

DÁIL ÉIREANN

AN CHOISTE COMHAIRLIÚCHÁN POIBLÍ AN TSEANAID

SEANAD PUBLIC CONSULTATION COMMITTEE

Dé Máirt, 5 Nollaig 2017

Tuesday, 5 December 2017

The Select Committee met at 10 a.m.

MEMBERS PRESENT:

Senator Martin Conway,	Senator Joan Freeman,
Senator Mark Daly,	Senator Pádraig Ó Céidigh.
Senator Máire Devine,	

In attendance: Senators Frances Black, Aidan Davitt, Gerry Horkan, Gabrielle McFadden, Brian Ó Domhnaill, Grace O'Sullivan and Neale Richmond.

SENATOR PAUL COGHLAN IN THE CHAIR.

Status, Treatment and Use of the National Anthem

Chairman: Apologies have been received from Senators Jerry Buttimer and Colette Kelleher.

I am very pleased to open the public hearings of the Seanad Public Consultation Committee on the status, treatment and use of the national anthem. These meetings are the second part of a process which began in October with a public invitation to make written submissions to the committee. On behalf of the committee, I wish to sincerely thank all those who sent in submissions on this topic.

The committee hopes that, through this public consultation initiative, we can consider and discuss the following issues in respect of the national anthem: should there be any change to the current status of the national anthem, whereby it is in the public domain and free to use by all? Should the Government issue guidelines on the use of the national anthem? If so, what matters should be covered or not covered? Should this include reference to when it is appropriate to play the national anthem, or restrictions around this? Should there be legislation introduced in respect of the national anthem? If so, what should this provide for? Should the national anthem be officially enshrined in legislation? If so, what versions of the music and words should be used and in what languages? Should the use of the national anthem be legally restricted through the process of copyright or otherwise? What should be classed as misuse of the national anthem? How should this be decided and who should enforce it? Should the use of the national anthem for commercial purposes, such as for advertising, be restricted? Would charging money for a recording of the national anthem by an artist be classed as using it for commercial purposes? What penalties should be put in place if any proposed restrictions are breached and what form should these take? These are some of the issues the committee hopes to tease out through this public consultation exercise.

Following on from these hearings, a draft report will be prepared for the committee in conjunction with the secretariat by our rapporteur, Senator Mark Daly. The committee will review the draft report and publish its final report as soon as possible thereafter.

Today's public meeting will consist of two sessions. Session A will run from now until 11.30 a.m., and session B from 11.45 a.m. up to 1.30 p.m. On behalf of the committee, I welcome the following witnesses to the first session: Mr. Tony Fitzgerald, Lord Mayor of Cork; Lieutenant Colonel Mark Armstrong, director of the Defence Forces School of Music; Mr. Joseph Nugent, chief administrative officer at Garda headquarters; Mr. Conal Kearney, grandson of Peadar Kearney, the author of the national anthem; Councillor Nial Ring, grand-nephew of Liam Ring who translated Peadar Kearney's "The Soldier's Song" in the Irish version, "Amhrán Na bhFiann"; and Mr. Raymond Daly, author of a historical songbook. The witnesses are most welcome and I thank them for engaging with the committee in its consideration of this important topic.

I draw the attention of witnesses to the fact that by virtue of section 17(2)(l) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence to the committee. However, if they are directed by the committee to cease giving evidence on a particular matter and they continue to do so, they are entitled thereafter only to a qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and they are asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against

any person, persons or entity by name or in such a way as to make him, her or it identifiable.

Members are reminded of the long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against a person outside the House or an official either by name or in such a way as to make him or her identifiable. I also wish to advise witnesses that any opening statements made to the committee will be published on the committee website after this meeting.

To commence proceedings, I invite Senator Mark Daly to make a few introductory remarks. I will then invite each witness to make a short presentation to the committee. They may share their time with a colleague if they so wish and I ask witnesses to please indicate this to me when invited to speak. As there is a large number of witnesses in this session, I ask that presenters keep their opening statements as brief as possible. When the presentations have finished, there will be time for questions and comments from the Senators and responses from the witnesses.

Senator Mark Daly: I thank the Chairman. The national anthem belongs to everyone. It is one of the key symbols of our State and is worthy of respect and protection. It was written by Peadar Kearney and translated into Irish by Liam Ring, while the music was composed by Patrick Heeney. We are deeply honoured and indeed humbled to have descendants of the Ring and Kearney families here today.

The national anthem has been sung on some of the most important State occasions. Last year, on the 100th anniversary of the 1916 Rising, it was sung outside the General Post Office, GPO, and it was sung inside the GPO during the Rising by the members of Cumann na mBan, the Irish Volunteers and the Irish Citizen Army.

The Irish flag, harp and anthem are important symbols of the State. The flag is protected and enshrined in Article 7 of our Constitution and is protected by international copyright law. The harp has a patent placed upon it by the State for its protection. However, the national anthem does not have any formal recognition in legislation by the State and is no longer protected by the law of the land. In fact, the Irish language version was never formally adopted by the State.

I thank my fellow Kerry man, Senator Paul Coghlan, for chairing the Seanad Public Consultation Committee and the other committee members who have worked on this issue over the past number of months, Senators Buttimer, Byrne, Conway, Ardagh, Freeman, Ó Céidigh, Devine and Kelleher. I also thank the Senators who are present for this meeting. I thank the clerk of the committee, Bridget Doody, for her work on the issue as well as Grace Coyle and Alani Caridad for their work in my office on this issue over many years. I also thank those who made submissions to the public consultation process.

The Lord Mayor of Cork, Tony Fitzgerald, has been working since his election to ensure that the children of Cork receive a copy of the national anthem and learn the words as Gaeilge. He will talk to us about his experience with this important initiative. He has provided the copies of the lyrics in both Irish and English to students so they can be taught the national anthem by teachers. His involvement has led to the involvement of Alain Newstead, a student from Bishopstown who is a member of the deaf community and will participate in the meeting later.

Lieutenant Colonel Mark Armstrong is the director of the Defence Forces School of Music. He will give us a history of the Army's association with the national anthem. The Army is custodian of our national anthem and has been since the foundation of the State. He has provided us with copies of the sheet music that have been used over time. His submission is important

because it will give us a comprehensive history of the State's involvement with the national anthem.

Joseph Nugent is the chief administrative officer at Garda headquarters but he is here today in his capacity as the former director of the passport service. He was involved in ensuring that the lyrics of the national anthem have been included in the passport. His submission outlines how and why the national anthem was chosen to be showcased in the passport as a representative symbol for all Irish men and women.

Conal Kearney is a grandson of Peadar Kearney. He will read into the record an affidavit on the national anthem given by his grandfather in 1926 and outline other key issues around the national anthem.

Councillor Niall Ring is a councillor from Dublin City Council. He is a grand-nephew of Liam Ring who translated the "Soldier's Song" into "Amhrán Na bhFiann". Councillor Ring's submission is important as it connects the history of the national anthem with one of the families central to it.

Raymond Daly is an author of historical songbooks. His submission will outline the importance of legislation and copyright. He will talk about the need for the Department of Education and Skills to make the teaching of the national anthem part of the primary school curriculum. He also recommends that sporting organisations should encourage players to learn the words of the national anthem.

I thank all our guests for their attendance. On 1 January 2013, some 70 years after the death of Peadar Kearney, the national anthem fell out of copyright protection and is therefore no longer protected by the laws of the land. I introduced the National Anthem (Protection of Copyright and Related Rights) (Amendment) Bill which would ensure, for the first time, that the national anthem would receive official formal legislative recognition and protection. I also suggested that we carry out this Seanad public consultation process to get the people's views on what should happen with our national anthem. In the second session, we will hear from students, the Department of Finance and experts in patent and copyright law.

Finally, when this public consultation process is completed I will produce a report and, if necessary, draft legislation, guidelines and protocols for the people's song, our national anthem, "Amhrán na bhFiann".

Mr. Tony Fitzgerald: Is mór an onóir domsa, mar Ard-Mhéara Chorcaí, a bheith anseo ar maidin. Lá speisialta é agus gabhaim míle buíochas as an gcuireadh caint anseo ar maidin. As Lord Mayor of Cork, I am deeply honoured and privileged to be here to represent the people of Cork city. I was elected on 16 June 2017 and I have been in office for almost six months. To be elected Lord Mayor of Cork is an honour and a privilege. I have with me the chain of office of the Lord Mayor of Cork. It was created in 1787 so it is 230 years old. It is the chain worn by Tomás MacCurtain and Terence McSweeney. I will provide everybody with a booklet giving an explanation of the chain and its creation. To wear the chain of office with pride is a humbling experience. Tomás MacCurtain and Terence McSweeney are well known in Cork. Before his death in Brixton Prison, Terence McSweeney initiated a programme in Cork city because, as an educator, he wished to reach out to the people of Cork, and particularly the young people. He began a programme of visiting all the schools in the city. Every Lord Mayor since then has continued that programme. I continued it in September and October last by visiting 85 schools in Cork.

I went to school at the North Monastery school in Cork and every morning, at 8.55 a.m., just before school began, the Christian Brothers gathered all the pupils around as the Tricolour was raised. Every pupil sang “Amhrán na bhFiann” before entering their classroom. Around the flagpole there were 16 rose bushes which were dedicated to the memory of the 16 Irish Volunteers who died on Easter Sunday. That memory is instilled in me since I went to school in the North Monastery so many years ago. When I took office as Lord Mayor, I wished to make the connection between the visitation of the schools started by Terence McSweeney and the learning of the national anthem, as occurred at the North Monastery. I therefore distributed the national anthem, “Amhrán na bhFiann”, to every school and asked the principals and teachers of the schools to ensure that the pupils learned the national anthem in advance of my visit to the school. The response was tremendous. When I arrived at each school I was greeted by the pupils at the entrance of the school under the Tricolour, and every pupil sang “Amhrán na bhFiann” on my arrival. I thank each of the schools in Cork city for supporting my initiative.

It is important in 2017, following the commemorations of 1916, that each of us stands to full attention when singing “Amhrán na bhFiann”, whether it is in Croke Park, the Aviva Stadium, Pairc Uí Chaoimh, Pairc Uí Rinn or Thomond Park, regardless of what sporting occasion we are attending. Not only should we stand to attention, but we should sing the anthem in full. Players, officials and spectators should sing the national anthem in unison to the end. It is the song that unites us, as Senator Mark Daly said. The response I have received is very positive. It was with great pride I was able to produce and publicise, in conjunction with the chief executive of the education and training board, ETB, Mr. Ted Owens, the bookmark I am holding. It has now been distributed to each school. In conjunction with my colleagues in Cork City Council, including Mr. Paul Moynihan, director of corporate affairs, and the ETB we have ensured that the legacy of “Amhrán na bhFiann” is solid in each of the schools in Cork city. It is an ongoing conversation. It has sparked various discussions and debates about what Amhrán na bhFiann is. I welcome that. When I heard of the public consultation from my colleague, Senator Mark Daly, I was delighted to accept the invitation to be part of the process of the public consultation.

From my experience, I would recommend that we do not have any changes to Amhrán na bhFiann. I welcome the guidelines, and thank the Members of the House for the programme they are developing to ensure that the national anthem is held in high esteem as part of the heritage and legacy of our country. I am delighted to be here this morning to make this presentation as part of this historic moment. Gabhaim míle buíochas le gach éinne agus déanaim comhghairdeas leo.

Chairman: Is the Lord Mayor saying that he would welcome guidelines?

Mr. Tony Fitzgerald: I welcome the guidelines.

Chairman: Does the Lord Mayor wish us to recommend guidelines?

Mr. Tony Fitzgerald: Yes, absolutely.

Mr. Mark Armstrong: I am delighted to be here to give a brief summary of the genesis of our anthem and the role that the Defence Forces School of Music played. I apologise for the broadcast quality; I am suffering from the remains of a virus. I ask that the committee be patient.

I listened with great interest to Councillor Tony Fitzgerald’s account of singing Amhrán na bhFiann in school. As an aside, being a member of the Church of Ireland I was not taught

the national anthem in primary school in the late 1960s, early 1970s. When I joined the Scout Association as a young boy I learned it as béarla. There is a nice symmetry to the fact that I appear to be the de facto custodian of the official version of the anthem - or should I say unofficial version.

The official adoption by the Irish State of the song entitled “The Soldier’s Song” as the national anthem followed a somewhat tortuous route. I am indebted to Dr. Karol Mullaney-Dignam, whose doctoral thesis, “State, Nation and Music in Independent Ireland, 1922-1951” has provided much detail backed up by primary sources from State archives. Information has also been provided by an article written by Ms Ruth Sherry, Professor of English at the University of Trondheim in Norway.

The words of “The Soldier’s Song” were written either in late 1909 or early 1910. We know this from the affidavit, already referred to, from Peadar Kearney, dated August 1926. Peadar Kearney was a member of the Irish Republican Brotherhood, IRB, and an author of many popular songs and verses. It is understood that the music, written by Patrick Heeney, was written around the same time. The original text was in English and was first published in Bulmer Hobson’s *Irish Freedom* in 1912. The song was adopted as a marching song by the Irish Volunteers in 1913 and after the Rising became the anthem of the independence movement. By general account, it was in the internment camps after the Easter Rising that The Soldier’s Song became widely used. The song consequently became strongly associated with the army after the establishment of the Free State.

During the years following the establishment of the Free State there was no officially adopted national anthem. Thomas Moore’s “Let Éireann Remember” was often played on formal occasions abroad, and T.D. Sullivan’s “God Save Ireland” was favoured by the Irish Parliamentary Party. It was the participation of Irish athletes at the 1924 Olympic Games which initially raised the question of a suitable national anthem for the newly independent State. On the recommendation to W.T. Cosgrave, President of the Executive Council, by Seán Lester, director of publicity at the Department of External Affairs, “Let Éireann Remember” was played at the 1924 Olympic Games. In his recommendation, he mentioned “A Nation Once Again” and “The Soldier’s Song”, which in his opinion were not suitable for the purpose. This would indicate that both of these songs were in current usage in the absence of an officially adopted national anthem.

The involvement of the Defence Forces School of Music - or the Army School of Music, as it was at the time - was key in this story. Colonel Wilhelm Fritz Brase, the first director of the Defence Forces School of Music, was appointed by the Irish Government in 1923 to establish a music service for the Irish Army. The first performance of the newly formed Army No. 1 Band took place in the Theatre Royal, Dublin, in October 1923. He had arrived in the country in April 1923, so that was quite an achievement. Four months after the first concert the band performed again in the Theatre Royal in Dublin. On that occasion, following requests for an encore, the band obliged with the recent composition of Colonel Brase, entitled “Irish March No. 1”. This medley included songs such as “The Minstrel Boy”, “Who Fears to Speak of ‘98?” and “The Soldier’s Song”. It is understood that members of the audience, including the Governor General of the Irish Free State, Timothy Healy, and the head of the Executive Council, W.T. Cosgrave, stood up on the playing of “The Soldier’s Song” in recognition of the song as an anthem.

Between 1924 and 1926 it appears that the music of “The Soldier’s Song” was informally adopted by the Government for use as an anthem. In 1926 the Government of the Free State was compelled to make a formal decision on the anthem following requests from the United

States of America for the supply of printed copies of Ireland's official anthem. The minutes of an Executive Council meeting on 12 July 1926 indicate that a decision was made to adopt "The Soldier's Song" as the official anthem. This decision was not formally promulgated at the time but was simply put into effect for official purposes. In 1926 *The Irish Times* reported that when the Governor General visited the Dublin Horse Show "The Soldier's Song" was played. The version of "The Soldier's Song" played by the Army No. 1 Band was that arranged by Colonel Brase. The custom was for the song to commence with the verse followed by the refrain, which we recognise today as Amhrán na bhFiann.

In 1928, Desmond Fitzgerald, Minister for Defence, wrote to the Executive Council, suggesting that some changes be made to the national anthem. In his memo to the council, dated 19 October 1928, he offered the opinion that it was, "too long to permit of the words being generally known and sung by the people". He was correct in that. Fitzgerald suggested to the Cabinet that the Irish national anthem open with its refrain - that which we are familiar with today - and be published and taught as such. He added that Colonel Brase could be asked to arrange it for school singing in one, two, three and four voices. Colonel Brase was tasked with the rearrangement, and the Executive Council approved his version as played by the Army No. 1 Band.

The band was recorded by His Master's Voice, which became the record label HMV, performing a number of pieces in the Theatre Royal in 1931, including the national anthem. The anthem was recorded in two versions; firstly the long version, commencing with the verse, and secondly the short version, which consisted of the refrain. That recording of the refrain was used for many years - up to the 1970s or 1980s - by theatres and cinemas at the close of entertainments. In 1932 it was agreed that the short version of the anthem, as recorded by Colonel Brase by HMV in 1931, should be recognised as the official arrangement played by places of entertainment. It was also agreed that Colonel Brase would be commissioned to prepare instrumental parts for the short version of the anthem for bands and orchestras in order to secure uniformity in the playing of the anthem throughout the country.

The current arrangement of the national anthem used by Defence Forces bands was made by a former director of the Defence Forces School of Music, Colonel James R. McGee. Colonel McGee acted as director between 1987 and 1988. Not only did McGee rearrange the Irish anthem, but he scored many international anthems for modern instrumentation for use by army bands. These arrangements are still in use today at events such as the Dublin Horse Show and visits of foreign Heads of State. They are robust and stand up to outdoor usage. Colonel McGee also scored a number of ceremonial salutes used by the military for full military bands which have not been improved upon and which are still used. Colonel McGee's rearrangement of the national anthem, if it could be described as a rearrangement, is minimal. He retained Brase's essential harmonic structure while simplifying much of the high woodwind, which in Brase's version was fast moving and not always effective outdoors. Band instrumentation had changed over the decades, and Colonel McGee adjusted this accordingly. Colonels McGee and Brase's arrangements are essentially one and the same, having no material difference from a musicological point of view

The music adopted by the Executive Council on 12 July 1926 as the Irish national anthem, as performed by the Army No. 1 Band, remains substantially the same as that performed today. As Senator Daly has mentioned, I have provided full scores of the Brase and McGee versions for the information of the committee. I note that one of the objectives of the committee is to decide whether the anthem should be enshrined in the Constitution, like other national symbols

such as the harp and the flag. I am not speaking for the Defence Forces, but I would personally agree with doing that. It is important to secure it for the State in the future. I would be happy to advise on the actual musical arrangement to be adopted. If it is formally adopted, the musical arrangement would have to be determined at the same time.

Chairman: I thank Mr. Armstrong. I invite Mr. Joseph Nugent, chief administrative officer at the Garda headquarters, to contribute.

Mr. Joseph Nugent: I thank the Chairman and Senators for their time this morning. It is a real privilege for me to speak on this important issue. I currently hold the role of chief administrative officer in An Garda Síochána but, from 2009 to 2015, I had the privilege of holding the role of director of passport services at the Passport Office. One of the highlights of my time in that office included the redesign of the Irish passport book, aimed at improving primarily the security features in the book itself but also creating a design that would be reflective of what it means to be Irish in a broad sense. We looked at themes that would reflect the interest of the population in the State while also recognising the many Irish passport holders around the world. The Irish passport book incorporates iconic images and symbols representative of the Irish State, including the musical notation of the national anthem, “Amhrán na bhFiann”. On the top left hand page of each page of the book, one can follow the bars of the anthem’s chorus, providing a unique design component. Most importantly, the anthem was selected to be representative of what it means to be Irish. I have some sample pages, which I am more than happy to leave with the committee secretariat. The use of the anthem music notation has been the subject of much comment from Irish citizens worldwide. The anthem strikes a chord with the Irish diaspora, reminding them of their rich sense of Irish roots manifest through the most audible national symbol, “Amhrán na bhFiann”. Its inclusion in the passport design was seen as providing a key recognition by the State of the importance of the anthem to Irishmen and Irishwomen ar fud an domhain. The feedback on its inclusion has been hugely positive.

In using the anthem as one of the persistent features, the design sought to place it as a recurring theme through the Irish passport book itself. The other features take the holder of an Irish passport on a journey from the Cliffs of Moher to the modern perspective of Dublin city Liffey-side finishing at the back with the Rock of Cashel. All told, the anthem is a constant element to link the Irish citizen, through his or her passport book, with a fundamental symbol of being Irish.

In making the decision to include music notation, there could only be one piece of music which could attract the endorsement of the State. That could only be “Amhrán na bhFiann”. This is an iconic piece of music, which brings Irish citizens to their feet and prompts men to remove their caps, that is recognised by Irish citizens, one and all, and must be respected and protected. Respect shown to our anthem by Irish citizens is something we should cherish and protect. We must ensure that it could never be shown disrespect. The inclusion of the anthem in the passport book is one element of formal State recognition. Its protection, I would recommend, should be enshrined in some formal way.

Chairman: I thank Mr. Nugent and invite, Mr. Conal Kearney, a grandson of Peadar Kearney, the author of the national anthem, to speak.

Mr. Conal Kearney: I thank the Chairman and members for allowing me, a grandson of Peadar Kearney, to speak today on Peadar Kearney, the author of the “The Soldier’s Song”, “Amhrán na bhFiann”. My grandfather was a visionary and revolutionary who fought in Jacob’s factory in 1916 under Commandant Thomas MacDonagh. He was a member of the Su-

preme Council of the IRB and the Irish Gaelic League. I have an affidavit he wrote in August 1926, which will be placed on the record, in which he outlined when he wrote the words of “The Soldier’s Song”, which was late 1910 and not 1907 as is widely believed. This is a primary document which can be inspected. Please allow me, as a grandson of Peadar Kearney, to indulge in my thoughts.

Our identity as a nation and as citizens of the Irish State is defined by our history. “The Soldier’s Song”, “Amhrán na bhFiann”, links us to our history and therefore our identity. There are stand-out moments in our distant and recent history that strengthen our bond to “The Soldier’s Song”, “Amhrán na bhFiann”, when it is played and sung. It was sung by the volunteers as they marched into the GPO on Easter Monday of 1916 when Pearse proclaimed a free and independent Ireland. It was played at all gatherings, including sporting occasions, in cinemas and even at dances. We knew the dance was over when we stood to attention at the end. We are also reminded of more formal and State occasions when it is played. My personal proud moment was in Croke Park when it was the venue for the international rugby match between Ireland and England in 2007. There was a degree of nervousness and anticipation as to how the spectators would react when “God Save the Queen” was played in this hallowed place. Those spectators stood silent and respectful and when “Amhrán na bhFiann” was played, 82,000 of them sang it loudly and proudly. It was an electrifying moment. As the camera panned the faces of the Irish rugby players, tears flowed freely down some of their faces.

I am also reminded of the first State visit of the British monarch, Queen Elizabeth II, when she bowed and stood in respect in the Garden of Remembrance as “Amhrán na bhFiann” was played, saluting all those who died for the cause of Irish freedom.

These were moments when, in my opinion, when we, as a nation, came of age and that enshrine “Amhrán na bhFiann” as part of our identity as proud Irish citizens. I will read a paragraph from the affidavit signed by my grandfather and written in 1926:

I wrote [The Soldier’s Song] early in 1910 or late in 1909. Working on the words Paddy Heeney (died 1911) composed the melody or music now being played as the National Anthem. Obviously it was the words and what they stood for that appealed to the rapidly growing mass of people as the national movement developed. It was a common thing to hear the song sung through the country years before the melody was published and when singers hadn’t the slightest idea of the music.

In the train of the words the music spread and so became what we all know. Melody and words were essential to each other. Separate they would have ceased to exist years ago.

I believe both the English and Irish versions of “Amhrán na bhFiann”, “The Soldier’s Song”, must be given the respect, dignity and protection they so rightfully deserve. I am also reminded of the French title for “*La Marseillaise*”, their national anthem, is “*l’Hymne National*”. “Amhrán na bhFiann”, “The Soldier’s Song” is our hymn and must be legally protected for our future generations.

I have a manuscript in which my grandfather, in his elegant hand, wrote another verse to “The Soldier’s Song” while interned in Ballykinlar internment camp in 1921. The verse reads:

In valley green, on towering crag,

Our fathers fought before us,

And conquered 'neath the same old flag
That's proudly floating o'er us.
We're children of a fighting race,
That never yet has known disgrace,
And as we march, the foe to face,
We'll chant a soldier's song.

Signed - Peadar Ó Cearnaigh, Ballykinlar, November 1921.

Go raibh maith agaibh.

Chairman: I thank Mr Conal Kearney. I call Councillor Nial Ring, a grand-nephew of Liam Ring, who translated Peadar Kearney's "The Soldier's Song" into "Amhrán na bhFiann".

Mr. Nial Ring: Ar dtús, táim an-bhuíoch bheith anseo chun labhairt faoin aighneacht a chuir mé isteach don choiste. Mar a mhínigh mé san aighneacht, tá an-spéis ar leith agam i stádas agus úsáid "Amhrán na bhFiann", ár n-amhrán náisiúnta. Is údar mór bróid dom an ceangal atá agam leis. Tháinig an triúir fear atá bainteach leis ó thuaisceart lár na cathrach, an áit inar rugadh agus tógadh mise. Ba é mo sheanuncail, Liam Ó Rinn, a d'aistrigh é ó Bhéarla go Gaeilge.

Chairman and members, it is an honour and privilege for me to be present to speak about my family's role in "Amhrán na bhFiann". Let me outline the background of Liam Ring or Liam Ó Rinn, as he became known. He was born and reared in Sackville Gardens in Ballybough in the north inner city, less than 100 m from Croke Park, as Mr. Kearney mentioned so eloquently. His four brothers, including my grandfather Joseph, Leo, Christopher and Patrick, were members of C company of the second battalion of the Irish Volunteers that took part in the Easter rebellion of 1916 as part of the GPO garrison. They were all subsequently interned in Frongoch and Liam was also interned at Ballykinlar during the War of Independence. He was with Peadar Kearney in a famous photograph at Ballykinlar.

Although he left formal education at 14, again in a connection with Peadar Kearney, they both went to St. Joseph's school in Fairview. He worked for the Gaelic League before becoming a member of staff at the translation department in the Oireachtas. He was chief translator there at the time of his death in 1943. In his spare time he was a prolific writer in Irish under the pen name Coinneach. He won the President's Prize in 1941 and was a translator of major works into Irish. He was a linguist, speaking ten languages, and an accomplished artist, with his paintings accepted for exhibition in the Royal Hibernian Academy. His life and work was the subject of Scoil Gheimhridh Cumann Merriman in 1985.

Given this background, I point out some of the contextual inaccuracies in the committee's briefing documentation. The major disappointment is that the role of Liam Ring in translating "The Soldier's Song" to "Amhrán na bhFiann" was not mentioned. I would argue the role of Peadar Kearney, Patrick Heeney and Liam Ó Rinn should be highlighted equally. They are a triumvirate of men from the north inner city, all living within 200 yards of one another and responsible for our national anthem. My constituents in the north inner city and the people of the North Inner City Folklore Project set the example of recognising the triumvirate responsible for the national anthem by erecting a plaque in 2011 to mark the centenary of the death of Patrick

Heeney. It is on the corner of Railway Street and Gardiner Street. Patrick Heeney died in 1911, although the committee mentions that he received payments in respect of the national anthem. I do not think he could have and I do not think the State made payments to him. Patrick Heeney died penniless in Railway Street.

My grand-uncle, Liam Ring, never sought or received payment for his translation work as he did it as a contribution to the fledgling State. He did not, as some suggest, do the translation as part of his employment, as he started working on the translation while in Frongoch in 1916. It was mentioned earlier by Senator Daly and Mr. Kearney that “The Soldier’s Song” was sung in the GPO. It was also sung before the evacuation on the Friday evening when all of them stood up. It is in my family’s lore. Liam Ring’s daughter is still alive, but unfortunately she cannot be here because she is ill. He turned to his brother, Christopher, when they sang and said it should be in Irish. It was the genesis of “Amhrán na bhFiann”.

I would like the committee to take into account some specifics mentioned in my submission. There should be no change to either the Irish or English version. I have read and heard of proposals to change the wording to lessen the militaristic tone of the anthem, but in deference to those who wrote and translated it, we should not interfere with the work. Some people have quite mistakenly assumed that the first line of the chorus, “Sinne Fianna Fáil”, was written after the foundation of the Fianna Fáil political party in 1926, and somehow the name of the fledgling party could have influenced Liam Ó Rinn’s translation work. It is absolutely untrue as the first translation was done in 1916 and completed before 1923, well before the foundation of the political party, Fianna Fáil. This is not just based on family knowledge or lore. Historian, Professor Ruth Sherry, in her article, entitled *The Story of the National Anthem*, published in *History Ireland* in 1996, states that Liam Ó Rinn’s translation was published in the Army magazine, *An tÓglach*, on 3 November 1923. More persuasive and significant is the fact that an almost identical text was printed in the *Freeman’s Journal* on 3 April 1923 under Liam Ó Rinn’s pen name, Coinneach.

The Government should issue guidelines for the use of the national anthem. As Senator Daly mentioned, there are guidelines for the use of the flag and harp. I have an excellent document outlining the protocols and guidelines for the national flag, which was put together by Senator Daly. Something like that should be put together.

Lieutenant Colonel Armstrong and Councillor Fitzgerald mentioned standing to attention for the anthem. It is galling for me to see people standing ar áis, or at ease, and not standing to attention for the anthem. Otherwise they put their arms around one another. We need to give the anthem the due respect it deserves by informing people. That is what the committee should bring with its guidelines as to how to stand to attention for the national anthem.

I would support the national anthem being enshrined officially in legislation and for it to be formally adopted as such, like the flag and harp. I urge the committee to recommend that the national anthem be made a compulsory part of the educational curriculum and enshrine this in legislation to ensure its implementation. I have spoken to many school principals over the past week or so in preparation for today’s meeting, and although it seems to be part of the curriculum, this is up to individual principals. Luckily, there are many principals in the country who ensure it is taught, mainly in sixth class.

If the guidelines are agreed and published, they should be in booklet format and distributed to every household in Ireland. With regard to what the Lord Mayor of Cork has done with schools, the presentation of the national flag and the Proclamation last year for the centenary

celebrations was a magnificent success and it allowed schoolchildren appreciate their flag and the Proclamation. I hope the committee will recommend a similar programme of events for the national anthem. I acknowledge the excellent initiative of the Lord Mayor of Cork, Councillor Tony Fitzgerald, in doing that in his area. If I were lucky enough to be elected Lord Mayor of Dublin, I would be on the phone to him, find out how he did it and do the very same in Dublin.

I wish the committee well in its deliberations and I thank the Chairman and rapporteur, Senator Daly, for setting this up. Nuair atá an coiste ag déanamh a chuid machnaimh, tá súil agam go ndíreoidh sé ar an tábhacht a bhaineann leis an amhrás náisiúnta i gcultúr, stair agus oidhreacht na tíre. I hope the committee will be mindful of the important place for the national anthem in the culture, history and heritage of our country. The last line of “Amhrán na bhFiann” is “Seo libh canáidh Amhrán na bhFiann”. I say “Seo libh, cuimhní gí ar Amhrán na bhFiann”.

Mr. Raymond Daly: I thank the committee for inviting me today to speak on a subject very close to my heart. There are two dates that stand out for me with regard to the singing of “Amhrán na bhFiann” and my colleagues have mentioned them. There was the great event of 2007 and the famous Ireland-England game. On such a powerful occasion, emotions run high, and on that date, “Amhrán na bhFiann” found its voice. Peadar Kearney, Patrick Heeney and Liam Ó Rinn would have been very proud on that day. On Easter Monday 2016, I stood on Moore Street in Dublin with my family, two girls, on the site where our 1916 leaders surrendered. After the Proclamation was read, the large crowd, including us, sang “Amhrán na bhFiann”. Again, it was a powerful occasion that brought much emotion and patriotism. It just felt right. At the Ireland-England game I have the image of “The Bull” Hayes in floods of tears. I think he was crying for the country that day and “Amhrán na bhFiann” hit a note that day. Unfortunately as a nation, a country and a people we have failed to fully embrace “Amhrán na bhFiann”. Many of us were not taught the words in school. It depended on the individual teacher. This probably indicates why “Amhrán na bhFiann” is not known throughout Ireland.

In a recent poll reported in *The Irish Times* online 47% of people said they knew the words, 37% knew some and faked the rest, 13% said they did not know the words. The rest had not heard it sung. In another poll *TheJournal.ie* asked “Do you think learning the national anthem should be part of the school curriculum?” A total of 89% said “Yes”, 9% said “No”, and the remainder did not know. I would like to think that as part of this process the Department of Education and Skills will make the learning of “Amhrán na bhFiann” part of the school curriculum, certainly in primary school. By the time they leave primary school every child in Ireland would know the words of “Amhrán na bhFiann”.

I love to follow Ireland and Offaly, when it is doing well, but it is not doing so well now. I love to watch sport in general. “Amhrán na bhFiann” is least respected when sport is shown live on television. As the camera scans the team at best 50% of them are singing. It does not look right. If the Football Association of Ireland, FAI, the Irish Rugby Football Union, IRFU, and the Gaelic Athletic Association, GAA, would try to get their players, coaches, staff and management to learn the words of “Amhrán na bhFiann” that would look very good. There is a great example of this working well in Wales where at the last game of the group stage, all the Welsh players and supporters sang their song. The same happens in England, Scotland, Italy and Argentina. When everyone sings the anthem together it works very well. I hope that could be done here.

It took a trip to Glasgow to inspire me to learn the words of “Amhrán na bhFiann”. At the ground I was intrigued that the Celtic supporters could sing “The Soldier’s Song” on the terrace. On one occasion when we ended up in the pub after the game at the end of the session

the band asked for quiet as they sang “Amhrán na bhFiann”. All the Glasgow Irish sang along. Unfortunately, I did not know the words but that planted the seed and I was committed then to learning the words of “Amhrán na bhFiann”. I have sung it many times since.

In America in 2006 a national anthem project was set up after a decline was shown in the number of people who knew the words of “The Star Spangled Banner”. Competitions and roadshows went around to the schools to help the pupils learn the words in a fun and enjoyable way. I call on the Department of Education and Skills to make learning “Amhrán na bhFiann” compulsory in primary schools. As part of history and music combined, the children should learn the story behind our national anthem and learn the music too. This could be done using the US national anthem project as a template. The words should be published and taught in Gaelic and English, recognising that many in Ireland have a heritage of the English language and because the original song was written in English. The Department should set a timetable such that, for example, by 2025 children leaving primary school would know all the words of “The Soldier’s Song” and “Amhrán na bhFiann”. Teachers should be encouraged to teach this to their students in a fun, enjoyable and patriotic way in celebration of our national heritage, history and culture. I propose that the FAI, the IRFU, the GAA and other national sporting organisations take a lead role in encouraging all their members to learn the words of our anthem. Managers, players and staff should be made aware that they should lead by example and learn the words of our anthem, especially for live games on TV. While “Amhrán na bhFiann” is being played all teams should be encouraged not to break away until the national anthem is complete. Likewise, supporters should be encouraged to sing the anthem fully and not cheer before the last line is sung as has happened in the past.

The IRFU should be encouraged to change its policy of not playing “Amhrán na bhFiann” when the Irish rugby team plays away from home. “Ireland’s Call” is a rugby anthem and when the Irish rugby team plays away from home “Amhrán na bhFiann” should be played also. I strongly plead with the IRFU to review this decision.

Phonetic versions of “Amhrán na bhFiann” should be used to encourage the Irish diaspora and those with Irish ancestry around the world to learn the national anthem. The chorus of “Amhrán na bhFiann” should be the national anthem of Ireland, inclusive of nationalists living in Northern Ireland and those Irish citizens around the world who use an Irish passport, for example, the Glasgow Irish. Please recognise that the national anthem belongs to the Irish people not just those of us who live in the Republic of Ireland.

I thank the committee for giving me the time to speak and I wish it well in its work.

Chairman: I thank all the witnesses for their very interesting and informative presentations. I will now take questions from the Senators and ask the questioners and the witnesses to be brief and to the point.

Senator Máire Devine: I am usually brief and to the point. I thank the witnesses for coming here today. It has been interesting to learn more about my history. I was on the board of an Educate Together school that was established in Dublin 8. My main interest in establishing it was for my children. A few years later I found that they did not know the national anthem. I went into the school to teach it to the children, perhaps badly. I felt passionately that they should have a sense of belonging, pride and respect for the gift of being an Irish citizen. That was extremely important for me. They got there.

Cuba is probably not the most popular country to mention. Other countries have been men-

tioned. I was part of a group that went to Cuba in 2011 and we visited hospitals, etc. We went to see the Bobby Sands memorials and stuff like that. When we visited schools, we learned that schoolchildren in Cuba are fanatical about their anthem and their flag. It is instilled in them from an early age. Obviously, the false news agency would say this is ingrained in them because they are not free. The point is that they bring their pride in the country with them from childhood right up to adulthood.

I wish to ask the witnesses a few questions. The first of them is for Ard-Mhéara of Cork, Councillor Fitzgerald. Did any schools refuse to take part in the initiative involving the national anthem and the flags?

Lieutenant Colonel Armstrong mentioned that the national anthem was played at theatres, cinemas and dance halls “up to the 1970s or 1980s”. Does he know why this was stopped? Was it a political measure? Did it just peter out? Was there a certain cut-off point? It stopped all of a sudden. Some of us can remember it being played.

I did not realise that there is an abstract and beautiful artistic reference to the national anthem in Irish passports until Mr. Nugent pointed it out. What we are talking about here today is the beauty of the past, the present and - hopefully - our future. Can Mr. Nugent tell us when this abstract background detail started to be included in passports? I was not aware until this morning that it is there.

I am proud to meet Mr. Kearney today. His eloquent speech was absolutely electrifying. Regardless of the outcome of this public consultation, as legislators we need to respect our anthem and pass it on safely to our children and our children’s children.

I welcome Mr. Ring, who is a grandnephew of Liam Ó Rinn. He set out the fascinating history of the anthem. I wonder whether he thinks Fianna Fáil was a bit opportunistic in plagiarising its name from the national anthem, but we will not get into that argument.

Senator Gerry Horkan: We did not even have a go at the Senator over Cuba.

Senator Mark Daly: Will the Chairman give protection to Fianna Fáil?

Chairman: The Chair will be equally fair and partial to all. Do not worry about that.

Senator Máire Devine: I want to say “go raibh míle maith agat” to Mr. Raymond Daly. As I listened to him, I imagined what Croke Park would be like, even when the Dubs win, if we did not play our national anthem. When 83,000 people sing it together, it is an electrifying moment. I completely and utterly share his embarrassment about watching players remaining silent during the anthem. In some cases, they half-mouth it. This phenomenon seems to increase with every match one watches on the television.

Mr. Raymond Daly: That is right.

Senator Máire Devine: This problem is not confined to the GAA. It is really cringeworthy and disrespectful.

Mr. Raymond Daly: It is not nice to look at.

Chairman: Senator Devine’s first question was addressed to the Lord Mayor.

Mr. Tony Fitzgerald: I thank the Senator for her kind remarks. Every single school par-

ticipated in the programme. Depending on the availability within the school of resources like musicians and instruments, the pupils sang the anthem a cappella or with an orchestra or band. The response was 100%.

Mr. Mark Armstrong: I am not sure why the practice referred to by the Senator stopped. I could hazard a guess. The Senator would probably come up with the same answer. I would say it was a cultural thing. I recall standing up at the end of the cinema. The national anthem used to be broadcast by RTÉ, which had just one channel at the time, at the end of the day's television programming.

Senator Máire Devine: That is right.

Mr. Mark Armstrong: As we all remember, Professor Brian Boydell's arrangement of the orchestral version of the anthem used to be played to the accompaniment of images of lovely rolling waves and the sun coming down.

Senator Máire Devine: I had forgotten about that.

Mr. Mark Armstrong: I do not stay up late enough now to know whether RTÉ still plays it.

Senator Máire Devine: It never stops.

Mr. Mark Armstrong: It never stops. It is 24-7.

Senator Máire Devine: I think it is 24-7.

Mr. Mark Armstrong: It is a cultural thing. Unfortunately, these things are being lost along the way.

Senator Máire Devine: There is a fear.

Mr. Mark Armstrong: That is all I know about that.

Mr. Joseph Nugent: The Irish passport design was changed in September 2013 and launched in October 2013. I would like to read from a brief letter that was published in *The Irish Times* a couple of years later. I will not name the individual who wrote the letter, which states:

In a queue at Dublin Airport last week, my daughter Alex was curious about music notation on successive pages of her passport and asked me to read the music. To our surprise and delight, it was the music of our National Anthem. Whoever imagined this subtle celebration of Irish musicality should be congratulated.

There is a sense of beauty and art in the audible symbol of our nation.

Chairman: Did Mr. Kearney get a question?

Senator Máire Devine: I think he got a "congratulations".

Mr. Conal Kearney: Thank you very much.

Senator Gerry Horkan: No response is required.

Chairman: I think Councillor Ring got a question.

Mr. Nial Ring: I did not get a question. I would prefer not to comment on whether Liam Ó

Rinn's family is as proud of having a political party named after a phrase from his translation of "Amhrán na bhFiann" as we are of the translation itself.

Senator Máire Devine: That is understandable.

Chairman: Did Mr. Daly get a question?

Mr. Raymond Daly: I do not know if I got an actual question, but just-----

Chairman: We must proceed with questions. I ask Senator Horkan to keep them brief.

Senator Gerry Horkan: I thank all of the witnesses who have addressed the committee during the first session this morning. Everybody made a great contribution. We heard about the various roles that have been played by those with a historical involvement with the national anthem. I would like to address a few points to each of the speakers.

Chairman: We are looking for questions.

Senator Gerry Horkan: That is what I am saying. I congratulate the Lord Mayor of Cork on the great initiative. He was a North Mon boy. I was a Christian Brothers boy in my day. They all come under the Edmund Rice Schools Trust. I have been on school boards of management for 15 years. I have spent nine years as chairman of a board. I think the Lord Mayor's initiative, which got schools involved, was a fantastic one. Did the initiative focus primarily on primary schools or secondary schools? Was it his experience that people in secondary schools did not learn the anthem in primary school? Were people in primary schools more willing to take it up? I suggest that the earlier one learns it, the better. My first proper exposure to it was at the end of my first year in secondary school, when I went to the Gaeltacht where the Independent Senator, Trevor Ó Clochartaigh, formerly of Sinn Féin, grew up and now lives.

I am Fianna Fáil's spokesperson on finance in the Seanad. The protection of our national anthem comes under the remit of the Department of Finance. I am speaking particularly for that reason. I am interested anyway, but this has particular relevance to my remit. If we get something over the line, it will be dealt with in my brief.

I will not dwell too much on Senator Devine's reference to Cuba. She made plenty of contributions when Fidel Castro died. It is interesting to hear about how various countries consider their own anthems.

I thank Councillor Ring for what he said about his family's involvement with the national anthem. It is very important that we have respect for it and, equally, that we bring it into daily usage. It used to be heard at the end of a nightclub or when RTÉ closed down for the night, which it no longer does in this era of rolling programming. Maybe it could broadcast it at midnight or 2 a.m. It would be ideal if it could be broadcast at a time when there might be a bit more exposure to it. There is nothing more embarrassing for all of us than to see line-ups of soccer or rugby players not singing the anthem. We all remember when John Redwood MP, in his capacity as Secretary of State for Wales, was humming and hawing because he did not know the words. It is crucial that we ensure everybody knows the words of the anthem and knows how to sing it. I thank everybody for their contributions this morning.

Chairman: The first question was addressed to the Lord Mayor.

Mr. Tony Fitzgerald: I have visited both primary and secondary schools and it has been sung in every school. I am always conscious that school principals have many people calling

to the school, including community gardaí and health workers. It is important to ensure the national anthem is part of the curriculum. To be fair, every school at primary and secondary levels embraced it warmly. I appreciate that at different levels, one will get different engagements and degrees of knowledge. The best way to go from now on is probably to start with the primary schools.

Chairman: Did Councillor Ring get a question?

Mr. Nial Ring: No.

Chairman: That is grand. I call Senator Black.

Senator Frances Black: I thank those who have given us such fantastic presentations today. I really enjoyed listening to each of them. It makes me proud. I feel very connected to our national anthem. Any time I have sung it, I have felt huge emotion. I feel proud to be Irish and proud to sing the national anthem. I congratulate the Lord Mayor of Cork on a fantastic initiative which reminds me of the time I was in school many decades ago. I attended St. Louis, Rathmines, as did my colleague, Senator Joan Freeman, and every morning we said our few prayers and then sang the national anthem. We also sang “A Nation Once Again” and “Seán South of Garryowen”. These songs would not be thought about today. When President de Valera came, it was an emotional time for the whole school. We were all in awe. I am saddened that we do not hear the national anthem at the end of the day on television or at the end in the cinema or dance halls.

I have a couple of questions for Mr. Kearney and Mr. Ring. I do not think the national anthem is too militaristic, but some people do. Will they give us their thoughts on the matter? There is controversy about whether it should be Sinne Fianna Fáil or Sinne Laochra Fáil. What are their thoughts on it? Mr. Ring spoke about it, but perhaps he might say a little more.

We will be faced with these arguments when the debates start. I thank everyone for the fantastic presentations.

Mr. Conal Kearney: I disagree completely that the national anthem is too militaristic. In modern times it is a metaphor or imagery. Other anthems include some bloodcurdling sounds and words, but they are equally impressive. The words are a metaphor for who we are and help us to face challenges. If we were to follow through on the argument, we could ask why members of Fianna Fáil are the soldiers of destiny. They do not march in uniform, but the national anthem traces our cultural background, the story of from where we originated.

Mr. Nial Ring: On a cursory glance at the words, one would have to be very sensitive to take them as militaristic. It is, of course, a soldier’s song and includes words such as “shelter the despot or the slave” and “mid cannons’ roar”, but they are hardly bloodcurdling in the way the French national anthem is. I have no issue with it.

I also have no issue with the fact that the national anthem includes the words “Sinne Fianna Fáil”, while Fianna Fáil is, of course, a political party. People of different political persuasions may have issues with it, but I am an independent councillor, although I come from a Fianna Fáil background. I never saw it as an issue and feel people bring it up a little mischievously. The Deputy for my area, Deputy Maureen O’Sullivan, has always had an issue with it and wants it to read, “Sinne Laochra Fáil” or “Sinne Laochra Gael”. According to Mr. Daly, only 40% of people know the words of the national anthem as it is; therefore, changing the wording might cause confusion.

It was said the Department of Finance was involved, but the website of the Department of the Taoiseach which I called yesterday states the national anthem, “The Soldier’s Song”, was written in 1907 by Peadar Kearney, an uncle of Brendan Behan, and first published in the *Irish Freedom* newspaper in 1912, although it was not widely known until it was sung at the GPO during the Easter Rising of 1916. It is stated the chorus was formally adopted as the national anthem in 1926. Despite it being the website of the Department of the Taoiseach, this information is wrong in many ways. It is not “The Soldier’s Song” but “Amhrán na bhFiann”. Mr. Conal Kearney will know when it was written. The website informs us that the writer was an uncle of Brendan Behan, but what has that got to do with it? Where is the mention of Liam Ring or Patrick Heeney? Unfortunately, very few of Patrick Heeney’s relatives are alive and he died penniless in the north inner city. The triumvirate involved in writing the national anthem should be recognised equally. The Department of the Taoiseach’s four-line piece on the national anthem is an absolute disgrace. I hope the committee will take up this matter with the Department.

Chairman: Perhaps, as a result of today’s proceedings, the record might be put straight.

Senator Mark Daly: The Chairman might get onto the communications unit as soon as possible.

Mr. Conal Kearney: Senator Frances Black asked about the words “Sinne Fianna Fáil”. The name “Fianna Fáil” came into existence in 1936, whereas the translation “Sinne Fianna Fáil” was written in the 1920s. If we have a song and a party calls itself by a name in the song, does that mean we have to go back and change the song? Perhaps it should be the other way around.

Senator Mark Daly: If the words were changed to “Sinne Laochra Gael” and a party was to call itself that name, we would just be moving the goalposts.

Mr. Conal Kearney: Yes.

Senator Joan Freeman: I am sorry I missed the presentations. I have a summary, however, and they look fascinating. Senator Frances Black said she and I had both attended the same school, but I did not attend St. Louis until I was aged 12 years as I had been living in England. Because of that I was not allowed to learn Irish and the only piece I have is the national anthem which we sang every single day, of which I am desperately proud. Mr. Daly believes it should be made compulsory in primary schools and he is absolutely right. Has anybody started that process? I agree with what Mr. Ring said about the Department of the Taoiseach and the text on its website should be changed immediately. However, I wonder if we should go one step further and sing the national anthem at the start of every sitting day, starting next September. As leaders of the country, surely we should lead the way in that respect. What are the opinions of the delegates on that matter?

I compliment Senator Mark Daly for highlighting this issue. Until he highlighted it, I did not realise how poor we had become in expressing pride in the national anthem.

Mr. Raymond Daly: Not only should it be sung here, the national anthem should be sung at the start of each day in school. Nothing is being done about getting this done, but last year everyone in second class, my daughter included, learned “Amhrán na bhFiann”. The Minister of Education and Skills could look into this matter.

Senator Brian Ó Domhnaill: Tá lúcháir orm bheith anseo inniu leis an deis seo a thapú.

I dtús báire, déanaim comhghairdeas leis an Seanadóir Marcus Ó Dálaigh as ucht na réamhoibre atá déanta aige leis an ócáid seo a eagrú. Is ábhar fiorthábhachtach é seo. Is páirt dár n-oidhreacht, dár dúchas agus dár gcultúr é “Amhrán na bhFiann”. Mar a deirtear sa seanfhocal, “If we do not know where we came from, how can we know where we are going?” Sometimes, there is a great movement in this country to airbrush history. We should never be a party to that. It is wrong because it diminishes the contributions made by our forefathers, not only in shaping our nation, but who we are as a people and a country.

I have a few questions. Regarding the song’s origin, the alternative for the Government of the time was the formal or informal recognition of “God Save the King” as the quasi-national anthem.

Chairman: It did not commence directly.

Senator Brian Ó Domhnaill: The inspiration and work of Peadar Kearney, Patrick Heeney and, in translating it, Liam Ó Rinn should not go unnoticed. I agree with Comhairleoir Ó Rinn. The Department of Foreign Affairs and Trade’s website, which I checked before coming to the Chamber, has a fact sheet outlining the origin of the national anthem. It does not mention the Irish translator, Liam Ó Rinn. That should be corrected. Those three men contributed much to our country and identity and provided us with a national anthem, but they went largely unrecognised. That is something that we should address.

I remember learning the anthem in primary school, but we never learned the meaning of the words. Is that something we should consider in terms of the educational curriculum?

The work done by the lord mayor of Cork has been excellent. Should we replicate it nationally and how best could that be done? Should we elaborate on a curriculum for our cultural identity and footprint and have it encompass the anthem? Councillor Ring referred to enshrining it in legislation, but it is not even enshrined in our Constitution, which is wrong. Would the witnesses have views on that?

I thank our guests because I have learned much from everyone. I was watching on a monitor in the office because I needed to do an interview with Raidió na Gaeltachta. That is why I was late.

Chairman: In view of the time, I will ask Senator Mark Daly to contribute, after which I will revert to the witnesses if they have a brief point to make. We need to finish at 11.30 a.m.

Senator Mark Daly: I thank my colleagues for attending and raising their issues. I thank Mr. Raymond for his valuable contribution. He might share with us information on the national anthem project that was done in the US. It would tie in well with what the lord mayor of Cork, Mr. Tony Fitzgerald, has done.

Opportunities to sing the national anthem pose the main issue. If one is in Croke Park, at a GAA match or at an international match, that is the opportunity. If one does not attend such occasions, where would the opportunity arise? Perhaps the lord mayor will answer my next question. Should we be considering a day like the eve of St. Patrick’s Day on which schools would be asked to arrange ceremonies around our national anthem while also including students of other nationalities and discussing the origins of their countries’ anthems?

The presidential salute is not within our remit, but perhaps Lt. Col. Armstrong might consider this matter. We would ask him which version to include in our report. Given that we are

lay people and not well versed in musical arrangements, it is probably news to many that there is an outdoor version as well as an indoor one. Should we incorporate more than one version into any legislation or protocol?

Regarding Mr. Nugent's contribution, was there any resistance to including the national anthem in the passport? I am sure that it was a collaborative effort and many meetings were held. I congratulate him on that initiative and having it included. This may be unique of any passport in the world.

Given what we have heard from Councillor Ring about the Department of the Taoiseach, it is probably the only formal recognition by the State of the national anthem. I thank Mr. Conal Kearney. Would he be able to share with us the original documents so that we could include them in the report and share them with the Department of the Taoiseach in order for the website to be updated this evening?

Regarding the contentious opening line of the national anthem and its translation, this issue will be debated for some time. I am sorry for intervening out of turn, which is unlike me, but this relates to the question-----

Chairman: If the Senator had been intervening, I would have told him, but I will allow him some brief time if he has something to say.

Senator Mark Daly: Regarding the term "Fianna Fáil", it is also included in the Defence Forces' emblems. Is that the next step? If the opening line is changed to "laochra Gael" and some political party decides to take on that name, should we then keep changing the opening line?

I thank the witnesses for attending and hope that they will share all of their documents with us. Those are the ones that will be included in the report and that we will use.

I apologise to Councillor Ring. In the briefing documents for our considerations, the part played by Liam Ó Rinn was not included. That is what we are here to do.

Chairman: We will have that corrected.

Senator Mark Daly: We will rectify an error and oversight by the State that is long overdue to be corrected.

Chairman: Absolutely. Does any brief point arise?

Mr. Tony Fitzgerald: I thank Senators for their kind remarks. Cork is always glad to take the lead in any national identity initiative. We are delighted to do that. It is important that Mr. Alain Newstead, a student from Bishopstown community school, which is one of the schools that I visited, will be present shortly to make a presentation.

Schools are the obvious places to promote this. School is where this issue arose for me. The right time to do it is around the Easter holidays but, unfortunately, that schools break at that time poses a challenge. St. Patrick's weekend is probably the best time of the year to do it because schools will be open the day before St. Patrick's Day unless it falls on a weekend. Ideally, I would prefer it to be done at Easter, but that is not practical because schools close before Holy Thursday. All schools singing the anthem together at 8.55 a.m. is the way to go.

Mr. Nial Ring: Labhair an Seanadóir Ó Domhnaill faoi tagairt d'Amhrán na bhFiann a

bheith sa Bhunreacht. Regarding the national flag, protocols and guidelines, the flag is mentioned simply, so referring to “Amhrán na bhFiann” could be done just as simply. Article 7 reads: “The national flag is the tricolour of green, white and orange.” D’fhéadfadh rud cosúil leis sin, atá an-simplí, a bheith ann. Tá an ceart ag an gcomhairleoir gur chóir go mbeadh sé sa Bhunreacht.

Mr. Conal Kearney: I thank Senators for allowing me to address them. It was a proud moment.

Chairman: We were delighted to have Mr. Kearney.

Mr. Mark Armstrong: I will briefly answer Senator Mark Daly’s question on enshrining the anthem in the Constitution or legislation. As I alluded to in my report, there are so many different arrangements and versions that we should decide the band arrangement and an arrangement for voice and pianoforte, which is the one that schoolchildren would learn. A number of versions are lurking on various Government websites, several of which contain mistakes in the melody and the harmonies are not great. There are also some good orchestral versions. It is important from a musicological point of view that we do all of that if we are going to the extent of copper-fastening this.

In Creative Ireland, there is an intent to bring music education to all children in the State. The Association of Irish Choirs, which I am associated with, is launching a project in the Mansion House on 13 December dealing with a music booklet for teaching all primary schoolchildren. I am involved in that project. We could use the intent of Creative Ireland and the project by the Association of Irish Choirs to bring the national anthem to schoolchildren from junior infants upwards.

Mr. Joseph Nugent: We are not aware of any country which publishes its anthem on its passport book. It is a nice security feature. Although careful consideration of all political sensitivities was given to all of the various components which feature in the passport book, the inclusion of the anthem did not face any resistance. We were delighted to be able to incorporate it in the passport book.

Mr. Raymond Daly: If we get the Department of Education and Skills on board to have the national anthem taught in primary schools, Amhrán na bhFiann will be known universally throughout Ireland by future generations. James McClean, the footballer, plays 100% when on the pitch. He sings his anthem and wears his heart on his sleeve. We need all players in all sports to do the same.

Chairman: On behalf of the committee, I thank all witnesses for their contributions this morning. This session has been informative and productive. We have all learned much from the witnesses’ insights and observations. Full account will be taken of today’s discussions when the draft report is being prepared. All copies of the final report will be sent to all contributors.

Sitting suspended at 11.32 a.m. and resumed at 11.54 a.m.

Chairman: To the second session of today’s proceedings, I welcome the Minister of State at the Department of Finance, Deputy Michael D’Arcy, Mr. Gary Tobin, assistant secretary in the Department of Finance, Dr. Eoin O’Dell, associate professor at the school of law, Trinity College, Dublin, and Ms Hazel Tunney, qualified Irish and European trademark and design attorney. From Bishopstown community school, County Cork, I welcome Mr. Alain Newstead, a student, Mr. John Cottrell, a member of the school student council, and Ms Denise Dowling,

a teacher, and they will be assisted by Irish Sign Language interpreters, Darren Burke and Cormac Leonard. From Eureka secondary school, County Meath, we are joined by Ms Alex Martin and Ms Emily-Jo White, who are both transition year students, and Mr. Stephen McKee and Ms Danielle O'Reilly, both teachers. They are most welcome and we thank them for engaging with the committee in its consideration of this important topic. As Irish Sign Language interpreters are covering the proceedings, I ask contributors to be clear, distinct and allow time for them to get the message across.

Before we begin, I must draw witnesses' attention to the following procedural matters. I wish to draw their attention to the fact that by virtue of section 17(2)(l) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence to this committee. However, if they are directed by the Chairman to cease giving evidence in relation to a particular matter and they continue to do so, they are entitled thereafter only to a qualified privilege in respect of their evidence. Witnesses are directed that only evidence connected with the subject matter of these proceedings is to be given and they are asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person, persons or entity by name or in such a way as to make him, her or it identifiable. I also wish to advise the witnesses that any opening statements they have made to the committee will be published on its website after this meeting.

To begin, I will invite Senator Mark Daly to make a few introductory remarks before inviting each witness to make a short presentation. Witnesses may share their time with a colleague if they so wish and they should please indicate this to me when they are invited to speak. As there are a large number of witnesses in this session, I would ask that presenters keep their opening statements as brief as possible.

Senator Mark Daly: I thank everyone for being here. The national anthem, Amhrán na bhFiann, belongs to everyone and is one of the key symbols of our State. It is worthy of respect and our consideration today is about its protection and recognition by this State. When I wrote these words earlier this morning, I noted that it was written by Peadar Kearney in 1907, as that is what appears on the Government website, but through this public consultation process we have learned that it was not composed until 1909 or 1910. The Irish language version was translated by Liam Ring and the music was composed by Patrick Heeney. We are deeply honoured and indeed humbled to have descendants of the Kearney and Ring family here with us today in the Gallery.

The national anthem has been sung on the most important State occasions. It was sung last year on the occasion of the 100th anniversary of the 1916 Rising and was sung in the GPO itself during the Rising. As Councillor Ring has pointed out, during the singing of the anthem in English, in the GPO on the Friday before the evacuation, the Rings commented that it would be better if it was sung in Irish. Such is the origin of our national anthem.

The national flag, the harp and the anthem are important symbols of the State. The flag is enshrined in our Constitution in Article 7 where it states that the national flag is a tricolour of green, white and orange. The national flag is protected by protocol and copyright law. The harp is protected by a patent which has been placed upon it by the State. The national anthem does not have any official recognition or protection and the Irish Sign Language version was never formally adopted by the State.

I thank my fellow Kerryman, Senator Paul Coghlan, for chairing this public consultation process, fellow members of Seanad Public Consultation Committee, Senators Buttimer, Byrne,

Conway, Ardagh, Freeman, Ó Céidigh, Devine, Kelleher, and to the other Senators who are here today. I thank Bridget Doody, the clerk of the Senate Public Consultation Committee, and to Grace Coyle and Aliana Caridad for their work on this over recent months. We thank all those who made submissions and especially thank all those who have attended today.

It is fitting and appropriate that the Minister of State, Deputy D’Arcy, is here. As Minister of State at the Department of Finance he will outline the Department’s role in protecting the national anthem. It is appropriate the Minister of State, Deputy D’Arcy, is here today because it was a Cumann na nGaedheal Deputy who asked the Minister for Defence a Dáil question in 1926 about what the national anthem was. There was doubt about whether it was “Amhrán na bhFiann” or “Let Erin Remember” because the latter had been sung in the 1924 Olympics as the Irish team’s national anthem.

Professor O’Dell, as an associate professor of Trinity College, will offer us an academic viewpoint on the protection that could be afforded to the national anthem. The argument offered by Professor O’Dell is that legislation rather than copyright could be utilised. He has included a draft of a Bill for the national anthem and the presidential salute which details issues such as respect, dignity, liability, performance, advertising and remedies with regard to the national anthem. It is a very important submission for the understanding of the relevant points of a possible legal protection for the national anthem.

Ms Hazel Tunney is a qualified Irish and European trademark and design attorney with 17 years’ experience in her profession. She will outline the trademark protections for official State emblems and symbols. Ms Tunney will address the importance of protecting these emblems through trademark, design rights, patent and copyright legislation. Her submission is important for understanding the relevant legislation on State emblems and symbols that pertains or which could be used for the protection of the national anthem.

Mr. Alain Newstead is a sixth year student at Bishopstown community school and is a proud deaf citizen who uses Irish Sign Language as his native language. In his submission, he outlined the lack of a sign language interpretation of the national anthem. The submission is important as it outlines the lack of an enshrined interpretation of the national anthem for all citizens. Also in attendance is Mr. John Cottrell, a member of the student council and Ms Denise Dowling, a teacher. We also have Mr. Darren Burke and our interpreters with us. Students of Eureka national school are here in the Public Gallery and I thank them and their teachers for their attendance. Ms Alex Martin and Ms Emily-Jo White will give their presentation on behalf of the students. Their teachers, Mr. Stephen McKee and Ms. Danielle O’Reilly, are here with them today to outline that students take immense pride in the national anthem as a symbol of the State. Their submissions address the need to enshrine the special status and appropriate use of the national anthem in law and to determine what laws should be put in place on the rules for its commercial use. Their submissions will address extending the protections we have for the harp and the flag to the national anthem. Their submissions will detail the protection that should be afforded to the national anthem and how it is important to all citizens of the State regardless of which generation they are.

On 1 January 2013, the 70th anniversary of the death of Peadar Kearney, the national anthem copyright expired and was no longer protected by the laws of the land. I introduced the National Anthem (Protection of Copyright and Related Rights) (Amendment) Bill, which would give legal recognition to the national anthem for the first time and protect it. I also suggested that we should carry out the Seanad public consultation process. I thank the officials from the Department of Finance for their assistance in this regard. I am honoured to be the co-

ordinator of the public consultation process and to get the views of all the citizens of the State on what should be done with regard to the national anthem.

When the public consultation process has concluded, I will be compiling a report and if necessary drafting legislation, protocols or guidelines on the people's song, our national anthem, "Amhrán na bhFiann".

Minister of State at the Department of Finance (Deputy Michael D'Arcy): It has been a while since I was in these seats.

Chairman: The Minister of State is always welcome back.

Deputy Michael D'Arcy: I will make a number of comments before I make my speech. People might be interested to know why the Department of Finance is responsible. In 1933, the Department of Finance paid an awful lot of money to purchase the copyright. It cost £1,000, which is equivalent to millions of euro today. At the time, an acre of land traded for about £3 so the price paid was similar to the price of 200 acres to 300 acres of land. That was in 1933. In 1965, the copyright was extended and the Department of Finance paid £2,500. That is why it is the responsibility of the Department of Finance. When I was writing down the symbol for pounds, I had to stop and think because I had not written one down for so long.

I listened in and out of the debate this morning and one of the things that struck me most in Senator Daly's contribution was his remark about the singing of the national anthem and the number of people who sing it with such pride but do not understand the words. That is the most telling aspect of everything that has been said to date. While we understand it is something to be proud of, we do not know what we are proud of in terms of the words and the song. The Deputy Senator Daly mentioned was Osmond Esmonde. The Esmondes have a longstanding relationship with Ireland. Members of the family were Deputies in the House for an unbroken period until 1977. Prior to that they represented Wexford in Westminster and prior to that they represented their constituencies in Grattan's Parliament and parliaments before that. They came over on a boat from Pembrokeshire with a fellow some people might have heard of - a gentleman by the name of Richard de Clare, who was also called Strongbow. They were in the first boat from Pembrokeshire with Richard de Clare in 1169. I know them quite well because their base was in my parish.

I want to correct the record. Osmond Esmonde was elected a Deputy for Cumann na nGaedheal. However, when the conversation about the anthem arose he was not a member of the Cumann na nGaedheal party. At that time, he was part of the National Party led by Joseph McGrath. He did not stand in the first election of 1927 but stood in the second election of 1927 as a member of Cumann na nGaedheal. That is just a few bits of history.

Senator Mark Daly: We are here to correct a lot of records today.

Deputy Michael D'Arcy: That is good. That is just a few bits and pieces. The Department of Finance is very proud of its long association with the national anthem, having acted as its unofficial custodian since it purchased the copyright of the music and the English lyrics of "The Soldier's Song" on behalf of the State in 1933. As a modest expression of our pride, Peadar Kearney was one of the figures we chose to honour recently when naming the various conference rooms and corridors off our main offices in Government Buildings. As such, I am glad of the opportunity to contribute to today's discussion. I sincerely hope the constructive engagement with the committee and the various stakeholders who have gathered here will result in a useful

outcome for all concerned. To turn to the substance of today's discussion, I hope the written response to the consultative process that my Department has prepared for the committee has proven useful in setting out our position on the matter.

I will take this opportunity to highlight elements of our response concerning some of the specific questions raised by the committee in the consultation paper. The copyright of the music and English lyrics of the national anthem, held by Patrick Heaney and Peadar Kearney, respectively, was purchased by the Department of Finance on behalf of the State in 1933. Changes to copyright law meant it was purchased again in the same manner in 1965. In line with domestic and European copyright legislation, the State's claim to the copyright of the music and English lyrics of the national anthem expired on 31 December 2012. The original intention of purchasing the national anthem was to allow it to be freely played without the collection of royalties. This has remained the principled position of the Department throughout the period of its custodianship of the copyright. Upon its expiration on 31 December 2012, the Department felt that considering the anthem was in the public domain, that it was freely available and that fees could not be charged for its use, the original policy intent in purchasing the copyright appeared to have been satisfied, with "Amhrán na bhFiann" freely available to be used since 1 January 2013. This legal status is a common one internationally. Many countries, including the US, France and the Netherlands, allow their national anthems to reside in the public domain in this manner. In addition, I do not agree with the attempt to extend copyright of the national anthem to bring it back under the control of my Department. Any such move would run contrary to both national and European copyright legislation. Last year, my Department received legal advice from the Attorney General on this issue that indicated that passing legislation to extend the State's copyright over the national anthem would not stand up to legal scrutiny. As such, the national anthem's current legal status is appropriate in regard to the original intention for the purchase of its copyright by the Department and in accordance with best practice internationally.

To turn to issues concerning the treatment of the anthem, I am fully aware and appreciate the important symbolism attached to it. It is one of the most important symbols of our State. It is an internationally recognised means of demonstrating our national pride, whether it is used for official State visits, to inspire sports people or to celebrate the wins of our athletes. Even its informal use across Ireland and around the globe serves to bring people of Ireland together. I am concerned, however, that several of the suggestions raised in the consultation document with the admirable purpose of protecting our anthem could, unfortunately, prove to be counter-productive. Despite the good intentions behind such suggestions, it could be argued that any attempts to restrict the anthem's use or introduce statutory penalties for its misuse could attract unnecessary attention and public ire. This could result in the anthem being disparaged or demeaned for political reasons or to make a point regarding free speech, particularly in regard to its use for parody or satire.

Given the symbolism attached to the national anthem, I fully understand and sympathise with the concerns of individuals pertaining to its general mistreatment or use in a derisory or disruptive manner. I believe, however, it is regularly treated with the appropriate respect. It goes without saying that the vast majority of Irish citizens have the utmost respect for it, while the instances of controversy concerning issues over recent decades have been few and far between. Since the anthem came out of copyright in 2012, there does not appear to have been any strong evidence of its use in a derogatory fashion, with both the court of public opinion and good sense of the people at large coming together to ensure this is the case.

It would be very difficult to define properly “inappropriate use of the anthem”. It would be difficult for such restrictions to be constitutionally valid unless they were solidly justified and infringed as little as possible on freedom of expression rights. Similarly, I fully understand the desire that the national anthem not be used for commercial purposes. Given its symbolism and meaning to the Irish State and the majority of the citizens, the desire to prevent such a symbol being used to advance a commercial project or business is understandable, especially if it were to be used in a distasteful fashion. Of course, this is naturally subjective. Given my belief that the national anthem should remain within the public domain, I would not be in favour of any restrictions on its commercial use.

I am aware that there have been isolated incidents of its use for advertising purposes in recent years. Such incidents may indeed recur, but I must state once again my belief that the court of public opinion and general respect of the vast majority of citizens for the national anthem would be sufficient to discourage its use in this manner, especially given the potential for negative public reaction or a backlash against such use.

Defining what would constitute “commercial use” or “advertising purposes” would be very difficult. Doing so may have further unintended consequences, such as unduly restricting the use of the anthem in recordings made for charitable purposes. That is just one example. Nevertheless, while my issues with attempting to resolve these points in legislation are quite clear, I can certainly see the good intentions behind them. To this end, were consensus to emerge from the committee’s deliberations that additional criteria are required to protect the national anthem, the suggestion that guidelines be prepared and published on its use would appear to be the most balanced approach to take at this juncture. Setting out the criteria for best practice on the suitable treatment of the national anthem and putting them on a more formal footing through official guidelines could have positive effects on future treatment. Such guidelines could take a similar form to those issued by the Department of the Taoiseach for the use of the national flag. They could contain non-binding protocols and suggested treatment for the anthem, with the aim of formally setting out the unofficial social conventions that are currently observed regarding it. If the text of such guidelines were to be agreed upon through an open process such as this, involving the range of relevant stakeholders this committee has invited to participate today, well-rounded and sensible criteria would emerge. These could consequently be considered by the Government for adoption as non-binding guidelines for the use of the anthem. The usefulness of this exercise could be complemented by incorporating an official designation of the Irish and English words and the sheet music of the anthem that can currently be found on the website of the Department of the Taoiseach as the accepted version of the national anthem.

I hope I have outlined my position on the national anthem and my Department’s historical relationship with it. Generally attempting to extend the State’s copyright over the national anthem is not legally feasible. Similarly, drafting legislation to give the anthem specific legal protections is an exercise that would be fraught with unnecessary risk and unintended consequences. The goodwill of the people by and large ensures our national anthem is treated with the respect it deserves. All national anthems deserve this as symbols of state. Drafting guidelines governing best practice for the use of the anthem in a variety of circumstances may help in ensuring this respect is codified, and such a document could be considered by the Government. Overall, I extend my goodwill to the members of the committee and wish them well in producing a final report.

As somebody who loves the history of our national emblems, I believe it is important we do not go too far on this. It is important that people be educated and informed about our national

symbols and that they be prepared to gain knowledge of what the words of the national anthem actually mean and are not just proud because it is our anthem. It is important that they understand the symbolism and thought process behind our national anthem. The anthem was written in 1910 and translated in 1917, and it was subsequently understood to be our national anthem. The Irish translation became popularised. People should know and understand it.

I wish to touch on two final aspects. I am always concerned when people become too proud or attached to symbolism. It is not good. Sometimes people become overly nationalistic and fervently so. That is never good. There is a space in which one can show respect for the national anthem. I would like people to be in a space where they are informed and educated about it and know and understand its genesis and history.

Let me refer to the phrase “Fianna Fáil” in the first line of the anthem. My understanding is that this is the original translation. It should be left as it is and not changed to anything else. I am taking a very cold, objective view on this.

It is probably the GAA that has brought the national anthem to its current point. It is sung on All-Ireland day and provincial final days. Before television, it was heard on radio, played by the Artane Boys Band. People understand the music. The lyrics are rarely, if ever, sung on All-Ireland day. People understood the music before the words. I would like to push very strongly the view that people should understand the English words as much as the words as Gaeilge.

Chairman: I thank the Minister of State. His contribution was very helpful and clarified a few matters. I call on Doctor Eoin O’Dell from the school of law in Trinity College.

Dr. Eoin O’Dell: Táim an-bhuíoch den choiste as an chuireadh chun freastal air inniu. Is mór an onóir dom a bheith anseo chun an cheist an-tábhachtach seo a phlé. I welcome the committee’s consideration of the most appropriate way for the State to treat the national anthem and am grateful to the committee for the invitation to attend today. Preventing inappropriate use of the national anthem is important and encouraging its appropriate use is just as important.

At the outset, I would like to make two basic points. First, given that this consideration has arisen in part out of two Bills proposed by the committee’s rapporteur, Senator Mark Daly, which proposed to use copyright law to prevent inappropriate use of the national anthem, I have to say emphatically that this is not what copyright law is for. Second, if the prevention of inappropriate use of the anthem is to be achieved, it should be done on its own terms and with clear definitions, not only as to what constitutes such inappropriate use but also as to how it is to be prevented.

On my first point, that of copyright, I entirely agree with the Minister of State. There should be no change to the copyright status of the national anthem. The music and words of “The Soldier’s Song” and the words of “Amhrán na bhFiann” are all now out of copyright and are in the public domain, where they should remain. Attempting to bring them back into copyright or to assert a new copyright in them would be inconsistent with the functions of copyright law and incompatible with European law and the Constitution. It is for these reasons that I disagreed with the details of Senator Mark Daly’s Bills last year. However, I agree with his larger point, which is being discussed today, about the need to treat the anthem with respect.

I did some research on the legal treatment of national anthems in similar jurisdictions and have drafted a Bill to address the kinds of concerns raised by the Senator. That Bill is the basis of the submission I made to the committee, which I will briefly outline. The Bill does not pro-

pose to use copyright to regulate the use of the national anthem, it simply does so directly. It sets out the things that ought to be considered. Section 3 of the Bill defines the national anthem but also acknowledges that all of the versions of the anthem so defined are in the public domain and thus not subject to copyright. That will not change. My recommendation therefore entirely agrees with that of the Minister of State so far.

As to the Bill I am proposing, I am not entirely wedded to all of the details. Left to my own devices, I would probably have had fewer provisions but I drafted the Bill to show the kinds of things such legislation does in other countries and might do here. I submitted it to the committee in the hope that it might be found useful in its deliberations and I am delighted to be here to discuss it. The Bill begins with the usual boring Short Title, commencement, definitions and so forth. Sections 3 and 4 define the national anthem and the presidential salute, reflecting both Government decision and common practice.

Section 3 defines the national anthem as the chorus of “The Soldier’s Song”, words by Peadar Kearney and music by Patrick Heeney, and that of “Amhrán na bhFiann”, words by Liam Ó Rinn. It provides that these versions should be set out in a schedule. I should add that, reflecting Senator Mark Daly’s success with the Recognition of Irish Sign Language for the Deaf Community Bill 2016 and having regard to other submissions the committee has already received and to other witnesses who will be heard in this session, it would not be difficult to add subsections here to provide for the words of the national anthem in Irish sign language as well.

Section 5 provides that the national anthem and the presidential salute should be performed and treated with respect and dignity and sets out various ways in which such respect and dignity might be expressed. The word “should” is crucial. Unlike a mandatory “shall”, which creates a legal obligation, I agree with the Minister of State that the matter should simply be expressed as a hope or a desire without creating any affirmative duty. I suggest that persons present at the performance of the anthem or salute should, if practicable, remove headgear and stand at attention throughout the performance, given that is the standard appropriate means of showing respect. The “should” should be noted. I would add that, if that is not possible, people should otherwise treat the performance with respect and observe it with dignity, even if standing to attention is not possible.

Section 6 reinforces that the principles in section 5 are intended only for general guidance and do not give rise to any legal liability, whether criminal or civil. Again, I agree with the Minister of State that the matter should be non-binding and should not be compulsory. However, we have had examples of disruption of the national anthem by public disorder. Where that amounts to an offence provided for in the Criminal Justice (Public Order) Act 1994, the fact that this disorder disrupted the anthem might be taken into account as an aggravating factor for the purposes of sentencing.

It seems that the key issue is that of advertising and commercial activities. Section 8 is the core of my Bill. It attempts to define the kinds of advertising and other commercial activities for which not just the chorus but the entirety of “The Soldier’s Song” and “Amhrán na bhFiann” ought not to be used. Again, it would not be difficult to add subsections to this section to provide for the words in Irish sign language. The key part is the requirement in section 8(6) that anyone who wishes to make commercial use of either “The Soldier’s Song” or “Amhrán na bhFiann” should seek the prior written consent of the Minister for Finance. We have already heard from the Minister of State that the Department of Finance had carriage of the matter until the anthem fell out of copyright recently. The subsection goes on to provide that the consent of the Minister in this respect should not be unreasonably withheld. The key point is the attempt to

define the commercial activities in question. I suggest regulation of commercial sound recordings, commercial broadcasts, commercial public performances, commercial publications and commercial communications to the public. I then go on to provide for various non-commercial uses for which the consent of the Minister would not be necessary, such as the charity example which the Minister of State gave.

The Bill finishes by providing for remedies, particularly where consent should have been sought but was not or was sought and was refused. In such circumstances, an advertisement using “The Soldier’s Song” or “Amhrán na bhFiann” must not be published or broadcast. The publisher or broadcaster must not publish or broadcast it and the Minister could get an injunction to prevent any such publication or broadcast. Similarly, the Minister could also get an injunction against any other commercial activity for which consent was sought and refused. If the Minister were to be awarded damages in these actions or if there were fees to be levied for the purposes of consent for the performance, those damages or fees could be distributed under the National Lottery.

This is a very important consultation. I am very grateful for the opportunity to participate. I am more than happy to take questions and to assist the committee with this work now and in the future. Is mian liom an t-ádh a ghuí ar an choiste leis an obair tábhachtach seo. Gabhaim buíochas leis na Seanadóirí as éisteacht le mo ráiteas tosaigh.

Ms Hazel Tunney: I am a partner of Tomkins and Company, one of Ireland’s oldest intellectual property firms. We specialise in advising on trademarks, design right, patents and, to a much lesser extent, copyright. Approximately 30 years ago my firm provided advice to the Government with respect to the protection of the harp as one of the national emblems of Ireland. I have been asked by Senator Mark Daly to provide my observations and suggestions from the perspective of trademark protection and the types of protection enjoyed by the national symbols of the State. I have considered whether such protections could be extrapolated to encompass, or in any way be considered analogous to, the types of protection which could be considered to protect the national anthem.

Irish and international trademark law gives State emblems and flags certain rights and protections. In Ireland this includes both the flags and national emblems of the nation and also those of other nations. Ireland has notified the World Intellectual Property Organization, WIPO, of a number of its official national symbols. These are a variety of different representations of the shamrock and the harp. The registration of such emblems with WIPO gives them certain protections both domestically and abroad. Under Irish law any trademark, being a right which gives exclusivity, which consists of or contains any State emblem of Ireland or anything which could be mistaken for such an emblem cannot be registered unless the consent of the Minister is secured. Any trademark which consists of or contains a representation of the national flag of the State, as defined in the Constitution, cannot be registered if it appears that the use of that trademark would be misleading or grossly offensive.

To summarise, third parties cannot secure trademark rights in anything which includes any State emblem or the national flag, or anything similar to them, unless permission is granted by the Minister and only then if the use of that mark would not be offensive or misleading. The Trade Marks Act prevents the unauthorised use of Irish national symbols, namely, the harp, the shamrock and the flag, or anything closely resembling them, in connection with any business if it is intended that use in this way would lead to the belief that the person or business was authorised by the State to use these symbols. The Act empowers the Minister to take injunctive action against any such deceiving use and sets out a variety of fines associated with it.

Ireland is party to the Paris Convention, a 19th century convention for the protection of intellectual property. Article 6ter of the convention allows for the protection of various emblems and insignia of the member states of the convention and of their flags. Most member states have notified WIPO of their national emblems and Ireland has notified it of the harp and shamrock. As a result, any trademark which consists of or contains the flag or notified emblems of any convention country or anything that imitates them cannot be registered as a trademark in this country or any other country without the authorisation of the competent authorities of the country in question.

If a certain sign is identical or similar to a state flag or a protected national emblem and its use is likely to mislead the public or suggest a link with the nation in question where no such link exists, the state in question is entitled to prevent use of the sign by seeking an injunction. To summarise, unauthorised, misleading or confusing use of certain state emblems or the flag of Ireland and those emblems and flags of other nations can be prevented from achieving registration and use of signs which are identical or similar to a flag or one of these emblems can be prevented if that use is misleading.

National emblems are signs that have symbolic meaning to a country. A national anthem is a song, usually officially adopted by a country, which acts as an expression of its national identity. In much the same manner as a national emblem, an anthem exemplifies or identifies a nation. As the harp and the shamrock represent Ireland, so too does “Amhrán na bhFiann”. There is an argument that the Irish national anthem should be officially adopted, enshrined in legislation and afforded some form of protection similar to the protections granted to other national emblems of the State and the Irish flag. If the committee is minded to consider adopting some sort of national anthem Bill, my recommendation is that it look to the types of protections afforded to the flag, the harp and the shamrock for guidance. My initial thoughts are that the main attraction of such a Bill would be to officially adopt and enshrine in legislation what the national anthem is, its musical notation and its various translations. The beauty of introducing a measure as a result of a consultation such as this is that we could also incorporate different translations such as Irish Sign Language and any other translation that is deemed appropriate.

As the Minister of State and Dr. O’Dell indicated, such a Bill could be non-prescriptive in nature. It could delineate between acceptable uses of the national anthem and less acceptable or unacceptable uses. Looking to the types of protections granted to the flag, harp and shamrock could be useful. The existing protections for the harp, the flag and the shamrock include the requirement, in some circumstances, to seek the consent of the Minister to register them as trademarks, the ability of the State to take action to prevent unauthorised use if it will create serious confusion or suggest links where no such links exist or if its use will be grossly offensive or misleading.

I appreciate that concerns could arise to the effect that such a Bill would be excessively prescriptive and determinative. However, when we consider matters such as trademark law, much of the wording is subjective and general in nature. I appreciate that the use of terms such as “misleading”, “confusing” and “grossly offensive” can be subjective but the use of such subjective language would ensure the Bill would avoid being excessively prescriptive because of the subjective nature of the words. Any such Bill could focus on using suggestive words such as “should” and “could”, rather than prescriptive words such as “must” or “shall”. This would assist in making the Bill less prohibitive and more guiding in nature.

My recommendation is that any proposed Bill, should the committee decide that legislation is the most appropriate way to proceed, incorporate provisions which provide a full, detailed

definition of the national anthem and its various translations, contain general non-prescriptive statements that the national anthem should be reproduced, treated and performed with dignity and respect and not in a way which is misleading, confusing or grossly offensive. It could set out general provisions for seeking permission to use the national anthem in certain circumstances, such as those cited by Dr. O'Dell, in a commercial fashion, while making clear exemptions for non-commercial uses such as for charity, at the end of matches and so forth and, if deemed necessary, to provide for injunctive powers to prevent grossly offensive use or deceptive misuse of the national anthem.

I thank members for inviting me to today's proceedings. I will be pleased to answer any questions they may wish to pose.

Chairman: I understand three contributors from Bishopstown community school, Mr. Alain Newstead, Mr. John Cottrell and Ms Denise Dowling, wish to share time. The witnesses may make a brief presentation each and I understand Irish Sign Language interpretation will be provided.

Mr. Alain Newstead: I am 18 years old and I am a sixth year student in Bishopstown community school in Cork. I am profoundly deaf and use Irish Sign Language, ISL, as my first language. I thank Senators for their invitation to participate in this consultation and giving me an opportunity to present my submission. As they may be aware, this is my second visit to Leinster House. Last year, I campaigned with my school and its student council in support of the Bill to recognise Irish Sign Language as an official language. On that occasion, a letter I wrote was read as part of the debate in the Seanad. In that letter, I called on the Government to have my first language, Irish Sign Language, officially recognised. As a deaf person who cannot hear the spoken English language, I felt denied of my human right to have a language. As a result, the deaf community, including me, is denied access to important information and services in many aspects of daily life. I know the work on this Bill continues and I trust the Government will recognise my language in the near future. The deaf community of Ireland wants equal citizenship and we hope that once the Bill becomes law, it will bring positive changes to our lives.

The purpose of this consultation is to discuss the national anthem. I am pleased to be here to have my voice heard as part of this consultation and to present my views on this topic. Again, we Irish Sign Language users are denied access to participation as equal citizens. The national anthem was composed in Gaelic and later translated into English, but never into Irish Sign Language. This needs to be rectified.

Recently, at a whole school event, the Lord Mayor of Cork requested everyone present to sing the national anthem. On that occasion, one of my teachers, Ms Dowling, was interpreting in Irish Sign Language. Suddenly, she had to refrain from signing while everyone else in the school proceeded to sing their hearts out. I felt totally lost and excluded. I knew everyone was singing an important song about my country and I could see the passion in their eyes and body language. However, I felt even more excluded and frustrated as I could not share the experience with my peers. For this reason, I call on the Government to provide an official Irish Sign Language version of the national anthem.

I am proud to be Irish and my deaf friends in school, who are as patriotic as I am, also feel left out, which is a terrible shame in 2017, when Ireland is supposed to be an inclusive society. The deaf community in countries such as India, New Zealand and the United States all have their own official anthems in sign language. Last year, Lady Gaga sang the American national anthem at the Super Bowl and many deaf viewers enjoyed access to the song via Marlee Matlin,

an Oscar winning deaf actress who interpreted it. It is time for Ireland to follow suit and have a sign language version of the national anthem of which all of us can be proud. I call on members to ensure my voice and the voices of the deaf community are heard. We are citizens of Ireland and we deserve equality. We want to fully participate in society and have pride in our country. I ask members to give us this opportunity by ensuring a standardised Irish Sign Language translation of our national anthem is provided.

I am hopeful of a future where Irish Sign Language will be recognised with an ISL interpretation of the national anthem. I will achieve my dream of being an equal citizen in my own country. I ask the committee to help me to realise that dream.

Mr. John Cottrell: I thank members for giving me the opportunity to speak to them today. My name is John Cottrell and I am here to represent the student council of Bishopstown community school, Cork. We fully support the submission by our fellow student, Alain Newstead, to have a standardised Irish Sign Language, ISL, version of the national anthem. Members of our student council were also in the Seanad last year to support the Bill to recognise Irish Sign Language and we continue to strongly support the Bill to ensure equal citizenship for members of our school community and the deaf community of Ireland. It is important to us as a student council as we have students and staff members in the school who are deaf or hard of hearing and use ISL as their main language. Our role as a student council is to give a voice to students in our school community and I am here today to continue our work as an advocate. As a student council we support the proposal to protect the wording and usage of the national anthem. It is a national treasure and deserves to be protected. The anthem is played at very important commemorations and ceremonies as well as sporting events. As Irish citizens, it provides us with a symbol of our history and identity.

Standing in respect and singing the anthem connects Irish people everywhere with their country. It gives real expression and citizenship to all of us. Our school community wants to ensure that an ISL interpretation of the national anthem is standardised and provided in order for all deaf and hard of hearing people to have equal citizenship and participation. The national anthem is a part of our heritage and culture. It is such a huge part of our sporting events both nationally and internationally. I am a keen sportsman and I have been to and played in GAA finals where both teams and supporters sang “Amhrán na bhFiann” before the game. I am always very proud singing with everyone else. It allows me to express my pride towards my team, my community and my country. At such a time I am connected to every other player and supporter present at the match. It is necessary to have an ISL standardised interpretation of the national anthem in order for Alain and other Irish Sign Language users to share in this experience.

It is essential that my fellow students all feel connected to their community and are active members of it. They should have positive experiences of belonging and participation. Students and staff who are deaf and hard of hearing are very much equal members of our school community. I was disappointed to hear how some of my fellow students and teacher felt disconnected from our school community when the national anthem was sung on the recent visit of the Lord Mayor. Unfortunately, they were not in a position to participate due to the fact that there is no ISL interpretation of “Amhrán na bhFiann”. That is something the student council of Bishopstown community school wishes to change in order to ensure that students from our school, together with the wider deaf community, can fully participate in the national anthem at future events.

The student council and the whole school community are very passionate about addressing this issue. Bishopstown community school strives for each member to be respected and valued

for their unique qualities and abilities. Furthermore, the mission statement of the school clearly states that the school aims to develop the whole school community so that we may be better able to realise to the full our potential as individuals and active members of society. In order to achieve that vision, one of the aims of the school is to encourage participation and excellence in every aspect of life. I call on the members here today to support my school in ensuring it achieves that vision by providing equal opportunity of participation in official events and sporting occasions when the national anthem is sung. They should please ensure that all students and staff members can participate by making provision for a standardised ISL translation of the national anthem. I thank members for considering the submission and for giving us a voice in this debate.

Ms Denise Dowling: I am Denise Dowling and I am deaf. Irish Sign Language is my first language. I am a teacher of Alain and John in Bishopstown community school, Cork, where I teach home economics, social education and ISL. All students in our school, whether they are deaf or not, partake in classes in ISL. I also teach ISL to families with children who are deaf or hard of hearing and night classes to the general public.

Today, I stand united with Alain and members of the deaf community in Ireland. I wholeheartedly support Alain's request for an ISL interpretation of the national anthem. My own personal experience informs my submission today. At sporting matches, weddings and other events I have attended I often feel embarrassed and ashamed when I do not sing along to the national anthem. I cannot participate in the national anthem as I do not follow it and cannot hear it well. I never learned Irish as I was exempt from the subject in school. I have never learned the words of the national anthem and neither have most of my deaf students.

Recently in school when the Lord Mayor requested that the whole school would sing the national anthem, the music teacher gave every class a sheet to rehearse and prepare for the performance during his visit. As a teacher, I felt very bad in the classroom in front of my deaf and hard of hearing students for not being able to prepare them for this song. We looked on YouTube and discovered that there is no official Irish Sign Language version of the national anthem. However, we watched the American national anthem signed in their official language and could not help but feel envious and frustrated that Ireland does not have its own signed version.

As a teacher of the deaf, I am always trying to find ways for my students to access and participate fully in the everyday hearing world. I encourage my students to overcome challenges and I actively promote advocacy. I do not want my students to be limited in any way by being deaf. I want them to have full lives and reach their full potential. It is my job and our joint responsibility to ensure that they can do that. I am really proud to be here with members of my school community, which includes students, teachers, parents and the principal in the Gallery. I am so proud of Alain and John for making their submission and their strong advocacy for members of our school community.

I thank members for inviting us here today and empowering us as citizens of Ireland. I urge members to please take the next step and ensure that there is an Irish Sign Language interpretation of the national anthem in the near future so that all deaf and hearing people will have access to it. If my school, students or teachers can support the committee in this endeavour we would be happy to do so. I thank committee members for working with us as citizens of Ireland.

Chairman: Before calling on the next speaker, I recognise the presence in the Gallery of the Cathaoirleach of Seanad Éireann, Senator Denis O'Donovan. We are also joined by Conal Kearney, one of our presenters this morning, and by the other members of Bishopstown com-

munity school. They are very welcome.

Ms Emily-Jo White: We welcome the opportunity to speak here today on behalf of Eureka secondary school in Kells, County Meath. I will share my time with Alex Martin in making our presentation. “Amhrán na bhFiann” is a crucial and core part of how the State commemorates events and people. It must be treated with respect, as Senator Mark Daly, stated.

My name is Emily-Jo White and I am a transition year student in Eureka secondary school in Kells, County Meath. I am here today to represent my school community by speaking about why we must look into achieving a special status for one of the key symbols of our country, namely, the national anthem, “Amhrán na bhFiann”. As a teenage girl who plays gaelic football at club and county level, I cannot put into words how much pride I feel inside as we all sing along together to our national anthem on final days and special occasions. It would be such a shame to see our national anthem used inappropriately or disrespected by others. From this point, I believe that “Amhrán na bhFiann” deserves a special status in law and the respect to not get altered in any way.

The harp, Ireland’s national emblem, has a special status. The Irish flag, likewise, has a special status and must be treated at all times with appropriate respect by those who use it. One might well ask why our national anthem does not have a special status. It seems obvious that such status should be afforded to “Amhrán na bhFiann”. When it is sung in Irish, its lyrics recall the struggles and hardships that we, the people of Ireland, endured for hundreds of years. We remember the past generations who fought to attain for our country the respect it deserves. For these reasons, “Amhrán na bhFiann” should be enshrined in law and not misused for advertising purposes.

In 1916, the people who stood up for the freedom of our country sang this very song while the GPO was burning to the ground. Why would we not seek to safeguard something so important to the history of our country? It was afforded immense respect in the past and should enjoy the same respect into the future. The title translates to “The Soldier’s Song”, which was the original version in English. Why would we show disrespect to those soldiers by allowing the anthem to be modified? When we hear it, it unites Irish people all over the world. If we allow people to use it for their own purposes, it will take away from the sentimental value attached to the anthem and the pride in which we as a country hold it. I thank Members for their attention. We will be happy to answer any questions they have.

Ms Alex Martin: I am grateful for the opportunity to address the committee. I am a transition year student in Eureka secondary school in Kells, County Meath. I am here today to talk to Members about why our national anthem should be copyrighted. I will discuss the history of the anthem and its copyright before outlining some of the reasons that we should safeguard it for the future.

“Amhrán na bhFiann”, also known as The Soldier’s Song, was written in 1909 by Peadar Kearney with music by Patrick Heeney. It was written in English by Mr. Kearney before, in the 1930s, being translated into Irish by Liam Ó Rinn. It was originally used as a marching song by the Irish Volunteer Force and was sung by the rebels in the GPO during the 1916 Rising. On 12 July 1926, it was adopted by the new Irish Free State as its national anthem. In 1933, the Department of Finance paid £1,000 to copyright the anthem. However, due to copyright changes in the 1950s, it was necessary to pay an additional £2,500 in 1965 to maintain the copyright. Unfortunately, on 31 December 2012, on the 70th anniversary of its author’s death, the copyright on the anthem ran out.

As Senator Mark Daly has indicated, copyrighting the anthem would protect it from being used in an inappropriate way. Contrary to views expressed by some, doing so would not deny any capacity to re-imagine the song. According to Wikipedia, during the previous copyright, most requests for publication were accepted, although several of a purely commercial nature, such as in advertisements, were denied. That was entirely appropriate. Not only does the anthem represent our struggle to overcome years of oppression, but it had a key role in the 1916 Rising, which is a crucial event in our history. I am not sure of the views of other Senators, but I am in complete agreement with Senator Daly that the commercial use of our national anthem is completely inappropriate and makes a mockery of it. I am in agreement with the Senator, too, that the use of the anthem in advertising for the new Dunnes Stores clothing range by former Kerry footballer, Paul Galvin, is completely out of order and should not be allowed. Such usage is an affront to what the anthem stands for, which is years of strife and resilience.

“Amhrán na bhFiann”, like both the harp and the Irish flag, two other important elements of Irish culture and history, should be protected by the State against inappropriate commercial and advertising usage. We must restore, in the second decade of the 21st century, the protection that was afforded to our national anthem in the 1930s. I thank Senators for their attention.

Chairman: I thank all the witnesses for their interesting submissions. Since we are operating under a time constraint, I ask Members and witnesses to keep their contributions brief and to the point.

Senator Máire Devine: We have heard a great deal this morning about the history surrounding our national anthem. Does the Minister of State, Deputy D’Arcy, agree that devising guidelines and criteria would be more useful than introducing legislation? Will he confirm that this is the direction in which he is moving? I take this opportunity to point out to him that the website of the Department of the Taoiseach needs some tweaking as some of the historical details it contains are incorrect.

We are here today to secure and strengthen the national anthem in whichever way is deemed best as a consequence of this consultation. Dr. Eoin O’Dell made a very clear, concise and impressively knowledgeable case for legislation as opposed to copyright. It is vital that the anthem be kept in the public domain but that we have safeguards in place to ensure it is respected and not used for commercial purposes. That is the focus of our concerns. Will Ms Hazel Tunney clarify whether the anthem could be included under the World Intellectual Property Organization, WIPO, framework, or if that body can deal only with emblems?.

I welcome the pupils from Bishopstown community college, which I visited last year. One of my proudest moments was attending the dawn events which took place outside Kilmainham Gaol on several dates last May to commemorate the executed leaders of 1916. I am distraught that members of the deaf community cannot share in the passion that connects us all not just locally and nationally, but around the world, when we hear the words of the anthem. We must ensure it is translated into Irish Sign Language so that all our citizens may enjoy the lyrics that are a source of pride for this country.

I love the name of the Eureka secondary school and I wish its pupils well in the move next year to a new premises. I thank Ms Emily-Jo White and Ms Alex Martin for their contributions.

Chairman: There was no question in any of that but it was a good Second Stage speech.

Senator Máire Devine: I had two specific questions, Chairman. The first was to the Minis-

ter of State on the question of whether to proceed with legislation or guidelines and the second was to Ms Hazel Tunney in regard to WIPO.

Deputy Michael D'Arcy: Our view at this time is that the best approach is via guidelines rather than legislation.

Ms Hazel Tunney: The Senator asked whether it would be possible to seek the inclusion of the national anthem along with other national emblems of the State within the WIPO framework. In fact, it is only graphic representations and emblems that may be included, like the shamrock and harp.

Senator Gerry Horkan: I thank all the witnesses for their presentations. The Minister of State has been in this Chamber many times but he used to sit in a different chair. I am sure he is not aspiring to get back to his old spot any time soon.

Chairman: We are happy with where he is and do not want him back.

Senator Gerry Horkan: As Fianna Fáil finance spokesman in the Seanad and having formerly worked alongside the Minister of State as a fellow member of the finance committee, we have interacted many times. I thank him for his detailed and comprehensive statement this morning. The various Departments which refer to the national anthem on their websites, including the Department of Foreign Affairs and Trade, the Department of Education and Skills, the Department of the Taoiseach and the Department of Finance, each seem to have a slightly different version. We must ensure all those versions match.

Chairman: I am sure that will be one of the outcomes of our consultation.

Senator Gerry Horkan: That alone would be a useful result.

I thank the experts who spoke this morning, Dr. Eoin O'Dell and Ms Hazel Tunney, and the pupils from Bishopstown community college and Eureka secondary school. A past pupil of the latter school, Martina Fitzgerald of RTÉ, came in earlier and is still in the Gallery, which gives the delegates a good chance of making the news. Senators would love to see Ms Fitzgerald here as often as possible. I thank Mr. Stephen McKee and the other teachers who accompanied both sets of students. The Gallery is not often as full as we are happy to see it today. All our visitors are very welcome. We have had a useful discussion during the course of both sessions. All of the presentations were sufficiently comprehensive that I am left with few questions. Any points I wished to raise were covered in the course of the contributions.

Deputy Michael D'Arcy: The Senator should know by now that the Department of Finance is always right.

(Interruptions).

Senator Gerry Horkan: I must clarify that I meant all other Departments should align with the Department of Finance.

Chairman: We are all clear on it now.

Senator Brian Ó Domhnaill: One issue is the consistency of approach in the recognition of the national anthem across Departments. It was touched on in the earlier session. For instance, the Department of the Taoiseach recognises the national anthem, but it does not give due recognition to those responsible for providing it, namely, Peadar Kearney, Patrick Heeney and

Liam Ó Rinn who translated it. They are not recognised on the Department of the Taoiseach's official website or the website of the Department of Foreign Affairs and Trade. While it might appear to be minor, it is a major issue because it relates to recognition. The position should be corrected immediately across all Government websites. It could easily be done today.

The contributions from the schools were interesting and welcome. We live in modern Ireland and there should be an Irish Sign Language, ISL, version of the national anthem. It is wrong that any Irish citizen should feel alienated when the national anthem is played. Can this issue be addressed?

On the copyright issue, after listening to Dr. O'Dell, my preference would be for the national anthem to be enshrined in legislation, as in the case of the American national anthem. I am not sure why there is a resistance in the Department of Finance to going down that road. Is there an particular reason we are opting for copyright protection over legislation? Is there a reason not to take the legislative route to give the national anthem the protection it deserves? The American flag is recognised as a patriotic custom, as the American national anthem. Ours should be also.

I welcome all of the contributions which feed into a wider debate. The process is enlightening. The contributions of the students, in particular, who took time out of their busy schedules coming up to Christmas, were important. I look forward to publication of the committee's report.

Senator Pádraig Ó Céidigh: I commend Senator Mark Daly for bringing this important issue to public attention and initiating a proper and full debate on it. The passion the students have shown for the country through the national anthem makes me proud. Like Senator Brian Ó Domhnaill, I strongly support an ISL version of Amhrán na bhFiann being made available. I know that the Minister of State is as passionate an Irishman as I am or as any of the students is, particularly through his engagement and involvement with the GAA. I look forward to visiting his club. He referred to education which is important to all of us and the gap in learning and understanding the real meaning of the words of the national anthem. Will he give a commitment that he will engage with the Minister for Education and Skills on including Amhrán na bhFiann in the curriculum to be taught in schools?

The Stars and Stripes always flies outside any public building or school in America. The Tricolour is every bit as important and I strongly suggest we do the same. Such a measure would not cost much money and would be important. The more European and global we get, our identity and who we are as a people become important because we have something unique and special, as highlighted by the young ladies and gentlemen present.

Like Senator Brian Ó Domhnaill, I would be more inclined to create legislation to deal with the national anthem rather than taking the copyright route, although I know that varies with the Minister of State's view to some degree. Will Dr. O'Dell elaborate on his Bill?

Deputy Michael D'Arcy: It would be helpful to me if the committee made a recommendation on having an ISL version of the national anthem. It would not meet any resistance from me.

To be honest, the issue of copyright is off the agenda. We cannot tiptoe around it.

Chairman: Does the Minister of State favour the issuing of guidelines instead?

Deputy Michael D’Arcy: I am not trying to influence the committee, but I think we should start with guidelines.

It is only in the past few years that people have started to respect the national flag. During the years in council elections, for example, we have seen the national flag being thrown around the place or draped around people. That has come to an end. The Minister, Deputy Heather Humphreys, should be given credit for bringing back respect for the national flag and how it should be treated. However, it is easily forgotten. Look at all of the flags in tatters on flagpoles. Many were raised to commemorate the centenary of the 1916 Rising but are now in bits. We are discussing having respect for the national anthem, yet we do not respect the national flag. I have seen flags on departmental buildings in tatters. It does not happen in Leinster House. The military police who raise the national flag every morning and take it down keep it in impeccable condition. However, some Departments do not respect the national flag. We must start small and work big.

The national anthem should not be just the responsibility of the Department of Education and Skills in being part of the curriculum. It should also be taught in soccer, GAA and rugby clubs, as well as in all other sports organisations. Former Senator Eamonn Coghlan talks about the pride he felt when the Tricolour was raised when he won the world championship in Helsinki in 1983. That is the pride we should have in our emblems and national anthem. However, I do not believe it should be confined to the curriculum, it should be taught across the board.

Dr. Eoin O’Dell: Section 5 of my Bill would set out what the Minister of State called guidelines. He referred to the fact that the US national anthem was included in legislation. It is included as part of guidelines. My suggestion on what should be done as opposed to what must be done follows the US pattern where standing to attention, saluting the flag and singing the anthem are all stated in terms of what should be done; namely, they are guidelines which it is possible to include in legislation. The legislation could define the various versions of the national anthem in Irish, English, the music, sign language and so forth. It could then provide that all of the various versions should be treated with dignity and respect.

My Bill also tries to pick up on Senator Mark Daly’s point about how some potential commercial uses might be inappropriate. We have heard some strong and powerful submissions about how inappropriate they might be. Where they are inappropriate, there should be some means to ensure they do not happen. Senator Daly’s first cut was to attempt to use copyright law to do this. I agree with the Minister of State that that just will not work because it is using a sledgehammer to crack a nut. My suggestion is that if it is specified that commercial activities and commercial advertisements should not happen, if what is meant by commercial activity, a commercial advertisement and “should not happen” is defined and if these elements are specified in their own terms in the Bill, the matter is dealt with appropriately. Therefore, the anthem should be defined and it should be stated that it should be treated with respect and that commercial activities concerning the anthem should be regulated. This is what the Bill seeks to do.

Chairman: Senator Mark Daly might like to wind up the debate.

Senator Mark Daly: I thank all the witnesses for their contributions. Regarding the nationalism to which the Minister of State referred, I think we all agree that we need civic nationalism, which is all-inclusive, not the old, exclusive nationalism of the past. I think Seán Lemass spoke about it as a patriotism which he understood to be a combination of love of country, pride in its history, tradition and culture and a determination to add to its prestige and achievements. What we are considering here is the issue of the protocols and guidelines, on which I think we

all agree. The fact that we are here and hearing different accounts of when the anthem was written and when it was translated tells us we have not quite yet arrived at a proper understanding of the history of our anthem. However, I am sure we all agree that we have the determination to ensure this is rectified. I agree that the English-language version and the sign-language version need to be taught.

Has Dr. O'Dell in his research come across countries in which actions have been taken against groups, organisations or individuals for inappropriate use of the national anthem? We have been in contact with the Canadian Government, which has adopted a kind of middle ground model whereby it has enshrined the English-language version and the French-language version of the national anthem in their law and then devised protocols separate from the law as to what should and should not happen. This is a matter of the law of unintended consequences, to which the Minister of State referred. Regarding the history of sanctions, in Ms Tunney's experience, have actions been taken? I have seen the Irish flag used to advertise products. Is there a history of a government sanctioning organisations? I have seen products labelled "Ireland's favourite whatever" with the Irish flag on them that are produced elsewhere. Would that be a breach of the current emblems and copyright legislation and patent legislation?

I thank Alain and the students from Bishopstown for coming before the committee and for their support for the Recognition of Irish Sign Language for the Deaf Community Bill, which, it is to be hoped, the Government will pass in the Dáil on 14 December. This would be a great Christmas present for the 50,000 members of the deaf community, which the justice committee has described as suffering extreme marginalisation. We are learning here that nothing shows the marginalisation of a community more than when its members' national anthem is not in their own language. That is one thing we will have to rectify. Given the fact that Denise, John and Alain have made the argument, we will give them the job of coming up with the sign language version for the nation, if that is not too big a job for them. As they will have learned from the chaotic history of the Irish national anthem, everyone now has a part to play in ensuring we get it right for once and for all. Even though the ancestors of the man who got it officially recognised on the record of the Dáil had to come over with Strongbow in 1169, an issue we are still dealing with 848 years later-----

Deputy Michael D'Arcy: It is nearly sorted out.

Senator Mark Daly: There or thereabouts. We will leave that border issue to another day. Osmond Esmonde had a role in 1926, 757 years later, in getting the Government to determine that we should not have two national anthems, one played abroad and one played at home. According to what we have just learned, this was on 12 July, another historic day in Irish history. Perhaps Alain and Bishopstown Community School would do us the honour of coming up with their draft. Everything will be a draft from here on, including my report. I thank Emily-Jo, Alex and Stephen for coming before the committee. They might send us on the details of where they got the source of 12 July because we are struggling here with the number of different dates we have been given as to what happened and when regarding our national anthem.

The Minister of State might talk to us about the options ahead of us, of which there are three. There is the *status quo* option, which is to get the timelines and history of the national anthem, as we have done with the national flag. The protocol section of the Taoiseach's Department has devised, first, the origins and history of the flag and, second, the protocols in this regard. The flag is enshrined in Article 7 of the Constitution. This *status quo* option concerns the protocols and guidelines that we could devise and leave at that. However, this option would entail no legislative or formal recognition of the national anthem in Irish or English, or even the music to it

or a sign language version of it. Then we have Dr. O'Dell's view. I would like him to answer a number of questions. Are we trying to fix something that does not need fixing? Have sanctions been taken in other jurisdictions? When we asked the Canadian Parliament, it could not find any record of sanctions it has taken since it enshrined its national anthem in legislation. It had protocols and guidelines but said it could not find records. When one is looking for something that is not there - in this case, breaches of the Parliament's protocols - it is very hard to find it. Then we have the middle ground option of Canada, a combination of legislation and protocols. Our job here as legislators is to ask whether we need the protections. Unfortunately, the national anthem has already been used for commercial purposes, so that breach has already taken place. Should it be left to the court of public opinion, or is it the requirement of legislators to prevent such inappropriate use?

I thank all the students present, Bishopstown Community School and our other distinguished guests for being with us today.

Chairman: I ask Senator McFadden to forgive me. I should have acknowledged her earlier. I did not know whether she had a question but I understand she is here in the absence of Senator Jerry Buttimer, who is a member of the committee and who sent his apologies to us.

Deputy Michael D'Arcy: I will try to answer the questions as best I can. I think only a small number of countries have their national anthems enshrined in law. Of those I am aware of, I think India, Pakistan and Russia have done so.

Chairman: What a trio.

Senator Mark Daly: Canada.

Deputy Michael D'Arcy: Canada is a fourth. It is probably best to try guidelines to start. That is just an opinion; it is up to the committee to go in whatever direction it chooses. Do we really want to start prosecuting people who use the flag in appropriate ways for commercial purposes? The number of occasions concerned is small. Another matter I want the committee to consider shows the maturity of a nation. If people wish to disrespect our national anthem, that is freedom of expression, which I support. I might not agree with them and I might dispute the way in which they act with them very strongly, but we must also respect the right of people to an alternative view. One thing I remember in the UK, going back to the 1970s - I was only a kid - is the Sex Pistols song "God Save the Queen". People are entitled to an alternative view. Those of us who do not agree with it will not agree with it. Something similar is going on in the United States with American footballers disrespecting the national anthem by taking a knee. I support people's right to have alternative views, as we all should. I ask the committee not to ignore this.

Chairman: Does anyone wish to make a closing comment?

Dr. Eoin O'Dell: Yes, I will answer the questions that Senator Daly posed. I will make three brief points. I am familiar with the Canadian approach and, in fact, section 3 of my Bill is modelled on the Canadian legislation. The main example in respect of the suggestions I am making to prevent inappropriate commercial usage is Australia, but South Africa has good provisions too. Permission is sought because it is required and where it is refused, there does not tend to be inappropriate commercial use. In Australia the mechanism used in requiring the seeking of permission in advance is copyright law. Once something is no longer covered by copyright, I assume the matter is dealt with by other similar means. That prevents most

instances of egregious use. If somebody wants to use Amhrán na bhFiann for an advertisement on television and is refused permission to do so by the Department, I cannot see an attempt to broadcast the advertisement being made. I take the Minister of State's point that there have been some bad examples of prosecutions brought for misuse. China and India are good examples in that regard, but there is nothing in any proposal I have made before the committee that involves a prosecution. My suggestion on guidelines and protocols in legislation was precisely that things should, not ought to, happen but for which there would be no sanction to avoid the appalling vista to which the Minister of State referred of prosecuting footballers who bend a knee rather stand than stand to attention. I agree completely with the Minister of State that we should respect freedom of expression, which is why the provisions included in my draft proposals related to dignity and respect are cast only in terms of what should be done and not seen as an obligation.

They are my three points. Australia is an example of a country in which the procedure in place ensure the most inappropriate uses do not happen. There are many other bad examples, but I do not think the legislation I have proposed or anybody else is suggesting falls into the category which includes China. I agree completely that if somebody wants to use the national anthem to make a protest, he or she should be able to do so. My draft proposals would not prevent that from happening.

Ms Hazel Tunney: I will answer Senator Mark Daly's question about whether there have been prosecutions for misleading use or gross misuse of any of the national emblems of Ireland or the national flag. As far as I am aware, there have been no actions taken in connection with anything that has been to be deemed grossly misleading, either domestically or abroad. The only actions that have ever been taken, either domestically or abroad, were where the use of the national symbols of Ireland and the references to the State or the national flag had been misleading such as to suggest products had originated in Ireland when they absolutely and clearly had not. The actions taken were to prevent such confusion from being caused.

Chairman: On behalf of the Seanad Public Consultation Committee, I thank the delegates for their contributions. The session has been very informative and productive and we have learned a lot from the insights and observations of the delegates. Full account will be taken of the discussion when the draft report is being prepared. Copies of the final report will be sent to all delegates.

Before the public hearings on this topic conclude, I express my gratitude to all members of the committee for their hard work in recent months. In particular, I thank Senator Mark Daly and Ms Bridget Doody. Senator Mark Daly proposed this topic for discussion and has worked extremely hard on it. I cannot leave out Ms Doody who has been a great help to me. I thank her for her hard work in the background in preparation for these hearings. I also sincerely thank all those who made submissions to the committee and the delegates who have appeared before it. I particularly thank the schoolchildren and pupils who participated in this meeting. They did themselves, their families and schools proud. Who knows? One day some of them may return to this Chamber as elected Senators. I also express my gratitude to the Seanad Office which provided the secretariat for its very valuable input into the public consultation process.

The select committee adjourned at 1.25 p.m. until 2.30 p.m. on Tuesday, 13 November 2018.