parent who has been cohabiting for not less than three years to be given the right to become a guardian also. Who will have most rights? Will it be the biological father or the step-father when it comes to the court? We need to focus in on that issue. Are we going back to a situation where the child, if old enough, will have a say and determine with whom he or she would like

to live?

The other issue I wish to raise concerns donors. I have met two people who have become donors. One is a family member who has given her eggs to her sister who has given birth to a beautiful baby girl. The reason the donors approached me was that they wanted to know what legal safeguards are in place for them. Does the child conceived by the donor egg have rights to inheritance? Is the issue open to legal challenge? Will the child, as an adult, take a case to say he or she is the genetic child of a particular person? I agree that they should be registered in the donor-conceived person register because everybody has a right to their medical history. Given that Ireland is a very small place, people can meet up and marry and may find out that there is a relationship between them if they do not know their identity. In the debate on the adoption Bill we discussed the right to medical records of the family. I agree with the proposal to have a register.

While we have not dealt with the issue of surrogacy, there should be a clear delineation of responsibilities for the parents and the surrogate. The behaviour of a mother is a biological and instinctual process. What happens if the surrogate mother is driven by the biological process associated with the pregnancy to care and support for her child and is emotionally unable to give the child up? It is important to recognise that these impulses are an inherent part of the mothering process and the ability to meet the contractual obligation may not be accepted in a rational matter.

There is much more I could say. There are many positive aspects to this Bill which I welcome and I will support it through the different Stages. I congratulate the Minister on bringing it forward and I hope it will pass easily.

**Senator Katherine Zappone:** It is an extraordinary privilege to comment on this Bill. I begin by remembering the vision, tenacious commitment and hard work of the former Minister for Justice and Equality, Deputy Alan Shatter, on this Bill, and on the milestone reform of family law that it represents. I acknowledge the Minister's extraordinary passion about getting the Bill right for the children and families of Ireland amidst the highly complex technical, legal and medical issues contained in it. Her contribution indicates all the ways in which she has listened to various concerns and has made changes to the best of her ability. It will never be perfect, especially in light of the time we have waited. I congratulate the Minister on her commitment and on what has been done. It is an extraordinary achievement to have got this far with it.

As a lawmaker I appreciate the Minister's insistence on extensive consultation and her deep listening to the range of views of stakeholders who have come to her, as well as the expertise available and the officials in her Department and her other advisers.

I am a member of the Joint Committee on Justice, Defence and Equality. I remember, with gratitude, the leadership of the committee Chairman, Deputy David Stanton, as he chaired extensive hearings on the scheme of the Bill, ably assisted by Senator Ivana Bacik, who has identified the way we made recommendations through that piece of work. The Minister has indicated the ways in which she has accepted those recommendations. I think this is what the Minister was implying in her contribution in terms of how they have walked us through all the work that has been done over the course of some time. Time has been on our side in relation to this Bill.

I view the Bill as a legal bedrock upon which the diversity of families will be valued,

recognised and protected in Ireland. It is a landmark Bill. Its enactment will provide a modern system of family law that protects families, and the welfare and best interests of children. It is a modernisation of family law and reflects the diverse range of contexts in which children are being raised today. It offers great flexibility in addressing this emerging diversity. It is diversity and not sameness that is the fundamental principle and norm of human life in the 21st century. Senator Naughton spoke eloquently about diversity, as did others. Senator Bacik spoke about the constitutional reform that is required in order to recognise that diversity, as the constitutional family is still too narrow. At the same time we have a widening of recognition of the diversity of families in the context of at least this statute.

While the traditional model of married biological parents raising their own children is popular and will remain so, many children are being raised in families that do not fit this traditional mould. The Bill offers greater flexibility in addressing these modern parenting arrangements. It recognises various paths to parenting. Not everyone who parents a child is necessarily a biological parent of the child. As the Minister has indicated and other Senators have acknowledged, it takes a child-centred approach; we cannot say that often enough. It reinforces and recognises the responsibilities that a variety of people other than biological parents take on in respect of a child. I know that grandparents are particularly grateful for aspects of the Bill. It ensures that a variety of arrangements are addressed in law, and contributes to stable and secure parenting arrangements for the child.

That said, it is critical to highlight that under the provisions of the Bill, biological parenthood prevails unless very specific and highly regulated steps are taken. The Bill requires the informed consent of all donors and intending parents to DAHR procedures. There are provisions allowing for a change of mind prior to implantation. There are clear and rigorous rules for carrying out donor-assisted human reproduction procedures leading to the assignment of parentage. The procedure must be administered through a certified clinic. There are clear safeguards for the child's right to identity, allowing the child to access information on reaching the age of 18. In this scenario, no one can become a parent or lose parentage by accident or without their consent. The donor in particular will be fully aware in advance of the fact that he or she will not be treated as a parent. Outside the context of donor-assisted human reproduction and adoption, the parentage of a child is still predicated on the biological link with the child. Where a child has been conceived naturally and not adopted, biological parenthood still very much prevails. It is critical to make that point.

I wish to indicate some of the prime positive changes the Bill will bring to the landscape of family law, and to the protection of the rights and the best interests of children. I will then conclude by identifying some areas where I still have concerns and questions. First, the Bill brings clarity to parentage following assisted human reproduction. It provides greater certainty for the child, for the intended parents and donor or donors. It recognises the lived reality that it is the intending parents who will provide for the child's needs and eliminates any uncertainty about the responsibility of the non-biological intending parent in such cases. The Bill does this while ensuring that the child has a right to know his or her identity. I was interested in some of Senator Power's suggestions for allowing the child access to certain aspects of his or her identity prior to the age of 18 that do not necessarily require the name of the donor.

Second, the Bill expands the range of circumstances in which a person who is not a legal parent may act as a guardian. It provides a number of new routes to guardianship.

Third, the Bill provides more options for unmarried fathers. I welcome the changes the

Minister made. As amended in the Dáil, it allows registrars to certify statutory declarations conferring joint guardianship on unmarried fathers.

**Acting Chairman (Senator Paul Coghlan):** The Senator has one minute.

**Senator Katherine Zappone:** The Minister has indicated her objective to facilitate as many non-marital fathers as possible to become guardians. However, I question whether it should be all non-marital fathers and why there is not a presumption for non-marital fathers. Why is that not the case?

Fourth, the Bill obliges civil partners to maintain their civil partners' children on the same basis as applies to spouses, and it allows greater stability for the child being raised by same-sex couples as it allows civil partners and long-term cohabitants to adopt the child. Where same-sex couples apply to adopt a child, it is most likely that the child will not be a stranger to them, but rather a biological child of one of the parties. In such a case, it would clearly not be in the best interests of the child to be adopted by total strangers, even if they are heterosexual and married.

I wish to raise some concerns. The form of guardianship offered to spouses, civil partners and cohabitants is a limited form of guardianship. A court can enhance the type of guardianship granted, but the default form of guardianship is limited.

**Acting Chairman (Senator Paul Coghlan):** The Senator's time is up.

**Senator Katherine Zappone:** Could I have a further 30 seconds, please? There was some coming and going when I started.

Why is full guardianship not the norm? If it were the norm, the Bill could also allow the court to grant a more limited form of guardianship in appropriate cases.

I have concerns about sections 18 to 20 of the Bill relating to "retrospective recognition" of parentage of donor-conceived children before commencement of the Act. Other Senators have also raised this issue. Am I correct that, as the Bill currently stands, for children yet to be born through DAHR, the donor must be known and yet for children already born through DAHR the donor must be unknown? Why is there a banning of known donors retrospectively, but not prospectively? I do not understand the logic and would like the Minister to address that.

Senator Bacik raised the issue of second-parent adoption.

**Acting Chairman (Senator Paul Coghlan):** The Senator is over time.

**Senator Katherine Zappone:** Where a person wishes to adopt his or her spouse's or civil partner's child, why does the parent have to give up the child for adoption and adopt the child himself or herself? I have concerns and do not understand the rationale behind that. I would appreciate if the Minister would address that.

**Senator Tom Sheahan:** I welcome the Minister to the House. I wish to speak about a case I have been dealing with for a number of years and it disturbs me every time it comes across my desk. In 2006, a young mother committed suicide and left two children after her, one aged 18 months and the other aged three years old. That day her sister went to collect those children in another province and brought them home. She has cared for them, is educating, clothing and feeding them, and is treating them as her own. She has two children of her own. To this

day she has got no assistance from the State. She did not qualify for guardianship because the father was still alive. Six weeks after the mother committed suicide, the father had a stroke, is incapacitated and cannot look after those children.

We are discussing the Children and Family Relationships Bill and this represents the best opportunity for me to raise the matter. That woman went to collect her nephew and niece that day with the best of intentions for them. It is my understanding that if those children were taken into care for one day or one night, she would have been afforded every assistance from the State from that day to this. However, she did not want those children to go into care. She provided a family unit for them. They have struggled. Her husband lost his job and was out of work for a number of years. She does not want a big a payment and has told me on several occasions that all she wants is a little help from the State.

As I said, their mother committed suicide and six weeks later their father had a stroke, leaving him incapacitated. We applied for guardianship and the reason they were unable to award payment was that they did not consider the children to satisfy the definition of orphans. Given that those children lost their mother at 18 months and three years of age and their father is incapacitated following a stroke, that is as near a definition as I would see to an orphan because the father is unable to care for them. They were lucky to have an aunt who is to this day looking after them. She will continue to raise them regardless of whether the State helps her.

I will give an idea of the family unit they have created for these two children. The social care worker told me, "I didn't know they were there, so she must be doing a good job". I thought that was as much praise as could be heaped on any woman substituting as a mother, which is what she is, yet she has received no assistance whatsoever from the State. The couple applied for guardianship but it was not granted. They also applied to foster the children but they did not qualify for that because the children had not gone into care and their father is still alive. I plead with the Minister to do something. We are talking about modern parenting and the Children First approach to parenting in the 21st century. While legislation may look and sound right and might be right in theory, I want it to be workable in practice. The woman and her husband in this case are giving some service to the State and that must be recognised. I will give the Minister the details in the hope that she can get her officials to examine the case. From a human perspective, as the social care worker said, "I did not know the children were there, so she must be doing a good job". The lady in question will continue to care for the children. All she wants is a little help.

**Senator Rónán Mullen:** Cuirim fáilte roimh an Aire. The Minister is welcome, but I am sorry to say that while there are features of the Bill that are unobjectionable and indeed desirable, this is the legislation that will destroy her legacy. She was the Minister who piloted the children's referendum through the Oireachtas and to a majority vote in the referendum, although the validity of the referendum is currently under court scrutiny. However, she brought the referendum forward as a measure designed to secure constitutional protection for children's best interests. Unfortunately, this legislation wrecks her credentials, and those of the Government, as defenders of the best interests of children. This legislation contemplates and facilitates a very fundamental attack on a child's rights, by allowing some children to be deprived of the right to be brought up by their own mother and father or, in any event, by a mother and father.

Joe Kennedy, the father of President John F. Kennedy, was a successful investor who made a fortune in the 1920s. He avoided the crash of 1929 by withdrawing his investments before the market collapsed. The story goes that Kennedy said that when he heard the shoeshine boy

at the subway telling him about his own investment strategy, he knew the market was at risk. He could spot groupthink and he knew the damage it could cause. We suffered disastrous policies in this country when the main political parties supported a system of groupthink and economic dogma based on popular misconceptions around property and banking. We went for years with very little in the way of meaningful challenge to the prevailing popular consensus. We need only look around our towns, villages and unfinished housing estates to see where the fashionable, popular consensus has led us. Important questions merit detailed and careful consideration. We should be guided by values and sober reflection when faced with making major changes to society. Where would we be now if the bank guarantee was debated and considered, instead of being rushed through? If that is true of economic policy, how much more true is it of the welfare of children?

With this legislation, history is repeating in the social sphere the tragedy of the groupthink that saw the Celtic tiger boom and then bust. Tendentious debate within the media and the sameness in the viewpoint of the political parties around this legislation are the opposite of what the public is entitled to expect from the journalistic and legislative class. It is remarkable and tragic that this Bill saw no substantial changes in the Dáil. It is farcical that we are running this Bill through the Seanad like an express train, in one week's sitting, alongside the marriage referendum legislation which the hasty and under-scrutinised passage of this Bill is designed to facilitate. Let us recall that the Animal Health and Welfare Act has 78 sections and took 13 months before enactment, as every line was pored over, searching for problems and unforeseen consequences. This Bill has more than 172 sections and the Government wants to enact it within weeks. Obviously the Government believes animal welfare deserves more careful consideration than children's welfare.

As much as I decry the lack of scrutiny of this legislation in the Dáil and in the media, I am even more surprised by the behaviour of those bodies and individuals who claim to represent the interests of children and who, perhaps this is the problem, often receive taxpayers' money to represent the interests of children. I read carefully the report of the Ombudsman for Children and the consultation paper of the Children's Rights Alliance regarding this legislation. Nowhere in either document was it affirmed that a child had a right to be raised by his or her natural mother and father where possible. Neither was there any reference to the explicit provisions of the UN Convention on the Rights of the Child where a child has a right to parents in his or her life, save for a reason pertaining to that child's welfare. The UN treaty references to parents do mean "mother" and "father". That is no more than what most people all over the world have believed since the dawn of civilisation, namely, that children are best brought up by their biological parents. I have heard Geoffrey Shannon, the special rapporteur on child protection, acknowledge more than once that "two biological parents in a low-conflict marriage" provide the "gold standard" environment for the upbringing of children. Nowhere does the legislation acknowledge, reflect or attempt to promote that, which is shameful.

I am sorry to say that the children's rights lobby, by supporting this legislation where it does, has undermined, as has the Minister, any claim to champion the interests of children. How can I say otherwise when it and the Minister support a Bill that fails to recognise that children have a right to be loved and cared for by the man and woman who conceived them - their mother and father - who each have given them one half of their genetic and family history. This legislation drives a coach and four through certain children's right to their mothers and fathers. This Bill states that an egg or sperm donor "is not the parent of a child born as a result of that procedure and has no parental rights and duties in respect of the child." Whether that donor has earned

the right to be a parent is a separate issue. This legislation should not facilitate the donation business and I will return to the matter on Committee Stage. In summary, where is the protest from supposed “children’s rights” defenders at the idea that the man or woman who gives one half of one’s identity can be legally denied to be one’s parent simply because the State and the adults involved will it to be so?

There is still an opportunity to place children’s rights, as opposed to the desires of adults, at the centre of the legislation. I have no confidence that the Minister has any willingness to do so. However, I will table a series of reasoned amendments which seek to place children’s interests and rights back at the centre of the legislation. Failure to ban egg and sperm donation in the Children and Family Relationships Bill is a big mistake. The failure to allow children born of assisted human reproduction to know their genetic parents until they are adults is also a mistake. It is difficult to comprehend that in the first draft of the legislation it was not proposed to allow any right for children to know their genetic parents. That shows how far removed from children’s welfare and best interests the class of people who have devised the legislation were, until a hasty amendment later in the day to at least give children the dignity of finding out who their parents are if they seek the information when they are 18, yet people say this is a children-friendly piece of legislation. What rot. To reiterate, the singular failure of this legislation is that it removes, as a matter of policy, any preference for a child’s genetic mother and father to be in his or her life. That is unfair and unjust.

The real test for people, both in this House and in government, who claim to support children’s rights, will be whether they have the courage to support amendments which seek to protect a child’s right to his or her genetic mother and father. We have arrived at an unhappy juncture in Ireland when the Commission on Assisted Human Reproduction can rhetorically pose the question, “Should science do everything that science can do without other consideration”, and the answer seems to be a resounding “Yes” because it seems to be all about what adults want. We are now technologically proficient in creating life through artificial means, yet the people in power are either hopelessly naive, or morally bankrupt. Commentators proclaim that all a child needs is “love”, without reference to family, kinship, blood ties, history or any of those things which give us identity and a sense of place in the world, and indeed which give us love.

If the Bill becomes law in its current form, the means of science will now be employed only to serve the ends identified by the adults and fertility professionals involved, separate from all considerations of children’s welfare, or indeed justice towards the child. However, it was the Minister for Health, Leo Varadkar, who said in 2010, “Every child has the right to a mother and father and, as much as is possible, the State should vindicate that right.” How unfortunate, and how unexplained by the way, that he should have moved away from his previously expressed views about the prior rights of children. This Bill shows the State not only denying the right of certain children to their fathers and mothers but, in particular, separating such children from their genetic mothers or fathers or from both genetic parents during their formative years, and that is supposed to be just fine for the children. The Beatles sang “All you need is love” but that was never meant to be a legislative proposal. There is a right to the love of each genetic parent, and it should not be deliberately interfered with, except for exceptional cases where the child’s own welfare dictates.

I have deliberately avoided any significant reference to the proposed referendum to change the meaning of marriage. I have said in the public domain and I repeat again, that the timing of this radical Bill is all about pretending that the change in the constitutional meaning of mar-

riage has no implications for children's rights to a father and a mother. That is yet another way in which children's rights are being subverted for more political adult-centred purposes in this legislation. This political cynicism is futile, however, because the issues of the referendum and this legislation remain intricately related. The Bill will need to be radically amended to restore the primacy of children's rights and welfare. The Constitution, if it is changed in the way the Government proposes, will block the Oireachtas from restoring the prior right of a child to a father and mother - where possible, its own father and mother - in every situation. This legislation, if it passes in this form, will therefore be central to the referendum campaign.

Let me ask the Minister these relevant questions in conclusion. If the referendum fails, will the Government accept that the reason is public concern about a child's right to a father and a mother? Will the Government then accept that the sections of this legislation which contemplate the deprivation of a child's right to a father and a mother, which are fundamentally misconceived and unjust, will have to be changed? In that event, will the Minister commit to revisiting the legislation?

**Senator Aideen Hayden:** I welcome the Minister to the House. Obviously I welcome the Children and Family Relationships Bill, which is the most important update in family law in a generation. It reflects the diversity of modern Irish families and puts children at the heart of family law. I share the views of Senators Power and Naughton that it is unfortunate that much of the media comment and some of the comment in this Chamber are designed to confuse the issue before us - namely, legislation on children and family relationships - with the upcoming referendum on marriage equality.

I do not believe the legislation has been remotely rushed. It is a decade overdue. It has gone through significant consideration by both the Dáil and the Oireachtas Joint Committee on Justice, Defence and Equality. It has been subjected to much debate by this House in other statements on children and family law, the rights of children and so forth. It was also discussed during the course of the campaign for the children's rights referendum. Far from being rushed, I believe it to be overdue. If we are to talk about a tragedy, one of the tragedies has been forcing political parties into making hasty judgments in anticipation of political campaigns and elections, such as the tragedy of the eighth amendment, which was incredibly ill thought-out and which we spend much of our time today trying to unravel in the courts and in legislation.

Laws are often slow to catch up with changing social realities and values. This weekend *The Irish Times* published its family values survey, which showed that across the generations Irish society supports the protection of diverse family models beyond the nuclear family based on marriage. Nobody denies that marriage, as an institution, is still important in Irish society, and it enjoys constitutional protection. However, this important legislation removes the discrimination that families and children outside legal marriage experience on a daily basis. Society supports increased protection for people who find themselves in family situations that are not currently recognised in Irish law.

Thankfully, the Bill fills a legislative silence and addresses issues of guardianship, access and custody, the rights of children in family law proceedings, and the rights of cohabitants and civil partners. It is also important to emphasise that it addresses the rights of grandparents, who are often ignored and neglected in a child's life following a relationship breakdown.

I welcome the new forms of guardianship introduced by the Bill. Cohabitants, civil partners, step-parents, grandparents and other family members will now be able to apply for guard-

ianship to recognise the important care they give to children in their lives. They can now enjoy legal protection for those relationships. Additionally, the Bill extends the right to apply to adopt a child to cohabiting couples and civil partners.

Despite much of the media comment, the people who will benefit most from this legislation are heterosexual couples who are either living together now or have had a relationship but are now living apart. Previously, it was only possible for a single applicant to adopt a child, but now applications can be made as a couple. It is an important step in removing discrimination, and recognises the value of non-marital relationships. For step-parent adoption, a lone parent who marries must adopt his or her own child if his or her new spouse wishes to adopt the child. We need to reform this unacceptable situation, and the Bill represents an opportunity to do this.

I commend the Minister on a child-focused Bill and welcome the provisions to protect the rights of the child to be heard. Under the Bill, the best interests of the child are a paramount consideration to the judge ruling on family law matters. While this was previously vague and uncertain, the Bill gives comprehensive guidance for the courts to decide on what would result in the best outcome for children who find themselves at the centre of conflict. This will provide much-needed guidance to the Judiciary and consistency in decision making. The Bill is in line with Article 3 of the UN Convention on the Rights of the Child and makes Ireland a global leader by enshrining these principles in law.

The views and wishes of the child are to be taken into account when decisions are being made about day-to-day care and relationships with the family. In this regard, the court may appoint an expert to ascertain the views of the child and convey them to the court. This expert will be funded by the parties to a case. The Bill makes no mention of funding for parents who cannot bear this additional cost, and I ask the Minister to take this into consideration. The child has a right to be heard, and economic barriers cannot stand between the child and justice.

There is little detail on the qualifications and expertise of the expert representing the child. Regulations are required to ensure the highest quality of personnel so that people who are trained to work with children are called upon to represent them.

I welcome the establishment of a national register of donor-conceived persons. The right to know one's identity is important to many people, and establishing this register is in accordance with the Constitution and the UN Convention on the Rights of the Child. I applaud the work of Senators Power, van Turnhout and Healy Eames on the legislation they have introduced to establish the right of an adopted person to his or her identity.

The Children and Family Relationships Bill marks a great step forward in a number of areas. It modernises family law, it puts children at the centre of reform, it represents international best practice and it reflects modern family models.

I have two further observations. Evidence from the University of Limerick shows that many of the benefits to children attributed to family legal status were not related to legal status but to socioeconomic background and the educational attainments of their parents. Poverty matters, and that should be kept to the forefront when we are considering the rights of the child.

As a member of the Constitutional Convention, I have found that many families do not feel involved and wanted in today's Ireland. The Constitution defines the family as being based on the institution of marriage - or rather, it has been interpreted as such by the courts. Today's legislation, while welcome, does not change this. We must change the reality for many families

who fall outside this definition. Organisations such as One Family have made presentations to the Constitutional Convention asking that the family be defined in the Constitution to include all families. In Ireland today we have many examples of unorthodox families that we would regard as families, including grandparents parenting children. Senator Sheahan mentioned an aunt bringing up two of her sister's children. It is time to get away from this archaic definition of the family and make it clear in a constitutional context that the family includes the many diverse arrangements of caring that we have in our society today.

**Senator Trevor Ó Clochartaigh:** Gabhaim buíochas leis an Aire faoin am atá sí ag tabhairt dúinn inniu. Tá mé ag éisteacht go cúramach le gach rud atá le rá aici. Tá Sinn Féin ag tacú leis an mBille seo inniu mar go bhfeicimid go bhfuil sé thar am go dtabharfar aitheantas mar is cuí do na leaganacha éagsúla clainne atá sa Stát seo.

Sinn Féin will support the Bill, and we commend the Minister on getting it this far. I challenge the attempts by some to label the Bill as the “gay adoption Bill”. This does a mischievous disservice to what is a pretty comprehensive overhaul of family law. The Children and Family Relationships Bill simply ensures that in the case of same-sex relationships, both parents of the child have guardianship rights.

I am pleased that the Bill recognises the reality of the diverse family types we have in Ireland today. Through the Bill we need to ensure that a child's right to family life is protected. As has been stated, Bunreacht na hÉireann places great importance on the family, defining it in Article 41 as “the natural primary and fundamental unit group of Society”. However, the courts have interpreted the constitutional family as referring only to marital families. Irish law currently does not provide adequate legal structures protecting the right to family life for the significant number of children in non-marital families, and this is simply not acceptable. Thankfully, this Bill means children living in non-marital and non-traditional families will now be in a position to enjoy a legal relationship with the person who provides them with day-to-day parental care, whoever that may be. Sinn Féin is also pleased the Bill contains a comprehensive definition of the best interests principle in line with Article 3 of the United Nations Charter on the Rights of the Child. This is most welcome in terms of providing guidance for the Judiciary and promotes consistency in application. I also welcome that the Bill will ensure a child's voice is heard and considered when important life-changing decisions are made in guardianship, custody and access.

I am, however, disappointed that several measures do not feature in the Bill. Sinn Féin would like to see the establishment of a central register for statutory declarations for joint guardianship. We also support the establishment of a comprehensive court welfare service to support the roll-out of this legislation. I have a concern regarding the cohabitation section where a father living with the child's mother for 12 consecutive months, including at least three months with the mother and the child following the child's birth, will automatically become a guardian. As the Minister knows, in some cases this is simply not possible. Sometimes mothers are still living with their parents. It is not always appropriate or indeed possible for the father to live there also. This is often the case with teenage or unplanned pregnancies. It does not always mean the father is in any way shirking his responsibilities or not stepping up. The circumstances are just not in his favour. There is nothing in the Bill for unmarried fathers aside from this cohabiting for the requisite amount of time.

Will the courts be sufficiently equipped and supported to hear very complex family law cases? How will low-income families, who do not qualify for legal aid, be able to use the courts?

I have some real concerns about how aspects of the Bill can really be implemented given the serious resource restrictions that exist, as well as the lack of consistency and specialist knowledge that can characterise some family law proceedings and the requirement to hear children's voices. I am generally concerned about the way family law is being dealt with by the current court system, a system in serious need of overhaul. The days of children and parents huddled into packed court waiting rooms, along with other citizens there for civil cases, have to end. We need a dedicated and fully resourced family law court system backed up by a comprehensive court welfare service.

The long awaited publication of the mediation Bill and progression through these Houses would be of immense value to families enduring separation and divorce, not just in terms of legal costs. The ability to resolve the issues in dispute in a non-adversarial environment rather than the blunt instrument of an adversarial court room has to be encouraged and facilitated better than currently allowed for. While mediation is available, too few families are availing of this option. I believe two persons separating should be required to attend an information session on the mediation process before their case can be accepted by a registrar or heard by a court.

I also have concerns about the public's perceptions of rights in this area. In our experience many parents mistakenly believe having a father's name on a birth certificate gives him guardianship rights. This misinformation has major adverse consequences for children. Will the Minister allocate resources to ensure more people are made aware of their guardianship rights? We need to make this information as accessible and widely available as possible.

Sections 21 and 22 outline the procedures that will apply where a second parent must be able to demonstrate that she or he knew of the donor-assisted human reproduction, DAHR, procedure and he or she must also be able to demonstrate that he or she undertook to care for and to exercise responsibilities towards any child born as a result of the procedure as though he or she were a parent of the child. The Minister stated the donor must be unknown to the birth mother and the intending parents and must not, for instance, be a friend of the intending parents. Will the Minister outline the legal thinking behind this? I have a case that pertains to this where the father was infertile and the couple took a sperm donation outside of a clinical situation from a friend who fully consented to this happening. They have a beautiful baby now and are very concerned that his rights will not be recognised under this legislation. Will the Minister clarify if such cases will be covered by the legislation? Ag an bpointe seo, ba mhaith liom a rá go bhfuilimid ag tacú leis an reachtaíocht seo. Fáiltímid go mór roimhe go bhfuil sé ag tabhairt aitheantais faoi dheireadh don iliomad chineál clann atá in Éirinn i láthair na huairé agus na riachtanais éagsúla atá inár sochaí. Mar athair a bhfuil iníon agam ó chaidreamh den chineál sin sular phós mé, cuirim fáilte roimh an reachtaíocht seo, a thugann soiléireacht i bhfad níos fearr do na cásanna éagsúla.

**Senator Jim Walsh:** This Bill, like the curate's egg, is good in parts. I welcome, in particular, the efforts to recognise the right of children to their identity, even though more needs to be done in the area. I welcome the improved guardianship for fathers but there is still a need for further action in this area. I also welcome the access for grandparents. There is an unseemly haste in how the Bill is being pushed through both Houses. The contrast has already been made with the animal welfare Bill which took 13 months. It is hard not to believe that the best interests of the child are being placed subsidiary to a perceived political imperative. There are important and profound issues at stake in the subject matter which require in-depth consideration.

We are all shaped to some degree by our life experiences. I am married now for over 40

years with three children which gives me an appreciation of the value that children place on a mother and a father. For most of my childhood, I grew up in a single-parent household with my mother and two sisters as our father died when we were very young. Obviously, this experience has given me not only a perspective but a deep conviction about the benefits of two-parent upbringing, as well as the right that children have to a father and a mother. My political involvement over many decades has given me a further insight into the changing trends of family structure and the comparable advantages and disadvantages.

Ireland is experiencing similar trends in family fragmentation, structure and diversity that have taken place in other countries. Recent studies in England emphasise the acceleration of these changing patterns. Between 1845 and 1960, there were only, on average, 5% of births outside marriage. By 2004, this had grown to 42%, with the most spectacular increase among working class communities. This was attributed in part to the collapse of industrial employment in those areas. Policymakers have failed to recognise, acknowledge and attempt to arrest the trend which is clearly not beneficial to the interests of the single mother, children or society. I feel it appropriate at this stage that I pay tribute to my own mother. She sacrificed her own life to rear us in very difficult economic times. I have so much admiration for single mothers who lose out on education, employment, career opportunities, perhaps even marriage, to look after their children, generally in a very financially challenged status. Often, they do it on their own when fathers have abrogated their responsibilities.

The economic cost of family fragmentation is enormous. A 1998 USA report put the cost there at \$112 billion per year, amounting to over \$1 trillion in a decade to cover associated costs and social programmes, education and the criminal justice fallout. The estimate for Britain is £15 billion but I have seen a figure as high as £24 billion per year with just 0.02% spent on prevention. The economic argument alone would seem compelling for the introduction of appropriate preventive measures. Supporting marriage is not about attacking other relationships but about recognising that it is the bedrock upon which a strong, fair and stable society is built.

There are general flaws in this Bill. It does not regulate DAHR fully but rather only legislates for some aspects of it and does so in a piecemeal fashion. DAHR will still take place in an unregulated environment without any independent regulatory authority. The Bill only deals with parentage issues and access to limited donor-related information. It ignores the fact that DAHR is an international commercial business with gametes and embryos being traded between overseas bio banks and DAHR facilities in this State.

The Bill does nothing to safeguard the child's right to have a mother and father. It does not safeguard this right in the Parts dealing with DAHR and adoption. Countries like Germany, Austria, Italy, France and Switzerland limit AHR and DAHR to certain types of couples so as to protect the child's right to a mother and a father. This Bill will create a situation where some children will have one legal parent or two legal mothers and no legal father or *vice versa*.

That, in no way, respects the genetic relatedness and kinship of DAHR-created children and completely disconnects legal motherhood and fatherhood from genetic parenthood. Dr. Joanna Rose, who will be known to many as a product of a sperm donor, talks about the effects, both personal and social, of disrupting the unity of biological and social relatedness.

The UN Convention on the Rights of the Child states that children have a right to know and to be raised by their parents. This presupposes that the child-parent relationship is a biological one and tries to guarantee that children will have rights in respect of their natural parents and

natural identity.

The Bill provides that the child will receive very basic donor information when he or she turns 18 years of age. I welcome the fact that this will happen but it needs to be significantly broadened. Given that the overwhelming majority of donor sperm comes from Cryos International Sperm Bank in Denmark and most donor eggs come from Ukraine, how will the donor information provisions allow the child to have the right to know his or her parents as per the UN Convention on the Rights of the Child 1990? The Irish government is redefining the family and is doing it in a way in which the family is completely decoupled from nature, mothers and fathers and natural ties. Once preference was given to mother-father families but now in the interest of adult equality, mother-father families will not be preferred.

The Minister will be aware the former Minister, Dr. Rory O'Hanlon, when championing the Adoption Bill through the House in 1991, said that everybody accepts that, generally, the best interest of the child is served in a home where there are two parents. It is not general for a single person to adopt a child and is only in very exceptional circumstances that will apply. Indeed, the Adoption Authority of Ireland, on its website, underscores that and it clearly states that unmarried and unrelated sole adoptees have an extra hurdle to overcome.

A woman gave birth to her single son's child through IVF in Britain. The son's mother is the birth mother of this child and is also the grandmother of the child. Robert Ffello, a Labour Party Member of Parliament in Britain, asked what is the potential emotional damage to the child in years to come? We cannot ignore this question. The Bill allows use of sperm or eggs of other family members. Such confused family relationships, well removed from the norm, will at the very least generate confusion and inequality among children. It raises the most profound and difficult ethical and child welfare issues. Does the Minister still think it is right to rush this Bill through both Houses?

Other countries recognise the difficult ethical matters that are involved and their approach prioritises the safeguarding of children. Other countries are more cautious to avoid unintended consequences. They recognise the welfare interest of the child is paramount. A child-centred Bill should not permit the natural ties to be severed deliberately, depriving a child of a mother or a father or both. This commodification of children Bill, as it stands, is a betrayal of our republican heritage and our Republic, creating, as it does, fundamental inequality for children. Some will have a mother and a father but some will not, by diktat of Government and the Legislature.

On the eve of the centenary of 1916, we have abandoned the vision of treating all of the children of the nation equally. I hope that as the Bill passes through Committee and Report Stages, the Minister will be amenable to remedying its flaws. If not, is náire atá ann don Aire agus is náire atá ann don Rialtas.

**Senator Fiach Mac Conghail:** Cuirim fáilte roimh an Aire. This Children and Family Relationships Bill 2015 is probably one of the most significant changes in family law in a generation and this is an historic debate which reflects the changing nature of our society and of what we all define legally as a family. I appreciate the opportunity to speak on what really is landmark legislation for this Republic. Nelson Mandela's assertion that there can be no keener revelation of a society's soul than the way it treats its children comes to mind and is a statement with which all of us will agree. Whatever we are doing here, whatever subject we are debating or whatever agenda we are pushing, it is for the continued betterment of our families

and communities and, ultimately, for the improvement of our society for future generations. The welfare of our children is of paramount concern. I disagree with Senator Walsh in that my interpretation of the Proclamation is articulated in, and responded to, in the debate on this child-centred legislation.

We need to strive always to ensure the child's care and be cognisant of what improvements we can make in this regard. Up to this point, the State has done a disservice to hundreds of thousands of children. Society in 2015 is drastically different from that in the Ireland of ten, 20 or 30 years ago. Treoir, the national specialist information service for unmarried parents and their children, has called this Bill the most important legislation affecting parents and children for a generation. The widespread cross-party welcome it has received is a testament to the significant work and thought that has gone into drafting this legislation and I sincerely commend the Minister on her clear commitment to ensure the Bill is robust, fit-for-purpose and timely. I do not see it as being rushed. Any part of it which has been rushed has been omitted to be discussed later. The Minister addressed the surrogacy issue and the Minister for Health, Deputy Leo Varadkar, will address that separately. I am glad that has been decoupled, so to speak, from this important legislation. I also acknowledge the extensive work and foundation laid by the Minister's predecessor, Deputy Shatter. The Children and Family Relationships Bill 2015 will be a strong legacy of this Government.

This Bill is about ensuring the welfare of children across a broad spectrum of scenarios. It will be looked to for guidance and for legal clarity in issues surrounding children in years to come and that is why it is of the utmost importance to scrutinise it carefully.

I, like many colleagues, have been contacted by several citizens and organisations in regard to guardianship rights of unmarried fathers. This is clearly an important issue and one which is having an effect on society. It is a progressive step that there is a new provision whereby an unmarried father who has lived with the mother of his child for 12 months, including three months after the birth of the child, will now be issued automatically with guardianship rights. Having this issue debated in the Seanad is a positive step. I am encouraged by the Minister's statement that she will delve further into the factors to be considered in issuing unmarried fathers automatic rights.

I welcome the fact that this legislation is addressing donor-assisted human reproduction because any system of such a nature should not be unregulated. I would also be of the same mind as so many who have spoken on the right of a person born through such a measure as DAHR to core information to help them form and build on their identity. I also welcome the fact that anonymous donations are now prohibited. That is important and is one of the reasons I support the Bill. This right supersedes any initial financial losses that may be incurred as anonymous donations come to an end. It is another facet of the Bill which clearly puts the child first.

I also acknowledge the improvements in the adoption system whereby civil partners or cohabiting couples, who have lived together for three years, will now be eligible to adopt jointly. I echo the salient words of the Minister that adoption is a child welfare system. It is a child-centred system. A child is now, and will continue to be, placed in the home that best suits his or her needs. I am very glad that there are no clauses in the Bill that would create a hierarchy of family types. This is probably the most radical and probably the most uncomfortable part of the Bill which is that we are accepting, whether we like it or not, that there is no such thing as an atypical family any more. Artists, playwrights and film-makers have been portraying this on the stages of our theatres and on our screens forever. It has finally been acknowledged that

there should be no hierarchy. Nobody should be excluded from what is his or her self-definition of family. To me, that is probably the most profound and philosophical point of this legislation.

When it comes to something as important as our children, we all feel we know best. We are fiercely protective of our children, and rightly so. This is a comprehensive Bill and I appreciate people may have many concerns about the number of amendments it will enact. In this case, I trust the expertise of those who work at the front line of child protection and can see the bigger picture. That is why, in addition to the Minister, I looked at the advice of Dr. Geoffrey Shannon, the special rapporteur on child protection, for guidance and really took on board his view in regard to this legislation. Dr. Geoffrey Shannon has stated that this is an important milestone on the road to recognition of children as rights holders - this goes right back to the philosophical and ideological stance of our Proclamation - and almost all proposals contained in this Bill are progressive. He cites the legal ability to formalise a relationship between a child and his or her *de facto* parent as being critical to ensure security, fairness and clarity in the child's life and upbringing and that the Bill's recognition of this is an important step which should be welcomed.

The Bill continues this principled rights-based approach by providing that the best interest of the child is to be paramount in decision-making and that the voice of the child should be heard as much as possible.

I believe this Bill is child-centred. The extensive section outlining the best interests of a child to be considered by and to guide the court when making decisions about guardianship, custody and access is a key addition to our legal framework. The inclusion of the power of the court to seek input from the child and understand their perspective is to be noted as a welcome change. This Bill makes paramount the best interests of the child in these incredibly important decisions. It articulates for the first time the rights of grandparents and other key caregivers whose relationship with the child often becomes central to that child at times when their parents find themselves unable to care for them for myriad reasons. This is a core component of the Bill that takes into account and legislates for the diverse types of families in which children live.

The stated aim of this Bill is to reform and update family law to address the needs of children living in diverse family types. I strongly believe that this is exactly what it will achieve. The Children's Rights Alliance, which represents more than 100 member organisations and individuals working to protect and care for children, has warmly welcomed this legislation. It believes that it puts children at the heart of family law and ensures that children living in non-marital and non-traditional families will be in a position to enjoy a legal relationship with the person who provides them with day-to-day parental care. This Bill is a good news story for hundreds of thousands of children and families in Ireland. It will mean that children are not caught in legal loopholes and that less ambiguity will exist in cases where a child is in a vulnerable position. It allows for wide consideration of many pertinent factors along with the perspective of the child when determining what living and access arrangements are in the best interests of that child. It is bringing families in this country in from the cold and sending a clear message that all compositions of family types in our society are of equal value. I again congratulate the Minister and the Government on the progression of this Bill and will be voting in favour of it.

**Senator John Crown:** I express my gratitude to the Minister, her officials and her predecessor for tackling this extremely complex issue. This has been a Herculean task. Without trivialising it, in attempting to read the Bill and its explanatory memorandum, I was reminded of the famous remark made by Groucho Marx when he thanked someone for giving him a book explaining Ulysses. He said he now needed somebody to send him the explanation of the ex-

planation. This is extraordinarily complex and I am not sure I understand it all. I hope we will have the opportunity on Committee Stage to go through some apparent internal inconsistencies.

There was no precedent for the technological aspects of this Bill. The constitutional framework of our country and the body of laws we had could not have foreseen a situation where assisted reproductive technology would reach the level it did and where we would be confronted with such a mesmeric array of potential problems that must be sorted out. Criticism is the wrong word. Any editorialisation of aspects of the Bill should not be seen as critical because I understand what a colossal job it has been.

I will focus on some of the issues relating to assisted human reproduction and fertility issues. Again, I have spent some time grappling with this and I am not sure I have it right because I am not sure I understand it all. It is very complicated. It is to be hoped that when we go through the issues in detail, we will have the opportunity to unravel them. This leads me to a point I must make at this stage, and please do not think me disrespectful. Of some of the legislation that comes through the Houses, this one is actually important. An awful lot of stuff that comes through about moving writs or boundaries, arcane aspects of tax law or secretaries and Ministers Bills appears to have little real-life relevance to the average person. This Bill has the potential to change people's lives and I must say that some of the changes that occur as a result of this will be negative. It is that simple.

Infertility is an awful tragedy. I speak with some authority on this subject because probably uniquely in this room, I cause infertility. The treatments we give cancer patients can make them infertile. Even if the treatments do not make people infertile, the disease can make them infertile. Sometimes, people only become aware of infertility when they are confronted with a diagnosis of cancer or another serious diagnosis. Of all the very sad conversations I have with people when they come to me with a cancer diagnosis, the conversation I like the least is the one about potential limitations of their lifespan, disability and the possibility of serious side effects, but one that bubbles to the top all the time is infertility. This is an extraordinary tragedy. One of the great things that has occurred in recent years is that we have some ability to ameliorate the effects of infertility as a result of assisted human reproductive technologies. I would be terribly defensive of that facility continuing to exist and not being limited. No matter how well-intended the Bill is, if it has the effect of reducing access to reproductive technologies, and I believe it will as currently constituted, that will be a tragedy. For that reason alone, if our amendments that seek to address those problems are not dealt with, I will probably vainly oppose the Bill. It is critical that we not do leave this deliberation on all Stages and the presidential signature when legislation will stop people with fertility problems from being able to access the appropriate technologies which will enable them to become parents.

In particular, I am very troubled about the lack of anonymity for donors. There is no doubt about this. If we bring in a policy that sperm and other gamete donors will potentially be identifiable, the practice in Ireland will all but stop. It is that simple. At the moment, we do not have a great deal of gamete donation in Ireland but we have the use of anonymously donated gametes sourced in other countries. My understanding is that this will in effect become illegal when the Bill comes into play. One of the effects of this will be that people will become fertility tourists. People who wish to get donated gametes and who are unable to get them here will leave the country. I do not mean to trivialise this but for many years, we have grappled with another issue in the area of reproductive technology where we were frequently told we exported our problem. Ironically, having exported the problem of ending pregnancies, we could end up exporting the problem of trying to achieve pregnancy. I would be terribly troubled by this.

There is, of course, an argument to be made in favour of the right to know one's genetic origins. What will happen is that we will find this coming head to head with the right to exist because there are people who simply would not have been born if the right to know their genetic origins had been felt to trump to the right of access of one or other of their parents to donated gametes.

There are other issues. At the moment, people who undergo sperm or gamete donation, sometimes commercially but also through altruism, know that this is it. The deal is over once the donation is made and the tests and paperwork are done. That part of their life has closed behind them. This will end and I believe it will have a chilling effect on donations.

As well as that, there are people who use their own gametes and who must have *in vitro* fertilisation because they may have gynaecological or other urological problems which mandate extra-corporeal fertilisation of their and their regular partner's gametes to form an embryo. As practised now, there can be surplus embryos. These people often make an altruistic and noble decision to make these available to other infertile couples who do not have the ability to produce their embryos through the intermingling of their gametes. This will end because people will no longer be able to do it anonymously and people may find that somebody will come looking for them in years to come. I understand that the law contains protections against any financial responsibility for the upkeep of a child resulting from this process, but some people would like the anonymity. I fear greatly that this will end as well.

I am afraid we are going to end up with a situation where fertility treatments become the preserve of the wealthy. It is that simple. That is what is going to happen. If people want to get access to anonymously donated sperm or eggs, they will have to leave the country to do it. This is something that is beyond the wherewithal of many people in our country right now. It is really important that this is thought through. Perhaps for reasons that are different from those of Senator Walsh, I fear a rush on this matter. That must be frustrating when people have put together this extraordinarily complex document and I am sure very brilliant legal minds and reproductive medical and scientific advice have gone into formulating it, but there is a real danger that it will leave us with a big problem. I hope it does not.

There is a technical issue I may be misunderstanding but I would like the Minister to address an internal inconsistency in the Bill between the definition of intended parents in different sections. In light of the recent now infamous *Bederev* judgment on drug policy, would some of the stipulations in the Bill which allow considerable ministerial latitude for amending regulations as they go along be in conflict with the Supreme Court's ruling in that case?

I respect the work the Minister, her colleagues and officials have done on this Bill. It would have been better if this were several discrete Bills dealing with smaller discrete issues which would have made it easier to tease them out and debate. If we get this wrong, we face not only misery but litigation, and while that goes on, if internal inconsistencies are found in the Bill, the process may stop and a generation of couples, women and men may find they are not able to access fertility treatments.

**Senator Gerard P. Craughwell:** I compliment the Minister and her staff on this extremely complex Bill. I will not deliver an eloquent speech. There have been enough of those already. We have seen the two sides of the coin and heard the sort of debate that will come from this Bill.

I want to take up Senator Crown's last point on anonymity. I was blessed to be born into

a family of 11. I came in the middle and always had clothes that were either too small or too big. All my siblings went forth and multiplied. I never knew anything about assisted human reproduction or anything like it. Since I came into this House, the Government has confronted me with issues I thought I would never have to deal with as an Irish male brought up to hide all those things away and not deal with them. We debated gender recognition a couple of weeks ago, now we are dealing with this area, and marriage equality is around the corner. I have to deal with these issues. That is why I am here. I am really concerned, as a result of contact from obstetricians over recent days, about anonymity for donors. The obstetricians are seriously concerned that we are rushing the Bill through and that there has not been sufficient consultation. They are concerned about donations from overseas and whether there will be legal issues involved. Will there be some comfort given to them that they will not find themselves on the wrong side of the criminal law if they continue to work with anonymous donations? It was interesting to find that in one clinic in the United States where people were allowed to identify themselves, only 90 donors out of thousands were willing to put their names forward.

It might sound ridiculous but there is always the possibility that if we start tracing back, we will also start tracing forward and people who are childless but were donors at an early stage in their lives may seek the protection of the court later in life to identify their children or offspring. That is a serious issue. None of us wants to answer a knock on the door to be told, "Here is your real dad", or to have someone say, "Hi Dad, I'm Seamus". We must deal with these issues. I would almost like that section of the Bill to be withdrawn to allow for greater debate and discussion by the professionals, people such as Senator Crown who know this area.

I have heard a great deal today about the rights of the child. What about the rights of the teenage student who donates for whatever reason and it comes back to haunt him? We know the story of the lady in England who traced her biological father. These are serious issues. I am not so sure we should be trying to run them through this House in one week. What the Minister has done in bringing forward this Bill is amazing but it is massive. I fear this will be another Irish Water situation. On Friday this Bill will pass out of this House, go to the President and be signed whenever. I understand that another Bill from the Minister for Health must pass first. I am a little concerned about anonymity. I have met only one person who needed this treatment and I would not wish on anyone the pain and suffering she and her husband went through to have their child. At some stage in the future one has to tell one's child and the child's birth certificate has a dirty great stamp on it saying there is more information about him or her than the fact that he or she was born. Then the child has to trace that. There is a great deal in this Bill that will cause huge problems for families. I will table one or two amendments on Committee Stage although I do not expect they will be accepted.

**Minister for Justice and Equality (Deputy Frances Fitzgerald) (Deputy Frances Fitzgerald):** I thank all the Senators who contributed. It has been a very interesting debate. We have heard many differing views from both sides of the debate, but there is also a broad consensus around many of the Bill's provisions and a recognition that it is bringing family law up to date in respect of children in diverse forms of family. The Bill breaks new ground.

Several Senators focused on assisted human reproduction, AHR. There is no question that legislation in this area is long overdue. The commission on assisted human reproduction in 2005 recommended legislation. We need a regulatory authority. In the absence of that authority, this Bill deals with certain defined and limited aspects of AHR. They are the parentage issues. The Department of Health needs to do significant work too. If it is of any assurance to Senators, I spent a great deal of time in discussions with the Department of Health in develop-

ing the provisions in this Bill. The Minister for Health recently brought the general scheme for AHR to Cabinet and got approval to develop heads of a Bill. Many issues relating to AHR need to be dealt with by legislation. The plan is to develop the heads of the Bill later this year, have a consultation phase during which many of the issues Senators have raised will be dealt with and then move to heads of a Bill and legislation. A major process needs to take place. When I met the clinics and the Institute of Obstetricians and Gynaecologists, they were reassured when I explained that this legislation will form a small part of the much larger AHR provisions. We are giving a transition period in respect of many of the provisions in this Bill which will deal, for example, with the concerns of couples in treatment.

The Department of Health has done a significant amount of work and there is always an opportunity for briefing for Senators on AHR and how the Department is thinking about this issue. It has had to do a lot of preliminary work because it has gone to Cabinet seeking permission to develop the heads of the Bill. The bioethics unit in the Department of Health is dealing with this under Dr. Siobhan O'Sullivan. I have been working very closely with her to ensure the provisions in this Bill reflect the policy intentions of the Department of Health. It is very much in line with the policy development and thinking in that Department on AHR. There will be much consultation before the legislation is brought forward.

However, in dealing with the parentage issues, it was clear we had to deal also with the issues regarding identity, and I decided that we could not deal with the parentage issue without tackling the issue of anonymous donations and those that are not anonymous. I accept this is a complex issue that has been approached in a certain way, culturally, in this country. I have had detailed discussions on it at a policy level but also with the Department of Health and the specialists in this area and it is clear that quite a number of countries have moved from anonymous donation to identifiable donations. Sweden, for example, changed the approach 30 years ago, and quite a number of other countries have moved as well. The United Kingdom moved to identifiable donations some years ago. There is no question that best practice is to move to known donation, and that is accepted by the relevant bodies here as well. The Institute of Obstetricians and Gynaecologists has signed up to this in its policy statements and in working with the fertility groups here. Clearly, there must be a transition period when doing this because there will be a decline in donations initially, but the UK has found that it increased after a number of years. Information is available about this change.

A change might also be needed in terms of the couples using assisted human reproduction, AHR, because traditionally that process has been very quiet, as the adoption process was in the early years, and the question of information, known donations and identity has not been central to the debate. It is clear that the central issue in this legislation is the best interests of the child and the identity issues that go with that. I have taken a policy decision that the child has a right to the genetic information, that it is an important part of identity and that, having allowed for a transition phase, we would then move towards what is outlined in the Bill.

From discussion with the clinics, it is clear that known donations are available. I discussed that just yesterday with the Sims clinic. It is actively identifying sources of known donor gametes, and I am providing that extra period to ensure that can happen without affecting couples in treatment.

It is true that, culturally, people have preferred anonymous donation, and that is sometimes because of the uncertainty around parentage. I would make the point that I am dealing with the parentage issues in this legislation, which should give further reassurance to couples, because

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the reason couples sometimes prefer the anonymous donation is due to that uncertainty around parentage. One could look at the Bill the other way as well and say that the certainty we are giving around parentage will be reassuring to people involved in AHR treatment.

I accept that a range of issues arise, and many of them will be dealt with in the broader AHR legislation, but I am conscious that it will involve change for clinics. There is no question of that. However, the needs of children must outweigh the commercial considerations of clinics. I also accept the reality that some couples who use AHR will continue to travel abroad. There will be issues around parentage when they return which will probably end up in the courts, but I have to decide on a public policy approach to this issue, and this is the beginning of outlining a public policy approach to the issues involved in AHR.

Some Senators challenged the provisions, arguing that they deny a child the right to be raised by their biological mother and a father. Some of the arguments I heard mask a deeper opposition to donor-assisted human reproduction. I would point out that there are 300,000 people in this country affected by fertility and sub-fertility issues. This is a real issue of our time and, as quite a number of Senators said, we need to address it. There is no question of that. I urge those Senators who took the view that they were against donor-assisted human reproduction to reconsider the benefits assisted human reproduction and donor-assisted human reproduction have given to so many families. It has given many couples the chance to have children and to rear those children in love and security. That is a celebration of life and family and is a perspective I would put on the floor of the House today.

The provisions I am dealing with are to do with parentage only. Senators will have an opportunity in the future to discuss these issues in a more comprehensive way, and that legislation will also deal with the surrogacy issue. I believe it was the right decision to take surrogacy out of this legislation. There are many complex issues on which we have not had public consultation, especially in regard to commercial surrogacy.

I am concerned that some of the arguments I heard in favour of a child having a right to a mother and a father also mask a prejudice against same-sex parents. As I indicated, we have very strong research that shows that children of same-sex couples, including those adopted by same-sex couples, have similar outcomes to the children of heterosexual couples. That research is very clear.

Before jumping to conclusions about what is best for children, we should ask the children themselves. When listening to the testimony of the children of same-sex parents at the Constitutional Convention, I was struck at how positive the experience of growing up in same-sex households has been for them. It was a very striking part of the presentation at that convention. As many Senators pointed out, however, our adoption numbers are very low, and the numbers of children living in same-sex households is very low also. We know from the census that there are 200 same-sex couples living together here. The statistics show that the majority of children live in a variety of other family types also, as has been described by several Senators.

A number of Senators asked why the step-parent adoption issue was not been dealt with. I would have liked it to have been dealt with in this legislation. The Minister for Children and Youth Affairs, Deputy Reilly, tells me it will be dealt with in the adoption and tracing legislation. It was not ready in time because when the Department of Children and Youth Affairs began to examine the matter, it found it was intertwined with too many other adoption issues, so that issue will be for that legislation.

The question of a hierarchy of family types was mentioned on a number of occasions. We began the process of dismantling discrimination against particular family types when we abolished illegitimacy in 1987. I do not believe I should turn back the clock to that situation in this legislation, which is in effect what is being asked, namely, that we would say there is a hierarchy of family types.

The other major issue discussed was the guardianship rights of non-marital fathers. As I have said, the Bill provides for non-marital fathers to acquire guardianship automatically if they fulfil the cohabitation requirement. That is a big change. There are court precedents regarding the definition of cohabitation, a point raised by Senator Power, and it is a committed and intimate relationship. We also have the definition in the civil partnership legislation that outlines the details of cohabitation and how it will be defined.

I have said I am adding the new provision that will make it easier for non-marital fathers to complete the statutory declaration at the registry office, which will make quite a difference. I note that a number of Senators acknowledged it will make it easier for non-marital fathers, and we will do an information campaign on it. That is an important initiative that is needed because there is poor information on it. We will also learn lessons from the pilot projects I will establish.

I have also said I will do the policy work to consider guardianship of non-marital fathers and the other issues that arise in this regard. In the Dáil debate, and I have heard it here as well, people spoke about building in exceptions but I need to do policy work to determine what those exceptions would be if we were to go for automatic guardianship for non-marital fathers.

There are a number of other issues which we will discuss on Committee Stage, so I will not deal with them now.

On the appointment of a step-parent guardian, it was suggested by a number of Senators that the appointment of a step-parent as a guardian would remove the guardianship of a non-marital father or would inhibit him from subsequently being appointed as a guardian. That is a misunderstanding of the provisions of the Bill, which are carefully designed to ensure that a non-marital father who is a guardian can continue to play a full role in the child's life. That is an important point. A father will not be removed as a guardian by the appointment of a step-parent. A non-marital father can be removed as a guardian by the court, but only in those rare circumstances where the court considers that his removal is in the best interests of the child. There is simply no question of an automatic removal. Even if the father is not a guardian at the time the step-parent is appointed, the rights of the step-parent guardian will usually be limited specifically to ensure that where the father subsequently seeks guardianship he can obtain full guardianship if that is in the best interests of the child. That is an important aspect of the provision.

Senator Power raised the issue of identity and withholding donor information. I have limited that very carefully to provide that it is only in specific circumstances. I removed the word "well-being" which Senator Power said was too broad a concept, and I have narrowed the definition so it would only apply where there is an actual risk to the safety of the child or to the donor. It would be in very exceptional circumstances.

A number of Senators raised the very relevant point of the need to develop family courts, a family welfare system and to bring forward the mediation Bill. It is my intention to bring forward family court legislation. Our approach is that there would be a family court in each di-

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vision of the courts. That does not require constitutional change, only legislative change. I am keen to bring that forward. There is clearly a need for ongoing development of a court welfare system and that will require investment. Thankfully, the country is doing better and, hopefully, we can provide further investment for these services as the economy recovers and also bring forward the mediation Bill. The points raised today were very relevant in terms of needing the best possible context for this legislation where decisions are being taken about families, and there is much dissatisfaction that family courts are currently held in the middle of very busy district courts. Those points are very relevant.

Again, I thank Senators for their support for, and engagement with, the Bill. The Bill has the potential to enshrine a child-centred approach in family law, which will benefit children and families. I hope as many Senators as possible will be in a position to support the Bill.

Question put and agreed to.

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

**Senator Ivana Bacik:** Next Thursday.

Committee Stage ordered for Thursday, 26 March 2015.

**An Cathaoirleach:** When is it proposed to sit again?

**Senator Ivana Bacik:** At 10.30 a.m. tomorrow.

The Seanad adjourned at 5.45 p.m. until 10.30 a.m. on Wednesday, 25 March 2015.