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Seanad Debates on **Civil Partnership** July 2010



gay + lesbian equality network

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FOREWORD

We have gathered these Seanad speeches together to celebrate and mark what is an historic law reform for lesbian, gay and bisexual people. The speeches are from the Second and Final Stage debates on the Civil Partnership and Certain Rights and Obligations of Cohabitants Bill in the Seanad on the 7th and 8th of July 2010 (from 12 noon on 7th until 1am on the 8th and again from 10:30am to 7:30pm on the 8th). It follows on from the previous publication *Dáil Debates on Civil Partnership*.

The Civil Partnership Bill, which is strongly supported by all political parties, has been described by Minister for Justice and Law Reform, Dermot Ahern T.D. as “among the most progressive pieces of legislation to come before the Seanad in its long history”. The Bill will deliver a comprehensive set of protections, rights and obligations for same-sex couples across a wide range of areas including home protections, pensions, taxation, immigration, maintenance, next of kin, social welfare, domestic violence, inheritance, enduring power of attorney and creation of joint tenancies.

Minister Ahern rightly referred to the quality of the debate in the Seanad when he stated that “the speeches made on Second Stage were a credit to this House and to public representatives of all political parties. In that respect, I pay due regard to the Fine Gael Party and the Labour Party in both Houses, the other Parties and the Independent Members of the Seanad”. Many of the speakers demonstrated a moving and insightful understanding of the impact on lesbian and gay couples of the lack of recognition of their loving and caring relationships. Indeed the quality of the debate was a strong rebuttal to the corrosive cynicism about politics that can be all too prevalent.

Almost all speakers acknowledged the urgent need for the protections in the Bill. Very many highlighted the gaps in the legislation, particularly those in relation to children being parented by same-sex couples. This is a critical issue for lesbian and gay people and remains to be addressed. The strong desire and aspiration of lesbian and gay people to full constitutional equality in Civil Marriage was also acknowledged by many of the speakers.

It is always GLEN's aim that progress is achieved with the support and acclaim of the vast majority of elected representatives and the people. The vote in the Seanad was an overwhelming 48 to 4. This Minister noted that “the levels of support for the Bill shows that securing the civil rights of lesbian and gay people is a mainstream goal”.

When the Cathaoirleach announced that the Bill was now to go to the President, there was loud applause from the Senators and a standing ovation from the packed public gallery. It was a moment of great emotion, of great achievement and relief. We all had pride in this further powerful demonstration of the commitment of our legislators to implementing radical progress for lesbian and gay people in Ireland.

As Senator David Norris noted “I am proud that this day has come. It is a massive overwhelming victory. It is a victory, not for gay people, nor for Fianna Fáil, Fine Gael, the Green Party, Labour or the Independents: it is a victory for decency and for this country.”

Kieran Rose Glen Chair

July 2010

2. SEANAD DEBATES: CIVIL PARTNERSHIP BILL AND CERTAIN RIGHTS AND OBLIGATIONS OF COHABITANTS BILL 2009: THE SECOND STAGE DEBATES: 7TH JULY 2010

The Civil Partnership and Certain Rights and Obligations of Cohabitants Bill 2009 was published by the Government on 26th June 2009 (Bill 44 of 2009), and began 2nd Stage debates in the Dáil on 3rd December 2009. The Dáil Report and Final Stages took place on 1st July 2010 and passed without a vote.

The Dáil 2nd Stage Debates have been collected and published by GLEN (*Dáil Debates on Civil Partnership; GLEN 2010*: ISBN 978-0-9561023-4-8)

The Seanad Debates on the Bill began on 7th July 2010. Second Stage completed and Committee Stage began on that date, with Committee Stage continuing on 8th July. Report and Final Stages were also taken on 8th July and the Bill passed with a vote of 48 Senators in favour and 4 against.

The full Bill, as initiated, the series of proposed amendments, the amended Bill, and links to the Dáil and Seanad debates on the Bill are all available on the Oireachtas website www.oireachtas.ie/viewdoc.asp?DocID=12249

The Seanad 2nd Stage and Final Stage Debates have been reproduced here from the Oireachtas record.



Dermot Ahern, T.D.

Minister for Justice and Law Reform
(Fianna Fáil)

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

The level of support for the Bill also shows that securing the civil rights of gay people is a mainstream goal and that the ignorance and homophobia which gay people and their families - fathers, mothers, brothers, sisters - lived with in the past has no place in modern Ireland.

The Civil Partnership and Certain Rights and Obligations of Cohabitants Bill 2009 is among the most progressive legislation to come to this House in its long history. It enjoys the support of all parties - although there are individuals who have issues in respect of it - which is significant in that it shows that the measures it contains have the broad support of the people. The level of support for the Bill also shows that securing the civil rights of gay people is a mainstream goal and that the ignorance and homophobia which gay people and their families - fathers, mothers, brothers, sisters - lived with in the past has no place in modern Ireland. I am deeply proud of this legislation. Members of the Houses and those of all political parties can also be proud of it. The Bill bears the support and the input of all. I hope it will be claimed by all.

I am deeply proud of this legislation. Members of the Houses and those of all political parties can also be proud of it. The Bill bears the support and the input of all. I hope it will be claimed by all.

From the perspective of my party, our 2007 election manifesto contained a clear commitment to the effect that:

Based on our republican ethos and building on the agenda for equality to which we are committed, we will address the need to provide a legal framework that supports the rights of same sex couples, including by extending State recognition of civil partnership between such persons so that they can live in a supportive and secure legal environment.

There is a perception that the Bill belongs to one party, which is not correct. I

am of the view that it belongs to all parties. As already stated, my party made a commitment in respect of this matter prior to the most recent general election. The Green Party also made such a commitment. I am not sure whether the Labour Party, Fine Gael or Sinn Féin did so.

During the negotiations on An Agreed Programme for Government in 2007, Fianna Fáil, the Green Party and the Progressive Democrats made a commitment to legislate for civil partnerships at the earliest possible date in the lifetime of this Administration. In government, the Fianna Fáil Party has a long record in bringing forward legislation which has afforded protection to the gay community. I refer here to the Prohibition of Incitement to Racial Religious or National Hatred Act in 1989, legislation to decriminalise the male homosexual act in 1993 and the various equality acts dealing with employment and equal status which were passed in 1998, 2000 and 2004. All of the equal status legislation enacted since the foundation of the State, especially in the period since 1997, has been passed by Fianna Fáil-led Governments.

We have, in advance of many other states, put in place an effective equality infrastructure to ensure people can have redress if they are unfairly discriminated against, whether in employment, or in the provision of goods and services. We have made it clear in our legislation that discrimination against individuals on the grounds of their sexual orientation will be neither condoned nor tolerated. Equality continues to be incorporated in the mainstream of policy making and the planning of service provision at both national and local level, in both the public and the private sectors. In conjunction with these many initiatives, which deal largely with individual rights, the Government is fully committed to addressing the relationship rights of gay and lesbian couples.

The Government is committed to playing a full part in ensuring gays and lesbians can participate fully in society without exclusion or discrimination.

We all deserve equal treatment before the law and as we go about our daily lives. The Government is committed to playing a full part in ensuring gays and lesbians can participate fully in society without exclusion or discrimination. This Bill, by providing an important supportive legal framework for gay and lesbian couples, demonstrates our commitment to full equality. The Bill creates for the first time in Irish law a scheme under which gay couples can formally and publicly declare their allegiance to one another, register their partnerships and commit themselves to a range of duties and responsibilities. At the same time, they will be subject under new law to a series of protections in the course of their partnerships in the event of a failure of either party to maintain the other and in the event of disputes between them as to ownership of property. They will have additional protections in their homes, and new rights to succeed to the property of one another are also being established.

In the event of a dissolution of a partnership, there will also be considerable protections in place for a dependent partner, where necessary, by way of power to the court to order maintenance, to order financial relief by way of lump sum payment, to

redistribute the ownership of property between them and to provide for transfer of rights between them under any pension scheme of which either is a member. Where a person dies after dissolution of a civil partnership, the court may order provision from the estate of the deceased for his or her surviving former partner. These are very specific measures that are being provided in law for the first time. Until a few short years ago, such measures did not exist in any jurisdiction.

The Bill breaks new ground. For the first time, the State will, in its laws, recognise and support the relationships of gay and lesbian couples who enter civil partnerships. Our laws will explicitly validate and protect the relationships of thousands of couples whose mutual commitment has until now been invisible in the eyes of the State. In conjunction with dealing with many vital and pressing legal difficulties experienced by gay and lesbian couples, the Bill will also try to address practical everyday matters. It will ensure they will always be entitled to visit if their partner is hospitalised, that they can be treated as next of kin and that they will be in a position to notify the death of a partner and arrange his or her funeral.

Gay and lesbian couples routinely face problems most of us are never obliged to contemplate.

Gay and lesbian couples routinely face problems most of us are never obliged to contemplate. These can range from an inability to access State benefits, such as carer's allowance when caring for seriously ill partners, to a man's additional grief that his partner is recorded on his death certificate as being single, constituting an official denial of their lives together. These are the real experiences of gay Irish couples and other couples will be exposed to them if we do not reform the law. Enactment of the Bill will mean that the relationships of gay couples will no longer be ignored. They will have the protection and recognition of the State in its laws.

Senators will know that this Bill had to be carefully prepared and that the provisions of the Constitution had to be borne in mind during its drafting. Were the Bill to go beyond what is allowed under the Constitution, it would fundamentally undermine the balance that it attempts to achieve. In this complex exercise of trying to achieve balance, I am grateful to the Attorney General and his staff for their efforts in respect of the Bill and for the advice they provided.

To comply with the constitutional imperative to protect the family, it is necessary to differentiate the recognition being accorded to same-sex couples who register their partnerships with the special recognition that is accorded under the Constitution to persons of the opposite sex who marry. While there is a need to respect the entitlement to equality that same-sex partners enjoy under Article 40.1 of the Constitution, there is also a need to respect the special protection which Article 41 gives to marriage. The Bill has been carefully framed to balance any potential conflict between these two rights.

In formulating the civil registration scheme for same-sex partners the Government was mindful of the implications for children. On the advice of the Attorney General, it concluded that it was not appropriate that the Civil Partnership and Certain

Rights and Obligations of Cohabitants Bill should develop principles on children that would have much wider implications than those on same-sex partners. Apart from constitutional difficulties, issues which arise with regard to children and their welfare are so significant that it would not be appropriate to address them on a piecemeal basis without a thorough review of all of the implications such changes might have for children and also for those who might be affected by such changes.

Given the complexity of legal relationships between children and their parents, a comprehensive review of the law in this area is under way by the Law Reform Commission.

Given the complexity of legal relationships between children and their parents, a comprehensive review of the law in this area is under way by the Law Reform Commission. It will in due course help to inform policy decisions on rights in general with regard to children of non-married parents and others. The commission published a consultation paper on the legal aspects of family relationships in September 2009 and has invited submissions from interested parties on its provisional recommendations which were published some time back. Its final report and recommendations are expected later this year. However, the consultation paper did not make specific recommendations on the position of same-sex couples or civil partners. It is not intended that the Civil Partnership and Certain Rights and Obligations of Cohabitants Bill should deal with what is obviously a very complex issue, one with which other jurisdictions have had difficulties, with or without the constitutional constraints that clearly apply in this respect in our jurisdiction.

Alongside civil partnership, the second essential component of the Bill, the cohabitants provisions, gives recognition to the fact that the legal system needs to offer protection to vulnerable persons in long-term same-sex or opposite-sex relationships when that relationship ends.

Alongside civil partnership, the second essential component of the Bill, the cohabitants provisions, gives recognition to the fact that the legal system needs to offer protection to vulnerable persons in long-term same-sex or opposite-sex relationships when that relationship ends. Many cohabiting couples do not realise that they have few responsibilities to each other under existing law and that they have little protection when things go wrong, whether on the break-up of a long relationship or the sudden and unexpected death of a partner. Many couples are under the misapprehension that the longevity of a relationship is sufficient to provide them with certain rights and protections in all sorts of areas, from common ownership of property to next of kin or inheritance rights. However, there is no entitlement under

existing law to financial support and property rights do not accrue to a cohabiting partner, unless he or she is making express financial contributions.

The cohabitants redress scheme provided for in the Bill is largely as recommended by the Law Reform Commission. It will provide protection in law for long-term cohabiting couples by establishing a safety net for a financially dependent cohabitant at the end of the relationship. On break-up, a financially dependent cohabitant may apply to the court for maintenance from the other cohabitant, or possibly for a pension adjustment order or a property adjustment order. If the relationship ends on death, a dependent cohabitant may apply to the court for provision from the estate of the deceased if, as often happens, no provision is made for the surviving cohabitant. The courts will have substantial discretion in considering such applications.

The Bill recognises the right of couples to freely choose the legal form their personal relationships should take and the legal consequences of this choice. Some couples may prefer to opt-out of the redress scheme and the Bill makes provision for this. At the same time, it is important to find a balance between interfering in personal autonomy and protecting vulnerable persons. The Bill strikes that balance by providing that the courts, in exceptional circumstances, can vary or set aside a cohabitants' agreement where its enforcement would cause serious injustice.

I will turn now to the details of the Bill as passed by Dáil Éireann. The largest part of the Bill deals with the civil relationship of gay couples. Part 2 confers power on the courts to make declarations on the status of a civil partnership where the status may be in doubt. It also empowers the Minister for Justice and Law Reform to prescribe certain categories of relationship contracted in other jurisdictions as entitled to be treated as equivalent to civil partnership under Irish law.

Part 3 of the Bill makes extensive amendments to the Civil Registration Act 2004 to provide for the registration of civil partnerships. Section 16 inserts a new part in the Civil Registration Act 2004 dealing with the detailed arrangements for civil partnership registration, including notice requirements, information requirements, declarations to be made, venues and effect of civil partnership. Three months' notice of an intended registration is required unless, for example, one of the parties is very ill, in which case an exemption may be provided. Registration will take place at the office of a registrar or another venue approved by the HSE and a registration ceremony may be conducted if the couple so choose. The minimum age requirement is 18 years. Section 16 was amended in the Dáil to specify that civil partners must make the required declarations orally. This is to ensure the registrar is satisfied that the parties understand the nature of the commitment they are making.

Part 4 provides protection for the shared home of registered civil partners. It is analogous to the Family Home Protection Act 1976 and prevents the sale of the shared home by one civil partner without the consent of the other. Part 4 was amended in the Dáil to allow civil partners to establish a joint tenancy in a home owned by one or both of them, other than under a joint tenancy, without being liable for the court fees or registration fees which apply to such changes. The next finance Bill will provide that such a transfer is exempt from stamp duty on the transaction.

Part 5 allows a civil partner to apply to the court for maintenance from the other partner during the course of the relationship where the other civil partner has failed to maintain the applicant civil partner. Part 5 was amended in the Dáil to allow the court make a secured periodical payments order or a lump sum order to ensure the maintenance is paid. Part 6 allows the court to make an attachment of earnings order if it considers it desirable to secure payment under a maintenance order, an interim order, a variation order or a maintenance pending suit order.

Part 7 makes a number of provisions related to Parts 5 and 6, including specifying that payments under maintenance orders are made without deduction of income tax; makes such orders enforceable; provides that certain property is joint property; and makes unenforceable any provision in agreements which precludes the payment of maintenance by either civil partner to the other.

Part 8 provides for succession. On testacy, civil partners will have the same entitlements as spouses to a legal right share under the innovative Succession Act 1965. Therefore, where there is a will, the entitlement is to one half of the estate if the deceased has a civil partner and no children, and to one third of the estate if the deceased has a civil partner and children. A child of the deceased may apply, as may a child of a heterosexual couple, under section 117 of the Succession Act 1965 for provision from the estate if the deceased has failed to make proper provision during his or her lifetime. Unlike the existing provision in law for spouses, an order made in favour of a child may reduce the share of the estate available for a civil partner.

Where there is no will - in an intestacy - the rules of distribution will operate in the same way for civil partners as they do for spouses. If the deceased dies leaving a civil partner and no children, the civil partner inherits the entire estate; if the deceased dies leaving a civil partner and children, the civil partner inherits two thirds of the estate and the remainder is divided between the children. These rules are modified to provide greater rights for a child of an intestate civil partner. Where a civil partner dies intestate, a child of that civil partner may apply to the court for a greater share of the estate. If satisfied that it would be unjust not to make such an order, the court may order that a share be provided for that child not exceeding the share to which the child would be entitled if the parent had died with no spouse and no civil partner. Such an order may not reduce the amount to which any other issue of the deceased is entitled and the net effect would be to reduce the share of the surviving civil partner.

Part 9 extends to civil partners the same protections spouses enjoy under the Domestic Violence Act 1996. Part 10 provides for a wide range of miscellaneous but nevertheless important legal consequences of registration, including in ethics and conflicts of interest. A civil partner will be treated as a “connected person” or “connected relative” in determining matters concerning ethics and conflicts of interest. A declaration of interest required in regard to a spouse must likewise be made in regard to a civil partner.

In regard to civil liability, a civil partner is added to the list of dependants, in respect of whom a person may sue for damages for wrongful death. A pension scheme which provides a benefit for a spouse is deemed equally to provide a benefit for a civil partner.

In regard to protection from discrimination, the Employment Equality Acts 1998 to 2007 and the Equal Status Act 2000 prohibit discrimination against a person on the grounds that the person is single, married, separated, divorced or widowed. The same prohibition against discrimination under the Acts will apply in favour of those who are in a registered civil partnership, or in a civil partnership which has been dissolved.

In regard to protection from discrimination, the Employment Equality Acts 1998 to 2007 and the Equal Status Act 2000 prohibit discrimination against a person on the grounds that the person is single, married, separated, divorced or widowed. The same prohibition against discrimination under the Acts will apply in favour of those who are in a registered civil partnership, or in a civil partnership which has been dissolved.

Part 11 provides for decrees of nullity of civil partnership and the effect of a decree of nullity. The grounds for nullity are that there was an impediment to the civil partnership at the time of its registration such as one or both of the parties being under age at the time of registration, or one or both of the parties not having given informed consent.

Part 12 makes provision for the dissolution of civil partnerships and the effect of a decree of dissolution. To obtain a decree of dissolution, the partners must have lived apart for a period of at least two years in the previous three years and the court must be satisfied that proper provision is made for both partners. Jurisdiction in the dissolution of a civil partnership will lie with the Circuit Court and the High Court and the courts will have powers to make extensive ancillary financial relief, property and pension orders.

Part 13 provides for matters of jurisdiction in civil partnership proceedings, including that cases will be heard in camera; proceedings will be as informal as possible; the Circuit Court and the High Court have concurrent jurisdiction to hear civil partnership dissolution proceedings and make ancillary relief orders; and the District Court has jurisdiction in domestic violence cases and in certain property disputes and maintenance matters. These provisions are similar to those which apply in jurisdiction in family law proceedings.

Part 14 provides for consequential amendments to other enactments, including the Family Law Act 1995 and the Family Law (Divorce) Act 1996. These amendments ensure that if a former spouse registers in a civil partnership, any ancillary relief orders provided for that former spouse under the Acts lapse on registration. This mirrors the position in current family law, whereby many of the ancillary relief orders available under the Acts lapse on the remarriage of the spouse for whose benefit the orders

were made. Other enactments are amended by means of the Schedule to the Bill to confer certain property rights, rights of redress and other miscellaneous rights and responsibilities on civil partners as a consequence of registration.

Part 15 establishes the qualified cohabitants redress scheme for unregistered or unmarried cohabiting couples. It implements the Law Reform Commission's report on the rights and duties of cohabitants. As I explained, the redress scheme will provide protection for an economically dependent party at the end of a long-term same-sex or opposite-sex relationship. There is much confusion in this regard, some of which is caused unnecessarily. The redress scheme provides a protective mechanism for a financially dependent partner where the couple have not formally regulated their relationship. It is available only to cohabitants defined as "qualified" in the Bill and may be activated on termination of the relationship, whether by break-up or death.

Section 170 provides that a qualified cohabitant is one of a couple who have cohabited in an intimate and committed relationship for at least five years, or two years where there is a child of the relationship. However, where one of the cohabitants is still married, neither of the cohabitants may be a qualified cohabitant until the married cohabitant has lived apart from his or her spouse for a period or periods of at least four years during the previous five years, the separation period provided in the Constitution for divorce. The reliefs available on termination of the relationship on application to the courts are at the court's discretion and include compensatory maintenance and pension adjustment orders, property adjustment orders and provision from the estate of a deceased cohabitant.

Part 15 also establishes that an agreement between cohabitants regulating their joint financial and property affairs can be enforceable, subject to the observation of certain formalities. The court may set aside a provision in any agreement only in exceptional circumstances where its enforceability would cause serious injustice. In addition, Part 15 extends certain statutory protections to cohabiting, unmarried, opposite-sex and unregistered same-sex couples. The Residential Tenancies Act 2004 and the Civil Liability Act 1961 are amended in order that provisions in these Acts which currently apply only to couples defined as "living together as husband and wife" will also apply to same-sex couples. There has been much confusion in this regard. This provision does not confer any statutory legal rights similar to the legal rights laid down in the Succession Act. It is a right to go to court to prove financial dependency. Ultimately, it is up to the court to decide whether orders are to be made in that respect.

Part 16 specifies that in making orders under the Bill the courts must have regard to the rights of others, particularly to a spouse or former spouse, or a civil partner or former civil partner.

On registration of a civil partnership, same-sex civil partners will be treated in the same way as spouses under the tax and social welfare codes. The necessary legislative provisions are being prepared for inclusion

in the next finance and social welfare Bills that will, on enactment, come into effect at the same time as the commencement of the registration provisions in this Bill.

On registration of a civil partnership, same-sex civil partners will be treated in the same way as spouses under the tax and social welfare codes. The necessary legislative provisions are being prepared for inclusion in the next finance and social welfare Bills that will, on enactment, come into effect at the same time as the commencement of the registration provisions in this Bill. There is no question of the same tax and social welfare provisions being extended to cohabitants, be they same-sex or opposite-sex couples.

As the law stands, gay couples are prevented from formalising their relationships in the eyes of the law and society at large. Their relationships are legally unrecognised and unprotected. This is addressed by the Bill as comprehensively as possible, consistent with the requirements of the Constitution. The Bill recognises that there are persons in committed gay relationships who wish to share duties and responsibilities. They are afforded the choice to register their partnership and become part of a legal regime that fully protects them in the course of that partnership and, if necessary, on its termination. The redress scheme, too, is a measured response in law to a growing need for protection of vulnerable cohabitants, people who are living together but not married.

I look forward to Members' support for the Bill, the detail of which is complex and technical, but the object of which is to ensure our law is humane, tolerant and protective. The Bill was the subject of considerable and detailed discussion in the Dáil. As I said, I always look forward to the discussion of Bills in the Seanad. I can understand the views expressed on both sides of the House in this respect, but, as the Legislature, we are obliged under the Constitution, whether we like it, to frame legislation within the parameters laid down in the Constitution. There are two significant articles in the Constitution, one of which states every citizen is equal in the eyes of the law; the other which has been confirmed many times by the Supreme Court relates to the special protection afforded to marriage. The Bill has been framed to strike a balance between these two articles.

I appreciate that there are those who believe the Bill does not go far enough and those who believe it goes too far. I represent a political party which made a very significant promise in its election manifesto. Sometimes politicians are accused of not keeping promises. This promise was made by my party and completely endorsed by the Fianna Fáil parliamentary party as it entered government with the Green Party. It was included in the agreed programme for Government and unanimously endorsed by the parliamentary party and again about a year ago when there was a review of the programme when I was one of the negotiators. Another commitment was made to pass the legislation as quickly as possible, a commitment we are fulfilling. The outcome of the review was also unanimously endorsed by the parliamentary party.

I have heard arguments from some people that I would not engage in discussing this legislation outside the House. We are often criticised for ignoring the Houses of the Oireachtas. This is the place to have the discussion. If people want to have discussions on radio programmes, that is fair enough, but this is the primary place where we should have our discussions-----

-----and not across the airwaves.

We are here to examine this legislation. The Government has spent a considerable amount of time on it and my Department and my officials have spent a considerable amount of time adapting the balance that is required in it. It is similar to some other legislation I have had to bring in where there has been a complete misunderstanding and, in some instances, a complete purposeful misunderstanding about the parameters within which legislators have to operate. The Government cannot pass legislation that it is advised, by the legal adviser to the Government, does not fulfil the commitments in our Constitution. If anyone wants to change the Constitution, that is another matter, but there has been no suggestion, politically, that we should change our Constitution in this regard. Perhaps in a year or two, or whenever, there may well be a proposal for a referendum, but we will cross that bridge when we come to it. We have to deal with the here and now. We have to deal with the reality in society in a tolerant and comprehensive way. This is a fine Bill which acknowledges the reality in our society. There will perhaps be people who contribute to the Bill who will be implacably opposed to the views and to the balance we have achieved in it, but I acknowledge the sincerity of everyone who will make that contribution. While I accept there may be people who will say we can improve this Bill, we have taken detailed legal advice from the Attorney General on the arguments that have been made publicly and on the arguments that have been made, especially in the other House, on other issues that perhaps should be included in the Bill and that are not in it. Time and again I have said the Government cannot propose a Bill which is advised to be unconstitutional. For that reason, this Bill is framed in a way that is consistent with the Constitution.

Some people have made the point that we should have dealt with the cohabitants issue separate from the civil partnership Bill. This argument was made in the Dáil. I do not accept that. Someone said it was unfortunate that these two issues are dealt with in the Bill, but I do not accept that. If we have an opportunity to change the law, we should take it. Time is precious enough in the Oireachtas and were we to have put things off to another day, we may not have been able to deal with the cohabitants issue.

As someone who practised in a very busy family law practice before I was elected to the Dáil, I was always very conscious of the fact that there were not necessarily same-sex couples who had difficulties in this respect - that was not an issue at the time - but that there were heterosexual couples who had not married, had decided not to marry and were setting up home, and that there was little or no provision in Irish law to protect such people who had long-term committed relationships. It is for that reason I personally was very happy that I was able to initiate this Bill which deals with same-sex couples and the issues related to civil partnership but also responds to a significant dearth in our legal framework, that is, the protection of heterosexual

couples who have not married and who have set up relationships, whether with or without children. I make no apologies for dealing with these two issues together in the Bill.

It is necessary, given that a significant body of legislation is being prepared in the Department of Finance and in the Department of Social Protection, that we pass this Bill soon rather than later.

Many misconceptions have been sown in regard to what is provided for in this legislation. It gives a right of access to court in order that the court can decide on these issues where there is a financially dependent spouse in the event of a break-up or a death. I look forward to the debate and, as I said, the debate in this House is always excellent. It is necessary, given that a significant body of legislation is being prepared in the Department of Finance and in the Department of Social Protection, that we pass this Bill soon rather than later. That is the reason I look forward to the forbearance of the Seanad to have this Bill passed before the House rises for the summer recess.



Senator Eugene Regan

Seanad Spokesperson on Justice,
Equality and Law Reform
(Fine Gael)

I thank the Minister for his presentation of this Bill. I have two preliminary points. The Minister mentioned that he welcomes the debate on the legislation in this House, but it is unfortunate that it is taking place at this time when the Dáil will rise tomorrow and there will no opportunity for it to deal with any amendments that might be deemed to be warranted in the course of this debate. The effect of that is that no amendments will be accepted by the Minister. This has happened on other occasions as we approached the summer recess and the Seanad was debating legislation but the Minister in question had taken a decision that no amendments to the legislation would be accepted.

GLEN in 2004, in its summary of the chronology of key events in this area, welcomed the new policy proposal by Fine Gael for civil partnership for same-sex and opposite-sex couples as an important step forward.

My second point is that the Minister referred at the start of his presentation to the commitment of his party to this area in the last general election and he wondered about the position of other parties. The fact is there was a commitment to this area on the part of all political parties, with variations on the form of civil partnership or recognition for same-sex couples that would be given in legislation. In fact, the Minister's party, the Fianna Fáil Party, is a late convert to this notion of civil partnership because it successfully blocked legislation in this area in the last Dáil. I point out to the Minister that in 2004 Fine Gael pointed a way in this regard in terms of civil partnership which did not require an amendment of the Constitution but nevertheless could have gone a long way to meeting the needs of gay and lesbian people in this country. GLEN in 2004, in its summary of the chronology of key events in this area, welcomed the new policy proposal by Fine Gael for civil partnership for same-sex and opposite-sex couples as an important step forward. It said that this was the first policy proposal from any political party in Ireland for legal recognition of same-sex couples. It is important to put that in context.

It is useful also to look back at the policy paper on civil partnership which was drawn up by a former Senator, Sheila Terry. It pointed out that: "In its 2002 document, *Implementing Equality for Lesbians, Gays and Bisexuals*, the Equality Authority said that lesbian and gay couples have no guarantee of fair treatment under the law because legally their relationships do not exist. The document went on to state:

This situation leaves thousands of couples unable to benefit from the extension of rights in relation to pensions, residency, property, taxation, next of kin, welfare and various other areas. Unmarried heterosexual couples experience the same discrimination. For our part, Fine Gael believes it is time to end this anomaly.

That paper was published in 2004. Some of the reasons given as to why it was important to end this anomaly were: "It is the right thing to do" and "It is fair and equitable". The paper particularly pointed out:

It is not an attack on the family or traditional marriage. The rights of married couples are not lessened in any way. Marriage will continue to provide rights regarding children that Civil Partnership does not provide.

The paper concluded by stating: "Our proposals do not involve a redefinition of the term marriage as expressed in the Constitution, and are completely secular". That is the ground-breaking policy that was adopted in 2004 and it is on foot of that model the civil partnership Bill is based dealing with not only the issue of gay and lesbian couples but also with cohabittees in heterosexual relationships where they do not wish to choose marriage to formalise their relationship.

The change in attitudes of all political parties was one which reflected the changes in society.

The polls which were conducted by GLEN and others clearly showed that in 2002 there were 76,000 unmarried cohabiting couples, that is, 8% of family units, while in 2006 the census showed this had increased to more than 120,000 or 12% of family units. The research was conducted by Lansdowne Market Research. The research also

showed the attitude to gay and lesbian people changed dramatically over the years. The parties have been slow to recognise the changes but that is what is happening today with the passing of this Bill.

Lansdowne Market Research studied the attitude towards same sex marriage in 2006 and found 51% believed that same sex couples should be allowed to marry, 33% believed that should be allowed to form civil partnerships but not to marry and 10% believed there should be no legal recognition of same sex relationships. In 2006 attitudes had already changed dramatically. A further study in 2008 found that 61% of those questioned felt that denying same sex marriage was a form of discrimination and 62% answered that they would vote Yes if a referendum to extend civil marriage rights to same sex couples was held tomorrow. Some 70% felt that being raised in a loving home was more important than being raised by a mother and father.

We are taking account of the changed attitudes in our society. We are also recognising the extraordinary discrimination and victimisation which has taken place in the past towards gay and lesbian members of our society.

We are taking account of the changed attitudes in our society. We are also recognising the extraordinary discrimination and victimisation which has taken place in the past towards gay and lesbian members of our society. The Bill attempts to deal with that by establishing a status of relationship for same sex couples which is legally recognised by the State. There will be a scheme of registration of civil partnerships for same sex couples together with a range of rights which are attached and which allow cohabitants to regulate their financial affairs. The Bill provides for a limited redress scheme where a cohabitant is left economically dependent. The presumptive scheme for cohabitants which has been followed in the other jurisdictions is also to be welcomed.

My party will support the Bill because it is modelled on the very policy document we adopted in 2004. It is a way of dealing with a complicated, divisive and constitutionally fraught issue. The manner in which we propose to regulate it is a step in the right direction. It is progress and means the Legislature takes its responsibilities in this area seriously. In the past we have tended to leave it to the courts to resolve our problems and in this case the courts here and in Europe have clearly indicated they do not wish to interfere in this area or transgress on our constitutional provisions or those of the European Convention on Human Rights.

In the Zappone case, the comments of Ms Justice Dunne in the High Court confirms the point that what is proposed here does not interfere with the constitutional protection for marriage. She also accepted that in so far as the institution of marriage is described within the Constitution that what was always understood by the framers of the Constitution was the traditional understanding of marriage as exemplified in cases such as *Hyde v. Hyde*, namely, the voluntary union of one man and one woman

to the exclusion of all others. She went on to find that it was difficult to see how the definition of marriage could, having regard to the ordinary and natural meaning of the words used, relate to a same sex couple. She said she did not see how marriage could be redefined by the courts to encompass same sex marriage. Marriage was understood under the 1937 Constitution to be confined to persons of the opposite sex and the plaintiff's case was refused on those grounds.

Another interesting High Court case which was ruled on by Mr. Justice Hedigan in 2008 helps to point the way in this area. The fact that non-marital families are not protected under the Constitution in the same way as marriage does not mean they do not warrant protection. The case concerned guardianship. Mr. Justice Hedigan stated that it seemed to him that there existed between the parties such close personal ties as gave rise to family rights under Article 8 of the European Convention on Human Rights and he found that the relationship of B, C and D was that of a *de facto* family within the meaning of Article 8 of the European Convention on Human Rights. He said he could find nothing in Irish law to suggest the family, composed of two women and a child, had any lesser right to be recognised as a *de facto* family than a family composed of a man and a woman unmarried to each other and a child. He said it seemed to him the State has a strong interest in the recognition, maintenance and protection of all *de facto* families that exist since they are inherently supportive units, albeit unrecognised by the Constitution.

It also brings one to a point regarding the lacuna in the Bill before the House which relates to the children of same sex partnerships. On the European Convention on Human Rights, the courts have not imposed any obligations or restrictions on what we do in this area. It identified marriage in the same way and recognises the wide margin of the appreciation of member states and signatories to the convention as to how they define marriage. It is left to the Oireachtas to decide this matter. It is, in this instance, taking responsibility for it.

The Bill makes some 130 amendments to existing legislation. It is very complex and represents serious progress in this area. The manner in which we are attempting to regulate the registration system for same sex couples and cohabitantes is fair, reasonable and correct. There is an anomaly in the case of the rights of children of same sex couples. It is one issue about which the Minister and Government clearly have a sensitivity in terms of putting forward proposals. I am not sure I understand the sensitivity.

The Ombudsman for Children in her opinion on this Bill made some very good points. There is an acknowledgement that the courts may interpret sections 1 to 7, inclusive, and section 206 of the Bill as assisting in regulating the position of the children of same sex relationships but at the same time it is not quite clear and we are leaving it to the courts to, in a sense, fill the lacuna on which the Oireachtas is not prepared to legislate. She recommends that provision should be made in law for special guardianship orders, either in civil partnership or other appropriate legislation. Is it the Minister's intention to revisit the issue with amendments to the Guardianship of Infants Act 1964 or will it be left silent? In the context of today's debate, it is important to know whether a commitment is being made on the issue. The Ombudsman recommends that the Bill be amended to ensure adequate protection

for the children of civil partners in the areas of shared home protection, maintenance, succession, dissolution of partnerships and related matters.

The Bill does not specifically address the adoption or parenting of children by same sex couples but we will fail in our responsibilities if we remain silent on it. Other jurisdictions, including Denmark, Iceland and Finland, provide for regulations which appear appropriate.

The Bill does not specifically address the adoption or parenting of children by same sex couples but we will fail in our responsibilities if we remain silent on it. Other jurisdictions, including Denmark, Iceland and Finland, provide for regulations which appear appropriate. I ask the Minister to address this specific issue in his concluding remarks.



Senator Lisa McDonald

Seanad Spokesperson for Equality and Law Reform
(Fianna Fáil)

I welcome the Minister to the House to debate the ground breaking legislation before us, the Civil Partnership and Certain Rights and Obligations of Cohabitants Bill 2009. I am honoured to make the first contribution on behalf of my party in the Seanad.

As a young law student in UCD in 1992, I recall reading about the Norris case and being astounded at the inequality in our society. I was still in UCD when the Criminal Law (Sexual Offences) Act 1993 was introduced by the then Minister for Justice, Máire Geoghegan-Quinn. Those were times of change for Irish society and I think Senators would agree we have moved a long way since then.

When people look back on this Bill in 20 years time, the present Minister will be recorded in the annals of history as having been courageous. The fact that every party claims ownership of the Bill shows we are doing the right thing.

When people look back on this Bill in 20 years time, the present Minister will be recorded in the annals of history as having been courageous. The fact that every party claims ownership of the Bill shows we are doing the right thing. Every party, including

the Labour Party, has had an opportunity to input into the legislation. Senator Norris deserves particular mention for his long struggle for the rights of gay and lesbian people.

I acknowledge the Bill contains lacunae but nobody goes from awful to perfect in one fell swoop. It is important we bring society with us because I do not want to see bigotry against certain factions or minorities. Good leadership has brought society with us thus far.

It should be celebrated whenever somebody wants to declare love for a partner and a desire to cherish him or her.

The Bill gives partners in same sex relationships the right to declare their allegiance to each other and to register their partnerships. They will be subject to and benefit from a range of protections if their relationships end or in the event of the death of a partner. The stability this will bring to same sex couples can only help society by increasing tolerance. It should be celebrated whenever somebody wants to declare love for a partner and a desire to cherish him or her. I do not care what we call such a relationship, and we are calling it a civil partnership in this Bill.

I have often heard young gay people say: "I do not want to be tolerated, I want to be accepted." As a society, we need to move to that position. Enshrining these rights has no consequence for people who are not involved in these partnerships. Nobody else's rights are being diluted or restricted. The widely accepted definition of marriage is not being undermined. In essence, there will be no losers in this Bill, only winners. The ultimate winner is society.

A once conservative Irish society has moved a great distance in the intervening period but it is important that all strands of the community are brought with us. I declare myself a republican because I believe every person is equal. I do not think we should be mealy mouthed about this because I do not want Animal Farm style equality, where some people are more equal than others.

As leaders in society, we need to stamp out hatred and intolerance. Thankfully a long list of legislation over the past 20 years, including the Employment Equality Act 1998, the Equal Status Act 2004 and the Criminal Law (Sexual Offences) Act 1993, is bringing us towards that goal. A mere 16 years ago, an intolerable situation obtained whereby a young man would avoid announcing he was gay for fear of being criminalised. A once conservative Irish society has moved a great distance in the

intervening period but it is important that all strands of the community are brought with us. I declare myself a republican because I believe every person is equal. I do not think we should be mealy mouthed about this because I do not want *Animal Farm* style equality, where some people are more equal than others.

In 18 years time, I would not be upset to find out that one of my two young children was gay because that is the way a person is born. However, I would be upset about the prejudice and intolerance my child would face in society. Today we are taking a step towards stamping out that hatred. As leaders, we cannot tolerate racism or inequity in our society. For too long, our laws have been influenced by religious values. These values should not be allowed to marginalise the 10% of people who are gay simply because it is easier to hold on to outdated beliefs than it is to accept change. We must accept change because we cannot ignore the fact that some people are gay.

Nobody should tolerate that level of prejudice and it is incumbent upon us as leaders to leave religion outside the door and treat every person we govern with the respect and equality he or she deserves.

Like other Senators, I have received a considerable number of telephone calls in regard to this issue. When I told one person who called me yesterday to live and let live, the person said that is what was being done until we introduced this Bill. Nobody should tolerate that level of prejudice and it is incumbent upon us as leaders to leave religion outside the door and treat every person we govern with the respect and equality he or she deserves.

A couple of red herrings have been thrown into this debate. One of them concerns the opt-out clause for conscientious objectors or a register of people who do not wish to officiate at ceremonies for two gay people. It has also been suggested that if a gay couple want to hold their wedding breakfast in a parish hall, the local church leaders should be able to refuse them. This would be a very dangerous amendment to introduce because it would create a moral hazard. Regardless of what we may personally believe, we should not introduce such a clause. I could give many examples of objections to coloured people or Travellers. The Equal Status Act 2004 is the place for those who want to amend the law to allow for conscientious objectors. This State cannot support dressed up bigotry, which is what it is. We cannot allow civil servants to pick and choose which part of their job they will perform.

There is a lacuna in the Bill in respect of the biological children of same-sex couples. If something happens to the partner who is the biological parent of a child, the child will be left in a lacuna. I accept the Minister's assurances that he will examine this issue and introduce legislation to deal with it. This should be done as quickly as possible.

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I accept the Minister's bona fides when he states he will move quickly on this issue.

While the part of the Bill dealing with cohabitees may be smaller than that dealing with same-sex couples, as I have stated frequently, cohabitees also need protection. We must realise that an estimated 10% of the population are gay, although it is possible that many more people are living in denial or afraid to be honest about their sexual orientation. I hope the position will change as we move towards a more tolerant society. Those people living in *de facto* families account for a further 12% of the population. As I noted yesterday, the Supreme Court recently rejected the concept of a *de facto* family. In total, therefore, 22% of the population will be affected by the legislation.

I have been contacted by many mothers of gay children who are delighted with this legislation. When children tell their families they are gay, their parents worry because they are aware of the prejudice their children will face. That more Irish people are gay than speak the Irish language speaks volumes. We must remember where we are and where we are trying to go. All young people deserve a safe and supportive environment, regardless of their sexual orientation. Tolerance is about accepting that others have the right to make choices one would not make personally. I am a married Catholic, albeit not one who always practises, who has two children. I do not have a right to expect others will live their lives as I live mine. We must realise that people have choices and are entitled to make them. People cannot help the way they are.

Donal Óg Cusack recently gave an interview on "The Late, Late Show" in which he courageously spoke about being gay. He stated his father's response on being told he was gay was that he would try to fix him. It was equally noteworthy that Donal's younger brother had patted his father on the back and told him the news would broaden his mind. Many courageous individuals deserve mention in this debate for standing up, being counted and pointing out that they deserve equality. I acknowledge the work done by the Gay and Lesbian Equality Network, GLEN, and other organisations which have fought tirelessly for gay rights.

Being gay, like the colour of one's skin, is about being treated as equal and securing civil rights. The Bill affords fundamental human and civil rights to a section of society.

There is a group of people who take the view that their children are normal and that

they do not know anyone who is gay. Most people of my age have gay friends and are aware of the impact the current legal position has on gay people. Thankfully, this is about to change with the passage of the Bill. Once enacted, it will affect today's children and the generations to follow. Being gay, like the colour of one's skin, is about being treated as equal and securing civil rights. The Bill affords fundamental human and civil rights to a section of society. Someone once stated democracy was not about taking care of the majority but protecting the minority, albeit a rather sizeable one in this case. That is what we are doing today.

While surfing the Internet in advance of this debate, I noted the following from quotation from Harvey Milk:

It takes no compromising to give people their rights. It takes no money to respect the individual.

These words must be at the forefront of our minds, as legislators. This legislation is a long overdue but significant milestone. Speaking from experience as a family lawyer, it is high time the injustice visited on same-sex couples was removed from the Statute Book. A same-sex partner cannot even register a partner's death or sign for his or her funeral. In many areas, cohabittees cannot secure State benefits and same-sex and opposite-sex partners have been excluded from many decisions, for instance, on withdrawal of life support. These issues have been discussed in detail elsewhere. As I stated, the legislation is long overdue and I am delighted it has been brought before us.

As the Bill passes into law, we must take our hats off to the Minister; the former Taoiseach, Deputy Bertie Ahern, who gave a commitment to produce this legislation, and many other politicians who in the past 20 years courageously moved us to this position. As a younger Member of the Legislature, I believe the Republic will be much stronger when the Bill passes into law. I am proud to be a Member of the House today.



Senator David Norris
(Independent)

I welcome the Minister and, in particular, the sensitive language in which his speech was couched, although some of the claims made regarding full equality were a little exaggerated. I warmly welcome the superb and moving speeches made by the spokespersons for Fianna Fáil and Fine Gael, Senators McDonald and Regan, respectively.

At one time I was both technically a known criminal and a Member of this House at the same time, yet I

have come through to this week when we shall see the passage of a Bill that will give a degree of recognition to same-sex couples. That is certainly a remarkable and radical transformation to be experienced by any human being.

For most of my life, including most of my adult life, I was branded as a criminal by ancient and alien laws for something over which I had as little control as the colour of my skin. I was what was known in those prim days before gay liberation as a “homosexual”. At one time I was both technically a known criminal and a Member of this House at the same time, yet I have come through to this week when we shall see the passage of a Bill that will give a degree of recognition to same-sex couples. That is certainly a remarkable and radical transformation to be experienced by any human being.

This is an historic debate and I shall do my best to understand and respect its historic nature. I will do so by dealing honestly, openly and sincerely with the truth and facts, rather than the hollow debating points employed by some who are opposed to the extension of civil rights to gay couples. Let me be clear about one thing. There is nothing visionary in the legislation, nor is there anything revolutionary about it. An historic opportunity has been missed. From being among the leaders, we are now among the laggards of Europe in this regard, falling behind not only the Netherlands and all the Scandinavian countries but even Catholic Spain which has introduced full civil marriage for same-sex couples without society falling apart. This legislation does not grant equality; it merely improves the second-class status of gay people in some practical ways.

Let us not have any sanctimonious hand-wringing about supposed unconstitutionality. Authoritative opinion obtained some years ago by the Law Reform Commission held that legislation in this area would only be unconstitutional if it purported to give greater powers to the new institution than were already given to existing marriage. That the Constitution, as it stands, is open to same-sex marriage is made clear by the fact that as far back as the conservative 1960s, a very eminent lawyer, Mr. Declan Costello, in his review of the Constitution expressed concern that the Constitution, as it then stood, was clearly open to the interpretation that same-sex marriage was legal because marriage was not defined as being between a man and a woman.

Opponents of social advance have never allowed logic or reason to cloud the clarity of their prejudice. These are the very same groups which but a few decades ago accused the gay community of being incapable of sustaining relationships and addicted to compulsive promiscuity instead. Now it appears that the plain desire of many within the gay community to settle down and make a commitment in a relationship disturbs them just as much as did their former grievance.

First, children can and already have been adopted by gay people. They can only be adopted singly, however, which means quite starkly that if the legally adopting parent dies, the surviving parent who has helped to rear, nourish and parent the child is instantly cut off in the legal sense.

The first and most important of my reservations regarding the Bill is the complete abdication by its drafters of moral responsibility for the welfare of children. Yesterday evening I received the comments of the Ombudsman for Children in a report which strongly endorses my position and calls for amendments of the kind I have tabled. One would have thought that given the history of this country in the past 100 years, in respect of which successive reports have conclusively proved that both the Church and State were guilty of the most horrendous crimes against children - actively, by neglect or turning a blind eye to their suffering - neither the Church nor the State would dare prejudice the innocence of children once again. Let us be clear about the facts and cut through the deliberate and misleading obfuscation that has been created by elements within a number of the Christian traditions. First, children can and already have been adopted by gay people. They can only be adopted singly, however, which means quite starkly that if the legally adopting parent dies, the surviving parent who has helped to rear, nourish and parent the child is instantly cut off in the legal sense. Much worse than that the child himself or herself has no connection with the surviving parent and is cast adrift. What is this except child abuse? Let no one say this was done unawares for I and others have made the situation very clear. Even the Roman Catholic Church has abolished limbo and yet the State of Ireland, with this legislation, has brought it back again for a minority of our most vulnerable children.

Two letters appeared in *The Irish Times* on Monday on the subject of the impact of the Civil Partnership and Certain Rights and Obligations of Cohabitants Bill. The contrast could not be greater. The first from David Wilkins states disappointment and betrayal. He so wanted to celebrate, to dance in the street and to be able to get married as a gay man. So much has been granted in the Bill, but that last piece which would allow him to celebrate and dance has been callously withheld. The other letter from David Nelson points to the pontifical yearbook 2010 to calculate the statistical increase in the number of Roman Catholics on the planet. He is pleased to note that the church continues to increase both in nominal membership and as a percentage of the global population pointing out there are now more than 1.166 billion Roman Catholics in the world, representing 17.4% of the global population. This is a vast number and in the numbers game so often played, this time by Mr. Nelson, he believes that this alone confers moral authority and democratic sanctions. He reminds us of the instruction issued in March 2003 by Pope John Paul II that Roman Catholic law makers in whatever country throughout the globe must express opposition clearly and publicly and vote against any civil partnership legislation.

The Roman Catholic Church is a chameleon-like entity. It is at one and the same time one of the great religious traditions historically and by far the largest of the Christian denominations. The Pope is its spiritual leader, but he is also head of a tiny state unusual in its microscopic size, its religious nature and the fact that the entire population is celibate. Despite this, the Pope occupies this dual position, acting sometimes as Bishop of Rome and sometimes as master of the shrivelled remnant of the former Papal States in Italy. Presumably it was acting in this capacity as a secular Head of State that the Pope issued his instruction to legislators. I will not castigate the Pope or criticise him, but I will ask my colleagues to consider what the situation would have been had any other Head of State or any other ambassador instructed duly elected representatives as to how they should respond to legislative proposals of an independent democratic government. Neither is this a back number. This specific instruction has been mentioned repeatedly in the sometimes obscene and vitriolic correspondence I have received in my office from various elements of the reactionary rump of Christendom.

Gay people cannot marry, but murderers, child abusers, burglars, bank robbers, ex-priests and ex-nuns can marry. I, a Member of this House in good standing, have no such right. I find myself in the position that is complained of universally within the gay community of being deprived of full equality.

My second objection to the Bill is to the language. There is a nasty, mean-spirited separation between gay people and the rest of the population which militates against their full equality in terms of the language used to describe living arrangements. For heterosexual couples, whether they be married, cohabiting or partnered, their dwelling place is to be called the family home, whereas in a gesture of contempt towards the gay community, for same-sex couples the home is merely to be described as “shared”, like a seat on the bus or a visit to the cinema. This is despite the fact that even with its recent skewing towards the conservative right, the European Court of Human Rights has found that two persons of the same sex living together in a committed relationship form a *de facto* family. Under this law that the Minister thinks generous, we are not to have legal rights to children, even our own children, we are not even to have marriage, and we are not even to have a family home. Everything is to be temporary, partial and second rate.

In defence of these positions it is sometimes argued that to rear a child in a same-sex relationship is to cause him or her damage. I would like to place on the record of the House the report of the commission appointed by the Swedish Parliament in 1999 to investigate the situation of children in homosexual families. Its conclusion was as follows:

The combined research shows that children with homosexual parents have developed psychologically and socially in a similar way to the children with whom they were compared. Nor did any differences emerge as regards the children in terms of sexual development. For some children conflicts may arise at certain stages of growing up that are related to their parents' sexual preferences. These mainly relate to the fact that in the early teens they may experience their parents' homosexual preference as a problem in relation to peer groups and children of the same age. Research shows the children's

ability to handle such conflicts depends on how their relationship is to their parents. Children growing up in a loving environment with the child as the focus of its parents' love and care are well equipped to handle crises and problems of this kind. Nor have any differences emerged from the research between homosexual and heterosexual parents as regards their ability to offer children good nurturing and care.

The report continues: "In the light of what has emerged in the research in the field the Commission considers that the legal differences that exist today regarding homosexual and heterosexual couples' ability to adopt are no longer objectively justified.

The same values that lead gay people to seek commitment are those very values that are cherished in marriage. Instead of being the antagonists and opponents of marriage, gay people are turning into some of its most effective and ardent advocates.

The same is true throughout Scandinavia with regard to the supposed detrimental effect upon marriage of allowing for the marriage of same-sex couples. The statistics unambiguously demonstrate that the rate of decline in marriage has become considerably less severe and in some years and in some countries actually reversed after the introduction of same-sex marriage. Is this not logical in any case? What else would one expect? The same values that lead gay people to seek commitment are those very values that are cherished in marriage. Instead of being the antagonists and opponents of marriage, gay people are turning into some of its most effective and ardent advocates. Indeed there is evidence, some of it anecdotal in terms of specific case histories, some statistical, to show that a certain percentage of cohabiting heterosexual couples were inspired in the Scandinavian countries to enter into the fuller commitment of marriage by the example of their gay friends.

There has been a very sinister and deliberate attempt by those who wish to deny full rights to their fellow citizens for specious reasons to co-opt the language of liberation, tolerance and human rights as a mask for prejudice. I completely reject their right to so do. The shadow of the Penal Laws has been invoked by opponents of the Bill. I have personal experience of penal laws. As I said at the beginning of this speech, I grew up in this country at a time when my very nature made me a criminal. This was not an empty threat. Many people were jailed. I know for I analysed the Garda statistics on crime at the time and I dealt with many people who were brought to court for the private expression of sexual feelings. People were jailed and lost jobs and family. People were referred to forced psychiatric treatment. People were subjected against their will to electroconvulsive shock therapy and aversion therapy. As a result, the gay community has historically displayed unusually high levels of suicide and addiction, which is not surprising when they were subjected so often to criminal blackmail.

I find myself in an unusual position for someone of my social background. I have

known six people who were murdered. They were murdered specifically and solely because of their sexual orientation. I doubt if this unenviable record can be matched by any other Member of this House. That, Senator Labhrás Ó Murchú, is what penal laws achieve. I think it a shame that anyone in this House should seek to rescue from oblivion the slightest fragment of such laws.

Acting Chairman (Senator Geraldine Feeney) The Senator has two minutes. I ask him to address the Chair.

Senator David Norris: Let me turn to my own benches. Seated upon them is a colleague, Senator Mullen, who consistently calls for civilised and respectful debate. He has also been consistently on the airwaves seeking to undermine this legislation. He told the main radio news programme during this last week that GLEN, the Gay and Lesbian Equality Network, was wasting taxpayers' money republishing some of the speeches from the earlier debate in the other House. This was completely untrue. Does such untruth reflect a respectful attitude or is it a rather mean-minded attempt to smear? Its money is confined to the funding of advice and policy development in the area of HIV and AIDS. Any publication was funded by Chuck Feeney who has given €700 million to Irish universities.

We are told that we must respect the views of the churches. I do not extend such a blank cheque to any person or group. I do not automatically respect them, but I cherish their right to express views with which I strongly disagree. It was for this reason that in the 1970s, when I mounted a case in the courts to challenge the criminal penalties under which citizens like myself suffered, I offered an opportunity to the then Archbishop of Dublin or his representative to make their position clear within the court system. This was done in writing by a letter sent personally by me to the archbishop's palace in Drumcondra. When no reply was received after a week or two, I sent a copy and a reminder by registered post. There was no reply. I called personally to the house and hand delivered a copy. Only then was I given indirectly and at several removes a kind of answer. That was a denial. I have offered to debate the matter publicly with the Archbishop of Dublin, Dr. Diarmuid Martin, but my offer has been ignored. I wrote to Cardinal Sean Brady in recent weeks, offering to debate these laws and their provisions in public in the full glare of the media - I sent a copy to the director general of RTE Television - and have only just received a reply. Once again, my offer was declined.

This could have been such a great day in the moral development of Ireland. However, thanks to the subterranean pressures applied to neuter and reduce the liberalising effect of the Bill, although we do have something to celebrate, at the end of the day it is not as much as it could have been. We have shown that we have failed to live up to the vision of the Liberator, the great Daniel O'Connell, who pointed out to similar mean-minded and begrudging opponents of Catholic emancipation that by granting freedom, dignity and equality to others, one did not diminish the general resource of such values but multiplied them. We must ask ourselves how much greater could have been the level of freedom. How much more enhanced would our values be if the Government really had vision and courage?

Let me turn to the so-called issue of freedom of conscience to opt out.

Acting Chairman (Senator Geraldine Feeney) Only if the Senator can do so in two seconds.

Senator David Norris: I will address the issue further on Committee Stage, but I would like to make one clear comment on it. No registrar has objected. Gay people are ordinary. We have common sense. What sane person, on what is supposed to be the happiest day of that person's life, would give money to somebody who has contempt for him or her, would pay someone to fry his or her hair, put rat poison in the wedding cake or anything else? Give us credit for having a little sense, even if the other side has none.

Acting Chairman (Senator Geraldine Feeney) I remind Senators that time is limited and that a great number of speakers are offering. I ask everyone to respect the Chair in the allocation of time. I call Senator Walsh who has 15 minutes.



Senator Jim Walsh
(Independent)

Gabhaim buíochas leis an Chathaoirleach Ghníomhach agus cuirim fáilte roimh an Aire. The discussion on the Civil Partnership Bill has evoked deep emotions on all sides of the Chamber and in the wider public sphere. I have embarked on a difficult personal journey in examining my conscience and deeply held beliefs and I am satisfied that I have reached a balanced and principled objection to the provisions of the Bill. In relinquishing the Whip, I regret any difficulty my decision causes for the Taoiseach or the Minister for Justice and Law Reform. My stand has caused me some angst, as I have been a member of Fianna Fáil for 42 years and a public representative for 36 years, and it has not been easy to take the position I have taken.

I have embarked on a difficult personal journey in examining my conscience and deeply held beliefs and I am satisfied that I have reached a balanced and principled objection to the provisions of the Bill.

Before I discuss my principal objections to the legislation, it is necessary to state clearly and unambiguously the rationale for my opposition to the Bill. I am strongly of the opinion that diversity in Irish society should be recognised and protected. I realise that in modern Ireland new forms of relationship must be afforded certain protections to reflect their circumstances. I am on record as having said same-sex couples and others in caring, dependent relationships should and must be respected and granted

certain limited protections. I have watched in dismay as my position on the Bill has been misrepresented and distorted. I have been subjected to personal abuse and branded a bigot by certain elements. Once again, let me be perfectly clear that, as a republican and a Christian, I abhor discrimination against any person on the basis of his or her sexual orientation, gender, race or religion.

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I have a quotation that captured my imagination on the back of my business card by Pedro Arrupe, a former superior general of the Jesuits: "Let there be men and women who would bend their energies not to promote the interests of the privileged, but to the extent possible, to reduce privilege in favour of the underprivileged." I would believe this if I were to take a prejudiced position against same-sex relationships.

As a democrat, I staunchly defend the right of every person to state his or her views on any matter. As a public representative, I am acutely aware of the position I hold in the public eye and the responsibility it carries. As difficult as this journey has been for me personally and professionally, I am compelled to follow my conscience and ask those who disagree with me to respect my contribution to this debate, as I have respected theirs.

I am not a recent convert to the opinions I hold. This matter was debated in the House as far back as 16 February 2005 and again on 27 February 2008 at the initiation of Senator Norris. I put the following motion to the parliamentary party:

The Fianna Fáil parliamentary party calls on the Government to ensure, when prescribing civil partnership legislation, that they guard with special care [taken from Article 41.3.1 of the Constitution] the fundamental position of the family; acknowledges that all forms of the family are entitled to help and support; and calls on the Government to continue giving special support, including unique financial and legal protections, to the institution of marriage, because of its uniquely pro-child nature, thereby protecting the traditional family unit as the necessary basis of social order and as indispensable to the welfare of the nation and the State as is prescribed in Article 41.1.2 of our Constitution.

The Bill, as drafted, is flawed in a number of ways. It discriminates against people in caring dependent relationships that are not sexual in nature, even though the Bill is being introduced in the name of equality. It also weakens the special status of the

family in marriage, a matter we will deal with as we go through the Bill.

The Bill, as drafted, is flawed in a number of ways. It discriminates against people in caring dependent relationships that are not sexual in nature, even though the Bill is being introduced in the name of equality. It also weakens the special status of the family in marriage, a matter we will deal with as we go through the Bill. I thought these problems could have been addressed without in any way detracting from the rights and entitlements justly due to persons in civil partnership arrangements such as property settlements, maintenance rights, succession rights of next of kin and so on.

Last week I received an e-mail from a lady and it is worth quoting from it:

I have been in a relationship for almost ten years, yet if my partner got ill, I would not even have the right to be by their side in hospital. This has happened once and it broke my heart. I urge you to consider how you would feel if you or someone you love were in my position.

I responded and thanked her for the reasonable way she had presented her case:

I note your comments regarding next of kin and fully support your point of view on this. I am not at all unmindful of the major step forward it is for people in same sex relationships with regard to commitment, security, respect, social acceptance etc. My primary concern is in respect of protecting the Constitutional status of marriage, and in particular, the reasons behind that being in the Constitution.

I am not at all unmindful of the major step forward it is for people in same sex relationships with regard to commitment, security, respect, social acceptance etc.

Existing marriage rights should remain unique to marriage because of its uniquely pro-child nature. It is not discrimination to treat a unique institution such as marriage between a man and a woman in a unique manner.

I have concerns about data published in recent times which show the increase in the rate of marriage break down in the last 25 years and the growth in the numbers of lone parents and cohabiting couples. Personally, I do not think that this is desirable for society or in the best interests of children.

Anthropology and complementarity are important considerations in this debate. I accept fully that marriage is not the only relationship in which children are well cared for. However, we all form our views based on our education, life experiences, reason and conscience. When I ask myself if a child has rights, I say, "Yes." Most would agree with me. Do the influence and complementarity of a mother and father in a loving environment benefit and enhance the development of child? In reply to this question I say, "Definitely yes." Does a child have a right to a mother and a father? The answer

is in the affirmative. Does the State, by its laws, have a duty to promote with unique measures the institution of marriage? I have challenged my own views on this matter and it is interesting that studies I have examined show that in the areas of health, education, employment and mental health children all score higher when they come from good, committed, loving, caring relationships within the institution of marriage. These studies were completed in the United Kingdom and the United States because we do not carry out such studies here.

I would like to challenge the definition of equality as provided by some. Equality is a concept that emerged in the late 18th century. It emerged in the American War of Independence, the French Revolution and the 1798 rebellion here. The aim was to ensure there was equality of opportunity for individuals. One of the principal forms is the right to life, about which I feel strongly. We also have a right to shelter, education, employment and to be cared for in ill health or old age. Some people who classify themselves as republican are adopting the 20th century left-wing liberal thinking in regard to their interpretation of equality. I have said before - I make no apology for it - that many causes have hijacked equality as a way of advancing their own cause. I do not criticise them for it but we must look intelligently at, and interpret precisely, what we mean by it.

When we come to the formulation of legislation, independent, objectively evaluated studies must be done. In that regard, I am interested to note that Ms Kearns of the Equality Authority is in favour of marriage equality. Since it is not in the Bill, she is going to contact the Law Reform Commission to make that case. The chairman of the Law Reform Commission, Judge McGuinness, has clearly expressed her views in that regard. The Ombudsman for Children has done the same. Do people working in the public service and in institutions funded by the State have any obligation to uphold our Constitution and its requirements? Is choreography at play here?

The question of conscience has been brought up. I have noticed with alarm, as have others, aggressive secularism entirely intolerant of any contrary views or opinions. The other day I quoted Anan Grover, a UN official on human rights, who has taken a view that not only is Poland wrong in regard to abortion but that there cannot be any freedom of conscience on that matter.

I refer to an article I read lately which stated that conscience is the only bulwark against the totalitarian tendencies of all states and that this finds recognition in the present German Basic Law, or conditions, which, to avoid a repetition of the totalitarianism of the Nazi period when the conscience of citizens was mercilessly crushed, insists that those elected to parliament shall be representative of the whole people, not bound by orders or instructions and responsible only to their consciences. That comes from Article 38.1 of the German Constitution. We would do well to be mindful of it.

I said I received abusive e-mails and posters were put up in my own town. However, I also received communications from gay people who have genuine concerns that my stance would, in some way, impede progress for their relationships. I will read from a correspondence I received, which is worth reading. While it may seem self-congratulatory at the start, when one gets to the substance of it, one will note a headline lesson for all of us:

Dear Senator,

I watched with interest your contribution to “The Frontline” programme this week. Your views were expressed with care and in a thoughtful fashion and any bill before the Senate should be subject to careful examination, amendments, thoughtful argument and an unimpeded discussion. The idea that anyone who contributes to this discussion and asks hard questions and looks at options is a bigot, homophobic or anti-equality is completely foreign to me as someone who supports the ideas and philosophy of a true and inclusive republic. I am the founder of GLEN in 1988 and a FF supporter. I am not conflicted in either as a Gay man.....

The issue before you in the Senate is civil partnership and the bill can only be strengthened when you and others speak honestly and thoughtfully about your concerns, reservations and alternatives. By doing so you articulate the views of so many people who have legitimate democratic views. I sir may be a gay man who has founded and worked with GLEN and other equality organisations/issues. Today I work as a shop steward.....

I will not stand by and have people who disagree with my views on union issues dismissed by one line comments of bigotry, homophobia etc.....

I suggest with genuine respect that you make your views known in this debate without fear or apology and in doing so you will continue to enhance democracy and help recover any lost reputation that the political class have suffered recently. If I had the fear of speaking out in the past because my views were unpopular or not of their time, many people would not have the courage today to take their views forward to enhance this society. Any suggestion that societies development is only or best served by everyone agreeing with the most popular contemporary ideas is dictatorship by the back door. Publish your views and be assured that I will be one of the many people who will continue to regard you with respect as an honest, thoughtful man who has the best interests of our republic at heart. Need I say any more?

All I would say to that is what an enlightened and generous mind to articulate such a challenging standard of thought and debate. It is the epitome of true democracy.

I will again quote Edmund Burke who gave his views on the role of a public representative. He stated:

It ought to be the happiness and glory of a representative to live in the strictest union, the closest correspondence, and the most unreserved communication with his constituents.....But his unbiased opinion, his mature judgment, his enlightened conscience, he ought not to sacrifice to you, to any man, or to any set of men living.

If Edmund Burke is not a sufficient authority for Members of the House, I will quote one of the great intellectuals in history, Albert Einstein, who said never do anything against conscience, even when the State demands it. We would do well to remember that.

I spoke to the Taoiseach about my reservations and I genuinely appreciate the fact he had respect for the principled stand I took and I thank him for that. The Minister and I have been good friends for many years. A long time ago, I told him I would oppose him every step of the way in regard to sections of this Bill but hoped it would not interfere with our friendship. It is my intention that it will not.

I also spoke to the Minister for the Environment, Heritage and Local Government, Deputy Gormley, because the Green Party is our partner in Government and I did not want anything misdirected his way as to why I am taking this position. When I finished speaking, he said to thine own self be true. It is a maxim I have lived by all my life and I will continue to do so now and in the future.



Senator Ivana Bacik
(Labour)

It gives me great pleasure to be here on behalf of the Labour Party to welcome the introduction of this ground-breaking Bill. I am proud to be here to represent the party with a proud tradition on gay rights and the first political party to bring before either House legislation recognising the status of gay couples in law.

It gives me great pleasure to be here on behalf of the Labour Party to welcome the introduction of this ground-breaking Bill. I am proud to be here to represent the party with a proud tradition on gay rights and the first political party to bring before either House legislation recognising the status of gay couples in law.

In 2004, my dear friend and colleague, Senator Norris, a pioneer on gay rights, was the first person to bring forward legislation. His Civil Partnership Bill was debated in this House in 2005 and 2008. However, the Labour Party introduced a Civil Union Bill in the Dáil in 2006 and again in 2007, which Deputy Howlin proposed. That Bill would have gone a great deal further than this one does. We have a proud record on gay rights and I am proud to be here to say we will support this Bill.

However, we have reservations. In the party's view and in mine, this Bill does not go far enough. It does not represent equality for gay couples. It does not provide for recognition of gay marriage and it has a most glaring omission in that it has only a very minimal reference to protection for the children of families involving two parents of the same sex. It lacks protection for children of gay parents and this is a major flaw which we and Senator Norris will attempt to address through a series of amendments.

While we support this Bill as a step forward, an advance in the rights of gay people, we do not see it as being an ending post.

While we support this Bill as a step forward, an advance in the rights of gay people, we do not see it as being an ending post. As the Irish Council for Civil Liberties said, this is a staging post and not a milestone. It is only a step on the way to true equality.

Moreover, I do not see why we could not have gone further in this Bill. A great deal of time has already passed in which this Bill has been campaigned for. This Bill has not come about easily. I pay tribute to the great work of groups like GLEN and the NLGF, Senator Norris and many other courageous individuals, some of whom are in the Visitors Gallery and whose work has brought about this Bill and a situation in which all the political parties have signed up to this. We could have gone further given the long genesis of this Bill and the long road we have all travelled to get here.

I should declare an interest here. I am junior counsel in the Zappone-Gilligan case, which is awaiting a trial date before the Supreme Court. A wonderful couple, Katherine Zappone and Ann Louise Gilligan, are seeking recognition not only of their Canadian marriage but of their right to marry in Ireland. As I said, that case is awaiting a date. The Supreme Court has never explicitly answered the question of whether or not the right to marry under the Constitution includes a right to marry for same sex couples. That question has not yet been addressed. As Senator Norris has said, the Law Reform Commission has said it would not be unconstitutional to give the same rights of marriage to same sex couples.

I will address this point further after the suspension, but may I make a final point? There is still a small number of people who object even to civil partnership and who have put their objections to marriage on the record. However, it is extraordinary that they have never explained how recognition of gay marriage would impact adversely on the rights of any existing married couples or individuals. They have never said what harm it would do. In the absence of that, we know it will not do harm. It will not dilute the rights of any other people, as Senator McDonald has said. There is no need to oppose either civil partnership or full marriage rights for gay couples.

Sitting suspended at 2 p.m. and resumed at 2.30 p.m.

I want to emphasise that arguing for a more inclusive definition of marriage is not an attack upon marriage. It has been misinterpreted in that way but it is far from it, because expanding the categories of those entitled to marry in law gives even greater support and protection to the institution of marriage.

I welcome the Minister of State, Deputy Calleary. Before the suspension, I was speaking of the major problem that we in the Labour Party see with this Bill, namely, that it does not go far enough. It does not provide for full equality for gay couples because it does not recognise within it the right to marry. I want to emphasise that arguing for a more inclusive definition of marriage is not an attack upon marriage. It has been misinterpreted in that way but it is far from it, because expanding the categories of those entitled to marry in law gives even greater support and protection to the institution of marriage.

One day very soon I hope and believe we will see a prohibition on same-sex marriage or rather the failure to include same-sex partners within a definition of marriage as similarly outdated.

One must remember that our definition of marriage has changed over time. Until 1995 in Ireland, which is very recently, marriage was seen as a permanent state from which no divorce was possible. Now, we have introduced divorce and this did not destroy the institution of marriage despite the many doomsday predictions of those who campaigned against the divorce referendum at that time. Similarly, in the US there were legal prohibitions against mixed-race marriages, a concept we would find absolutely abhorrent today. Again, this was something that changed. One day very soon I hope and believe we will see a prohibition on same-sex marriage or rather the failure to include same-sex partners within a definition of marriage as similarly outdated.

That day has already come in a host of other jurisdictions. It is not as if this is something that is a radical or far-fetched proposition. We have seen it in Canada, South Africa and a number of European jurisdictions such as the Netherlands and more recently in Spain and in Portugal, which legalised same-sex marriage in the last few weeks. Both Spain and Portugal are countries we should well look towards as countries with a strong conservative and Catholic tradition, as we have, but which recognised that this was a matter of human rights and of equality and recognised that the right to marry should be an inherent aspect of humanity - a recognition that each and every one of us is capable inherently of entering into loving, committed and intimate relationships and that the law simply needs to recognise that.

Public opinion has moved on. As I said earlier, and others on this side of the House, notably Senator Regan, have already quoted opinion polls that show the majority of people favour legal recognition for same-sex couples and the recognition of marriage. The vast majority of submissions to the Joint Committee on Justice, Equality, Defence and Women's Rights, of which I am a member, argued that the Bill did not go far enough. We should take a lead from other countries and recognise in our legislation not only partnership but also marriage. We are supporting an amendment from Senator Norris which would give some effect to that. As I said, Senator Norris has led the way on this issue for many years. He introduced the first civil partnership Bill in either House in 2004 and it was debated in 2005, a Bill on which I worked with him

and which was drafted in a way that was far more inclusive and far-reaching than the current Bill.

Why does all of this matter? There will be those, such as the Minister in his remarks before the break, who say that civil partnership is enough. There are those who say the name of the institution may not matter but it does matter. There are two key reasons for this. First, it matters in law. It amounts to second class citizenship not to permit gay couples to marry. Even in the UK, where the civil partnership law is far more inclusive and far closer to the marital status than this Bill, we still see a difference in status; it is still not marriage. It matters in particular in Ireland because, of course, in the Constitution the only family that is given constitutional protection in Article 41 is the family based upon marriage. As Senator Regan said, this is a far more restrictive interpretation of the definition of family than we see in the European Court of Human Rights jurisprudence, where Article 8 on family rights has allowed for a much more expanded definition of family to include cohabitants and children, be they gay or straight cohabitants. We need to see in our law a recognition of much more diverse forms of family and we need to see constitutional change on that. However, while marriage is given this privileged status, it gives an even greater reason that gay couples should be entitled to enter marriage and why this Bill falls short of what is necessary to provide for equality.

Second, the difference between marriage and civil partnership matters greatly in practice. It is not the same in reality. What we have is a very different model to the UK civil partnership model; it is a far more restrictive version of civil partnership and it falls far short of marriage in many respects. The most glaring aspect of this is in the absence of any reference to the rights of children, many of whom are currently living with gay parents and in gay families, and who deserve and require this recognition. There are other ways in which it falls short of marriage, to which I will return, but the lack of reference to children is the most glaring omission in this Bill.

The lack of legislative recognition for the children currently living in gay families in Ireland means they will continue to be discriminated against legally as they will not have any rights vis-à-vis the non-birth parent in the relationship.

The lack of legislative recognition for the children currently living in gay families in Ireland means they will continue to be discriminated against legally as they will not have any rights vis-à-vis the non-birth parent in the relationship. The Minister addressed this in his speech when he said he did not want to see piecemeal development but, in fact, this Bill was the right place to introduce the amendments that are necessary. The advice just published from the Ombudsman for Children, with which we have very helpfully been supplied, makes this point very clearly. At page 2 of her advice, the Ombudsman states:

... the Bill does not adequately address the rights and needs of children ... it

is unclear why [the consideration of children] resulted in a Bill that did not prioritise the rights and interests of children. Although the situation of same-sex couples will be improved considerably by the enactment of the ... Bill, the situation of children with same-sex parents will remain largely as it is at present ... It should be borne in mind that this is not a hypothetical problem. The omission of robust protections for the children of civil partners will have real consequences for the young people concerned and it is in their interests that the law reflect and provide for the reality of their lives.

It is a very robust critique of the Bill and we would absolutely share that view.

In fact, there are two references to children when one considers the Bill very carefully. There is a very welcome amendment in section 73 on succession rights to allow the children of a civil partner to succeed to their parents' estate but there is no right of succession if the parent who has died is not their birth or adoptive parent. In section 129, there is some broader reference on the dissolution of a civil partnership where the court may have regard to a child to whom either civil partner owes an obligation of support. While that is welcome, it does not go far enough and we have put forward amendments to try to address this.

I put forward various amendments of the sort the Ombudsman for Children has proposed, as did Senator Norris, when we debated the Adoption Bill. I put forward an amendment on special guardianship and both Senator Norris and I proposed amendments explicitly permitting gay couples to adopt. The Minister, Deputy Andrews, at that point said these amendments were not appropriate in that Bill and he explicitly referenced the introduction of the civil partnership Bill. Now, with the civil partnership Bill, we see the Minister, Deputy Dermot Ahern, saying a comprehensive review is underway of the rights of children and it will all be dealt with later. When are we going to deal with it? We need an answer to that question. It is simply not good enough for the many children who are currently existing in what Senator Norris has described as a legal limbo and whose rights *vis-à-vis* their non-birth parents are simply not being recognised.

There has been a good deal of talk from those opposed to this Bill more generally about the need for the preservation of marriage as exclusively opposite-sex because that is better for children. Again, I have not seen any evidence to support the contention that extending marriage rights or civil partnership rights to gay parents or gay partners in any way impacts adversely upon children - nothing has been produced to show that. All the available research shows it is the quality of parenting that matters, not whether the parents are gay or straight.

Many of the studies cited by the other side, including the infamous Fourth National Incidence Study of Child Abuse and Neglect produced by the US Government this year, do not look at all at gay parenting as against straight parenting and have different research criteria. That US study made a series of very different and somewhat inconclusive findings, and explicitly stated that issues other than family structure needed to be considered. The incidence of child maltreatment varied as a function of several characteristics of children's families, including parents' employment, family socioeconomic status, family structure and living arrangements, grandparent

caregivers, family size and metropolitan status of the county.

Other studies have also been done, including a recent Spanish study of 214 families of various types, including same-sex parents and families with married parents, etc. It found that young children and adolescents generally benefited from attention received by two engaged, caring parents of the same gender. Gay parents were as good if not better at raising healthy, well-adjusted children than the heterosexual counterparts.

The point made in the study was that often studies touted by the other side do not address same-sex couples and their children. Instead they tend to examine the differential effect on children of being raised by single parents rather than two parents. It is an important point. In this jurisdiction marriage equality has presented some experiences from children of gay couples and those who are adults have expressed their own view that the only discrimination experienced was from other people, and they were otherwise brought up in a healthy and loving environment.

As legislators we must deal with the reality that there are gay couples in Ireland with children who deserve equal treatment. There are children who have and are growing up with gay parents and in gay families, and gay couples foster children, as the Minister of State with responsibility for children, Deputy Barry Andrews, has said. He has said such people make excellent foster parents.

As legislators we must deal with the reality that there are gay couples in Ireland with children who deserve equal treatment. There are children who have and are growing up with gay parents and in gay families, and gay couples foster children, as the Minister of State with responsibility for children, Deputy Barry Andrews, has said. He has said such people make excellent foster parents. Gay individuals adopt children, although they can only do so as individuals and not as couples. It is long overdue for the children in such families to be given legal recognition.

There are other flaws in the Bill and areas where it falls far short of anything close to marriage. This is notable in the area of immigration law and the recognition of foreign marriages. Gay couples who have married abroad will see their relationship only given the status of a civil partnership in our law. In the dissolution of a civil partnership there is a differential treatment, and a couple may only seek dissolution where they have lived apart for two of the previous three years. A longer period is required for couples seeking divorce from a marriage at four to five years.

There is a lack of specific protection in the Bill relating to equality in social welfare and taxation. We are told other legislation is necessary to bring those changes into effect. I was glad to hear the Minister, Deputy Dermot Ahern, say those changes are being

drafted to be included in finance and social welfare Bills, but I would like clarification on when we can expect to see those in place. I presume the full effect of this Bill will not be seen until that is done, but I would like confirmation in this regard.

Many people in Ireland want to know when they can enter civil partnership ceremonies. They have been waiting a long time and need to know when this will happen.

The majority of us on both sides of this and the Lower House look forward greatly to seeing civil partnership ceremonies conducted here. This is a Bill that is long overdue as it has had a long genesis. It does not go far enough for us but we recognise the historic nature of this day.

We will support the Bill and we will also support the protection for cohabitees which has been provided. It is relatively limited and does not amount to unwarranted State intrusion on the lives of couples who have chosen not to get married or enter into civil partnership.

We will support the Bill and we will also support the protection for cohabitees which has been provided. It is relatively limited and does not amount to unwarranted State intrusion on the lives of couples who have chosen not to get married or enter into civil partnership. It will resolve the real injustice which has occurred where a cohabitant is financially dependent on a partner and who until now has had to endure a very unwieldy legal process to get any form of redress.

We support the major elements of the Bill as a stepping stone. In the words of an Iarnród Éireann advertising campaign, we are not there yet but we are getting there. It is an important step which we welcome.



Senator Dan Boyle

Deputy Leader of Seanad Éireann
(Green Party)

In these Houses of the Oireachtas we have the sometimes dubious privilege of passing much legislation. Some Bills are quite regular in how they come to us and concern the daily running of the State. They are finance and social welfare legislation. Some Bills are amendments to previous Acts seen through time and circumstance to be in need of change, or where the original tends to be seen as flawed. Some Bills have an emergency nature and we have seen more than enough in recent years dealing with the banking crisis and the financial position. Some legislation helps to define who we are as a society and this is one such Bill.

My party sees this as stepping stone legislation and there will be further Bills to advance the continuing equality this legislation brings about. Nevertheless it is a significant leap forward and we should mark the effect it will have on society.

As it is defining legislation, it does not come without controversy. There are those in our society who say: “Thus far and no further”, and there are those who quite legitimately have the right to expect that we need to go further. My party sees this as stepping stone legislation and there will be further Bills to advance the continuing equality this legislation brings about. Nevertheless it is a significant leap forward and we should mark the effect it will have on society.

Most European countries have chosen to take a stepping stone approach in this respect. In France, Germany, Switzerland, the Czech Republic, the United Kingdom and Finland, legislation is at the status of civil partnerships. Spain, Portugal, Sweden, Norway, Iceland, Belgium and the Netherlands have legislation on full single-sex marriage. We should not see ourselves as unique in this regard and the process must be followed. I am proud that we are taking a significant step in that direction today.

I took part in recent gay pride parades in Cork, where 2,000 people marched, and in Dublin, where 22,000 people marched, and I finally got a sense, as a public representative, that we are emerging from those shadows and finally creating a society where people do not have to live in an undergrowth produced by people

who for far too long expressed a vision of our society that was never a reality.

As a society we must acknowledge our continuing immaturity in the area of sexuality. How sexuality is acknowledged, expressed, recognised and not celebrated in our society is something with which we must come to terms. For too many generations, many have had to endure a stigma that should never have been attached and, as legislators, we have ignored the problem for far too long. If there is anything in the debate we are having and the legislation we will pass today, it will be to remove from the shadows a stigma that should not have been placed to begin with. I can think of friends like Arthur Leahy in Cork who was involved in a television documentary in the 1970s, when it was first acknowledged that homosexuality existed in our country. It is a bit like the comment about “The Late Late Show” that sex did not exist before television. We have come a long way since but we still have a journey to travel. As a result of the repressed attitude to sexuality, where people were made to feel wrong if they had or expressed an inclination or felt part of a certain society, this Bill only goes some of the way towards redressing the imbalance. I took part in recent gay pride parades in Cork, where 2,000 people marched, and in Dublin, where 22,000 people marched, and I finally got a sense, as a public representative, that we are emerging from those shadows and finally creating a society where people do not have to live in an undergrowth produced by people who for far too long expressed a vision of our society that was never a reality.

The sexual repression we have experienced in the past 100 or 150 years is not a natural Irish inclination and is as far removed from the Brehon laws as could be.

We are coming to terms with who we are as a people. In having this debate and passing legislation, we should mark it as a celebration and an expression of pride. That it is not full equality or perfect is something I and my party acknowledge. That it needs to address elements such as children and the opinions of the Ombudsman for Children is most important. The contents of the Bill will bring us forward and I look forward to the day, as Senator Bacik has said, when the first ceremonies will be performed in the country.

I wish to address the question of conscience, as it has been expressed as a retarding effect on whether the legislation should pass. I acknowledge the presence of Senator Norris and the role he has played. In the game of social catch-up this country has played and coming to terms with our repressed attitude to sexuality, we have waited far too long and experienced intervals far too wide. The decriminalisation of homosexuality occurred in the United Kingdom in 1967, but it was 26 years later that such legislation was passed here. It is almost 25 years since Senator Norris initiated his action in the European Court of Justice that helped to bring about the Irish legislation in 1993. Such an interval is far too long.

We can never have an Irish solution to an Irish problem with these issues again. This was a society where condoms had to be purchased on prescription if a person was married. How was that ever seen as a stepping stone approach to a modern society? We have come a long way. I am concerned that some repressed attitudes remain.

Some of these attitudes were expressed earlier today, while others were expressed in 1993. We must acknowledge that some of the negative comments made in 1993 are being reversed and that the matters to which they relate have been addressed. The passage of this legislation will lead to a similar change of mindsets. The holding of ceremonies marking civil partnerships will create the momentum required to see to it that the full legislation required in this area is brought forward.

On the subject of conscience, I refer to John Fitzgerald Kennedy and his US presidential campaign of 1960. During that campaign he was subjected to a high level of criticism from religious fundamentalists about his Catholicism, how this would affect his role in office and how social policy in the United States would, if he were elected, reflect a particular Roman Catholic bias. During a speech he made in Dallas he stated:

I believe in a president whose religious views are his own private affair ... and whose fulfilment of his presidential oath is not limited or conditioned by any religious oath, ritual or obligation ... Whatever issue may come before me as president – on birth control, divorce, censorship, gambling or any other subject – I will make my decision in accordance with these views, in accordance with what my conscience tells me to be the national interest, and without regard to outside religious pressures or dictates.

The term “aggressive secularism” has been used in the debate on the Bill. I take the opportunity to out myself as a secularist. I do not perceive secularism to be in any way aggressive. To me, it is the essence of tolerance.

There are diverse views which need to be expressed - there must be circumstances in which they can be so expressed - and upheld. However, such views cannot be seen to dominate over those held by others. It is on that point that this debate should focus.

When I hear it stated conscience should be the guiding principle with regard to whether people should co-operate with the legislation when it has been passed by the Houses, I do not hear people speaking from conscience, rather I hear them referring to the right to discriminate.

We live in a society in which certain people’s rights are not properly recognised within the legal system. These rights are only partially furthered by the legislation. When I hear it stated conscience should be the guiding principle with regard to whether people should co-operate with the legislation when it has been passed by the Houses, I do not hear people speaking from conscience, rather I hear them referring to the right to discriminate.

If we were to place this matter in the context of previous debates on social policy, the argument made in the past with regard to whether public officials should co-operate with people and whether people are divorced or cohabiting or whether they hold

different religious opinions would again be made, but that is an Ireland which is dead and gone. It is an Ireland we need to leave behind.

It is left to me to make only one further point which I will place in the context of a quote from Shakespeare's play "Hamlet". I ask others to bear it in mind when they put us through the engaging debate in which we are going to partake for the remainder of today and tomorrow. The relevant quotation is, "Thus conscience does make cowards of us all".



Senator Paschal Donohoe
(Fine Gael)

I am proud to make my contribution in the wake of one such as that made by Senator Boyle. This is an important and good day for the Seanad and the Oireachtas in general, particularly given the passage of legislation of this nature. I wish to outline the reasons my party and I are supporting the Bill. I also wish to examine some of the arguments made to the effect that passage of the Bill is a bad development and that it will in some way harm our society.

The personal insight which makes me want to support the Bill is that none of us can choose whom we love or the nature of our sexuality. These are chosen for us by others. We grow into them, they are not determined by the choices we make. One does not look at another person and decide that one is attracted to or loves him or her. It is something that happens; it is something one finds within oneself. It is something that represents one of the finest dimensions of what it is to be human, care and be a social being. That is what the Bill is about.

I am of the view that granting this right does the opposite to that which certain people perceive and, in fact, recognises that my neighbours and friends, the neighbours I do not know and the people whom I do not know and may never meet have feelings and emotions that are equal in worth to mine.

Legislation is often justified by the use of the language of rights. I understand why this happens. At times, however, the language of rights - perhaps because it is contested - is cold and unforgiving in nature. The Bill must be passed because it relates to matters of a softer nature. It is about the idea that one can love another person and that the State must accord a degree of worth to people's relationships and recognise that equality must be afforded to them.

I have considered the track record of my party in this matter. Senator Bacik detailed the work her party has done on it. Following her contribution, I discussed with her the worth of that work and that fact that it had led to the creation of a consensus which had led us to today. In 2005 my party published a document - put together by former Senator Sheila Terry - in which we argued in favour of the concept of civil partnership and outlined why we were of the view that civil partnership would be an addition to Irish society.

There will no longer be a need for tens or perhaps hundreds of thousands of relationships in this country to be conducted in the shadows.

It is for the reasons I have outlined that I am glad to take the opportunity to acknowledge that at last matters over which we have no control - namely, our sexuality and the people we decide to love or to whom we decide to be attracted - are, as Senator Boyle stated, coming out into the open. These are issues we are now prepared to discuss and which the law is willing to recognise. There will no longer be a need for tens or perhaps hundreds of thousands of relationships in this country to be conducted in the shadows. Under the Bill, such relationships will be given recognition by the State.

I have indicated my views on this matter and stated what I believe love and sexuality to involve. I am married to a woman and have two children. In many ways, I am the kind of person who others might say could be threatened by legislation such as that before the House. There are those who might argue that the Bill somehow threatens the value of my marriage and my family and the foundations on which these are based. This prompts me to ask how giving somebody the right to be recognised on the death certificate of his or her partner - this was an example to which the Minister referred - might lessen the value of that which I possess. How would granting such a right threaten or subdue that of which I am lucky enough to be a part? Does it make me love my wife any more or does it make my children love me any more? How can it do this?

I am of the view that granting this right does the opposite to that which certain people perceive and, in fact, recognises that my neighbours and friends, the neighbours I do not know and the people whom I do not know and may never meet have feelings and emotions that are equal in worth to mine. I have no doubt that this legislation will not threaten my family. Rather, it will add to it because it recognises that there are others who will be accorded the same recognition and sense of worth already accorded to me. This does not threaten the family, rather it broadens its definition and allows more people access to it, which must be good. I argue that this is a development we must welcome.

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recognition and sense of worth already accorded to me.

There has been a great deal of discussion about the concept of conscience and the notion of freedom of conscience. This leads on to some of the religious themes that have framed the overall debate. I try to follow my faith and attend church. However, I am a legislator and a public servant. In that context, I cannot merely legislate for those who are of the same faith as me. Neither can I legislate only for those who are of the same sexuality as me. It is my duty to put in place a framework within which all faiths and all those of differing sexualities can prosper, be secure and exist alongside each other.

That is what I believe our duty is and what the concept of a republic is all about. That is why I see the introduction of legislation such as this as being an addition to our republic and a refinement to it. It is another step in a journey we must continue to make. The idea that someone who is a public servant trusted with implementing the law would have the ability to choose not to do so shows the lessons we claim to have learned in other parts of our lives about one law being the law and having no choice but to implement it, and about all people being equal in front of the law and those charged with implementing it recognising that, makes me contend that idea has not sunk through.

A public servant has a duty to serve the public. If one is legislating for the public one must recognise that public is varied, wide and has many definitions within it. I fundamentally reject the concept that the Bill represents a threat to conscience and asking someone to implement the law which they are sworn to uphold represents an attack on them.

A public servant has a duty to serve the public. If one is legislating for the public one must recognise that public is varied, wide and has many definitions within it. I fundamentally reject the concept that the Bill represents a threat to conscience and asking someone to implement the law which they are sworn to uphold represents an attack on them. A Bill such as this moves us a step forward and not a step back.

Another point I hear made by people who have concerns about the Bill is on the idea of choices and that deciding not to give legal status to brothers or sisters who might be looking after each other or to individuals who might be caring for each other is a reason to reject the Bill. However, sometimes law making is about making choices and doing one thing today and something else tomorrow. The fact that tomorrow one will deal with the needs of a separate group of people does not deliver a valid argument for rejecting what is being done today. The idea that by looking after and recognising the worth of one part of our community and stating that the issues and needs of

another part of the community will be dealt with on another day is not a reason for rejecting what is being done today. Law making, like economics and other decisions we must make in life, is about choices. It is about deciding that a certain matter will be done today and will be done well.

Other colleagues have spoken about how this represents a step along the way and there are other issues we need to look at. I happen to agree with the Government's decision to look at the issues in the Bill and to contend with and manage many of the difficulties on children on another day. On an issue such as this, building consensus and support to allow people time to reflect on their positions and themselves is the right way to go. Implementing it and dealing with amendments such as those tabled by my colleague, Senator Regan, does not mean these points should not be made or looked at today. However, the approach of the Bill is the right choice to make. We are recognising what we should have recognised a long time ago, that to be human is to be governed by forces over which we have no control, and that is what the Bill is about and why I am glad to see it before the House and glad that my party supports it.



Senator Geraldine Feeney
(Fianna Fáil)

I welcome the Minister, Deputy Dermot Ahern, and I thank him for staying the course with us, as he is with this important legislation. I am very proud of the Bill and I am very pleased to be associated with it. I listened to the Minister from my office because I was preparing to speak on it. I heard him state it is ground-breaking legislation and he thanked the Attorney General and his officials. I also thank the Attorney General, the Minister and his officials because it is a very carefully framed Bill, of which we as a people can be truly proud. Those of us from all parties and none who fall under the banner of true republicans can be proud of it.

I am very proud of the Bill and I am very pleased to be associated with it...Those of us from all parties and none who fall under the banner of true republicans can be proud of it.

In his speech, the Minister mentioned that our party in its manifesto in 2007 thought it important enough to include our commitment to this Bill if we were to return to Government. We thought it important to have a legal framework to support the rights of same-sex couples. I fought and canvassed for my party and my colleagues who ran for the Dáil on the basis of what was in our manifesto. I subsequently took to the roads and asked my electorate on the basis of what was in the manifesto - at that stage together with what was in the programme for Government agreed with

our partners in Government, the Green Party - to give me a mandate to return to the Seanad and ensure this vital Bill was put through. I am proud to play my part in that today.

Once I knew it was to be introduced I wanted to be on the list of speakers because it is ground-breaking. The Minister will go down in the history of the State as the reforming Minister he is. I have known the Minister for a long time and I respect his views and his values. Quite often they conflict with mine but that does not get in the way of a friendship and the good working relationship I enjoy with him. I was sad to hear an Independent Senator having a little go at him. He used a horrible phrase; he said the Minister was "got at". I shouted at the radio, as I do quite often when I am on my own-----

There is a name for people like me. I shouted back that of all the Ministers he is one who cannot be got at.

The Minister will go down in history and history will be very kind to him. Future generations will look back at today's debate as we have looked back at the debate on the Health (Family Planning)(Amendment) Act in 1985 when Des O'Malley, the father of the Senator sitting beside me, lost the whip in my party for voting against the party. When my children ask me what type of a country we lived in then, I wonder the same thing. However, we accepted it and we got on with it. In the same way, in 1993 the then Minister, Máire Geoghegan-Quinn, went down in history for all the right reasons for decriminalising homosexuality. We also had the divorce referendum.

Last year, during the discussions on the Lisbon treaty referendum, the waters were muddied with statements that the sky would fall in and hell would freeze over before any of it would go through and that abortion would come in the back door. It frightens me to think there are people who would introduce red herrings such as these to keep good legislation, as we have today, out of our State. It also hurts and frightens me to hear someone stand in the Chamber I share and talk about children of a family with two parents doing far better than in any other arrangement. It hurts me because through no fault of my own I have reared my family on my own. The thought entered my head that equality is great and everyone is equal but that some are more equal than others. It is a shame on the mind that can stand and say that. I almost feel bad for saying that because I respect the views of others and the views echoed here today that differ from mine have a right to be heard and I respect that right. However, I feel slighted because I worked very hard for the past 12 years rearing children, like thousands of other people, whether they are widowed, like me, or separated. Nevertheless, because we do not fit into the norm of a family as seen by other people, we are told our children do not do so as well. I am proud of my four children whom I have reared according to the motto, "Live and let live". In values they have been reared in the Catholic Church. They are not all churchgoers and I, too, am hit and miss when it comes to the church. However, I am a believer. I believe in God and have a faith. In recent days I have been told by people who oppose the Bill that I will have to meet my God on judgment day, to which I have responded that I will, and I hope God will look at me for the kind of work I am doing. I do not say I am right on everything. I hold my hands up; I am rarely right. However, regarding this Bill I know I am fundamentally right and as a republican I know I am doing the right thing for society.

If there is one thing I should say it is that I am glad the Bill is with us today. My maiden speech in the House eight years ago was on a Private Member's Bill introduced by Senator Norris. I was a nervous speaker in those days and probably still am a little nervous-----

-----but I stood up and got a right earful and lashing from people around me. I believe if one has it in one's heart, one should let it come out. This matter is in my heart and I am glad we are here today putting through this legislation.

I always hope I would be big enough, if one of my four children came home and said, "Mum, I am gay", that I would embrace them with the same love with which I embrace them every day. My biggest fear would be that they would have to live in a society such as Ireland as been until today. My fear would be for their safety, well-being and education - everything we, as Irish people, value - because they would not be accepted.

No one has a monopoly on everything. I look forward to the debate and to hearing views opposing mine. I shall make one point on the conscience clause. I always hope I would be big enough, if one of my four children came home and said, "Mum, I am gay", that I would embrace them with the same love with which I embrace them every day. My biggest fear would be that they would have to live in a society such as Ireland as been until today. My fear would be for their safety, well-being and education - everything we, as Irish people, value - because they would not be accepted.

I was very taken by what Senator Donohoe said. We cannot choose the people we love. He is entirely right about that and put the point across very eloquently. It made me think that neither can we choose how we are born or who we are. We have no control over our sexuality. There has always been a debate in this regard; is it nature or nurture? Some people will say it is a little of both. I do not believe that; I believe it is nature. I heard Senator Norris's contribution and would say, shame on us as a society if, when a person is not born as the norm, we turn our back on that person.

I am glad today has come and am very glad I am a Member of Seanad Éireann and can play my part in saying today is a watershed in the lives of gay and cohabiting people. Doing so, I apologise that society did not recognise the rights of gay people until now.

No one has a monopoly on conscience or deeply held beliefs. I and many of my colleagues have deeply held beliefs. I firmly believe, for example, that a family which does not conform to a traditional father-mother-

two children model is no less deserving of protection. Love, fidelity and caring are what bind a family together. These are the marks of a family, not whatever model to which the State decides it should conform.

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Senator Rónán Mullen
(Independent)

I welcome the Minister to the House. If this legislation had been drafted in a different way, it would have been excellent and would have attracted near universal support. Unfortunately, as drafted, the Bill merely masquerades as a piece of ground-breaking, compassionate, equality legislation. The reality is that in parts the Bill is cruel and discriminatory, not something of which to be proud. It elevates one group of people, who have a legitimate claim to certain rights, duties and protections and whose loving relationships deserve to be acknowledged and respected by all, over other categories of similarly deserving people in caring and dependent relationships. This may be permitted by the letter of our constitutional law but it is at huge variance with the spirit. It is done in the name of equality but this is a rather hollow claim when one examines the true meaning of equality under the Constitution. There is no true respect for equality in the way, for example, in which this Bill will infringe on people's freedom of conscience. There is no equality under this Bill for the conscientious objector.

Unfortunately, as drafted, the Bill merely masquerades as a piece of ground-breaking, compassionate, equality legislation. The reality is that in parts the Bill is cruel and discriminatory, not something of which to be proud.

I note, too, the title of the Minister's speech which referred, still, to the Civil Partnership Bill. Does this mean it was a cut and paste job? He mentioned that the

forum was here, in this Chamber. He is welcome to this forum which, he stated was the place to engage with people rather than in the media. The fact remains this is a somewhat privileged forum. The Minister is in some way protected from what we might call the close-ground hurling and man marking under which some of his arguments might have withered. He would not meet with people.

On the matter of the Gay and Lesbian Equality Network receiving funding, while I acknowledge Senator Norris's correction that the funding for a particular booklet came from another source, the fact remains that a great amount of money from the Government has gone to GLEN. I have no problem with that *per se* but by refusing to meet other people who have legitimate concerns, the Minister was allowed to get away with glib rhetorical responses to people's concerns in the Dáil, responses that did not address the careful nuances in the argument people made around conscience. That is greatly to be regretted. In recent months as we debated this Bill what we have heard are stock rhetorical responses. There has been no serious willingness to engage, which says a lot.

The Minister spoke of the ignorance and homophobia which gay people and their families [have] lived with" down through the years. Sadly, this Bill will not change that but will add further injustice. I would like to think I, too, am the enemy of ignorance and homophobia. For example, I am on the board of trustees of approximately 112 secondary schools and wish to do my utmost to ensure those schools are cold houses for anyone who would target or humiliate a person on grounds of any kind, including perceptions around sexual orientation.

The Minister spoke of State recognition of civil partnership between such persons so that they can live in a supportive and secure legal environment. I support such an environment for people, whether same-sex partners or others. The Minister said we all deserve equal treatment before the law and as we go about our daily lives. I, too, agree with that. What does equality mean, however, in regard to the specific issue of public recognition for certain relationships other than marriage? We have not had a real, thoroughgoing debate about that.

My view, which I do not believe to be bigoted, is that the right to marry is the right to form a stable, publicly supported union with a person of the opposite sex. The reason we traditionally distinguish in favour of such unions is because they provide the socially supported context for the upbringing of children. That is our constitutional position but also, I believe, the position borne out by the analysis of what works best for children most of the time. Advocates for same-sex marriage and this Bill have no problem distinguishing between couples on the basis of whether they have a sexual, intimate or committed relationship. If they are capable of that distinction, why do they reject my right and the right of others to make another distinction, namely, to distinguish between relationships on the basis of whether they provide that socially preferred context for the upbringing of children? That is the key to the difference of opinion about this legislation, but the Government has been somewhat silent on this. We hear many references to what cannot be done because of constitutional requirements but hear no real understanding of, for example, what social science data have to say about what works for children nor have we heard of any thoroughgoing analysis of what children's best interests would demand.

The Government talks about the need to validate and protect explicitly the relationships of thousands of couples whose mutual commitment has been invisible. There should be freedom to have a private life, to be free from humiliation and mockery, and to be free to confer rights and benefits on other people. What exactly "validation" means will be a matter for legitimate debate. At a time when in many quarters in our society there is an acknowledgement of the need to support and encourage people into the institution of marriage, most people, if one were to ask them, would give huge marks, for example, to the courage and dedication of lone parents but very few people would say there is no difference, all things being equal, in the outcomes for children. Most people who are attentive in a sincere way to the needs of children would say there are certain models we should promote. The model in which I believe is one where a child, as far as possible, has the right to the care and support of his or her two biological parents. That is not always possible, sadly, owing to life circumstances, but are we going to shed it even as an aspiration? The willingness to shed that as an aspiration underlines the comments of many people who have supported this Bill.

The are good provisions in the Bill, which must be acknowledged, including the accessing of State benefits, for example, carer's allowance to care for a seriously ill partner, and addressing the problem of the recording of a deceased partner on a death certificate as single. I have no problem with measures to cater for those kinds of situations.

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It is interesting that the Minister spoke of constitutional balance. He spoke about the need to balance the entitlement to equality under Article 40.1 - which in reference to equality also refers, let it be noted, to the need to acknowledge differences in capacity and function - with the special protection Article 41 gives to marriage. We could ask questions about the Bill in regard to marriage, for example, whether the provisions on maintenance and property adjustment orders, rights of redress and so on could in some circumstances fetter the rights of a future spouse of someone who is currently a civil partner.

There are divergent moral views in the areas of sexuality and to what relationships the State should give public recognition and privileges.

There is another balance that the Minister has completely failed to take into account and this why the conscience issue is so important. It is the need to balance the State's ability to provide for a model of civil partnership and its need to require that its officials enable it to carry out that new legal responsibility with, on the other hand, a recognition that on this issue there are sincere and divergent views in our society. This issue is not the new slavery. Many people who have been very strong over the years in advocating for rights, whether of immigrant people or members of the Traveller community, have what some people in this House would call a conservative view on traditional sexual morality. It seems that Senator Boyle would refer to it as a continuing immaturity in regard to sexuality. I regret those comments because whereas I support the removal of stigma in general terms, I believe there are truths and disagreements about what is true when it comes to discussing what works best for people. There are divergent moral views in the areas of sexuality and to what relationships the State should give public recognition and privileges. Does Senator Boyle believe that classic Christian teaching on sexuality is a sign of immaturity? In his comments there is a reaction against the narrowness and meanness of the past when people were humiliated, mocked, derided, treated as different and their lives were made miserable as a result. However, one is going to the other extreme if one insists that people who have what one might call a traditional, conservative view on what relationships should get State support and particular recognition, leaving aside the issue of sexuality, also have a view that is what we might call officially discouraged and that they might face the might and the rigour of law in certain circumstances. That is more redolent of Communist Russia where religion was officially discouraged. The balance that the Minister has missed out on here is that he has forgotten, or chosen to ignore, the protections specifically given to freedom of conscience in our Constitution and to the rights of churches, among other groups, to organise and manage their own affairs.

On the John F. Kennedy issue, there needs to be a very careful discussion about the interconnection between faith and politics. My belief is different from Senator Boyle's. I believe that everyone has the right and the duty to bring their understanding of reality to the ballot box and into their job as legislators. However, as a legislator, I may start from a point of view, I may try, as Senator Donohoe said, to be Christian in my life and try to live out my faith, but when I make an argument on public policy, I make an argument that can also be shared by people who do not share my religious views or who, perhaps, do not have any religious views. When debating the issue of abortion, for example, it would be wrong to categorise those who have a conservative position as coming from a religious perspective which means, therefore, we do not need to engage with their argument. What nonsense, what intolerance and what anti-intellectual rubbish.

The same principle applies to the issues in this debate. If I make a point that the State ought to support the institution of marriage, I believe the social data on marriage supports the notion that marriage is what works best for children and I can point to it supporting that notion. If I further believe it is unjust to give particular privileges to couples on the basis of a sexual, intimate relationship other than a more general caring, dependent relationship, that certain religious people whose concerns I may not personally share feel that in conscience they want to go the other way, for example,

that they would rather not rent a facility, and that those people should be catered for in a pluralistic society, that is not coming from a religious inspiration and it should not be categorised as some old fashioned, narrow kind of bigotry. What I am proposing is something much healthier than what the Minister is proposing or what the Green Party is supporting, which is a form of moral coercion. The Government has gone from the old extreme of the past, where people were morally coerced into one kind of lifestyle, to a new extreme whereby, in future, if people who differ in conscience - the most respectable and law-abiding people who are members of the families of the parties in government - dare to signal a conscientious objection to civil partnership because they have a particular view about the importance of marriage in society, the Government will impose the full rigours of the law on them. I can only say shame on it for contemplating such an approach. The same goes for an individual or an institution which has a property which, were it to rent it out in certain situations, might feel in all conscience it would be violating its ethos.

I remind the Minister of section 37 of the Employment Equality Act. Our equality legislation is full of legitimate exemptions to deal with different types of situations related to age, height in some cases, and gender in some cases, such as where one was hiring a person to look after one's mother and give her intimate care. There are many exceptions in equality legislation. Surely it is possible to recognise that we live in a society where there are divergent moral views. Can the majority here not be tolerant enough to recognise that and say it does not impinge on the implementation of the civil partnership legislation if we allow such people to courteously and constructively disengage? Section 37 of the Employment Equality Act allows religious-run institutions to make necessary decisions-----

Senator David Norris: I doubt if it would pass today.

Senator Rónán Mullen: It is interesting that the Supreme Court said that this legislation might not be constitutional if there were not such an exemption. If that is true in regard to employment matters, given the implications for employment for people who might have complained about that legislation, surely it applies *a fortiori* that when all one is doing is withdrawing from the provision of a particular service in circumstances where people may go elsewhere for the service, there is even less of an incursion into people's rights. It should be possible to provide for legitimate differences here and I suspect the Minister is acting unconstitutionally in failing to take account of that argument.

To return to the core values that underlie this legislation, an issue we must address is the equal dignity of all people. All people are equal in dignity. It cannot ever be denied and it ought not be /denied. This is not an argument between people who think that homosexuality is sinful and people who think it is okay. It wrong to characterise the argument as being based on such polar oppositions. Many people have very strong support for people's right to a private life, for their right to their values and for their right to love whom they want, but they also support the right of society to make certain values known, to support certain ideas around family and so on. On Committee Stage I will look in more detail at the some of the evidence which supports the point of view that there is a case to be made for distinguishing in a particular way and giving particular privileges to marriage over and above all comers, regardless of their

sexuality or other considerations.

I have heard good speeches from both sides of the House. I compliment Senator Walsh, in particular, on taking a stand, which is not easy to do, against his friends and party. Our democracy is the poorer for the fact that the many in Fine Gael who had concerns about the Bill were not allowed to table amendments in the Dáil. Our democracy is poorer for the fact that the Bill was passed in the Dáil without a vote. It is very easy to pretend, when everybody is in agreement, that we have reached a new nirvana of tolerance, rather people have chosen to hide their intolerance behind the party Whip. A lot of people in our society who are not bigots and respect the private lives of others do not agree with the parties which were not willing to celebrate diversity.



Senator Niall Ó Brolcháin
(Green Party)

I welcome the Minister. This is groundbreaking legislation and I feel very proud to be standing in Seanad Éireann as a Senator. It was interesting to listen to the previous speaker. Because of what he said, I would like to explore the issue of tolerance. As we are on Second Stage, we can explore some of the issues rather than the specifics of the Bill. I do not see where the issue of conscience arises on the Bill and would like to use the word “principle”. This is a matter of principle, rather than conscience. People have values. We are here as the representatives of all the people, not of any narrow group, and we have to represent the people to the best of our ability. Tolerance, therefore, is very important. As Senator Mullen said, it is crucial that we accept that there are divergent views. I also accept that it is important that we have a vote on the Bill and it will be good to do so. I hope and expect there will be an overwhelming majority in favour of it, as we have moved on.

I do not see where the issue of conscience arises on the Bill and would like to use the word “principle”. This is a matter of principle, rather than conscience. People have values. We are here as the representatives of all the people, not of any narrow group, and we have to represent the people to the best of our ability. Tolerance, therefore, is very important.

My mother is English and came to Ireland from London in the 1960s. She moved to Thurles, where I was born and which was a very interesting place. The first place she lived in was Senator Hanafin's father's hotel. She told me she was the first woman in Thurles to wear trousers, which was extraordinary, and that ladies dressed in shawls spat at her. Ireland was very different then. It was a society which was not tolerant of change in the way it is today.

What does that have to do with the issue of civil partnerships? Our society has changed enormously during the years. If one considers the figures, one will find that in 1996 there were 150 registered same-sex couples. In 2006 there were more than 2,090. Does that tell one there has been a huge increase in the number interested in being part of a same-sex couple? I do not believe that is what it tells us, rather it tells us that our society has changed and that people are now more comfortable in admitting they are gay. I hope we will see a lot more people admitting they are gay because one does not have to be in the closet. I hope it is something people will say with pride and honour and without fear that they will be abused by others or have to deal with some other issue.

I wish to return to the point of principle rather than conscience. Legislation concerns the law, not matters of conscience. Conscience falls within the realm of spirituality, religion and feelings. This is not a matter of conscience. We are dealing with civil partnerships, not religious ceremonies. It is simply a matter of principle. I respect the right of people to have principles which are not the same as mine, those of my political party or the majority. We have to be tolerant.

I have spoken to members of an older generation who have said they can accept civil partnership but not gay marriage. That is the current position. According to Lansdowne Market Research, some 51% - a very narrow majority - would accept gay marriage, whereas 84% are prepared to accept civil partnership. It is clear, therefore, that the majority are prepared to accept the Bill.

Like Senator Boyle, I give credit to the House. In 2004 Senator Norris introduced the Civil Partnership Bill. I also give credit to the Labour Party. Senator Bacik made an impassioned speech and has done a lot of work on this issue. In 2006 the Labour Party introduced the Civil Unions Bill which was groundbreaking legislation and laid the basis for the Bill which I hope we will pass today.

This is a complex Bill which I understand refers to 130 pieces of legislation. For the first time we are recognising something other than marriage in the context of equality. For those who believe the Bill does not go far enough, it needs to be recognised how far it goes. It is groundbreaking legislation. I feel great pride as an Irishman in being able to support it.

As Senator Boyle said, this Bill is a stepping stone. I would like to see us move towards a situation where society will move towards recognising gay marriage. That will be a matter for the people to decide, not the Seanad. When they are ready to decide, they will do so.

An Irish rock star in the 1980s had a song called, “Love and Pride” - I understand he was called King. I will not sing it.

Senator Rónán Mullen: Was he called Queen?

Senator Niall Ó Brolcháin: No, it was not Queen but King. “Love” and “pride” are the words I have heard more than any other. “Pride” is a word associated with the gay community. “Love” is also a very important word but is not something which can be legislated for, as previous speakers said. We are recognising people’s right to feel love for each other and to find a way at last of enjoying a legal partnership. It is a legal, not a religious or spiritual partnership. Whatever happens, I hope all Senators will come to recognise that this is a very important Bill which we will accept and move on. I have examined it and the dissolution of a civil partnership and divorce are not the same. There is a difference between civil partnership and marriage; they are not the same in the terms of the rights given. As Senator Boyle said, this Bill is a stepping stone. I would like to see us move towards a situation where society will move towards recognising gay marriage. That will be a matter for the people to decide, not the Seanad. When they are ready to decide, they will do so.

With love and pride I stand here as a proud Irishman and commend the Minister for bringing the Bill before the House. I look forward to the outcome of the votes later.



Senator Dominic Hannigan
(Labour)

I wish to share time with Senator Alex White.

I welcome the Minister. I know of many people of my generation and older who never thought this day would come because until the mid-1990s when we saw the legalisation of homosexuality in Ireland, there were many citizens living in the shadow lands of Irish life. Today they will feel proud of their Parliament and country in introducing this Bill. As Senator Bacik said, we would like to see it go further, in dealing with the needs of children in particular, but we will support its passage, with the intention of reviewing it when we next enter government. We view this Bill as a stepping stone on the way to full equality for gay citizens. Same sex couples are becoming more common in Ireland. The 1996 census recorded only 150 same sex couples but this figure rose to 1,500 in 2002 and 2,000 in 2006.

...we would like to see it go further, in dealing with the needs of children in particular, but we will support its passage, with the intention of reviewing it when we

next enter government. We view this Bill as a stepping stone on the way to full equality for gay citizens.

However, the law has not kept up with the pace of change and these relationships have no legal recognition at present. We have been happy to lead the world in other areas such as the plastic bag levy but, as Senator Boyle has noted, we have been slower to move in the areas related to sex. This can be seen in our laws on contraception, divorce and homosexuality. The ban on homosexuality was only removed 17 years ago thanks to Senator Norris and others. On most matters pertaining to sexual relationships this country has been relatively slow in making progress. Spain, Belgium, Norway, the Netherlands and Sweden have passed legislation to allow gay marriage. Four out of five of these introduced civil unions initially and then progressed to full civil marriage after a number of years. Denmark, Finland, Germany, the UK and Slovenia have passed civil partnership laws. At this stage, therefore, almost half of our European neighbours have passed laws allowing civil partnership at least.

My party introduced our own civil unions Bill to offer same sex couples the greatest measure of equality possible under our Constitution. It would have afforded same sex couples access to a relationship which is similar to marriage in every practical way, including the right to adopt a child.

My party introduced our own civil unions Bill to offer same sex couples the greatest measure of equality possible under our Constitution. It would have afforded same sex couples access to a relationship which is similar to marriage in every practical way, including the right to adopt a child. As I accept that the Labour Party Bill will not proceed while we remain in Opposition, I welcome the Civil Partnership and Certain Rights and Obligations of Cohabitants Bill 2009. It addresses issues relating to inheritance rights, power of attorney and next of kin. I note the Minister has stated that he will deal with other matters such as tax and social welfare issues in future Finance Bills. I accept the Government's commitment on this but I will be watching closely to ensure it delivers. I am disappointed, however, that the Bill does not address the issue of children. We will be tabling amendments on Committee Stage with a view to improving the legislation. I hope the Minister will accept at least some of these amendments but, if not, it is our intention to update the legislation to give effect to these amendments when we next enter Government.

It has to be said to those concerned citizens that while this legislation may be unpalatable to them they should consider it as a price worth paying for the

protection and continuance of their own rights and privileges.

I recognise there is still an element of opposition to any legislation in this area. It is clear from walking through the gates of Leinster House today and reading some of the e-mails that my colleagues and I have received, that a number of people are uncomfortable with this legislation. Many of these are good, fair minded people and I recognise that their concerns are heartfelt. Some are uncomfortable because they find the whole issue of homosexuality objectionable, based on their own moral or religious standpoints. However, they also accept that Ireland grants certain rights to its citizens. It has to be said to those concerned citizens that while this legislation may be unpalatable to them they should consider it as a price worth paying for the protection and continuance of their own rights and privileges.

Others are uncomfortable because they see this as in some way undermining the institution of the family. I ask these people to think again about their concerns because, on the contrary, it strengthens that institution. It will allow many couples who are currently unable to make a public record of their relationship to show their love, support and commitment to one another.

There have been calls for a freedom of conscience clause. My view is that a public servant is tasked with implementing the law of the land. It is no different if a registrar is asked to preside over an interracial or interdenominational union.

There is strong evidence to suggest that civil partnerships benefit society. A regulatory impact assessment in the UK prior to the introduction of legislation there suggested that such partnerships will help the economy because it can be expected that civil partners will share their resources and support each other financially, thereby reducing the demand for support from the State. A study in Denmark found that the introduction of civil partnerships led to significant benefits to society, including a reduction in the suicide rate.

As someone who keeps an ear to the ground and speaks to people on their doorsteps on a regular basis, I am convinced that the vast majority of Irish citizens have a live-and-let-live attitude to this issue. I do not believe they have any interest in denying same-sex couples the right to take care of a sick loved one, inherit the family home or commit to each other for better or for worse. Legislating for same sex couples is the right thing to do and it will bring us into line with our neighbours. It will not lead to the end of civilisation. It will bring benefits to society and, most importantly, it will provide security and fairness to a small section of our society who are currently not protected by law. I will be voting to support this Bill.



Senator Alex White

Group Leader, Seanad Éireann
(Labour)

I am grateful for the opportunity to speak on Second Stage of this hugely important and momentous legislation. As my colleagues, Senators Hannigan and Bacik, have indicated, the Labour Party enthusiastically supports the Civil Partnership and Certain Rights and Obligations for Cohabitants Bill 2009. We will try to amend it in some areas and, while we can to some extent predict the Minister's response to our proposals, we will push them as strongly as we can. We hope to expand on the vital work done on this Bill with further legislation when the Labour Party is in Government.

I think this is the first time since I entered the Oireachtas three years ago that I have commended the Government on any issue but I am happy to congratulate it on bringing this legislation before the Houses.

I think this is the first time since I entered the Oireachtas three years ago that I have commended the Government on any issue but I am happy to congratulate it on bringing this legislation before the Houses. I also acknowledge the heavy lifting that was required from the Green Party in order to bring the matter to its present status.

When we discuss this Bill in more detail on Committee Stage, we should not forget that we are trying to improve the lives of individual citizens. We should, therefore, also congratulate the thousands of campaigners who have fought for this legislation. None of this would have happened without people who were prepared to go to meetings, spend time on campaigns and work out how incremental change could be achieved. Perhaps some felt they were compromising themselves while others wanted to progress their goals without being seen as incrementalists but they made the same intelligent political decision as so many other figures in history by accepting this Bill as legislation that could be achieved and leaving for another day the fight to build something better. For that reason, I am delighted to be a Member of this House as this Bill comes before us.

I wish to respond briefly to the conceptual issues raised by Senator Mullen. He stated the legislation might find favour across the House if it had been drafted in a different way but he did not tell us what changes were required to meet his approval. It is not enough to say he could have supported the legislation if it was drafted in a different way. Perhaps if it was never introduced people would have felt comfortable. I have much more respect for people who say they do not agree with or believe in the legislation because they think it is wrong. I have no difficulty with people saying in

Parliament that we should not have it or we should vote against it but what does it mean to say it should be drafted in a different way?

The legislation is not discriminatory. In regard to the so-called conscience clause, I have never come across such a contrivance masquerading as a basis for opposing legislation.

The opponents of this legislation are creating a class of people that they posit will have a difficulty. There is no evidence that such a difficulty would ever be felt by people or has been expressed. It has been wholly contrived and fabricated to try to create a basis for objection to the legislation on equality grounds.

It is a complete fabrication. The opponents of this legislation are creating a class of people that they posit will have a difficulty. There is no evidence that such a difficulty would ever be felt by people or has been expressed. It has been wholly contrived and fabricated to try to create a basis for objection to the legislation on equality grounds. Examples have been given, including by the Minister in the Other House, to which we will return later. It is simply inconceivable, however, that if someone is appointed to be a judge, for example, of the Circuit Court which administers the divorce legislation, he or she would refuse to make an order for divorce in circumstances in which he or she has a difficulty or objection to it on a personal basis or as a matter of conscience. It is not conceivable that the Houses of the Oireachtas would pass legislation providing for a so-called freedom of conscience clause. The torturous way in which this matter has been imported into the debate is dishonest. Opponents of the legislation should come to the House and argue against the Bill. The notion that freedom of conscience is a factor in this matter is utterly implausible.

I struggle with the issue of people objecting to this Bill because their argument is dressed up as if they are being excluded from the debate. Senator Mullen, for example, states he has a right to make a distinction between what is proposed and what he regards as being the traditional and most desirable form of marriage. He has a right to hold this point of view, campaign and argue for it, urge the education system to promote it to a greater extent or raise the issue in the House as often as he wishes. I do not seek to demean the point the Senator makes. For two years, the Joint Committee on the Constitutional Amendment on Children, in which the Minister was involved, debated this issue. The wording of the proposed constitutional amendment produced by the joint committee, which I do not have before me, makes clear that children are best cared for in a loving relationship in the family in which they are brought up.

Nobody is arguing that Senator Mullen cannot maintain his view as to what constitutes a desirable and satisfactory form of marriage. Who has argued otherwise? The Senator argues that we are shedding this as an aspiration. How is this done in the legislation? I genuinely cannot understand his argument given that he can continue to

maintain, promote and campaign for his view and aspiration? In what respect is the Senator excluded? He and others who share his view are able to maintain their view. The task of legislators is to make laws. In the case of this legislation, our task is to make a law that is not directed towards a particular philosophical or traditional view of marriage but to legislate for all those in relationships and none. It is not our role to promote a particular religious or moral standpoint.

There is no difficulty in us continuing to have divergent views. I object to the suggestion that because people find themselves in a minority on an issue, they are somehow being subjected to what is being described as “aggressive secularism”. I fail to understand precisely what this notion means given that Members are freely and openly legislating and are prepared to debate with Senator Mullen and others any changes they wish to propose. No one is excluding debate or arguing that people cannot hold certain views. A disingenuous attempt is being made to try to portray those who oppose the legislation as being shut out of public debate or precluded from advocating certain views. They have every entitlement to do so.

This is a great and bright day in what is a relatively dark period for the country in many other respects. The Bill is a major step forward and a great tribute to all of those who have been involved in it. As a citizen, a legislator and the brother of a gay man, I am thrilled to be in the House for this debate.

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Senator John Hanafin
(Independent)

One of the benefits of speaking later in a debate is that one has an opportunity to listen to the views of earlier speakers. I hope to give Senator Alex White reasons some of us oppose sections of the Bill and have proposed amendments thereto. When one listens to other speakers one also hears inaccuracies. I know certain of the Senators present are pushing strongly for gay marriage in the belief that this is an area in which we can reach a certain type of enlightenment if we follow the European and American route. I have news for the Senators in question. We have seen the future and it is as follows. Last week, the European Court of Human Rights ruled that gay marriage is

not a human right. Moreover, California, which is associated with Hollywood, flower power and Arnold Schwarzenegger, recently voted against gay marriage. That is the future.

Reference was made to my home town of Thurles. I raise this issue because Thurles was made to appear like Birmingham, Alabama, or Little Rock, Arkansas. I assure the House that it is a fine town of good, decent and tolerant people who would offer assistance if asked to do so. I do not like my home town being presented as if it was a bigoted place.

We also heard the words of President John F. Kennedy being misquoted. The words cited were used out of context. In the 1960s, President Kennedy made a speech in Dallas in which he referred to the politics of the time. His sister, Eunice Kennedy Shriver, has repeatedly made clear, without contradiction by any other member of the Kennedy family, that John F. Kennedy was pro-life. There is a limit to the distance some people are prepared to go in separating their sincerely held religious beliefs from their civic duty.

Those who regard opponents of the Bill as negative are wrong. Truly inclusive civil partnership would include all couples in caring dependent relationships, including same sex couples, cohabiting couples and individuals in caring relationships which are non-sexual, and give such persons rights that would protect them against economic vulnerability in the event of a break-up.

Those who regard opponents of the Bill as negative are wrong. Truly inclusive civil partnership would include all couples in caring dependent relationships, including same sex couples, cohabiting couples and individuals in caring relationships which are non-sexual, and give such persons rights that would protect them against economic vulnerability in the event of a break-up. A group of Senators will propose an amendment to this effect.

The rights to which the amendment refers should include property settlement and maintenance rights, succession rights and next-of-kin rights, while other existing rights should remain unique because marriage is uniquely pro-child. It does not discriminate to treat a unique institution such as the marriage of a man and woman in a unique manner.

It is proposed in the Bill that the words "marital status" be removed from other Acts such as the Pension Act 1990, Employment Equality Act 1998, Equal Status Act 2000 and Civil Registration Act 2004 and replaced with the words "civil status". This strongly implies that there is a direct equivalence between marriage and civil partnership and tends to undercut the argument of those who state they are different. We will recommend on Committee Stage that the Bill be amended to read "marital status and civil partnership status".

We also fundamentally believe that a constitutional challenge may be taken to the legislation on the basis of equality. There is no doubt that the Bill should provide protection for religious organisations and individuals who conscientiously object to facilitating events and services where such conflict with their religious ethos. We will recommend that the Government accepts the conscience clause proposed by two Church of Ireland bishops.

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What do I mean by the words “unintended consequences”? This morning, I walked through the grounds of Christ Church, a beautiful Presbyterian church on Rathgar Road. I was taught how one should dance properly in a hall located under the roof of the church. It would be unfair to ask to hold a civil ceremony breakfast or celebration in this hall, located as it is within church grounds, if the church authorities are unwilling to do so.

It would be unfair to ask if those people did not wish to have, what should we call it, the civil ceremony breakfast or celebration in that hall within church grounds. This was catered for previously in 1997 when the Supreme Court upheld the constitutionality of section 37 of the Employment Equality Act. This section exempts religious employers from aspects of employment equality legislation and in so doing allows them to protect their ethos. In other words they do not need to employ people who would undermine their ethos. In arguing in favour of the constitutionality of section 37, counsel for the Attorney General argued that the Employment Equality Act had to contain section 37 in order to give effect to Article 44.2.1° of the Constitution, which states: “Freedom of conscience and the free profession and practice of religion are, subject to public order and morality, guaranteed to every citizen.” If section 37 was necessary to ensure the constitutionality of the Employment Equality Act, then logically a similar section should be added to the Civil Partnership and Certain Rights and Obligations of Cohabitants Bill in order to protect freedom of religion and conscience as required by Article 44.2.1°. The absence of such a section surely calls into question the constitutionality of the Bill. There is an alternative and where there is an alternative, it is grossly unfair to put a church, and those responsible for the church building and ethos, into such a position.

There is a difficulty with the inheritance provision which appears to be anti-family. The children of a deceased civil partner could be seriously disinherited if the partner dies intestate.

We do not have a schedule of financial costs involved in the Bill. It is unusual not to have a breakdown of the costs to the Exchequer over the ensuing years. If that could be arranged, it would be helpful. With that in mind, I wish to mention one further speaker who quoted Hamlet: "Thus does conscience make cowards of us all", implying that those who vote according to their conscience are cowards. I wish to deal with that in the context of the three people in Fianna Fáil because that is the specific reference. I come from a family that has for generations supported the republican ethos. I know there was a man in Clare who was asked how long he had supported Fianna Fáil. His answer was "98". He was asked if that meant 1998 and he said "No, 1798". He believed he had supported Fianna Fáil from the start of the republican movement in 1798. Thankfully I can trace a direct line back to that time, through the Fenians and the War of Independence. There were two active service members, my grandfather and grandmother, founder members of Fianna Fáil. If somebody thinks it is easy or that it is cowardly to give up the whip in a party in which I solemnly believe and sincerely believe what it is about, then surely they are mistaken. It is a most difficult thing to do when the repercussions of losing the party whip are ending up outside the parliamentary party. For some of us that is like being outside the door of the family home. Senators should not feel for a moment that acting on one's conscience is the same-----

Senator David Norris It is shared, because the Green Party is part of the Government.

Senator John Hanafin Senator Norris looks for freedom of speech for people 6,000 km away or 600 km away and will not allow people to speak in the House. I ask to be allowed to speak uninterrupted.

An Leas-Chathaoirleach Senator Hanafin without interruption. The Senator has one minute remaining.

Senator John Hanafin It is most difficult for people to act on their conscience at times, but they need to do it.



Senator Fidelma Healy Eames
(Fine Gael)

This is not an easy day to stand up and speak when one hears such differing views across the floor. However, it is an important day for Ireland and represents a coming of age for our nation. If one likes it is Ireland growing up and maturing? That has to be difficult in light of what the previous speaker said.

I am happy to support the legislation. I would like to outline how I view this in my life

and in the people I meet every day. It is important for me to make judgments that do not necessarily influence me directly, but as a legislator I have a responsibility to be good for those who have been and are still marginalised. I am a heterosexual female married in a traditional family unit. I do not feel the Bill threatens my personal status as a married person or threatens the state of marriage. I was gobsmacked to hear David Quinn from the Iona Institute speak on “The Frontline” about how threatened he felt marriage was by this Bill. He said marriage needed a good PR job just as we have healthy living programmes and advertisement campaigns on television. Why does he feel so threatened? Why is he so unconfident? I have complete confidence in marriage and that marriage will continue to be very popular.

I have not had a difficulty growing up or living in Ireland. I have been fortunate because I was part of the mainstream because I was heterosexual. However, what about those who are not from that mainstream group and are one of the approximate 10% of people who now say they are not straight and are gay, lesbian, bisexual or transgender? That is a large number of people potentially without basic rights who have from my knowledge of them in some cases suffered personal torture prior to coming out and also after coming out. The Bill delivers basic civil rights, as I believe I heard the Minister describe it. It provides for property rights under the Residential Tenancies Act, succession rights, wrongful death action rights under the Civil Liability Act, power of attorney rights and personal safety rights under the Domestic Violence Act. The Bill makes 130 amendments to existing legislation and from that point of view this is ground-breaking legislation.

This is about real social exclusion in school, class groups and society today. The Bill will go a long way towards normalising their sexual identity.

Let us consider whom this legislation helps and some of their personal stories. Along with a research partner in St. Patrick’s College in Drumcondra, I recently completed research on early school leaving. One of the groups we interviewed were lesbian, gay, bisexual and transgender pupils at second level and post second level. There were people who dropped out of school because they were excluded as a result of their sexuality. This is happening today in Ireland. Young people continue to suffer exclusion, bullying and homophobia. Their early drop-out rate was not for traditional reasons. It was not necessarily because of poverty, poor home support, literacy difficulties or other learning difficulties. It was because they were not understood or accepted because of their sexuality. This is about real social exclusion in school, class groups and society today. The Bill will go a long way towards normalising their sexual identity.

I also had a very humanising experience when I interviewed a fine 19 year old young man who was gay. He told me that he grew to know he was different in his sexuality at the age of 12 or 13. He said that he suffered total horror in changing rooms prior to PE class, which is a common occurrence for boys coming to terms with their emerging homosexuality and becoming aware that they are different. I found that a very important learning experience about the very basic need in our schools. We even

provide for separate dressing rooms for people according to their sexuality. He had to drop out of school because of the pressure he was under as a young homosexual man. What struck me was his humanity.

I am the mother of two children. If I was the mother of a young gay son, would I not want the rights accorded in the Bill to apply to him? Yes, I would.

I am the mother of two children. If I was the mother of a young gay son, would I not want the rights accorded in the Bill to apply to him? Yes, I would. A family friend recently told me that her son had just come out at the age of 17 and a half. It was at a difficult time during the leaving certificate mock exams and a very difficult adjustment for the family to make and the consequences were layered. There are still problems and we are talking about so many technicalities in law. Let us talk about the human reality in Ireland today. Before this boy had the courage to tell his parents, he had panic attacks which were not due to the exams, as his parents thought, but the fact that he could no longer hide the fact that he was gay. His parents had many fears such as that he might be beaten up or promiscuous. Over the course of the last three months they have worked through a lot as a family and still have a long way to go. This is all the more reason we need to help families and young people who are gay, lesbian or bisexual to be what I call normalised. It is time to live and let live. We bury our heads in the sand and risk an increase in mental health problems and suicides if we do not recognise orientation or same-sex unions. GLEN does an enormous amount of work and has evidence to support these assertions.

The Bill is a milestone and a watershed in our evolution as a nation, as a people coming to terms with our multiple identities and orientations...

The Bill is a milestone and a watershed in our evolution as a nation, as a people coming to terms with our multiple identities and orientations, when we begin to legislate for the challenges facing us, take responsibility and deal with our own problems and promote tolerance and inclusivity. We should not look to export our problems, as we so often did in the past. How many gay people do we know who decided to emigrate to places such as San Francisco just to be able to live a normal life as a gay person?

There are shortcomings in the Bill. There is a glaring omission in dealing with the needs of children, a source of major concern. We have an obligation to ensure children who have parents of the same sex are treated equally in the eyes of the State.

There are shortcomings in the Bill. There is a glaring omission in dealing with the

needs of children, a source of major concern. We have an obligation to ensure children who have parents of the same sex are treated equally in the eyes of the State. This could have come about for various reasons, be it through the use of a donor, through a previous marriage or heterosexual relationship involving one of the same-sex couple. According to CSO 2006 census figures, one third of approximately 2,000 same-sex couples have children. These children must be taken into account and provisions need to be made to ensure they are protected.

The Bill does not address the issue of adoption and guardianship, leaving the law unchanged for same-sex couples. That is a major flaw and I would like the Minister to address it. When will we see the guardianship Bill? The Ombudsman for Children, when advising us on the adoption Bill, recommended that the categories eligible to apply for adoption should be extended to include same-sex couples and that if the Bill remained unchanged, it would continue to deny certain children the possibility of enjoying a permanent and secure legal relationship with both of their parents. Change is incremental. A guardianship Bill is needed to protect the rights of children of same-sex couples.

As a member of a democratic party and a legislator, my duty is to protect the rights of all citizens, not just those of the majority or in the mainstream. For that reason, I am delighted to support the Bill and contribute in some way to making our civil society more inclusive, tolerant and stronger as a result.

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Senator Fiona O'Malley
(Independent)

I welcome the Minister and thank him for staying as long as he has throughout the day. This is an important Bill, one to which he is clearly committed. I will praise him in the first instance, but later I will outline a few problems with the Bill. He has a reputation of being something of a conservative, but I find that he is far from being a conservative in introducing the Bill. It certainly is not one that would have been dreamed up by a conservative. The way in which the Minister worded his speech showed that he was a man of compassion in his working environment before entering

politics. He has recognised for a long time that the issue of equality for gay and lesbian people needed to be addressed.

As a republican, I truly believe in equality, that we should all be subject to the same laws. As legislators, we must frame laws in such a way that they provide for equality; we cannot wilfully frame laws that fall short of that expectation.

To some extent, I am on the horns of a dilemma. As a republican, I truly believe in equality, that we should all be subject to the same laws. As legislators, we must frame laws in such a way that they provide for equality; we cannot wilfully frame laws that fall short of that expectation. The Minister acknowledged that the Bill does not provide for equality. That is why some in the Chamber and some in the gay and lesbian rights groups are not happy with it. The Minister stated that the Bill “demonstrates our commitment to full equality by providing an important supportive legal framework.” That was a lovely way of putting it. I am not sure, just because it is not providing for equality by allowing all the same access to marriage, that this is a reason not to support it. There are many in the gay community who welcome this step, while many on both sides of the House have mentioned that they see it as a staging post, not as the end. Having gone this far and provided for drafting legislation to provide for equality to a certain level, why do we not go the whole way and do what we know in our hearts is the right thing to do? If we truly consider ourselves to be republicans, we should provide for this.

We are, however, travelling a long way down the road in providing the supporting legal framework for persons in same-sex relationships. There is currently no such protection in law.

Last night I spoke to my sometimes political mentor, Deputy Mary Harney, and she said all change was incremental, that we must bring society with us. Senator McDonald mentioned that we could not move from what was awful to what was perfect in one fell swoop. That is why we need to bring society with us and provide for incremental change. That is one of the reasons I will support the Bill. It will bring us part of the way, but there are gaps in terms of the rights of children which these need to be addressed. I accept the Minister’s point that he does not necessarily want to deal with them in this Bill, but they need to be addressed sooner rather than later. We tend to frame laws that are somewhat unequal. I do not think any of us can stand proudly over this. We are, however, travelling a long way down the road in providing the supporting legal framework for persons in same-sex relationships. There is currently no such protection in law. It may not get the support it got in the other House, in Cabinet and the support I imagine it will enjoy here. We cannot stop at that. That we have gone most of the way to provide for equality should not mean we forget

about it and put it at the bottom of the pile.

Senator Norris's contribution was interesting. My dilemma is that we must provide for equality but, as the Minister said, we must also ensure it is permissible under the Constitution. We have a very outdated notion of what the family is and, as the Minister said, if we need to change the Constitution, that is another day's argument. The contributions today have demonstrated that we need to change the Constitution on this issue in particular. Senator Norris said that in the 1960s Mr. Declan Costello said the Constitution was open to interpretation because it did not state that marriage is between a man and a woman. It was assumed that was the case because in 1967, we would never have imagined that a family could comprise two people of the same sex. However, as we know, that is what some families comprise. We need to recognise the changed environment in which we live and the not ideal, or the very varied, circumstances into which children are born and reared. They all deserve equal treatment before the law and that must be our most important function as legislators.

The Minister said the Constitution states we are all equal before the law. We should all be equal before the law but this Bill falls a little short in terms of providing that everybody is equal before the law. The status of the family needs to be protected and this is where the Minister had a dilemma, that is, in trying to frame legislation which would allow people to be equal before the law and yet protect the status of the family. The Minister should correct me if I misunderstood what he said but I believe that is accurate.

The rights of an individual should not be compromised because of the particular status that the family enjoys. We need desperately to do much work updating the Constitution. We would have an easier time passing equality laws if the Constitution was updated somewhat.

That shows there is a major flaw in our Constitution. The rights of an individual should not be compromised because of the particular status that the family enjoys. We need desperately to do much work updating the Constitution. We would have an easier time passing equality laws if the Constitution was updated somewhat.

I wish to address points Senator Mullen made. He is a very persuasive and good debater and he made cogent arguments about his conscience clause. I heard the Minister address that very well in the Dáil last week. What I objected to slightly in Senator Mullen's contribution was that he bent over backwards trying to look for status for the conscience clause and to ensure people have their consciences protected. He is fundamentally missing the point that he is denying equality of rights. He is overlooking that this Bill seeks to provide equality and is rather more exercised about having a conscience clause rather than dealing with the fundamental issue.

I look forward to the debate on the issue of cohabiting relationships on Committee Stage. The Minister said the Bill provides for nothing other than the right to go to court. I object slightly to this because we do not need the State interfering in relationships in any shape or form. Marriage is one thing, although a four or five year cohabiting relationship is not necessarily causal. I do not see the point of going down this road. I look forward to the debate which will take place.

There is a proposal in the Bill in regard to signing an opt-out clause. If you and your partner are about to acquire rights, entitlements or the right to go to court and one tries to get one's partner to opt out of that, it is a sure sign the relationship will come to a conclusion very swiftly. I agree with the fundamental issue that this Bill takes nothing from anybody's rights but merely seeks to provide equality for people.



Senator Eoghan Harris
(Independent)

I wish to share time with Senator Quinn.

Those who propose the abolition of this House should take stock of the contributions made by Senators on both sides today. They were of a very high order indeed. I wish I could keep the promise I made to myself this morning when I appealed to Senators to have regard to the civilities of the debate. When we discussed this last I said that toleration was not just permitting things of which we approve but permitting things of which we disapprove.

In that regard, I have some problems with those Senators who said they have problems of conscience. Essentially, these are not problems of conscience but problems of culture.

In that regard, I have some problems with those Senators who said they have problems of conscience. Essentially, these are not problems of conscience but problems of culture. I am not a believer but I have profound respect for religion which I believe is a product of humanity. I believe human beings created religion for their better moral regulation and without religion, we might be much poorer in Ireland, especially in Northern Ireland.

I want to be straight about this even if it brings some heat into the debate but those who talk about matters of conscience are open to the charge that they are acting like this because they feel they are under some kind of obligation to some religious creed. It is one thing if it is personal conscience but if it is coming out of some kind of ideology of religious beliefs, I would say to them that the Christian churches have a

very deranged history in regard to human sexuality. That must be said straight. The founder, Jesus Christ, had a very liberal attitude to sexual morality but his disciples beginning with Paul, going on to the burning of witches and right up to the handling by the Catholic Church of child sex abuse in this country and all we know about it do not argue a very normal and sane attitude to sexuality.

Human sexuality will always be evolving. We do not know to where what we call the family unit will progress. Once contraception came in in the 1960s, the connection between procreation and sexuality was broken for all time. There is no necessary connection anymore between procreation and sexuality. Sexuality must be given its own space in life as, indeed, does the whole question of human relationships. Shakespeare said let us not to the marriage of two true minds admit impediment.

Aristotle said that the public sphere is no place for political innocents - naturally, because it deals in irreconcilables.

Below the surface of everyone speaking on the other side is a kind of running stream of concern about sexuality as if homosexuals and gays were not drawn to each other by their minds, their views on politics and the passion to be with each other. I fear this deranged sexual tone that lies beneath this debate because it comes out of a very deranged tradition if it is religion that is driving private conscience. In the matter of private conscience, this is *res publica*. Aristotle said that the public sphere is no place for political innocents - naturally, because it deals in irreconcilables. There cannot be agreement on everything in the public sphere and, therefore, we must have a mechanism to deal with the public sphere. The one we deal with is representative government.

Representative government requires that public representatives act at all times in the *res publica*. They cannot say they have a personal and private dimension, although if they do so, they come up against Dr. Johnson's rule who said we are all entitled to our private conscience provided we are prepared to die for it. If they are prepared to lose their jobs in the public sector, let them declare themselves. I hope the Minister responsible, if he meets any of these characters, will take the opportunity to make another cut in the public service if any of them refuses to do his or her duty.

Let me finish by congratulating the Minister on honouring the commitment made by the former Taoiseach, Deputy Bertie Ahern, in the programme for Government in 2007. As I am a conservative who believes in Burke's definition of society as a contract between the living, the dead and those who are yet to be born, I regard this as a good day's work.

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I feel the shadow of Wilde and Casement here today.

I feel the shadow of Wilde and Casement here today. They, too, belonged to that tradition, our greatest literary genius and one of our great political icons who gave his life in public service to the oppressed peoples of the world and who - because he would not have been executed for high treason but for his sexuality - died for his sexuality. I am glad to be here today in the shadow of Casement and Wilde. We should be the country leading Europe. With two such huge icons we should be the leading country in Europe in moving towards full marriage status for our gay community.



Senator Feargal Quinn
(Independent)

I thank Senator Harris for sharing time. I grew up in an Ireland very different from the Ireland of today. In my youth there was no divorce, or so we thought. It was hidden. In my youth there was no child born out of wedlock, or so we thought, because that was hidden. In my youth there was no suicide, or so we thought, because that too was hidden. In my youth there was no homosexuality, or so we thought, because that was hidden. There was no loneliness, or so we thought. I was elected to the Seanad 17 years ago. Things had changed. We found ourselves passing laws on those very items of divorce, contraceptives and suicide. As we passed those laws I hope we relieved some of that loneliness. Today, we hope to enact legislation to remove some of the loneliness of those who have been deprived of the ability to have a civil partnership, and that is another very welcome step.

The Constitution allows us to pass laws that discriminate between different sectors of our citizens.... However, the Bill discriminates against couples who live together but not as sexual partners. They could be brothers, sisters, relatives or a carer and patient. The benefits of civil partnership are not allowed unless the two people are homosexual. This

Bill should not do that. It should be amended to ensure it overcomes that problem.

However, I believe the Bill can be improved and I hope it will be on Committee Stage. The Constitution allows us to pass laws that discriminate between different sectors of our citizens. For instance, we can give different benefits to people in the west from those given to people in the east. We can give different pensions to the blind from those we give to the deaf. In only one area does the Constitution debar us from discrimination. Article 44 forbids discrimination on the grounds of religion. Even in Article 44, while the word “discriminate” is used in the English text, the Irish version uses the words “idirhealú a dhéanamh idir”, which means to differentiate between but not discriminate against. However, the Bill discriminates against couples who live together but not as sexual partners. They could be brothers, sisters, relatives or a carer and patient. The benefits of civil partnership are not allowed unless the two people are homosexual. This Bill should not do that. It should be amended to ensure it overcomes that problem.

The other point that needs attention is those whose religious beliefs restrain them from being a participant in a homosexual civil partnership ceremony. We have talked about this a lot today. By refusing to be a participant, they are open to criminal proceedings. I believe this is wrong. The penalty is not simply a fine or civil proceedings but criminal proceedings. That is wrong and should be corrected. I support the Bill but only if we can solve those problems.

Senator Fiona O'Malley referred to the Minister's compassion. He should show that compassion to those who feel they are unfairly dealt with in this legislation. The Minister can do that in the next few hours and I urge him to do so.



Senator Labhrás Ó Murchú
(Independent)

I have listened to most of the debate today and in a moment I will comment on some of the issues I have heard put forward very passionately on both sides of the House. I fully accept that the Minister has had an exceptionally difficult job to do. He wishes to extend civil rights to a group of people who have been denied those civil rights in the past, which is not to our credit. He has also endeavoured to ensure the Bill does not conflict with Bunreacht na hÉireann, the Constitution. It remains to be seen whether he has achieved that. Senator Feargal Quinn has raised a point in that regard which may get a further airing in some other forum.

I fully accept that the Minister has had an exceptionally difficult job to do. He wishes to extend civil rights to a group of people who have been denied those civil rights in the past, which is not to our credit. He has also endeavoured to ensure the Bill does not conflict with Bunreacht na hÉireann, the Constitution.

When I relinquished the Fianna Fáil Whip this morning, I did so to have freedom of speech. I will talk about freedom of conscience in a moment. Since the publication of the Bill, there has been very little public debate. That disappoints me. I have stated this on the Order of Business and I make that point again.

While Senator David Norris made a powerful contribution, and I would not expect anything less from him, he invoked my name out of context.

Senator David Norris I did not and I withdraw not one word single word.

Senator Labhrás Ó Murchú I will also deal with that in a moment. The record needs to be correct on all these issues. I must also make it clear that my expressing views that may be contrary to Government policy has nothing to do with the leadership of Fianna Fáil. I admire Deputy Brian Cowen. He has shown exceptional strength of character. He has demonstrated integrity and patriotic leadership.

It is important to put all these points on the record because I find much confusion in a debate of this kind. Members of this House should be allowed to express their views without fear or favour. Some Senators who support this legislation have been to the fore in that regard, and long may that continue.

Anyone who takes the time to study the record of the House will find a comprehensive statement by me regarding same-sex union and civil partnership. I felt it was important to lay out my stall on that occasion when there was an opportunity for each Member of the House to put his or her views on the record before the heat of battle. I did that. I believe Senator Norris complimented me at the time. I mention that occasion because I want to get the question of my attitude to same-sex unions out of the way and deal with specific issues in this regard.

In so far as my name was invoked, I ask Senator Norris to check the record. I said that since I came into the House I have upheld the rights of prisoners of conscience in Ireland and abroad. I never missed an opportunity to do that wherever I felt it was necessary. I followed that by saying it was possible, in the future, that I would have to speak for Irish prisoners of conscience who were imprisoned on foot of legislation in which I had acquiesced. There is a penalty clause for anyone who wishes to exercise his or her conscience. The penalty is six months in prison. I do not think that is necessary or right. It does not do anything for the Bill and I am surprised that even those who fully favour the extension of the Bill would want to see that happening in this country.

I took grave exception to the fact that when we were endeavouring to create a debate so that people would know precisely what is in the legislation, that debate was being stifled. For example, when the Catholic bishops issued a statement, they were told they should not interfere.

Senator David Norris Not by me.

Senator Labhrás Ó Murchú These are the same bishops whom we requested to enter the debate on the Lisbon treaty referendum to ensure its passage. They did precisely that. It is all right in one case but not in other cases. We should also bear in mind that these bishops have a mandate because they represent the majority of people who happen to profess the Catholic faith on this island.

It is not just the Catholic bishops. The Protestant bishops have also put forward very balanced and reasoned amendments but the lid was put on that in exactly the same way and no opportunity was given for teasing out what they were putting forward at that time.

We have had some sermons and lectures today on conscience. Generally, it was on the conscience of other people we were getting the lectures whereas conscience is a very personal thing. It is also what distinguishes us as human beings. The State uses conscience in the judicial system. In a court of law one is asked to take an oath based on one's conscience. In that case, we regard conscience as very important as a cornerstone of the judicial system but, when someone like myself wants to express a view regarding my personal conscience, then to some extent the argument is being focused on the individual rather than on the legislation which we are debating here.

I still hope the Minister would find it possible to exclude church property in this legislation. It is unnecessary and should not be done. We have recognised the ethos of churches in other legislation and there is no reason we could not have done so in this case. I agree with Senator Feargal Quinn that there are still opportunities in the next few hours for the Minister to consider some of the issues we are putting forward.

I have heard some debate on the rights of children. It is a very big debate and I have no doubt it will take a lot of time, but I will say this much here. There is an element in the Bill, if I read it correctly, which suggests that children who come forward from another relationship into a same-sex union can have their inheritance rights diminished. I would have thought an amendment which we put forward whereby, in the case of one of the two partners passing on, the estate that is left should be divided equally between the remaining partner and whatever number of children were involved, would have been teased out and could have been dealt with.

There is a firm argument regarding elderly siblings living together... It weakens the whole premise of equality by not allowing consideration of this particular case.

There is a firm argument regarding elderly siblings living together. I heard two eminent people, one on television recently and another person speaking politically, suggest that this is for another day. My point would have been that if proper debate had taken place, it would not have been for another day; it would have been precisely for this day because they too are entitled to consideration. It weakens the whole premise of equality by not allowing consideration of this particular case. Nobody can say it is not a loving relationship, although it may not be based on a sexual relationship. We should revisit the issue at this time.

I have listened to other speakers and I know they would have liked to have developed their points much further. It is a pity that our time today is so limited. However, with regard to conscience, I ask Members not to in any way ridicule or underestimate it. Incidentally, I do not believe that anybody has a monopoly on conscience or on righteousness - quite the opposite. We should all be very careful not to take the high moral ground in that regard. Having said that, I would still suggest we might have got the best legislation if everybody's point of view could be made without it being personalised.

I will finish on Senator Norris's reference to me. I made it quite clear that I was referring to a prisoner of conscience when I referred to the penal law. That is precisely what happened. I did not use it in the context of the legislation itself.

I wish the Minister well. I know he is coming at this with goodwill and he is endeavouring to harmonise all the views on this island. I hope from now on, when dealing with the amendments, there will be no personalising of the debate and that, whatever way we finish on this Bill, we can still end up as good friends and good colleagues, because that is the only decent way for any legislator to act in this House.

Senator David Norris On a point of clarification, a Leas-Chathaoirí, I did not wish to interrupt Senator Labhrás Ó Murchú.

Acting Chairman (Senator Paschal Mooney) Senator, there is no-----

Senator David Norris Will he accept he is incorrect when he refers to the Protestant church, by which I think he means the Anglican church, putting forward amendments? I am a practising, regular member of that church. They did not do so. I am afraid he has been misinformed and I respectfully ask him to withdraw that comment.

[...]

*Interruption for **Business of the Seanad***

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



Senator Frances Fitzgerald

Seanad Leader
(Fine Gael)

I welcome the opportunity to speak. I want to make some general points on the Bill but I also want to comment on some of the points that have been made in regard to conscience and a free vote, which I will come to later. I will begin by commending the Minister, Deputy Dermot Ahern, for the manner in which he has dealt with this legislation. This Bill must be acknowledged as a major step on a journey from intolerance to equality. It is major step towards removing the suffering of a highly significant number of men and women within the Irish population. As I said this morning on the Order of Business, when the legislation was passed in the Dáil, there were many people around Leinster House and I met a young man who, unprompted, said to me “This legislation will change my life”. He meant every word of that. Clearly, this legislation will impact on the quality of people’s lives in Ireland.

This Bill must be acknowledged as a major step on a journey from intolerance to equality. It is major step towards removing the suffering of a highly significant number of men and women within the Irish population.

The Bill represents a further step in the incorporation of human rights thinking into Irish domestic law by providing more equitable treatment of persons of different sexual orientations. It will undermine further the prejudice which still exists against gay and lesbian citizens. This Bill is by no means perfect and does not address all the issues affecting gay couples, which I regret. I hope the promised guardianship legislation will deal with some of the issues which I know will be addressed during the course of Committee Stage of this legislation.

The Bill represents a further step in the incorporation of human rights thinking into Irish domestic law by providing more equitable treatment of persons of different sexual orientations. It will undermine further the prejudice which still exists against gay and lesbian citizens.

I will recap briefly the experience both in Ireland and internationally for gay people. Secrecy and suffering is what, for generations, was offered to gay people. Many within the heterosexual majority were hardly aware of the issue, except from occasional

newspaper reports cast in such coded words that readers were unclear as to why these men were going to prison. We still hear reports internationally about this happening and we have a moral obligation to continue to speak out against this, as we have done in this House recently.

The steps which lead us to this historic point are easily forgotten but they should not be. These steps were taken by individuals of courage, such as our own colleague in this House and the many members of the campaigning organisations who for so long and until relatively recently were isolated, undermined and got very little support. I am thankful that has changed. It was extraordinary to hear Senator Norris speaking about the number of people he knows who have been murdered because of their sexual orientation.

I was pleased to be in the Dáil at a time when a woman and Fianna Fáil Minister, Máire Geoghegan-Quinn, led the charge against the criminalisation of homosexuality. There is a very well-known story about how two mothers of young gay men visited her, speaking with pride about their sons as any mothers would. These were not any mothers but had listened to their sons telling them about discovering they were different. They did not choose to be different and did not want to be different but it was just the way they were. It was as simple and challenging as that.

As President McAleese recently remarked, homosexuality is a discovery, not a decision, and for many it is a discovery made against a backdrop where within their immediate circle of family and friends, as well as the wider society, they have long encountered anti-gay attitudes which do little to help them deal openly and healthily with their own sexuality.

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It took courage for those two young men to out themselves to their mothers and it took even more courage for the mothers to come to an understanding of what they had been told and to speak to a Minister for Justice about changing a law that made criminals out of two young men. As a woman and mother, Máire Geoghegan-Quinn identified with and sympathised with these people but the task, from a legislative perspective, was not about sympathy. Our task was not to approve what was then called a lifestyle but to legislate for the public good. We had to assess whether the law as it stood served that end. It clearly did not have a positive outcome for society and merely terrorised and criminalised people, and that led to the decriminalisation of homosexuality in this country.

It must be said that society did not fall apart and individuals who believed homosexuality was wrong and sinful did not change their beliefs. They were and are entitled to those beliefs, and it is worth stating that for some of my colleagues those beliefs amount to convictions essential to the holder's sense of self. In the past there has sometimes been an unwillingness to fully understand how fundamental are the convictions on the opposing side. There has been a tendency to caricature and stereotype. It is a measure of how far we have come as a society that this has not happened, for the most part, during the debate on this civil partnership Bill. Deep convictions have been expressed without drawing down the crude condemnatory caricatures seen so much in the past.

I was struck recently when thinking about this legislation about some of the newspaper reports on the death of US Senator Robert Byrd, particularly how over a lifetime his attitudes towards race changed. As he looked, listened and debated, his views changed radically from being someone who was racially discriminatory to someone with a greater understanding of inequality. Many of us have been on journeys with regard to equality and it is good to see the kind of change he spoke about so much of towards the end of his life.

Senators Labhrás Ó Murchú and Harris referred to the quality of the debate in this House, which is important. As a society we must be able to hold, tolerate and manage quite different viewpoints. This legislation addresses the totality of two individuals, their mutual commitment and their rights and place in society. It protects two men or women who have chosen to commit their lives to each other. The legal validation implicit in the Bill is of that commitment and mutual support on the part of individuals who have established a stable relationship.

Some say civil partnership is a threat to marriage. I simply ask how people can logically arrive at that conclusion. Those who opt for civil partnership when it becomes law are no threat to marriage and it will complement marriage. Many couples cohabit rather than marry but that is not because of a civil partnership Bill but wider societal issues which we can all address in different ways. To discriminate against couples who wish to state in legal terms how much they value their relationship would not support marriage or persuade one of those cohabiting couples to walk up the aisle together. Those who avail of civil partnership are those who know the importance of stability in society and wish, for the most part, to support that stability.

There is an issue with the language used around this Bill. The reality is that discrimination still exists and we have heard the insults still hurled around the playgrounds in this country. One of the most frequently used insults in the playground is the accusation that another child is gay. This does not happen by accident and is based on a deep fear that finds violent expression in sometimes lethal attacks on gay people. Sometimes that leads to the majority using certain language around the Bill we are discussing today. When we use that language in speaking about tolerance and compassion, we are using the language of the dominant group. It is not that appropriate in terms of the debate we are having.

The phrase “free vote” in some way seems to imply that to vote as a political party on the issue is a diminution of freedom. That is to ignore the deep level of discussion, argument, advocacy, point and counterpoint which has certainly happened in Fine Gael and which will have happened in most political parties. It is a deeply democratic process that should be valued. To devalue the process and abandon it by removing the Whip, for example, is to separate it from a profoundly democratic process.

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At this stage, I pay tribute to former Senator Sheila Terry for the work she did on the issue.

She worked on the issue and presented a paper for Fine Gael in 2004. It has been remarked that the capacity to accept two mutually opposed viewpoints is the mark of genius but it is also the mark of a civilised and evolved society. On conscience, I make the point that conscience is about owning a code of conduct and abiding by it. It is not about imposing one’s individual code on others or using one’s belief to limit the civil rights of others. It is not about giving more rights to people we approve of and fewer to those whose code does not match ours.

As legislators we must always create laws that free people to become the best citizens they can with the most to offer. This civil partnership Bill is precisely such a law.

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Senator James Carroll
(Fianna Fáil)

I wish to share time with Senator Brian Ó Domhnaill, by agreement.

Cuirim fáilte roimh an Aire. This is truly landmark legislation in an Irish context. It reflects strongly that Fianna Fáil is delivering its promises from the 2007 election manifesto and programme for Government. This issue is very important for same-sex couples.

I listened intently to Senators Labhrás Ó Murchú, John Hanafin, Jim Walsh and Rónán Mullen.

I could empathise with them in some of the points they made on certain matters. Members of the House have a tendency not to tackle one another's arguments head on. However, that is what I hope to do in respect of this Bill.

All things being equal, a loving mother and a loving father constitute the ideal unit in rearing children. This unit should be promoted and encouraged, but it is not always possible to have such a unit in place, nor is it always the best arrangement in certain circumstances. The argument made by the four Senators to whom I referred and others misses the point entirely in respect of this legislation. There is no doubt but that we need to act in the nation's interests.

I am a republican and a proud Irishman. Passing this legislation will make Ireland more egalitarian and give rise to greater freedom and fairness within society, particularly for those who are gay.

I am a republican and a proud Irishman. Passing this legislation will make Ireland more egalitarian and give rise to greater freedom and fairness within society, particularly for those who are gay. If one is gay, so what? It does not make any difference to me one way or another. What is important is whether someone is honourable, caring or loving. As many distinguished and famous people have stated, we should consider a person's character rather than who he or she is, the colour of his or her skin or his or her sexuality. To me, as an Irishman, someone's sexuality is irrelevant; there should be no legal impediments placed in the way of couples, be they heterosexual or homosexual. The legislation brings forward a new structure in respect of succession, financial and pension rights. That is what is required.

.. one cannot help with whom one falls in love. In addition, one does not have a choice when it comes to the identity of the person who is going to make one go weak at the knees.

As the youngest Member of the Oireachtas, I have a responsibility to articulate my views and appreciate the opportunity to do so. I also have a responsibility to echo the opinions of other young people, many of whom have contacted me about this matter. As previous speakers stated, one cannot help with whom one falls in love. In addition, one does not have a choice when it comes to the identity of the person who is going to make one go weak at the knees. In many instances we wish that those who do make us go weak at the knees did not have such power over us.

I am concerned that certain Senators have failed to tackle the issues to which the legislation actually relates. Those who have spoken against the Bill are three or four of the most articulate Members of the House. However, I disagree with them in the stance they have adopted. I wish to analyse some of the arguments they made and indicate why I disagree with them, why I will be voting in favour of the Bill and why I encourage all other Members to do so.

I accept that there are siblings who have lived together all their lives and whose arrangements are not addressed in the Bill. However, that is a poor and weak reason for opposing the legislation.

I accept that there are siblings who have lived together all their lives and whose arrangements are not addressed in the Bill. However, that is a poor and weak reason for opposing the legislation. Senator Mullen has stated the Bill will not deliver true equality. I wish to examine this point. The Senator has indicated that we are entering a phase in which just because one has a particular Christian or other religious point of view, one's arguments will be dismissed out of hand. I disagree with him in that regard for the same reasons that I disagree with the inclusion of a conscience clause. One might think it reasonable to suggest such a clause should be inserted to cater for those who are uncomfortable about this matter. However, if such a clause were universal, it would lead to a horrendous state of affairs, whereby all civil and public servants could withdraw their services simply on the basis of their conscience. Where does one draw the line when it comes to one's conscience? I have not been contacted by any registrar who has a conscientious objection to the legislation. However, I acknowledge that this alone is not a reason to oppose the Bill. If one opposes it on the basis of one's conscience, one is missing its central thrust which is, as the Minister has indicated on numerous occasions, that it empowers people and enhances their rights. In many respects, I wish the Bill went further.

We need to examine how the country has developed during the past then or 20 years. My father has often informed me that 20 years ago this country was inward looking

and backward. If one watches television programmes such as “Reeling in the Years”, one can witness the transformation that has occurred in Irish society in the past ten or 15 years. This is a country of which we should all be proud. If we do not pass the Bill, however, we will be less proud to be citizens. As a Member of Seanad Éireann, I am proud that the House will pass it tomorrow. There is an urgent need for this legislation.

I have been contacted by people who are in favour of the Bill and others who are opposed to it. The individuals to whom I refer put many arguments to me. As a relatively new Member of the House, I am of the view that we have a responsibility to do what is right. Above all, this legislation is right for the country and all of its citizens, not merely those who are homosexual. While I am a member of the largest grouping in the House, I accept that the members of the other groups are as passionate as I am in expressing their opinions. I welcome the Bill and hope it will be passed. I am delighted that it is being guided through the Houses by a fellow Louthman.



Senator Brian Ó Domhnaill
(Fianna Fáil)

I thank Senator Carroll for sharing time. I welcome the opportunity to contribute to the debate. Gay and lesbian citizens of the State deserve opportunities that are equal to those enjoyed by all other citizens. I know many gay and lesbian people whom I am happy to call my friends.

Gay and lesbian citizens of the State deserve opportunities that are equal to those enjoyed by all other citizens.

The Bill provides significant rights for civil partners. This raises complex legal issues in the context of the special protection the Constitution affords to marriage and in respect of the equality rights protected under Article 41. This matter was referred to by many previous speakers. The Bill will, by extension, also make provision for unmarried opposite-sex couples and unregistered same-sex couples by way of establishing a redress scheme to give protection to financially dependent persons at the end of long-term, cohabiting relationships.

Given the time constraints, I wish to focus on one or two issues. I received a large number of representations on the legislation, almost all of which emanated from persons who live in the constituency in which I reside, Donegal South-West. The vast majority refer to serious concerns about certain aspects of the Bill. It is important to highlight a number of these concerns, particularly as some relate specifically to Part

15 of the Bill which deals with cohabitation. By extension, some of these concerns are also linked with the civil partnership arrangements contained in the Bill.

I have been informed that any claim for redress, that is, a claim against a former cohabitant who is still living, or a claim for provision in the case of a former or now deceased cohabitant can only be satisfied from the part of the respondent cohabitant's assets or estate that he or she had intended to be used to provide for his or her children or that he or she had intended to leave to his or her children. In that context, I am concerned about the rights of children under the age of 18 years. While the Bill does not specifically state this, section 173(5) provides that, "The court shall not make an order referred to in this section in favour of a qualified cohabitant that would affect any right of any person to whom the other cohabitant is or was married". On the other hand, section 194(11) provides that a claim for provision from a deceased cohabitant's estate must be met from the net estate. The section goes on to define "net estate" as:

- (a) other liabilities of the estate having priority over the rights referred to in paragraphs(b) and (c),
- (b) any rights, under the Succession Act 1965, of any surviving spouse of the person, and
- (c) any rights, under the Succession Act 1965, of any surviving civil partner of the person

It appears, therefore, that under the Bill - perhaps the Minister will clarify the position - the rights and shares of a surviving spouse or registered civil partner will be ring-fenced against any claim by a surviving cohabitant. In summary, once the debts of the deceased or the estate have been satisfied and provision made in respect of the entitlements of the spouse or civil partner, any responsible parent would wish for the remainder of his or her estate to be left, more or less in its entirety, to his or her child or children.

However, under the Bill it appears the children of the respondent cohabitant, whether born of an earlier or subsequent marriage or born out of wedlock, are to be seriously disadvantaged by the granting of either redress or provision in favour of a surviving cohabitant. My view, which has also been expressed by my constituents, is that this will leave the entitlements of children from the estate of a parent in a very vulnerable position. I am concerned that the inheritance rights of children in certain circumstances are being eroded in this Bill. That appears to be the case. I am open to clarification from the Minister. I am raising the concerns that have been expressed by many parents in my constituency. Another example is section 194-----

Acting Chairman (Senator Paschal Mooney) Gabh mo leithscéal. When Senator Carroll said he wished to share time with Senator Ó Domhnaill, I think he was under the misapprehension that he and Senator Ó Domhnaill had 15 minutes in total.

Senator Brian Ó Domhnaill That is what we were led to believe.

Acting Chairman (Senator Paschal Mooney) However, they have just ten minutes in

total. Senator Ó Domhnaill has now gone over the allotted time of ten minutes in this slot. I will give him some latitude. I ask him to keep in mind that other Senators are waiting to speak.

Senator Brian Ó Domhnaill I will do so, as far as possible.

Acting Chairman (Senator Paschal Mooney) Perhaps he can conclude in the next minute or two. I am very sorry about this.

Senator Brian Ó Domhnaill I will sum up. I thought we had 15 minutes, rather than ten minutes. I would like to refer to other sections of the Bill. Section 194(4)(d) provides that when making an order for redress, the court must have regard to “the rights and entitlements of any dependent child or of any child of a previous relationship of either cohabitant”. I ask the Minister to clarify if the rights and entitlements of a child of the current relationship will be protected under this section. In the relevant Part of the Bill “dependent child” is defined as “any child of whom both the cohabitants are the parents” but may only be relevant to a previous circumstance. Any child of the current relationship is not referred to in the Bill. I am open to clarification from the Minister in this regard. I have expressed a number of concerns with regard to children. They relate more to the redress provision elements of the Bill. During his Second Stage speech, the Minister referred to the Law Reform Commission’s consultative document on certain aspects of this matter. Perhaps we can get further clarification in that regard.

In general, I welcome the debate we are having in the House. It is important for the Seanad to embrace such discussions and to give all Senators a chance for their views to be expressed and heard. I welcome the opportunity to raise in this forum some of the concerns that have been outlined to me. Like people in my constituency, I have concerns about the protection of the interests of the child in the event of redress or any future provision. I will give a brief example before I wrap up. I will suggest the case of a married couple who are in a loving relationship and have two dependent children but, by the grace of God, happen to be killed in a car accident. Let us assume that the father, having cohabited with someone ten years previously, had been making a periodical payment of €1,000 or €500 to his former cohabitant, perhaps at Christmas. I would like to know whether this Bill provides that his former cohabitant will have an opportunity to make a claim from his estate ahead of his two children. The Bill is not clear in this regard. I feel it is important to highlight this matter, which has been raised with me, in the House. I appreciate the latitude I was given by the Acting Chairman to extend my contribution beyond the time available when other Members were waiting to speak.



Senator Joe O'Toole
(Independent)

I would like to share time with Senator Ross.

I welcome the Minister. As a fellow member of the class of 1987, I am very proud of him today as he introduces this legislation.

Deputy Dermot Ahern I thank the Senator.

Senator Joe O'Toole I would like to make a passing comment on the Bill before we deal with it in detail on Committee Stage. I listened to the end of the debate in the other House. I believe in plain English. Section 172 of the Bill has to be adjusted. The Bill provides that civil partnership is not available to people "within the prohibited degrees of relationship". Section 172 states that "2 adults are within a prohibited degree of relationship if ... they would be prohibited from marrying each other in the State". That includes people of the same gender. I think that has to be changed. I think it will be challenged and there will be a problem with it. That is for down the road. We will deal with such matters on Committee Stage.

I wish to speak about the issue of conscience. Those of us who deal with national school teachers who teach religious knowledge in schools have come across the issue day in, day out for the last 30 years. It might come as a surprise to the people of Ireland to learn that teachers all over Ireland teach religion every day even though they do not believe a word of it.

I wish to speak about the issue of conscience. Those of us who deal with national school teachers who teach religious knowledge in schools have come across the issue day in, day out for the last 30 years. It might come as a surprise to the people of Ireland to learn that teachers all over Ireland teach religion every day even though they do not believe a word of it. I do not refer to all of them, but to some of them. They just get on with it. We should not get carried away about what can be done, or what does not need to be done. I will spell that out at a later stage. The Minister is absolutely right in this regard.

A true society or community should be like a precious stone, with many different facets, directions and

reflections. Over many generations and centuries, it should grow and become more precious. At the end of that process of maturation, we should have a true society. Today's debate is part of that process.

This is a debate about society. In society's wild and savage stage, people fought each other because they looked different or acted differently. At the football matches of today, supporters spit hate at each other. They share the same space at the football pitch but, like oil and water, they will never mix. As society moves on, difference is accommodated and respected. Perhaps there is parity of esteem and, at some stage, equality. During all of those stages, the real test is how society melds and blends. A true society or community should be like a precious stone, with many different facets, directions and reflections. Over many generations and centuries, it should grow and become more precious. At the end of that process of maturation, we should have a true society. Today's debate is part of that process.

We are talking about the gay culture of Ireland. It may be described as a sub-culture - I hate that phrase - in the sense that gay people constitute a group within a group. The gay people of Ireland are being brought into society. That is really what today is about. I have had many arguments about the education of mutual understanding, with the objective of tolerance, in Northern Ireland. That is never enough. Tolerance is no longer an acceptable objective in society. It is not about multiculturalism and getting people to share the same space. It is not about having a Muslim school, a gay school, a Catholic school or a French school. It is about how people who are different engage with each other. The benchmark of a successful society is not the space it gives to its different parts - it is the quality of the engagement and participation of all the different groups. That is the measure. There is no other measure. When we accept that, we will be able to see where we are going in today's discussion.

Words are important. However, I suggest that significant confusion between words like liberalism, progressivism, pluralism, interculturalism and multiculturalism has been a feature of this debate. Liberalism, in its true meaning, provides for an okay measure of the extent to which society is open, tolerant and free. Any attempt to create a culture in which everyone supports, adopts and buys into the same liberal agenda is anathema to, and the antithesis of, liberalism. We should rejoice in difference as an adornment of our society. It lifts and enriches rather than threatens our society. It is not something with which we have to cope reluctantly. We should not try to rein in those who are different. We should learn from difference, which enriches us on a daily basis. It is a welcome aspect of society. I ask people to think through these issues in a different way.

Similarly, people who mock and sneer at conservative Catholicism are as objectionable to me as those who do the reverse. It is anathema to me. People have to open and respect each other's different points of view. By engaging in argument with those who are different, across the floor of this House and elsewhere, we can bring about the creative tension that leads to progress in society. As we find our way forward, we

can blend, design and create a better society. That is what we are about today. We are not just dealing with the smaller aspects of this individual Bill - we are also making a major move forward as we try to create a better society. I am just getting into my stride.

Acting Chairman (Senator Paschal Mooney) That is why I am reluctant to interrupt the Senator.

Senator Joe O'Toole I will hand over to my colleague, Senator Ross, by saying there is much to be done in society. This is an important step forward. I agree with Senator O'Malley, who said earlier that all change management is gradual and incremental. That is why I suggest that people who have problems with the Bill, but generally approve of it, should see it as a stage in our development and should support it.



Senator Shane Ross
(Independent)

I endorse what Senator O'Toole has said. I do not know whether this legislation is based on pluralism, tolerance or human rights, but it seems to me that it represents eminent good sense. All it does is recognise something that should have happened a very long time ago, namely, the granting of straightforward human rights for people who deserve to be treated exactly as everyone else is treated. Sometimes I look at this Bill and wonder what all the fuss is about. This should have happened ages ago. I had lunch today with a group of young people who, when I told them what we were discussing today, thought we had horns. They thought this had happened ages ago and was no longer an issue. It should have happened 20 or 30 years ago.

I do not know whether this legislation is based on pluralism, tolerance or human rights, but it seems to me that it represents eminent good sense. All it does is recognise something that should have happened a very long time ago, namely, the granting of straightforward human rights for people who deserve to be treated exactly as everyone else is treated.

I have been in this House for a very long time and know how long it has taken for the gay community to be recognised. I heard Senator Norris describing very eloquently how he was a criminal and a Senator at the same time. That was an appalling and unforgivable situation. I further state that this Bill, not all of which he entirely

approves, is a great monument to the leadership he gave in this area. That should be recognised by all Members of this House because for many years the treatment of the gay community was indefensible. Those people were kept in that situation by politicians who were reluctant to take measures that were essential and made pure common sense. Today's Bill is a recognition, not only of what Senator Norris has done, but of the fact that political parties, some perhaps reluctantly, have come of age. They have come to recognise this is basic, common-sense human rights. That is all we are doing here.

To those who feel the Bill does not go far enough I say it is a great deal better than it was yesterday. When this Bill is signed in two days' time, the gay community and other people will be a great deal better off than they were 48 hours before. We should recognise that as a tribute. I recognise and salute Fianna Fáil for taking this on, with great difficulties. I salute the Green Party which probably gave the leadership in Government on this.

Senator Mary M. White How does the Senator know that?

Senator Shane Ross I do not know it. I apologise. I suspect it. That should be recognised too because it is important.

There is a measure in the Bill to which we will come to and about which I feel uneasy. I believe those who have broken ranks in Fianna Fáil will table an amendment in its regard. I cannot understand why it is necessary to criminalise people such as registrars, etc. who say they will not do certain jobs in this situation. I do not believe in the conscience clause, by the way, although I thought long and hard about it. However, if the conscience of these people tells them that they cannot take such an action, that is fair enough. If they do not do what is required of them in their jobs they are dismissed, they resign or are deemed to have resigned. However, the idea of locking them up for six months, or whatever, is totally wrong and unfair. This may apply in other areas of the public service, as I believe it does, but it should not do so. I plead with the Minister to accept an amendment whereby such people are deemed to have been dismissed because of behaving in this way, or are otherwise dismissed by the head of their department. To say they should go to jail for something in which they believe, however wrongly, is totally wrong.

This is a very great day. It is a good day for the House. It is Ireland coming of age and, without being patronising, it is the Fianna Fáil Party coming of age. We should salute Senator Norris, in particular, for bringing us this far if not quite as far as he would like us to go.



Senator Mark Dearey
(Green Party)

The Minister is welcome. I commend him on the even-handed way in which he steered this legislation to the point it is at today. I have heard him speak about it at a number of events and his advocacy and even-handedness on an issue that might have got away from us, causing much unease and a great deal of not very useful debate, have managed to confine and frame it in terms of the civil rights it will confer on relationships that until now have not been recognised properly.

People have described this as a landmark. I like to think of it, also, as a stepping stone. I and my party see it as an important moment in a journey towards ultimate equal status in terms of marriage for gay people. We are not there today but we are talking about civil partnership. Undoubtedly, this is a significant day.

People have described this as a landmark. I like to think of it, also, as a stepping stone. I and my party see it as an important moment in a journey towards ultimate equal status in terms of marriage for gay people. We are not there today but we are talking about civil partnership. Undoubtedly, this is a significant day.

Gay love is not tainted love. I believe there is a sub-text for those who oppose this legislation when they suggest it is a tainted love. Senator Mullen referred to classic Catholic teaching on sexuality. In the Judaeo-Christian tradition there is a truly unhealthy interpretation of sexuality which has not served the church well. It did not serve me well in my education. My education, which I value in many ways, was on one level an attempt at social control when it came to the area of sexuality. I resent that and carry that resentment to this day although I left school a long time ago. In the Judaeo-Christian tradition, Adam and Eve's first recognition of original sin was to cover their nakedness. It was, so to speak, the marker of original sin that sexuality was something of which to be ashamed. Down the centuries, that has characterised the Judaeo-Christian attitude to sexuality. The great theologian, Hans Küng, has discussed this in regard to the virgin birth which, he states, serves a useful symbolic purpose but, biologically, is simply not possible. That is a very controversial belief for an eminent Catholic theologian to state. I hope I do not misquote him but I understand very well what he means. He was attempting to break away from the traditional notion to say that just because something has its origins in a sexual act that does not mean it is due any less reverence or respect. The sub-text of that particular Catholic belief is that it is necessary to separate the Christ child from the act of sexuality.

Church teaching on homosexuality is fundamentally wrong in that it teaches that the call to the homosexual person is to live a chaste life and, by the virtues of self-mastery, prayer and sacramental grace, homosexuals will gradually and resolutely approach Christian perfection. That is fundamentally incorrect and must be set aside when we speak about the rights of gay people in civil law.

I refer to the classic Catholic teaching on sexuality. Senator Mullen weaves an impressive web of words around all of this but I believe he is fundamentally wrong. Church teaching on homosexuality is fundamentally wrong in that it teaches that the call to the homosexual person is to live a chaste life and, by the virtues of self-mastery, prayer and sacramental grace, homosexuals will gradually and resolutely approach Christian perfection. That is fundamentally incorrect and must be set aside when we speak about the rights of gay people in civil law. That is what the Bill does. I would hate to see any Senator, in his or her contribution, drag the State into people's bedrooms. At some level that is what has been attempted in the House today. I am glad we are resisting it and that the Bill enjoyed cross-party support in the other House. I hope it will enjoy overwhelming support in this one.

Coming to this somewhat late in the day, I have been impressed by the background research and consideration, going back to the Colley options paper through to the Law Reform Commission's report on cohabitants which recommended changes in areas such as succession, pensions and so on. There was the all-party Oireachtas committee which reported in 2006 on the need for legislative provision for same-sex couples. There was major research by the Irish Council for Civil Liberties in 2006 which recommended legislative reform designed to ensure legal recognition of, and enhanced State support for, various types of interpersonal relationships. The Equality Authority's report on partnership rights of same-sex couples, which dates back to 2001, highlighted the need for legislative action in this area. Most importantly, the gradual coming around of public opinion on the matter demands of us that we work on bringing full recognition to same sex couples in their relationships.

The Bills digest summarises some of the findings of the Lansdowne Market Research of 2008, which is pretty recent. Some 61% of people felt that denying same sex couples marriage was a form of discrimination, 62% said that they would vote "Yes" in a referendum to extend, not civil partnership, but civil marriage to same-sex couples if held tomorrow.

There is a new dispensation around this issue. Most Members have spoken about the new Ireland, the new tolerance and I agree that tolerance is not the aspiration towards which we should be moving, it is how we relate to each other, not simply how we stand by from each other and tolerate each other. We need something far more than that.

Allowing for that, to welcome this new Ireland, our new capacity to welcome all and our new liberalism and then not to legislate for it is disingenuous in the extreme. We must legislate for the new set of opinions based on the body of research during the past ten years that had led us to the point that we are at today. I wholeheartedly welcome the point we are at today and I view it as a stepping stone towards further progress in the future, which I hope will come to pass.

I recognise that change is incremental. Incremental change is probably more sustainable in the long run than revolutionary change. I am happy that we have reached this point today while hoping that tomorrow will be the start of the next phase, as we move towards full and equal status in the area of marriage.

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In regard to some of the other peripheral issues - I see them as that - around cohabitantes who are in non-sexual relationships, there is an element of hard cases making bad law to bringing this issue into the legislation. It can be dealt with in other ways. I refuse to be deflected by it in my consideration of what this Bill is trying to achieve today. I welcome this important day in Irish legislation.



Senator Jerry Buttimer
(Fine Gael)

I dtús báire, cuirim fáilte roimh an Aire. Ba mhaith liom comhghairdeas agus buíochas a ghabháil leis as ucht an Bille seo a thabhairt isteach.

This is an important evening and I very much welcome this legislation and commend the Minister and the Green Party on bringing it to the House and managing its safe passage through both Houses of the Oireachtas.

Today is just a new dawn for modern Ireland. Our nation will now at least and at last cherish all of our citizens equally.

Today is just a new dawn for modern Ireland. Our nation will now at least and at last cherish all of our citizens equally.

Today's Bill heralds that what we need is a new republic in Ireland. As Deputy Charles Flanagan said in the Dáil, it is a tangible testament to how far we have travelled as a society.

We need to pay tribute to many people who have campaigned tirelessly and indefatigably for this recognition and the safeguarding of civil rights, namely: the Minister and members of the Government; the former Senator, Sheila Terry, for her work with Fine Gael in bringing forward its party proposals on this area in 2004; Senator Norris who has been a lone crusader on this issue for many years; the men and women of GLEN for their trojan work, bravery and courage; and the many thousands of gay men and women in this country who have brought us to this day.

To paraphrase Kieran Rose of GLEN, this is a day of celebration and of achievement and we should celebrate. This Bill is not about strangers, it is about people, it is about all of us in this House, it is about our brothers and sisters, nephews and nieces, our grandchildren, it is about friends, it is about people we know.

As we debate this Bill here, this is a day we can be proud to say we are Irish.

Our sexuality is a gift given to us at birth by God. It is not a choice we make, it is given to us. It is about time we accepted that. This Bill is not an attack on the church, on the institution of the church or on the sacrament of marriage. It is a Bill not about sexuality but about rights, equality and people. It is incumbent on each of us as Members of the Oireachtas to legislate for all of our citizens. Civil rights are based on personal freedoms, freedoms to which we are born and to which we all have a birthright.

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The issue of conscientious objectors to the enactment of this Bill has been raised and it must be dealt with maturely. I have a conscience and I am acting on my conscience. I will vote for this Bill and support the Minister in this case.

Intolerance of one section of our society, for whatever reason, in a fair and free nation must always be intolerable to each one of us as legislators.

Intolerance of one section of our society, for whatever reason, in a fair and free nation must always be intolerable to each one of us as legislators. This country in our awful history has seen our citizens, or subjects as they were then, disenfranchised because of their religion. If our history of occupation has taught us anything, it is that when a state seeks to disenfranchise a group of its people, that state fails its people, the very people it seeks to govern and protect. It is our duty to protect and govern all of our citizens.

Discrimination against anybody covered on the nine grounds of equality must be and should be anathema to any modern government. There can be no excuse or opt out clause. As Éamon de Valera said, we are either all free or we are not free at all. Some people have suggested the liberal agenda has come too far, but I suggest that gay and cohabiting couples have lived far too long under the strain and pressure of no legal recognition and no legal protection.

State discrimination against these groups in society has gone on for far too long and it is time it was addressed and I believe this Bill will do that. Even though the Bill is not perfect, it is a start and represents a great progression in this area.

We could never in this modern State contemplate an objection to the union of two people from diverse religious backgrounds or racial backgrounds, equally we should never contemplate or tolerate any objection to the union of two people in a loving relationship from a same-sex background.

I thought it ironic when I heard that some of the contributors not only in this House but in the media, descendants of our disenfranchised people, would seek to disenfranchise another sector of their own people. We could never in this modern State contemplate an objection to the union of two people from diverse religious backgrounds or racial backgrounds, equally we should never contemplate or tolerate any objection to the union of two people in a loving relationship from a same-sex background.

Equality for all embodies the true spirit of republicanism, as handed down to us from the ideals of Wolfe Tone.

Is the State, if the Minister was to accept some of the amendments that have been put before us, to

further perpetrate a stigma, bias or prejudice or will we collectively, as citizens together, take up the gauntlet and proudly enter the 21st century, realising the ideals of those proposed at the start of the 20th century?

Tonight the Minister and many other politicians have given us a great choice. Is the State, if the Minister was to accept some of the amendments that have been put before us, to further perpetrate a stigma, bias or prejudice or will we collectively, as citizens together, take up the gauntlet and proudly enter the 21st century, realising the ideals of those proposed at the start of the 20th century? Will we as politicians be mature, and putting aside the Civil War divide, finally realise the lofty ideals of the Republic, proclaimed on the steps of the GPO, that we cherish all of our children equally.

Tonight we will remove the ignominious stigma of being gay to one of acceptance. We remove from gay people the legal barriers regarding property, inheritance rights, social welfare, succession, maintenance, pensions and tax, and the same applies to cohabiting couples. It is a day of which we can be proud, a day that we can say we are Irish, we are one and we have a common purpose.

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Equally, there must be a separation of church and State in the modern Republic. While all the time cherishing our private spirituality, we must cherish the principles of equality legislatively. As a practising Catholic, I respect the rights of the church to its teachings. I disagree with its teachings on homosexuality and on sexuality in general but I believe in the right of the church to promulgate its teachings. I understand tolerance. I respect the rights of the bishops to use the magisterium to preach. I agree with them but I accept the right to have a view.

In a modern republic we must be tolerant of one another in a society where we are all equal - men, women, gay or straight, black or white, it does not matter, we are equal. In a modern republic, I also believe that the equalitarian ideals of a republic must be to the fore and I fully endorse the separation of church and state. The state should not interfere in the spiritual matters of a church, nor can the state be led or influenced by

the spiritual stance of a church. We are a pluralist State not a theocracy and, as such, the State must operate a system of laws that is wholly inclusive of all its people. In the democracy in which we live, we must safeguard the rights of all of our citizens. I am conscious that in 1916 and during the Civil War many brave men and women fought. They were brave people who strove to accomplish a republican democracy. Today the truest model of a republic is not one which is driven by the ideals of a particular set of church teaching, but rather those which are based on the rights of all to live in a free and just society, one which withholds the privilege of one group over another and which ensures the rights of all our people. This Bill is a stepping stone, as was said, and a bridge builder. I hope following today we will have a gentler, more caring and inclusive Irish society where we can all be free.

We have a duty to all our citizens to break down the walls of prejudice which have oppressed a largely silent majority for far too long. The stigma of homosexuality ... has brought unbearable pressures on many young men and women.

We have a duty to all our citizens to break down the walls of prejudice which have oppressed a largely silent majority for far too long. The stigma of homosexuality, on which Senators Fitzgerald, Healy Eames and Norris eloquently spoke today, has brought unbearable pressures on many young men and women. Ironically, Senator Fitzgerald used the words of President Mary McAleese when she said sexual identity is a discovery not a decision. I never thought I would stand in Oireachtas Éireann and be proud to support legislation which the Minister brought before the House.

He has not come here alone, rather, he has come here with the help of many people. It is a great day to be a Member of Seanad Éireann and as Senator Harris correctly said, today is a day where we can say we are proud to be Members of the Upper House where the standard and quality of debate has been second to none. It is a day we should celebrate and rejoice, a day we say we are all free and equal. I commend the Bill to the House.



Senator Mary M. White
(Fianna Fáil)

I am privileged, as an elected Member of Seanad Éireann and the Fianna Fáil and Green Party coalition to speak on the Bill. I congratulate the Minister for Justice and Law Reform, Deputy Dermot Ahern, for his ambition to put Ireland in the top ten countries in Europe for gay rights following the enactment of the Bill. I listened attentively to three different groups-----

Acting Chairman (Senator Paul Coghlan) Through the Chair.

Senator Mary M. White I ask the Chair to ensure his colleagues are-----

Acting Chairman (Senator Paul Coghlan) I did not realise the Senator was being interrupted. If I did I would have monitored them. Carry on, without interruption.

Senator Mary M. White They are just chatting. As the Minister said, this is one of the most important pieces of civil rights legislation to be agreed since Independence. It builds on the 1993 Act which was proposed by the then Minister for Justice, Máire Geoghegan-Quinn, which decriminalised homosexuality. Fianna Fáil passed the Bill in 1993, contrary to the perception that it is not interested in equality and human rights. I vividly remember Máire Geoghegan-Quinn striding through the legislation.

The Bill represents the dawning of a new era for the thousands of older gay and lesbian couples who have for many years cherished their relationships in the absence of social and legal recognition. They will now be able to celebrate publicly their relationships with family and friends and avail of a comprehensive set of legal protections, rights and obligations in the areas of taxation, pensions, inheritance, social welfare and shared home protection.

The cross-party support for the Bill in the Dáil, which was passed without a vote, shows the measures contained in it have the broad support of the Irish people and that securing the civil rights and human rights of gay people is a mainstream goal. As the Fianna Fáil spokesperson for gay people who have lived through times of severe oppression and discrimination, I know many entered their current long-term relationships against a backdrop of criminalisation of homosexuality, lack of family support and the absence of the current Bill. The Bill represents the dawning of a new era for the thousands of older gay and lesbian couples who have for many years cherished their relationships in the absence of social and legal recognition. They will now be able to celebrate publicly their relationships with family and friends and avail of a comprehensive set of legal protections, rights and obligations in the areas of taxation, pensions, inheritance, social welfare and shared home protection.

In my paper on what we can do about suicide in the new Ireland, I said that anxiety about gender and sexuality is one of the risk factors which has been linked to suicide and deliberate self-harm. It was echoed in a systematic review in the United Kingdom of mental disorder, suicide, and deliberate self-harm in lesbian, gay and bisexual people which concluded that lesbian and gay people are at higher risk of mental disorder, suicidal ideation, substance misuse, and deliberate self-harm than heterosexual people. This was reiterated by BeLonGTo, Reach Out and the national strategy for suicide prevention which showed that lesbians, gays, bisexual and

transgender people are more likely to be medicated for depression and are more likely to engage in alcohol misuse, drug abuse and deliberate self-harm. This is because gay and bisexual people have been subjected to institutionalised prejudice, social stress, social exclusion, even within families, and anti-homosexual hatred and violence, and this can internalise a sense of shame about their sexuality.

When I drew up my document on what we can do about suicide in the new Ireland I held public meetings to learn what people's feelings about suicide were. When I held public meetings they were crowded. It is not up to the Government, the HSE and the Department of Health and Children alone to help to reduce the level of suicide and deliberate self harm, it is also our responsibility. I call on local communities around the country to call public meetings about this Bill-----

-----and explain it to people all over the island and get people to open up, discuss it and lift the cloud, oppression, ambiguity, pain and isolation because talking about the issue will help. Young people have the Internet to keep in touch with the latest discussions and help available and can interact with one another in private, but older people do not have such a communication network, which is why I am calling for public meetings because we have to help those of all ages with the issues contained in the Bill.

As well as being a great advance in civil and human rights, there is also an economic perspective of which we need to take account. There can be no doubt that a society which is more open and tolerant and where diversity is cherished is one which is more innovative and productive. Our openness to gay people will be an important part of our success as an advanced, competitive and smart global economy.

I wish to discuss the Bill and the economy. As well as being a great advance in civil and human rights, there is also an economic perspective of which we need to take account. There can be no doubt that a society which is more open and tolerant and where diversity is cherished is one which is more innovative and productive. Our openness to gay people will be an important part of our success as an advanced, competitive and smart global economy. This fact is not lost on the world's biggest companies, many of which employ thousands of people in Ireland. Multinationals based here such as Microsoft, IBM, Facebook and Google all have strong equality policies in place for their gay staff. Ireland's increasing openness and acceptance of diversity is a significant factor in the capacity of people to attract and retain the workers they require.

I am currently reading *Beyond Business*, a memoir of John Browne, the former chief executive of British Petroleum, BP. He has a detailed chapter on how he had to step down from his role because he was gay. He told a lie about where he met his partner. He said he met him running in Battersea Park but had in fact met him at an escort

agency, a fact of which he was ashamed. He suppressed his sexuality for years because his mother was in Auschwitz and he did not want to upset her any more after her torture there. He was afraid to come out as chief executive of BP because he felt he would be finished. It is a perfect example of a company where it was a stigma to be gay. I recommend the book to everybody because it not just about the current troubles of BP. He also refers to his experience in Columbia, to where I have travelled seven times, on which he has a very detailed and blunt statement regarding the lack of human rights and oppression there.

I thank GLEN for its professionalism in the support we have been given in order to pass the Bill. A young man who has a great political future is Tiernan Brady. I hope his colleagues will not mind if I say he is a great young man.

Senator David Norris Is he a member of Fianna Fáil?

Deputy Dermot Ahern He is.

Senator David Norris They are everywhere.

Senator Mary M. White He has parked his political career. I congratulate everybody involved with this legislation.

If a gay person can adopt a child, I cannot understand why a gay couple cannot do the same. If the birth parent of a child reared in a same-sex relationship dies, the child will be left without a legal protector. I had a discussion earlier with friends of Senator Leyden who were totally opposed to the Bill, but I told them the Minister would push ahead on the issue. Children are the most vulnerable in society.

This is about liberty, equality and fraternity in the true republican sense. The 1916 Proclamation asks us to cherish all the children of the nation equally.

Debate adjourned.

Business of the Seanad

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



Senator Joe O'Reilly
(Fine Gael)

I join my colleagues in welcoming the Minister from my neighbouring county. Other speakers have rightly recognised Senator Norris's lonely advocacy of this issue during the years. After a long, forensic and vigorous debate at a specially convened parliamentary party meeting, Fine Gael Members have decided to support the Bill

based on a synthesis of the various views expressed.

My attitude to this legislation derives from a beautiful expression commonly used in the rural community in County Cavan in which I was reared - "live and let live" or "lig dom agus ligfeadh mé duit". While that expression may not have gained currency in institutional settings, it was the way of the people. Ordinary people were tolerant and appreciated human difference and individuality.

My attitude to this legislation derives from a beautiful expression commonly used in the rural community in County Cavan in which I was reared - "live and let live" or "lig dom agus ligfeadh mé duit". While that expression may not have gained currency in institutional settings, it was the way of the people. Ordinary people were tolerant and appreciated human difference and individuality. This outlook had its genesis in Christianity and Celtic tradition. If one peruses the New Testament, particularly the Sermon on the Mount, one will find a rationale for this live and let live philosophy. The principles of republican philosophy, as expressed in the French Revolution and this modern republican democracy, also encompass this outlook.

According to the most recent CSO statistics, 121,800 cohabiting couples and 2,000 same-sex couples live in this country. The Bill will confer pension and succession rights and maintenance obligations on the people concerned, as well as afford protection against domestic violence and State benefits such as carer's allowance. Implicit in any live and let live philosophy is acceptance of and adherence to the rights and responsibilities on all unions, irrespective of their nature.

The world view that allows me to accept this legislation also makes me tolerate those who oppose it in all conscience. I am disappointed that the legislation does not include supports for siblings who have lived alone. The Minister will be aware of a particular union common in rural society, that of two brothers or sisters living together. They may run a shop, farm or other business together and have a community of interest. In effect, they are married without a sexual relationship for a number of years. It is important that the special rights that accrue to such couples are not undone by other siblings who may have done well in the new world before returning home for the funeral. It is a pity we are not legislating to deal with this issue.

I made that point at our parliamentary party meeting.

In the event of the death of one sibling, there is no protection in law for the surviving sibling who finds himself or herself battling a distant relative who contests the will of the deceased. Many siblings who found themselves in this position have been evicted from the home in which they lived their entire lives. As a professional lawyer by background, the Minister will be more aware than I am that certain rights

accrue from personal investment in a property, working on a property and so forth. Notwithstanding such rights, it is an omission in the Bill to place on a distinctive footing the rights of siblings living together.

The issue of providing a conscience clause has generated a great deal of debate. Like everyone else, I grappled with this issue and found, on a superficial analysis, that it is difficult to object reasonably to permitting people to act in accordance with their conscience. However, when one considers the potential for bizarre circumstances to arise if people were allowed to exercise a right to act in conscience, one concludes that one must be careful in this regard....The law of the land, as this legislation will become once it has been signed by the President, must not be thwarted by a succession of officials refusing to process civil partnerships.

The issue of providing a conscience clause has generated a great deal of debate. Like everyone else, I grappled with this issue and found, on a superficial analysis, that it is difficult to object reasonably to permitting people to act in accordance with their conscience. However, when one considers the potential for bizarre circumstances to arise if people were allowed to exercise a right to act in conscience, one concludes that one must be careful in this regard. While it would probably not occur in practice, one cannot provide for a case in which a nurse in an accident and emergency unit, a general practitioner, a medical practitioner or a ward sister would refuse treatment to a patient on the basis of his or her perceived sexuality. The law of the land, as this legislation will become once it has been signed by the President, must not be thwarted by a succession of officials refusing to process civil partnerships.

Common sense should apply. If, for example, there is a conscientious objector in a legal office where there are two or more officials performing the function, provided it is practicable to do so, the non-objector should perform the relevant role on the given days. I expect that common sense will prevail and such flexibility will be shown in practice.

The criminal dimension of the Bill, which provides for a prison sentence of six months and a fine of €2,000, is excessive. It is not excessive to provide that an official who thwarts the law of the land in an unreasonable and unacceptable fashion should lose his or her job but it would be unacceptable to send such a person to jail for six months. The Minister should reconsider this provision and allow common sense to prevail. I

believe this will be the case. While the bizarre example I cited of a nurse in accident and emergency refusing to treat someone he or she perceives to be lesbian or gay may never arise, the problem is that it could arise. The law must be predicated on the most bizarre possibilities.

The traditional or nuclear family - a heterosexual married couple rearing children - is the most common union in this country, although cohabitation is gaining in popularity. This legislation will not thwart such unions. On the contrary, a tolerant, Christian and caring society which encompasses and accepts everybody and reflects human realities will enhance all family units and institutions. We should not do anything that would besmirch the traditional family but this does not arise with this legislation as the traditional family continues to be protected by the Constitution and many realities.

The legislation must be accepted because society needs to be understanding, humane and accepting of all. In an open society, all relationships should be allowed to prosper...

The legislation must be accepted because society needs to be understanding, humane and accepting of all. In an open society, all relationships should be allowed to prosper, provided they are based on consent and do not involve harm to another person. On that basis, the Bill should be supported.



Senator John Paul Phelan
(Fine Gael)

I thought the Acting Chairman, Deputy Coghlan, was about to overlook me. Given that I have agreed to postpone the taking of my Private Members' motion to facilitate an extension of the debate, I wish to welcome the Minister and take an opportunity to express my opinions on the Bill.

I spent my first five years in the Seanad sharing an office with former Senator Sheila Terry who, on behalf of the Fine Gael Party, drew up a policy in support of civil partnership. In 2004, Fine Gael became the first political party to adopt such a position. Sheila Terry did substantial work on this issue and I recall having many long debates with her on it. It is interesting to note that the Bill before us is largely modelled, whether directly or indirectly, on the proposals made by the former Senator six years ago.

Our duty, however, is to engage with society as it is and

this legislation is an honest effort to try to engage with society as it exists, which is not to say I do not have a couple of reservations about specific aspects of the Bill.

Having listened to virtually every contribution, I find this debate one of the best I have experienced in the House. I concur with Senator O'Toole's comments on how society changes. There is often a perception among politicians that we know what people think or we can tell them what to think. Our duty, however, is to engage with society as it is and this legislation is an honest effort to try to engage with society as it exists, which is not to say I do not have a couple of reservations about specific aspects of the Bill.

Previous speakers cited all sorts of people, including Edmund Burke. My favourite quotation from Edmund Burke relates to how politicians are supposed to use their judgment: "Your representative owes you, not his industry only, but his judgment; and he betrays instead of serving you if he sacrifices it to your opinion". Burke was correct in this matter. I had reason to use these words recently at a selection convention which followed a turbulent period in my party.

I acknowledge the contributions of Fianna Fáil Party Senators who had the courage of their convictions and expressed reservations about the Bill. It is a credit to them that they did so because the House should have a full, frank and open exchange of views. Unlike the Seanad, the other House did not have a fully rounded debate. This is an example of the usefulness of the Seanad.

My bugbear with the Bill relates to section 23 and the prosecution of registrars who fail to do their duty. I understand registrars exercise an important role in implementing the law of the land and failure to perform this function should result in them losing their position. However, it is not acceptable that in righting a wrong done to people in same sex relationships - or opposite sex relationships in which the partners are not married - we should criminalise registrars who hold a different opinion. Like Senator O'Reilly, I have grappled with the issue of a conscience clause and concluded that it would provide too much scope for people to opt out of performing their functions. Registrars who have an objection and refuse to perform their role should lose their position but they should not be prosecuted for doing so.

I propose to address the issue of providing rights of siblings and carers, whether in this Bill or other legislation. I come from a rural area. I know a number of elderly siblings who have lived together all their lives and are not entitled to any State recognition of the relationship they have with each other. I would like to see that enshrined in legislation, whether in this Bill or in new legislation. We also need to address the issue of carers who may have given up their lives to look after family members. That effort on their behalf should be acknowledged by the State.

The most important thing for children is to be in a

loving family environment. Whether that is a man and a woman, two men or two women is not the most important issue. The State has neglected children for too long and that is the most important thing I would like to see enshrined in legislation in the future.

Many previous speakers mentioned the position of children. I used to hold a very particular opinion that children should only be adopted by a man and a woman. My mind was changed by a very good friend of mine when we were canvassing for the local elections in 2004. He pointed out to me the number of children who have a father and mother but were unfortunate enough to grow up in an abusive home. The most important thing for children is to be in a loving family environment. Whether that is a man and a woman, two men or two women is not the most important issue. The State has neglected children for too long and that is the most important thing I would like to see enshrined in legislation in the future.

I have absolute respect for the church's right to express its opinion on this issue and other related issues. It would be in dereliction of its duty and function within our society if it did not express its opinion. Equally people who are opposed to this legislation have a right and obligation to express their opposition and to be heard. Sometimes I get the sense from people who hold very liberal views that they can be very illiberal to people who hold the opposite opinion. The debate in this House has been conducted very well and in particular I was struck by the contribution of Senator Walsh, with whom I mostly disagree on other issues. He expressed his opinion very honourably on this subject.

We previously criminalised relationships between people of the same sex. For many years we have not allowed them to have that relationship recognised by the State. Despite some reservations I have about registrars and their treatment and strong views I have on the rights of siblings and how that should be acknowledged by the State, because we are taking a step towards the acknowledgement of the relationship of same-sex couples, I will be supporting Second Stage of the Bill.



Dermot Ahern, T.D.

Minister for Justice and Law Reform
(Fianna Fáil)

I genuinely thank Senators for what I believe was a fantastic debate. Despite the fear of getting criticism yet again from a particular Deputy in the other House, every time I take a Bill to the other House having debated it here, I always mention that there was - as there always is - an excellent debate in the Seanad. A particular Deputy suggested

that I might have a hankering to join the Seanad. I assured him that I do not. The debate on this and on a number of other significant Bills I have brought through are all the better for the input from the Seanad. We have had populist soundbites and proposals off the top of the head suggesting that we abolish something that is defined in our Constitution, which is having two Houses in the Oireachtas. Woe betide anyone who changes that because our legislation is the better for the type of debate we get in this House and indeed in the other House. If I have any influence on any suggestion to abolish the Seanad, I can assure Members that I will use that influence to ensure it does not happen. I do not say that in a political way.

[Interaction between Minister Ahern and Senator Frances Fitzgerald]

Today's debate does everyone credit. I have personal friends who spoke against the Bill. I genuinely understand the conviction they have on the matter. While I do not agree with it, I respect their views and the way in which they expressed them. Senator Phelan is correct.

I believe this is the right thing to do. If I had any doubts - I did not have any doubts - about introducing this legislation, they were totally dispelled recently when I attended a function at which I launched a report promoted by Outcomers, the gay and lesbian organisation in Dundalk. It was a very significant report in that it was not about those people who are gay in Dundalk, but about the families of gay people who had come out in Dundalk.

The decision to introduce the Bill is not just mine, it is the Government's and it is based on the commitment my party made in our manifesto in 2007, building on the republican ethos and the equality agenda to which we are fully committed. In our previous years in government we showed we were committed to that equality agenda. I believe this is the right thing to do. If I had any doubts - I did not have any doubts - about introducing this legislation, they were totally dispelled recently when I attended a function at which I launched a report promoted by Outcomers, the gay and lesbian organisation in Dundalk. It was a very significant report in that it was not about those people who are gay in Dundalk, but about the families of gay people who had come out in Dundalk. Excellent contributions were made by family members, who were heterosexual, on how they were affected and how they reacted to a member of their family coming out.

A lady I have known for most of my adult life in Dundalk - I will not mention her name - spoke publicly to say - I did not know this until she said it - that she was the mother of a gay son. More than 20 years previously he told her that he was gay. She and her husband went to a local GP in Dundalk to get advice on what to do about their now

declared gay son. She said they were shown the door by the GP. She had to come to Dublin to get advice on how to handle this. She said very eloquently in her own words that regardless of his sexual orientation, she still loved her son. Any society that does not react to assist not only the gay son but also the family of that gay person to help them deal with the coming out of their child is not the type of society to which we aspire.

Despite the reservations of some church leaders, this legislation represents the epitome of dealing with people in a charitable and Christian way. We are not dealing with the optimum situation as they see it; we are dealing with reality on the ground.

Republicanism has been used by many speakers on both sides of the House in a way that epitomises republicanism. I do not refer to the type of republicanism that has been hijacked for many years through the troubles, but true republicanism means dealing with people not as how we want them to be, but on a one-to-one basis as they are. This legislation fulfils that republican ethos. Despite the reservations of some church leaders, this legislation represents the epitome of dealing with people in a charitable and Christian way. We are not dealing with the optimum situation as they see it; we are dealing with reality on the ground.

I have heard Senator Mullen say we do not have enough research and have not carried out enough examination of all these matters. I suggest that he go back and look at a report to which I was party when I became Minister for Social, Community and Family Affairs. The title of that ministerial position specifically included "family" when the then Taoiseach appointed me to the role. He asked me to go around the country and listen to the public about how we needed to sustain the family in a much changed environment. A broad consultation was carried out and a massive tome of a report was brought forward in 1998. It went through all the issues that were pertinent to the Constitution. Article 41.1.1° states that: "The State recognises the Family as the natural primary and fundamental unit group of Society, and as a moral institution possessing inalienable and imprescriptible rights, antecedent and superior to all positive law." Article 41.1.2° states that: "The State, therefore, guarantees to protect the Family in its constitution and authority, as the necessary basis of social order and as indispensable to the welfare of the Nation and the State." Article 41.3.1° states that: "The State pledges itself to guard with special care the institution of Marriage, on which the Family is founded, and to protect it against attack." The report was exactly about all this.

Many recommendations were made in the report as to how we should sustain family life in society. We set up various agencies, such as the Family Support Agency, family resource centres and a family mediation service. A huge amount of taxpayers' money was invested in all sorts of issues to do with counselling for couples and children throughout the country. This was not a report that sat on the shelf. This report was implemented by governments of which I was a member and of which I am very proud.

I reject any suggestion that we have not done enough over recent years to sustain family life as recognised in the Constitution.

There was no definition of the family in the report because it was not possible to define the perfect family. There is a good reason for this, as there are so many diverse types of families in society. That is why I do not accept the argument that this is in some way diluting what some of us would describe as the ideal family, namely, husband, wife and children. I do not accept the argument that this Bill takes away from that.

There was no definition of the family in the report because it was not possible to define the perfect family. There is a good reason for this, as there are so many diverse types of families in society. That is why I do not accept the argument that this is in some way diluting what some of us would describe as the ideal family, namely, husband, wife and children. I do not accept the argument that this Bill takes away from that. This Bill takes from no one but gives basic civil rights in fulfilment of Article 40.1 of our Constitution, which states that: "All citizens shall, as human persons, be held equal before the law." There is a rider to that which states that "This shall not be held to mean that the State shall not in its enactments have due regard to differences of capacity, physical and moral, and of social function." That allows the State in its enactments to make differences and distinctions between society, but the general principle is that every citizen should be treated equally before the law. As far as I am concerned, that is what this Bill does.

I accept the argument that this Bill perhaps does not go the way everyone would want to go on one side, and equally so for those who believe it goes too far. It is a balance between those two constitutional imperatives that every person should be treated equally before the law and leave special protection for their family and for marriage.

Some reference has been made to the exclusion of children from the Bill. The Government spent a significant amount of time looking at this particular issue. There is an extensive body of law on the welfare of children in areas such as guardianship, maintenance, access and custody. Many of those issues are faced by different persons, whether they are married or not. However, the issue of children creates distinct issues, such as the welfare of the child, the constitutional position of the family and surrogacy issues. A neighbour of mine who is married is becoming involved in what is known as gestational surrogacy. I found out that there is no law on this issue in the State and that raises problems in respect of the citizenship of a surrogate child born outside the State and how we deal with such issues in the future.

The issue of children also creates rights of the natural father. Members have referred

to “our children” of same-sex couples, but the reality is that one of the natural parents may not be part of that couple. Such a natural parent, not part of the same-sex couple, also has rights under our Constitution. The primacy of rights and duties of parents under our Constitution is based on the biological link between the parents and the child. If we were to deal with issues in this Bill solely in respect of children of same-sex couples, we would be leaving out issues such as how to deal with children in heterosexual step-families, whether they are based in marriage or not. The legal issues are similar in those cases.

If this Bill were to assign parental rights to the civil partner of a child’s mother in circumstances where the law does not assign equivalent rights to the mother’s heterosexual partner or husband, this would potentially discriminate between children, based on the sexual orientation of the adults caring for them, as well as encroaching on the rights of the biological parents. It is easy to say that we are not dealing with children in this Bill, but I can assure Senators that it would not be capable of dealing with the issue on its own, especially in such space of time. I received a submission from the Ombudsman for Children just last night, even though the Bill was published in June 2009.

Given that some people think the Bill goes too far and others think it does not go far enough, while the ombudsman thinks we should look at the issue of children, perhaps we should just withdraw the Bill and add in these things at a later stage. However, I think people want this Bill to pass because it deals with the issue of civil partnership in respect of same-sex couples. There is an issue in respect of children, but there is already an existing body of law. It may not go as far as some of these people would wish for same-sex couples, but we cannot deal with this issue without dealing with the biological parent who is not part of the same-sex couple. That is a much wider issue and the Law Reform Commission is looking at it. I suggest that it is better left to that debate.

I have heard a lot about freedom of conscience. I suggest to some of the Fine Gael Senators, in particular, who said that people should just lose their jobs, that we should not go as far as criminalising them and that it is terrible that all these registrars might have a conscientious objection. This is already provided for in the Civil Registration Act 2004 where on summary conviction, one is liable to a fine not exceeding €2,000 or imprisonment for a term of six months or both or on indictment, to a fine not exceeding €10,000 or imprisonment for a term of up to five years or both. It has been in legislation since 2004 and it has worked very well. No registrar has been convicted under the legislation. Registrars could have objected on religious grounds on the basis that they object to divorce but they have not done so. I respectfully suggest that is a bit of a red herring and another issue thrown up to throw dust in the eyes of people and say we are going to send all these registrars to prison. We have had consultations with An Ard-Chláraitheoir in this regard and no registrar has indicated any difficulty with the implementation of this legislation or of the divorce legislation since 2004.

As a matter of public policy, it ill behoves anyone to suggest that when we pass a law, we should give public servants the opportunity to decide whether they wish to implement it. People quote section 37 of the employment legislation in regard to goods and services. Perhaps we will go into this on Committee Stage when we can

discuss it in more detail.

I respectfully suggest it is tailored, and decided on by the Supreme Court, in a way that clearly indicates that, in regard to the constitutional guarantee of freedom of expression and of religion, there is some ability for people to ensure the ethos of their religion is retained. Again, I respectfully suggest there is a muddying of the water in this regard.

Some people referred to the use of church property. Section 59E states: "A civil partnership may be registered only at a place and time chosen by the parties to the civil partnership with the agreement of the registrar and, if the place chosen is not the office of a registrar, the approval of the place by the Executive, and the question whether to give or withhold the approval, shall be determined by the Executive by reference to the matters that the Minister may specify." The executive is the HSE.

To suggest that a church could be used for a ceremony is a red herring. The only way a church could be used by a gay couple for a civil partnership ceremony would be at the behest of the church involved.

To suggest that a church could be used for a ceremony is a red herring. The only way a church could be used by a gay couple for a civil partnership ceremony would be at the behest of the church involved. Under the legislation, the couple must apply to the HSE to have the church certified as being capable of being a place for a civil partnership to be registered. Any church which does not want to participate in this has a complete get out clause in section 59E.

On the other hand, if a church hall is not used for worship but is rented out by the church, under existing equality legislation, the church is precluded from discriminating on the basis of sexual orientation. There are nine grounds on which it cannot refuse use. We are not touching the existing legislation which prevents discrimination on the grounds of sexual orientation, ethos, etc.

Many amendments have been genuinely tabled. We have looked at them in the relatively short space of time available. I thank my officials, in particular, for the hard work they have done over the past 48 hours. We have looked at the amendments but I am very reluctant to upset the balance we have struck in this legislation. However, I will listen to the debate.

Originally we intended to take this legislation in the House next week. Senator Regan mentioned in his opening words that the Dáil would not be sitting so we could not have accepted amendments but it will not be for that reason. We decided to take the Bill this week rather than next week in deference to any suggestion that we might be taking this House for granted. I have looked at all the amendments closely with my officials and there are a couple of major issues, such as freedom of conscience in regard to registrars, church property, children and siblings, which we can address on Committee Stage but my hands are relatively tied in regard to acceptance of amendments.

This was one of the best debates in which I have participated since I became a Member of the Oireachtas more than 23 years ago. It is a credit to Senators on both sides of the argument who participated.

I thank all the Senators who spoke. This was one of the best debates in which I have participated since I became a Member of the Oireachtas more than 23 years ago. It is a credit to Senators on both sides of the argument who participated.

Question put and agreed to.

3. SEANAD DEBATES: CIVIL PARTNERSHIP BILL AND CERTAIN RIGHTS AND OBLIGATIONS OF COHABITANTS BILL 2009: COMMITTEE AND REPORT STAGES: 8TH JULY 2010

The Committee Stage of the Seanad debate on the Bill began shortly after 8pm on 7th July 2010. The full list of proposed amendments are on the Oireachtas website at: www.oireachtas.ie/viewdoc.asp?DocID=12249. The Committee Stage debate continued until 1am on 8th July, and resumed again shortly after 10:30am on the 8th. Committee Stage ended at 4:30pm on 8th. The full text of all Committee Stage debates is available at:

Report and Final stages began at 5pm and ended shortly after 7pm on 8th July. The Debate and amendments proposed for Report stage are also available from the Oireachtas website as above.

An electronic vote on the Bill was taken at 6pm and following that Senator David Norris asked for a manual vote "as this is an historic occasion".

The question for the vote was "That amendment No. 2 is hereby negatived; that Fourth Stage is hereby completed; the Bill is hereby received for final consideration; and the Bill is hereby passed".

"The Seanad divided: Tá, 48; Níl, 4." The Vote was 48 Senators in favour and 4 Senators opposed, and the question was declared carried.

TÁ	
Bacik, Ivana.	Boyle, Dan.
Bradford, Paul.	Brady, Martin.
Burke, Paddy.	Buttimer, Jerry.
Cannon, Ciaran.	Carroll, James.
Carty, John.	Cassidy, Donie.
Coffey, Paudie.	Corrigan, Maria.
Cummins, Maurice.	Daly, Mark.
Dearey, Mark.	Doherty, Pearse.
Ellis, John.	Feeney, Geraldine.
Fitzgerald, Frances.	Glynn, Camillus.
Hannigan, Dominic.	Healy Eames, Fidelma.
Keaveney, Cecilia.	Leyden, Terry.
MacSharry, Marc.	McCarthy, Michael.
McDonald, Lisa.	McFadden, Nicky.
Mooney, Paschal.	Norris, David.
Ó Brolcháin, Niall.	Ó Domhnaill, Brian.
O'Brien, Francis.	O'Donovan, Denis.
O'Malley, Fiona.	O'Reilly, Joe.
O'Sullivan, Ned.	O'Toole, Joe.
Ormonde, Ann.	Phelan, John Paul.
Quinn, Feargal.	Regan, Eugene.
Ross, Shane.	Ryan, Brendan.
Twomey, Liam.	White, Alex.
White, Mary M.	Wilson, Diarmuid.

NÍL	
Hanafin, John.	Mullen, Rónán.
Ó Murchú, Labhrás.	Walsh, Jim.

4. SEANAD DEBATES: CIVIL PARTNERSHIP BILL AND CERTAIN RIGHTS AND OBLIGATIONS OF COHABITANTS BILL 2009: THE FINAL STAGE SPEECHES: 8TH JULY 2010

The Seanad Debates on the Civil Partnership and Certain Rights and Obligations of Cohabitants Bill 2009 began on 7th July 2010. Second Stage completed and Committee Stage began on that date, with Committee Stage continuing on 8th July.

Report and Final Stages were also taken on 8th July and the Bill passed with a vote of 48 Senators in favour and 4 against.

The full Bill, as initiated, the series of proposed amendments, the amended Bill, and links to the Dáil and Seanad debates on the Bill are all available on the Oireachtas website www.oireachtas.ie/viewdoc.asp?DocID=12249

The Seanad Final Stage Debates have been reproduced here from the Oireachtas record.

An Cathaoirleach: Owing to pressures of time, I will call only the Minister and lead speaker from each of the parties and the Independent group.



Dermot Ahern, T.D.

Minister for Justice and Law Reform
(Fianna Fáil)

As I am under time constraints, I appreciate the Cathaoirleach allowing me to speak and thank him and the staff of the Seanad. I also thank my staff who have been working with me on the Bill for a number of months. They have been excellent and available at all times and the job they have done is a credit to the public service. We heard a great deal about public servants having objections or otherwise to doing their public duty. I assure the House that in this instance we have been very well served. I

thank the Attorney General and the staff of his office who were also assiduous in the responses they provided, particularly given the constraints of time.

As I stated, both in this House and the other House, my party, before the previous general election, made a commitment to provide a legal framework for gay and lesbian couples. The preamble to this was a statement that it was to be done based on the republican ethos of our party and the equality agenda to which we are committed. These were significant words and this is a proud day for my party that we have been able to introduce this progressive legislation. I fully accept, however, that there are people inside and outside my party who may have difficulties with the Bill. That public representatives can argue their position without falling out with each other shows a sense of maturity. As I stated previously, I have good friends on the other side of this equation but we will remain friends following the enactment of the Bill.

...one thing we learned and I, as a heterosexual person, had not appreciated was that other people are directly affected by the lack of rights and duties available to gay and lesbian people. They include family members and friends who are affected as a result of the difficulties associated with a person coming out as gay or lesbian.

As I noted on Second Stage, one thing we learned and I, as a heterosexual person, had not appreciated was that other people are directly affected by the lack of rights and duties available to gay and lesbian people. They include family members and friends who are affected as a result of the difficulties associated with a person coming out as gay or lesbian.

This has been a good day's work for the Oireachtas and politics generally. I stated, to a certain extent jocosely, that I should examine my conscience. In my 23 years in Leinster House and especially in my 13 years as a Minister, I have not had so many people on all sides agreeing with me. I do not believe I have ever secured such a large majority in this House.

This has been a good day's work for the Oireachtas and politics generally. I stated, to a certain extent jocosely, that I should examine my conscience. In my 23 years in Leinster House and especially in my 13 years as a Minister, I have not had so many people on all sides agreeing with me. I do not believe I have ever secured such a large majority in this House. While I may have had frayed nerves on Committee

Stage, the speeches made on Second Stage were a credit to this House and public representatives of all political parties. In that respect, I pay due regard to the Fine Gael Party and Labour Party in both Houses, the other parties and the Independent Members of the Seanad. This is a good day for politics and I thank everyone for their forbearance in ensuring the Bill passed. I hope it will be signed into law by the President in due course. Go raibh maith agaibh.



Senator Eugene Regan

Seanad Spokesperson on Justice, Equality and Law Reform
(Fine Gael)

I welcome the enactment of this Bill. I have never worked so hard to get Government legislation through the House. As one can see, all Fine Gael Party Senators supported the Bill because it is the right thing to do. It is good legislation that is modelled on Fine Gael's policy document of 2004 which carved out the civil partnership approach to resolving this problem in a manner that does not trespass on the constitutional guarantees and protection for the family.

The Bill reflects changes in society, the extent of same-sex couple and cohabitee relationships and the acceptance by the vast majority that civil union relationships should be given legal recognition and protection. It is also an attempt to end the victimisation, discrimination and hostility which has been shown to the gay community over the years.

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We have had a good debate. It deteriorated at certain times and became a sham debate. It became taut because there is an issue of discrimination. The objective of the Bill was to end discrimination and we did not want to see any of that creep back into the Bill. I commend the work of the Department, the Minister and everyone who contributed to it. The input of the Independent Senators who have spoken and raised issues made for a good debate. It was too prolonged, but nevertheless valid issues were raised. The debate centred on the merits of those arguments more than on the personalities. I am very happy with the Bill and I am happy that we have fully supported it. It is legislation that reflects a more modern Ireland.



Senator David Norris
(Independent)

This is a truly historic day. I agree 100% with the Minister, Deputy Dermot Ahern, that we have done a good day's work. In fact it has been a good couple of days' work. I note with some pleasure the collaborative nature of our efforts. The Minister said it was a Fianna Fáil Bill. We then learned that it was modelled on a Fine Gael Bill. I do not think we should leave out the Green Party without whose pivotal involvement we might not have had the Bill at all. I also acknowledge the Labour Party which was second into the field because with my usual modesty I must point out that I put the first Civil Partnership Bill before this House.

I had intended and had signalled my intention to vote against the Bill, but after the extraordinary and dramatic developments of the past one and a half hours, I was left with absolutely no moral alternative to walking through the division lobbies with all my colleagues. I never thought in my dreams that I would walk shoulder to shoulder with almost the entire membership of Seanad Éireann into the division lobbies to vote for this kind of wonderful liberalising legislation.

As the Minister knows I had reservations. I was very concerned about the children. I very much welcome the clear and positive indications he has given that what we all agree is a lacuna in the Bill will be speedily addressed, to which I very much look

forward. I had intended and had signalled my intention to vote against the Bill, but after the extraordinary and dramatic developments of the past one and a half hours, I was left with absolutely no moral alternative to walking through the division lobbies with all my colleagues. I never thought in my dreams that I would walk shoulder to shoulder with almost the entire membership of Seanad Éireann into the division lobbies to vote for this kind of wonderful liberalising legislation.

I am proud that this day has come. It is a massive overwhelming victory. It is a victory, not for gay people nor for Fianna Fáil, Fine Gael, the Green Party, Labour or the Independents; it is a victory for decency and for this country.

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Senator Ivana Bacik
(Labour)

I add my voice to the voices of others very much welcoming the passage of the Bill. I thank the Minister and his officials who have worked so hard on the Bill. I ask the Minister not to get too used to such a big majority; it may not last. However, it was nice to be part of such a genuine consensus on the issue. I also thank the many non-governmental organisations and individuals, some of whom are in the Gallery now, who have worked for so many years to make this happen. It has been a long road to introduce this legislation. It is 17 years since the decriminalisation of homosexuality. Senator Norris and others have been working for many years on this legislation. A tribute must be paid to Senator Norris who introduced the first legislation on civil partnership, followed closely, of course, by the Labour Party with the two Bills introduced in the Dáil by Deputy Howlin in 2006 and 2007. All parties rightly support this legislation. It is a great day to see that we all support it.

Of course, the Labour Party has been critical of the legislation. We said it does not go far enough. In particular we were critical of the major omission of children and children's rights from the Bill. However, I was very heartened by what the Minister said last night in proposing a comprehensive review of children's rights in other legislation to come. We very much look forward to that. We are also very heartened by such a major shift in public opinion and such a vast majority in favour of the legislation as shown by the very small minority who sought to oppose it.

This is a day for celebration. We all look forward very much to the first civil partnership ceremony taking place in this jurisdiction and we see it very much as a stepping stone and a step forward towards true equality for gay people and all of us in society.

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Senator Lisa McDonald

Seanad Spokesperson for Equality and Law Reform
(Fianna Fáil)

On behalf of the Fianna Fáil Party, I acknowledge the wonderful work done by the Minister, his staff and the staff of the Houses of the Oireachtas. The Minister put considerable personal effort and thought into the Bill. It is ground-breaking legislation that will join him with people such as the wonderful Máire Geoghegan-Quinn who decriminalised homosexuality back in 1993. In years to come when we look back at ground-breaking legislation, the Minister, Deputy Dermot Ahern, will go down in the annals of history for his courage in bringing this Bill through the Houses today.

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The legislation gives rights to gay and lesbian people that they did not have yesterday, which gives grounds for celebration. I am delighted the mood has lifted in the Chamber. We had a very fraught Committee Stage and a very taut Report Stage. That is all about difference of opinion that must be respected, which is why we are here debating the legislation. The benefit of Seanad Éireann is that we get to air these views. It would be fair to say that if we did not have differences of opinion in politics, we would just be in the realms of public administration.

As politicians we need to lead. Today we have led the country the right way forward in progressive legislation that will only make people's lives better.

As politicians we need to lead. Today we have led the country the right way forward in progressive legislation that will only make people's lives better. When we talk about people's lives, we must acknowledge that gay and lesbian people now have rights that they did not have and also their families do not need to worry so much any more. Their mothers and fathers can relax. It is to be hoped they can enjoy their new-found rights and settle down to enjoy their lives. I hope it lifts much of the pressure that has been on them in the past 17 years since the decriminalisation of homosexuality as we moved towards this point today. The summer of 2010 has been a very historic time and I am delighted to be here today to welcome and to have supported the passage of the Bill through the House.



Senator Dan Boyle

Deputy Leader of Seanad Éireann
(Green Party)

I thank you, a Chathaoirligh, those who sat in the Chair on your behalf and the staff of the Seanad for their patience, forbearance and even-handedness. I especially thank the Minister for his stewardship of the Bill through both Houses of the Oireachtas. His name will rightly be associated with one of the most significant pieces of social legislation in this country, on which I congratulate him. I thank the Members of the House for conducting a debate full of passion and directing Ireland towards a future vision of all citizens being treated more equally.

I thank those who have waited so long for a day such as this, knowing that the Ireland to which we will wake up tomorrow will be a different Ireland.

I thank those who have waited so long for a day such as this, knowing that the Ireland to which we will wake up tomorrow will be a different Ireland. It will not have changed utterly, but it will have changed significantly. Our gay friends, our gay family members and other gay members of our community can now walk taller knowing there are rungs on a ladder that have yet to be clung to. I thank all Members for their co-operation in this debate.

[...]



Senator Jim Walsh
(Independent)

Obviously, we had concerns. We expressed concerns over marital status, siblings, freedom of conscience for people, and children. The step we took was done from our own genuine beliefs and we acted in accordance with those beliefs. People may criticise us for it and obviously we are getting messages from people who disagree and those who agree. It gave rise to a debate on issues of real importance as to the core values we have in our Republic.

I recognise that this is a very important day for those in the gay community who are in same-sex relationships. I know that the rights and entitlements which you will gain will give them opportunities in life when they commit to each other which I know they will value. While I have taken an opposing view on certain aspects of the Bill, I wish them everything I would wish for myself and my family.

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I thank the Minister and his officials who have been very helpful to us, as the three of us would acknowledge. We went through the Bill microscopically with the Minister. We might not have agreed on everything, but we have been friends for a long time and agreed a long time ago that our differences on the Bill would not cause a breach. I know he is anxious to get away and where he is going.

[...]



Senator Pearse Doherty
(Sinn Féin)

... I will be very brief. On behalf of my party, I thank the Minister for being here throughout Committee Stage to assist us during the debate which was historic. This is an emotional day for those who have campaigned long and hard. I have outlined my party's position on the Bill which does not go far enough. However, I recognise the rights it confers on the gay, lesbian and bisexual community.

Whoever the Bill belonged to, be it Fianna Fáil, Fine Gael, the Green Party or Independents Members, the reality is that as soon as the President puts her signature to it, it will be the people's.

Whoever the Bill belonged to, be it Fianna Fáil, Fine Gael, the Green Party or Independents Members, the reality is that as soon as the President puts her signature to it, it will be the people's. This is a great day on which to rejoice. I am glad to be voting the Bill through the Seanad. Only a very small minority has opposed it.

Question put and agreed to.

