

**Institute of Public Administration /
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Conference on Good Governance

**Address by
Emily O'Reilly
Ombudsman and Information Commissioner**

"In the Public Interest: Lessons from the Ombudsman's Experience"

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I am pleased to have been invited to address this conference. The theme, "*Good Governance: Values and Culture or Rules and Regulations*", is timely. It comes at a point when even the economically illiterate now realise that poor governance in a number of our key private and public institutions lies at the heart of the downturn. The theme also resonates with my work as Ombudsman and Information Commissioner. For the last 26 years the overarching work of the Ombudsman's Office has been about nothing less than the transformation of the culture of the public service, turning it away from the inward gaze and protection of self and forcing it instead to direct that gaze towards the public and their needs. Our work under FOI brings with it a similar intent. We have had great successes and some, though few, disappointments. I do intend however - at a later stage in this address - to use this platform and this theme, to talk about one current and very significant event for my Office, the treatment by the Oireachtas of my investigation into the so-called Lost at Sea scheme. I will track a line that runs from maladministration in a Government Department right through to poor Governance at the very highest level of this State.

I will submit that the economic and political crises that face this country will never be dealt with unless the culture and values of the political and administrative classes undergo profound change. An investigation by an Ombudsman may seem small scale in comparison to the huge financial challenges around us, yet it is a microcosm nonetheless of the faultlines within our system.

But let me begin by addressing the overall theme of this seminar and how it relates to the daily work of my Office. Over the last 18 months or so, the word Governance has begun to seep into every day discourse much as "*fiscal rectitude*" did in the 1970s and the triumvirate of Openness, Transparency and Accountability did in the 1990s. It is the new panacea for our economic and political ills but it is open to question as to how successful the proselytising of the need for good governance will be in the absence of the cultural change I have just mentioned. Observe, after all, what happened to the last publicly approved panacea.

To recap, the need for Openness, Transparency and Accountability was cued by the slew of political stroke business scandals of the late 20th century. Rules and regulations were heralded in through the Freedom of Information Act but within a very short period of time it became clear that the old cultures and values still nestled largely undisturbed at the heart of the administration.

The Act was barely five years old when the Government rolled back some of its more sensitive provisions and introduced a scale of up-front fees, alien creatures in many international FOI regimes. As I have often said, following these measures, the Act was seriously winded but it wasn't stretched off the pitch. Very significant and effective use has been made of the Act even since its curtailment and, ironically, never more so than during this current economic downturn. Yet the curtailment of the FOI Act was an example of how legally binding rules and regulations still failed to defeat the prevailing values and culture of secrecy. There is no doubt that 12 years of FOI have brought about some significant change for the better, but as I will point out later, we still have quite a distance to travel.

And so to governance. On the face of it, a rather esoteric topic for students of public administration, yet now clearly recognised, through the prism of this recession, as the bedrock of good management and good government. The spectacular failings in the banks, in FÁS, have given us real-life examples of what is not good governance. Similarly, the awaited reports on the Dublin Docklands Development Authority will, according to media commentators, expose serious failings of corporate governance in that organisation. We have also witnessed serious lapses in governance in the Financial Regulator's office. The Oireachtas itself has not escaped attention either with many commentators and indeed Oireachtas members themselves asking whether it is fit for purpose. Even members of the Cabinet itself, the body which wields ultimate power, publicly lament the ineffectual nature of much of what passes for parliamentary activity. This from a recent speech by Transport Minister Noel Dempsey;

"We should return Dáil Éireann to a central place in public thinking. It should be the battleground for ideas, the location for intellectual debate, where the brightest and best work in concert to achieve optimal results over the long-term, not cheap point-scoring in the short term."

And on the question of how to do good governance there is no shortage of material available - the OECD Report, *"Ireland: Towards an Integrated Public Service"*, the report of the task force on the public service, *"Transforming Public Services"*, the Department of Finance publication, *"Code of Practice for the Governance of State Bodies"* and the Chairpersons' Forum publication, *"A Chairperson's Guide to Good Governance"*. And in the meantime, endless handwringing about which is the best way forward? Is it more rules and regulations, or should it be driven by values and culture? Or is it some combination of both?

Before dealing with these questions, let me first say a few words about the importance of good governance in managing and directing an Ombudsman's Office. The British and Irish Ombudsman Association (BIOA), of which I am the current Chairperson, recently developed a guide to the principles of good governance for ombudsman offices and other complaint handling bodies. As I said in my introduction to the guide:

"Whatever governance arrangements are in place in any complaint-handling scheme, it is vital that they support and promote the integrity of the scheme and office-holder and, above all, protect the independence of the office-holder, particularly from those over whom the scheme has jurisdiction".

And so, for example, in the case of my own Office, the fact that it operates under statute, has its own Vote, is staffed by civil servants of the State and not civil servants of the Government, reports to the Oireachtas and has an office-holder who is appointed by the President, following a resolution passed by the Oireachtas, all helps to support and promote the integrity and independence of the Office.

The guide identified six principles of good governance, namely, independence, openness and transparency, accountability, integrity, clarity of purpose and effectiveness. I don't propose to elaborate here on these principles; I expect it is reasonably clear that they would represent the cornerstones for the governance of any organisation.

And finally, just to be clear that we all understand what we mean by governance, the guide includes the following definition:

"The way organisations are directed and controlled to ensure that they are effective in achieving their objectives."

As Ombudsman and Information Commissioner, I do not have a role in policing the governance arrangements of public bodies, but arising from my Office's daily interactions with those bodies, we are well placed to form a view on the competing roles of values and culture and rules and regulations in how they go about their business.

As Ombudsman I examine complaints of maladministration against government departments, local authorities, the public health service and An Post. I also have certain complaint functions in relation to the Disability Act, 2005. I make recommendation for redress, where appropriate and I report annually to the Oireachtas on the work of my Office. If a public body chooses to reject my recommendations, I may make a special report to the Oireachtas. This has happened only twice in the 26 year history of the Office; in 2002 and in 2009. As a result of Oireachtas intervention, and deliberation by the Joint Oireachtas Committee on Finance and the Public Service, the recommendations in the 2002 report, *"Redress for Taxpayers"*, were accepted by the Revenue Commissioners. However, at the time of writing, and as mentioned earlier, the recommendations in my 2009 report, *"Lost at Sea"*, remain rejected following a Dáil vote not to refer the report to the Joint Committee on Agriculture, Fisheries and Food for

further deliberation. A subsequent attempt at a meeting of the Committee to have the report considered also failed. I will come back to this later in my talk.

As Information Commissioner my principal role is to review the decisions of public bodies under the Freedom of Information Acts, 1997 and 2003. I make binding decisions which may be appealed to the High Court but only on a point of law. I report annually to the Oireachtas on the work of my Office. My remit as Information Commissioner is wider than that as Ombudsman; there are more than 520 bodies subject to the FOI Acts but some significant bodies remain exempted, including for example, An Garda Síochána, the Vocational Education Committees and of particular significance in current economic circumstances is the continued exclusion of the Central Bank, the Irish Financial Services Regulatory Authority, the National Treasury Management Agency, and, indeed, the newly established National Assets Management Agency.

The principal function of the Act as detailed in the Long Title is

"...to enable members of the public to obtain access, to the greatest extent possible, consistent with the public interest and the right to privacy, to information in the possession of public bodies.....to provide for a right of access to records held by such bodies, for necessary exceptions to that right..."

Given such an inspiring Long Title, it is difficult to reconcile it with the continued exclusion of the above public bodies. But not only are some public bodies not included but in recent years a practice has developed of removing public bodies or functions of public bodies from the scope of the FOI Acts. Examples of functions that have been removed are the enforcement functions of the Health and Safety Authority, the road safety functions now carried out by the Road Safety Authority, and the functions of the Land Registry and the Registry of Deeds now performed by the Property Registration Authority. I am also aware that a proposal to remove from the scope of FOI, records relating to the enforcement functions of the National Employment Rights Authority is being actively considered. I do not accept these exclusions, or the rationale behind them. In particular, I am concerned that removal from the FOI regime of records which are currently potentially accessible is a retrograde step especially in the absence of evidence that the existing exemption provisions are not sufficiently robust to allow the refusal of access where this is justified. One can only wonder at the governance arrangements that permit this piecemeal and sectional approach to FOI policy which completely ignores the public interest in favour of political and administrative pragmatism.

And this approach is not just confined to the FOI Acts. The Ombudsman (Amendment) Bill which is currently before the Oireachtas, among other things, proposes an extension of the Ombudsman's remit to the wider public service including the state agency sector (e.g., the Blood Transfusion Service Board, FÁS, the Food Safety Authority, among others) and the third level education institutes. One could be forgiven for thinking that after 26 years of Ombudsman oversight of government departments, local authorities and the health service, and the public demands for increased accountability by the public service, the case for extending the remit would be seen as entirely logical and rational.

Far from it; I am genuinely shocked by the representations made by and on behalf of some public bodies (but not the ones named in this paper) arguing against their inclusion in the Ombudsman's remit. Again let me ask, where lies the public interest in an administration that permits, condones and agrees to accommodate such representations?

And what of the values that are supposed to underpin our public service? There is no doubt that the Irish public service is operating today in a radically changed environment to what it was when my Office was established. The vocabulary of public service reform is increasingly taken from the world of business. But it sometimes concerns me that, in the midst of this change, we may lose sight of some of the fundamental values which have informed our public service since the creation of the State, values which, in many important respects, are at odds with the values of business. They have to do with fairness, equality, integrity, and a recognition of the notion of the common good. Efficiency and cost-effectiveness are, of course, key elements which the public service must pursue, but it must never be forgotten that, unlike his or her counterpart in the private sector, the user of public services seldom has a choice of an alternative competitive supplier. Fair treatment is vital and must not be lost sight of when efficiency measures are being introduced.

In these straitened times, public servants can struggle to meet competing interests of reduced budgets while, at the same time, attempting to meet rising demands for services. Inevitably, it is the budgetary constraints that win out. For example, over the years, my Office has seen instances where public bodies have introduced upper age limits to ration grants even though they had no legal authority to do so. We have seen homeless single people refused consideration for housing on the grounds of limited housing stock and the more pressing needs of homeless family units. It may seem reasonable to create such priorities but not when the governing legislation does not, in fact, authorise a public servant to ration resources in this way. We have seen nursing home subventions refused to elderly people on grounds of excessive means but only to discover on further probing of the complainants' circumstances by my Office, that the means ought not to have been taken into account in the first place.

We have had considerable success in overturning many of these ad hoc approaches. But the economic downturn has presented new challenges for my Office. We now see entire schemes being suspended due to lack of funds; a case in point is the Disabled Persons' Grant Scheme in relation to which several local authorities are not accepting any new applications. Meanwhile, I am approached by complainants with genuine need who are denied benefit under the Scheme – a Scheme which, in legal terms, still exists but has been starved of funds. What am I to do? Clearly, I cannot ignore the difficult budgetary situation faced by all public bodies. But I can and do challenge public bodies to justify their rationale for suspending a particular scheme while leaving other schemes and programmes untouched. In other words, I expect public bodies to demonstrate a rational and fair approach to the determination of competing priorities which focuses on the public interest and not solely on what is administratively convenient or weighted in favour of the interests of the public body in question.

A common thread running through many of the practices I have cited is a failure to recognise and uphold the public interest or the common good. Both of these terms appear in the Irish Constitution. They are frequently cited by politicians of all parties and never more so than at present when we are all called upon to behave in the national economic interest. But what happens when good governance fails at the highest level, when the Oireachtas, or sections of it, cast aside the high-minded rhetoric and acts demonstrably against that public interest?

This particular example of how deficits in our parliamentary and governmental arrangements can be damaging concerns the work of my own Office and relates to the special report I mentioned that I laid before the Dáil and Seanad in late December last. The report is titled *Lost at Sea* and deals with an investigation I conducted into a complaint from a Donegal family who believed they had been treated unfairly by the Department of Communications, Marine and Natural Resources. The issue in the complaint is rather complex - involving a scheme to restore tonnage to certain fishermen arising from the sinking of fishing vessels at sea during a particular period of time and I need not go into those details here. Suffice to say that, following an exhaustive investigation, I upheld the complaint and recommended redress which, in financial terms, amounted to about €250,000. By the time the investigation was completed, responsibility for the marine area had transferred to the Department of Agriculture, Fisheries and Food and that Department refused to accept my recommendation for redress.

What I am concerned about here is what should happen when an Ombudsman recommendation is rejected by the public body concerned. In terms of the language of today's conference, the issue may be put like this: how does the Ombudsman fit into the wider arrangements for government, and how should government act in order to support the Ombudsman in fulfilling her statutory role? It may seem odd to be raising these questions today, 30 years after the passing of the Ombudsman Act 1980, and 26 years after the setting up of the Ombudsman Office: but, in fact, this type of situation has arisen only once before in all of these years and, on that occasion, a solution in the particular case was found eventually. So far, no solution to the present situation has emerged; nor is there clarity as to how, in principle, such situations should be resolved. This means we have to go back to first principles to find a solution which will apply in all such cases in future.

The Ombudsman model followed in Ireland is, essentially, the Scandinavian model. This sees the Ombudsman, who acts in the public interest as part of the overall system of checks and balances, as in some sense representing or protecting the people from any excess or unfairness on the part of government. In this model, the status of the Ombudsman is a key factor; a person of integrity and competence who is given very significant powers to act independently and to adjudicate on complaints about how government operates. In investigating complaints, the Ombudsman acts in an inquisitorial fashion rather than in the adversarial fashion of the courts. The Ombudsman follows the usual rules of constitutional justice/fair procedure. Following an investigation, the Ombudsman makes findings and, where relevant, recommends redress. These recommendations are not legally binding on the public body concerned but come with a

very strong persuasive dimension - so much so that it is very rare that an Ombudsman recommendation is rejected. The Ombudsman, for her part, must earn the respect of the public and of government by showing that investigations are conducted fairly, independently and sensibly. It is a measure of the status of the Ombudsman that it is unnecessary to make her recommendations legally binding: in principle, government will want to act on Ombudsman recommendations because the people expect this. Otherwise, in rejecting an Ombudsman recommendation, government will be seen as acting as judge in its own case and as rejecting the need for checks and balances.

And this is the point at which, in the Scandinavian model, parliament enters the picture. The Ombudsman reports to parliament at least annually and, in addition, has access to a parliamentary committee which both scrutinises her work and, where necessary, supports the Ombudsman. In effect, there is a contract of sorts between parliament and the Ombudsman. On the one hand, the Ombudsman goes about her business with independence, integrity and a sense of fairness. On the other hand, while parliament will look carefully at how the Ombudsman conducts her business, and may require the Ombudsman to explain or justify a recommendation or findings, it will generally support the Ombudsman in ensuring that her recommendations are accepted and implemented by government. In this model, parliament does not offer blind support and loyalty to the Ombudsman. While it is predisposed to accepting that the Ombudsman, as an independent statutory office-holder, will have acted properly and reasonably, support in a particular case is likely to follow on from a critical engagement in which any issues relating to the actual case are thrashed out with the Ombudsman.

This, then, is the kind of model on which the Irish Ombudsman's Office was expected to operate. And indeed this model of Ombudsman scheme fits well with the model of government set out in the Constitution. Our Constitution envisages a parliamentary democracy operating on the basis of the traditional division of powers between the legislature, executive and judiciary; it envisages the executive power of the State as exercisable by or on the authority of the Government, which acts collectively and which is "*responsible to Dáil Éireann*". This model of government, therefore, is posited on notions of checks and balances and accountability. And above all, it is the function of parliament to act as a check on the government and to ensure that it is held to account and is not allowed to act in an arbitrary fashion.

Unfortunately, the model of government set out in the Irish Constitution has become more of a fiction than a reality. In practice the Dáil, and to a slightly lesser extent the Seanad, is controlled very firmly by the Government parties through the operation of the whip system. For all practical purposes, and I very much regret having to say this so bluntly, parliament in Ireland has been side-lined and is no longer in a position to hold the executive to account. With the exception of the election of a Taoiseach, almost all decisions of importance are taken by the executive and are rubber-stamped by parliament.

This state of affairs must be deeply frustrating for Oireachtas members themselves who, for the most part, are required to vote on a predetermined basis. Often, I imagine, TDs in

particular are forced to exercise a form of "mental reservation" which takes a considerable toll on them personally.

On the other hand, some members of the Oireachtas would seem no longer conscious that parliament is intended to call the executive to account. This reality was brought home to me while listening recently to RTÉ Radio One's News at One programme. Seán O'Rourke asked a government backbencher for his views on the expected Cabinet re-shuffle; various names were mentioned for promotion or demotion and the fate of the current Minister for Health & Children cropped up. The backbencher was unhappy that the current Minister has (as he saw it) become unaccountable. The reason why he was taking this view is quite revealing. It's not because the Minister is failing to explain herself in the Dáil or to reply to PQs; the problem, as he saw it, is that the Minister as an independent TD is not a member of the main Government party and she does not attend party meetings where she can be questioned by backbenchers. Accountability, in this model, happens in the party rooms and not in the Dáil. It was clear from the interview that the idea of the Minister being held to account within the Dáil or Seanad, by members of any party, was not an issue. This is not how Bunreacht na hÉireann envisages that parliament will operate.

Both I, and my predecessor Kevin Murphy, have spoken and written on numerous occasions of the dangers inherent in accepting that parliament is, for the greater part, a charade, that parliamentarians have in many cases lost the sense of parliament as an independent entity acting in the public interest. While few will acknowledge this openly, senior civil servants working with Ministers and sitting in on Oireachtas debates must, in very many instances, become profoundly cynical; either that, or they too have lost the sense that a properly functioning parliament is fundamental to a properly functioning democracy.

I am acutely conscious that, in making these remarks, I may be accused of petulance or of abusing my position. Yet I suspect that very many of our elected representatives accept this analysis totally. I recall that in February 2001, the current Minister for Finance spoke in the Dáil at considerable length, in a debate on my predecessor's report *Nursing Home Subventions*. Mr Lenihan focused on those aspects of that report which dealt with the relationship between the Executive and the Legislature; my predecessor's comments were in the same vein as my own comments here today. Mr Lenihan appeared not to dispute any of the then Ombudsman's observations and he (Mr Lenihan) went on to say:

"The Ombudsman's opinion is that in the longer term, the relationship between the Oireachtas and the Executive, as well as the relationships within the Executive may need to be thought through afresh in the context of a wider programme of constitutional reform. The All-Party Oireachtas Committee on the Constitution shares this view and it is at present carrying out a study of these issues. Clearly the Ombudsman's report is a graphic example of the pressing need for effective oversight of Government and public administration. For a small country like Ireland, the committee is well aware of the need to ensure the Government has the capacity to respond speedily to challenges in the external environment. Too sensitive a balance could lead to an enfeebled Executive. ..."

We will be discussing this issue at our next meeting. I know the Ombudsman's report will be a valuable contribution to this study."

In the intervening nine years, unfortunately, the scale of the problem has increased rather than decreased. I do think, and again I say this with genuine deference to all the members of the Dáil and Seanad, that the situation is now so serious that it cannot continue to be ignored. It seems to me that a properly functioning parliament is even more necessary at times like these when, in effect, we have a national emergency on hands.

On 14 December 2009, I laid a report before the Dáil and Seanad in relation to the *Lost at Sea* case. Despite very extensive correspondence and meetings, the relevant Department had refused to implement my recommendation for redress. In these circumstances, my only recourse was to report on this to the Dáil and Seanad and to ask that the Houses would *"take whatever action they deem appropriate in the circumstances"*.

The Ombudsman Act does not prescribe what should happen when an Ombudsman recommendation is rejected by a public body. This is not necessarily a problem; many aspects of how the Ombudsman functions are not prescribed in law. Based on the Ombudsman model adopted here in 1980, one would expect that parliament would refer my report to an appropriate committee; that the committee would scrutinise my report in some detail; that as part of that scrutiny, the committee would invite myself and key personnel from the relevant Department to appear before it; and, following this engagement, the committee would decide on whether or not to ask the relevant Minister to accept my recommendation and implement it. One would then expect the relevant Minister to heed the conclusion reached by the committee. This is no more than is envisaged in the Scandinavian model of how a state ombudsman scheme should work.

To be absolutely straight, on the basis of this process I would expect a parliamentary committee to reach the conclusion that my recommendation should be accepted and implemented. The whole point in having an ombudsman is that complaints are investigated by an independent, experienced, professional and authoritative office; logically, except an investigation of equivalent weight is conducted elsewhere, or unless the investigation is shown to have somehow erred in law, then the investigation findings and recommendations should be accepted. As my colleague Ann Abraham, the UK Parliamentary Ombudsman, said last year, speaking to a House of Commons Select Committee: *"Unless the Ombudsman has gone off her trolley, let us leave the findings undisturbed"*.

What actually happened was as follows. On 4 February 2010 my Report was the subject of discussion in the Dáil; an attempt to have it referred for consideration by a committee was defeated following a vote on the Order of Business; the vote was 68 to 63 with the Members voting along party lines. On that same day there was a lengthy debate on the Report in the Dáil itself but this took the form of a series of statements rather than any detailed engagement with the substance of the investigation. This process was repeated in the Seanad on 18 February with another exchange of statements. Throughout these exchanges, the Minister of State at the Department of Agriculture, Fisheries and Food

expressed the view that, despite his admiration for the work of my Office and for the ombudsman institution generally, in this particular case he takes the view that "*there is no basis for payment in the amount proposed or any amount*". Furthermore, the Minister for State rejected my findings that the actions complained of were "*contrary to fair or sound administration*".

On 2 March 2010 the Opposition parties in the Dáil made another attempt to have my Report referred for consideration by an Oireachtas Committee but the Taoiseach took the view that it was a matter for the particular committee as to whether or not it looked at my Report. On 3 March, an attempt was made at a meeting of the Joint Committee on Agriculture, Fisheries and Food to have the Report considered. This attempt failed following a vote which followed party political lines. And there, it appears, matters rest.

I very much appreciate the efforts of those within the Dáil and Seanad who sought to have my Report dealt with, through a Committee, in a manner which is respectful both of the Oireachtas itself and of my Office. It is very unfortunate that these efforts followed party lines and could be portrayed as the usual party political jostling which tends to be a feature of parliaments generally. Those who wished to have the matter dealt with in Committee were seeking no more than is expected from the Ombudsman model adopted in this country in 1980.

Through the operation of the whip system, both in the Dáil, Seanad and in Committee, the Executive has spangled the Oireachtas and prevented the Houses, by way of a Committee, from dealing with the Report. By preventing the Oireachtas from dealing with the Report, the Government parties have brought about a situation in which the Government has been able to act as the judge in its own case. The saga began with maladministration and has ended, to date at least, with poor governance.

It is possible that the Government's response in this case is a "*one off*" prompted, as many observers have suggested, by a sense of loyalty to a colleague, the former Minister for the Marine and Natural Resources, who devised the scheme along with his officials, following representations from constituents and others and against the initial advice of his Department officials. The gentleman who complained to me when he was refused access to the scheme had had no inside track, and the tragic details of his particular case lay unbound within the filing cabinets of the Department. I cannot say if what the observers suggest is actually the case but I note again the mismatch of rhetoric and action. The last Financial Regulator was excoriated for not doing his job adequately, for allowing himself to be captured by the system he was supposed to monitor, by not rooting out maladministration in the banking system and thus failing to serve the public interest. My Office has done - in its area of responsibility - precisely what the Financial Regulator was accused of not doing in his. And the result is as I have outlined.

I will quote once again Minster Dempsey,

"The most important part of the job (of public representative) is ensuring, through our work, that the system works for every citizen, not just the ones who come to our clinics. Public representatives shouldn't be distracted from their national function by constant clientilism - by becoming a hero to one citizen through finding a way around a system when the real responsibility is to change the system to benefit all citizens... Any time public representatives abandon their judgment to serve a lobby group they don't believe in, they are betraying their calling. Our state and semi-state organisations are not scrutinised nearly enough by our national politicians, particularly in relation to their service delivery to citizens. Because the whole basis of what we do politically is adversarial competition, there's little opportunity for a collective approach to solving problems."

Indeed...

Let me also quote from another leader, this time from business, the former head of Unilever, Niall Fitzgerald, interviewed in last Saturday's Irish Times. Talking about the lack of true independence in many of Ireland's boardrooms, he said that the lack of adequate regulation was not the problem.

"The thing that really worries me," he said, "if I was losing sleep about it on behalf of Ireland, is that there are too many people who have a vested interest in there being no accountability. If the leaders of a society are not prepared to hold themselves accountable, or there are not the institutions which are sufficiently independent to hold them accountable, then I think you have a very serious problem on your hands."

To conclude,

- acting in the public interest is the cornerstone of democracy;
- in looking at the nuts and bolts of government, as the OECD has done and as is envisaged in the Government's *Transforming Public Service* Programme, it is essential to confront also problems at the high end of government, that is, how parliament operates;
- tinkering with the nuts and bolts of government, in the absence of reforming our parliament, is not enough; it is to overlook the elephant in the corner;
- a modest proposal for parliamentary reform would be for the main political parties to agree to relax the very rigid party discipline now there and to accept that TDs should have some freedom to follow the dictates of their own conscience;
- as regards my immediate difficulty as Ombudsman, arising from the *Lost at Sea* case, I would hope that the Oireachtas will find a mechanism to allow the matter be dealt with in a calm and reasonable fashion and in accordance with the model of Ombudsman which, certainly as I understand it, was the intention of the legislature in 1980 when it passed the Ombudsman Act of that year.

End