

Debates in the lower house of the Irish Parliament on the ratification of the Treaty of Lisbon (21 October 2009)

Caption: After the Irish 'yes' vote to the Treaty of Lisbon, the ratification process for the treaty can continue. On 21 October 2009, the members of the lower house of the Irish Parliament vote on the treaty.

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<http://debates.oireachtas.ie/dail/2009/10/21/00009.asp> <http://debates.oireachtas.ie/dail/2009/10/21/00020.asp>.

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Dáil Eireann Debate

European Union Bill 2009: Second Stage.

Wednesday, 21 October 2009

Minister for Foreign Affairs (Deputy Micheál Martin): I move: “That the Bill be now read a Second Time.”

It is an honour for me to introduce this Bill. The purpose of the Bill is to amend the European Communities Act 1972 in order to give effect to the relevant provisions of the Lisbon treaty in the domestic law of the State, and to provide for related matters. The provisions necessary to enable the State to meet its obligations under the treaty must be enacted into domestic law before the treaty enters into force.

The people of Ireland voted by a majority of 67.1% to 32.9% on a turnout of 59% on 2 October to approve the proposal to amend the constitution in the 28th Amendment of the Constitution (Treaty of Lisbon) Bill 2009. That Bill has now been enacted, having been signed into law by the President on 15 October. On 8 October, this House approved the terms of the Treaty of Lisbon in accordance with the terms of Article 29.5.2° of the Constitution, and on 16 October the President signed the instrument of ratification. The ratification process will be complete when the instrument of ratification is deposited with the Italian Government, in accordance with Article 6 of the treaty, and the Government proposes to do so before the European Council which begins on 29 October.

At the European Council in December 2008, the Government committed itself to seeking ratification of the Treaty of Lisbon by the end of the term of the current European Commission. The Commission’s mandate expires at the end of this month. The treaty will enter into force on the first day of the month, following which all member states will have lodged their instruments of ratification with the Italian Government. Twenty five of the 27 member states have already completed the ratification process. Two countries are outstanding, namely, Ireland and the Czech Republic. If all instruments are lodged by the end of this month, the treaty would enter into force on 1 November.

When the treaty comes into force, the legally binding guarantees secured by the Government in June on taxation, the protection of the right to life, the family, education and Ireland’s traditional policy of military neutrality will also enter into force. The legally binding guarantees are in the form of a decision of the Heads of State or Government of the 27 member states of the European Union, meeting within the European Council. This decision will have the status of an international agreement. The decision, the solemn declaration on workers’ rights, social policy and other issues and the national declaration by Ireland on security policy have been annexed to the instrument of ratification which will be deposited with the Italian Government.

In addition, the legally binding decision will be registered with the United Nations when the treaty enters into force. The European Council also agreed in June that the decision, which deals with the legally binding guarantees on taxation, with the protection of the right to life, the family and education and with our traditional policy of military neutrality, will be annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union as a protocol, at the time of the next accession treaty. Protocols form an integral part of the treaties and in legal terms, they have treaty status.

On Friday, 2 October, the Irish people issued an emphatic confirmation of Ireland's European vocation. A total of 1,214,268 citizens voted in favour of the Lisbon treaty. No other European treaty has ever received as many votes in favour in an Irish referendum. The referendum result has given new momentum to Ireland's economic recovery and it will infuse the Union with renewed confidence in our ability to continue delivering for our citizens. The people of Ireland made a democratic decision on the Lisbon treaty. After a hard-fought referendum campaign with real engagement on all sides, and in which its merits were thoroughly debated, they decided overwhelmingly to approve the treaty. The fact that such an emphatic "Yes" vote was delivered underlines the commitment of the people to the European Union and also the determination of the Government and the main Opposition parties to maintain Ireland's position as a positive and constructive member state at the heart of the Union.

The legally-binding guarantees secured by the Government in June that addressed the Irish people's concerns on taxation, ethical questions and our traditional policy of military neutrality, taken together with the new commitment on the Commissioner and the solemn declaration on workers' rights, were crucial to the outcome. The European Union delivered for Ireland in June and the people endorsed the new package. The Union works best when it listens to and accommodates the concerns of individual member states. I am grateful to our European colleagues for their positive and constructive response to the Irish people's concerns. The Government worked hard to explain the treaty and to demonstrate to voters that the concerns expressed last year were comprehensively addressed. However, I want to acknowledge that the referendum success was the result of a collective effort involving almost all members of this House, trade unions, employers, farming organisations and a wide cross section of civic society representing all generations. I want to put on record my appreciation for the tremendous work during the campaign by all concerned.

It would be remiss of me not to acknowledge here the work of the Sub-Committee on Ireland's Future in the European Union. The work of the sub-committee and the sub-committee's recommendations were key elements in the strategy which brought us to the fortunate position we are in today. I believe that the Lisbon treaty will help bring clarity to the direction and workings of the Union and should also help address the democratic deficit many people have identified.

Before I turn to the Bill itself, it is worth recalling in brief the main provisions of the Lisbon treaty. The foundations of European Union stretch back to the European Coal and Steel Community, established almost 60 years ago. Ireland joined the process in 1973. The Union is made up of 27 member states and operates on the basis of an agreed set of rules, which are the EU treaties. These are the basic legal documents of the Union. Changes to these treaties have been agreed by the member states from time to time to update them to meet Europe's changing needs. The Lisbon treaty is the latest proposed update of the European Union's operating rules. It was signed by the Heads of State and Government of the European Union in December 2007.

The treaty sets out the nature of the European Union, its objectives and values. It states that the Union's aims are to promote peace and the well-being of its peoples. The treaty states that the Union can act only within the limits of the competences given to it by the member states. It proposes some changes to the operation of the Union's institutions. These include the European Parliament, the body directly elected by citizens that makes laws for the Union, the Council of Ministers, made up of the representatives of member state governments, and the European Commission, a body with one person from each member state, which proposes draft EU laws. The Lisbon treaty also gives formal institutional status to the European Council, which brings together the Heads of State and Government of the member states. The treaty also simplifies the Union's structures and operation, something that I will explain later.

The treaty proposes new competences for the Union in areas such as energy, tourism, sport and humanitarian assistance. The treaty also proposes to make the Charter of Fundamental Rights a part

of EU law. The charter sets out the fundamental rights — including workers' rights — of European citizens. It will oblige the Union, when implementing its policies and activities, to take into account the promotion of a high level of employment and the guarantee of adequate social protection. It will give a new role to national Parliaments, including Oireachtas Éireann, in the European law-making process. The treaty will give more responsibility to the directly-elected European Parliament. It will streamline the voting system under which some future EU decisions will be taken and make EU decision-making easier in the fight against cross-border crime.

The treaty will make specific provision for the first time for EU action to combat climate change, which is one of today's major global challenges. It will give the Union a greater capacity to prevent and resolve conflicts in other parts of the world by providing for the appointment of a full-time president of the European Council and for a new high representative for foreign affairs and security policy, whose responsibility will be to give the Union a clearer voice in international affairs.

When the people voted at the beginning of the month, they affirmed Ireland's commitment to the European Union within which the member states of that Union work together to promote peace, shared values and the well-being of their peoples. The Lisbon treaty is the culmination of a process which began nearly ten years ago when the Heads of State and Government of the 27 member states declared that the Union needed to come closer to its citizens and become more responsive to their needs and expectations.

The European Union Bill 2009 will give effect to the relevant provisions of the treaty in Irish law and in so doing, will ensure that the Union can work with the member states to promote the well-being of the people and to respond to their needs and expectations. The Bill is necessary to amend the European Communities Act 1972 in order to give effect to the relevant provisions of the treaty in the domestic law of the State, and to provide for related matters. The content of the Bill is in line with earlier amendments of the European Communities Act 1972, through which provisions of previous EU treaties have been given domestic legal effect. The Bill also takes account of the fact that the treaty confers explicit legal personality on the European Union and makes certain institutional and terminological changes. The Bill provides for the conferral of the new powers on the Houses of the Oireachtas under the terms of the treaty which I mentioned earlier. In addition, the Bill provides for the continuation in domestic law of certain statutory instruments giving effect to EU directives, regulations or decisions.

The Bill is relatively short, containing only nine sections, most of them technical in nature. Section 1 provides that the "Act of 1972" means the European Communities Act 1972, that "European Union" and "treaties governing the European Union" have the same meaning as they have in the 1972 Act and that "Minister" means the Minister for Foreign Affairs. Section 2 then goes on to insert into section 1 of the 1972 Act definitions of "European Union" the "Lisbon treaty" and "treaties governing the European Union". These are the Treaty on European Union, the Treaty on the Functioning of the European Union, the Lisbon treaty and the treaties currently governing the European Communities, excluding provisions of the EU's common foreign and security policy, in respect of which the Court of Justice of the European Union will not have jurisdiction.

Section 3 amends section 2 of the Act of 1972, which sets out the EU legal instruments that are binding on the State and part of domestic law. It provides that once the Lisbon treaty enters into force the treaties governing the European Union, the acts of the institutions of the European Communities in force prior to the entry into force of the Lisbon treaty, the acts of the institutions of the European Union and acts of bodies competent under the treaties shall be binding on the State and part of domestic law, with the exception of the non-justiciable acts adopted under the provisions relating to the EU's common foreign and security policy in respect of which the Court of Justice of the European Union will not have jurisdiction.

Under the existing treaties, there are three broad areas or “pillars” of EU activity. The first area broadly covers economic and social policy. The second area relates to the common foreign and security policy and the third covers justice and home affairs. The Lisbon treaty provides for a European Union with explicit legal personality that will replace the European Community established by the Treaty of Rome and the old Union established by the Treaty of Maastricht.

Since the Treaty of Maastricht, the situation in Ireland has been that only those elements that relate to the European Communities or were otherwise justiciable before the European Court of Justice should form part of the domestic law of the State. Therefore, the inter-governmental second and third pillars were excluded. The confusing distinctions between the European Community and the European Union are to be abolished by the Lisbon treaty. The three pillars will be merged, but special arrangements will continue to apply in the case of the common foreign and security policy. There will be limited involvement by the European Parliament, the European Commission and the ECJ in this area. In line with our existing practice, the provisions of the Lisbon treaty in this area are not being brought by the Bill into domestic law, except where the ECJ will have power with regard to persons, bodies or companies that are subject to EU sanctions — a welcome innovation introduced by the Lisbon treaty — or in respect of the boundary between the common foreign and security policy and other areas of Union competence. As the Lisbon treaty provides for a European Union with an explicit legal personality, which will replace the current European Community, section 3 provides that Acts of the current Communities will be carried over and remain valid in the new arrangements. The European Atomic Energy Community is legally distinct from the European Community and European Union, although they are served by common institutions. The treaty establishing the European Atomic Energy Community, the EURATOM treaty, will survive the entry into force of the Lisbon treaty. It comes within the definition in section 3 of treaties which will be binding on the State and part of Irish law when the Lisbon treaty enters into force. Ireland, along with Germany, Austria, Hungary and Sweden, made a declaration annexed to the final Act of the 2007 Inter-Governmental Conference noting that the core provisions of the EURATOM treaty have not been substantially amended since its entry into force and need to be brought up to date. The Government continues to favour an extensive review of the EURATOM treaty, leading to a significant updating of its provisions.

Section 4 of the Bill amends section 3 of the European Communities Act 1972 by updating the references to treaties and acts of the EU in respect of which it is permissible in implementing regulations to provide for indictable offences. There is no substantive change in this area.

Deputy Joe Costello: They should not be there in the first place.

Deputy Micheál Martin: I know, but they are there. Section 5(1) provides that references in enactments other than the Bill and the 1972 Act to the European Communities shall be construed as including references to the European Union. Section 5(2) provides that references to the treaties governing the European Communities shall be construed as references to the treaties governing the European Union. Section 5(3) provides that references in any enactment to the treaty establishing the European Economic Community or the treaty establishing the European Community shall be construed as references to the treaty on the functioning of the European Union. This takes account of a provision in the Lisbon treaty to the effect that the Treaty of Rome, which is currently formally called the treaty establishing the European Community and prior to Maastricht was called the treaty establishing the European Economic Community, will henceforth be called the treaty on the functioning of the European Union. Is that clear? Section 5(4) provides that “enactment” shall include a statutory instrument.

Section 6 of the Bill amends section 1 of the European Union (Scrutiny) Act 2002 by updating the definition of “measure” to take account of terminological changes consequent on the entry into force of the Lisbon treaty. The change in title of the Treaty of Rome has been reflected in paragraph

(a). Paragraph (b) reflects the fact that the different types of legal instruments used in the existing second pillar — joint actions and common positions — are replaced by a joint legal act used across all areas of the Union’s activities, to be known as a “decision”. Accordingly, a “joint action adopted under Article 14 of the Treaty on European Union” and a “common position adopted under Article 15 of the Treaty on European Union” will become a “decision adopted under Article 28 or 29 of the Treaty on European Union.” Paragraph (c) reflects the fact that the constitutional amendment facilitating the ratification of the Lisbon treaty has simplified and updated the provisions of the Constitution relating to our membership of the Union, by replacing the wording in the 2002 Act, which refers to “a measure requiring the prior approval of both Houses of the Oireachtas pursuant to Article 29.4.6° of the Constitution” with a new wording, which refers to “an act requiring the prior approval of both Houses of the Oireachtas pursuant to subsection 7° or 8° of Article 29.4 of the Constitution”. These are the provisions in the Constitution which require the prior approval of both Houses of the Oireachtas to be obtained before the State can participate in certain EU measures, including acts adopted under the area of freedom, security and justice.

Section 7(1) of the Bill provides for the operation of the new powers of the Houses of the Oireachtas under the terms of the treaty. These powers will allow either of the Houses, by means of a resolution, to object to a proposal to move from unanimity to qualified majority voting in the Council of Ministers, or a move from a special legislative procedure to the ordinary legislative procedure provided for under Article 48.7 of the Treaty on European Union, as amended by the Lisbon treaty. This is the so-called general passerelle, or bridging, clause. The ordinary legislative procedure involves an equal decision-making role for the Council of Ministers and the European Parliament in the adoption of regulations, directives and decisions. It requires the Council to operate by qualified majority and the Parliament to operate by a simple majority of those voting. However, if unanimity is required in the Council, or the Parliament has a lesser role in the decision making process, this is known as a special legislative procedure. Section 7(1) complements the provisions of the new Article 29.4.8° of the Constitution, which requires the prior approval of the Houses of the Oireachtas before the State can agree to any change under Article 48.7 of the Treaty on European Union. Such agreement would, de facto, be expressed by the Taoiseach on behalf of the State at a meeting of the European Council.

Section 7(2) of the Bill provides for a similar power with respect to a proposal to move to the ordinary legislative procedure in relation to family law matters with cross-border implications under Article 81.3 of the treaty on the functioning of the European Union. The prior approval of the Houses of the Oireachtas is required in this area under Article 29.4.8° of the Constitution. As this matter falls within the area of freedom, security and justice, the prior approval of both Houses of the Oireachtas would be also required under the new Article 29.4.7° of the Constitution in accordance with Ireland’s opt-in arrangement under Protocol No. 21 to the treaties.

The veto mechanism provided for in sections 7(1) and 7(2) of the Bill is known colloquially as the “red card.” Article 6 of Protocol No. 2 to the treaties on the application of the principles of subsidiarity and proportionality provides that if at least one third of national parliaments in the European Union issue reasoned opinions on a draft legislative act’s non-compliance with the principle of subsidiarity, the draft must be reviewed. The threshold is one quarter in the case of draft legislative acts submitted in the area of freedom, security and justice. The institution proposing the legislative act, which is normally the Commission, may decide to maintain, amend or withdraw the act. It must give reasons for such a decision. This mechanism is known as the “yellow card.” If the draft legislative act is made under the ordinary legislative procedure, and if a simple majority of national parliaments issue reasoned opinions on non-compliance with the principle of subsidiarity, the Commission must justify any decision to maintain the proposal in a reasoned opinion submitted to the Council and the European Parliament. This procedure is known as the “orange card.” The principle of subsidiarity means that in areas where the member states and the European Union share a competence, action may be taken only at Union level where this is deemed likely to be more

effective than action taken at national or regional level. The mechanism for the exercise of the “yellow card” and the “orange card” is the same and is provided for in section 7(3), which states that either House may issue a reasoned opinion on whether EU legislative proposals comply with the principles of subsidiarity in accordance with Article 6 of Protocol No. 2. The consequence of an orange card, rather than a yellow card, is more stringent. If the Commission wishes to proceed with its proposal, the European Parliament and the Council of Ministers are obliged to consider both the opinions of the national parliaments and the Commission’s justification before deciding to proceed with or terminate their consideration of the proposal.

Section 7(4) of the Bill covers acts, rather than draft legislative acts, of an institution of the European Union. It provides that if either of the Houses of the Oireachtas gives a reasoned opinion to the Minister for Foreign Affairs that an act of the EU institutions infringes the principle of subsidiarity, the Minister shall arrange for proceedings seeking a review of the act concerned to be brought in the Court of Justice of the European Union in accordance with Article 8 of Protocol No. 2. Section 7 will form the basis for the new role of the Houses of the Oireachtas in the European law-making process. This new role is proof, if it were needed, that the Lisbon treaty will make the Union more, not less, democratic. It is not proposed to make provision in this legislation for broader questions, such as Oireachtas scrutiny of draft European Union legislation or the transposition of directives. The Government is of the view that it would not be possible to deal with these issues adequately within the tight timeframe available. It accepts that these issues will need to be dealt with at a later stage, when it has had time for a proper consultation process.

Section 8 deals with the implementation in Irish law of EU codification directives, which are a relatively new phenomena. Such directives repeal pre-existing directives in a particular subject matter and consolidate them with a view to making the EU legal system more transparent and easier to understand. This process mirrors the steps being taken at domestic level to consolidate the Statute Book. Section 8 provides that statutory instruments giving effect in domestic law to acts of the EU institutions, which have been repealed and replaced by codifying acts of such institutions that do not materially modify the rights or obligations conferred by the repealed acts, will have effect as if they had been made for the purpose of giving effect to the codifying acts concerned. The provision is confined to EU codification directives which do not change existing law. The Government is committed to mirroring at domestic level the simplification being carried out by the EU. Therefore, Departments, as a matter of policy, will be expected to prepare codifying statutory instruments to ensure transparency. This technical provision will avoid the possibility of opening up lacunae in the enforcement of our EU obligations, pending the making of such statutory instruments.

The effect of section 9 is that section 8 on EU codification directives will come into force on the enactment of this Bill, but the rest of the provisions will not come into force until I sign a commencement order, which I will do as soon as the date of entry into force of the treaty becomes clear. The Act must come into effect on the same date as the treaty enters into force. As I have said, this could be as early as next week.

These are the provisions of the Bill. Now that the entry into force of the treaty is within sight, I would like to indicate to the House some of the next steps as we move towards implementation. In his statement on the outcome of the referendum, the Taoiseach stated:

The European Union is shaped by its peoples and nations to serve its peoples and nations. Today’s vote is a declaration of intent by the people of Ireland to remain at the heart of Europe, where our future belongs.

With that in mind, the Government is committed to pushing for the early adoption at EU level of the necessary procedures and conditions necessary for the citizens’ initiative provided for by the treaty and the Government will take any steps at domestic level that might be necessary on foot of this.

Deputies will recall that, under the new citizens' initiative, at least 1 million citizens who are nationals of a significant number of member states will be able to invite the Commission to submit proposals on a matter within its competence. This is an important and welcome development under the treaty and putting it into place is a priority for the Government.

If there is sufficient clarity in the coming days on the intentions of the President of the Czech Republic, the European Council will discuss institutional issues, including the implementation of the treaty. Consideration will have to be given to two new high-level appointments, namely the President of the European Council and the High Representative of the Union for Foreign Affairs and Security Policy. In addition, the Irish member of the European Commission will need to be appointed and the Government is currently considering this.

After intensive contacts and negotiations, the European Council in December 2008 defined a path to allow the treaty to enter into force by the end of 2009. The Council agreed that, provided the treaty enters into force, a decision will be taken to the effect that the Commission will continue to include one national per member state. This represented a clear and positive response to a key concern that arose in last year's referendum.

Once the Lisbon treaty enters into force, we will be sure to have an Irish Commissioner at the Commission table. However, if the ratification process is not completed and the Nice treaty remains in force, the size of the Commission will be reduced and no country, including Ireland, can be guaranteed a place at the table indefinitely.

The Lisbon treaty will simplify and stabilise the Union's external representation. One of the key elements in this area is the establishment under the treaty of two important new positions which are relevant to the foreign policy area. The European Council brings together the Heads of State or Heads of Government of the 27 member states and it defines the Union's general political direction and guidelines for the common foreign and security policy. Within these guidelines, the Council of Ministers adopts decisions on actions and positions to be taken by the Union, and any necessary implementation arrangements.

The President of the European Council will hold office for a two-and-a-half-year period and may be re-elected once. The President will chair the European Council and drive forward its work. His or her role is not confined to external relations but, on the external front, he or she will represent the Union in foreign policy matters at Head of State or Head of Government level.

The High Representative of the Union for Foreign Affairs and Security Policy will chair meetings of Foreign Ministers and represent the Union generally in the foreign and security policy area. This new post will improve the interaction and coherence between the Council and the Commission in that the high representative will be also a vice-president of the Commission with responsibility for external relations. The high representative will be able to make proposals on the common foreign and security policy and elaborate the Union's external action on the basis of the strategic guidelines laid down by the European Council.

In representing the Union externally, the high representative will play a key role, for example, in political dialogue with third countries and at international conferences and in international organisations. He or she will be assisted — this is a considerable innovation — by a European external action service which will have a presence in both Brussels and third countries. The European external action service will include staff seconded from national diplomatic services of the member states in addition to officials currently serving in the Commission and General Secretariat of the Council. Implementation of the treaty's provisions on the European external action service will be discussed at the European Council next week and consideration is under way in my Department of the proposed structure of the service and on optimising the Irish profile within

it.

More generally, the Government is looking at a renewed strategy for engagement with the European Union with a view to maximising Ireland's influence on EU laws and policies. This strategy will include support for the employment of Irish personnel in EU institutions and bodies.

The Lisbon treaty puts the European Defence Agency, which was established during the Irish Presidency in 2004, on a treaty basis for the first time. The purpose of the agency is to assist and support the member states to develop the necessary capabilities to undertake peace support and crisis management operations.

Participation in specific European Defence Agency projects is entirely voluntary and is for national decision on a case-by-case basis. The legally binding guarantee on our traditional policy of military neutrality secured by Ireland in June provides that it is a matter for each member state to decide, in accordance with the provisions of the treaty and any domestic legal requirements, whether to participate in the European Defence Agency.

The Defence (Miscellaneous Provisions) Bill 2009, which was published last month and brought before the House by my colleague the Minister for Defence last week, makes it clear that Irish participation in European Defence Agency programmes will be subject to the prior approval of both the Government and Dáil Éireann. It also provides that the Government will not approve participation unless it is satisfied that such participation would contribute to the enhancement of capabilities for UN-mandated missions in peace-keeping, conflict prevention or the strengthening of international security in accordance with the principles of the Charter of the United Nations. Similar conditions pertain to any possible participation by Ireland in permanent structured co-operation.

I hope that, with the passage of this Bill, we will be able to turn a page and move on from protracted discussions on institutional issues and focus our efforts on issues of direct consequence and relevance to the citizens of the Union. I have in mind issues such as climate change, energy security and the global economic crisis. The Lisbon treaty gives the Union the tools it needs to tackle big-ticket issues such as these, issues that are beyond the scope and competence of Ireland alone. EU membership continues to be vital to our future and ratification of the Lisbon treaty represents an important step we can take on the road to national recovery.

I recall what Mr. Jack Lynch said in April 1972, namely, that the decision to be taken in our referendum on European Economic Community membership in the future "would be recorded either as an unprecedented opportunity which we choose to grasp with incalculable gain or which we choose to throw away with irreparable loss".

The decision taken by the people at the beginning of this month to ratify the treaty of Lisbon and to renew our commitment to the European Union was the right decision and it was of comparable significance to the sovereign decision taken by the people, almost half a century ago, on the eve of our accession to the then European Economic Community. The Bill before us gives effect to the wishes of the people, as expressed on 2 October. I look forward to today's debate and commend the Bill to the House.

Deputy Billy Timmins: I wish to share my time with Deputy Pat Breen.

Acting Chairman (Deputy Noel O'Flynn): Is that agreed? Agreed.

Deputy Billy Timmins: Fine Gael welcomes the publication of this Bill and the debate thereon. We support it wholeheartedly. Having listened to the Minister's contribution, I can understand how the public finds it so difficult to engage with EU issues. So many of the issues are technical, but my saying so is no reflection on the Minister.

The European Union Bill 2009 fulfils the requirement to give domestic effect to the Lisbon treaty. It is mainly an administrative measure and is similar to the legislative instruments passed in the aftermath of the Nice treaty ratification in 2006. The Bill provides for a number of measures independent of giving domestic effect to the treaty, including providing the mechanism for increased parliamentary oversight of European affairs provided for in the treaty and the mechanism designed to allow statutory instruments implementing EU measures to have continued effect where a measure has been repealed and replaced.

1 o'clock

The process for adopting EU treaties into the Irish legal order has two distinct strands, international ratification and domestic integration. The objective of sections 2 and 3 of the European Union Bill 2009 is to update the European Communities Act 1972 to take account of the State's ratification of the Lisbon treaty. An identical procedure was followed in the wake of the ratification of the Maastricht, Amsterdam and Nice treaties. The only difference in this case is that the European Union now has legal personality. In other words, it will be the subject of international law after the ratification of the Lisbon treaty. There is a slight difference in terminology in this instance. The Bill refers to the European Union established by virtue of the Lisbon treaty and the European Atomic Energy Community throughout.

The key part of the Bill implies that the European Communities Act 1972 is updated so both the foundational treaties and the Acts of the institutions shall be binding on the State and be part of the domestic law thereof. This part of the Bill therefore completes the integration of the Lisbon treaty into the domestic legal order.

Section 4 makes a technical amendment to the European Communities Act 1972. Section 3 of that Act had originally provided authorisation to Ministers to make regulations deemed necessary to give full effect to the adoption of European law into the domestic law of the State. However, the original section precluded Ministers from introducing indictable offences by way of this secondary legislative regime. Section 4, like section 2 of the European Communities Act 2007, will allow any Minister to create an indictable offence by regulation if he or she feels the State's European obligations require the creation of the offence. I ask the Minister to clarify this matter when he replies to this debate.

Section 6 updates the definition of "measure". Section 7 deals with the role of the Oireachtas. Advocates of the Lisbon treaty argued that one of the benefits of the treaty was its promotion of parliamentary oversight at member state level. In principle the treaty of Lisbon provides for three types of procedure according to which the treaties may be amended: the ordinary revision procedure; the simplified revision procedure; and what is known as the passerelle, or bridging, procedure, which the Minister dealt with extensively in his speech.

Section 8 provides that statutory instruments that give effect in domestic law to Acts of the EU institutions that have been repealed and replaced by codifying Acts shall have effect as if they had been made for the purpose of giving effect to those codifying Acts. The section does not apply to primary legislation and only applies where no substantive change in the law has been made. Although substantially similar effects have been achieved in domestic legislation previously, owing to the European dimension, this is a unique provision in this Act.

Fine Gael welcomes this legislation. I thank the Minister for his Department's co-operation with Fine Gael and for the consultative meetings we had with him and the Taoiseach in the lead-up to the referendum campaign. I think it is no exaggeration to say that no one wants to hear the name Lisbon again.

Deputy Micheál Martin: Unless we are going there on holidays.

Deputy Billy Timmins: That would be subject to a freedom of information request.

Lessons can be learned from the first Lisbon referendum campaign. We should have learned them from the Nice referendum campaigns. Many people had legitimate concerns. Nevertheless, it is probable that more people — although not the largest percentage — voted for the Lisbon treaty than any other EU treaty. All of the political establishment, Government and Opposition, were blasé. We knew we had got things wrong in the Nice referendum but we assumed people would vote “Yes” because Irish people have a positive and strong sentiment about our involvement in Europe. They realise that Europe has been good for Ireland, economically and socially. Most of our progressive legislation has emanated from Brussels. The financial support we received in the 1970s, 1980s and early 1990s helped us to create the infrastructure which assisted in the creation of the Celtic tiger. Today, emergency funding, stimulus packages and access to funding from the European Central Bank all benefit the country.

The Oireachtas sub-committee which was established after the first Lisbon referendum based its sittings on the findings of the Milward Brown research. That research, while not inaccurate in the issues it raised, did not fully reflect the broader view of two aspects of the vote. First, people did not understand what Europe was about and, second, they did not know where Europe is going. One of our weaknesses is that no one can say where the European train will stop. My own view is that Lisbon is the final stop, with the exception of some enlargements. Institutional reform has taken place. There was always a fear of creeping federalisation and of a united states of Europe, which was never going to be the case and never will be. I do not believe there is the will or desire in Europe to create such a bloc. The only desire is to pool sovereignty where it is beneficial to everyone concerned.

The EU is probably the greatest example of a democratic institution on the planet. It is much more democratic than the Oireachtas, which is very undemocratic. Deputy Breen and I have been in opposition for a number of years, although this will, I hope, change. Even Deputies on the Government side of the House have very little input into legislation. This is evidenced by reports of last night’s meeting of the Fianna Fáil parliamentary party, where many members favoured a particular course of action while the Minister decided on another. We must be more democratic, regardless of what side of the House one is on. Many good suggestions have come from Fine Gael, Labour and other parties but they are never adopted. One side does not have a monopoly of wisdom. We must look at amending our system so that everyone can have an input. The Oireachtas appears to consist of the Government and nothing else. People become detached from the process:

Full many a flower is born to blush unseen,

And waste its sweetness on the desert air.

I am sure the Minister, Deputy Martin, remembers that from his teaching days in Cork. People become weary making good suggestions because none is adopted.

Europe has been good for Ireland and I am glad the Minister has made a commitment to look at EU directives. One of my parliamentary colleagues expressed his concern to me at this weakness. We cannot simply leave the Lisbon debate and move on. We must engage with people continually and see how we can make them more involved.

I am glad to hear the Minister is committed to developing the citizens’ initiative. When Fine Gael planned our recent referendum campaign, we looked at the weaknesses in the Lisbon treaty. We wondered how to explain the citizens’ initiative and we were relieved that the “No” side did not

home in on it. There is no structure to it or definition of how it will be done. Will it be possible to gather one million signatures or e-mails? Based on the number of e-mails Fine Gael received regarding the Government's NAMA proposals, it may not be too difficult.

Deputy Micheál Martin: Deputy Roche is constantly developing and expanding his capacity to receive e-mails.

Deputy Billy Timmins: The citizens' initiative must be made simple. It appears to me that it will be difficult for it to achieve a simple measure. I am glad to see the Minister intends to work on it.

Many objections to the Lisbon treaty were legitimate and based on real concerns. Others were based on misconceptions about neutrality, social and ethical issues and loss of control. Those arguments have been made over the past 35 years. They have not come to fruition and never will. It is easy to play on the public's emotional fears. I listened to Senator Rónán Mullen this morning as he pointed the finger at the "Yes" campaign as well as at the "No" campaign. There may be some truth in what he said. Some concepts were difficult to sell. Enhancing the role of national parliaments is one of the main measures of the Bill. The public climate for enhancing the role of national parliaments is not favourable and that was not a strong selling point. Many people want to pull down the national parliament, they are so annoyed at how things have gone.

Deputy Dick Roche: There is one on Deputy Timmins's side with a view about the national parliament.

Deputy Billy Timmins: Yes, we are in the process of pulling down one side of it. During the campaign, we felt it was important to deal with what the treaty could achieve rather than its content. During the first referendum campaign we spent much time reflecting on and explaining the content of the treaty. People were not interested in that and found it hard to digest its difficult terminology. If the role of the national parliament is to be enhanced, it may be necessary to amend Standing Orders so that the procedures to be put in place can be seen. Let us keep it simple and provide a mechanism whereby the role of the national parliament can be enhanced. We do not want to stand here in three or four years time, wondering at various measures which passed into law without scrutiny because the Oireachtas knew nothing about them. We can no longer blame the Minister for a directive, such as the water directive, because the parliament will have the power to examine them. It behoves Members of the Oireachtas to pay more attention to what is going on.

Let me return to the question of using inaccurate information to play on the voters' emotions. I often wondered during the campaign whether there would be merit in setting up an electoral commission to consider the conduct of election campaigns and to produce a report on them. That is currently being examined by the Government and the Standards in Public Office Commission. While one battle might be won there will be other battles in the future. It is important that the public would know about the credibility of the various groups that participate in a campaign. Some of the information that was disseminated about the minimum wage was outrageous. Many people still probably hold such information to be valid. It is important that an independent body would pass judgment on campaigns. I include all sides; the "Yes" side, Fine Gael, Fianna Fáil and the Labour Party should all be subject to the same criteria. One can ask how accurate were the claims we made. The next time something is on the horizon people would be able to note what certain groups had said in the past. That would give rise to more responsible campaigning by all groups. We should examine that matter.

In the past year a great deal was written about the Lisbon treaty and I am sure members of the Government were confronted with that every time they went to Europe, but at the end of the day the issue went through silently. It slipped through with no great celebration or homecoming with a cup. We are very supportive of the legislation.

I alluded previously to section 4, which specifies that the Minister can create indictable offences by secondary legislation. Will he refer to that in his reply? When the European Communities Act 2007 was introduced, reservations were expressed by some speakers.

Deputy Micheál Martin: That issue was dealt with then and this provision is to update the position.

Deputy Billy Timmins: Is this legislation to bring that up to date?

Deputy Micheál Martin: Yes.

Deputy Billy Timmins: The 1972 Act was updated by the 2007 legislation and this will do the same with the 2007 Act.

Deputy Micheál Martin: That is correct. It is nothing more or less than that. People who took certain positions in 2007 can hold them today also.

Deputy Pat Breen: I thank my colleague, Deputy Timmins, for sharing time with me. As he and the Minister indicated, the Bill fulfils the legislative requirement to give domestic effect to the Lisbon treaty. It is primarily an administrative measure and is broadly similar to the legislative instruments passed in the immediate aftermath of the Nice treaty ratification in 2006.

The Bill also provides for a number of other measures independent of giving domestic effect to the treaty. Given the short timescales involved some minor provisions and sections are not discussed. Rather, the Bill's digest discusses the Bill around three principal themes. The first is to give domestic effect to the Lisbon treaty. We need the treaty to reform the institutions of the European Union. When the European Union was formed in 1957 there were six member states. It is obvious that a Union of 26 countries would require changes.

The European Union, then EEC, was set up following the Second World War. After the events of 11 September 2001 it was evident that the European Union would have a responsibility to fight against injustice and to ensure that global matters were settled peacefully rather than through war. The European Union decided that it was time that the then 25 member states would stand together on a global stage and be part of world events. The Union involves 500 million people working closely together in all areas, not just to maintain peace but also on economic matters. It is important that we have an ability to play a leading role in the new world order.

During the referendum campaign I used the analogy of a club to explain why we needed to ratify the treaty. No club of 27 people would agree on a single issue. Differences in language and culture also play a part. In any club one must have rules and regulations. The resounding support for the treaty on this occasion was in stark contrast to the situation of one year ago. One wonders if the Celtic tiger had continued whether the people of Ireland would have given a resounding "Yes" on this occasion also. Perhaps it was the reality of the recession that brought people to their senses and convinced them of how important Europe is to this country, how much it meant to us and how much we have got from it since we joined in the 1970s.

On this occasion the people gave a resounding "Yes" to the treaty. A total of 67.1% of people voted for it compared to 32.9% against. That is very different from the previous occasion when the "No" vote won by 53.4% to 46.6%. My own constituency of Clare played an important role in both campaigns. On both occasions we gave a resounding "Yes" to the treaty. In the second referendum on 2 October last the "Yes" vote increased. All parties played an important role during the campaign.

The referendum generated significant media interest in this country during the first week in

October. There were 560 TV, radio and print journalists; not only from other EU countries but from as far away as China and Japan. Anyone with satellite television who watched it on 2 October could see that this country was at the forefront of the news on Euronews, France 24, al-Jazeera and others. They were camped outside awaiting the result. They did not have to wait for too long as the results came in early on Saturday morning. It was clear from early on that this country was going to endorse the Lisbon treaty on this occasion. I was at the count in Ennis where the tallymen got the correct result early on.

When canvassing on this occasion I found that people had a far clearer understanding of what is involved in the treaty. The political parties on the “Yes” side ran a very effective campaign second time around. I congratulate all those involved in the “Yes” campaign on how it was conducted. We canvassed at supermarkets and door to door. People were angry with the Government’s mismanagement of the economy but they put that aside on this occasion because they felt that Europe was so important in helping us to get out of the recession. That shows how intelligent the electorate is and that people have a clear understanding of what is happening. A good campaign was run in the media also. It was a victory for democracy. Deputy Timmins was the Fine Gael director of elections. We played an important role in the campaign. The Minister, Deputy Martin, has acknowledged the role played by Opposition parties. We distributed over 1 million pieces of literature, held 40 meetings around the country, put up 25,000 posters and our party leader travelled more than 6,000 km and visited almost every constituency to promote a “Yes” vote.

The reason there was a substantial swing was partly due to the greater role played by the political parties. However, the legal guarantees that were negotiated by the Taoiseach and Minister and his team in Brussels were very important. Deputy Timmins referred to that and the Millward Brown research poll. Issues such as the retention of our EU Commissioner, the right to life and the fears that people had on the previous occasion that Irish people could be conscripted into an EU army were dispelled. We focused more on the positive aspects of the treaty. We all remember that in the previous referendum the “No” side depicted certain issues but on this occasion they did not succeed in convincing the people. The people we met at the doorsteps understood that the guarantees we secured in regard to Ireland’s position were important.

The deterioration in our finances did not reflect a rejection in terms of the outcome even though more than 423,000 people are now unemployed. People understood that we cannot get out of this mess on our own, that we need Europe and to be at the heart of the Union.

The Declan Ganley factor in the campaign was important. He said he would not get involved in a second referendum following his failure to get elected in the European elections but then he became involved in the “No” side of the campaign at a late stage. The business people who got involved in the “Yes” side of the campaign played an important role. Love him or loathe him, the debate with Michael O’Leary on “Prime Time” was also an important factor. As a successful businessman, he, as well as others, came forward in support of the “Yes” side of the campaign. However, Mr. Ganley’s entry into the race backfired on this occasion.

The “Yes” side was very organised. All sections of society including business people, trade unions such as SIPTU, former taoisigh, particularly a former Taoiseach and former leader of our party, Garret FitzGerald, played an important role on this occasion. That must be acknowledged. The fact that Garret FitzGerald, who is in his eighties and is still actively interested in the European project, shows his commitment to the European ideals.

There are lessons to be learned from the campaign. All political parties can learn lessons from the negative campaigning that took place. The “No” poster claiming that Ireland’s minimum wage would be reduced to €1.84 per hour if the treaty was passed backfired. Such negative posters did not have a huge impact on the campaign on this occasion. I found that young people I met at the

doorsteps were the only people who were concerned about that issue. However, that negative campaigning did not have an impact on the outcome.

We must also examine the reason almost 33% of people voted “No” in the referendum. We need to ask why the people in the two Donegal constituencies voted “No”. What factors were different between Donegal and the other counties? People reflected on issues such as unemployment, the banking crisis and local issues.

The reality is that this treaty is good for Ireland. It is important that the EU is brought closer to the people. Proposed EU legislation will now be dealt with in the Houses of the Oireachtas, which we as legislators very much welcome. The Minister rightly pointed out that a yellow card system will apply.

The Minister also referred to the fact that people will be able to put a face to the European Union and he spoke about the role of the president of the EU. It is important for the Union to have a President. Up to now the European Presidency has been rotated every six months. During his four-year term of office, President Obama would meet eight different EU leaders under the current structure. It would be difficult to build up a relationship in that respect. We will now have a President of the EU and will be able to put a face to the Union. It is extremely important that the President of the EU will not be president of a country. The focus of the President will be the European Union representing the 27 countries. He or she will be elected for two and a half years and more than likely will continue in office for a second term, which would bring his or her term up to five years.

The other significant appointment is the High Representative for Foreign Affairs and Security Policy. Javier Solana held that office and during his term he has limited powers. It is extremely important that people can put a face to the person in Europe dealing with foreign policy.

The proposed European External Action Service is also important. Ireland has 76 embassies throughout the world. The UN recognises approximately 200 embassies. If a problem arises in a country in which we do not have an embassy, action can be taken speedily to address it because we are part of that system. That is extremely important.

I could speak about other relevant issues, particularly how the ratification process will move forward in terms of the Czech Republic. An EU summit will be held on 29 and 30 October. We have removed the largest obstacle to the ratification of the treaty and its ratification now lies in the hands of the European Union.

I welcome the Bill. I am confident it will get a speedy passage through this House.

Deputy Joe Costello: I, too, welcome this legislation and the opportunity to speak on it. The main purpose of it is to give legal effect to the provisions of the Lisbon treaty and to provide for other related matters. We have to deal with the matter by amending the European Communities Act 1972.

As other speakers said, the Lisbon treaty was ratified by the Irish people on 2 October with a large turnout of 59% of the electorate and a strong “Yes” vote by two thirds of those who voted, namely 67% as against 33% who voted “No”. That was very welcome and provided a strong indication of where people stood on this issue. It followed 15 to 16 months of soul searching, campaigning and analysis to reach that position. We must acknowledge that the campaign on this occasion was much different from that on the last occasion.

I congratulate the Minister for Foreign Affairs and the Minister of State with responsibility for European Affairs on the manner in which they were upfront in campaigning and led from the front on the issue, which was very welcome. I acknowledge all the other contributions made by the other

Opposition parties, which campaigned very strongly, by the trade union movement, which strongly supported the campaign which was notable on this occasion, and by the farming community, which took an early strong robust position on the campaign. That support was topped off with the campaigns by various sectors of civic society. There is a lesson to be learned from that as to how we move forward in the future.

The European Council will hold a summit meeting on 29 and 30 October in Brussels. In this legislation the Government is tying up the loose ends to ensure that when the Taoiseach meets his EU colleagues next week he will have the instruments of ratification all ready to be deposited.

With regard to the Lisbon treaty, the legal guarantees on taxation, security and defence and the right to life, family and education, the declaration of workers' rights and the national declaration by Ireland make up the package of proposals which will be associated with Ireland's instrument of ratification. The Defence (Miscellaneous Provisions) Bill 2009, which is currently before the Dáil, spells out the restrictive terms for Ireland's participation in the European Defence Agency and in permanent structural co-operation. These are key new elements in the Lisbon treaty. The entire package is a unique blend. It contains substantial treaty issues, guarantees, assurances, a solemn declaration and a national declaration by Ireland.

Debate adjourned.

Sitting suspended at 1.30 p.m. and resumed at 2.30 p.m.

Second Stage (Resumed).

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

Deputy Joe Costello: I would like to share time with Deputy Aengus Ó Snodaigh.

An Ceann Comhairle: Is that agreed? Agreed.

Deputy Joe Costello: When I spoke earlier, I made the point that the entire package of proposals which make up the instrument of ratification is a unique Irish blend. It contains substantial treaty issues, guarantees, assurances, a solemn declaration and a national declaration by Ireland. When a Commissioner for each member state is added to the mix, it becomes something of an Irish stew.

No other country has received as many concessions, protections and reassurances as Ireland. It is little wonder that Czech President Vaclav Klaus is emboldened to demand some assurance, declaration or guarantee that the Charter of Fundamental Rights will not apply to the Czech Republic. For a small country we have left our mark on the Lisbon treaty, as we did on the Nice treaty. We have got our Irish solution to our Irish problem. This is not something to boast about, as it reflects an attitude that is ambiguous, inward-looking and instinctively questions the motives of others. The 26 member states which make up the European Union were perceived to want to interfere with our taxation system, neutrality, education system, family structure and personal relationships. We are only satisfied when they make a public confession to the contrary.

We cannot continue to indulge in the luxury of saying "No" to Europe on the first voting occasion, so that when we have squeezed sufficient concessions and assurances from our EU colleagues — with whom we negotiated the deal in the first instance — we become good Europeans again. We must accept as a people that we cannot always have two bites of the cherry when it comes to the ratification of EU treaties. Unwittingly, we are undermining the integrity of the European process and it is inevitable that many other EU member states like the Czech Republic will follow in our footsteps and become a shrill cacophony of discordant voices seeking concessions pertinent to their national sensitivities. No process could live with that and the EU would quickly founder and self

destruct. For the last 18 months, the British eurosceptics have been cheering us on from the sidelines because they want to see the dismantling of the European project. It is not the Irish electorate which is at fault. It is the political leadership which lacks all direction and conviction when it comes to EU matters.

The European project has never been presented or perceived in Ireland as a great political peace and solidarity initiative, perhaps because we never experienced the horrors of the Second World War that traumatised every one of the other 26 member states. Instead, successive Irish Governments have used Europe as a scapegoat, blaming it when things go wrong and taking the credit themselves for the benefits that have accrued from the EU. When a difficult treaty comes along, they transform the EU into a golden goose, or a cash cow that delivers funds for every conceivable project in Ireland. There was no pot of European money to offer during the first referendum on Lisbon. However, by the second referendum in October 2009, the traditional carrot of European money to create jobs, stimulate recovery and beat the recession had become the main argument for a “Yes” vote. Now is the time to address the Irish EU democratic deficit and to become good Europeans by discarding the begging bowl, and pointing out that the EU is good in itself for Ireland, for the member states and for the world.

I welcome the statement today by the Minister for Foreign Affairs that he will be bringing proposals before the Government on how best to deal with EU matters. Next week, Heads of State will discuss high level appointments such as the president of the EU Council, the high representative for foreign affairs and security policy and the Commission itself. The Government too readily backed the candidacy of José Manuel Barroso for the Presidency of the Commission and appears to be equally supportive of Mr. Tony Blair for the new post of president of the European Council. These are traditional political candidates, who do nothing for the peoples’ perception of the political make-up of the institutions of the EU. What is needed is some lateral thinking with which the public can identify. It seems to me that an international figure like Ms Mary Robinson would make an ideal president of the Council. She has been both a strong and respected establishment and anti-establishment figure, and she has recently received the US President’s award for her contribution to the promotion of global human rights.

4 o’clock

This is particularly true now that the Lisbon treaty contains a re-statement of the principles and values underpinning the European Union in terms of human rights and adherence to the Charter of the United Nations. Moreover, the Charter of Fundamental Rights is now part of treaty law. Equality is a fundamental right and women are sparsely represented in the institutions of the EU. Mary Robinson’s appointment would send out all the right messages, namely, that the EU is not a stuffy bureaucracy which rewards retired politicians like Tony Blair, a person has done absolutely nothing for the Middle East peace process since he was appointed two years ago. In fact, the appointment of Tony Blair would send out the wrong signal to a European Union which is developing a robust security and defence policy of crisis management and conflict resolution, formalising the European Defence Agency and establishing the new status of permanent structured co-operation. While Mr. Blair’s role in the Good Friday Agreement was laudable, his enthusiastic and controversial support for the George Bush’s invasion of Iraq is not the message which the EU should be promoting through its new institutional appointments. I ask the Taoiseach to consult with the Opposition party leaders with a view to getting agreement on a suitable candidate.

We should remember that ten years ago the Lisbon treaty originated from the need to deal with the democratic deficit and the public perception that the European Union had become far too bureaucratic. It was decided that we needed to address its identification as a type of institutional, remote operation. Now is the time to make appointments that would move away from that perception and bring a breath of fresh air to the Union’s institutions.

As well as giving domestic effect to the provisions of the Lisbon treaty, the Bill before the House amends the European Union (Scrutiny) Act 2002 by updating the definition of “measures” to take account of changes consequent on the entry into force of the Lisbon treaty. Indeed, the entire scrutiny process is relatively new. Until 2007, it formed a minor part of the functions of the Joint Committee on European Affairs, being confined to a sub-committee of that committee. The 2002 Act must be thoroughly examined and revamped. If the Joint Committee on European Scrutiny is to carry out the necessary parliamentary oversight envisaged in the treaty of Lisbon, resources must be provided in support of its power to amend legislation. The Joint Committee on European Affairs also needs the necessary resources to do its work in the context of new developments.

The new role of the Oireachtas is governed by Article 48 of the Lisbon treaty, which deals with a number of issues, such as the amendment of treaties through the ordinary revision procedure and the simplified revision procedure, which is known as the passerelle, or bridging, procedure. The Oireachtas will also have a substantial new role in consulting the Commission and the EU institutions on policy development and legislation. This is one of the key new areas in the Lisbon treaty. It will require the Houses of the Oireachtas to examine the operation of their current business and to ensure they conduct their business in a different way that encompasses the new developmental role of the parliaments of the member states in the operation of the EU. The Union’s business will have to become far more central to the business of the Dáil and the Seanad. No longer should it operate on the periphery or be confined to committee meetings as it is at present, by and large.

Section 4 of the new Bill continues to provide for the use of statutory instruments to give effect to the adoption of European law, including the introduction of indictable offences by secondary legislation. The European Communities Act 1972, which allows for ministerial regulations that warrant a fine of up to €500,000 or terms of imprisonment of up to three years, was amended by the European Communities Act 2007. While that is merely being reaffirmed here, I do not think it is an acceptable development within the operation of the European Union. In effect, it is anathema to the whole thrust of the Lisbon treaty, the purpose of which is to streamline the EU institutions, to make them more accountable and transparent, to make the entire operation of the EU more democratic and amenable to the perceptions of the public and to increase public awareness of the Union.

I do not agree that line Ministers should be able to create serious criminal offences purely on the basis of their judgments and opinions, without reference to either House of the Oireachtas. The mere fact of passing a statutory instrument and lodging it in the Oireachtas Library for 21 days does not constitute a proper democratic way of dealing with EU legislation. This area must be re-examined, although that cannot be done in the context of the Bill before the House. If we are to eliminate the democratic deficit and assure the people that nothing is going on behind closed doors — I refer both to decisions taken in Europe and the transposition in this House of decisions taken in Europe — it is important for decisions to be taken on the floor of the Dáil, rather than in ministerial offices.

The use of such instruments is not how the democratic process should work, with the best will in the world, even if we have excellent civil servants. The process must take place openly and be subject to examination, amendment and scrutiny. It must be done by these Houses, rather than by means of ministerial instrument. For that reason, I will oppose section 4 of the Bill. When we get around to considering how we will conduct our business in the future, I hope we will examine this legislation and come to the conclusion that we should abolish the proposal that will allow for the broad use of statutory instruments, particularly in relation to indictable offences.

Deputy Aengus Ó Snodaigh: Gabhaim buíochas le Páirtí an Lucht Oibre as ucht a chuid ama a roinnt liom, in ainneoin an méid a bheidh le rá agam. Ba mhaith liom mo bhuíochas a ghabháil freisin leis an 594,606 duine a thaispeáin a chrógacht agus a sheas an fód i gcoinne an síor-

chreimeadh ar fhlaithneas agus neodracht na hÉireann, mar aon leis an chreimeadh ar chearta agus coinníollacha na n-oibrithe. Measaim gur lá maith a bhí ann, i slí amháin, os rud é go raibh an oiread sin daoine sásta an fód a sheasamh tar éis an bhfeachtais ghránna a reachtaigh iad siúd a bhí ar thaobh “Sea” na díospóireachta. Is trua gur shíl an Taoiseach go raibh gá ann conradh Liospóin a chur roimh an pobal athuair, gan aon athrú ar bith sa bhun-chonradh. I will not ask for another referendum on the Lisbon treaty so that the final verdict can be determined on a “best out of three” basis. Unlike the Government after the first referendum, I am willing to accept the result.

Deputy Bernard J. Durkan: Pick any two.

Deputy Aengus Ó Snodaigh: I will pick the last two “No” results.

Deputy Joe Costello: It was decided over two legs.

Deputy Aengus Ó Snodaigh: I am not asking for the best out of three because I respect democracy. The people have spoken, for whatever reason. If I wanted to go down that road, I would ask for the next referendum to be held after the forthcoming budget. In such circumstances, I wonder if the people would accept the con job that was perpetrated, to the effect that the Lisbon treaty would help the economy and bring an end to the recession, to try to buy votes. Some 1,214,268 people voted in the referendum earlier this month. Of those entitled to vote, 38.8% voted “Yes” and 19% voted “No”. That just 58% of those entitled to vote did so is an indictment of the failure of public representatives, of all political parties and none, to secure high turnouts in referenda. The views of almost 42% of those who were entitled to vote were not reflected in the final result.

The turnout in the recent referendum increased by five percentage points when compared to the 2008 referendum. I cannot explain away the difference in the vote this time as I did in the case of the Nice treaty, by pointing out that the “No” vote remained virtually static in terms of numbers, but not percentages, between the first and second referendums. On that occasion, all the extra votes went to the “Yes” side. On this occasion, there was a substantial swing from the “No” side to the “Yes” side because the people were bullied or frightened into voting “Yes”. The “Yes” side’s creation of the illusion that the referendum was on the membership of the European Union meant people were confused. There was never a doubt about our membership.

I have mentioned my concerns about voter turnout not only in respect of referenda but also in respect of local elections, European elections and general elections. As with the first referendum on the Lisbon treaty, the turnout for the second was at its highest in the affluent areas. Through the good work of many groups, including the Vincentian Partnership for Social Justice, local community groups and political parties, we managed to increase the turnout in some of the working class estates in Dublin. However, on this occasion the turnout in most working class areas was only in the order of 50% or 55%. When one compares this statistic with the turnout in Chapelizod, 77%, Terenure, 87%, and Templeogue, over 80%, one realises just where the “Yes” voters came from.

My constituency, Dublin South-Central, had one of the highest “No” votes, which I regret was not above 50%. In Drimnagh virtually every box produced an outcome of “No”, and the same was the case in Crumlin. The vote in Ballyfermot was overwhelmingly in favour of the “No” side, running between 55% and 60%. The residents of the Oliver Bond complex voted “No”. Some voted “No” in Inchicore and the residents of Bluebell voted “No”. In Cherry Orchard, the proportion of “No” votes in one box was 89%. This shows that those who were not visited by the Celtic tiger, namely, people in working class areas, do not trust the Government. They have seen that the Government has failed them. It has failed to deliver for them because it was too busy looking after the bankers and speculators. It promised them much and led them up the garden path of public private partnership for the regeneration of flat complexes and areas. These promises collapsed. We saw an example of it this week in St. Theresa’s Gardens.

The Government said it would tackle the drugs, alcohol, crime and unemployment problems in the aforesaid areas but failed time and again in every respect. If the Minister of State, Deputy Barry Andrews, or any of his colleagues was on “The Apprentice”, currently showing on TV3, he would be fired. As Mr. Bill Cullen says on the programme, “You are useless.”

The Minister of State’s fellow travellers on the campaign, those in the unions and the Labour Party, have let down the working class through their support for the Lisbon treaty. As I said during the referendum campaign, shame on them. Their decision will come back to haunt them. I cannot figure out how they could not see the agenda of the European Union in recent years. It is anti-worker. Given the current economic climate, the Government should, at the very least, have argued for additional protections for workers. Additional supports should have been secured for the millions now redundant on dole queues across the Union. Additional resources for the retraining and education of workers and people in the dole queues should have been made available. An opportunity to protect the Irish people whom the unions and Labour Party purport to represent was rejected. A signal could have been sent out during the first referendum campaign and prior to the declaration that there was to be a second referendum that unless there were enforceable guarantees and changes to the treaty text, there would be a “No” vote in this country.

Last year after the first referendum on the Lisbon treaty, which resulted in a “No” vote, I believed the leader of the Labour Party, Deputy Gilmore, when he said, “The Lisbon treaty is dead”. Perhaps it was foolish of me. Deputy Gilmore later gave the treaty life, as did some others in the Opposition benches. Deputy Costello referred to people being emboldened. The Labour Party had an opportunity to be emboldened so as to demand effective changes but it did not take up that opportunity. The Deputy said we cannot always have two bites of the cherry. One should have been enough, in which case a proper message would have been circulated not only to the Government but also to the other Governments in the Union. The message is that a second vote on the same treaty should produce the same result: “No”. The message now being circulated is that one should not worry about the ratification of treaties by Ireland because if its electorate gets it wrong the first time, there will be no problem because it can be bribed or bullied into changing its mind, on the basis that this has been done twice already.

I hope the Irish will not rue the day they passed this referendum and hung a noose around the necks of future Governments and generations, and around the current Government’s ability to govern in the people’s best interests. Our interests are now playing second fiddle to those who are behind the European project, which project is dominated by larger countries with a NATO-based and pro-nuclear agenda. Most of these larger countries have an imperialist past and some have an imperialist present.

Many other issues arise in respect of the referendum campaign but I will just touch upon one. I do not know which bright spark came up with the idea of attaching the polling card to the document. This never happened before. It caused considerable confusion, not only among those on the “Yes” side but also among those on the “No” side.

Comhghairdeas dóibh siúd a sheas an fód i gcoinne fheachtais an Rialtais agus cairde an Rialtais a dhein iarracht scanradh a chur ar an bpobal gan vóta a chaitheamh i gcoinne Conradh Liospóin arís. Níor bhumar an uair seo, ach beimid ar ais arís má leanann an Eoraip an treo ina shílim a bhfuil á thógaint aici.

Deputy Timmy Dooley: I welcome the opportunity to contribute to this important debate. I welcome the endorsement of the Lisbon treaty by the Irish people on 2 October. They recognised its importance.

Let me refer to some of the comments of Deputy Ó Snodaigh, who implied the result of a referendum reflects satisfaction or dissatisfaction with the Government. If this were true, I would be quite happy based on the result achieved in Clare. There was an average of over 73% across the boxes.

Deputy Aengus Ó Snodaigh: Not in my constituency.

Deputy Timmy Dooley: I would like to believe this is a reflection of the work I did. The extent of the “No” vote may reflect the work of Deputy Ó Snodaigh. Perhaps the outcome was based on our work and not on the level of satisfaction, or otherwise, with the Government. The result in my county does not reflect the current level of satisfaction with the Government given the difficult measures it must introduce. This is understandable and is well recognised.

The second referendum campaign was good and well fought on both sides. There were some disingenuous elements, but I am certainly not accusing Deputy Ó Snodaigh in this regard. He has had the opportunity to debate this issue on a number of occasions and at all times he was balanced. I might not have agreed with his approach, particularly on the economy but, to the best of my knowledge, neither he nor any of the members of his party sought to draw on issues extraneous to the treaty which could not, according to any fair-minded person’s approach, be linked therewith. Unfortunately, however, some individuals continued to draw on extraneous issues during the second referendum campaign. The debate during the second campaign was better informed than that during the first.

I disagree with Deputy Ó Snodaigh’s suggestions that it was through coercion, bribery or bullying that the Irish voted as they did. They people benefited from the first campaign and had an opportunity between the two campaigns, during which time there was much more heightened awareness of the issues at stake and much more debate about the Union, to weigh up the pros and cons and make an informed choice. Voter turnout was the highest for any referendum on our involvement in the European project to date, as stated by other Members. Clearly, people voted with a greater understanding of what was involved.

The outrageous approach of C6ir in the campaign was very disingenuous. I will not name any individual but it is fair to identify the role of the organisation as an entity. They used religious objects and documents to suggest that the Catholic Church supported a “No” vote. While there were divergent views among the Catholic bishops, they made it clear that there was nothing in the treaty to prevent a Catholic from voting either “Yes” or “No” and that the issue should be decided on the basis of political or economic arguments and not of ethics or morals. I found it difficult to receive documents, either in my home or in various churches, which contained religious imagery to make them look as if they came from the hierarchy and sought to create a negative opinion in the minds of readers. It was particularly disgusting to see some groups linked to C6ir seeking to portray the Charter of Fundamental Rights as a tool of destruction and to play on the fears of vulnerable people, including people with a mental handicap, alcoholics or other marginalised people. These documents gave the impression that with the passage of the Lisbon treaty the Charter of Fundamental Rights would give powers to the State which it did not previously have and would limit the freedoms of people who were vulnerable or in difficult circumstances or that their children would be impacted upon or lose their liberty. That was particularly disgusting and I hope such tactics will never be used by any group in the future.

The biggest difficulty of the “Yes” campaign was in convincing people who did not have full information that the treaty had merits. It is difficult to provide information in a vacuum when people do not have the concrete knowledge of what the European project is about. If we learned anything between the first and second Lisbon referendum campaigns it was the importance of generating a greater level of debate on the European project in this House. This issue must be

addressed. While I recognise the contribution of the Opposition in promoting a “Yes” vote, the Fine Gael proposal to abolish the Seanad is a retrograde step. We have an opportunity, in reforming the Dáil and Seanad, to give a much greater level of access to European information and to further European debate within the Seanad. On the Order of Business today, the Labour Party and Fine Gael voted against the proposal that the Dáil sit in committee next week to discuss Committee Stage of the NAMA legislation. We need to develop committee debate rather than indulging in the tit-for-tat debate which we often have in the House and which does not reflect well on the real work of the Oireachtas. There is a notion that if we are not sitting in plenary session and throwing insults at each other across the floor that we are not doing our work. We would achieve a greater level of work more beneficial to the people and the State if we sat in committee, with public access, to debate issues of strategic national and international importance. This matter could be addressed by the Whips in terms of furthering the campaign for a greater level of debate on matters of European importance.

I recognise the prominent role played by Fine Gael, the Labour Party and a number of Independents in debating and canvassing to communicate to the people the importance of passing the treaty. I recognise the tremendous efforts made by various groupings such as the IFA, the ICMSA, other farming organisations, trade unions and IBEC. I particularly recognise the work of two groups which represent civic society. They are We Belong, which was headed by Olivia Buckley, and Ireland for Europe, which was headed by Pat Cox and involved Brendan Halligan, Regina O’Connor and many others who gave their time voluntarily because they believed in the European project and in the importance of a “Yes” vote. This coming together of people outside the political sphere was extremely welcome and should be harnessed in terms of how we continue to promote the European project.

The efforts of the Government, of Government advisers and of national and international officials and civil servants must also be recognised. There was a difficult campaign in negotiating the legal guarantees with other member states. It was possible at an early stage to obtain declarations of intent but to obtain them in a legal format along with agreement that they would be attached as protocols was a well negotiated position. A debt of gratitude is due to the Minister for Foreign Affairs, the Minister of State, Deputy Roche, and the civil servants and ambassadors in the member states who worked effectively on that campaign. Fine Gael and the Labour Party also used their contacts in their respective political groupings in the European Parliament and played a significant role, which should not go unnoticed.

The legal guarantees on taxation, social and ethical issues and militarisation were hard fought but vitally important because research had identified them as issues which had forced the Irish people to vote as they did in the first referendum. The securing of those guarantees, together with the solution of the representation issue of the loss of a Commissioner, ultimately brought the Irish people around to the belief that nothing in the Lisbon treaty would be harmful to the achievements of successive treaties or to the growth of the European Union.

Deputy Costello made it clear that this referendum campaign was more difficult than others because the Irish perception of involvement in Europe had always been enhanced by a belief that there was something of monetary value in it for us. I believe we have moved beyond that. Our understanding has improved and we have matured as a member of the European Union. We now see ourselves, not as part of a hand-out culture but in a central role in guiding the future direction of the European Union to our benefit and that of others. We have the capacity to steer the European ship to our benefit and that of others in a collaborative way. The passage of the treaty referendum, difficult as it was, shows the maturity of the Irish people. It is important that the efforts of all concerned be recognised.

Having brought European matters to such a level of understanding and awareness, it would be a pity

to allow all of that to dissipate. We have come through an intensive round of discussions. After the defeat of the first referendum the Commissioner issue was resolved in December 2008 and this was followed by the build-up to the legal guarantees being agreed in June 2009 and the referendum campaign in October. There is now continuing talk about when the treaty will come into force. All of this keeps the European project in the people's mind and in the media. We all hope that President Klaus of the Czech Republic will sign the treaty. My concern is that once that matter has been dealt with our discussion on Europe will fade away. That would be a great pity. It behoves us in this House to try to ensure that European matters remain at the forefront of the agenda so that as we evolve with Europe we do not have to go back to deal with the information deficit that existed prior to the first referendum on the Lisbon treaty. Through the co-operation of like-minded parties in this House there should be a capacity to do that. When the provisions of the Lisbon treaty are adopted a greater level of debate will be created in the Oireachtas whether through scrutiny or the subsidiarity checks. We must work more imaginatively to ensure that we retain that knowledge base and build on it as we move forward.

The sub-committee of the Joint Oireachtas Committee on European Affairs that was set up in the wake of the failure of the first referendum on the Lisbon treaty identified a number of considerable weaknesses in the European knowledge base. That is something we must address. That was largely as a result of our belief that we participated in Europe to gain something rather than for us to be part of the growth and development of Europe. We must work to try to develop a consciousness of the importance of the European Union. We will achieve that if we keep on debating and discussing that agenda in this House.

We also must examine the education system and the curriculum as a means to achieve that. Unfortunately, there is not enough of a knowledge base or understanding of the origin and development of the European project for children in school as they progress through exams and become voters and progress through life. They are unaware of its foundation as a peace process and what the results of working together to the benefit of all can bring. Perhaps some of the reason for that relates to the fact that we often talk about the European project in some abstract form. We spend too much time talking about institutions and the relationships between them rather than looking at the much more concrete elements of Europe, what the issues are, what is the purpose of the existence of that collaborative environment that is the European Union and where and how we should progress with it. Ultimately, that must be our focus.

There is also a requirement on the media. It is easy to put the blame on the media and I do not wish to do that. We must be imaginative in how we generate debate in the Oireachtas and if we are successful in that regard the media will report on it. It was interesting that through some of the research we carried out in the sub-committee of the Joint Oireachtas Committee on European Affairs and, in particular, hearing the views of the media, it emerged that if issues are not debated in this House and are left to be debated in the context of the European Council, the Council of Ministers, the European Parliament or the Committee of the Regions or some such forum, they will not find their way into the common discussion fora in this country and will not be reported in the media. If we can succeed in having a greater level of debate and discussion we can achieve success in that regard.

There is a considerable role for the national broadcaster, especially in view of its public service obligation, which is ultimately funded through the licence fee. There is a need to look more broadly at promoting our relationship and involvement with Europe and what the European project is all about. A magazine programme or documentary that is screened at 11.30 p.m. or midnight is not helpful in that regard. Such programmes need to be much more mainstream and based around a weekly schedule. Ultimately, that should be the role of a public service broadcaster; to look to areas that might not be commercial. It is clear that if it was commercial at the outset the public broadcaster would have the type of programmes that generate revenue through the commercial arm.

For that reason there is a role for RTE. The broadcasts must be at a time that attracts an audience so as to develop a knowledge base of the European project in the community. I look forward to that discussion being dealt with through the Joint Oireachtas Committee on European Affairs and the Joint Oireachtas Committee on Communications, the Marine and Natural Resources.

Unfortunately, the debate on Europe often centres too much on abstract issues and dealing with EU speak rather than focusing on how the European Union applies on an ongoing basis to the daily lives of people in this country. Unfortunately, in many instances the only time there is reference to the European Union is when something negative arises. Other speakers referred to that point, namely, that the Government and politicians take credit for the positive and seek to blame the Union for any negative consequence that might arise from directives and legislation.

The Union needs to focus, either through the Commission or the Council of Ministers, on addressing the challenges facing Europe in a much more upfront and concrete way rather than talking about the back-end institutions, and how those issues relate to the lives of the citizens of the various member states.

In terms of the financial and economic situation we need to consider the role of the Commission and the Union in developing policies on banking regulation. We need to discuss that issue more in this House. We need to look at the capacity of the Union to develop stimulus measures to reignite economic activity in the various member states. We also need to consider the co-ordination of efforts to resolve the banking problems. It is clear that a small country such as ours with a small national banking infrastructure cannot be expected to resolve those matters in isolation. People would begin to see and appreciate the benefit of the collaborative working between member states through the Commission and the various institutions of the Union, but that needs to be addressed more. A greater level of debate is required on the role of the European Central Bank, ECB, and in particular the support it is giving the State through the funding arrangement that will be in place for NAMA.

The future development of the European Union must be communicated better. It is incumbent on us as Members of this House to use all the elements we have at our disposal. I again appeal to the Fine Gael Members present, whom I know have a great regard for the European Union and the way it works — that has been the case throughout the history of that party — to use the Seanad and the committees of this House to ensure there is a much greater level of debate, understanding and promotion of what that work is all about.

Deputy John Perry: I wish to share time with Deputy Durkan.

Acting Chairman (Deputy Charlie O'Connor): Is that agreed? Agreed.

Deputy John Perry: I compliment Deputy Durkan on his outstanding role as Chairman of the Joint Oireachtas Committee on European Affairs and the meetings he held, most notably with the party leaders and Bishop Treanor. The clarification given during those committee meetings was most effective in its analysis. The meeting with Bishop Treanor in particular was very effective.

I welcome the emphatic decision of the Irish people on 2 October to support the ratification of the Lisbon treaty. They made a very important decision both for the future of Ireland and the future of Europe. They have shown their confidence in the EU and reinforced their commitment to the values and objectives of the Union. I believe that with this positive vote, the Irish people have demonstrated their commitment to the European project. They have recognised the benefits which EU membership offers both economically and socially. They expressed their wish to remain at the centre of the Union and to constructively engage with our EU partners in a spirit of solidarity.

By voting “Yes” they also wish to see a Union that works more efficiently, effectively and democratically. Delivering the reforms in the Lisbon treaty must now be our priority as we move away from institutional questions and towards facing the challenges of the 21st century. The treaty cannot enter into force until it is ratified by all member states. Currently, only one member state has not completed ratification. I hope agreement can be found at the European Council later this month that will allow President Klaus to sign the Czech Republic’s instrument of ratification.

Europe needs the reforms contained in the treaty so that we can act more effectively and efficiently in delivering the results our citizens are demanding in this time of economic uncertainty. I am convinced that the Irish people’s vote was a vote for democracy. They want to see the democratic provisions contained in the treaty fully implemented. Therefore, I welcome the European Union Bill 2009. It will give effect to the new powers contained in the treaty, which will enhance the role of national parliaments, including this House, within the EU. There is no doubt people across Europe are concerned about democratic accountability and legitimacy within the EU. Therefore, it is vital that the democratic provisions in the treaty are properly implemented. It is important, under the principle of subsidiarity, in the context of the role of national parliaments that we take serious account of such empowerment.

The implementation of these provisions is important for bridging the knowledge gap that has developed among the general public in regard to the European Union, a point to which Deputy Dooley alluded. The referendum campaign in 2008, and to a lesser extent this year, demonstrated that people do not fully understand the EU and how it works. It is difficult for people to trust something they do not fully understand. I strongly believe that the more people know about the EU and how it works, the more likely they will be supportive of the Union and its actions. It is therefore vital that the Oireachtas properly and publicly debates EU matters. The democratic provisions of the Lisbon treaty and the Bill before us will facilitate this.

I would like to focus on section 7 of the Bill, which provides for the operation of new powers for the Houses of the Oireachtas under the terms of the Lisbon treaty and, in particular, the application of Protocol No. 2 to the treaty on the principles of subsidiarity and proportionality. These new powers will enable Dáil Éireann and Seanad Éireann, for the first time, to have a direct input into the EU’s legislative process. Article 5 of the Lisbon treaty states that national parliaments will from now on have the formal role of ensuring that the institutions of the EU comply with the principle of subsidiarity. This means we will have the important job of ensuring the EU acts only within its defined objectives and competences and when EU-wide action would be more effective than action at the national level. That is an important and effective role for national parliaments in ensuring the EU has only that remit.

The Lisbon treaty, through its protocol on the application of the principles of subsidiarity and proportionality, introduces a new early warning system known as the “yellow and orange cards”. The Bill gives effect to this system within the Oireachtas. The Oireachtas will have the right to send to all EU institutions, within eight weeks, a reasoned opinion stating why it considers a draft legislative act does not comply with the principle of subsidiarity. This is where the Secretary General of every Department will have an important role to play. With the short timescale of eight weeks available to submit a reasoned opinion, it is important to work with other parliaments to address concerns about draft legislation. The Minister of State might allude to the powers and responsibilities of the Secretary General of each Department to identify such issues of concern. If one third of other parliamentary chambers across the EU agree with the Oireachtas, the Commission or Council must review its legislative proposal. For proposals on judicial co-operation in criminal matters and police co-operation, the threshold is only one quarter. This is the so-called “yellow card”. If one half of national parliaments believe that a legislative proposal is in breach of subsidiarity, the Commission must decide either to withdraw the proposal or to continue with its proposal to the Council and the European Parliament. The principle of subsidiarity means the laws

should be enacted here and that they are not in breach of the laws enacted by the Dáil. In other words, it is a bottom-up process. The timeframe of eight weeks available for debate is important. We are all aware of directives such as the nitrates directive and the raised bogs directive that were not debated, but since we took on a scrutiny role in 2007 our job is to ensure that controversial directives, once they are introduced, are effectively debated and amended before being agreed at EU level. If the Commission decides to continue with its proposal, it must also prepare a reasoned opinion which would be considered by the Council and the European Parliament together with the reasoned opinions of the national parliaments. If the European Parliament, by a majority of votes cast, or the Council, by a majority of 55%, agree with the national parliaments, the draft legislative proposal will have to be withdrawn by the Commission. This is known as the “orange card”. This is an important provision. This is where Leinster House has a critical role to play. It is important to have an objective and in-depth analysis of draft legislative proposals.

If the Lisbon Treaty is ratified, and I believe it will be, this early warning system and the powers for national parliaments will come into force. We need to bear in mind the timeframe involved. I know from my experience as chairperson of the Joint Committee on European Scrutiny that directives are often received too late for such scrutiny. I put down a clear marker that concerns about such draft legislative proposals need to be put forward immediately.

In line with the Lisbon treaty and Protocol No. 2, the Bill bestows these powers on both Dáil Éireann and Seanad Éireann equally. It is important that the Houses of the Oireachtas put in place the measures that will give these new and important powers practical effect — the Minister of State might indicate how it is planned to introduce these powers -in order that we can play our full and active role in the new early warning system. The Joint Committee on European Scrutiny, of which I am chairperson, is ready to play its role in ensuring that these new powers are given such effect. The joint committee is well placed to play a constructive role in the operation of these new powers. As the committee responsible for the operation of the European Union (Scrutiny) Act 2002, we have during the past two years built up a high level of institutional knowledge as well as experience and expertise in the scrutiny of draft EU legislative proposals. We already have in place the systems and resources which ensure that all legislative proposals are scrutinised appropriately. Also, through our involvement in COSAC, at which Deputy Durkan is an effective participant, we have taken part in its subsidiarity testing pilot project and have produced four reasoned opinions to date. Therefore, we already have experience of how the “yellow and orange card” system will work.

In May 2008, the joint committee published a report on the enhanced role for national parliaments in the Lisbon treaty. The report makes a number of conclusions and outlines the issues which may need to be examined with a view to implementing the new powers of the Oireachtas under the Lisbon treaty and as provided for in the Bill. It was the committee’s clear view that the Lisbon treaty provisions on enhancing the role of national parliaments will strengthen the democratic legitimacy of the EU and make it more accountable. The “yellow and orange card” arrangements will also mean the EU will have better legislation, because it will be better informed of conditions in member states. National parliaments will for the first time have the power to directly influence the EU political and legislative process.

An issue that we will need to consider before deciding how best to implement these important new powers is the possible need to amend the Standing Orders of Dáil Éireann and Seanad Éireann to underpin the mechanism whereby each House will have a separate vote in the yellow and orange card procedures. In addition, if it is decided that the Joint Committee on European Scrutiny will play a role in the operation of the new powers, the current orders of reference of the joint committee may need to be changed to take account of the Lisbon treaty provisions and the provisions of the Bill when enacted.

The effectiveness of these new powers will also depend on the level of public awareness of this

important work. It is not simply good enough to have greater democratic accountability but it must be seen and communicated beyond this House. There is a need for greater public awareness about the current work of the Oireachtas on EU matters and about its future role when the Lisbon treaty enters into force. I reiterate my proposal that an EU information office could be established within the Oireachtas with the remit of communicating to the wider public the work of the Oireachtas on EU matters and acting as a reliable, impartial source of information on the EU.

The Joint Committee on European Scrutiny has been active in trying to enhance its media profile and to make its work more accessible to the public through the preparation of easy to read meeting reports and improvements to its webpage. However, I believe that it is important that EU matters are debated more within these Houses. I reiterate the committee's recommendation that reforms are made to Dáil and Seanad procedures to ensure regular consideration of EU matters in plenary session. As an initial measure the Dáil and the Seanad could each allocate at least one day per month to EU matters. They could consider reports of the Joint Committee on European Scrutiny on important draft EU laws as well as the ongoing work programme of the Joint Committee on European Affairs.

I welcome this Bill. It provides for the operation by this House of the new powers for national parliaments as contained in the Lisbon treaty. These new powers will make the EU more democratic and more accountable and I believe this is what the Irish people want, as expressed in their decision on 2 October.

Deputy Bernard J. Durkan: At what time is the debate on this Bill due to conclude?

Acting Chairman: The Deputy should proceed and let me worry about that.

Deputy Bernard J. Durkan: The Acting Chairman might accommodate me by allowing me some more time.

Acting Chairman: I understand that, in accordance with an order of the day, the proceedings on Second Stage are scheduled to conclude at 6 p.m. and the Minister will be called on to reply at 5.45 p.m.

Deputy Bernard J. Durkan: I thought that was the case. There may be more speakers as well.

Acting Chairman: Please God.

Deputy Bernard J. Durkan: It is not possible to deal with this subject in five or seven minutes.

Deputy Aengus Ó Snodaigh: I did.

Deputy Bernard J. Durkan: I was listening but I am not so sure that I would call that dealing with it. I will address it in a moment.

Acting Chairman: Through the Chair.

Deputy Bernard J. Durkan: It infuriates me when, having spent the past two years debating his subject, we find ourselves in a situation like this, where we end up with five or seven minutes to make a contribution.

Deputy Joe Costello: Take 20 minutes.

Deputy Bernard J. Durkan: That is what I was trying to suggest and if there are no other speakers, if I can get a full slot I would take it.

Deputy Aengus Ó Snodaigh: Deputy Durkan is not sharing time, he is taking his own slot.

Acting Chairman: The Chair has no hand, act or part in that and the Minister of State who is the next speaker is present. The clock tells me that Deputy Durkan has six and a half minutes now.

Deputy Aengus Ó Snodaigh: The Deputy was not sharing time; he was only taking his own slot.

Acting Chairman: Please proceed, Deputy Durkan.

Deputy Bernard J. Durkan: No, I will let the Minister of State speak.

Deputy Joe Costello: He is entitled to take his own slot.

Acting Chairman: No, he is not.

Deputy Joe Costello: He is entitled to take his own slot. He asked for it.

Deputy Bernard J. Durkan: I will let the Minister of State speak.

Acting Chairman: The Chair has no authority to change the order.

Deputy Bernard J. Durkan: To be fair, I will not do it the injustice of trying to speak on that subject in seven or six minutes, or eight minutes either. It requires at least ten minutes, maybe 15 minutes or whatever the case may be.

(Interruptions).

Deputy Bernard J. Durkan: I will concede to the Minister of State.

Acting Chairman: Is that what Deputy Durkan wants to do?

Deputy Bernard J. Durkan: To be fair, it is not the Acting Chairman's fault, my fault or the fault of my colleagues.

Acting Chairman: My advice is now that Deputy Durkan has started, he should finish.

Deputy Bernard J. Durkan: It is totally unsatisfactory. I am almost 30 years in this House and to get six, seven or eight minutes to speak on a subject like the European Union Bill does not say a great deal for the institutions of the House.

Deputy Joe Costello: Give him a slot.

Deputy Bernard J. Durkan: In the shortest possible time, I will say this. I compliment those who worked in the course of the recent campaign. The campaign did not start, like somebody thinks, in the past six months; it started two years ago. It was a very difficult campaign.

The first campaign was unsuccessful because the people said that they did not know enough about the subject, and the campaign on the "Yes" was poorly fought on several grounds. I compliment my colleagues on the Joint Committee on European Affairs and the Joint Committee on European Scrutiny for the work that their members, of all parties, did. They travelled up and down the country with no thanks. Nobody said to them that they did a good job in the interests of democracy or otherwise, but they did their job unstintingly and unselfishly, and at great personal sacrifice.

In the second campaign the Joint Committee on European Affairs changed tactics altogether and decided to take a different route. The committee selecting the leaders of the various parties in the

Houses of the Oireachtas to address it and, through the web-cast, anybody outside who wanted to hear and see it. That was a good decision and it worked extremely well.

I say without prejudice to anybody that the leaders of the parties in the House should take full credit for the way in which they displayed their knowledge of the subject and the way that they carried the respective campaigns to the committee and, through the committee, to the people. I compliment the Taoiseach for the way he started, and he was excellent on the day. There is no question but that it had a significant impact. I particularly compliment Deputies Kenny and Gilmore for the courageous decision that they took because it is never easy for an Opposition party at any time, regardless of in whose interest it is, to support the Government, particularly at a time when there may be other issues on the horizon that might distract attention. They did a great job without exception and they led their respective supporters in an exemplary way.

While all people outside this House can criticise — they do so on a fairly regular basis and they sneer at the institutions of the State, including the Oireachtas — the leaders of all the parties showed that they were prepared, when the issue was put to them, to do their job to the best of their ability, and they did it. I do not want to leave out the leader of the Green Party, Deputy Gormley, who also came before the committee and gave leadership, which is what this was all about. Even Deputy Ó Caoláin, with whose opinion the majority of members on the committee did not agree, came before the committee and spoke, through the committee, to the people who were his supporters outside.

All in all, democracy was seen to work and ultimately, the people responded in an emphatic manner. If there was any doubt about it on the first occasion, there was no doubt about it on the second. I believe the correct decision was taken then.

What happens from here on in is hugely important. I agree with what the Minister stated today, that in the future Ministers going to the Council of Ministers meetings should come before the relevant committee. He is correct because that is where it starts. Afterwards when a directive is mooted and it comes back, it must be dealt with by the relevant committee, which in that case is the Joint Committee on European Scrutiny.

There must be a greater commitment on the part of the Houses of the Oireachtas, in terms of time and personnel, to how we will deal with the issues relating to the European Union. This is a much bigger and serious issue than it was previously. There is no use in Members making a token representation, or whatever the case may be, in the hope that it will be all right. That will not work.

We in this House need to liaise more with our colleagues in other member state Parliaments to know what they are thinking. If we do not do that, matters have a way of evolving without our knowledge. When that happens, matters get out of control.

We are only a small country. We took a decision for the rest of Europe. It was an emphatic and important decision. We can continue to play that important role within the European Union if we become involved. If we stand off and do as some other countries have done in stating a wish to opt out from this or that aspect we will eventually end up in a situation where we are on the outer perimeter where we will no longer be influential and where we will hear about the decisions after they are made. That is not where we should be as a nation.

In the short time available to me, I am unable to address the real issues that need to be dealt with at this stage but I want to say this. The Lisbon treaty gives greater power to member state Parliaments. That is a two-edged sword. The European project will move only as fast as the slowest wants it to go. That is why it is hugely important that the members of the member state Parliaments are totally au fait with the thinking within the European institutions, including the European Parliament, the Commission and at the Council of Ministers. If we do not make that effort, then we will not be there

when it counts, we will be squeezed and we will not be able to take decisions which are in the national interest.

5 o'clock

I acknowledge that any time the Fianna Fáil Ministers were asked to come before the Oireachtas Joint Committee on European Affairs before attending a meeting they did so. It does not always happen, and it should, but it is hugely important in the democratic process that if one is to have the views of the member state Parliament on hand before going to a Council meeting, it is essential that a meeting takes place. Such an exercise does not constitute an attempt to impose on or dictate to a Minister. However, it should be mandatory that the Minister take the opportunity to discuss with the members of all parties of the member state Parliament before making crucial and vital decisions that may affect the entire nation.

Minister of State at the Department of Finance (Deputy Martin Mansergh): I wish to share the last five minutes of my time with Deputy Cuffe.

Acting Chairman: Is that agreed? Agreed.

Deputy Martin Mansergh: The European Union Bill 2009 is essentially a legislative dotting of i's and crossing of t's, following the ratification by the people of the Lisbon treaty. Of all the challenges facing this country at present, the longer-term strategic importance of that decision is second to none.

All the parties and civic organisations who worked for a "Yes" vote are to be commended, including our partners in Government, the Greens, and the main Opposition parties, who put country before party. Two former Fine Gael taoisigh plus another former Fine Gael leader also contributed with their usual authority to the debate. I also pay tribute to the Oireachtas Joint Committee on European Affairs.

The Taoiseach, Deputy Brian Cowen, and Minister for Foreign Affairs, Deputy Micheál Martin, our diplomats and civil servants deserve particular credit for their skilled and patient handling of the fall-out from the first referendum, their careful research into the reasons it did not pass in June 2008 and the negotiation with our partners of guarantees and assurances which addressed all of the main issues, a strategy which was vindicated. The proposed alternative, the bombastic demands in June 2008 of the Libertas and Sinn Féin leaders who had no diplomatic responsibility, that the Taoiseach should go to our EU partners and, on behalf of a member state comprised of 4.5 million people lay down the law in all directions to the other 495 million people in 26 other member states to tear up the treaty, and renegotiate, if not subvert, the entire project seeking all sorts of opt-outs not in the national interest and make the EU treaties and their interpretations subordinate to the Irish Constitution was utterly removed from any political reality and would have wrecked our relations with our partners and our reputation for trust and reliability built up over 35 years.

The analogy of the Downing Street Declaration, which explicitly referred to all parties on the way ahead and the Good Friday Agreement, did not stand up to a moment's examination. A better parallel in terms of realism or lack of it would have been the Sinn Féin demand in 1987 for a timetable for British withdrawal with reparations thrown in. The guarantees obtained by the Government consistent with the treaty showed up most of the critical claims made in the run-up to June 2008 as entirely baseless, with the important exception of the right of each member state to an EU Commissioner which could be re-established by unanimity using a contingency provision of the treaty.

It is ironic that while the disparate "No" campaigns argued unconvincingly that the guarantees

obtained were worthless, the most ardent nay-sayer to Lisbon of all outside this country, President Vaclav Klaus of the Czech Republic has indicated that he would be quite satisfied with Irish style assurances on the hypothetical question of retrospective land claims by people of Sudeten German descent and on the Charter of Fundamental Rights. I mention this without prejudice to the position that may be taken by this country or its partners in the European Council in response to this demand, if made and which may be joined by the Slovak Government.

Our European partners are also to be commended on their understanding and restraint despite their obvious anxieties and impatience after eight years of negotiations since the 2001 European Council in Laeken. On the weekend of the result, I was representing Ireland at the annual conference of the IMF and World Bank in Istanbul. The French economy Minister, Madam Christine Lagarde, alluding to President Sarkozy's admonition to the French people in another context that a nation needs to know to which family it belongs expressed satisfaction to me that Ireland had decided to stay with the European family.

The British development Minister, Mr. Douglas Alexander, led applause for the Irish decision at a working dinner in the British consulate. Quite apart from the effect of removing the major impediment to the euro-wide ratification of the Lisbon treaty, the decisive character of the vote has been a morale boost for the Union. Ireland has shown that when the arguments are clearly put there is still much popular support for the European Union despite cynical belief to the contrary.

As was pointed out in an article in yesterday's Financial Times, up to 18 months ago smaller states seemed to be doing better than larger ones and appeared to be the principal beneficiaries of globalisation. This led to a certain over-confidence about what we could achieve independently and an under-estimation of the importance of the support of a partnership framework that was to a degree reflected in the June 2008 vote.

The global economic and financial crisis has underlined the acute vulnerability of smaller countries. Ireland has been better placed than most by virtue of its membership not alone of the EU but of the eurozone. The crucial indirect supportive role of the European Central Bank is something we could not have done without in tackling the banking crisis. A clear majority of the Irish public has understood the importance of two-way EU solidarity if we are to come through this crisis with our freedom intact. If we do not want to run the risk of becoming even temporarily a failed state economically, we must take the necessary difficult decisions, one of which was changing our mind about the Lisbon treaty, including the notion that we did not need it and Europe could do without it.

I sat next to the Croatian ambassador at a recent farewell function in Iveagh House for the Mexican ambassador. His Government is delighted that a potential roadblock to enlargement, which is vital for stability in the Balkan region, has been removed, with Croatia likely to become a member within little more than two years. The model of national sovereignty and self-determination that existed only briefly between 1918 and 1939 between the two world wars was untenable. The equivalent in Irish terms was one of the Sinn Féin models, described at the time as the option of the isolated Republic. Miraculously, we made it as a neutral country through the Second World War, but the isolated Republic between 1949 and 1955 did not provide a model, either for economic and social development on a par with reconstruction across Europe or any international influence in the post-war years. The most important service performed by former Taoiseach, Seán Lemass, from August 1961 was to set Ireland on course for EEC membership, even if it took a decade to materialise.

I do not understand the political logic of those who resist our further engagement with Europe by positing "Thus far and no further" and, "Why cannot we stay as we are?" If it is mostly conceded that the EU has been good for Ireland, then the recommendation to vote "No" to each and every treaty must at some point have been wrong. However, no explanation is ever provided. How any class of Republicans, including dissidents, could come to share so much europhobia with the British

Tory Party, far more influenced by Mrs Thatcher than by Ted Heath or Harold Macmillan, is beyond my understanding. Did not generations of Irish patriots from Hugh O'Neill to Sarsfield, Wolfe Tone, Davis, Pearse and Connolly, not seek help from the Continent? Happily, today, there is no incompatibility between having a close relationship with Britain and an equally close one with France, Germany, Spain and other continental countries.

What distinguishes Ireland's EU membership is the depth of our commitment to the European Union. EU membership gave Ireland an equality and respect it previously did not have in the Anglo-Irish relationship, with Britain previously looking down on the Republic as a weak and poor secessionist state. The EU, unlike the UN, which we constantly laud, has no great power directorate with exclusive individual vetoes. Those of us concerned with Northern Ireland will be well aware of the great support given by the EU to the peace process through measures such as the peace and reconciliation fund.

One would have thought that such positive differences to the advantage of Ireland and its independent status in Europe would have appealed more to Sinn Féin. The SDLP and the Scottish nationalists have adopted a far more positive attitude to the EU. I wonder also at the consistency of conservative groups who are ultramontane in their religion but Hibernian in their politics.

As the German Constitutional Court confirmed, the EU is an association of sovereign States, not a State, even less a superstate. The acquisition of legal personality by the EU or any other international organisation to which we belong does not alter or endanger this. As the German Federal Constitutional Court states, it is not decisive whether an international organisation has legal personality; what is decisive is the fundamental legal relation between the organisation and its constituent member states. Direct EU representation in capitals or forums, in which we are not represented, such as the G20, could be advantageous. Continuity of representation provided to a degree by a President of the European Council and the equivalent of a Foreign Minister will improve the coherence of the EU through which we operate and from which we benefit. The alleged loss of our sovereignty and neutrality on this, as on previous occasions in 1972 and 1987, is neither so total nor so great that should there be, even in ten years' time, the need for ratification of another treaty by the people, they will, in the opinion of those on the "No" side, not be ready to be lost all over again, since none of their previous predictions have come to pass. As Dr. Johnson once said, "There is a lot of ruin in a nation".

While of course we, like every other country, have to battle critically within the EU to defend our interests and ideals, it would be wonderful if we could abandon the residual element of paranoid defensiveness in some of our attitudes. Anti-EU parts of the left-wing intelligentsia, including those who call themselves Republican, surely need to recognise that the minimally funded superstate they conjure up is a Thatcherite mantra that should have no place in their philosophy or rhetoric. As anyone who studied her famous Bruges speech in 1988 will realise, Mrs. Thatcher was opposed to a hypothetical European superstate that recovered the power of the State, which she had been busy removing from it.

As Minister of State with responsibility for procurement, at a time when wasteful public expenditure is under heavy criticism, I am very proud of the fact that the Government and the Department of the Environment, Heritage and Local Government saved €1.7 million in postal and printing costs by attaching to the polling card the leaflet explaining the basic purpose and modality of the vote. The contract, as well as the saving involved, was widely praised by the house journal of the industry, the Irish Printer. There were a few complaints and political criticisms claiming that voters were confused, but I received no such complaints in my constituency.

The Lisbon treaty envisages an enlarged role for national parliaments. During my time in Seanad Éireann, Ireland's MEPs were invited to the House more than once for an exchange of views, which

worked very well. As a former Senator, and also as a Minister of State who has spent considerable time participating in policy debates in the Seanad Chamber over the past 18 months, I am deeply disappointed that both membership of that Chamber and its political contribution appear to have been written off by the leadership of the main Opposition party. Even more extraordinary is that the party's Senators, including professional Senators, should have unanimously endorsed the verdict of their own redundancy coming from their leader. *Uno duce, una voce* seems to be back in vogue.

Deputy Ulick Burke: The Minister of State would know all about that. He is a disciple of it.

Deputy Martin Mansergh: If political leaders in this House will not uphold the democratic institutions of the State, it is hard to know who will.

While any political abuses must certainly be reformed and necessary reductions made in our political and administrative overheads and the cost of our democracy, it is high time we stood up to the denigration of this Parliament coming from certain areas of the media. A perfect example of cheap, ill-informed journalism is to be found in yesterday's Evening Herald, which talks about Senators thinking it was a good idea to swan off this week to Swansea for a meeting of the British Irish Inter-Parliamentary Body. Attendance at that body is an important and integral parliamentary duty for its members. I was proud to be a member for six years as a Senator and Deputy. That body has contributed to the great improvement in British-Irish understanding which has been one of the building blocks of peace on this island and between these islands. There is only one respect, perhaps, in which the body is or was the occasion of what might be politely called a works outing, and that was the number of journalists, past and present, who used to attend, well in excess of any subsequent visible output covering the proceedings.

One of the principal causes of the loss of the first Lisbon referendum was that despite the valiant work of the Forum on Europe and bodies such as the Irish Council of the European Movement, the public felt they did not understand the treaty or where the EU is going. While politicians must communicate, the media need to enable them to do so by showing the same interest in policy debates as in politics. While there are many excellent and profound commentators, columnists and interviewers in all branches of the media, there is also plenty of room for improving the overall quality of content and the level of discourse.

In agreement with Deputy Bernard Durkan, I hope it is not mere pious aspiration, now the referendum has been passed, that inside and outside the Oireachtas we will show an interest in trying to live up to the higher European commitment resulting from ratification. There is one dimension of the European project that would help bind it more closely to its citizens. Whatever may sometimes be maintained on a strict construction of the European treaties, Europe was always a political as well as an economic project, and it brought to an end centuries of destructive wars. The missing element is the cultural one which, under the principle of subsidiarity, belongs to member states. That should be supplemented more at EU level. None of us would have any real difficulty in accepting the notion of a European culture and civilisation or its more active propagation.

This year is the bicentenary of the birth of Mendelssohn and the death of Haydn, as well as the 250th anniversary of the death of Handel, not to mention the birth of the Guinness brewery in Dublin.

Deputy Ulick Burke: We could have a bit of a dance yet.

Deputy Martin Mansergh: Our Nobel prizewinners belong to Europe and the world, not just to Ireland. It would be no detraction from our Irish heritage, or indeed any other heritage, if the EU were to be more active in enhancing our common European heritage and if, instead of being

perceived as a cold, self-interested political and economic project, it were, through culture, to become an overarching dimension of our several national identities.

Acting Chairman (Deputy Seán Ardagh): I call Deputy Cuffe.

Deputy Ciarán Cuffe: Follow that, a Chathaoirligh.

I wish to talk about the consequences of the campaign for ratification of the Lisbon treaty. The European Union is an amazing institution that, in its growth and transformation, often gives rise to lengthy and complex documentation. One of the interesting things about this campaign for me was to peruse the Lisbon treaty in its entirety and realise the complexity and far-spanning reach of the document and the European institutions. The fact that everything from trade agreements with Greenland to the European Space Agency and the importation of petroleum by-products from the Netherlands Antilles can be covered within one comprehensive document shows the range and scale of the European Union.

Much was made in the campaign of concerns about the possible entry of new member states into the EU, with much emphasis being placed on the prospective entry of Turkey. It is worth taking a few moments to dwell on the possible benefits of the Union of reaching out not only to countries such as Croatia, which were mentioned by the previous speaker, but also to other countries to the east, whether Belarus or the Kaliningrad exclave. There are other areas that could benefit dramatically from social, environmental and economic links to the EU.

We must learn from the campaign. This is not a moment to gloat or be triumphant but to reach out to campaigners on the “No” side and realise that while some of the slogans were inflated, the concerns, for the most part, were genuine. We need to listen carefully to the voices that were raised on the “No” side and, in particular, reach out to those young people who were disaffected at best or, at worst, failed to engage at all with the EU. There is a lesson in this for the European Parliament, the Commission and indeed the Oireachtas. We should look to the success of the outreach programme of the Oireachtas, in which Members visit schools within their constituencies and engage with young people, responding to their questions and concerns. I hope that both the European Parliament Office and the European Commission Representation in Dublin will, if they are not already doing so, introduce a strong initiative to bring the EU into our schools, listen to the concerns of young people and point out the benefits of EU membership.

I emphasise the new importance of the European Parliament in implementing legislation within the EU. One of the things in the treaty about which I am enthusiastic is the stronger role that will be given to the European Parliament. I must also briefly mention the role of the Union in addressing environmental issues. Some people on the “No” side were quite dismissive, saying there were only five words about global warming in the treaty, namely “in particular combating climate change”. However, those five words are contained within a substantial section on the environment, which is followed by Article 194, dealing with energy concerns. Enshrined within those articles of the treaty are the principle that the polluter pays and measures affecting town and country planning and land use that have brought and will continue to bring benefits for the European Union. Under the citizens’ initiative, one million signatories can bring forth initiatives to which the Union must pay attention. That in itself is important.

There is one side effect of Ireland’s ratification of the Lisbon treaty that may sound small on the face of it but in fact will be quite significant for a woman named Amelia Andersdotter, a Swedish politician who was the second candidate on the list for the Pirate Party in the European Parliament elections last June. If the Lisbon treaty is fully ratified, she will be elected to the European Parliament by virtue of the change in voting rules. I am not in any way endorsing the platform of the Pirate Party, but she will be a strong, genuine and young voice within the European Parliament

representing Sweden. I look forward to her taking her seat in the European Parliament.

Deputy Lucinda Creighton: I wish to share time with Deputies Ulick Burke and Joe McHugh.

Acting Chairman: Is that agreed? Agreed.

Deputy Lucinda Creighton: I am pleased to have the opportunity to speak on this Bill. At no point during the Lisbon treaty referendum campaign did anybody sit back with any sense of confidence or expectation that we would see the ratification of the treaty by Ireland. There was no sense of complacency. As a result, we saw a successful outcome of the campaign and had a much more vibrant, committed and passionate campaign than on the previous occasion. I have expressed my passion for Europe and for Ireland's place in Europe previously in the House and believe strongly that the Lisbon treaty is an essential and integral element of Ireland's continuing engagement in Europe and that it will lead to an improvement of the European institutions and how they function.

We have had ongoing and sometimes paralysing debate about institutional reform within the European Union for well over ten years now, but we now have the opportunity to move on to a bigger and more important agenda that involves key policy challenges for Ireland, France, Poland, Hungary and each of the 27 member states and beyond. The efficacy and successful functioning of the European Union has a reach far beyond the borders of the current member states.

The issues were well rehearsed during the referendum campaign, but I would like to draw attention to key areas we have the opportunity to confront now that we are armed and equipped with a newly revitalised and invigorated European structure. Let us consider, for example, the area of justice and home affairs. Much crime, particularly drug and gang related crime, is a challenge that pertains not just to a country like Ireland. Such crimes almost always have a cross-border element. For that reason, the Lisbon treaty will play an important role in bolstering and strengthening the capacity of the European institutions to respond to cross-border crime and in enabling national police forces such as the Garda Síochána to tackle and combat it. This is particularly relevant for Ireland.

Climate change is another challenge small countries such as ours cannot face on their own. Now, due to the reinvigorated structures at European level, we will be in a position to attend the Copenhagen summit in December with an agenda and in the knowledge that the European Union has a clearly defined legal capacity to tackle and move forward on the issues of climate change, global warming and CO2 emissions.

The situation is similar with regard to the economic challenges we face. No EU country has been immune from recession over the past 18 months and there has been legitimate criticism of the European Commission and the capacity of the Union to respond to the economic crisis. While the Lisbon treaty does not solve this problem, it will go some way to preparing and enabling us to deal with future challenges and to helping us move beyond the economic crisis we have seen across the Continent of Europe.

This legislation is important, but further legislation will be required to reflect not only the changes that will be brought about by the Lisbon treaty, but other decisions and outcomes such as those we have debated in the Sub-committee on the Future of Europe and its recommendations. I welcome the comments made by the Minister for Foreign Affairs, Deputy Micheál Martin, before the Joint Oireachtas Committee on European Affairs this morning. He referred to some changes that must happen which will require further legislation later.

The parliamentary reform agenda is very much in people's minds this week, not least because of some of the proposals made by the Fine Gael leader over the weekend. Debate and discussion of parliamentary reform of both the Dáil and Seanad provides us with a great opportunity to consider

how we can integrate a European agenda into the business of both Houses. Some of the language in this Bill seems to look more towards a fluffy, nebulous and ill-defined advisory role for our national Parliament in terms of European scrutiny and scrutiny of legislation coming from the European Commission. It does not go far enough. It is essential that we consider some form of mandate system and direct accountability to the Dáil and Seanad with regard to the position of Irish Ministers at European Council meetings and with regard to the agenda set out by Ministers. These must not just be advised, but be informed by the views and positions adopted by the Dáil and Seanad. We need to reflect on this issue and come up with a more concrete mechanism that will achieve this.

There is an extremely important need for scrutiny of legislation at EU level. We have failed in that regard so far. Ireland does not compare to other member states in terms of how we deal with directives coming from the European Commission.

Deputy Dick Roche: It does.

Deputy Lucinda Creighton: In terms of the level of detail and attention given, we do not compare well to the likes of Denmark and other countries which have a robust scrutiny system. We need change in this area.

I echo the remarks made by Deputy Ciarán Cuffe with regard to the need to inform and educate people on European matters. Deputy Cuffe called on the European Commission to take a more active role in schools. We need to go far beyond that. European affairs should have equal status with subjects like geography and history which are full subjects for the junior certificate cycle. There is a complete lack of understanding as to how the institutions of the European Union operate. European affairs should be a curriculum subject for the junior cycle and should be an option for the leaving certificate. It is that important and it is fundamental to all aspects of life here. There is an onus and responsibility on Government to educate our young people so they can engage in European issues in an informed way for the future.

Deputy Ulick Burke: I thank Deputy Creighton for sharing her time on this important debate. I congratulate her on the part she played as regional director and on a successful referendum campaign and very successful results in the Dublin region in the most recent referendum.

One of the main reasons for the rejection of the Lisbon treaty in the first Lisbon treaty referendum was that rural Ireland resisted and was totally dismayed by the way in which European legislation was transposed into Irish law. As a result, the farming community throughout the country said "No". Most rural constituencies show that. There is no doubt but that the Department of Agriculture, Fisheries and Food and the Department of the Environment, Heritage and Local Government have serious questions to answer in this regard. I outlined to the Minister for Foreign Affairs this morning the significance of ratifying this Bill and pointed to the very important ancillary provisions in the legislation which provide for the increased parliamentary oversight of European affairs provided in the treaty.

It is important to realise that over the past couple of years the Department of Agriculture, Fisheries and Food has insisted on farming by calendar. That has been a totally futile exercise in so far as the spreading of slurry was a major issue and the best times for the appropriate weather conditions were being ignored with farmers forced to spread it in flooded fields throughout the country. That is totally foreign to proper farming and those types of practices have to change. I can give other examples. An industry has been created out of inspection and regulation, adopting and implementing EU directives with the zeal of medieval inquisitors. Everybody in Irish farming who has experienced inspections would clearly respond in such terms. They are being set up as criminals and fraudsters in many instances. That is wrong and while this type of ineptitude continues, Europe

will always take second place. It is just not acceptable for this to continue and I believe the Minister for Foreign Affairs will be taking it up with his counterpart, the Minister for Agriculture, Fisheries and Food, to ensure that it does not continue.

I can give the Minister of State a couple of examples before I hand over to Deputy McHugh. Regarding compliance with the single farm payments scheme, and the inspections that occur, if a briar is hanging from a hedgerow, a penalty is imposed. There is no criterion for the inspections. In total contradiction, oddly enough, under the REP scheme a corridor about 2.5 m wide must be left so that there can be no activity within this space to the hedgerow. That is a contradiction. A penalty is imposed, in the first instance, on the single payment and in the other case, if there is an intrusion regarding REPS, another penalty is imposed. That is totally reckless on the part of the Department and the officials and inspectors who insist on that type of behaviour. It is important, therefore, to have such policies rectified once and for all. If Lisbon and the secondary provisions of the Bill are to be implemented, it is crucial to re-open that area.

I ask also that the habitats directive be re-examined. In County Galway — as my Galway West colleague, Deputy Pádraic McCormack, knows better than I — some 75% of Connemara is designated for conservation. More than 40% of the entire county is designated. One cannot apply for planning permission if one is adjacent to one of those designated areas. That is simply not acceptable.

The idea that the people who have, for centuries, been cutting turf in rural Ireland, particularly County Galway, cannot continue to do so except under the derogation obtained by the Minister is ludicrous, just because we want to preserve the bogland. This is totally wrong and must be faced up to. Questions must be re-opened where mistakes were made in the past, to allow people to continue to practise farming and go about their other activities in a reasonable way. Whether this is a matter for either the Department of the Environment, Heritage and Local Government or the Department of Agriculture, Fisheries and Food, or both, perhaps the Minister for Foreign Affairs, Deputy Martin, can persuade them that this has to stop and all the restrictions on farming must be changed.

We now have a situation where people who grow grain cannot sell to neighbouring farmers because of restrictions. Who are we protecting in this instance?

Deputy Joe McHugh: This European Union Bill cannot be passed into law without reflecting on County Donegal's unique decision to vote against the treaty on two consecutive occasions. As one of Donegal's five representatives in this House, it is my duty to put on record what I believe to be the reasons for my country's decision to vote "No" in the referendum. The 51% Donegal "No" verdict on Lisbon must be listened to by decision makers in Government, in Brussels and at North-South Ministerial Council level.

In terms of our geographical isolation, Donegal's total land border, as the Minister of State knows, is 170 km — 158 m with Northern Ireland and 12 m with Leitrim in the Republic. The vast majority of the county's perimeter is Atlantic coastline and the Lough Swilly-Lough Foyle shoreline. Our unique decision can be attributed in part to our isolation. We do not partake in the national conversation to the same extent as other counties. Our local radio station has the highest market share in the country. Significantly, a newsagent in my parish sells 225 local papers every week and 180 national papers, including Sundays. The national media's united "Yes" campaign did not have a proportionate purchase in County Donegal. The further north one goes, the greater the sense of isolation, as evidenced by the higher "No" in Donegal North-East compared to Donegal South-West.

There is a combination of factors for the protest vote. The "No" vote is a product of the anger of Donegal's marine sector and frustration with a quota system that allows Ireland to fish out of 7% of

EU waters even though we own 25% of the marine territory. Our disaffection has been longer in terms of the recession. Our recession is longer and deeper and we did not have the benefit of the Celtic tiger. While the Celtic tiger was roaring in the south of the country, our young men were getting into vans on a Monday morning and driving to places such as Dublin and County Meath. We have the lowest level of disposable income per capita with 83.4% of average State income — €17,252 in Donegal as against €20,678 on average across the State.

Our dependency ratio in Donegal is 56% — 18% above the national average. A Teagasc farm income survey has shown that the average income in the north-west is €8,635 compared to €27,786 in the rest of the country. In 2002, national unemployment was 8% while in Donegal the figure was 16.6%. There are now 21,000 people unemployed.

Regarding cynicism about EU distribution, as the Minister of State is aware, TEN-T-EA was established by the European Commission and has responsibility for managing the technical and financial implementation of the trans-European transport network, TEN-T, programme. TEN-T-EA got money from the Commission to the tune of €4 million, which it spent on a cross-Border railway network between Cork and Dublin. This was by way of an application which was sold to Europe as an upgrade to the Belfast-Cork via Dublin line.

The impact of the Northern Ireland conflict in the context of the Border has afflicted Donegal economically and socially. It caused problems in all of Ulster, not just Northern Ireland. The Good Friday Agreement has to be looked at, ten years after its ratification. It was presented to us as being about more than peace in the Six Counties. It provided for a new society and new economics across this island. As far as we are concerned, much of the cross-Border talk can be summed up by saying: “When all is said and done, there is more said than done.”

Donegal is left in the wilderness, abandoned in Ulster, failed by Dublin and sometimes irrelevant in Europe. I will finish by quoting from a speech made to Seanad Éireann in 1932 on a Cumann na nGaedhael motion about the economic war that Éamon de Valera was then waging on Great Britain. A Donegal Senator bewailed the fact that the economic disharmony between the UK and the Irish State was affecting his county more severely than any other part of the Free State. On 3 August 1932, Senator John McLaughlin, an Inishowen resident who owned a shirt manufacturing business in Buncrana, told Seanad Éireann:

The people there are in the frontline trenches . . . An unfortunate Donegal man will hardly . . . see much in the wisdom of the statesmanship that tells him to depend on himself, that we should depend on the home market, and cut him off from the only market he had.

Nobody can drown the cries of the unfortunate people of Donegal who voted for Fianna Fáil, and who put them into the position as the government that cut off their best market, because no one in Ireland will feel the disastrous effects of this economic war more severely than the people of Donegal.

Suffering becomes wholly malignant when lessons are not learned from it. Some 77 years after that Buncrana Senator decried the difficulties being wreaked on County Donegal by economic divergence between Ireland and Northern Ireland, history is tragically repeating itself. There is still economic disharmony between Ireland and Northern Ireland, and Donegal people are still in the front-line trenches.

We in Donegal may come across as complainers. We are not complainers. There was a 13% swing to the “Yes” side. The result in the county was 49% “Yes” and 51% “No”, but democratically it came across as a “No” vote. We have solutions to our problems at present. We did not get the Celtic tiger; we relied on the sterling market. However, with sterling strengthening we are in serious

difficulty at present. There are protests and disharmony among businesses that are closing down on a daily basis. We need to provide economic solutions. There are integrated strategies that Europe can work on, including in the areas of health, transport and education. However, we need to see these operating on the ground in the north west. The strengthening of sterling is creating policy gridlock at a monetary level, but we also have policy gridlock at an economic level. We have solutions, proposals and strategies in place that will help us come out of the recession.

The 51% of people who voted “No” did so for a reason. They protested through a number of mechanisms and had a number of different reasons for voting “No”. However, there was a high “No” vote because there is a protest. It is not about victimisation or feeling sorry for ourselves, but there is a harsh reality of the economics of being in the north west, stuck between the Northern Border and the Southern policy that is not working for us. We need to do something. As a representative I will be reaching out to Brussels. The debate should be measured. This is a benchmark and a watershed that should be used as leverage to get Donegal’s entitlements. We are not looking for any extra. We are looking for that to which we are entitled. Perhaps Europe could be used as a better mechanism for fulfilling the policy promises that are within and integral to the Lisbon treaty.

Deputy Michael P. Kitt: I congratulate all the party leaders in the House on their contribution to the campaign on the referendum on the Lisbon treaty. I also congratulate the Minister for Foreign Affairs, the Minister of State and everybody who played a part in getting the message out there. The majority of the House were in favour of the proposal.

As a member of the Joint Committee on European Scrutiny, I was interested in some of the work it did. I have been a member of the committee for only a few months, since I lost my job at the Department of the Environment, Heritage and Local Government. The committee has been working very hard to get the message out particularly about the relationship between the European Parliament and national parliaments. I was very interested in a report it produced that described the period prior to the first direct elections in 1979 at which time members of the European Parliament were appointed by the national parliaments. Some of the people who represented this House in the European Parliament went on to be candidates and many were elected as our first directly elected MEPs. It is a great tribute to the present committee under the chairmanship of Deputy Perry that we have debated some of these issues. While it might have been an organic relationship between national and European parliaments at the start, we now have different roles but they have the common objective of bringing the European Union closer to citizens and contributing to the democratic legitimacy of the Union.

It is well known that before 1979 a secretariat and ushers from this House were working in those parliaments, which was unique. Whatever tension there was between national parliaments and the European Parliament at the time, there is no longer any antagonism between the two sides. A very good role is now played by our own parliament. I hope it will play a greater role, particularly in the area of parliamentary scrutiny as we make progress.

It is interesting to talk about the relevance of Europe. There is a leaflet we get from the EU liaison office in Brussels outlining what will happen this week in the European Parliament. Listed are: questions with the Commission President for an hour; preparing for the European Council; reference to the new measures dealing with the dairy sector; and a debate on the budget for 2010, which is likely to call for an additional €1.5 billion to fund energy aspects of the recovery plan and an additional €300 million for the new dairy sector fund. Climate change is on the agenda. I particularly commend the Minister and his Ministers of State on their work on climate change. I also commend them on their work in developing countries and the millennium development goals.

If I am to mention one issue

Acting Chairman: I am supposed to call the Minister of State at 5.45 p.m. which is now. Perhaps the Minister of State might give his colleague a couple of extra minutes to finish off.

Deputy Michael P. Kitt: I would appreciate that.

I wish to refer to an issue mentioned by Deputy Burke on the habitats directive. Like Deputy Burke, I have long fought the case of people who want to cut turf. I declare an interest in that I also cut turf, but not in a designated area. There is nothing in the Lisbon treaty to affect Irish control over our bogs. Our bogs are protected under the habitats directive, which was negotiated with full participation by Ireland and freely adopted by us. We are talking about a small number of bogs. It was our own National Parks and Wildlife Service that listed these bogs and not a decision made by Europe. The European Union provides considerable money — up to €500 million — to help preserve these prime natural heritage areas. There is a case for reviewing the particular designation. If people have been cutting turf for generations I cannot see why they would now be stopped when there is so much bog that could be conserved. I hope that an interdepartmental group will consider that matter.

I received a submission from the Council for the West, which made a very strong case outlining how the BMW region has had economic success in a European context. While we were probably the poorest region in Europe when there were only nine member states, the accession of Greece, Portugal and Spain, and the later reunification of Germany probably meant we lost that title, and by 1991 we had a GDP per person which was less than 60% of the EC average. Obviously many of the structures introduced in the BMW region have resulted in us making progress. There has been great support by bodies such as the county and urban councils, county enterprise boards, Leader, CLÁR, local development agencies and regional bodies, such as the Western Development Commission, Údarás na Gaeltachta, the regional authorities and the BMW Assembly. I obviously would be concerned that any proposals by the McCarthy group to abolish the Western Development Commission, for example, or to merge or subsume these bodies into Enterprise Ireland would affect a body such as the Western Development Commission.

I hope I will be able to see this progress continue. Obviously our membership of the European Union has been very important as has been highlighted by farming organisations and the Western Development Commission. I join in the congratulations to the Minister of State present and his colleagues for the work they have done.

Minister of State at the Department of Foreign Affairs (Deputy Dick Roche): I thank all the Deputies who made contributions to this important debate which comes on the heels of a referendum where an extraordinary amount of people voted. I was amazed at Deputy Ó Snodaigh's views about the referendum, but then I am very frequently amazed at his views. I will come back to it. An astonishing number of people voted. It was the highest number of people to vote "Yes" in a referendum on a European proposition. It was an astonishing turnout.

We are also approaching a very important European Council meeting. Since the referendum Europe has begun to refocus its views of Ireland in a very positive way. The road that has led to this point has been a long and tortuous one, going right back to the European Council in December 2000 and followed by the Laeken Declaration the following year, which attempted to put flesh on the ideas. The idea discussed at that time was how we would bring Europe closer to its citizens and deal with the apparent deficit in terms of democracy within Europe. The idea goes back even further than the European Council meeting itself. As I recall, prior to that, Mr. Joschka Fischer had launched a paper at the Humbert University in Berlin to discuss the same issue.

The Laeken Declaration was an interesting starting point in that it spoke of the need for the Union to come closer in every way to its citizens and their needs. Normally, as all in this House know,

institutional treaties have been produced by intergovernmental conferences — it is frequently said they are produced in smoke filled rooms, which is not the case, but they have all been produced in private conferences except on this occasion. Those like Deputy Ó Snodaigh who somehow denigrate the process that went into the preparation of this treaty should look at the history. The reality was that from 2002 to 2003 there was an extraordinary innovation in the Convention on the Future of Europe. That involved not just Government representatives but also parliamentarians from across the entire Union, its institutions and civil society. It was open and transparent, and conducted its work in public. For somebody to suggest that somehow this process was hidden from the public is simply at variance with the facts.

Ireland's case was unique because the Irish delegation was made up not just of Government representatives but also of representatives from all of the major political parties. I had the honour to lead the Irish delegation and it was an extraordinary experience to work with colleagues from across this House, with people bringing different viewpoints. I well remember Proinsias de Rossa persuading me to sit in on the Social Europe group just to hear the debate there — I had actually asked to be transferred to it. When I listened to the debate in this country in recent weeks, I could not understand why some people could not have it within themselves to accept that this had been something that was unique.

The convention can be credited with putting a completely different emphasis on the preparation of the treaty. The division of competences in the Union was addressed, a point made by Deputy Timmins in his introductory comments when he referred to creeping federalism. The convention looked in detail at this very issue. The conventioners who took the view that there should be a halt to that process won out, and this treaty reflects that. The convention was also focused on the simplification of the Union's instruments and on how we can work democratically to make the Union more transparent and efficient at the same time.

The Lisbon Treaty, of course, is the outcome not just of the convention but of two intergovernmental conferences. The first of those was under the Irish Presidency and the second followed the rejection of the treaty by the French and the Dutch. Another period of reflection followed the referendum here in Ireland in 2008. That period of reflection demonstrated what is good in Europe. If we recall the day the vote was taken last year, with a negative result, the very first response from Europe was that it must listen to the Irish people and respect their view, work with Ireland because it was not just an Irish problem, and work to see how the issues raised could be dealt with.

The response since then has been remarkably positive. It is a remarkable example of the solidarity that exists within the European Union. There was a willingness to sit down with us, to listen and to pay attention to what we asked for and make the necessary changes. The declarations, the various IGCs and periods of reflection, the conventions and the six referenda which have been held have all been important in illustrating to people who have somehow grown suspicious of the European project that, far from wanting to force itself on the people, it wants to be part and parcel of a public evolution of the new Europe.

The process has been painstaking. The European Union is a union of states and peoples. It is interesting to consider the work of the convention, where there was discussion as to the nature of the next treaty and whether it would be a constitution or otherwise. One point on which there was agreement was that Europe was, in fact, a unique initiative of peoples and nations. The nine-year process which is coming to fruition demonstrates the essentially democratic nature of the Union. Despite the setbacks, there was never any question of rushing the fences. At each stage, the democratic decision-making process of each member state was fully respected, which remains to this day. When problems were encountered, they were dealt with on the basis of respect and consultation. There was no bullying or attempt to bully or push people in any direction; there was

simply respect. Whatever the obstacles, the 27 states took the time to talk, tease out the issue and move on.

The objectives set out nine years ago were ambitious and the needs identified were pressing, but the Union has recognised the need to be inclusive. As an organisation which is based on solidarity and shared values, there was little point in setting a pace which could not be matched by the member states. This is the essential genius of the European project. Despite all of the frustrations which emerged over the course of the negotiations and the numerous setbacks and false dawns along the way, the Union which emerges is stronger and more effective because its citizens can see it respected the difficulties, differences of opinion and different views which informed different member states' approaches to the issue.

With the Lisbon treaty, we now have a Union in which our shared values and objectives are set out clearly, equipped with institutions which will operate fairly and effectively, and tasked with the responsibilities whenever the member states decide action at the level of the Union works best, with clearly defined parameters setting out where it is best to leave issues at national or regional level. I go back to the point made by Deputy Timmins. It is interesting that one of the great innovations in this treaty was the very clear declaration of the conferral principle which makes it very clear we will not drift in the direction of a federal Europe which has its own powers, autonomous to the member states. It has powers which are conferred only by the member states.

In the nine years it has taken to bring this process to a conclusion, some of the challenges we face, such as climate change, have taken on an increased sense of urgency. In recent times the economic reality has caused us to check our position on Europe. However, the European Union which is about to come to life under the terms of the Lisbon treaty has been crafted in such a way as to give us the tools we badly need to deal with the big ticket issues, such as climate change, the economic downturn and cross-border crime. That is what the objectives of the Lisbon treaty were, with some changes made in terms of the responsibilities of the Union; there was no attempt to grab power from the member states.

In this debate, we are putting in place the final elements needed to bring a new European Union into life. We have made history along the way — no other European treaty received as much support in a referendum in this country as the Lisbon treaty did on 2 October — and we are making history here today. We are putting the finishing touches here in the House to a new era which will have an impact across Europe, in this country and in these Houses. The way we do business here and in the Seanad is set to change — I am thinking particularly of the contributions of Deputies Ulick Burke and Michael Kitt. No longer will it be the case that somewhere in the bureaucracy decisions are made without Parliament being fully involved. One of the extraordinary changes made by the Lisbon treaty is that this House and the Seanad — the two Houses of the Oireachtas — will be involved at a much earlier date in consideration of EU policies or draft legislation than is currently the case.

6 o'clock

After the passage of the Bill, the House will have to examine the operation of these powers in management terms. The involvement of national parliaments in the European law-making process is one of the most welcome developments since we joined the Union. National parliaments will be able to intervene at a relatively early stage but they will also have to act relatively swiftly. This, of course, presents an opportunity for this House and the Seanad, but also represents a real responsibility for both Houses to respond to the electorate's requirements. One of the extraordinary things that will happen under the new arrangements is that people who are concerned about European law will have a much better capacity to deal with the issues.

Before I conclude, I wish to deal with some of the specific issues raised. Deputies Timmins and Costello spoke at the outset about their concerns on section 4. To clarify, this section simply updates section 3 of the 1972 Act to take account of the new arrangements under the Lisbon treaty. I take Deputy Costello's point that the Labour Party was opposed to the 2007 amendment which made it permissible in implementing regulations to provide for indictable offences. I too had some concerns about that measure at the time, but the issue was debated in the House, a decision was made and it is now law. Section 4 of this Bill introduces no substantive change in this but simply reaffirms the arrangement in the Lisbon treaty.

I take this opportunity again to compliment Deputies Creighton, Costello and Timmins on their personal roles in the successful outcome of the second referendum on the Lisbon treaty. Deputy Creighton referred to two specific issues in her contribution, namely, transposition and the scrutiny system. The scrutiny system in this House is not perfect and I agree with the Deputy that it must be overhauled. On transposition, Ireland is now within the 1% level and we have improved significantly.

I do not accept the points made by Deputy Ó Snodaigh. The recent referendum campaign produced, at 59%, one of the highest ever turn-outs in a European referendum. Aggregating the results from the two referenda shows that 57.4% of voters supported the treaty and 42.6% voted "No". As well as achieving a very high turnout, this was one of the highest "Yes" votes since 1992.

Question put and agreed to.