



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

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

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DÁIL ÉIREANN

Dé Máirt, 25 Meán Fómhair 2012

Tuesday, 25 September 2012

Chuaigh an Leas-Cheann Comhairle i gceannas ar 2 p.m.

Paidir.
Prayer.

Ceisteanna - Questions

Priority Questions

Agri-Environment Options Scheme Applications

47. **Deputy Éamon Ó Cuív** asked the Minister for Agriculture, Food and the Marine when he intends re-opening the agri environment options scheme to new applicants; the conditions that will apply to the scheme; the maximum payment that will be provided for in the scheme; if there will be any changes to the measures under the scheme compared to the last AEO scheme; and if he will make a statement on the matter. [40490/12]

Minister for Agriculture, Food and the Marine (Deputy Simon Coveney): I thank the Deputy for raising this question. I am very conscious that I have been talking about putting an AEOS III in place for some time. Therefore, I am pleased, in the week that is in it and given the focus on farming this week, to be able to announce an AEOS III today. It will be modelled on last year's AEOS II. I understand and appreciate the value of environmental schemes to farmers, not just as an income support but, more importantly, as a way of ensuring we remain committed to sustainable farming and the sustainable production of food. That is the reason I have been working for the past four months to find a way to put a scheme in place, while at the same time remaining under the ceiling of expenditure allocated to my Department for next year. We have been working with the Department of Public Expenditure and Reform in recent weeks to try to finalise an AEOS III model. I am allocating €20 million for AEOS III next year. I expect to be able to accommodate approximately 6,000 applicants. A maximum payment of €4,000 will be available to farmers. Essentially, they will sign up to get a recognition payment for specific actions they will take with regard to sustainability. They will be asked to sup-

port the maintenance of traditional hay meadows, wild bird cover, hedgerows, stone walls and species-rich grassland, for example. I think farmers understand such measures because of the first two agri-environment options schemes. In my view, they will sign up for such measures again in return for a funding model that is essentially based on last year's AEOS II. I wanted to stick with last year's model so farmers who studied that model will understand what we are doing on this occasion and be able to make applications. I will explain how we will deal with applications from excess numbers of farmers if questions are asked on that topic. If we have to prioritise who should be in and who should be out, we will try to do that in a very fair way.

Additional information not given on the floor of the House.

The scheme will be largely similar to previous years. I intend to introduce a small number of minor changes which are designed to target increased benefits to participating farmers and to the environment. As in earlier years, farmers with commonage land, designated special areas of conservation or special protection areas will be required to follow a sustainable management plan prepared by a planner. Those applicants will be given priority in determining access to the scheme. Applicants other than those requiring a sustainable management plan will not be required to engage a planner to complete their application forms. In addition to the priority given to designated land, applicants will be assessed on the basis of selection criteria reflecting previous participation in REPS, farm size and location in disadvantaged areas. Full details of the scheme will be announced by my Department in the next day or so.

I want to reiterate my commitment to agri-environment schemes that put environmentally friendly farming to the fore and recognise the vital role farmers play in delivering public goods for the benefit of all of society. This commitment is matched by the enthusiasm of Irish farmers who have shown a keen willingness to engage with environmental issues since the introduction of the first agri-environment scheme and have done so in huge numbers. There are approximately 30,000 participants in REPS. The agri-environment options scheme, which is the successor to REPS, is a more targeted agri-environment scheme. It is part-funded from modulation funds under the CAP health check. The scheme specifically targets the three challenges - halting biodiversity loss, contributing to the improvement of water quality and combating climate change - that have been assigned the highest priority at European level as they are in need of urgent action. There are currently approximately 14,500 participants in AEOS I and II.

Deputy Éamon Ó Cuív: I welcome the Minister's belated announcement in relation to AEOS III. It is an important scheme for many farmers. Can the Minister outline the estimated expenditure on REPS in 2012 and in 2013? Will there be constraints in the new agri-environment options scheme? Will it be open to all farmers or will it be confined to farmers in designated areas? Can the Minister confirm whether the maximum grant will be €5,000? Will any changes be made to measures like that relating to stone walls? I think he indicated that such changes will not be made.

Deputy Simon Coveney: I will give an exact figure for the estimated expenditure on REPS in response to a later question. I do not want to give a figure off the top of my head. We are ahead of schedule in terms of getting payments out across all schemes this year. I am conscious that farmers have had a difficult summer. We want to get the money that is due to them out as quickly as possible. That is why €150 million is going out to farmers in disadvantaged areas this week. That is why we have applied to the Commission for a 50% advance payment to be made under the single payment scheme. That is why we will make as many REPS payments as we can this year. We will certainly be well ahead of last year in terms of payments. I can give

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the Deputy the exact figures at a later stage. He also asked about designated areas. On budget day last year, I gave a commitment to introduce at a minimum an agri-environment options scheme that would solely target Natura areas or special areas of conservation. We have worked hard to broaden the scheme to allow farmers who are not in those designated areas to apply for AEOS payments. As the new scheme is very similar to last year's scheme, farmers outside the designated areas will be able to make applications. I can confirm that the measure relating to stone walls will be retained.

Deputy Éamon Ó Cuív: What will the maximum payment be? Will it be €5,000?

Deputy Simon Coveney: I have already said it will be €4,000.

Deputy Éamon Ó Cuív: The Minister did not say that. He said it will be similar to last year's maximum payment.

Deputy Seán Kyne: The Minister said it will be €4,000.

Deputy Éamon Ó Cuív: I have no doubt that when we stack up the REPS payments for this year and next year, a significant drop in the payment will be noted. Even allowing for the €20 million that is being made available under AEOS, we are seeing a further reduction in addition to the substantial cut the Minister has already implemented under AEOS and REPS. In government we provided €329 million and €337 million in 2010 and 2011, respectively, between the REPS and the AEOS. The Minister has cut the figure to €243 million, yet he cannot tell me what further cuts will be made to the two schemes next year, although he promised to get that information for me.

Deputy Simon Coveney: With respect, the Deputy did not table that question.

Deputy Éamon Ó Cuív: I would have thought the Minister would have that figure on the tip of his tongue today because it is central to the negotiations taking place. Given that only €86 million out of €243 million has been paid out to date this year, the Minister has only paid out approximately one third of the amount allocated. Allowing for the fact that there was a €61 million underspend under the REPS and the AEOS last year, can the Minister assure me that the full amount of €243 million will be paid out this year?

Deputy Simon Coveney: If the Deputy knew how the schemes were structured, he would know that REPS payments are always made in the last three months of year.

Deputy Éamon Ó Cuív: I am well aware of that. The problem is that the Minister did not do this last year, when he left €61 million behind him.

An Leas-Cheann Comhairle: Order, please. The Minister has the floor.

Deputy Simon Coveney: It is also normal in multi-year schemes such as the REPS that payments are carried over from year to year. We will be trying to ensure we make significantly more REPS payments this year, including in overall value terms, than we did last year. If the Deputy is going to start quoting figures to me, I would make the point that the budget I was handed when we took over in government needed to be significantly adjusted before last year's budget because of the ceilings to which Fianna Fáil had signed up both when the Deputy was a Minister and a Fianna Fáil Member. If we had to operate under these ceilings, there would be no REPS and no AEOS.

Severe Weather Events

48. **Deputy John Halligan** asked the Minister for Agriculture, Food and the Marine his views on the recent announcement by the Irish Farmers Association that inclement weather may cause yields to be reduced by up to 25% or the loss of 500,00 tons in potential grain production which could potentially leave the sector down an estimated €100 million compared to 2011; his further views on the impact this will have on the agricultural sector as a whole; if he will also confirm if any plans are being considered by him to bridge the gap and mitigate the losses which will undoubtedly adversely affect the agricultural community; and if he will make a statement on the matter. [40618/12]

49. **Deputy Éamon Ó Cuív** asked the Minister for Agriculture, Food and the Marine the actions taken to date and the proposed actions to assist farmers affected by the bad weather this summer, in view of the effect also of the drought in the USA; and if he will make a statement on the matter. [40491/12]

Deputy Simon Coveney: I propose to take Questions Nos. 48 and 49 together.

I thank the Deputies for raising this very significant issue. We have had the worst summer rainfall on record since 1962. Rainfall for most of the country was twice the average for the months of June, July and August. This has caused significant problems and pressures for farmers, even on the most fertile of farms. We have tried to respond as best we can. What I said to farmers was that I would not put a short-term compensation scheme in place and then have to take the money back off them at budget time, as it would not be sensible to do that on any grounds. Instead, we have tried to do what we can do within budget, including, for example, pushing back and giving early notice to farmers of the pushing back of the slurry spreading and chemical fertiliser deadlines in order to extend the grazing season by at least two weeks and allow farmers to take advantage of what was a period of dry weather. This is to try to ease pressures on indoor feeding which will clearly be a problem this winter.

In addition, I met on a bilateral basis the Commissioner to discuss the consequences of the wet summer and made a request to him for an advance payment of 50% of the single farm payment. It is true this has almost become the norm in recent years, but it still needs to be applied for, and Ireland was the first country to apply for it. I am trying to improve cash flow for farmers in the autumn as livestock farmers, in particular, will have to spend more money on feed. We are also ahead of schedule in getting out disadvantaged area payments. As I said, approximately €150 million will go out to farmers this week in disadvantaged area payments. Some of these payments will be made to farmers who are being given a derogation from the new criteria announced last year. Again, I am conscious of the fact that farmers need money in their hands because of the poor summer and because of cash flow problems that some are experiencing at the moment. We are doing what we can and today, on top of that, we are announcing a new AEOS scheme which I hope will be welcomed by farmers across the board.

Deputy John Halligan: The Minister is aware that some farmers are now at crisis point. The three issues here are Government cuts, soaring input costs and, of course, the weather, which is profoundly affecting profitability and output at farm level. Not only has the bad weather resulted in a need for farmers to buy more feed for cattle here, but the US drought has resulted in an increase in the price of grain and animal feed internationally. If the current bad weather continues, the IFA estimates that farming incomes could drop by 30%. Some farmers in my own constituency in Waterford are fearful that should the disproportionate cuts already

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imposed on farm schemes continue in the upcoming budget, their livelihood is in real danger of being wiped out completely. I have been told that some farmers are achieving average winter wheat yields of five to seven and a half tonnes per hectare less than last year, while quality issues such as low hectolitre weights have forced merchants to introduce price reductions.

An Leas-Cheann Comhairle: Can the Deputy frame a question, please?

Deputy John Halligan: Many farmers have told me they will struggle to meet the required quality parameters demanded by the industry. The Government is significantly contributing to their worries. The 17% cuts in farm schemes in 2012 were almost three times the 6% cut applied across the entire agricultural budget and far in excess of the 3.5% taken out across other Departments. An IFA survey conducted at the recent Tullamore Show suggests the weather has had a negative impact on production for more than 90% of all farmers, with over 60% estimating a production loss of greater than 10%. Furthermore, 60% of those surveyed have purchased extra feed concentrate at an average additional cost of €3,700.

The Minister spoke about short-term compensation. Farmers, particularly small farmers, have their backs to the wall now. An immediate input of relatively small moneys - maybe a couple of million euro - might stop small farmers from going to the wall and going out of business. They are out of time and do not want to hear the Minister say that if he gives them money now, he might have to take it back later. They need money, immediately, that cannot be taken back.

Deputy Simon Coveney: They are getting it this week.

An Leas-Cheann Comhairle: The Minister to reply.

Deputy Simon Coveney: Many of those farmers are getting their disadvantaged area payments this week.

Deputy John Halligan: I accept that.

Deputy Simon Coveney: I wish to give the House some figures on the schemes, because Deputy Ó Cuív raised the issue earlier and sought such data. Payments worth some €154 million under the disadvantaged areas scheme will begin tomorrow, 26 September. This funding will provide a boost to the rural economy and will benefit all areas of the country. It is too early to estimate, at this stage, the total payments to be made under the scheme in 2012, because there is an issue to do with qualification criteria which is working through the system. REPS payments for 2011 are currently up to date. A total of €64 million has been paid out to date and I envisage that by the end of 2012 a further €121 million will have been spent. AEOS payments are well advanced and continue to issue as quickly as possible. To date, €23 million has been paid and a further €34 million will be paid out before the end of 2012.

We are prioritising getting payments out to farmers ahead of schedule and we are currently well ahead of schedule in comparison to last year. I am more than conscious of the pressures that farmers are under. This affects farmers not only in disadvantaged areas but also in places such as east Cork and east Waterford. Farmers who were harvesting spring crops of three tonnes or more per acre last year will be lucky to reach two tonnes per acre this year. There are similar losses for winter crops. There was a significant increase in the amount of land that was put into arable crops this year because last year prices were strong, yields were very strong and it was profitable. Unfortunately, there has been a significant reduction in yield and quality this year and although approximately 2 million tonnes of grain will be harvested we could do with

more than that. As the Deputy is probably aware, this country only produces approximately 50% of its requirements in terms of grain usage so we rely on importing the rest at a high cost at the moment. That is a big problem. In order to try to address the problem we are trying to ease cashflow problems for farmers by supporting schemes at an early stage.

Deputy Éamon Ó Cuív: Does the Minister agree that for most farmers this will be an incredibly difficult year but for some farmers it is an utter disaster? Some farmers lost all their silage while others could not make it. Does the Minister not agree that some form of assistance should have been given on an emergency basis for extreme cases? The total cost of emergency assistance would be literally a margin of error within the total Department's budget.

The Minister is making a virtue out of something that happens every year, namely, the 50% first payment of the single farm payment.

Deputy Simon Coveney: I did not make a virtue out of it.

Deputy Éamon Ó Cuív: As the Minister said himself, that is more or less a standard approach. The disadvantaged area scheme, DAS, is always paid out around the time of the ploughing championship week. There is nothing new there. Other than what the Minister's colleague did in terms of extending the dates for the spreading of fertiliser and slurry-----

Deputy Simon Coveney: I had nothing to do with it.

Deputy Éamon Ó Cuív: I presume the Minister made representations to his colleague. He could confirm that. The Minister, Deputy Coveney, did virtually nothing.

Because of the huge delay involved in farmers getting their payments, does the Minister intend withdrawing the DAS stocking density requirement on farmers? Will the Minister announce the continuation of the beef suckler cow welfare scheme and the sheep grassland scheme, which are vitally important now because they give money to farmers to buy feed? Has the Minister had discussions with the banks to ensure that low-interest loans are easily available to farmers who need money for stocking and who have a good track record?

Deputy Simon Coveney: Deputy Ó Cuív asked a lot of questions. I totally reject that we have done nothing. It is quite the opposite. I have met all the banks in this country and I met a number of them on more than one occasion. Extra funding has been made available. Ulster Bank, for example, launched a specific food harvest fund. In the past fortnight Bank of Ireland launched with me a €250 million fund specifically targeting agriculture and farmers. That is on top of another €250 million fund that was launched a number of months ago. We have been active in pursuing and pushing banks to specifically tailor funding for the agrifood sector and for farmers, many of whom need to invest at the moment in anticipation of potential growth in the future. We have been very active on the banking front.

Having said that, I would like to see more from the banks, in particular for sectors that are currently in crisis. The pig sector, and to a certain extent the poultry sector, are under severe pressures because of the price of feed. In many cases they need bridging finance to get them through a difficult period. I hope and expect that banks would provide them with the necessary support. I have been speaking to farmers' organisations about that.

No, we are not making any changes to the stocking density requirements. We made changes last year on eligibility in an effort to try to avoid cutting the scheme for everybody. We wanted

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to try to differentiate between farmers who get the majority of their income from farming and those who are essentially farming for schemes, many of whom do not live in disadvantaged areas but are renting and taking out land in order to draw down schemes. That is not the kind of farmer we have the luxury of supporting at the moment-----

Deputy Éamon Ó Cuív: That is a different issue altogether.

Deputy Simon Coveney: -----when we need to support real farmers in disadvantaged areas. That is why we also have a fair derogation system, which is being applied at present, and will have a fair appeals system with an independent chair, who is currently the chair of Connacht Gold. I say that in case anybody is concerned that the west of Ireland is not being represented - it is.

This has been a very difficult year and for many farmers continues to be so. It is true that farmers will not get the kind of bumper year's harvest they got last year. Farming has peaks and troughs in terms of weather, pressure, pricing and so on. It is my job to get farmers through the tough years and ensure they can benefit to the maximum in the good years. That is what we are trying to do with all the measures we are taking.

An Leas-Cheann Comhairle: Deputies Halligan and Ó Cuív both have questions. I ask them to be brief because they have had a good innings.

Deputy John Halligan: Will the Minister rule out, for the record, any further cuts in farm schemes in 2013? Many farmers have asked that question.

Many small farmers I speak to are not getting the service they should be getting from the State-controlled banks; they are not getting money. The Minister might comment further on that. What have the banks said to him regarding farmers who have approached them for medium-term loans to help them out in the crisis?

Deputy Éamon Ó Cuív: I understand there are considerable delays in getting stocking loans from the banks so that by the time one gets such a loan one probably will have been forced to sell the stock. What steps are being taken to ensure the banks make decisions speedily? Second, can the Minister confirm the continuation of the beef suckler cow welfare and the sheep grassland schemes? Third, what steps has the Minister taken to ensure competition in the market by increasing live exports to break the power of the factories to doctor prices when there is a glut on the market? For example, hill sheep under a certain weight are not saleable in factories at present because the factories pick and choose as it suits them. What steps has the Minister taken to ensure there will not be a collapse in the market, such as we have seen in recent weeks?

An Leas-Cheann Comhairle: A final reply from the Minister.

Deputy Simon Coveney: I will not start to give assurances one way or the other in regard to schemes for next year because that is a budget debate and I will not make early budget promises. However, I am very conscious of the importance of schemes for farmers' incomes and will try to protect them as best I can. I will not make absolute claims at this stage, however, three months away from the budget.

In regard to what the Deputy termed State-controlled banks, we may own them but we do not entirely control them. Banks make decisions on the basis of business plans and proposals around loans. I am no apologist for banks but I can tell the Deputy I am pushing them as hard

as I can to try to prioritise agriculture-----

Deputy John Halligan: Across the sector, banks appear to pay no attention to the Minister.

Deputy Simon Coveney: -----and farmers, and the amount of money being spent in terms of the percentage of loans being made. The amount being spent on agriculture, agrifood and farming is considerably above what it would have been in previous years.

In answer to Deputy Ó Cuív's question, we are doing a great deal on live exports. We have opened up an entire series of new markets, the most recent example being Libya, which is now available for live cattle exports, as are other countries. Wherever there is a commercial opportunity to do this we should do so as the role of live cattle exports is very important in terms of keeping factories honest, as farmers would say. I will continue to facilitate that in Government policy.

Aquaculture Licences

50. **Deputy Tom Fleming** asked the Minister for Agriculture, Food and the Marine the position regarding licensing of bays for aquaculture around our coast; the number of bays that have already been licensed and the names of these bays; when he expects the remaining bays to be licensed; the number of aquaculture licenses that are pending in his Department; the number that have been granted; and his plan to develop the potential of aquaculture around our coastline. [40624/12]

Deputy Simon Coveney: Deputy Fleming's question relates to a real frustration I have, namely, to try to issue aquaculture licences as quickly as possible. I have a long answer here to his question which he will receive but I do not wish to read all of it out, thereby taking up the time allocated and perhaps not answering some of the specific questions he might have.

Essentially, what has happened in this situation is that the Commission has taken Ireland to court for not having a proper, functional and sustainable system in place for the licensing of aquaculture and fin fish farming in special areas of conservation and, in particular, in Natura sites which make up the vast majority of bays in our country. In response to that, having lost the court case we are in the process of putting in place what is essentially a gold plated system of licensing for aquaculture and fin fish farming, and that is taking time. Our Department is not the only body involved. The National Parks and Wildlife Service is very much part of that process in terms of the assessment of Natura bays one after the other but we are making progress.

When I came into office there was a huge amount of frustration that aquaculture licences had not been granted for years. That process is now changing. By the end of this year we hope to have a decision on 100 or more licence applications. I am conscious there are 620 licence applications pending and since 2003 we have renewed or issued 176 licences but it is the last three or four years that have been the problem. We are assessing bays one after the other in terms of the appropriate assessment procedure that we are required by law to implement. We have completed Roaring Water Bay, Castlemaine and Dundalk and we are continuing to complete the assessment process for other bays. That process will continue into next year and the year after.

This is a priority area for me. Seafood generally but also aquaculture and fish farming have extraordinary potential in Ireland but we must do it in an environmentally sustainable way. If

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we do that we can have a profitable and substantial industry over the next ten years.

Additional information not given on the floor of the House.

Applications for aquaculture operations are subject to the provisions of the Fisheries (Amendment) Act 1997.

In 2007 the European Court of Justice issued a negative judgement against Ireland for breaches of EU birds and habitats directives. At that point the systems and data were not in place to enable the consenting of aquaculture in compliance with the relevant directives. As most aquaculture activity takes place in areas designated as special areas of conservation and/or special protection areas for birds, known as Natura 2000 sites, it is necessary to gather a substantial amount of scientific data in the bays. This data must be obtained in respect of the benthos and the birdlife of the bay under examination. Once the data collection is complete, habitats maps are produced and conservation objectives are set by the National Parks and Wildlife Service, NPWS, of the Department of Arts, Heritage and the Gaeltacht. It is then necessary to undertake an appropriate assessment of the effects of aquaculture activity on these areas in the context of the set conservation objectives before any new licence can be issued or any existing licence can be renewed. This process represents a major investment by the State to ensure the continued sustainable development of the aquaculture industry while maintaining the maximum protection for our coastal environment in accordance with the set requirements of European law.

In order to implement the necessary procedures required, my Department, in conjunction with the Marine Institute and the NPWS, has been engaged in a major programme to gather the necessary baseline data appropriate to the conservation objectives of aquaculture sites located within designated Natura areas. This data collection programme which is substantially complete, together with the setting of conservation objectives, will enable all new and renewal applications to be assessed for the purpose of ensuring compliance with the EU birds and habitats directives. This work is ongoing but a great deal of progress has been made to date.

The appropriate assessment process has been completed in respect of three bays – Roaring Water, Castlemaine and Dundalk. While the appropriate assessments are carried out on a bay by bay basis, each licence application within the bay must be assessed individually. Factors to be considered include location within the bay, species, scale etc. In addition to the Natura requirements, under the environmental impact assessment directive all licence applications must undergo environmental impact pre-screening assessment. This requires significant input from the Department's scientific and technical advisers. All applications, in compliance with the requirements of the Aarhus directive are advertised in order to facilitate public consultation and submissions or observations received must be considered as part of the licence application determination process.

In the period 2003 to date my Department has issued 176 licences, including 75 renewal applications. A total of 626 licence applications are pending. The majority of these are located in Natura 2000 areas and are accordingly subject to the appropriate assessment process.

The sustainable development of the industry and the creation of long-term employment from aquaculture into the future can only take place if there is full compliance with the range of EU directives which impact on this area and national legislation on environmental protection. I am very conscious of the requirement both to ensure compliance with our obligations under

EU law and to make progress on addressing the licensing backlog. In order to meet these objectives, my Department, in conjunction with the Marine Institute and the NPWS, is investing significant resources into completing the appropriate assessment process. I am confident that significant progress is being made which will facilitate determinations on a significant number of licence applications over the coming months. I also anticipate significant progress in relation to licence determinations in non-Natura areas.

At this stage it is expected that my Department will be in a position to finalise the processing of approximately 100 licence applications by the end of 2012. This will represent a significant breakthrough in tackling this problem.

In recent months there has been significant progress in relation to restructuring of salmon production licences in south Connemara. I have recently approved the assignment of aquaculture licences from five separate operators to Bradán Beo Teoranta, a company established by Údarás na Gaeltachta, to consolidate and revitalise the operation of sustainable salmon farming in the area. The assignment of the licences took place with the agreement of the former licence holders and follows a lengthy examination of all issues associated with salmon farming in south Connemara. This assignment of licences will consolidate operations in one licence holder and thereby greatly assist in the sustainable development of salmon farming in the area.

Apart from the focus on progressing licence determinations in the bays, it is also intended to expand radically the production of Irish organic farmed salmon by creating new fish farming production areas in deeper waters. The placement of farms in deep waters will ensure there is no impact on Natura 2000 sites. BIM estimates that just one of these production areas could generate over €100 million in exports per annum and create 350 direct jobs. A further 150 jobs will be created indirectly in the service sector supplying fish feed, netting, transportation and other services.

BIM, working with the Marine Institute, is currently investigating suitable sites. An application for an aquaculture licence in respect of one of these sites in Galway Bay has been submitted to the Department by BIM. This application is currently being assessed in accordance with the provisions of the Fisheries (Amendment) Act 1997.

My Department has also issued a site investigation licence to BIM for sites off Inishboffin and Inishturk islands off the coast of Mayo with a view to identifying a suitable site for a second deep sea production area.

I am firmly convinced of the great potential for all types of aquaculture around our coast as set out in Food Harvest 2020 – A vision for Irish Agri-food and fisheries, and I am confident that the steps I have outlined above together with the work being done by BIM and the Marine Institute will result in the sustainable development and significant expansion of this important industry.

In summary therefore, in relation to licensing, it is my expectation that by the end of this year licensing decisions will have been made in approximately 100 cases; a determination on the deep sea licence application for Galway Bay will be imminent; licence determinations will have commenced in Natura 2000 areas; and further progress will have been achieved on the appropriate assessment process affecting Natura 2000 areas.

Deputy Tom Fleming: I welcome the Minister's reply and his confidence in and vision for this industry. As an island nation the waters around our coastline are a goldmine, so to speak.

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The development of our aquaculture industry is a major initiative that must be tackled immediately to realise the maximum potential of our high quality produce. In 2011 in County Kerry alone, 1,115 tonnes of produce such as mussels, oysters, clams, scallops etc. were cultivated before processing. The actual product was worth €2.4 million and if it goes through the full processing procedure one can imagine the number of jobs that could be added to the 112 working on the raw state of our produce.

An Leas-Cheann Comhairle: Will the Deputy frame a question?

Deputy Tom Fleming: That could be replicated throughout the country. I am sure the Minister, Deputy Deenihan, and the National Parks and Wildlife Service, will give full co-operation but in terms of the European Union, what can be done to remove the impediments? Can the Minister expedite that matter?

Deputy Simon Coveney: We are doing many things to answer the issues raised in the Deputy's questions. The Minister, Deputy Deenihan, has been very helpful on this issue and the Minister and myself have put extra resources into trying to get the assessments done in the Natura bays so we can make determinations on licence applications in those areas but we are required to do that by law. There are no shortcuts in that regard. One of the reasons we are in this difficult position is because we took shortcuts in the past. We must ensure that when we put cages in the water or mussel lines on beaches that we are doing it in a way that is consistent with the ecosystems in which they are operating and in a sustainable way that is lawfully as well as environmentally acceptable. Otherwise, we will be taken to court again and forced to shut down these industries. That is the reality.

We are trying to be as comprehensive as we can to put more resources into this area to get the job done properly and we have taken strategic actions, for example, in south Connemara, as Deputy Ó Cuív will know. We approved the assignment of aquaculture licences from five separate operators into one operating company under the management of Údarás na Gaeltachta. This move made a great deal of sense to me.

We are also creating new opportunities in the context of salmon farming. I asked BIM and the Marine Institute to consider locating new sites for salmon farms in much deeper waters that are further offshore and outside Natura areas and special areas of conservation, SACs. Since I made this request, BIM has lodged an application for a 15,000 tonne salmon farm to be located 5 km off Galway in the vicinity of the Aran Islands. If this facility is licensed and goes into operation, it will have a turnover of approximately €104 million per year, at current salmon prices, and will employ in the region of 350 people. The facility will be developed in an absolutely sustainable way, particularly in view of the fact that the site was hand-picked by Marine Institute scientists. We are also examining the possibility of doing something similar at sites off the coast of Mayo.

We are moving into new territory in the context of the scale of this industry. We are also trying to resolve existing difficulties in respect of Natura sites by ensuring that the relevant assessments are carried out as quickly as possible. The combination of the two will provide exciting results.

Deputy Tom Fleming: There are also plans to expand existing salmon farming activities at Duínis Island, Waterville, County Kerry. This development will be worth €11 million to the local economy. There are approximately 90 bays around the coast of Ireland and I am sure a

huge number of these remain to be licensed. I welcome the fact that 100 commercial licences have been granted, particularly as approximately 450,000 people are unemployed at present. If one takes it that 20 jobs can be created per licence, then 2,000 jobs can be brought on stream quite soon. In addition, if the 600 licence applications that are pending are all granted, then a further 12,000 jobs could be created. Our marine resource is one of the greatest assets we have and we should ensure that it is developed as speedily as possible.

Deputy Simon Coveney: I agree with the Deputy's final comment but it must be remembered that not every licence application will be successful. Some of them will be inappropriate and others will relate to areas which are too sensitive in the context of the ecosystems and marine resources which exist there. However, I hope that many of these licences will be granted. It is my job to provide the necessary and rigorous scrutiny of licence applications. This must be done in the context of the legal framework within which we are obliged to operate under EU law. That is what we are trying to do. I am trying to proceed as quickly as possible - without undermining the integrity of the system - in order that the relevant decisions can be made.

I agree with the Deputy that many more people could be employed in this sector. Scotland produces approximately 150,000 tonnes of salmon per year, while Norway produces in the region of 1.2 million tonnes. Ireland, however, produces only 12,000 tonnes of salmon per year. We have a fantastic resource on which to base the development of an industry but we must do this properly rather doing everything in a rush. There are many coastal communities that are happy to facilitate the type of development to which I refer but they want it to be carried out in a proper and vigorous manner. In addition, they want us to deal with all of the questions relating to the environment and the sustainability of the industry.

An Leas-Cheann Comhairle: I thank the Minister. We must move on to Other Questions.

Deputy Simon Coveney: We are determined to do both.

Other Questions

Fishing Industry Development

51. **Deputy Clare Daly** asked the Minister for Agriculture, Food and the Marine the actions he intends to take in relation to developing a sustainable fisheries policy, following the Our Ocean Wealth Report. [40385/12]

Deputy Simon Coveney: I am delighted Deputy Clare Daly is showing an interest in our ocean wealth.

Deputy Clare Daly: The Minister has some neck.

Deputy Simon Coveney: That is not to suggest that she should not be doing so. I am pleased with her interest in this area. During the summer we launched a document, Harvesting Our Ocean Wealth, which is going to be as strategic for our ocean resources as the Food Har-

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vest 2020 document, which was launched by the previous Government, is for the food industry. Essentially, the document to which I refer provides a roadmap for the making of decisions in respect of areas such as seafood development, fishing, cruise liner traffic, shipping, ocean energy, marine tourism and so many others. It is a business plan to bring about a turnover for the economy of €6.4 billion by 2020 from our ocean resource. In my view, we can surpass that target if we realise the full potential of this resource.

Deputy Clare Daly asked a specific question about the sustainable fisheries policy. That is where the ambition of the ocean wealth strategy meets the Common Fisheries Policy. We are in the process of renegotiating a Common Fisheries Policy. In my view, the current Common Fisheries Policy has been an abject failure in many ways. It has facilitated - in fact, encouraged - our fishermen to employ a discards policy, which means they must dump large quantities of fish over the sides of boats. Up to 40% of the fish caught in Irish waters is thrown over the side because fishermen do not have a quota to land it and sell it. They have no option because they cannot avoid catching such fish in their nets when they are fishing for other species. In other cases they catch too many fish in a haul and must throw some of them back into the water.

An Leas-Cheann Comhairle: I will have to interrupt the Minister.

Deputy Simon Coveney: That type of immoral waste cannot continue. We are working with the industry to use technical measures as well as new fishing methods to avoid by-catch.

An Leas-Cheann Comhairle: The remainder of the Minister's reply will appear in the Official Report.

Deputy Simon Coveney: We are also working with the European Commission and other member states to establish an anti-discards policy over the next three to four years, which I think will be very effective, along with a series of other policies on sustainability.

Additional information not given on the floor of the House.

On 31 July a new national integrated marine plan, Harnessing Our Ocean Wealth, was launched by the Taoiseach and myself. The plan sets targets for 2020 and 2030 for each marine sector and outlines 39 actions to be taken to facilitate this development. I expect Harnessing Our Ocean Wealth to act as the framework to be referenced with regard to development in each marine sector in the same way that Food Harvest 2020 is seen as the driver and is referenced with regard to development in the food industry. I also expect it to complement and augment the measures that will flow from the reformed Common Fisheries Policy, which is currently being reviewed and may be completed over the course of the Irish Presidency of the European Union, which commences in January 2013.

Harnessing Our Ocean Wealth sets out the roadmap for the Government's vision, high-level goals and integrated actions across policy, governance and business to enable our marine potential to be fully realised. My overarching goal for the new CFP is the development of a sustainable, profitable and self-reliant industry that protects and enhances the social and economic fabric of rural coastal communities dependent on the seafood sector, while balancing these objectives with the need to deliver a sustainable and eco-centred fisheries landscape for future generations. In the current economic climate, we need a policy that both simplifies and reduces the administrative burden while at the same time strengthening and supporting the industry's

capacity to maximise employment in coastal communities dependent on fishing. In particular, I will be pursuing initiatives that will deliver and sustain jobs in coastal communities rather than those that promote a concentration of wealth and delivery of excessive profits for a few big international businesses. I support a system that maintains strong economic links between national quotas and the traditional fishing communities that these quotas were allocated to assist.

To my mind, the objectives I have set for the new CFP and the national ocean wealth initiative are compatible, and they will both contribute significantly to harnessing to a greater extent the economic and social benefits of our marine economy. To that end, I will continue to work with all stakeholders, both nationally and internationally, to deliver on the common goals which are in Ireland's best interests.

Deputy Clare Daly: I thank the Minister. I am not sure why he questions my interest in this subject. It may be because there are not too many women who are out fishing alongside fishermen or it could be because I represent a Dublin constituency. However, it is a Dublin constituency which has important harbours such as Balbriggan, Skerries, Loughshinny and Rush. Thankfully, I am blessed in that there are a number of people in the constituency who have taken a great interest in our ocean wealth precisely because existing fisheries policy has devastated small coastal communities and the potential of our fisheries industry needs to be developed. It has been alleged by some of those people that much of the information in the report is not well researched and some of the information about eco-tourism is not based on any substantial research and not properly grounded. The issue of regulation and the need for independent observation and collection of data is crucial, but this is not happening. A total of 250 big trawlers are run by syndicates and, to a great extent, there is not adequate and proper information on what fish they are catching and discarding. Where are the Minister's proposals to fund a direct monitoring team? That could be done relatively cheaply; approximately €7.5 million would provide an independent observer regime to gather the data which could be used to develop a fisheries policy. I know the Minister is interested in fish farming, which is an important but small part of an overall policy for sustainable fishing.

Deputy Simon Coveney: I am very interested in fish farming but I am also absolutely committed to the broader fishing industry. I am upbeat about the industry because it has a bright future. However, we need to manage both it and our fish stocks in a sustainable way. Some of the stocks are currently in the process of recovery. For example, many of the fishermen whom Deputy Daly knows are fishing in the Irish Sea and they will know that a cod recovery plan is in place there.

With regard to the Deputy's point about the collection of data, in many ways the European Commission uses Ireland and the Marine Institute as the example of how data should be collected. The Marine Institute is independent of the fishing industry and it has credibility within the industry. One of the reasons for Ireland's significant quota increases in a series of species last year was that the Marine Institute played a central role in last December's negotiations on the annual quota allocations or TACs, total allowable catches, for the Irish fishing fleet. We will continue to take a scientific approach to the management of fish stocks. We will not be catching fish that are not there. We will, where possible, put measures in place to ensure stocks can recover and the fishing industry can grow. We are unusual in Europe in that only some 20% of the fish caught in the waters we control are caught by Irish boats, with the remaining 80% being caught by foreign fleets. We are obliged to collect the data from all of these boats. As such, we have strongly supported the Commission's proposal for electronic logbooks, for example, which would allow us to gather the data as quickly as possible from the many fleets that come

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in and out of Irish waters at different times. It is a complex job. Only this morning we made the case to the Commission that the European Fisheries Fund should support countries such as Ireland to put improved data collection systems in place to manage our fish stocks.

Deputy Clare Daly: The Minister has touched on precisely the point I am making. Despite the presence of foreign trawlers in our waters, some 250 of them run by syndicates engaged in this type of activity, we do not have an effective, independent observation regime in place. A mere 1% of the €750 million European Fisheries Fund would support 250 jobs in such a capacity, collecting the data and informing future policy. In addition, we must enhance the area of eco-tourism. A difficulty in this regard, however, is that our ocean wealth is not properly researched. Activities such as recreational fishing which have been well exploited and developed in Britain have not been given the same prominence here.

Deputy Simon Coveney: I reject the contention that our ocean wealth has not been properly researched. If one includes the Attorney General's office, ten Departments were involved in putting this report together. For the first time, we have an integrated maritime strategy which involves all of the relevant Departments working collectively. I chair the implementation group which meets on a bimonthly basis to discuss a range of issues relating to our ocean resource and how we can best obtain value from it. We are taking a proactive approach with a view to realising the ambition expressed in the report. In fact, I hope to upgrade some of the targets set out in that document for the various sectors.

On the issue of data collection and enforcement of the rules in terms of quotas, catches and so on, this is primarily a matter for the Naval Service, in co-operation with the Marine Institute and the Sea-Fisheries Protection Authority. These bodies are rigorous in policing the implementation of the rules, but the reality is that we are talking about a vast amount of space to be patrolled. When boats are coming into Irish waters for eight or ten hours but without ever coming closer than 150 miles from shore, they are difficult to monitor and police. That is why the introduction of electronic logbooks is so important.

Deputy Éamon Ó Cuív: What is the current valuation of the total allowable catch and discards allocated to non-Irish fishing operations within our waters?

Deputy Simon Coveney: The valuation of Ireland's total allowable catch went beyond €250 million for the first time last year.

Deputy Éamon Ó Cuív: That is not what I asked.

Deputy Simon Coveney: I am getting to the Deputy's question. The value of fish caught in Irish waters by non-Irish vessels represents some 20% of that total. In fact, it probably represents slightly more in value terms if one takes mackerel into account. The value of the catch for other fleets in our waters would be up to some €800 million.

Deputy Éamon Ó Cuív: Does that include discards?

Deputy Simon Coveney: No, because discards are not included in the total allowable catch - that is the point.

An Leas-Cheann Comhairle: That is a separate debate.

Deputy Éamon Ó Cuív: It involves fishing in our waters.

Deputy Simon Coveney: If one does not have a quota, one cannot catch fish. That is the essence of the problem.

Disadvantaged Areas Scheme Eligibility

52. **Deputy Michael Moynihan** asked the Minister for Agriculture, Food and the Marine the timeline for the receipt of applications in respect of derogation in stocking density under the disadvantaged areas scheme; and if he will make a statement on the matter. [40425/12]

54. **Deputy Timmy Dooley** asked the Minister for Agriculture, Food and the Marine the date on which payments will be made under the disadvantaged areas scheme; and if he will make a statement on the matter. [40427/12]

61. **Deputy Niall Collins** asked the Minister for Agriculture, Food and the Marine the expected savings from changes to the stocking density ratio in the disadvantaged area scheme; and if he will make a statement on the matter. [40419/12]

(Deputy Simon Coveney): I propose to take Questions Nos. 52, 54 and 61 together.

The budgeted expenditure under the 2012 disadvantaged areas scheme, DAS, was reduced from €220 million to €190 million. To make the necessary savings it was proposed to make technical adjustments to the scheme criteria to ensure the aid payment is focused on farmers whose farming enterprises are situated exclusively in disadvantaged areas scheme areas and are making a significant contribution to achieving the objectives of the scheme. These are defined in the governing European Union legislation as follows - to ensure continued agricultural land use and thereby contribute to the maintenance of a viable rural community; to maintain the countryside; to maintain and promote sustainable farming systems which, in particular, take account of environmental protection measures.

It was decided that real efforts should be made to focus the scheme on those farmers who are most actively contributing to achieving the aims of the scheme, namely, ensuring continued agricultural land use thereby contributing to the maintenance of viable rural communities, maintaining the countryside and maintaining and promoting sustainable farming systems which take account of environmental protection measures. As the disadvantaged areas scheme is co-funded as part of the rural development plan, the approval of the European Commission was required. Following protracted discussions, the necessary approval was granted last August.

Payments will start issuing tomorrow, on schedule. These payments are worth in the region of €150 million to 70,000 farmers and payment runs will continue on an ongoing basis, with individual cases being paid as their eligibility is confirmed.

In terms of savings for 2012, it is too early to give precise figures. Given the approach taken in adjusting the terms and conditions of the 2012 scheme, with the changes designed to better focus the scheme on the more active farmers, namely, those who are contributing most to achieving the aims of the scheme, and the options of six possible forms of derogation, it remains to be seen what will be the precise outcome for the scheme in 2012 in terms of savings. The need for applicants to maintain a minimum of 0.15 livestock units per forage hectare for six consecutive months, while also achieving an annual stocking average of 0.15 livestock units per forage hectare, means that some applicants will not become eligible until later in the year.

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Furthermore, farmers who met the 0.3 livestock units per forage hectare in 2011 or will receive a derogation may have decided not to buy the required stock this year for whatever reason. However, while those farmers who have yet to satisfy the average stocking density of 0.15 livestock units per forage hectare for the year have the remaining months of the year to do so, such cases can only be cleared for payment once this requirement has been confirmed. Therefore, we must wait until closer to the end of this year to quantify savings.

Last year, we could have taken the option taken by the previous Government, namely, reduce the payment per hectare to all farmers or reduce the number of hectare for which farmers could apply for a payment. However, we decided not to take that approach and opted for a more intelligent approach. We have been successful in maintaining full payment in disadvantaged areas for farmers who farm all year round, even where they have low stocking rates. We introduced new criteria last year with a view to removing from the system farmers who while farming in, for example, County Kildare, were taking land in, for example, County Sligo to enable them to draw down payments. We reduced payments to farmers with land both inside and outside disadvantaged areas on a ratio that was in accordance with the amount of land they hand in disadvantaged areas. We also changed the stocking rate following consultations with farming organisations on what would be the appropriate stocking rate. We wished to keep the rate as low as possible while ensuring it was also reasonable. We also discussed for how many months in one year farmers would be required to have stock to qualify as being actively involved in farming rather than having flocks of sheep being passed from one farmer to another for the minimum period required to qualify for a disadvantaged area payment, namely, three months. That practice is a luxury we can no longer afford. We wish to focus the limited funding available to us on farmers who are actively farming. If some farmers were caught out unfairly by the change in criteria last year, they have access to a generous derogation system. I understand more than half of those who are seeking a derogation have been granted one. If a person is not satisfied with a decision not to grant him or her a derogation, he or she can avail of an independent appeals mechanism. If anything, we will not make the savings we were hoping to make in the disadvantaged areas scheme.

Deputy Éamon Ó Cuív: Exactly.

Deputy Simon Coveney: We will make savings, although we may not achieve the target of €30 million. If we do not achieve this target, we will have to examine the issue in the context of the budget.

Deputy Éamon Ó Cuív: As the Minister is aware, no one objects to the change in the criteria as they apply to farmers from outside disadvantaged areas who are in receipt of payments under the disadvantaged areas payment scheme and *vice versa*. Having submitted a freedom of information request to the Department, I understand the savings achieved in that element of the scheme are tiny.

Deputy Simon Coveney: They all add up.

Deputy Éamon Ó Cuív: The major saving will be achieved from the change in stocking rates. How many letters issued to farmers on stocking density and how many of them responded by applying for a derogation? When will a decision be made on the preliminary round of applications for derogations? Many farmers need the money provided under the scheme. As a result of the Minister's actions, they will have to wait an inordinate length of time for their cheques.

Deputy Simon Coveney: I have pointed out about three times that people will not have to wait an inordinate length of time for their cheques. Many of those who qualify for a derogation will receive cheques this week. It would be helpful if the Deputy were to at least accept the facts as I outline them.

On the derogation, almost 9,500-----

Deputy Éamon Ó Cuív: Is it the case that those who will receive a cheque this week were not informed of that in writing?

An Leas-Cheann Comhairle: The Minister has the floor.

Deputy Simon Coveney: They have applied for a derogation and if they qualify, they will receive a payment.

Deputy Éamon Ó Cuív: They will receive the payment without being informed that their appeal was successful.

Deputy Simon Coveney: Yes, if that is the case. I will provide the figures. Almost 9,500 applications were received, of which decisions have been made on-----

Deputy Éamon Ó Cuív: On the basis of how many letters?

Deputy Simon Coveney: Some 9,500 farmers applied for a derogation.

Deputy Éamon Ó Cuív: How many letters were issued indicating to farmers that they did not meet the stocking density requirements?

Deputy Simon Coveney: I do not have a precise figure on that.

Deputy Éamon Ó Cuív: I believe it is 10,000.

Deputy Simon Coveney: Given that 9,500 people sought a derogation, that figure appears to be reasonably accurate. What is the Deputy's point?

Deputy Éamon Ó Cuív: My point is that the vast majority of the people in question were not in the categories ascribed to them.

Deputy Simon Coveney: A fundamental misunderstanding has arisen and it needs to be clarified because Deputy Ó Cuív is either deliberately trying not to understand the position or has not read the rules. Those who apply for a disadvantaged areas scheme payment do not automatically qualify for payment. Applications are usually rejected because the applicant did not meet the stocking rate requirements for last year. Farmers who apply for a derogation are effectively asking me to make an exception for them. The reasons vary and include that they are full-time farmers or had good reason to have a low stocking rate last year, for example, owing to a death in the family, the farm being handed over to a son or daughter or they have particularly poor or stony land which prevents them from meeting the stocking rate requirement. They are seeking a derogation because they did not qualify for a payment. We have made decisions on approximately 4,000 of the 9,500 applications received for a derogation, while a further 950 applicants have been requested to furnish additional documentation because the Department requires greater clarity. Work continues apace on processing the balance of the cases. All applicants are being advised, in writing, of the success or otherwise of their applications and unsuccessful applicants are being afforded the opportunity of appeal to the DAS derogation

appeals committee.

This committee will be chaired by Pádraig Gibbons who has kindly agreed to chair it and whom I am confident will have much credibility with farmers, particularly in the west. Deputy Ó Cuív cannot have every which way. He cannot say we have to make savings but then look for us to make a derogation for everyone. We need to make savings but we are also trying to be fair to farmers. What I have tried to avoid doing is what the Deputy did in a previous Government which was to take money off everybody in disadvantaged areas because it was the easiest option.

Deputy Éamon Ó Cuív: This Government takes the money off the poorest on the most marginal land. The Minister's policy is to hit the guys on the hill and marginal land. He does not care about them because they just have poor land and in his numbers they do not stack up in production.

Deputy Simon Coveney: Where is the Deputy's evidence for that?

Deputy Éamon Ó Cuív: From all the Minister's actions.

Deputy Simon Coveney: The Deputy cannot back that claim up with facts.

Deputy Éamon Ó Cuív: Of the 4,000 decisions made, how many were in favour and how many were against derogation?

If farmers appeal to the independent appeals committee, is it likely they will have to wait until 2013 for payment before the committee has finished its hearings?

Deputy Simon Coveney: No.

Deputy Éamon Ó Cuív: The Department of Agriculture, Food and the Marine wrote to 10,000 farmers asking them to state whether they were in the agri-environment options scheme, AEOS, or the rural environmental protection scheme, REPs. The Department which actually runs these schemes could not match its own files as to which farmers were in AEOS and REPs.

Deputy Simon Coveney: What is the Deputy's point?

Deputy Éamon Ó Cuív: The Minister is holding up the hill farmers and those on marginal lands. He has created a huge bureaucracy which has little purpose and that will save him for very little moneys.

The Department then asked farmers if their lands were designated as a special area of conservation, SAC, special protection area, SPA, or a natural heritage area, NHA. However, the Department has maps of every inch of every farmers' land, as well as maps of every SAC, SPA and NHA. With all this technology, why could the Department not match this up? If it had, it could have given the derogations a long time ago. Will the Minister explain why the Department asked farmers for this information?

Of the 4,000 decisions made on derogation, how many were favourable to the farmer? When can we expect the independent appeals committee to complete all of its work? Why do we have the farcical situation of the State writing to farmers for information on schemes of which it was the originator and holds on its own files?

Deputy Simon Coveney: To be honest, the Deputy is trying to find fault where there is

none.

Deputy Éamon Ó Cuív: There is a fault.

Deputy Simon Coveney: Regarding the timing of this, it is a bit ridiculous to ask when will the appeals be finished when they actually have not come in yet. We must wait and see how many appeals come in before we decide.

Deputy Éamon Ó Cuív: That is it – the farmers can wait.

Deputy Simon Coveney: One cannot decide how long it will take to hear appeals until one knows with how many appeals one has to deal. Will the Deputy ask a rational question?

Deputy Éamon Ó Cuív: Mair, a chapaill, agus gheobhaidh tú féar. Ar chuala tú é sin ri-amh?

Deputy Simon Coveney: I understand that more than half of the cases of derogations have been successful but I can get the exact figure for the Deputy later.

It is imminently sensible that if one is going to write to 10,000 farmers to outline the rules for qualification for the disadvantaged areas scheme, DAS, then one would use that opportunity also to check where they are farming, under what schemes, and so on.

Deputy Éamon Ó Cuív: Yet the Department knows that already.

Deputy Simon Coveney: I do not believe farmers have a significant problem with ticking a box as to whether they are farming in a commonage area if they are successfully getting a derogation. The Deputy is trying to create an issue where there is none.

Deputy Éamon Ó Cuív: I am not creating an issue because I am the one they come to when they have difficulties with the forms, particularly the older farmers. What they cannot understand is why the Department had to write to them when it already had the information. The Department knows from its area aid maps, which are satellite pictures and not maps in the conventional sense, exactly to the inch the eligible forage area of every farm in the country. All it had to do was superimpose those maps on the SAC, SPA, and NHA maps and then on the commonage framework maps. The Department also knows which farmers are in AEOS and REPS. Without even writing to the farmers, it could have gone through this information, granted the derogations and the farmers concerned could have got their cheques this week instead of having to wait due to the Minister's delays which hit the poorest, weakest and the vulnerable.

Deputy Simon Coveney: The whole point of doing this is so we are not hitting the poorest and the weakest. While the Deputy gets up on his soapbox, trying to create an impression that the Minister for Agriculture, Food and the Marine is only interested in commercial farming, the facts do not bear it out. When one looks at the prioritisation measures under the AEOS, farmers in NHA areas, less-favoured areas, those coming out of REPS and using farm size as a basis have all been prioritised.

However, the Deputy would not even think to look at the detail. Instead, he is trying to paint a picture of a Minister who is only interested in commercial farming because he talks much about Food Harvest 2020, a significant policy. That is not the case. When one looks at how we put the budget together last year, one will see we have taken farmers out of the DAS who do not live in disadvantaged areas because they do not belong there.

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Deputy Éamon Ó Cuív: It is a minimum saving. We agree on that.

Deputy Simon Coveney: The Deputy does not want to hear the facts.

We have focused our payments on small farmers in genuinely disadvantaged areas. It does not suit the Deputy's argument to look at the facts on what we have actually done and the choices we have had to make with the limited amount of money we have to spend. We have prioritised protecting the income of farmers in disadvantaged areas and, where appropriate, we have prioritised small farmers over larger farmers. We will continue to do this in disadvantaged areas.

Forestry Sector

53. **Deputy Éamon Ó Cuív** asked the Minister for Agriculture, Food and the Marine his plans to sell off the Coillte Teo forest crop; the progress made regarding same; and if he will make a statement on the matter. [40408/12]

55. **Deputy John Browne** asked the Minister for Agriculture, Food and the Marine the way he will ensure that the rural recreation aspect of the work of Coillte Teoranta will be protected in the event of the forest crop being sold to private interests; and if he will make a statement on the matter. [40411/12]

60. **Deputy Dara Calleary** asked the Minister for Agriculture, Food and the Marine the steps that have been taken to ensure the continued viability of the timber industry here in the event that the forest crop is sold to private interests; and if he will make a statement on the matter. [40414/12]

Deputy Simon Coveney: I propose to take Questions Nos. 53, 55 and 60 together.

The Deputy will get my official answer, so I will deal with what I suspect will be-----

Deputy Éamon Ó Cuív: Why does the Minister not read it out like we used to do?

Deputy Simon Coveney: I would like to give the Deputy added value if I could.

Deputy Éamon Ó Cuív: When I was Minister, the official answer was my answer not the civil servants' answer. If I thought there was something in it that should not be there, then I took it out.

An Leas-Cheann Comhairle: The Minister is in possession.

Deputy Éamon Ó Cuív: Will the Minister give us his answer? Presumably, his answer is the answer that will be in the record.

An Leas-Cheann Comhairle: Sorry, Deputy but we do not have much time.

Deputy Simon Coveney: Maybe the Deputy might try and put me under pressure with his questions rather than heckling.

The Government has made a decision to look at the possibility of selling harvesting rights for Coillte forests. This autumn we are in a process of working with NewERA and the company to see how we might best do that in a way that would not damage the broader timber and

forestry industry. This has been done in other countries, most recently in New South Wales in Australia.

We are looking at ways of meeting a commitment to the troika to realise value from State assets that do not have to be strategically in State ownership. We have made it clear in the case of Coillte that we will not be selling any Coillte lands or the company. However, we are looking at changing the ownership structure of the forests on the company's lands. This is a little bit like selling a crop ahead of time except for forestry it will involve a 50 to 80 year period. We have been through a valuation process for the commercial forestry estate. To protect the public interest we need to ensure, for example, the supply contracts that many private sawmill operators have with Coillte can be protected. We need to ensure public access to State-owned forests remains intact. We need to do a series of other things to ensure we minimise job losses from this potential sale. That process is being worked through with the company and NewERA and we will seek any other advice we need to ensure we can do this in the most effective way next year to realise the full value of the asset and also to protect the public interest linked with it.

Deputy Éamon Ó Cuív: Has Coillte been consulted on this issue? What is its advice about the desirability of the Government policy in this regard? The Minister says the crop will strategically stay in ownership, but it will not. The most important thing in the forest is the crop which will not strategically stay in ownership. The Minister will be aware that, remarkably, our major mills are still at full production, despite the downturn in building here. This is because of the co-operation between Coillte Teoranta and the mills at the time of crisis when the housing market and the building sector collapsed. Is the Minister satisfied that if the crop was sold and there was a similar difficulty, we would have a similar happy result in the milling industry? If the Government sells the crop, who will have responsibility for replanting? What arrangements will be made and what consideration will be given to the impact of selling the crop and having harvesting activities outside of Coillte's control on rural recreational activities since some 45% of way-marked ways are through Coillte land? Will the Minister indicate what is the expected gross return for the crop? In other words, what is the total amount of money the Government expects to receive for the crop? Have discussions taken place with the troika about finding alternative ways to raise the same amount of money, as the Minister used to ask when in opposition?

Deputy Simon Coveney: That is a series of valid questions. The Deputy is correct in respect of the mills in that most commercial mills are at full production. Many of them obtain 80% or more of their timber from Coillte forests and many have long-term supply contracts in place with Coillte. We will need to protect these supply contracts to ensure that if the forest, not land, ownership structure changes, one can stitch it into any sales process. This has been done successfully in other parts of the world. If we cannot do this, naturally we will have difficulties. I am not in the business of supporting any process that would put the timber sector out of business, an industry that has survived through a rather different building recession in Ireland.

On the management of the crop, it may well be the case that Coillte will continue to manage its forests, but it will no longer own them on behalf of the State. A series of financing models for any new ownership structure may be considered, but one may find that at the end of the process, if it is concluded successfully, Coillte will be essentially on a contract to manage the 1 million hectares or so of trees and more or less continue what it does, except that its management could be obliged to have a commercial relationship with the new owner. I would be slow to move away from the current replanting obligation, whereby Coillte plants approximately 15 million trees per year. In other words, when Coillte harvests them, it must replace the crop by

planting. I expect any new owner to have the same obligation.

Deputy Éamon Ó Cuív: What is the amount of money involved?

Deputy Simon Coveney: The valuations have differed. In truth, we will not know what the amount of money is until we go to the market, but the most recent valuation through NewERA is between €400 million and €600 million.

An Leas-Cheann Comhairle: I regret I do not have time to call other Deputies, but I hope we will return to this issue.

Topical Issue Matters

An Leas-Cheann Comhairle: I wish to advise the House of the following matters in respect of which notice has been given under Standing Order 27A and the name of the Member in each case: (1) Deputy Brendan Griffin - the threatened loss of 30 jobs at Simpson Strongtie, Killorglin, County Kerry; (2) Deputy Jim Daly - the need, in the interests of the safety of road users, to deal with unmaintained roadside verges; (3) Deputy Maureen O'Sullivan - the further delay in publishing the report on State involvement in the Magdalene laundries; (4) Deputy Michael McGrath - the investigation by NAMA into the purchase of one of the agency's properties by a former employee and the removal of confidential information; (5) Deputy Peadar Tóibín - the suggested cutbacks to health services in the north-east region; (6) Deputy Regina Doherty - the delay in reconnecting electricity customers who have had their service cut off; (7) Deputy Pearse Doherty - the need to reinstate the children and adolescent mental health outreach services in Dungloe, Killybegs, Ballybofey and Bunrana, County Donegal; (8) Deputy Brian Stanley - the impact of the industrial dispute at Laois Vocational Education Committee; (9) Deputy Willie O'Dea - the future of St. Enda's community school, Limerick; (10) Deputy Catherine Murphy - the delay in awarding back-to-education allowances; (11) Deputy Billy Kelleher - the impact of the current budget deficit at Beaumont Hospital on services; (12) Deputy Patrick O'Donovan - the need to update the processing system for payments in the Department of Social Protection and allow for the sharing of information with other State bodies; (13) Deputy Thomas P. Broughan - the need to provide an update on the implementation of recommendations made in the pyrite report; (14) Deputy Patrick Nulty - the need for a statement on recent serious incidents of so-called gangland crime; (15) Deputy Dessie Ellis - the closure of Santry post office, Dublin 9; (16) Deputy Clare Daly - the incidence of violent crime and home invasion perpetrated recently against elderly people in rural areas; (17) Deputy Joan Collins - the plight of workers at M&J Gleeson, Cherry Orchard Industrial Estate, Dublin; (18) Deputy Caoimhghín Ó Caoláin - the selection criteria used to decide on the locations of the priority primary care centres as announced on 17 July 2012; (19) Deputy Jerry Buttimer - the need to prioritise householders when considering requests from energy providers to increase prices; (20) Deputy Mick Wallace - the increase in public transport fares; (21) Deputy Seán Kyne - the introduction of a levy or toll for trucks and lorries entering the State; and (22) Deputy Charles Flanagan - the need to review the arrangements for school transport serving Heywood College, County Laois.

The matters raised by Deputies Michael McGrath, Regina Doherty, Thomas P. Broughan and Charles Flanagan have been selected for discussion.

Leaders' Questions

Deputy Micheál Martin: The Minister of State at the Department of Health, Deputy Róisín Shortall, teams from the HSE and the Department of Health and the Minister for Health, Deputy Reilly, agreed an objective set of criteria, internationally recognised, relating to urban and rural deprivation to be used in selecting primary care centres. They decided to select 20. However, behind the back of the Minister of State and parallel with all of this, the Minister seemed to have a different thought process entirely. After consulting Cabinet colleagues, he took a unilateral decision to add a further 15 to the 20, including two in his constituency. He published no criteria or provided no evidence base to justify this unilateral decision.

Public private partnerships have a significant commercial dimension. They involve general practitioners, allied health professionals, therapists and so forth. For this reason, above and beyond anything else, there must be objective criteria, fairness and transparency because various interests and consortia are entitled to bid and tender for such centres and projects. Is it appropriate that a Minister should ride roughshod over existing agreements and criteria and take decisions unilaterally which can benefit private sector interests? These are multi-million pound ventures with profit as a desired objective. There is nothing wrong with making a profit, but that is the key ingredient in this issue. It is equivalent to tendering, which is the reason Ministers should be at one remove from such decisions. Did the Minister know at the time of his decision who the preferred bidder for the Balbriggan site was? Was this disclosed?

The Minister for Transport, Tourism and Sport, Deputy Leo Varadkar, has described this as stroke politics. Others have described it as naked clientelism, but I am saying it is more than this. The commercial private sector dimension is significant, which is why the Minister is wrong in the decision he took. Does the Taoiseach agree that the Minister's actions were inappropriate and unacceptable?

The Taoiseach: Primary care development is a fundamental part of the strategy to reform the health sector. Clearly, primary care centres have enormous capacity to take people in, rather than having them go to accident and emergency units in the first place. Given the range of facilities that can, should and will be provided in primary care centres, they are important. There were broader criteria used than just the deprivation index in the selection of primary care centres. The criteria also included the impact on acute services in hospitals, competition and GP co-operation. The Minister and the Department of Public Expenditure and Reform accepted that competition was required to ensure there would be a cost-effective GP buy-in and on that basis the number of potential primary care centre locations was determined.

It is important to note that this is part of the overall stimulus package announced by the Minister for Public Expenditure and Reform some time ago, which included expenditure in the areas of road development, schools and primary care centres. Each of these sectors was approved by the Government following consultations by the Ministers involved with their colleagues, and the same applied in this case.

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It is also important to note that early this year the HSE set out its prioritisation for primary care centres. Deputy Martin will be aware that in some locations the HSE was already at advanced stages of discussion about the development of primary care centres, including the leasing of premises by GPs for primary care, and this was deemed the most appropriate way of delivering those centres. A number of other high-priority locations were selected for direct investment by the HSE using Exchequer funds from the HSE's capital allocation, and the remaining locations were then considered as being appropriate for public-private partnership development.

Deputy Martin will be aware that if one wishes to develop 20 primary care centres and one selects only 20 possibilities, one runs the risk of objections, non-buy-in by GPs, lack of competition and other factors. What the Government approved and signed off was a list of 35 primary care centres, with 20 to be developed. That does not mean that the first 20 will actually be developed, because of the factors that I mentioned. In order to get this moving as quickly as possible, taking into account situations in which there were leases involved, an intention to lease, direct Exchequer funding or PPPs, the Minister, in consultation with his colleagues, made a recommendation to the Government and the Government signed off on that element of the stimulus package for the development of 20 primary care centres from a list of 35.

Deputy Micheál Martin: We found all of this out through freedom of information requests and from the media. We found out nothing from the Government. In fact, the last parliamentary question that the Minister, Deputy Reilly, answered in May stated that urban and rural deprivation was the clear criterion. He said nothing about anything else, and we have received no documentation from the Taoiseach or the Minister about broader criteria. That was not an honest reply. The Taoiseach needs to be honest and transparent with the House in this regard.

What is clear from all of this is that the Minister of State, Deputy Shortall, plays by the rules, while Deputy Reilly does not. What is equally extraordinary is the degree to which the Labour Party hierarchy was willing to isolate Deputy Shortall to protect Deputy Reilly, and all in the name of deprivation. That is why Deputy Shortall stood her ground. Deputy Shortall's letter to Deputy Reilly gives the lie to what the Taoiseach just said.

An Ceann Comhairle: Can I have Deputy Martin's question, please?

Deputy Micheál Martin: She wrote that when she met the Minister, Deputy Reilly, to discuss primary care policy on 29 February 2012, they agreed, and subsequently minuted, that "the provision of centres should be informed by needs analysis, with priority given to areas of urban and rural deprivation". Her letter goes on to mention the universal primary care team cementing that.

The Taoiseach has not been straight with the House on this issue. What has happened is unacceptable. It is extraordinary that the Taoiseach could not answer the question I asked him. Is it acceptable behaviour for the Minister to ride roughshod over established criteria which he had agreed with the Minister responsible for primary care, the HSE team and the Department of Health team?

An Ceann Comhairle: Thank you, Deputy Martin.

Deputy Micheál Martin: Will the Taoiseach at least agree that the Minister, Deputy Reilly, should come before this House make a statement on the issue, outlining why he did what he did, and allow Deputies from across the House to ask him basic questions on this matter? I under-

stand a private notice question has not been accepted today. This is a national issue concerning the roll-out of primary care centres across the country.

An Ceann Comhairle: Deputy Martin is over time. Will he allow the Taoiseach to answer?

Deputy Micheál Martin: This is the only opportunity I have to raise this.

An Ceann Comhairle: I know, but the Deputy is over time.

Deputy Micheál Martin: It has been aired everywhere else except the Dáil. We have two or three minutes to raise it here and we have no further opportunity to do so. I ask the Taoiseach to agree that the Minister should come before the House today to make a statement and answer questions from Members of the House.

The Taoiseach: Of all the Ministers in this or any Government, Deputy Reilly has taken on the unenviable task of sorting out the wreckage left by his predecessors.

Deputy Timmy Dooley: Here we go.

The Taoiseach: The criteria used, for the information of Deputy Martin, were the deprivation index for the catchment population of the centre and the service priority identified by each integrated service area and local health office.

Deputy Micheál Martin: The criteria for assessment?

The Taoiseach: An accommodation assessment, which reviewed accommodation available from the primary care team within catchment areas, was carried out by the HSE.

Deputy Micheál Martin: We know that.

The Taoiseach: It looked at the quality of the accommodation and whether it was spread over more than one building. Additional criteria applied by the Minister, Deputy Reilly, were as follows: competition, GP co-operation, GP to population ratio-----

Deputy Micheál Martin: Could the Taoiseach produce the documentation on that?

The Taoiseach: -----and cost-effective GP buy-in.

Deputy Micheál Martin: Could the Taoiseach produce the documentation? This is all after the decision.

Deputy Pat Rabbitte: Deputy Martin never used to read the documentation he got.

The Taoiseach: Deputy Martin will be aware of primary care centres which have been built but are empty because doctors would not move into them.

Deputy Micheál Martin: That has nothing to do with it.

An Ceann Comhairle: Deputy, please.

The Taoiseach: Deputy Martin seems to have a propensity recently to keep talking.

Deputy Micheál Martin: I want answers from the Taoiseach.

The Taoiseach: If he wants to listen to the criteria, I will give them to him.

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Deputy Micheál Martin: The Taoiseach is refusing to answer.

The Taoiseach: I will answer Deputy Martin and I will give him the criteria.

An Ceann Comhairle: Would Deputy Martin mind speaking through the Chair?

Deputy Micheál Martin: The Taoiseach is not giving me the criteria.

The Taoiseach: Maybe Deputy Martin does not want to hear.

Deputy Pat Rabbitte: Deputy Martin is trying too hard.

The Taoiseach: The remaining criteria were: existing health facilities; pressure on services, including acute services, to which I referred; funding options, including Exchequer funding through HSE build or lease; and, finally, the implementability of a PPP programme. This was accepted, and by deciding to create a list of 35, as I stated, rather than 20, the Minister, Deputy Reilly-----

Deputy Micheál Martin: Jumped. Maybe the Taoiseach wants to tell everybody else that the competition was 200.

The Taoiseach: -----provided positive encouragement for engagement and financial-----

Deputy Micheál Martin: The Minister leapfrogged centres.

An Ceann Comhairle: Sorry, Deputy Martin; would you please listen?

Deputy Micheál Martin: It is difficult, a Cheann Comhairle.

An Ceann Comhairle: Does Deputy Martin have difficulty staying quiet? I want to hear the reply.

The Taoiseach: -----and financial participation by GPs. As I stated to Deputy Martin, there is little point in having taxpayers' money put together for primary care centres that remain unoccupied because doctors could not agree among themselves. What the Minister, Deputy Reilly, put forward as his part of the stimulus package-----

Deputy Timmy Dooley: He would be well versed in looking after the doctors all right.

The Taoiseach: -----was a list of 35 based on these criteria-----

Deputy Micheál Martin: They leapfrogged others.

The Taoiseach: -----from which 20 would be provided.

Deputy Micheál Martin: They leapfrogged them. They jumped the queue.

The Taoiseach: In fact, Deputy Reilly consulted with all of his colleagues in that regard.

Deputy Timmy Dooley: If that were the case, they would all be in Dublin.

Deputy Micheál Martin: He did not consult with the Minister of State, Deputy Shortall.

An Ceann Comhairle: I thank the Taoiseach. We are over time.

The Taoiseach: As I also pointed out, the HSE is engaging with the National Development Finance Agency, as required, to progress the primary care centre element of the Government's public private partnership.

Deputy Micheál Martin: Will the Minister make a statement to the House?

The Taoiseach: The Minister is due to answer questions on Thursday in the House.

Deputy Micheál Martin: That is a joke. Come on.

The Taoiseach: Yes, I am coming on. The Minister will be here on Thursday to answer all-----

Deputy Micheál Martin: Will the Minister make a statement specifically on this issue?

The Taoiseach: -----and any questions from members of Deputy Martin's party or any other Member in respect of this matter-----

Deputy Micheál Martin: Dodging again.

The Taoiseach: -----as is his responsibility under his remit.

Deputy Micheál Martin: He should come before the House today.

The Taoiseach: The Minister will be here on Thursday to answer questions on this. Any other questions Deputy Martin can think of should be submitted before then.

An Ceann Comhairle: I call Deputy McDonald.

Deputy Micheál Martin: The Minister will be here for a two-minute priority question. I am talking about a private notice question. The Minister should come before the House.

An Ceann Comhairle: It does not qualify as a private notice question. Deputy Martin knows that as well as I do. I call Deputy McDonald.

Deputy Micheál Martin: I respectfully disagree. It does qualify.

An Ceann Comhairle: If Deputy Martin wants to take over the job of Ceann Comhairle as well-----

Deputy Micheál Martin: No, I certainly do not, but as the leader of an Opposition party, I know what is fit for a private notice question and what is not. The Ceann Comhairle has his opinion.

An Ceann Comhairle: It does not qualify, I am telling you.

Deputy Pat Rabbitte: Deputy Martin is under pressure.

Deputy Micheál Martin: I accept the Ceann Comhairle's opinion, but I think it is wrong.

Deputy Pat Rabbitte: Deputy Martin is under stress.

Deputy Micheál Martin: It is the wrong decision. I accept the Ceann Comhairle's right to do it, but I do not agree with it. It is a national issue.

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The Taoiseach: They are down for Priority Questions.

An Ceann Comhairle: As a private notice question, I repeat, it did not qualify. I call Deputy McDonald.

Deputy Timmy Dooley: It was not accepted, as opposed to not qualified.

Deputy Mary Lou McDonald: The credibility of the Minister, Deputy Reilly, was dented and completely undermined long before his latest stroke. The involvement of the Minister for Health in private medicine and nursing homes at a time when those services in the public sector are being cut back and, in many instances, closed raises the most fundamental issue as to his suitability to hold the ministry. He clearly has a direct and evident conflict of interest.

Then there was the debacle around the €130 million of cuts to be visited on personal assistant hours, home care packages and home care hours, which led to the motion of no confidence in the Minister. Labour Party and Fine Gael backbenchers wrestled with their consciences and won, and they voted confidence in the Minister.

Deputy Michael McCarthy: Read on.

An Ceann Comhairle: Allow Deputy McDonald to pose her question.

Deputy Mary Lou McDonald: No sooner had they done that then the most recent farce played out-----

Deputy Brendan Griffin: Deputy McDonald did a lot over the years.

Deputy Mary Lou McDonald: -----that is, the addition of these primary health care centres which just happen to be in the Minister's constituency.

The Taoiseach stated that the issue of need was not the only criterion and said there were others. He mentioned competition and GP co-operation. Was the Minister of State, Deputy Shortall, aware of those additional criteria, and did she accept them, or is it the case, as she stated in her contribution in the Dáil, that there was - to use the euphemism - a lack of transparency in the decision-making around this?

This has been another stroke in the Government's stroke politics. The Minister for Transport, Deputy Varadkar, at least got that right. How can the Taoiseach, the head of the reforming Government, stand over this? Surely, a Taoiseach who is so critical of Fianna Fáil and the Administration that went before this one, should ensure that he calls time where strokes are pulled by senior Ministers. The Taoiseach should tell us about the criteria. Did the Minister of State, Deputy Shortall, know about them? Does she know about them now? Is she now prepared to row back on her criticism of the lack of transparency on this issue?

The Taoiseach: I take as contemptible the Deputy's allegation of personal benefit by the Minister, Deputy James Reilly, in respect of his remit as Minister for Health. He has already given details on all of this to the House in a public statement. He is one of the few people with a genuinely passionate interest in shifting the structure and nature of how health is delivered in this country in the interest of the patient. This is not an easy task and the Minister is focused on getting the strategy right and implementing it.

The decision in respect of the primary care centres is to develop 20 primary care centres

from a list of 35. I have provided Deputy Martin with the reasons it was necessary to have a list of more than 20, simply because a range of issues could arise, such as objections, non-buy-in, lack of competition, impact on acute services in hospitals and the range of services that must be provided through the primary care centres in order to be effective. As I have mentioned, some centres were in areas where a lease was arranged, some in areas where a lease was to be arranged, some had direct HSE-Exchequer funding and others were under the PPP programme. They are the sectors and the Minister has set out the criteria involved.

As mentioned, this particular development of primary care centres involves 20 from a list of 35. It remains to be seen which 20 get across the line, taking all the criteria into account. They were part of the Government stimulus package announced by the Government and the Minister for Public Expenditure and Reform and were signed off in individual sectors through discussions and recommendations by each Minister in consultation with his or her colleagues.

I am sure that at the end of all of this the Deputy will appreciate the importance and function of primary care centres to provide decent, first-class care and attention in many areas for people who need them. I wish to God we could provide more primary care centres in a shorter time because they are a part of the development of this stimulus package for primary care centres. Where they work well, they are very effective. I have been in a number of them and have seen at first hand the response from patients and the efficiency that applies when everybody buys into the provision of a really strong, effective primary care centre. This is so important for the future health of people all over the country.

Deputy Mary Lou McDonald: The Taoiseach does not have to convince me of the value of primary health care centres, which are the right model to pursue. However, that is not the issue at hand. Let me clarify that this is not personal to the Minister, but it is very clear that where a Minister for Health who presides over the public health care system and who has taken decisions to reduce bed numbers and close public nursing homes has an interest in private nursing homes, there is a clear and evident conflict of interest. It astounds me that this has not crossed the Taoiseach's mind. It astounds me that when making his ministerial appointments, the Taoiseach did not clarify the position with the Minister.

An Ceann Comhairle: Can we have the Deputy's question please?

Deputy Mary Lou McDonald: The Taoiseach did not answer my question in respect of the Minister of State, Deputy Shortall. She made the serious charge in respect of the selection of these primary health care centres. She said in this House that the decision making lacked transparency. Clearly, she had a very different understanding with regard to the criteria than the Taoiseach has articulated or than the Minister had. Will the Taoiseach give a straight answer? Did the Minister of State know about the additional criteria? If she did not know, has she subsequently been apprised of them? On foot of this, is she prepared to withdraw her charge of a lack of transparency?

It seems to me this has been stroke politics. However, perhaps the Minister of State has been furnished with the information and perhaps she takes a different view now. Can the Taoiseach tell us whether this is the case?

The Taoiseach: I am glad Deputy McDonald, on behalf of the Sinn Féin Party, accepts that what the Minister is doing is the right model. Second, it astounds me that the Deputy has the gall to stand up in this House, in view of the statements made by one of the Price sisters about

the leader of the Sinn Féin Party.

Deputy Pádraig Mac Lochlainn: For God's sake, will the Taoiseach ever once answer the question without -----

(Interruptions).

An Ceann Comhairle: The Taoiseach, without interruption, and please stick to the question.

The Taoiseach: The Sinn Féin Deputy made an articulate point about clarity and transparency, but she should also include truth. The truth of the matter is that the Minister for Health, as one of a number of Ministers with regard to the stimulus package -----

Deputy Micheál Martin: That is not the truth.

The Taoiseach: Deputy Martin already put his question.

An Ceann Comhairle: Speak through the Chair, please.

The Taoiseach: The Minister for Health, as one of a number of Ministers in regard to the stimulus package announced by the Government, put forward the recommendations after consultation with his colleagues in regard to the development of 20 primary care centres from a list of 35, covering a range of criteria I have set out here. The Minister was in touch with all his colleagues.

Deputy Mary Lou McDonald: Did that include Deputy Shortall?

The Taoiseach: Obviously, the decision of Government is based on moving forward with the development of the primary care centres as quickly and as effectively as possible, covering the sectors mentioned and the criteria laid down in regard to each.

I am very glad the Deputy accepts this is the way to go with primary care development and we look forward to this element of the stimulus package moving to commencement and completion as quickly as possible.

Deputy Richard Boyd Barrett: I also want to ask about the Government's priorities and its notion of reform when it comes to the health service and about a particular area of our health service. In the Visitors Gallery today are approximately from 50 to 60 home help assistants who provide vital services of care, support and backup to elderly and disabled citizens across the country, some of the most vulnerable sectors of society. These home help assistants have come together over recent weeks because the Government, as part of this raft of cuts, has cut 600,000 hours of home help. This comes on top of 500,000 hours of cuts that happened earlier in the year. More than 1 million hours of home help services have been cut as part of the so-called reform.

The Government is also moving to privatise home help services. Most of the home help assistants here today work for voluntary not-for-profit organisations. The Government has moved to outsource these services to multinational companies like Comfort Keepers, owned by Sodexo, a French multinational.

An Ceann Comhairle: Would the Deputy mind putting his question?

Deputy Richard Boyd Barrett: That multinational, for example, had to pay fines in compensation to New York City for overcharging the city for food and facilities management services. This is the sort of company it is. The Government is outsourcing home help services to that company, degrading services here and cutting services to the most vulnerable sectors of society and attacking the pay and conditions of home help assistants who provide those services. I ask the Taoiseach to reverse the cuts in home help services that are affecting the most vulnerable sectors of our society, to end the privatisation of home help services, to guarantee proper contracts and security of earnings and end the attacks on the conditions of more than 13,000 home help workers in this country who look after our most vulnerable citizens.

An Ceann Comhairle: The Deputy is over time and should please allow the Taoiseach to respond.

Deputy Richard Boyd Barrett: Instead of attacking them, why does the Government not go after the consultants who are doing private work in public hospitals or why does it not go after the multinational companies that are overcharging the HSE for drugs?

The Taoiseach: I assure Deputy Boyd Barrett that the recent consultations at the Labour Relations Commission with regard to consultants' contracts will bring enormous benefits in respect of 24/7 cover, rostering, savings and greater productivity. There are a number of matters that will relate to the Labour Court in due course. I further assure the Deputy that the Minister and his departmental officials are intensely involved with the pharmaceutical companies on issues like the cost of drugs and the delivery of medicines to this country's health care sector. I can confirm that a great deal of discussion and intensive negotiation has taken place in that regard in the recent past.

I respect the work that home helps do throughout the country. I have met many of them. I know the work they do when they call to those who need care and attention. I know the work they do in the morning, the afternoon and the evening. It is important for Deputy Boyd Barrett to appreciate that home helps are concerned to ensure that those who require care get the best care that can be given to them. That is the Minister's intention. Obviously, the circumstances of those who receive home help care can change - circumstances may change within the family or the person might die - and these things are reviewed as a result. At the same time, another person in different circumstances might be making a home care application. The Minister, Deputy Reilly, and the Government are determined to ensure that where home help is needed, home help will be given.

Deputy Michael McGrath: It is not happening.

The Taoiseach: It is only right and proper that home help is provided on the basis of the need of the person, which is of paramount importance.

Deputy Timmy Dooley: It depends on the criteria used when assessing the person's need.

The Taoiseach: Home help will continue to be delivered with sensitivity and effectiveness.

Deputy Richard Boyd Barrett: How can the Taoiseach square the Government's commitment to provide home care services to people with its decision to cut more than 1 million hours of home help in a single year?

Deputy John Halligan: Exactly.

Deputy Richard Boyd Barrett: How can he square the respect he has expressed for home helps with the outsourcing of home care services to a multinational company that wants to pay home helps by the minute? Does he think somebody who is paid by the minute - who has to clock in according to the minute and has to leave after exactly 15 or 30 minutes - will give the sort of service that is required to the elderly or disabled citizen he or she is supposed to be looking after? The priority of private multinational companies in this sector is to make money out of the disabled and the elderly, rather than to provide them with services or to treat the workers who provide those services with the respect they need. I ask the Taoiseach to reverse the cuts in home help hours. He can get savings from the consultants who are doing private work in public hospitals and are paid obscenely high public salaries. Further moneys can be saved by cutting the prices that are paid to multinational companies. That should be done instead of attacking the elderly, the disabled, the most vulnerable people in our society and the workers who provide these services, who are already inadequately paid for the vital work they do.

The Taoiseach: The Deputy underestimates the scale of the impact of the conclusion of the Labour Relations Commission negotiations on consultants' contracts and rostering. As a result of the conclusion of those talks, services will be delivered much more effectively and substantial savings will be made. When negotiations on the cost and delivery of drugs in the Irish health system come to a conclusion fairly soon, I hope the Deputy will find it within himself to appreciate the progress that will have been made. The important point about home care and home help is its effectiveness. I respect the work done by the home care personnel I meet all over the country. Many of them have never been bound by the sort of clock alluded to by the Deputy. Many of them have always gone out of their way to help those to whom they give care and attention. It is in their nature to do that. For example, a home help might return to a person's house more than once during the course of the day, even if that house is some distance away, because they know the person involved.

Deputy Richard Boyd Barrett: That is the point. All of that is going to change.

The Taoiseach: Contrary to what the Deputy has suggested, it is not a case of fitting this into a segmented or clocked system that will be timed by the minute.

Deputy John Halligan: It is happening all over the country.

The Taoiseach: It can depend on the mood and the circumstances of the person who is receiving home help.

Deputy John Halligan: People are being given breakfast and dinner at the same time in the morning. It is a disgrace.

The Taoiseach: Issues can arise within the family in all sorts of circumstances.

Deputy John Halligan: It is disgusting.

The Taoiseach: These serious and sensitive matters, which are being dealt with in cities, provincial towns and rural areas, are not issues to be barked about in this Chamber.

Deputy Richard Boyd Barrett: The Taoiseach is welcome to meet the home helps in the Earl of Kildare Hotel, where they are meeting this evening. Members of the press have been invited as well.

The Taoiseach: I repeat that the good people in the Gallery, like many thousands of others across the country, do the best they can to ensure the best help is given to those who need assistance in their homes. As far as the Government is concerned, those who continue to need home help care will get it in as effective and sensitive a way as possible.

Deputy John Halligan: They are not getting it.

Deputy Joan Collins: How can they get it in half an hour?

The Taoiseach: I made this point when I spoke about the substantial savings that will arise from the consultants' agreements over the period ahead.

Ceisteanna - Questions (Resumed)

Northern Ireland Issues

1. **Deputy Gerry Adams** asked the Taoiseach if he has plans to meet political leaders in the North. [37881/12]

2. **Deputy Gerry Adams** asked the Taoiseach if he has been in contact with political leaders in the North since the Dáil recess. [37882/12]

3. **Deputy Micheál Martin** asked the Taoiseach his plans to meet with the new Secretary to Northern Ireland; and if he will make a statement on the matter. [38803/12]

4. **Deputy Joe Higgins** asked the Taoiseach if he will report on any recent discussions with the political leaders in the North. [38965/12]

5. **Deputy Micheál Martin** asked the Taoiseach his plans to visit the North of Ireland in the near future; and if he will make a statement on the matter. [39018/12]

6. **Deputy Gerry Adams** asked the Taoiseach his plans to meet with the new Northern Secretary of State Theresa Villiers. [40451/12]

The Taoiseach: I propose to take Questions Nos. 1 to 6, inclusive, together.

Arrangements for my next visit to Northern Ireland have yet to be finalised. Along with members of the Cabinet, I will attend the next meeting of the North-South Ministerial Council in Armagh on Friday, 2 November next. On 26 July last, I wrote to the leaders of each of the political parties in Northern Ireland to invite them to nominate a representative to the Constitutional Convention. On 13 September last, I met the Northern Ireland Executive Minister, Danny Kennedy, and family members of the ten Protestant workmen who were killed in the 1976 Kingsmill massacre in south Armagh. I invited the families to meet me in Government Buildings to allow me hear at first hand about how their lives have been affected by one of the worst atrocities of the Troubles. On 16 October next, I intend to meet the Northern Ireland Executive Minister, Arlene Foster, and the families of victims of paramilitary terrorism from the community of south-east Fermanagh. My colleague, the Tánaiste and Minister for Foreign Affairs and

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Trade, met the new Secretary of State for Northern Ireland, Theresa Villiers, in Hillsborough on Monday, 17 September last. I understand the Secretary of State will be in Dublin in the coming weeks, diary arrangements permitting. I hope to have an opportunity to meet her. I will inform the House when arrangements have been made for my next official visit to Northern Ireland.

Deputy Mary Lou McDonald: As a number of questions in the name of my party leader are being taken with this group, the Ceann Comhairle might indulge me by allowing me in a second time, if necessary. Has the Taoiseach been kept up to date with what happened at certain parades in north Belfast over the summer? He will be aware that tensions have been very high in the North, and in north Belfast in particular, since 12 July. I am sure he will have seen footage of an incident in which a band played sectarian songs while marching in circles around St. Patrick's Church. Another very big parade is planned for 29 September next in commemoration of the centenary of the Ulster Covenant. That is also proving extremely problematic. It has to be said that, unlike many years ago, they are relatively few in number. However, the heart of the problem of contentious parades is still the refusal of the Orange Order and the loyalist institutions to enter into face-to-face dialogue with residents groups. It is critical that the Orange Order moves in that respect. That dialogue has to happen. Will the Taoiseach talk to us about this? I take it as read that he is following and has followed the events in north Belfast closely.

I am glad that the Taoiseach met the Kingsmills families. I want to raise with him again the issue of the Ballymurphy families which Deputy Gerry Adams has raised with him time out of number. The Taoiseach indicated previously a willingness to meet these families. I ask him today to give a date or timeframe for that meeting. As I told him before, the families are more than happy to travel to Dublin to meet him, if that would be more convenient. They are understandably anxious because what happened in August 1971 in "The Murph", as it is called, is clearly a matter of public interest, in particular the behaviour of the Paras - the Parachute Regiment - at the time. The outgoing Secretary of State, Mr. Owen Paterson, MP, took the view that an inquiry into these matters would not be in the public interest. It is very important that the families, the Nationalist-republican community and society at large understand the Taoiseach is prepared to meet the families and intervene.

I hope the Taoiseach will meet the new Secretary of State, Ms Theresa Villiers, MP, very soon. My colleague, the Deputy First Minister, Mr. Martin McGuinness, met her last week. There is a list of issues that need to be raised with her, the case of Mr. Pat Finucane being one, as well as the ongoing stubbornness in the British system as regards the Dublin and Monaghan bombings and the Ballymurphy massacre, which I mentioned. In addition, there is the continuing and festering issue of the imprisonment of Ms Marian Price and Mr. Martin Corey who find themselves in a completely unacceptable situation where it seems due process has been set aside comprehensively. Ms Price, as the Taoiseach knows, is very unwell. There are other issues relating to the transfer of fiscal powers which perhaps the Ceann Comhairle might allow me to raise at a later stage.

The Taoiseach: I thank the Deputy for her questions. Clearly, the events to which she refers, with which we are well acquainted, show how just one incident can have enormous implications, not only in Northern Ireland but throughout the entire island and beyond because of the coverage they are given. One incident has the potential to destabilise a process into which so many have put so much time in recent years.

Clearly, the parade commemorating the Ulster Covenant on 29 September will be a central part of the decade of centenaries which the two Governments are agreed should be marked in as

sensitive and an understanding a manner as possible. The Minister, Deputy Jimmy Deenihan, is chairing the parliamentary committee of the Houses in that regard. It is particularly important in the run-up to 29 September that there be local engagement by all of those involved, as the Deputy rightly points out. There is no point in criticising the Parades Commission. That is a distraction from the main issue of ensuring there will be no further incidents which can lead to destabilisation, particularly among young people. As the Deputy knows, all of these things lead to a highlighting of the necessity to address sectarianism and all what it means, and also the importance of improving community relations across the board. We will concentrate on this in so far as we can assist.

I met the relatives of those killed in and the survivors of the Kingsmills massacre. I was absolutely struck by the genuineness of Mr. Alan Black and his account of what had happened in being hauled out of a van, the voice of the booted person involved who said, "Right," and the 18 bullets being pumped into his body. Subsequently, he could see people's faces being blown off - ordinary workmen - after the instruction was given to put a gun to the heads of those lying there. Their grief is as strong today as anybody else's. I had to assure the relatives, the families and Mr. Black that we did not have any priority in terms of loss. For everybody who lost a loved one or a family member, that speaks for itself. He made the point that they were ordinary workmen on their way back to Bessbrook. They had no other intention, but this was clearly a retaliation and an assassination of perfectly innocent men, one of whom happened to be a Catholic. I found the meeting to be a powerful engagement with people who had, in some cases, never been to Dublin before, who certainly had never been in Government Buildings before and who had not had the opportunity to meet personnel from the Government.

I would be happy to meet the Ballymurphy residents, either in Dublin or Belfast when I travel there. It is just a matter of making the arrangements. As I said, I have to meet a number of other groups. The Minister, Ms Arlene Foster, MLA, is coming down with another group from south Fermanagh soon. I will meet the new Secretary of State and there are a number of issues that clearly need to be followed through. The view of the Government, as Deputy McDonald is aware, has not changed in respect of the recommendation of Judge Cory on the public inquiries and I made this perfectly clear to the relatives of those who had been shot at Kingsmills. I look forward to meeting the new Secretary of State to discuss a number of these issues. I do not want to comment on the medical condition of any person. The question of people in detention has been raised with me on a number of occasions and it is an issue I will certainly consider raising with the Secretary of State.

With regard to the next meeting of the North-South body, there will be a range of issues which we can discuss here before we have that meeting. I will be happy to progress them in the best way possible. Again, if the Deputy wants to make contact with my Department, I will be happy to let her know when we can meet the Ballymurphy residents, either here or in Northern Ireland, whichever is the more suitable or appropriate.

Deputy Micheál Martin: I put it to the Taoiseach that, in reality, the events of the past few months have reinforced the fact that we can take nothing for granted in regard to the situation in Northern Ireland and building peace and reconciliation on the island of Ireland. There is a clear sense of drift in the engagement on the North with the London and Dublin Governments.

Particularly on the North-South strand, one gets the sense that there is little more than just going through the formalities of that relationship. That is partly the issue here and illustrates the degree to which, as recent events have proven, we have to remain actively involved. We

must remain actively involved because things can go very wrong very quickly. During the violence that broke out in north Belfast, 45 PSNI members were treated in hospital. It was quite a significant disturbance.

The issue of parades is very important and in my view, both sides have played around with the Parades Commission. The British Government deserves to be censured or criticised for allowing the previous commission to lose credibility. They ran it down, essentially, if the truth be told. With the agreement on the devolution of justice, a new dispensation was promised. In fact, DUP and Sinn Féin representatives committed to a new order in terms of the organisation and regulation of parades and to engaging in a proactive way. However, that seems to have fallen down. One gets the feeling we are reverting to the kind of situations we experienced in the previous decade with Drumcree. We want to avoid all of that if at all possible, and there is an onus on everybody to get involved.

Has the Taoiseach received detailed reports from our people in the diplomatic service and on the ground regarding the dynamic of what is happening now in north Belfast? What does the Irish Government intend to do, with the Secretary of State and the British Government, to support the communities and the political parties in developing a new framework which would avoid the unacceptable behaviour that was witnessed in north Belfast in recent times? In that context, the parades issue is extremely important.

I welcome the fact that the Taoiseach met a delegation to discuss the Kingsmill massacre. That was an extraordinarily vicious and horrific crime, sectarian in intent and in execution, which ranks among any of the atrocities, of which there were many, in the North. There is a need for transparency concerning that particular incident and for some attempt to proactively respond to the families of those who were murdered. The Provisional movement and Sinn Féin have a role to play in that and should take a proactive lead in responding to their concerns, because their anger, sadness and sense of loss is still very raw. By any yardstick, this was a heinous crime that stands out in terms of its brutality and sectarian intention.

I met the Ballymurphy residents on a number of occasions when I was Minister for Foreign Affairs. The Taoiseach has been asked on a number of occasions to meet them and I think he should do so. He has not been able to meet them in Belfast to date but their offer to come to Dublin to meet him should be availed of because it would be useful for him to meet them in advance of his meeting with the Secretary of State, Theresa Villiers, MP. However, I do not think he should meet them just for the sake of it. When I met them I came away - having also spoken to Sinn Féin representatives and others - with no clear sense of where the issue was heading. I am a great believer in having someone come up with an approach that will meet the needs of the families. That was an appalling massacre. The British Government has concerns regarding another Bloody Sunday-type inquiry but there are other ways to get a quick, objective assessment of that situation, perhaps by using an international grouping at the outset to do a scoping review of it and give an initial assessment. I have put that idea forward in the past but there may be differences of opinion among those concerned as to the best way forward. None the less, there is no point in just going on and on with meetings unless we have a pathway out of this that will achieve closure for those involved. That is extremely important.

The key issue arising from the events of the last few months is the need for dialogue. Deputy Éamon Ó Cuív has been very active in representing the prisoners in Maghaberry Prison; the issue there is that the regime is out of step with what has occurred in recent times in the North. The danger is that a situation will develop there that will become a catalyst for activities

on the streets and outside the prison that do not need to happen. From my understanding of it, the issues at play can be resolved if there is political will on the part of the Executive, in whose hands the responsibility lies, given that the devolution of justice has now occurred. Informed interventions can prevent this from getting out of control.

The Taoiseach: I hope to have a briefing on the Northern Ireland situation in the next few days. With regard to the last point raised by Deputy Martin concerning Maghaberry Prison, I have heard different reports as to what is the best thing to do. I believe progress can be made and as part of the aforementioned briefing, I hope to acquaint myself with more of the details of the situation. It is true that nothing can be taken for granted; as I said to Deputy McDonald, the incident which resulted in 45 PSNI officers being injured, some seriously, speaks for itself as to how quickly matters can get out of hand. I would not like to think there would be a drift where Northern Ireland issues are concerned. As issues arise and become prominent, they focus attention and there must be constant engagement and interaction here.

I met a number of members of the Ballymurphy community last year at the presentation of awards, one of which they won in the community development category for a play they staged. However, that was nothing other than a cursory talk to the effect that they would like a meeting, to which I agreed at that time. As I said to Deputy McDonald, I will arrange that as soon as I can.

I assure Deputy Martin that I have asked all Ministers who are involved in the North-South Ministerial Council to continue to be active with their counterparts in Northern Ireland so that there is no drift and to ensure that where issues arise, they are addressed. In addition, I hope that what the Ceann Comhairle and the Speaker of the Northern Ireland Assembly, William Hay, MLA, have been working on in respect of a parliamentary forum will come to fruition. That will be an aid to understanding communities North and South and will be a valuable addition when it comes together.

It is important, whenever people wish, to have further discussions in the House about the Northern Ireland situation as it evolves, in part because of the decade of centenaries and what that involves, but also to deal, where we can, with those issues that have the potential to destabilise communities. There is no disagreement among Members on these matters.

Deputy Joe Higgins: Unfortunately, the sectarian rioting and attacks that erupted over a number of weeks in August and at the beginning of September, especially the incidents around Carlisle Circus in north Belfast, point to new sectarian flashpoints and are worrying indications that this could continue and even worsen. It is extremely worrying that 14 years after the Good Friday Agreement was signed, when power-sharing structures and a power-sharing Executive were set up, sectarian divisions in Northern Ireland are still so deeply entrenched, and that such extreme tensions exist between sections of the two communities in the North. Unfortunately, this bears out the analysis that some of us made at the time - that, far from overcoming sectarian division, the structures that were set up institutionalised it. Does it not follow that establishment politicians who are at the top of the structures that are based on sectarian division are basing themselves on the reality of the fact and therefore, far from assisting and overcoming it, are entrenching the sectarian divisions that exist? Unfortunately, that has been seen clearly in recent weeks in the various pronouncements from within a supposed government where the sectarian divisions are themselves reflected. Is it not also true that the structures have not delivered for ordinary people in terms of transforming their lives, given the mass unemployment, poverty, homelessness and many social ills that are as prevalent now or worse than they

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were 14 or 15 years ago? Whereas the vast majority welcomed the end of the futile, horrific paramilitary campaigns and the activities of the British army also, working class people and the poor continue to suffer. The reality is that elements on both sides are deliberately stoking the flames. Some forthcoming events such as the Ulster Covenant march on Saturday, 29 September are a source of tension in Belfast in particular. We must be clear that there is a right to march, as there is a right for residents not to be intimidated in their communities by marchers on either side. I put it to the Taoiseach that the most fundamental right of all is for the working class people in Northern Ireland not to be dragged back again into a sectarian nightmare. The Kingsmill massacre - the Taoiseach correctly met the survivor and relatives of the victims - was one of the worst atrocities but, unfortunately, only one in very dark years. Who wants to go back to that? It appears that some elements do, who must be isolated and resisted and their policies overcome.

Is the Taoiseach aware that there is a hopeful and important sign pointing to a way out in that a week after the Ulster Covenant march there is a march in Belfast by the Youth Fight for Jobs organisation supported by the biggest trade unions, Unite, the Northern Ireland Public Service Association and other unions? It commemorates the 80th anniversary of the outdoor relief workers' strike in Belfast in October 1932 when in the face of horrific conditions Protestant and Catholic workers united in an important struggle for rights and justice and got huge support across the community which united the community for an important period. I put it to the Taoiseach that a united march of youth, trade unionists and activists from both communities, which hopes to go through both the Shankill Road and the Falls Roads as a symbol of the unity that is needed between Protestant and Catholic working class and youth, is a development that should be supported and is a pointer towards the idea that it is a united working class and communities being empowered in that way that can overcome the sectarian divisions as well as address the horrific social evils of unemployment, poverty and homelessness, which are a source of further tension and a result of the present system that, unfortunately, does not offer a future for young people.

The Taoiseach: The points made by Deputy Higgins are all relevant. Nobody wants to see a return to rioting or sectarian violence. I fully agree with him that those communities do not want to be dragged back, as he said, into sectarian violence which ruined so many lives and communities. The very young people who were involved in some of the most recent rioting are too young - some were not born - to remember the bad situation that applied over much of the previous 30 years in various locations in Northern Ireland. It is true to say that the development of the economy and the creation of jobs and job opportunities is the single biggest benefit that can happen for any community where young men and women have the opportunity to find a job and contribute to their community. Everyone can agree on the necessity for constant interaction with communities and support for those people from both sides of whatever divisions that exist to work incessantly with young people to show them that there is a positive way forward. I was in areas in Belfast in the past 12 months where extraordinary community activists and workers go out of their way all the time to persuade young people from whatever background to take the opportunity to live their lives and not to go the wrong road too early in their career. That is very important and it is why I fully support and will continue to work for continued funding both from the United States and Europe in that regard. That is why I signed the strategic partnership agreement with Prime Minister Cameron. This country faces serious economic challenges and so too does Northern Ireland. I agree with Deputy Higgins that the worst thing that could happen is the loss of hope for young people in communities where they see no development taking place. That is another reason why both in respect of the parliamentary forum and the North-

South Ministerial Council we will continue to work with colleagues from the Assembly and the Executive to, as it were, assist where we can in the development of those issues that are helpful for communities. I hope the Ulster Covenant parade will go off peacefully and, as I said to Deputy McDonald, that there is engagement and interaction at community level before it takes place so that disruption can be minimised and, hopefully, will not take place at all.

I am aware of the march Deputy Higgins mentioned in respect of the outdoor relief strike. I hope it is a positive engagement to show the political process the necessity for effective investment to create jobs. It is fair to say that when one travels to Belfast now much of the city has been transformed into a modern, welcoming city which has had extraordinary economic benefit from the tourism aspect of the *Titanic* and due to the major sporting engagements that have taken place there. The development of a new stadium in Belfast will have implications not only for facilities in the immediate term but I hope also in the longer term when the country either unilaterally or in conjunction with Northern Ireland can offer facilities for major international sporting events in the years ahead. Those are things that will stand to Northern Ireland and its people and are a measure of the distance we have travelled as an island in recent years.

It is not the case that everything is by any means well - I share the views of Deputies opposite that it is necessary to keep a constant engagement, involvement and understanding and to provide assistance where possible. It takes leadership and engagement at local level and support for such personnel to prevent the kind of rioting we have seen for many years. We will do what we can in so far as we can impact on that. The Government will do that with the government across the water and the Executive and Assembly. I am happy to hear from Members of this House at any time who are aware of issues that may arise that need the attention of Government.

Deputy Mary Lou McDonald: I thank the Taoiseach for confirming his willingness to meet with the Ballymurphy families. We will take him up on his offer and we will be in contact with him to set a date for such a meeting. I also thank him for articulating the view that there cannot be a hierarchy of victims. As republicans, we are very supportive of and absolutely recognise the necessity for a broad truth recovery process, which must be independent and arbitrated internationally. All of us, whatever side of the argument or the historical dispute we came from, were too close to it. In order to have credibility and be effective in delivering for victims, communities and survivors across society, a process must be credible from the start.

I agree with the Taoiseach that during the past 14 years the North has been utterly transformed. The Orange state is gone. There is a new order although, of course, it is not perfect. Issues of social deprivation and poverty are acute in many areas throughout the Six Counties. We have raised the issue of transfer of fiscal powers a number of times for the simple reason that we recognise that for the Assembly and the Executive to deliver for communities, tackle the issues of unemployment and stimulate the economy to do everything that needs to be done, those powers must be held locally and exercised by people elected to position in the North. I urge the Taoiseach to give strong consideration to this matter and to take a strategic interest in it, as Taoiseach of this country. Fiscal transfer would give very many additional levers to politicians, of whatever stripe, to make decisions they are currently prohibited from making.

I refer to the parade on 29 September to mark the centenary of the Ulster Covenant. We all agree that in the coming years each of the landmark dates, whether the Covenant, the Dublin lock-out or the 1916 Rising, must be marked and celebrated in a way that is inclusive and commemorative but which also looks towards the future, and I welcome the Taoiseach's comments

in that regard. However, in light of what happened in north Belfast during the course of the summer this particular parade gives rise to significant concern. Its route has been lodged - as the Taoiseach knows this is organised by the Grand Orange Lodge - and it proposes to pass by two particularly sensitive points. One is St. Patrick's church on Donegall Street, where there were incidents during the summer; the other is St. Matthew's church on the Newtownards Road, again a location where, on countless occasions, the Parades Commission's determinations were breached.

I return to the central point, which can be sorted out if there is dialogue. The value of dialogue around parading issues is probably seen most notably in Derry, where the Apprentice Boys march has been very successful because there was a willingness to engage. However, as things sit now, there is almost an axis of political unionism and the UVF which is refusing, point blank, to engage. What, if any, contact has the Taoiseach had with political unionism, with the leadership of the DUP, the UUP, the Grand Lodge of the Orange Order or any other organisation, to urge them to see dialogue as the way forward? There are 3,600 parades in the North, a phenomenal number. A very small number of these remain contentious, the reason being that local communities expect us and the system to respect the commitment made to them in the Good Friday Agreement that they can live free from sectarian harassment. Will the Taoiseach pursue that?

I refer to his comments on Marian Price and Martin Corey. I should also have mentioned Gerry McGeough, a third person being detained. I ask the Taoiseach not to underestimate for one second the corrosive effect of holding people when procedures have been set aside in this manner, and the potential for damage in terms of public confidence. The worst case scenario is that cases such as this can become a rallying point for the very people to whom Deputy Higgins referred. Aside from that, there is a basic human rights issue here in respect of all these matters.

Given that we have been discussing parades and communities working together, I wish to put on the record of the Dáil that year on year - I particularly note north Belfast - republicans and community activists have put in a mighty effort to keep things stable. It is worthwhile acknowledging that effort and that work.

An Ceann Comhairle: Does Deputy Martin wish to ask a supplementary question?

Deputy Micheál Martin: I will put a number of points to the Taoiseach. Some fair points have been made in terms of the Good Friday Agreement and the transformation, at one level, in the political framework. However, the social and economic dimension has not been built upon. Many people live in areas where there is much unemployment and where significant socio-economic deprivation still prevails. In west Belfast alone, for example, a recent survey showed that one of every two children born in the area is in poverty. The same applies to loyalist communities. I was involved with others in endeavouring to bring them into mainstream civic society but that was based around an economic plan to deal with the considerable unemployment among loyalist youth. Many in loyalism were neglected in many respects by their own own Unionist hierarchies or communities, although there have been some changes.

Both Governments must act where there are flashpoints. The fact remains that, unfortunately, the number of peace walls has increased. We are not tearing down these sectarian or "peace" walls, as they are called - they are still in place, unfortunately, in spite of the great work by communities on the ground, as has been stated. The Taoiseach has met them; so have I. Our Department of Foreign Affairs has been most proactive in supporting them by funding and I ask

the Taoiseach to ensure this is maintained. The funding is not large but at least it supports communities to maintain reconciliation and peace-building efforts. However, a major initiative is required to ensure the reverse does not happen for young people and those in various communities who are in danger of being sucked away, or into alternative activities we do not want. The only way to combat that is by a genuine movement in terms of an economic and social dividend that reaches into those communities.

One of the disillusioning factors involved in the negotiations around the devolution of justice was the degree to which even other political parties were excluded by the two main parties, the DUP and Sinn Féin. If one spoke to the SDLP, the UUP or the Alliance Party, one heard they were being brought in very late in the day to what we might call Cabinet “considerations”. It was unthinkable on our part that Ministers would not receive, for example, Cabinet memos. That was the scene two or three years ago. It has improved since but there is the sense there were those who were in on the decision-making and those who were on the outside and this reflects back out into the community.

The parades issue needs both Governments to work again with the parties. I would be sceptical in some respects because this was a Holy Grail issue for many years. When it suited the parties to come to an agreement they did so, when it did not they resiled from the agreement. It is important that both Governments ensure that an independent adjudication process is in place that has credibility and teeth and will hold, irrespective of whatever factors there may be. We are in danger of a slide unless something fair, objective, independent and resolute occurs.

Deputy Joe Higgins: The Taoiseach stated, correctly, that the creation of jobs and the transformation of the economy in guaranteeing a future for youth would be key to transforming the situation in the North. Does he see the enormous and unfortunate contradiction in his position in this regard? The policies being imposed that come from the Tory-Liberal Democrat Government in London are the same policies of austerity in force here.

An Ceann Comhairle: That is a separate matter and not for today.

Deputy Joe Higgins: The bailing out of bankers in Britain on the shoulders of working-class people in England, Scotland, Wales and Northern Ireland is having the same deleterious effects on the jobs and lives of our people. Destructive austerity is causing huge social dislocation and, as the Taoiseach has agreed, is a factor in the tensions among sections of the community. I put it to the Taoiseach that, unfortunately, an Executive ranging from Sinn Féin to the DUP, the UUP and the SDLP that are enforcers of the type of capitalist austerity coming from the British Government is a factor in complicating the political situation rather than the opposite. Unfortunately, they then seek other means of trying to legitimise their position and are not above using sectarianism to try to bolster that position.

An Ceann Comhairle: Thank you, Deputy. I am trying to get to other questions.

Deputy Joe Higgins: Regarding parades, will the Taoiseach agree that the critical issue is not parades commissions and this and that quango but communities themselves engaging in dialogue? The Orange Order must talk to the Catholic communities. Equally, the Catholic communities affected must talk to the loyalists in recognising that there are rights on both sides but also a right above all not to be dragged back into sectarian divisions.

The Taoiseach: The Deputies have raised important points. I understand the first meeting of the North South-----

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An Ceann Comhairle: It is 12 October.

The Taoiseach: Is it 5 or 12 October?

An Ceann Comhairle: It is 12 October.

The Taoiseach: There will be 24 representatives from the Republic and 24 representatives from Northern Ireland. Congratulations to the Ceann Comhairle for his part in that.

Deputy McDonald raised the question of the transfer of fiscal powers. This is an issue I look forward to discussing with Secretary of State Villiers and, on the next occasion, with the Prime Minister when I have a chance to talk to him. Proportionately speaking, it is fair to say there has been an enormous public sector in Northern Ireland for very many years and given the way the digital world has moved, things have changed in so far as the delivery of services is concerned.

In respect of the covenant, I genuinely hope that between now and March there will be engagement from local community leaders because that is where this will be sorted out. I agree in respect of the Apprentice Boys in Derry. This is about dialogue, conversation, understanding and building trust and where that is applied, leadership must see to it that it is applied in the interest of everybody. Flashpoints in Belfast or in any location add immeasurably to the destruction of goodwill and the breakdown of that trust, which is so important for the development of communities. St. Patrick's church and St. Matthew's church are in areas that have seen eruptions previously and I genuinely hope that between now and then this can be prevented. The Deputy is aware of the visit of the Orange Order here recently. I had discussions with them about the importance of this, and they made their case in the Seanad. I thank the Deputy for those comments.

On Deputy Martin's point about the Good Friday Agreement, it did bring stability and the socioeconomic investment is critical for jobs. There is nothing worse than the destructive corrosion of hope where people see no opportunity to have a chance to work. While the funding has never been exceptional, as the Deputy pointed out, it is important and I hope to keep that in place.

I agree the parades require authenticity and transparency in their independence in the way they make their decisions, and that they be respected. These are issues with which I have no disagreement.

To answer Deputy Higgins, the situation about unemployment both here and elsewhere is not the way we would like it to be. While recent figures show an increase of 17,000 jobs in the private sector and a reduction in the public sector unemployment is still much too high. The co-operation we show with the Executive, for instance, in giving it the benefit of our experience of visits to China for investment and in meeting with representatives of the Northern Ireland Executive, Senators, Congress people in the United States in respect of potential investment or opportunities for investment is a measure of the co-operation that we show but also of the hope that while Northern Ireland competes with the Republic in terms of attraction of inward investment for job creation, and there have been serious discussions about changing the corporate tax rate in Northern Ireland which is a matter for the Executive, we show a genuine degree of co-operation on improvement of the opportunities for jobs and so on. The traditional relationship that existed here for trade where businesses in the South tested the product from Northern Ireland for market value before moving on to Britain has changed with the opportunity within the Single Market of a much larger population but there is a great deal of cross-Border activity

and cross-Border trade. That is what we like to see, and all of that should be legitimised. As the Deputy is aware, some activities are taking place that are not in the interests of our economy or of Northern Ireland. In so far as the opportunity for investment continues in the North, we are supportive of giving the Executive the experience we have had of attracting industry here because it works both ways.

The points made by the Deputies opposite are valuable for me as we prepare for further engagement with the Executive and the representatives of the people.

Cabinet Committees

7. **Deputy Gerry Adams** asked the Taoiseach the number of times the Economic Management Council has met since the summer recess. [37960/12]

8. **Deputy Gerry Adams** asked the Taoiseach if the Economic Management Council has met with the Irish banks since the summer recess. [37961/12]

9. **Deputy Gerry Adams** asked the Taoiseach the number of times the Cabinet sub Committee on Health has met since the beginning of July. [38359/12]

10. **Deputy Gerry Adams** asked the Taoiseach the membership of the Cabinet sub Committee on Health. [38360/12]

11. **Deputy Joe Higgins** asked the Taoiseach the number of Cabinet sub committee meetings he has attended since the summer recess. [38955/12]

12. **Deputy Joe Higgins** asked the Taoiseach if the Cabinet sub Committee on Economic Recovery and Jobs has met recently. [38956/12]

13. **Deputy Joe Higgins** asked the Taoiseach if the Cabinet sub Committee on Economic Infrastructure has met recently. [38957/12]

14. **Deputy Joe Higgins** asked the Taoiseach if the Cabinet sub Committee on Mortgage Arrears has met recently. [38958/12]

15. **Deputy Joe Higgins** asked the Taoiseach if the Cabinet sub Committee on European Affairs has met recently. [38959/12]

16. **Deputy Joe Higgins** asked the Taoiseach if the Cabinet sub Committee on Climate Change and the Green Economy has met recently. [38960/12]

17. **Deputy Joe Higgins** asked the Taoiseach if the Cabinet sub Committee on Social Policy has met recently. [38961/12]

18. **Deputy Joe Higgins** asked the Taoiseach if the Cabinet sub Committee on Irish and the Gaeltacht has met recently. [38962/12]

19. **Deputy Joe Higgins** asked the Taoiseach if the Cabinet sub Committee on Public Service Reform Jobs has met recently. [38963/12]

20. **Deputy Joe Higgins** asked the Taoiseach if the Cabinet sub Committee on Health has met recently. [38964/12]

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21. **Deputy Richard Boyd Barrett** asked the Taoiseach when the Cabinet sub Committee on Health will next meet. [39030/12]

22. **Deputy Richard Boyd Barrett** asked the Taoiseach when the next meeting of the Economic Management Council will take place. [40450/12]

The Taoiseach: I propose to take Questions Nos. 7 to 22, inclusive, together.

The Economic Management Council has met 28 times so far this year, most recently on 19 September, and the next meeting is scheduled for tomorrow, 26 September.

The Government has been working closely with the Irish banks to ensure the banking sector supports economic recovery. The members of the council last met with the banks on 26 June. The general topic of that meeting was mortgage arrears and new mortgage lending. The timing of the meeting coincided with the Government's decision to publish the personal insolvency legislation.

During that meeting the members of the council took the opportunity to set out the Government's commitment to assisting those in mortgage arrears, and set out our strategy to address mortgage arrears difficulties. The members of the council also took the opportunity to seek assurances from each of the banks that they are fully committed to addressing the mortgage arrears of their customers.

The Cabinet Committee on Health last met on 13 July and is scheduled to meet again during October. I chair this committee and its members are the Tánaiste; the Ministers for Health, Public Expenditure and Reform, and Children and Youth Affairs; and the Ministers of State for primary care, and disability, equality and mental health.

The Cabinet Committee on Climate Change and the Green Economy last met on 2 May; the Committee on Public Service Reform on 14 June; the Committee on Social Policy on 19 June; and the Committees on Economic Infrastructure, Mortgage Arrears and on Irish and the Gaeltacht on 19 July. The Cabinet Committee on European Affairs met on 18 September, and the Committee on Economic Recovery and Jobs met on 20 September.

Deputy Mary Lou McDonald: I thank the Taoiseach for that reply. It was remiss of me, a Cheann Comhairle, not to welcome the meeting on 12 October and to commend you for your activities in bringing that about.

An Ceann Comhairle: Thank you.

Deputy Mary Lou McDonald: It is important that the Economic Management Council, EMC, engages continually with the banks. Yesterday, we got the news that Bank of Ireland has hiked its interest rate by half a percentage point. The net effect of this is that people who are just about meeting their mortgages are put under huge pressure and moved into the terrain of mortgage distress. Without warning and without any increase in the ECB rates people received letters yesterday telling them that the rate had increased by half a percentage point. That means, for instance, that someone with a €200,000 mortgage will be paying approximately €50 more per month. That is an additional €600 each year which people have to find. Has the Taoiseach or the EMC been in contact with Bank of Ireland on this issue? Did he know it was going to happen? Did the EMC realise this was about to happen? If it has not been in contact with the bank or met its representatives, when does it propose to do so?

I presume that the Taoiseach and the Minister for Health, Deputy James Reilly, have been present at all of the meetings of the Cabinet sub-committee on health. Were the proposed cuts of €130 million announced by the HSE but, one presumes, dreamed up by the Taoiseach's Administration dealt with by the sub-committee? Were the cuts relating to personal assistants and home care packages and hours discussed and cleared by it? Is the Taoiseach in a position to indicate whether the Minister of State at the Department of Health, Deputy Róisín Shortall, attends or makes contributions to meetings of the sub-committee?

An Ceann Comhairle: Questions relating to the activities of individual Cabinet sub-committees are not in order as such activities are covered by the rules relating to Cabinet confidentiality.

The Taoiseach: Article 28.4.3o of the Constitution precludes me from commenting on the detail of what happens at such meetings.

Bank of Ireland made an announcement about the increase to which the Deputy refers last July. It is important to state this is a commercial decision on the bank's part. The State only owns 15% of Bank of Ireland. It is not the case that the Government is in a position to issue orders to any bank in respect of commercial decisions on interest rates.

It appears that the fluctuation in interest rates is coming to an end. It seems that most of the rates are coming into the range of 4.3% to 4.5%. For example, AIB's rate stands at 3.5%, that of the EBS is between 3.95% and 4.45% - depending on the loan-to-value ratio - while the position with regard to Bank of Ireland is similar, with a rate of between 4.3% and 4.5%. In addition, the rate of the ICS is between 4.6% and 4.8%, that of KBC is 4.25%, NIB, 4.35%, the PTSB, 4.35% and Ulster Bank, 4.5%. Any increase in interest rates creates a difficulty for people. What one does not want is the development of a situation where losses on tracker mortgages are being funded by increases in interest rates for variable mortgages.

The State obviously has a real interest in persons with mortgages which are either in arrears or distress. Part of the general discussion with the banks at the EMC was on their forbearance proposals in dealing with those to whom I refer. They published their-----

Deputy Mary Lou McDonald: Raising interest rates is certainly not helpful.

The Taoiseach: Absolutely. The Deputy's supplementary question relates to interest rates, but it refers to a commercial decision on the part of the bank in question. As stated, however, the Government has a 15% share in Bank of Ireland and it is not a case of our ordering it or any other bank to reduce interest rates. I would like to believe an interest rate reduction being passed on by the European Central Bank is designed to ease pressure on people. However, the matter to which the Deputy refers relates to a commercial decision taken by Bank of Ireland. The Government has given support to those mortgage holders who bought their houses when there were enormous surges in the price of property and who are experiencing particular pressures.

The Deputy referred to the Cabinet sub-committee on health, details relating to the membership of which I have provided. A range of issues has been dealt with in the context of reform, be it in respect of the establishment of the implementation group on universal health insurance, the introduction of universal primary care and the risk equalisation scheme and the legislation to be put in place in 2013. As the Deputy will be aware, the special delivery unit became operational in September 2011 and has had a significant and valuable impact on reducing the number of

patients on trolleys in hospitals. The overall surgical waiting list decreased by 7% in the past year, while the number of those waiting for over 12 months is down by 85%. In addition, the backlog of 58,000 medical card applications was cleared by the end of April. The development of chronic disease management programmes, particularly for diabetes, is also in train. When the chief medical officer of the Department of Health was making a presentation some time ago, I was struck by his assertion that we could be faced with the possibility of there being up to 300,000 in this country in the future with diabetes. The vast majority of the cases of diabetes to which he referred are preventable by means of adjusting people's attitudes, diets and patterns of activity. An enormous information campaign on the part of the Government will be required in this regard. There are so many other matters to which I could refer, including the case we discussed previously, namely, that of the cystic fibrosis unit at St. Vincent's Hospital which opened in July and provides between 20 and 34 inpatient beds for persons suffering from cystic fibrosis.

I cannot inform the Deputy about the detail of the discussions which take place at meetings of Cabinet sub-committees. In general, however, the areas I have outlined in the context of the sub-committee on health are those which are acted upon as part of the strategy to change the health system to ensure better delivery and more effective care for every patient. Such a system will come into being when the universal health insurance model applies at the end of the Government's term of office.

Deputy Joe Higgins: What is the Cabinet sub-committee on economic recovery and jobs doing in reality, particularly given the fact that there were 14,000 fewer jobs in the second quarter of this year than in the first? Consumer spending is down and every element of the domestic economy is being hammered as a result of the Government's austerity policy. Has the Administration not learned the lesson that the domestic economy is being throttled by austerity?

Níor chuala mé freagra ón Taoiseach maidir leis an coiste a bhaineann leis an Ghaeltacht agus cúrsaí Gaeltachta. An féidir leis a rá linn céard iad na cruinnuithe a bhí ag an gcoiste úd le déanaí agus cén obair atá ar siúl maidir le fadhbanna na Gaeltachta, fadhbanna teanga agus fadhbanna fostaíochta, eacnamaíochta agus sóisialta?

The Taoiseach: Sa fhreagra a thug mé, dúirt mé go raibh cruinniú den coiste i rith an tsamhraidh. Rinneadh cinneadh ag an coiste sin agus tá sin curtha i gcrích tar éis an Bhille a bheith curtha tríd an Dáil. I dtaobh an údarás nua a bheidh ann, séard atá i gceist ná béim a chur agus iniúchadh a dhéanamh ar chúrsaí teanga agus ar na pleananna atá le cur ar fáil ó na comhlachtaí thar fud na tíre, ní amháin sa Ghaeltacht faoi láthair ach in áiteanna ar mhiste leo bheith i bfad níos tréine as seo amach ó thaobh forbairt na teanga de. Sin an príomh rud a bheidh i gceist ag an údarás nua de réir atá leagtha amach ag an Aire Stáit anseo sa Dáil.

The Cabinet sub-committee on economic recovery and jobs is tasked with making recommendations for decisions by the Cabinet which impact on competitiveness, employment and enterprise. The Minister for Jobs, Enterprise and Innovation has set out the Action Plan for Jobs which, in part, is being monitored and overseen by my Department. I am not really interested in coming before the House and stating 96% was actually implemented. I am far more interested in the challenge we face in making people aware of the assistance that is available for small and medium enterprises and other employers, either by means of the forthcoming activation of the partial loan credit guarantee scheme or the microfinance agency. There are also many cases which have never gone before the Credit Review Office. It would seem that in many cases, perfectly feasible businesses operating for a number of years are being dragged down by their involvement in property or property deals either here or abroad. Such involvement has imposed

a crushing burden on the capacity of such businesses to operate. These are areas that interest us with regard to the banks.

The stimulus package to which I referred will affect transport, health, education and schools. It has been announced that the work of consular staff, whose duties include promotion of trade, is having an impact on exports. This helps in the difficult work of restoring a sense of confidence to our economy. I refer to our work with our European colleagues so the European Union and the eurozone can thrive and prosper. This would have the most beneficial impact of all on Irish manufacturing and export capacity which has been very strong over the past number of years and we should keep it that way.

I am not happy with the level of unemployment. My hope is that SOLAS, the pathways to work scheme and the job creation initiative will have an impact on communities all over the country as this is crucial for supplying the lifeblood of the economy and in particular for giving young people the opportunity to stay and work at home if that is what they wish to do.

Written Answers follow Adjournment.

Order of Business

The Taoiseach: It is proposed to take No. 11, motion re membership of committees; and No. 4, Thirty-First Amendment of the Constitution (Children) Bill 2012 - Order for Second Stage and Second Stage. It is proposed, notwithstanding anything in Standing Orders, that: (1) the Dáil shall sit later than 9 p.m. tonight and shall adjourn not later than 10 p.m.; (2) No. 11 shall be decided without debate; and Private Members' business shall be No. 59, motion re Magdalene laundries.

An Ceann Comhairle: There are two proposals to be put to the House. Is the proposal that the Dáil shall sit later than 9 p.m. tonight, agreed to? Agreed.

Is the proposal for dealing with No. 11, motion re membership of committees, without debate, agreed to? Agreed.

Deputy Micheál Martin: In order to facilitate the smooth running of the House, I did not wish to object to the Order of Business. However, I would appreciate if the Government would consider including on tomorrow's Order of Business an opportunity for the Minister for Health, Deputy James Reilly, to make a statement to the House about the development of primary care centres and their selection and to answer questions from Members. The timeframe and time limits at priority question time will not permit this because they are clearly too short to allow for any meaningful evaluation of why he made those decisions. I ask the Taoiseach to consider my request with regard to the Order of Business this week.

I have two questions about the programme for Government. On a previous occasion the Taoiseach said it was a political decision so I ask him to clarify whether the ministerial order for the delegation of ministerial powers with regard to primary care has been laid before the House. The Minister of State, Deputy Shortall, said she had been seeking those delegation orders and

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had not received them. I would appreciate clarification on this matter. I believe it is a Government decision.

Does the Taoiseach intend publishing the Thornhill report on property tax? Members would appreciate publication of that report which has been with the Cabinet since June. Publication would help Members to make an informed contribution to a debate which is raging outside the House but is not receiving any attention within the House.

As every day goes by, the crime situation is becoming more serious. Murders are being committed on an unprecedented scale, with two murders in the space of 24 hours and one man murdered in front of his children. I note there are two Bills in the legislative programme which emanate from the Department of Justice and Equality, the mental capacity Bill and the DNA database Bill. When will the DNA database Bill come before the House? I ask him about the commitment in the programme for Government to deal with crime. At the moment the criminal warlords-----

An Ceann Comhairle: That is a separate issue.

Deputy Micheál Martin: -----are doing what they wish across the city. Is the Garda Síochána adequately resourced to deal with these criminal warlords who seem to think that-----

An Ceann Comhairle: That should be the subject of a parliamentary question to the Minister for Justice and Equality.

Deputy Micheál Martin: -----they can act with impunity and without any reference to the law?

The Taoiseach: I do not propose to allow for a statement by the Minister for Health, Deputy Reilly, tomorrow. He is answering priority questions on Thursday and he will answer any questions from Members with regard to his sector and the Government stimulus package for development which was approved and announced earlier in the year. I will check this for the Deputy but I understand the ministerial order delegating responsibility was approved and I understand it was laid before the House. I will confirm the information in case I am mistaken. I spoke to the Minister, Deputy Reilly, about that matter and he informed me that the order was processed in the normal way. If I am incorrect in my recollection of it-----

Deputy Micheál Martin: The Taoiseach needs to communicate that to Deputy Shortall.

Deputy Timmy Dooley: To keep the coalition together.

The Taoiseach: The Minister will bring his recommendations on the Thornhill report to the Government over the next period. The report will be made public once the Government has reflected on it.

Deputy Micheál Martin: I ask the Taoiseach to define what he means by the next period. Is it two to three months?

The Taoiseach: In the case of crime-----

An Ceann Comhairle: No, Taoiseach, the legislation in relation to-----

Deputy Micheál Martin: The Minister has had the report for four months.

The Taoiseach: Yes, he has had it for a while.

An Ceann Comhairle: I would appreciate if we would not have a chat across the Chamber.

The Taoiseach: It is important legislation. You seem to have taken a position on it before it is published - or your party seems to have taken a position on it.

An Ceann Comhairle: Maybe you will include the whole lot of us in this discussion through the Chair, please.

The Taoiseach: I thought I heard some rumblings that you had already taken a decision about it before-----

Deputy Micheál Martin: The rumblings were very clear.

The Taoiseach: -----the thing was even published. I can confirm that the DNA database Bill and the mental capacity Bill will be prioritised and published in this session. I refer to the brutal murders in front of children on the streets of this city and in the country, as described. This is brutal treatment by people who have ordered the destruction and the assassination of people, in public, in front of children on the streets of Ireland. Life has become very cheap indeed. I note the comments from the Assistant Commissioner and from the Minister for Justice and Equality and the interaction with the Garda Commissioner. The Deputy may rest assured that as we have always done, we will not neglect to ensure the capacity of the Garda Síochána - who do so much extraordinary work throughout the country - to deal with these underworld drug lord assassination squads carrying out their murders in public for territorial or financial gain. It is reprehensible in this day and age, in Ireland of 2012, that these things can happen on the streets of the country. The Minister for Justice and Equality and the Garda Commissioner will apply themselves to providing whatever resources are necessary to deal with these crimes and to bring to justice those who carried out these murders.

Deputy Mary Lou McDonald: Given those remarks, the Taoiseach might consider assisting the Garda Síochána in order to provide sufficient resources for their task.

I planned to ask a question about the ministerial order in respect of responsibility for primary care but the Taoiseach has informed the House that the Minister, Deputy Reilly, has reassured him that this has been laid before the House. However, this information does not fill me with confidence. I think the Taoiseach should check that information and let us know-----

An Ceann Comhairle: He said he will check it out.

Deputy Mary Lou McDonald: -----if that is, in fact, the case.

I refer to the comments this morning of Mr. Justice Peter Kelly of the High Court. He referred to appointments to the Supreme Court which he said were purely political, in his view. He further stated that the Judicial Appointments Advisory Board has not worked in making judicial appointments truly independent.

An Ceann Comhairle: Where is the Deputy going with this?

Deputy Mary Lou McDonald: In fact, a number of the appointments to the Bench which took place under the Government have had political links with Fine Gael or the Labour Party.

An Ceann Comhairle: Is there a question on legislation?

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Deputy Mary Lou McDonald: Does the Taoiseach have plans to bring forward legislation to ensure judicial appointments are truly independent and free from political interference?

An Ceann Comhairle: Has legislation been promised?

The Taoiseach: On the issue of Garda resources, I have already given my comments to Deputy Micheál Martin. I sent the Deputy a copy of the relevant statutory instrument in respect of the health issue she had raised. I am assuming my information is correct in this regard.

Deputy Micheál Martin: The Taoiseach should be careful.

The Taoiseach: The comments by Mr. Justice Kelly to which the Deputy referred related specifically to Supreme Court appointments. We have been very careful never to interfere with the Judiciary. Nobody in this country could quibble with the elevation of Mrs. Justice Susan Denham from the Supreme Court to the role of Chief Justice. The two most recent appointments to the Supreme Court, Mr. Justice Clarke and Mr. Justice MacMenamin, were made by a previous Administration on the basis of the appointees' qualities, integrity and credibility.

An Ceann Comhairle: We are moving away from the Order of Business.

The Taoiseach: The Judicial Appointments Advisory Board makes recommendations from which the Government may select a candidate. However, Supreme Court judges are appointed by the President. In respect of the three most recent appointments, I do not see how anybody could quibble with the individuals' integrity and ability.

Deputy Tom Barry: Will the Ceann Comhairle indicate what opportunities might be made available to allow Deputy Gerry Adams to make a statement to the Dáil on the very serious allegations made against him earlier this week?

An Ceann Comhairle: That is not in order.

Deputy Tom Barry: Will you ask Deputy Gerry Adams to clarify the issues that arise for his party-----

An Ceann Comhairle: I ask the Deputy to resume his seat.

Deputy Tom Barry: I will defer to the Ceann Comhairle.

An Ceann Comhairle: I thank the Deputy.

Deputy Ray Butler: There has been much discussion of late regarding moneylending and financial institutions. Given what I have heard about the treatment meted out to parents who have gone cap in hand to their local credit union seeking finance to get their children through college, it is vital that we have a robust debate on the forthcoming legislation on credit unions. These are people who always met their repayments and had good track records, yet they have been denied financing.

An Ceann Comhairle: The Deputy will have an opportunity to make that point during the debate on the legislation.

Deputy Ray Butler: We must have a robust debate in this House on the role of credit unions and other credit and financial institutions into the future.

An Ceann Comhairle: Has legislation been promised?

The Taoiseach: Legislation in this area is a troika requirement. Two Bills, the credit union Bill and the credit reporting Bill, were approved and passed by the Cabinet this morning.

Deputy Timmy Dooley: During his time as Leader of the Opposition and since coming into government, the Taoiseach has made much of the importance of tourism to the economy. The Gathering, for example, which is to take place next year, has been identified as an important initiative with the capacity to attract large numbers of visitors. The Government has indicated a desire to separate Shannon Airport from the Dublin Airport Authority, which will also have implications for Cork Airport.

An Ceann Comhairle: Does the Deputy's question relate to promised legislation?

Deputy Timmy Dooley: Yes. When does the Taoiseach intend to bring the required legislation to the House to implement that change?

Second, in the light of spiralling oil prices, will the Taoiseach reconsider the emergency legislation my party brought forward last year which would allow the price of fuel to be moderated when it reaches that peak and provide the Government with the capacity to review the level of excise duty it takes on the price of oil on a quarterly basis? The Minister for Finance is in the Chamber and may be able to offer some guidance on this issue.

The Taoiseach: This morning the Government gave authorisation to the Minister for Jobs, Enterprise and Innovation to follow through on the Government's decision on the Shannon regional development zone.

Deputy Timmy Dooley: Is the Taoiseach referring to the abolition of Shannon Development?

The Taoiseach: Yes, authorisation was given to follow through on that decision.

The second issue raised by the Deputy is a budgetary matter. The Minister for Finance will be happy to take proposals from Members before final decisions are made on the budget. The Deputy will have the opportunity to put forward his views.

Deputy Timmy Dooley: To clarify, is the Taoiseach saying the Government decided today to abolish Shannon Development?

The Taoiseach: No.

An Ceann Comhairle: Deputy Timmy Dooley must resume his seat.

Deputy Barry Cowen: Based on yesterday's revelations by the chief executive officer of Bord Gáis of a two year delay in the installation of water meters, can we expect a similar delay in regard to the legislation promised on the establishment of Irish Water?

The Taoiseach: No. We are facing a situation where 160,000 people are out of work in the construction sector. This is about installing meters, either on private properties or at the connection point between a public water supply and a private home. I listened to the comments to which the Deputy referred and we do not accept the figures given and have made no decision on the matter. We have decided to set up Irish Water as a publicly owned entity under the overall umbrella of Bord Gáis. That is a matter for discussion and there will be no undue delay in deal-

ing with the legislation.

Deputy Brian Stanley: What is the status of the education and training boards Bill to allow for the reform of the VEC sector? In a slight deviation, I draw the Taoiseach's attention to an ongoing industrial dispute at Laois VEC-----

An Ceann Comhairle: There can be no deviations on the Order of Business.

Deputy Brian Stanley: -----where the chief executive officer has torn up a 13 year old agreement on transfers which has served teachers, pupils and the VEC well.

An Ceann Comhairle: The Deputy should find another way to raise that matter.

Deputy Brian Stanley: Teachers voted yesterday in favour of strike action.

An Ceann Comhairle: What was the Deputy's question that was in order?

Deputy Brian Stanley: I am raising this matter because it has the potential to escalate. I am asking the Taoiseach-----

An Ceann Comhairle: The Deputy cannot do so because it is not relevant to the Order of Business.

Deputy Brian Stanley: -----to ask the Minister for Education and Skills to intervene to prevent such an escalation.

An Ceann Comhairle: I am asking the Deputy to try to remain in order.

Deputy Brian Stanley: It is a minor deviation to raise an important matter. I have submitted a request for a Topical Issue debate on it.

The Taoiseach: I expect the education and training boards Bill to receive clearance very shortly.

Deputy Aengus Ó Snodaigh: Can the progress of the workplace relations Bill be accelerated? Will the Taoiseach confirm that the legislation will address recent unacceptable work practices such as that at Tipperary Water where staff have been arbitrarily laid off in a fashion similar to-----

An Ceann Comhairle: The Deputy cannot discuss the content of forthcoming legislation.

The Taoiseach: That legislation is a distance away. We expect to bring it forward either at the end of this year or early next year.

An Ceann Comhairle: Before calling Deputy Jerry Buttimer, I express the hope that at least one Member will be in order today. It would be a change.

Deputy Jerry Buttimer: I welcome the Taoiseach's earlier comments on gangland activity and the brutal murders that took place in recent days. Will he indicate the status of Nos. 47 to 49, inclusive, in the Government's legislative programme regarding criminal assets and criminal justice? We must be able to go after these thugs who kill and maim. I implore members of all political parties to work together to eliminate them from our society.

Deputy Timmy Dooley: Is that a call to vigilante action?

The Taoiseach: The Minister for Justice and Equality is in continuing contact with the Garda authorities and the Commissioner with a view to ascertaining how the Government can strengthen the legislative hand of the Garda in its operations in this area. The legislation in question is somewhat down the line. We must await the conclusion of the discussions between the Minister and the Commissioner to see whether we might assist with some other element of priority legislation.

Deputy Joe Higgins: In view of the grave concern that the Government's servile acceptance of the troika diktat for a property tax - in reality, a home tax - is causing ordinary people living in modest homes, can we have clarity on the timeframe as to how this will be worked out?

An Ceann Comhairle: Is the Deputy inquiring about legislation?

Deputy Joe Higgins: I am referring to No. 16 of the Government's legislative programme.

An Ceann Comhairle: To which Bill does the Deputy refer?

Deputy Joe Higgins: I refer to the finance (local property tax) Bill.

An Ceann Comhairle: Will the Taoiseach indicate when the Bill is due?

Deputy Joe Higgins: It is a little more complicated than that. The Thornhill report will be an important basis for this legislation, but the Taoiseach has indicated that it has not yet been brought to the Cabinet and is still with the Minister for the Environment, Community and local Government. When will it be brought to the Cabinet and published?

Second, the finance (local property tax) Bill is listed for the Department of Finance in the legislative programme, suggesting the Minister for Finance will introduce it. What is the cross-over between the Department of the Environment, Community and local Government and the Department of Finance in this instance? Which Minister will be responsible for this horrifically regressive legislation?

The Taoiseach: I realise the Deputy must get his fix for organising protest meetings and I am glad, therefore, to offer him clarity on the matter. The decision that was made is that there will be a property tax which will apply from July next year. The Revenue Commissioners were mandated by the Government to put together the mechanics of the scheme and the Minister for Finance will provide all the details and clarity the Deputy requires in the budget.

Deputy Joe Higgins: When will the Thornhill report go before the Cabinet?

The Taoiseach: In the not too distant future.

Deputy Billy Kelleher: When will legislation on minimum pricing for alcohol come before the House? Until recently, a central plank of Government policy was that alcohol abuse would be tackled head on through minimum pricing. In view of what happened at the Swedish House Mafia concert in the Phoenix Park and what happens on our streets every Thursday, Friday and Saturday night, will the Taoiseach indicate when the legislation will come before the House? This seems to be a result of the paralysis-----

An Ceann Comhairle: I will get the information the Deputy seeks but we cannot have a conversation on the issue.

Deputy Billy Kelleher: -----in the Department of Health between the Minister of State,

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Deputy Róisín Shortall, and her senior Minister.

An Ceann Comhairle: It is not necessary to drift into this type of discussion.

Deputy Billy Kelleher: The matter I raise is related to the delivery of policy. The Minister of State has had her policy platform kicked out.

An Ceann Comhairle: The Deputy should not worry about the Minister of State for a moment. We will find out when the relevant Bill is due.

Deputy Billy Kelleher: I seek clarity on whether minimum pricing for alcohol remains a Government commitment and priority.

The Taoiseach: I thought the Deputy was about to tell me about the difference of opinion between Deputies Ó Cuív and Martin but these things get sidelined. To answer his question, which is on an issue in which I know he has a genuine interest-----

Deputy Billy Kelleher: I have spent many hours discussing it in committee with Deputy Buttimer.

The Taoiseach: -----this matter is one for serious discussion at the next meeting of the Cabinet sub-committee on social policy, which I believe is scheduled for next week. As the Deputy is aware, the Minister of State, Deputy Shortall, has produced a report which includes some very valuable recommendations. There is also the issue of a requirement concerning the physical location of alcohol in retail outlets, which is a matter that comes through the Department of Justice and Equality. Other Ministers have an interest in this issue, which is due for serious discussion at the next meeting of the sub-committee on social policy.

Deputy Billy Kelleher: The proposal was blown out of the water by the Ministers for Agriculture, Food and the Marine, Arts, Heritage and the Gaeltacht and Transport, Tourism and Sport, Deputies Coveney, Deenihan and Varadkar, respectively.

Deputy Bernard J. Durkan: At last, I have come to a juncture where I agree entirely with the points made by Deputies Martin, Buttimer and others. Ten years ago, as the Ceann Comhairle well remembers and those Deputies who were in the House at the time should also remember, I raised the issue of organised crime.

An Ceann Comhairle: I remember it well.

Deputy Bernard J. Durkan: Normal methods will not resolve the problem of organised crime.

An Ceann Comhairle: What Bill were we discussing at the time?

Deputy Bernard J. Durkan: I will come to that in two seconds. I have long since advocated the introduction of a single, consolidated Act to deal with membership of organised criminal gangs because nothing else will put them out of business. Legislation is promised and I suggest the Criminal Justice (Miscellaneous Provisions) Bill be used as a vehicle to introduce one Act that will deal, once and for all, with organised criminals. Otherwise, we will continue to live with them as we have done for the past ten or 15 years. Will such a Bill be introduced and will my advice will be taken on this occasion?

An Ceann Comhairle: I do not know about the Deputy's advice being taken but we will

find out when the Bill is being taken.

The Taoiseach: Deputy Durkan's advice is always relevant. The Minister for Justice and Equality has requested his Department to review the operation of the organised crime provisions that are contained in the Criminal Justice (Amendment) Act 2009 to determine if they should be strengthened. The Bill to which the Deputy refers will be taken later this year or early next year. The Minister is in contact with the Garda Commissioner arising from the latest spate of gangland murders.

Membership of Committees: Motion

Deputy Emmet Stagg: I move:

That Deputy Michael Colreavy be discharged from the Select Committee on Agriculture, Food and the Marine and that Deputy Martin Ferris be appointed in substitution for him.

That Deputy Seán Crowe be discharged from the Select Committee on Education and Social Protection and that Deputy Jonathan O'Brien be appointed in substitution for him.

That Deputy Pádraig Mac Lochlainn be discharged from the Select Committee on European Union Affairs and that Deputy Seán Crowe be appointed in substitution for him.

That Deputy Pádraig Mac Lochlainn be discharged from the Select Committee on Finance, Public Expenditure and Reform and that Deputy Brian Stanley be appointed in substitution for him.

That Deputy Pádraig Mac Lochlainn be discharged from the Select Committee on Foreign Affairs and Trade and that Deputy Seán Crowe be appointed in substitution for him.

That Deputy Jonathan O'Brien be discharged from the Select Committee on Justice, Defence and Equality and that Deputy Pádraig Mac Lochlainn be appointed in substitution for him.

That Deputy Martin Ferris be discharged from the Select Committee on Transport and Communications and that Deputy Michael Colreavy be appointed in substitution for him.

Question put and agreed to.

Topical Issue Debate

National Asset Management Agency

Deputy Michael McGrath: I am pleased the Minister for Finance is present to discuss this issue. On 2 August last, the National Asset Management Agency, NAMA, was advised by a

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journalist from *The Sunday Times* that a senior executive in the agency, Mr. Enda Farrell, purchased a five bedroom house in Dublin last December from the agency's portfolio in a private deal without the property being put up for sale on the open market. NAMA's response was to appoint its internal auditor, Deloitte, to carry out a review of the transaction. The newspaper ran the story on Sunday, 5 August.

On the question of the property transaction, Deloitte subsequently found that the National Asset Management Agency approved the transaction without apparently realising that the purchaser was one of its employees. The agency stated the failure of Mr. Farrell to disclose the transaction was a breach of its internal procedures. Incredibly, it appears there is no explicit rule in place to prevent NAMA employees from entering into private deals to purchase agency properties. This position needs to change.

This story should have set alarm bells ringing in the National Asset Management Agency and Department. The response from NAMA, in appointing its internal auditor to carry out an investigation, was entirely inadequate. However, the story gets much worse. During the course of the review carried out by Deloitte, evidence was found that pointed to the removal by Mr. Farrell of confidential commercial information from the National Asset Management Agency. High Court proceedings were initiated by the agency in this regard and lawyers for NAMA told the High Court that the information had been taken in a premeditated way over a number of months. This raises a number of serious questions about the internal control and governance arrangements in the agency. How is it possible that information of such a commercially sensitive nature and pertaining to more than 11,000 loans, with a nominal value of approximately €74 billion and underpinned by approximately 16,000 properties, could be compromised in this manner? The very essence of the work of NAMA was potentially compromised by the breach of confidentiality surrounding this information.

It is my understanding that the information technology controls in the National Asset Management Agency prohibit the sending of e-mails to personal accounts, for instance, Hotmail, Gmail and Yahoo accounts. However, as the recipient e-mail address in this case was a professional services firm with which NAMA engages in some work, the e-mail left the agency and was received. Recently and belatedly, NAMA referred the matter to the Garda Síochána. On 5 August, the day this story broke, I immediately called for the matter to be referred to the Garda as it was always one for Garda investigation. Offences under the National Asset Management Agency Act are criminal offences. It was never adequate for NAMA to carry out an internal inquiry into the private sale of one of its properties to an employee without the property being placed for sale on the open market. In the course of the investigation into this matter it subsequently emerged that highly valuable commercial information had been potentially compromised. This issue is of extreme importance and goes to the heart of the role of the National Asset Management Agency. Members of the Oireachtas and citizens have placed their faith in the agency fulfilling its role. NAMA is among the largest - if it is not the largest - property portfolio owners in the world. It is entirely unacceptable to have information of this nature potentially compromised in this manner.

If, as the lawyers for the National Asset Management Agency have stated, this was done in a premeditated fashion over a number of months, it calls into question the governance and control arrangements in the agency. It is well past time the Minister appointed an independent person to find out exactly what took place in this case and carry out a root and branch review of the governance arrangements and control procedures that apply in the agency.

Minister for Finance (Deputy Michael Noonan): I fully support the swift and decisive actions of the National Asset Management Agency, NAMA, in dealing with this allegation as there should be no question but that NAMA employees are working in the best interest of the taxpayer. NAMA became aware of the particular transaction involved on 2 August 2012. On 3 August 2012, NAMA instructed its internal auditors, Deloitte, to carry out a comprehensive investigation into the transaction. The Deloitte review established the sale of the property was transacted at market value as the sale price was in accordance with an independent valuation at the time of the transaction.

NAMA requires its entire staff to complete a disclosure under section 42 of the National Asset Management Agency Act 2009 outlining all assets, liabilities and interests which they hold. Each employee is also required to inform the agency's chief executive officer of any changes to his or her disclosure. He or she must also immediately inform the chief executive officer of any matter that could raise a question about his or her suitability to act as an officer of NAMA or that could result in an actual or potential conflict of interest with respect to his or her duties or obligations as an officer of NAMA.

However, the investigation found that the former employee did not disclose this transaction to NAMA at any time either prior to or following the transaction. During the course of the Deloitte investigation, NAMA also became aware that confidential data may have been taken without authorisation from NAMA by the former employee.

I wish to inform the House that a thorough investigation has now been completed. I am advised that the unauthorised disclosure was notified to An Garda Síochána and the Data Protection Commissioner on 12 September 2012 and that NAMA has provided, and will continue to provide, all information required by the Garda as part of this investigation.

I am also advised that NAMA has instituted legal proceedings against the former employee and his spouse seeking a number of reliefs including an injunction to prevent them from using, disclosing and/or dealing with confidential information. NAMA is also seeking several court orders, including an order directing the former employee and his spouse to provide a full account on affidavit in respect of all confidential information that either of them has removed from NAMA. This is to include the identity of all persons who have had access to the information or who have been made aware of its existence and/or contents and the identity of all persons to whom the information has been supplied.

These proceedings are within the jurisdiction of the courts and I am, therefore, not in a position to discuss them further. NAMA's swiftly instigated investigation demonstrates how seriously it viewed the allegations raised in early August regarding the purchase of a NAMA property by a former employee as well as the level of adherence to statutory and other disclosure requirements by the former employee.

I am also advised that NAMA already employs a wide range of measures to prevent unauthorised disclosure of confidential data. These include practical measures such as the deployment of e-mail monitoring technology to prevent e-mail attachments from being forwarded to personal and non-corporate e-mail accounts. IT controls also ensure that data cannot be saved from the National Treasury Management Agency, NTMA, network on to external storage devices such as USB keys, CDs, etc.

NAMA employees are bound by several statutory obligations in respect of the confidential-

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ity of information to which they have access by virtue of their employment. These include obligations imposed under section 14(1) of the National Treasury Management Agency Act 1990 and under section 202 of the National Asset Management Agency Act 2009. NAMA staff are also subject to the provisions of the Official Secrets Act 1963. Contravention of these statutory obligations constitutes criminal offences and, under section 7 of the National Asset Management Agency Act, a person who commits such offences may be liable to a substantial fine, a term of imprisonment or both.

It is unfortunate that in spite of these wide-ranging controls and obligations, NAMA has suffered a breach of trust. I take comfort in the fact that as part of its review of Deloitte's findings, the board of NAMA will assess whether there are any changes required to NAMA's current data control and compliance procedures.

Deputy Michael McGrath: I thank the Minister for his response. However, I disagree with him that NAMA made a swift and decisive response once the information was brought to its attention. The Minister stated the contravention of provisions of the National Asset Management Agency Act are criminal offences. NAMA is not a competent authority for investigating possible criminal offences. This matter should be referred immediately to An Garda Síochána as soon as it was brought to the agency's attention. That is what I called for on 5 August. NAMA delayed by appointing Deloitte to do an internal review. Subsequently, only when further evidence emerged was the matter referred to An Garda Síochána.

The practice of NAMA engaging in the private sale of assets under its portfolio without putting those properties up for sale in the open market stinks. It needs to come to an end. Will the Minister make that one practical change immediately? As the Minister knows, the gentleman in question, Mr. Farrell, on leaving NAMA went to work for Forum Partners, a property management company, as its Ireland representative. I am making no allegation as to how information may or may not have been used. However, the potential was certainly there for commercial information of an invaluable value to be used for commercial advantage for one or more parties.

What we need to get to the bottom of now is where all of this information ended up. This is information concerning over 11,000 loans with a book value of over €70 billion and 16,000 properties. Where is that information today? In whose hands did it end up? Since the information was leaked from the agency, is there any evidence of transactions from which persons could have commercially benefited? These questions need to be answered quickly. The Minister should carry out an independent review of what happened in this case, as well as into the wider control procedures and governance arrangements at NAMA. There was a catastrophic failure of procedures in this case. It could yet have potentially negative consequences for the agency and taxpayers. We need to get to the bottom of it and ensure nothing like this happens again.

Deputy Michael Noonan: When the Garda is investigating a matter and when it is clear it may become *sub judice*, everyone should be careful with the allegations they make. The Deputy has made several statements that are not correct. First, NAMA did not delay when this matter was brought to its attention. It first heard of this particular house purchase on 2 August. On 3 August, the day after, it got its internal auditors to carry out a comprehensive investigation of the transaction.

Deputy Michael McGrath: That is not good enough. That was a matter for the Garda.

Deputy Michael Noonan: No, it concerned the sale of a house. I have described what disclosures have to be made.

Deputy Michael McGrath: There was the use of internal information.

Deputy Michael Noonan: No, the Deputy should not interrupt me and allow me to put the facts on the record. He has made allegations which are not correct.

Deputy Michael McGrath: I did not.

Deputy Michael Noonan: The more serious matter was discovered in the course of the De-Loitte evaluation of what happened. It was then the transmission of data was discovered which was subsequently referred to the Garda Síochána. On 3 August, NAMA had no idea there was another potential offence involving the transmission of confidential data. There was no delay in dealing with the matter subsequently when that matter came to light. The agency acted expeditiously and in accordance with the powers under the Act. We will see whether there was damage in the revelations or not because the investigations are proceeding. As soon as the facts are established, I will inform the House of what has come to light on a suitable occasion.

ESB Disconnections Policy

Deputy Regina Doherty: I thank the Ceann Comhairle for allowing me raise this matter which affects more than 300,000 people. Last year, 11,773 customers had their electricity cut off, of which 81% were families. Up to 70,000 customers are in arrears of more than 60 days and only 10% are in payment arrangements. ESB Networks told me last week that on average 300 families a week in the greater Dublin area are being disconnected. It then takes them an average of five days to be reconnected. The payment, for which these families must borrow, beg or find, also includes a €89 charge for disconnection, as well as a €89 one for reconnection. These are shocking statistics.

What directives does the Minister for Communications, Energy and Natural Resources believe the Government can put in place to encourage our various network suppliers to show more compassion to struggling families who are being cut off in far too high numbers? I suggest we examine a social energy tariff which they have in the UK. These schemes offer discounts to customers who are in need rather than the typical Irish case of offering discounts to the staff of the ESB. The schemes of all energy suppliers in the United Kingdom are obliged to offer some social energy tariff to give discounted electricity bills to customers in need. Rules from the energy regulator, Ofgem, state social energy tariffs must at least match the cheapest deal on offer from the providers, including those online.

Should we encourage our energy suppliers to fund a not-for-profit helpline to offer advice and assistance on payment schemes, social energy tariffs, grants for home improvements and benefits to which customers might be entitled? I appeal to the Government to step in to ensure no one is cut off from his or her electricity supply as a result of a genuine inability to pay. I appeal to all agencies to co-operate with customers and start accepting new payment structures. Cutting off the electricity supply of families which are genuinely trying to meet their payments should not be an option. Customers are trying their best to be responsible, with thousands opting to have pay-as-you-go meters installed in their homes as a way of dealing with energy bills. However, this option is not on offer to those who are already in trouble, but these are the ones

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most in need of pay-as-you-go meters. Will the Government seriously consider addressing the three energy suppliers on this matter? This is happening on the day when Bord Gáis announced that it had to recruit 90 new debt collectors recently. We are focusing our energy in the wrong places. We need to be more compassionate. Energy suppliers must do everything they can to ensure the most vulnerable, those most in need, including struggling families, are helped and assisted to pay their bills. These are outstanding debts that most families want to pay in a structured and more stable environment.

Minister for Communications, Energy and Natural Resources (Deputy Pat Rabbitte):

I thank the Deputy for allowing me to address the main issue she has raised. The regulation of the electricity and gas markets is a matter for the Commission for Energy Regulation, CER, an independent statutory body with no ministerial role or function in this matter. However, other than in vacant premises which account for approximately one third of disconnections, I am concerned about any level of disconnection to customers. The CER is a statutorily independent body established under the Electricity Regulation Act 1999 and has responsibility for overseeing the regulation of Ireland's electricity and gas sectors. It promotes competition in the electricity and natural gas markets in order that customers can ultimately benefit from competitive pressures and prices. It also protects the interests of customers, especially the disadvantaged and the elderly, by ensuring standards of services are set and codes of practice are in place to protect consumers. I am well aware that some consumers are having trouble meeting their electricity bills owing to challenges facing the economy at this time and the fact that gas and electricity prices are increasing as a result of a significant rise in the price of gas worldwide.

I had asked the regulator to work with all electricity and gas supply companies to implement initiatives to ensure disconnection for non-payment of accounts would not take place where customers were experiencing genuine financial hardship and had either entered into a payment plan agreement or had agreed to the installation of a pay-as-you-go meter, as appropriate. The code of practice with the regulator holds that if consumers install a pay-as-you-go meter or if they enter into a payment plan, they will not be disconnected. The meters are available, but we need to improve the rate of take-up.

The CER has introduced several initiatives in respect of a disconnections policy. These include updating the guidelines for the disconnections code of practice, reducing the costs and the allocation of the costs of disconnection and reconnection for domestic customers. Instead of the customer bearing the entire cost, these costs are now shared equally between the supplier and the customer. This is an interim measure effective until December this year. The regulator is also working with the energy supply industry on interim prepayment solutions and has consulted on the challenges of so-called debt hopping with the industry and other interest groups. These groups include the MABS, the Society of St. Vincent de Paul and so on.

In October 2011 the regulator introduced a process of debt flagging into the change of supplier processes. Debt flagging will encourage customers and suppliers to address arrears in an upfront manner and hence prevent the accumulation of further debt and possible disconnection in the future. The regulator has also proactively facilitated a pay-as-you-go metering system, also known as a prepayment meter, in the natural gas and electricity industries to allow customers to manage their bills more effectively. The pay-as-you-go metering system is being rolled out throughout the country by all suppliers. In addition to providing a useful budgeting tool for customers, suppliers are required to offer customers facing disconnection the option of a pay-as-you-go meter where this is suitable, instead of proceeding to disconnect the customer. In these circumstances the customer's outstanding debt is placed on the meter and repaid over

time.

In late 2011 the regulator carried out an audit of the guidelines for the code of practice on disconnections to see if suppliers were in compliance. The audit ensured all suppliers had implemented the guidelines. In the case of all examined domestic customer disconnections, the suppliers had exceeded the regulator's requirements in terms of timing of communications to customers and the numbers of attempts made to engage with customers prior to disconnection.

Acting Chairman (Deputy Peter Mathews): I am afraid the Minister has run out of time. We will move on to the supplementary question.

Deputy Regina Doherty: I have no wish to be argumentative, but do we genuinely believe the code of practice employed by the CER is actually working? Under the code, anyone who finds himself or herself with a difficulty in paying his or her ESB bill has the option of using a pay-per-hour meter as opposed to being cut off. Some 300 families are being cut off in the greater Dublin area every week. We are suggesting these 300 families are choosing to be cut off rather than using a pay-as-you-go meter. This makes no sense whatsoever. My information came to me by accident last week from a gentleman from ESB Networks who happened to be installing an electricity connection in a unit on the main street in Ashbourne. He was able to detail the differences between the three service providers. I suggest, therefore, that code of practice is not working. Will the Government arrange for some communication with the CER to ask those responsible to examine the cases of the 300 families most recently cut off in the greater Dublin area, why they were cut off and whether they were genuinely offered pay-as-you-go meters or the opportunity to pay their bill or the outstanding debt over a longer period? Will the Government ask the CER to sincerely reconsider the figure of €89 that people are charged for the luxury of having their ESB supply cut off and, more important, whether it will reconsider the figure of €89 they are charged to have to it restored? While I appreciate we are now sharing costs, the price of the service being provided is outrageous for those who are already in considerable distress. There is no family in the country which is having its electricity supply turned off which is not in distress.

Deputy Pat Rabbitte: I am unsure of the provenance of the Deputy's information, but the fact is that the supply company is supposed to offer such a person the option of having a pay-as-you-go meter installed rather than disconnection. The accumulated arrears at the time are put on the meter and cleared over a period. It is important that the Deputy has raised this issue at this time of the year. The net point is that we should try to increase the uptake of pay-as-you-go meters or prepayment plans. Under the protocol, where these are in place, the supply companies may not disconnect. Many factors are involved. The supply companies, whether it be ESB Networks or Bord Gáis, although they are State companies, have a commercial remit and are now operating in a competitive marketplace.

I am concerned about the second point the Deputy made. That matter is covered in the remaining part of my script and relates to the length of time it takes to make a disconnection. The agreement in place at present requires the disconnection to be carried out within two working days. I accept that a disconnection on a Thursday evening can be problematic and I will talk to the supply companies about that.

On the net issue, in circumstances where one third of all disconnections are vacant premises, one need not be too observant that there are plenty of vacant premises around the place for the reasons that we know. Some others are due to debt hopping - customers swapping from

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one supplier to another - and that issue must be addressed. In the cases of genuine hardship to which Deputy Regina Doherty refers, however, it is essential that those persons opt for the pay-as-you-go meter or enter into a pre-payment plan after which they may not be disconnected.

Acting Chairman (Deputy Peter Mathews): I will allow Deputy Doherty ten seconds.

Deputy Regina Doherty: I will not even take ten seconds as it is merely a point of clarification. The second point was not a criticism of the service providers regarding the length of time it takes them to reconnect customers. It was a criticism because customers are not getting reconnected until they pay off their debt in full and it is taking families on average five days to beg, borrow or steal the money to pay off their debt in full. That in itself makes little of the code of practice allowing customers to pay off their debt on a pay-as-you-go meter.

Acting Chairman (Deputy Peter Mathews): That was 25 seconds.

Pyrite Remediation Programme

Deputy Thomas P. Broughan: As the Minister will be aware, I welcomed the publication of the Report of the Pyrite Panel in June, given that it finally provided some recognition of the seriousness of the problem of pyrite-affected homes in north and west Dublin and, indeed, in the north mid-Leinster region. However, the position remains urgent. In a recent email briefing from the chairperson, of Pyrite Action, Mr. Peter Lewis, he described how thousands of innocent people are living in houses and apartments which are literally crumbling around them. As a group representing affected homeowners, Mr. Lewis stated Pyrite Action is increasingly hearing stories of both potential dangers and received injuries as a direct result of living in buildings which are becoming increasingly damaged and unsafe. Recent reports include the skim on ceilings falling down and narrowly missing children, doors falling from kitchen cupboards and, in one case, a child was badly cut by a falling shower screen. Households are also being left with no functioning toilet. With the winter coming, families are wondering again about the safety of using gas fires and central heating given that pyrite causes radiators to come loose and moving floors buckle the pipes. Where there is damage to external walls or window frames, it is next to impossible to keep the heat in.

The Report of the Pyrite Panel provides a valuable technical analysis of the unfolding pyrite disaster and it estimates that more than 12,250 ground floor dwellings in 74 estates across the country could be contaminated by pyrite. Of these, so far approximately 850 have made a claim with a guarantee provider and approximately 1,100 have been remediated or are in the process of being remediated.

However, there are some concerns that the report by Mr. Brendan Touhy and the Pyrite Panel may still underestimate the scale of the pyrite catastrophe. Over the years since 2007, I was given estimates of up to 60,000 units being affected.

Deputy Phil Hogan: On what basis?

Deputy Thomas P. Broughan: On the basis of reports of persons who had worked in the industry. There are 24 key recommendations in the report and that is what I really want to ask the Minister about. On publication, the Minister for the Environment, Community and Local Government, Deputy Hogan, gave important stakeholders, including the Construction Industry

Federation, CIF, the Irish Insurance Federation, the Irish Banking Federation, the Irish Concrete Federation and HomeBond, a deadline of the end of September 2012 to come together and respond with a comprehensive solution for all pyrite-affected homeowners. There are five days to go until the end of September. Can the Minister give us an interim report on this and tell us whether all of the stakeholders engage with the process?

One of the striking notes in the report, as the Minister will remember, is that the experience of the Pyrite Panel in dealing with the financial, legal and insurance sectors was hugely disappointing. For example, the report states on page 105 that “the Panel was amazed to learn that little or no discussions about the pyrite issue and its resolution had taken place within the representative bodies (or, indeed, the professional institutions), prior to the Panel seeking the views of the relevant bodies.” Will the Minister commit to give significant Dáil time in coming weeks to report on the outcome of these negotiations that he has been having with the representative bodies?

If there has not been full engagement by all the stakeholders involved, the report recommends the imposition of a levy on the industry to get the pyrite problem sorted. As the action group has rightly stated, if the stakeholders are not willing to provide a solution the levy must be imposed as quickly as possible. Has the Minister finalised plans for a process of imposing a levy on stakeholders who will not engage?

Recommendation 2 in the report proposes an identification system for clarifying affected housing of red, amber and green. As the Minister will be aware, red represents a house which requires immediate remediation, amber represents one which requires ongoing monitoring and green represents a house which requires no further action. Concerns have been raised, however, that all houses that have been identified as contaminated by pyrite will not be remediated. I understand, also from the Pyrite Action group, that the phrase, “significantly damaged” has yet to be defined and the campaign group believes that the owner of any pyrite-affected whose damaged house is in the amber category will be left with a home that he or she will never be able to sell.

In addition, homeowners are worried that pyrite-affected homeowners are already being blacklisted by banks and insurers. The action group has asked that the Minister provide an immediate commitment to ensure that all homes containing reactive pyrite are systematically remediated and asks whether he has taken any steps to ensure mortgage providers and insurers are not blacklisting developments.

Minister for the Environment, Community and Local Government (Deputy Phil Hogan): First, I acknowledge the difficult situation that homeowners affected by pyrite problems have had to deal with over the past few years. While I have said many times that the State is not responsible for the pyrite problem, I believe I have a duty to assist in trying to facilitate a resolution and this was one of my key objectives in setting up the independent Pyrite Panel. My focus is to ensure the recommendations in the pyrite report are implemented in a way that delivers effective solutions for the affected homeowners.

The pyrite report provides a comprehensive framework to move forward and make progress towards providing solutions to what is a complex problem. I thank the members of the Pyrite Panel, chaired by Mr. Touhy, and all the stakeholders who engaged with it, including Mr. Lewis and other representative groupings in the northside of Dublin and in other counties. We now have a comprehensive picture of, rather than speculative figures on, the nature of the problem.

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The report comments on the lack of engagement by stakeholders with homeowners in providing effective solutions for homeowners. It recommends the constructive engagement by the key stakeholders, including the construction and quarrying sector, insurance industry and banking and mortgage providers, in processes that will lead to a resolution for homeowners. Immediately on receipt of the panel's report, I met the key stakeholders and outlined to them my preferred option for a solution to the pyrite problem and the role I believe they should play in the resolution process.

Mindful of the difficult situations faced by affected homeowners and of the time they have waited for a resolution to the pyrite problem until I set up the panel, I set a tight deadline of the end of September for the stakeholders to come back to me with their proposals. There are still five days to go and I live in hope that they will come back with the proposals.

Deputy Thomas P. Broughan: The Minister has received nothing.

Deputy Phil Hogan: I have some correspondence. It would be disrespectful, if I set a date of the end of September, that Deputy Broughan would ask me to give an interim report.

Deputy Thomas P. Broughan: Okay.

Deputy Phil Hogan: I will not be found wanting in making decisions about these matters and I have not waited around for anybody to encourage me to do so.

As I have made abundantly clear, in the absence of credible proposals from the stakeholders, I will consider an imposed solution along the lines recommended in the report of the establishment of a resolution board which could be funded by a levy on the construction-quarrying sectors and the related insurance sector.

Work is progressing on the implementation of a number of recommendations in the report. The National Standards Authority of Ireland is working on the development of a testing and categorisation protocol for reactive pyrite in sub-floor hardcore material and a method statement to provide guidance for the remediation of pyrite damaged dwellings. It has set up two broad-based technical standards committees with those who have the requisite knowledge and expertise in the particular areas and they have also sought written submissions from the public. Recommendations on the development of a mandatory certification system for buildings and a registration process for builders are currently being finalised by the Department under the building control reform programme that I announced last year.

Deputy Broughan is not a man to understate matters but there is not thousands affected by pyrite where their houses are crumbling. It has been identified by the panel and agreed by everybody that there are 850 houses in need of urgent remediation. There are other homeowners who have potential pyrite problems who have been identified and this is where the National Standards Authority of Ireland will be able to give the necessary assurance or otherwise. Certainly, we are conscious that one who has a potential pyrite problem does not want to escalate publicity about these matters because it has an implication for the value of one's property. We have a sensitive issue to deal with in respect of homeowners, particularly those who paid a great deal for those properties and who have mortgage problems arising from it.

We are working through these recommendations and next week I will review the submissions I received from the stakeholders. I hope they come forward on a voluntary basis. Otherwise, I will go down the road, as indicated in the report, of imposing a solution.

Deputy Thomas P. Broughan: I welcome that final commitment from the Minister. Unfortunately, given the history of this horrendous disaster for many thousands of householders, it is incumbent on the Government to be prepared to take vigorous action.

With regard to the Minister's plans for property tax or the household charge for next year, and for budget 2013, recommendation No. 13 in the report of the pyrite panel is that pyrite-affected homes be exempt from the property tax until such time as those homes are remediated. Does the Minister agree with that recommendation? This exemption, while not a solution, should be granted immediately. Pyrite-affected developments should be treated as unfinished estates, which is what they are. Therefore, it is reasonable that there would be an exemption in this regard. Is it the Minister's intention to provide for that this year and with regard to any future property tax?

Can the Minister give us an update on the NSAI's examination of pyrite testing standards, which he mentioned briefly in his response, and on the development of a remediation method statement for the certification of pyrite homes? As the Minister will accept, it is key for the future that householders will be able to provide a certificate to a purchaser stating the house was remediated fully and is in good condition. This is a key part of the Minister's responsibility. Is the Minister going to provide up-front funding to any proposed remediation scheme to reflect the State's failings in this matter? He has said it is not the State's responsibility, but the local authority and the State were there when these huge building programmes were undertaken, when we were building perhaps one third of the total output of countries such as the United Kingdom and approximately four or five times the output of countries such as Sweden, and when regulations were not being implemented.

A recent Fingal County Council notice sent to me, 216A, related to the quarry at Bay Lane, Kilshane, Dublin 11. Astonishingly, it found that no further action on planning grounds was required by the owners, Irish Asphalt Limited. Fingal County Council sent me a copy of that finding, but did the Minister receive a copy of it? As the Minister is aware, there was consultation on the Fingal quarries recently, but the quarry at Bay Lane, Kilshane, was the main interest.

I welcomed the Minister's announcement of an information helpline and an e-mail contact address for families affected by pyrite. How have people used those contacts and has the Department been able to help them?

Deputy Phil Hogan: The Deputy has put a number of questions. I established the free phone line to help people, as I understood from everybody, including the Deputy, that there were thousands of people concerned about and affected by pyrite. However, the Deputy will be surprised how few people rang the free phone line - fewer than 40. This does not indicate that it is a serious concern for thousands of people. I know there are some hundreds affected, but there are certainly not thousands. If there were, they would be ringing in for information.

Deputy Thomas P. Broughan: The issue might be with their solicitors.

Deputy Phil Hogan: It was an eye-opener for me and a disappointment that there were not more people interested in the report, but perhaps the Deputy was not aware of that before now.

The Deputy has asked me to provide details of a scheme on which I have not come to any conclusions yet, because I am waiting for stakeholders to come back to me. Therefore, I will not provide details here. The NSAI and the Minister for Jobs, Enterprise and Innovation, Deputy Bruton, have that responsibility and, to be fair, the Minister responded immediately by

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setting up the process whereby the NSAI could generate a standardised test so that we can know once and for all whether there is pyrite.

The property tax is a matter for the Minister for Finance. I have submitted a report to him for consideration in the context of the budget and the issue mentioned by the Deputy concerning the recommendation in the report can be considered in that context.

Deputy Thomas P. Broughan: Would the Minister be in favour of or sympathetic to that submission?

Deputy Phil Hogan: I will not get walked into that. I will take on board positive and constructive suggestions on many issues when it comes to the budget discussions. I have every confidence in the Minister for Finance, Deputy Noonan-----

Deputy Thomas P. Broughan: The Minister is at Cabinet.

Deputy Phil Hogan: Arising from my experience in 1995, the Deputy would not expect me to respond on budget-related matters. I resigned on that occasion and did not get much sympathy from the Deputy or anyone else. Therefore, I will not walk into that again.

The State was not liable in regard to this matter, but I decided that the Government and the Minister for the Environment, Community and Local Government of the day should feel in some way responsible for helping homeowners. That is what I am doing. No other Minister had contemplated this previously.

School Transport

Deputy Charles Flanagan: I wish to convey a deep sense of anger, frustration and annoyance on the part of hundreds of parents throughout County Laois at the consequences of the recent school transport changes. I refer in particular to the parents of students attending Heywood community school in south County Laois. I remind the Minister that this school was founded in 1990 as a result of a forced amalgamation by the then Department of Education of four schools, the Salesian college Ballinakill - the site of the current Heywood school - the Brigidine convent, Abbeyleix, Abbeyleix vocational school and the Presentation convent, Durrow.

The catchment area of the new Heywood community school was drawn up in accordance with the catchment areas of the four former schools. This was agreed at the time, and I was part of the negotiations as a Deputy for Laois-Offaly. I remind Members that this was not an easy amalgamation. It was mandated by the Department and it took some time to bring about the support of the parents, students and people of County Laois. Now we have seen that agreement unilaterally torn up by the Department of Education and Skills in a way that has given rise to serious frustration. Already, the school has lost six first year students. Three students from the village of The Swan, in County Laois, have no bus ticket. Parents in the Raheen, Shanahoe area of County Laois are in dismay, as they have been told that their children must attend school in the large urban area of Portlaoise.

We are seeing unilaterally on the part of the Department of Education and Skills a breaking of the traditional links between rural areas and rural schools and a breaking of the historic links between rural families and their schools. Students with brothers and sisters attending Heywood community school, which currently has approximately 700 pupils - one of the largest secondary

schools in County Laois - have been told they must attend another school. Students in south County Laois have been told they must attend schools across the border in County Kilkenny. I mean no disrespect to the people of County Kilkenny, but I urge the Minister to share my sense of frustration at students being told they cannot avail of school transport and that they cannot attend their local school - a school with 700 students which was the result of a forced amalgamation and the closure of three schools - despite the guarantees given. Students on the other side of County Laois are being told they must attend school in the larger urban area of Portlaoise. Again, Portlaoise is many miles away from them and has no historic or traditional links for them.

I want the Minister to review this matter. I want him to comment in particular on the mistakes that have been made, with particular reference to the measurement of the areas. My information is that the measurements ascertaining the revised catchment districts refer to the old school in Portlaoise, which is at least 1,000 m from the new school. The Minister will be aware that parents enrol students in secondary schools in January and buy uniforms, books, tracksuits, iPads - in the case of Heywood - and so on. They have already attended to these needs by the time they are told in August that transport is being cut and that the students are in the wrong school. This is unacceptable and I ask the Minister to address the issue.

Minister of State at the Department of Education and Skills(Deputy Ciarán Cannon): I thank the Deputy for raising this matter. The school transport programme is a significant operation. Bus Éireann, which manages the programme on behalf of the Department, covers more than 82 million km per annum as it brings children to and from school. In the last school year, approximately 114,000 children, including more than 8,000 with special educational needs, were transported on a daily basis to schools throughout the country. The school transport network involves approximately 4,000 vehicles, which between them cover more than 82 million kilometres each year.

The Deputy is referring to the changes to school transport eligibility for children attending post-primary schools which took effect from the beginning of the this school year. The main objective of the Department's school transport scheme is to support the safe transport to and from school of children who would have difficulty travelling, for reasons of distance, to their nearest school if such transport were not supported. That is the ethos that pertained when the school transport system was initially introduced and it is the ethos that pertains to this day. Changes in the post-primary school transport scheme were announced in budget 2011 by the Fianna Fáil-Green Party Government. As a result of one of the changes that took effect from the start of this school year, the use of the catchment area system as a means of determining eligibility ceased for all pupils newly entering a post-primary school. From the start of this school year, school transport eligibility for all new pupils entering a post-primary school is determined by reference to the distance they reside from their nearest post-primary school or education centre, having regard to ethos and language. This eligibility criterion will be applied equitably on a national basis.

In general, children who were eligible under the former catchment boundary area system will retain their transport eligibility for the duration of their post-primary education cycle, provided there is no change to their current circumstances. Siblings of these children and other children who are not attending their nearest school may apply for school transport on a concessionary basis only in accordance with the terms of the post-primary school transport scheme. In order to allow parents ample time to consider the school options, a 20-month gap was allowed between the announcement of this measure and the time when parents needed to apply for

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school transport for this school year. In addition, these changes were posted on the Department's website in October 2011 and the updated scheme was made available on 1 February 2012. In addition, the Department contacted post-primary schools and the relevant education partners directly on two occasions to advise them formally of the changes.

The general approach of the Department to the planning of school infrastructure is to plan on the basis of attendance of pupils at their nearest primary schools. Consequently, those primary schools feed into attendance at the nearest post-primary schools or the nearest post-primary centre generally. The changes announced in post-primary school transport services are in line with this approach and will ultimately result in a more efficient and cost-effective scheme. While it is the prerogative of parents to send their children to the school of their choice, eligibility for school transport is to the nearest school, having regard to ethos and language. Deputy Flanagan used the phrase "local school" on a number of occasions. I suggest that when we are organising the school transport system, the phrase "local school" must mean the nearest school to one's home. That is particularly true at this time of severe economic difficulty. If the Deputy has an issue with the system of measurement used by Bus Éireann to assess exactly how far a school is from a person's home - I gather he has - I will work closely with him to ensure measurements are taken to determine eligibility on a fair and accurate basis.

Deputy Charles Flanagan: I thank the Minister of State for his reply. He referred specifically to transport "on a concessionary basis" in accordance with the terms of the scheme. I ask him to elaborate on the future of the concessionary scheme. Could a student who has attended a school for a year find himself or herself without any transport to that school? Does the Department envisage that a student in such a position would have to change to a different school midstream, perhaps at the start of second year? Is he aware that private buses can cost more than €900 per annum? How many mistakes have been accepted by the Department in cases involving this specific school? Can he confirm that the measurement used by Bus Éireann relates to a school that is no longer situated at Tower Hill in Portlaoise but is now situated 1,000 metres away? If that is the case, it indicates to me that the process is not accurate. What has the Minister of State done since this issue was first brought to his attention after the school year started at the end of August? How many mistakes have been found by the Department? Will the Minister of State accept that the measurement is fundamentally wrong? Bus Éireann's measurement relates to an area that is 1,000 metres from where the school is now situated. I am seeking clarification on this matter. The area of Portlaoise that is used for the purposes of measurement is Tower Hill, but the school there has been closed for more than a year. The new school is located at Borris Road in Portlaoise, which is at least 1,000 metres from the former site at Tower Hill.

Deputy Ciarán Cannon: Bus Éireann has tried as best it can this year to accommodate children on concessionary seats on buses that serve children who are eligible for Heywood College and a number of other schools across the country. Parents should be aware that these seats are made available on a concessionary basis. If they choose to use them, there is no guarantee that the concessionary option will remain open to them in the future. Parents will continue to have the option of accessing school transport to their nearest school, if they choose to do so. The Deputy also asked whether mistakes have been made. My understanding is that when the distance between a child's home and his or her school is disputed, Bus Éireann uses a specially equipped vehicle that can accurately measure - to within a metre - the exact distance between the child's home and the school. Deputy Flanagan contends that Bus Éireann used the wrong location within Portlaoise when making the measurement in this instance. I will undertake to

interact with Bus Éireann at the earliest possible time tomorrow morning to ensure such a mistake has not been made. If it has been made, it will be rectified immediately.

Deputy Charles Flanagan: I thank the Minister of State.

An Bille um an Aonú Leasú is Tríocha ar an mBunreacht (Leanaí) 2012: Ordú don Dara Céim

Thirty-First Amendment of the Constitution (Children) Bill 2012: Order for Second Stage

Bille dá ngairtear Acht chun an Bunreacht a leasú.

Bill entitled an Act to amend the Constitution.

Minister for Children and Youth Affairs(Deputy Frances Fitzgerald): Tairgim: “Go dtófar an Dara Céim anois.”

I move: “That Second Stage be taken now.”

Cuireadh agus aontaíodh an cheist.

Question put and agreed to.

An Bille um an Aonú Leasú is Tríocha ar an mBunreacht (Leanaí) 2012: An Dara Céim

Thirty-First Amendment of the Constitution (Children) Bill 2012: Second Stage

Minister for Children and Youth Affairs(Deputy Frances Fitzgerald): Tairgim: “Go léifear an Bille an Dara hUair anois.”

I move: “That the Bill be now read a Second Time.”

The Bill I have brought to the House will allow for one of the most important referendums in the history of the State. I would like to begin by thanking Members on both sides of the political divide in this House who have given so much time and effort to the development of the amendment I am now proposing. I thank those in every party who have expressed support

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for the recommended change. Few changes matter as much as this. Most of what we do in this House is about legislation. By its nature, legislation has to be about delivering for the needs and problems of today. Constitutional change goes way beyond that. It gives us a rare opportunity to look at ourselves as a nation and ask if we are truly espousing the correct values. It gives us an opportunity to assess what we stand for. Ultimately, constitutional change allows us to consider future generations and ask what Ireland they should live in.

We are rightly proud of Bunreacht na hÉireann. We are rightly proud to live in a State that is defined by a document which enshrines personal liberty, protects rights and guarantees religious freedom. Over the decades, the society defined by such ideals has become taken for granted. We assume our rights and we rarely question the freedoms or guarantees provided to us in the Constitution. The average citizen does not wake each morning with gratitude for the protections provided to him or her by a document that is nearly 80 years old. Few people think of the Constitution every day. In one way, that proves the effect of Bunreacht na hÉireann. The values it espouses and rights it provides are so intrinsically connected with being a citizen of this nation that we rarely question from where those rights and values come. The only time the average person really needs to pay direct attention to the Constitution is when it is discovered to be lacking or when he or she needs to rely on it to protect his or her rights. In the case of the children of the State, it is lacking. Since Mrs. Justice Catherine McGuinness's call in the report on the Kilkenny incest case, successive Governments have received report after report, and evidence upon evidence, that the Constitution is failing our children. We have had reports such as that on Kelly Fitzgerald and the west of Ireland farmer case, reports such as the Ryan commission report and the Cloyne report, and reports in between, such as Roscommon - in all, at least 17 major reports on gross child protection failings.

Those reports are added to by the achingly sad personal evidence of those adults whose childhoods were poisoned by violence, neglect, abuse and loneliness, those who suffered at the hands of family members, State institutions and religious institutions. Every person in this House knows now that, for decades, Irish children suffered in their own personal hells, while the system was unable, unwilling or simply unmotivated to do anything.

That knowledge leaves us facing a simple question. Constitutional law can be complex. The question facing us is not. Constitutional language can be subtle and nuanced. The question facing us is not. Constitutional change can be contentious. The question facing us is not. The question facing us is simple. Do we believe that the way children were treated in this State represents what we believe to be the values, morals, and ethics of the Irish people? The answer is pretty simple too. It is a "No". None of us should be proud of what happened to thousands of Irish children since the foundation of the State. None of us should think that brutality, ignorance and neglect are the attributes that characterise us.

We, as a nation, are fair, decent and honourable. If one attends any of the citizenship ceremonies which welcome the new Irish to our national family, one will see people proud to be joining a nation that they know stands for something, a nation that has, at its core, a belief that people are equal, that they deserve fairness and that they must be protected from harm. Until now, we have failed to make sure that those beliefs are adequately expressed and enacted in regard to children. This referendum is our opportunity to change that. This referendum is the chance to create fundamental change in how we treat children. In 50 years, we must hope that no one will pay much attention to Article 42A of the Constitution. We must hope that it will be assumed. We must hope that all children will have rights, will be protected and will be treated equally. We must hope that Article 42A just becomes one more strand in the fabric of Irish life,

defining directly and indirectly our belief that children deserve to be enveloped by the characteristics that make us proud to be Irish. We must hope that, some day, the rights accruing to Irish children will be implicit. Until then, we must make them explicit.

Some 64 dedicated meetings of the Joint Oireachtas Committee on the Constitutional Amendment on Children, chaired by the former Deputy and Minister, Ms Mary O'Rourke, and including many Members of this House, including Deputy Ó Caoláin and others, including myself, proposed changes to protect children, to give them legal clarity, to name children's rights at constitutional level and to achieve the right balance with other aspects of Bunreacht na hÉireann.

Since taking office, my Department and I have been working on this amendment, together with the Office of the Attorney General, to make the transition from an Oireachtas committee proposal to a robust constitutional wording and to achieve the right balance, one which will have the desired effect for children. I pay tribute to the Attorney General and her staff as well as the staff of my Department for the work, commitment, time and effort they have put into the planning and work on the Bill.

The Bill proposes a new stand-alone article, Article 42A, titled "Children", which will contain a series of provisions and will be put to the people as one, single question for their approval. I want to emphasise that the Constitution must, of course, be read as a whole. Changes to the Constitution and the formulation of appropriate wording to achieve the desired change is a complex and challenging task. The aim of the Government in this case has been to present a coherent proposed wording which will interact, in the manner intended, with the Constitution as a whole. It has been very carefully balanced in the final draft before us today because the balance to be struck is critical.

The Bill does not remove or diminish the recognition given to the family under the Constitution, nor does it remove or alter the rights and duties of parents under the Constitution to provide, in accordance with their means, for the education and care of their children. However, it identifies and brings the greatest possible clarity to a number of key areas - for the Oireachtas in future law-making relating to children, for the Judiciary in future decision-making relating to children, but, most important, for all of us as a nation and as a State.

This is an essential amendment for our Constitution which, I hope, following Oireachtas consideration, will be supported by the people on 10 November. It is a statement about the rights of our children and about our views of Irish childhood now. This referendum will strengthen the protection of all children from abuse and neglect by putting their safety and welfare at the centre of decision-making; it will support families by reaffirming and underpinning the State's continuing development of early intervention and family support services to protect children in their homes; it will treat all children equally when it comes to issues such as adoption, regardless of the marital status of their parents; and, it will recognise children in their own right by providing, for the first time, an express statement of their rights and giving constitutional standing to the best interests and the views of the child in child care and family law proceedings.

This is a referendum for all children but, in particular, for those children most vulnerable and most at risk. Childhood does not stand still. Childhood can be a very vulnerable time and effective and timely decision making for vulnerable children is critical. We know that the vast majority of children live in loving, caring families and never require the assistance of the State's child protection and welfare services, but this is not always the case. Some families do need

help and support in parenting their children. This can involve providing help and support to parents by means of family support, including addiction and mental health support and family and individual counselling. In the more serious cases, however, children may be moved from the family and cared for by people other than their parents.

Over 85% of non-voluntary admissions to care in 2011 were due to abuse, neglect and serious family problems. In total, at present there are approximately 6,250 children in care placements. We are very fortunate in this county that over 91% of all children in care are living with a foster family. Therefore, already in this country, the focus is very much on family care, and more than 2,000 children have been living with the same foster family for over five years. This amendment is about ensuring the safety and welfare of children, it is about ensuring that those children who need it can have the second chance of a family life and it is about ensuring that, when questions on such issues arise, the best interests of the child come to the fore and their own views on their future are given consideration.

I will now focus my comments on the intent of the different elements set out in the Bill which it is proposed to put to the people on 10 November next for incorporation in the Constitution. Sub-article 1 states: "The State recognises and affirms the natural and imprescriptible rights of all children and shall, as far as practicable, by its laws protect and vindicate those rights." The Constitution sets out rights for all citizens. This sub-article will provide, for the first time, a strong affirmation of the rights and protections to be enjoyed by children as children. It provides that the rights and protections enjoyed by children are to be enjoyed by all children, irrespective of their parent's marital status, while continuing to respect and preserve the rights of the family as set out in the existing Article 41.

The rights referred to are the "natural" rights, which means rights that belong automatically to a person. They are "imprescriptible" rights - they cannot be lost, they cannot be abandoned. They include the entire range of rights that all human beings enjoy, in particular, children in their formative years. Under this provision, the State is required to protect and vindicate those rights "as far as practicable". There has been some discussion about the phrase "as far as practicable". I want to remind the House that this phrase is standard constitutional drafting and is used in respect of the provision of other fundamental rights in the Constitution, most notably in respect of the personal rights of all citizens under Article 40.3.1°. Sub-article 2.1° states:

In exceptional cases, where the parents, regardless of their marital status, fail in their duty towards their children to such extent that the safety or welfare of any of their children is likely to be prejudicially affected, the State as guardian of the common good shall, by proportionate means as provided by law, endeavour to supply the place of the parents, but always with due regard for the natural and imprescriptible rights of the child.

This provision will replace the current Article 42.5 under the heading of "Education" in the Constitution. This is the sub-article in the Constitution that underpins the Child Care Act 1991 and many of the actions of the child and family support services to secure the protection and welfare of children. Such actions include applying to the courts for the making of care orders whereby children are placed in foster care, or the making of supervision orders in which the courts can order home visits by social workers or other professionals to monitor a child's care. Removing this sub-article from the education provisions fits well with having a new article relating to children. However, while the existing and new wordings have similar content, there are essential differences. It will continue to be the case that the power given by the Constitution in this area can only be used by the State in very well defined circumstances. The State can only

make use of the power in exceptional circumstances, as under the existing constitutional provisions. There must be a failure of parental duty towards the child and any failure must involve harm or risk to the child's safety or welfare "to such extent that the safety or welfare of any of their children is likely to be prejudicially affected...". This represents a move away from focusing solely on the reasons for the failure of the parents to the impact of the failure on the child. The Constitution currently provides that where parents fail in their duty to their children "for physical and moral reasons", the State should intervene. The proposed wording puts the focus directly on the impact of parental failure on children and their welfare. This represents a more modern and child-centred approach to this provision.

The actions of the State must be "proportionate" to the harm or risk to the child that needs to be addressed. This means that a child will only be removed from the care of his or her parents when there is no alternative option which can protect his or her safety and welfare. The protections apply to all children equally, as explicitly provided for in the use of the phrase "where the parents, regardless of their marital status, fail in their duty towards their child". The cumulative affect of this new wording is to place the protection of children at the centre of decision-making, regardless of their parents' marital status.

The presence of failure in parental duties towards the child remains a condition of the State getting involved. The State cannot intervene where such a failure has not taken place. The new wording focuses on the effect of such a failure on the child. The wording will not change the assumption in law which is shared in Irish society that the best place for children is with their families. As I have often said, protecting children and supporting families are simply two sides of the same coin.

The referendum explicitly acknowledges the range of responses the State has to consider in protecting a child, including early intervention and family support services, which play a vital role in responding to child welfare concerns, thereby preventing more serious problems arising, with the objective of protecting children in the home and preventing children being taken into care at a later stage. This amendment is about protecting children and supporting families.

Under sub-article 2.2°, "provision shall be made by law for the adoption of any child where the parents have failed for such a period of time as may be prescribed by law in their duty towards the child and where the best interests of the child so require". The Constitution does not currently refer to the circumstances where adoption may be provided for in law. This has created uncertainty in the development of laws dealing with this very important area. The normal way a child is adopted involves the agreement of his or her parents or guardian, as required by law. This is to remain the position.

The great majority of children are fortunate to grow up in loving, caring families. In a small minority of exceptional cases, however, this is not so. For example, following parental failure and harm to a child's safety and welfare, it may be necessary to place him or her in foster care. I have referred to the large number of children in foster care, many of whom have been living with the same foster family for over five years, yet only 16 children in foster care were adopted in each of the years 2010 and 2011. We must ask why this is so. Currently, the High Court cannot authorise the Adoption Authority to make an adoption order unless it is satisfied that there has been a failure of duty by the parents towards their child, that this failure is likely to continue until the child is 18 years old and that the failure amounts to the parents giving up all rights towards him or her. Therefore, while it is already the case that a child in care may be adopted by his or her foster parents, in practice - as the figure I mentioned demonstrates - this happens to a

very limited extent, in the most extreme of cases, as the test set out in existing law is difficult to meet. The proposed wording provides for the making of legislation to allow for adoption where it is in the best interests of a child in foster care owing to the serious and persistent failure of his or her parents, irrespective of their marital status. This change is about giving children in foster care a better opportunity of achieving the certainty and permanency which comes from living in a loving, caring family.

Last week I published the draft adoption legislation which the Government plans to bring before the Oireachtas on the passing of the referendum. This legislation has been the subject of much discussion and sets out, in detail, the conditions which will apply. The draft Bill requires that for foster carers to be in a position to adopt a child, the child's parents will have to have failed in their duty towards him or her for three years and have no reasonable prospect of resuming the care of the child. Furthermore, the child will have to be at least 18 months in the care of the foster parents who are applying to adopt. The draft Bill will outline the role of the High Court which must be satisfied that the parental failure constitutes an abandonment of parental rights. It must also be satisfied that adoption is the most appropriate way in which to provide for the parenting of the child. It must consider the constitutional rights of all parties, including the natural parents where they wish to be heard, but, ultimately, in the resolution of these proceedings the best interests of the child must be the paramount consideration for the court.

Sub-article 2.3^o allows for the voluntary placement for adoption and the adoption of any child. This important change will bring to an end the current constitutional situation where children are treated differently on the basis of their parents' marital status. Under the current law, the only route to adoption for a child whose parents are married is for them to totally fail in their duties towards him or her. Even if married parents, for good reasons and with the best interests of their child at heart, decide on adoption as the most suitable means for the future care of their child, they cannot achieve this end by giving their consent.

Under sub-article 4.1^o provision shall be made by law that in the resolution of all proceedings brought by the State, as guardian of the common good, for the purpose of preventing the safety and welfare of any child from being prejudicially affected, or concerning the adoption, guardianship or custody of or access to any child, the best interests of the child shall be the paramount consideration. This wording requires the best interests of the child to be the paramount consideration in critical court proceedings relating to a child, including proceedings taken by the State under the Child Care Act relating to child protection, as well as proceedings on adoption, guardianship, custody and access. The best interests principle is already well established in Irish statute law, including in the Guardianship of Infants Act 1964, the Child Care Act 1991 and the Adoption Act 2010. The referendum gives constitutional recognition to this principle. By so recognising it, it is strengthened when counterbalanced against other constitutional rights and principles that might arise in such proceedings. This provision will also ensure no future Government can repeal or dilute the existing legislation that makes the best interests of the child the paramount consideration in such proceedings.

Sub-article 4.2^o is complementary and reads as follows:

Provision shall be made in law for securing, as far as practicable, in all proceedings referred to in subsection 1^o of this section in respect of any child who is capable of forming his or her own views, the views of the child which shall be ascertained and given due weight, having regard to the age and maturity of the child.

Similar to sub-article 1°, the aim is to give recognition at constitutional level to the rights of children to have their views heard and given due weight in critical court proceedings in the areas of child welfare and protection, guardianship, custody and access.

While the amendment refers solely to critical court proceedings, my Department and I are equally committed to working with others in the development of legislation, policies or procedures to extend this “voice of the child” approach to other spheres of decision-making. Similar to “best interests”, this principle is already recognised in existing child care and family law and will be included in further legislation in areas affecting children. These two provisions together will provide for real visibility of children in the Constitution and the decision-making framework of our judges.

The dark stain of child abuse and the failure of those in positions of power to protect children must propel us to listen to children and act in their best interests. On that day in the High Court, when the judge read the Constitution and made his decision in the Roscommon case, the only persons whose best interests could not be taken into account sufficiently were the children.

The constitutional change we propose will address the imbalance. This week coincidentally marks the 20th anniversary of Ireland’s ratification of the United Nations Convention on the Rights of the Child, UNCRC. The UNCRC has been ratified by more countries than any other human rights convention, with only two countries not having ratified it. The principles of the UNCRC are clearly important and we have done much to act on those principles. Later this year I hope to submit Ireland’s update report on the implementation of the convention to the UN. The change we are discussing today also forms part of the Government’s ambitious programme of reform in child protection. We are reforming child protection laws through the Criminal Justice (Withholding of Information on Offences Against Children and Vulnerable Persons) Act, brought to this House by the Minister for Justice and Equality, Deputy Shatter, and the publication of Children First and National Vetting Bureau legislation and we are significantly reforming child protection services through establishing the new Child and Family Support Agency independent of the HSE. Each of the reforms is important but none can have the wide-ranging and permanent effect of constitutional change. That is why this referendum is so important. In essence, the referendum will help protect children from abuse and neglect, support families, treat all children equally and recognise children in their own right. I look forward to a positive debate on this important legislation and I commend the Bill to the House.

Deputies: Hear, hear.

Deputy Robert Troy: I thank the Minister. Last Wednesday was an important day in the history of the State, a day which finally saw the publication of the wording for the children’s referendum - the 31st amendment to the Constitution. I warmly welcome the fact this day has finally come. The people of this country now have an opportunity for a national debate on enshrining the rights of children in the Constitution. As we begin this debate it is important to question and to seek clarification on certain issues in order to satisfy ourselves that we are inserting the best possible wording into the Constitution. In light of that, we have tabled a number of amendments which we feel will enhance and strengthen the wording. I will outline my rationale for the amendments later in the debate. We hope the Government will give them due consideration.

I acknowledge the work that has been done in publishing the wording and securing a date for a referendum. I commend the work carried out by the Minister, Deputy Fitzgerald, and her

Department in the past 18 months, which has continued the good work initiated by her predecessors. The development of child welfare and protection is not something that has only begun in the past 18 months, as some would have one believe. In that context I wish to place on the record of this House some of the good work that was carried out in the past decade and prior to that. The Child Care Act 1991 sets out the responsibility and duties of the Health Service Executive, HSE, towards children. It places a legal obligation on the HSE to promote the welfare of children who are not receiving adequate child care or protection and requires that “the best interest of the child” be considered in all matters affecting their welfare. It places the emphasis on prevention, early intervention and family and community support, with the removal of the child being a last resort. The Children Act 2001 is the main piece of legislation governing children within the criminal justice system. It focuses on preventing criminal behaviour, diversion from the criminal justice system and rehabilitation. The Ombudsman for Children Act 2002 provided for the establishment of the Office of the Ombudsman for Children. The Ombudsman for Children must promote the welfare and the rights of children, including advising the Minister on the development and co-ordination of policy relating to children. Information systems and accountability within the HSE have been improved through the national child care information system. The Ryan report implementation plan was developed and €15 million was allocated to it. A total of 256 additional social workers were provided as part of the plan. Their recruitment was exempt from the moratorium on public service recruitment.

The original commitment to hold a referendum on children’s rights was given more than five years ago. It is disappointing that it has taken this long to come to fruition. The former Minister, the late Brian Lenihan, introduced an amendment in 2007 but at that time it was decided to refer it to an all-party Oireachtas committee chaired by my former colleague, Mary O’Rourke. No one knows better than the Minister the sterling work carried out by the committee to ensure consensus on an all-party basis. In fact, many of her Cabinet colleagues know that to be the case as they were also members of the committee. In her speech the Minister, Deputy Fitzgerald, alluded to the fact that the committee of which she was a member had met on 64 separate occasions. My colleague on my right, Deputy Caoimhghín Ó Caoláin, the Sinn Féin spokesperson on children, was also a member of the committee. Extensive work was done by the committee which culminated in an all-party agreement with the final report being brought before the Houses of the Oireachtas in February 2010. At the time the former Minister of State with responsibility for children, Barry Andrews, worked on putting forward wording for a referendum. The wording was finalised by the Cabinet in January 2011 but, as we are all aware, the Government fell and it was unable to hold a referendum.

It is wrong to say that no work was done, but it would also be wrong not to recognise that much more work remains to be done. That is borne out when one considers the publication of the 17 horrific reports that were published detailing the failure of the State to protect the children of the State from abuse by families and religious congregations. A constitutional change will bring many benefits but it is not panacea, and without appropriate funding it is mere window dressing. I was pleased to hear the Minister’s colleague, the Fine Gael director of elections outline on “The Week in Politics” on Sunday night that this constitutional and legislative change alone will not guarantee child welfare and protection. He correctly stated, as I have done on numerous occasions, that the changes must be matched by a commitment to additional funding. Prior to the referendum campaign getting into full swing we must be informed that the Government is prepared to underpin the new rights it is seeking to establish for children in the Constitution with the necessary resources. The Minister must outline the requirements for additional resources. She must come into this House and itemise provision by provision

where additional resources are required and commit to delivering them. Could she advise how many additional social care workers will be provided? In addition, could she outline whether it is her intention to maintain the foster care allowance for foster carers who adopt the children in their care? Funding is crucial. That is apparent from a reply I received last week detailing that the percentage of children in foster care and institutional care without a social worker has increased in the past 18 months. Therefore, it is imperative that a commitment on resources is forthcoming. I accept that we are in difficult economic times. However, on the implementation of the Ryan report the previous Administration sanctioned 256 additional social care workers at a time when there was an embargo on recruitment in the public service. When one talks to front line staff they express the wish to see the aspirations of the referendum matched by the required resources.

The question has been asked as to whether there is a need for a referendum. We agree with the Government, and have always agreed, with the need for such a referendum. This is a constitutional provision that will protect the legal, emotional and social needs of all children in this country. The need for this constitutional change was first voiced by Mrs. Justice Catherine McGuinness in 1993. Her report in the Kilkenny incest investigation found that the strong emphasis on the rights of the family in the Constitution may, consciously or unconsciously, be interpreted as giving higher value to the rights of parents than to those of children. Mrs. Justice McGuinness presented her report to the then Minister, Deputy Brendan Howlin, in 1993. This matter has been ongoing for a long period and although many changes have been made through legislation this referendum was long promised and is long overdue. I welcome it today.

In July, the Government's special rapporteur on child protection stated there is no current provision in the Constitution to protect children as autonomous individuals, that their rights are an after-thought and, as such, invisible. Article 41 of our Constitution recognises the family as the natural, primary and fundamental unit group of society and as a moral institution possessing inalienable and imprescriptible rights, antecedent and superior to all positive law. I welcome that this referendum does not seek to diminish the role of the family. By inserting Article 42A, thereby enshrining the rights of children, we would recognise the importance of the family and, at the same time, balance that importance with the importance of our children. The courts will now have to balance the rights of the individual and the rights of the family, as both sets of rights are constitutionally guaranteed.

The new Article 42A.1.1° states: "That the State recognises and affirms the natural and imprescriptible rights of all children and shall as far as practicable, by its laws, protect and vindicate those rights." This is a very specific statement which recognises that all children have natural and imprescriptible rights. The amendment leaves it to the courts to determine those rights. The article applies to all children who live in Ireland, irrespective of whether they are citizens. It also applies a set of distinct rights that will apply only to children.

My party's amendment seeks to replace the word "shall" with "guarantees" as we believe this will strengthen the article. The amendment proposed in the draft Article 42A.1 should be amended so that it is consistent with the constitutional protection given to citizens under Article 40.3.1°. That article provides that the State guarantees, as far as practicable, by its laws, to protect and vindicate the personal rights of the citizen. Fianna Fáil believes a similar level of protection should be afforded in a new article in regard to children which would state: "That the State recognises and confirms the natural and imprescriptible rights of all children and guarantees as far as practicable, by its laws, to defend and vindicate those rights." These amendments will ensure that the same protection is afforded to children as is referred to in Article 40.3.1°.

We believe this is necessary and appropriate because it is likely that the courts will interpret children's personal rights as being protected by Article 42A rather than by Article 40.3.1°.

The proposed Article 42A.2.1° states that in exceptional cases where the parents, regardless of their marital status, fail in their duty towards their children to such an extent that their safety or welfare is likely to be prejudicially affected, "The State as guardian of the common good shall, by proportionate means as provided by law, endeavour to supply the place of the parents, but always with due regard to the natural and imprescriptable rights of the child". This would replace the existing Article 42.5 and insert the phrase, "regardless of marital status", thereby removing the current discriminatory distinction between children of married and non-marital families.

We propose another small amendment and again do so to try to strengthen the wording. The amendment is to the effect that intervention in exceptional cases, as provided for in Article 42A.2.1°, should be clarified to correspond to the statutory protection afforded to the child under the Guardianship of Infants Act 1964 and the Child Care Act 1991, which refer to the health, development and welfare of the child. Our proposal is that this be mirrored in the constitutional protection and that it merely be broadened in order to correspond with the Guardianship of Infants Act 1964 and the Child Care Act 1991.

The proposed Article 42A.2.1° is largely similar to Article 42.5 in that it emphasises that intervention may only take place in exceptional cases, which is the case under the current Article 42.5. Unfortunately, in a minority of instances the best interest of the child is not served by remaining with his or her natural family and in those cases we are duty bound and the State has a moral obligation to replace the family and provide the care needed. The State must ensure that all possible supports and resources have been made available to the family prior to removal of the child and that this action is undertaken only as a last resort. The former governor of Mountjoy Prison, John Lonergan, was quoted in a newspaper at the weekend as stating that if the State is serious about vindicating children's rights it must be serious about resourcing and supporting children to ensure their lives do not fall into crisis. I acknowledge that the establishment of the Child and Family Support Agency is a move in the right direction in this regard.

According to the proposed Articles 42.A.2.2° and 42.A 2.3°, respectively: "Provision shall be made by law for the adoption of any child where the parents have failed for such a period of time as may be prescribed by law in their duty towards the child and where the best interests of the child so require..." and "Provision shall be made by law for the voluntary placement for adoption and the adoption of any child." This wording introduces adoption into the Constitution for the first time. The article is an enabling provision and provides for the adoption of children who have been failed or abandoned by their natural parents. It also provides for the voluntary placement of children for adoption regardless of their parents' marital status.

I am glad the Minister followed my advice and published the draft legislation in conjunction with the wording for the referendum. Will she clarify that the draft we see before us is what will be discussed if the referendum is passed? On previous occasions draft legislation, as published, has changed by the time it comes for debate before the Oireachtas. It is important that the Minister gives a clear commitment that what we see today is what we will see if the referendum is passed. Perhaps she might give an indicative timeline for the passage of the legislation through the Oireachtas.

This is an extremely important element of the referendum and the accompanying legislation

should receive priority as it will afford very many children the opportunity of a second chance in life. I understand that at present there are approximately 1,600 children of married parents in foster or institutional care. They are living in limbo. According to current provisions, the child must have been abandoned for 12 months and must prove continued abandonment extending to the age of 18. This is virtually impossible. As a result, children are being left in long-term foster care with the prospect of spending all their childhood in this situation. Foster carers are not legal guardians and many simple decisions, even one as small as taking a family holiday, cannot be made without the consent of the HSE. The child who is welcomed into the family unit and brought up by a foster family has a different surname. This is far from ideal.

The wording in the draft Bill as proposed under the new adoption legislation states that marital children will be eligible for adoption once they have been in foster care for a continuous period of 36 months preceding the time of the application, and have been living with the prospective adoptive parents for at least 18 months. The Bill also states there is to be no reasonable prospect that the child's birth parent will be able to provide for the child. It is important to point out that involuntary adoption will affect a very small number of children in our country and only in exceptional circumstances. It will have to be proved that the parents in question have failed in their duty towards their children to such an extent as to constitute abandonment of the children's rights. Heading six states that children, in all adoption cases where they are capable of forming views, will have their views heard in accordance with the age and maturity of the child. How will that be done? It is vague, and the issue of resources will apply.

Legislation on adoption is an extremely important aspect of the referendum. An article by Olivia O'Leary in last Sunday's edition of the *Sunday Independent* gave a harrowing account of many young children crying out in the night for their mothers, in need of a loving home and a second chance, when many couples who cannot have a child of their own would sacrifice so much to offer a child a warm, loving, affectionate stable home. We must see far greater detail on adoption legislation and when it comes before the Oireachtas we will have a greater opportunity to debate it at length. I have some questions in regard to it. What level of counselling will be available for parents who wish to place their children for adoption? Will the adoption board be given additional resources to deal with these new situations? When will the Minister detail the way the new proposals will operate? How many foster care children qualify for adoptions? Will parents who adopt maintain the foster care allowance?

In referring to adoptions, the Minister gave a commitment previously to bring forward legislation on information and tracing. When will that legislation be forthcoming as we are one of the few countries in the western world not to have such legislation in place?

I will not read the new Articles 42A.4.1 and 42A.4.2 into the record as my time is limited but both articles are enabling provisions where we will have to bring forward legislation. When will that legislation be brought forward? Has it been drafted yet? Will the Minister indicate a timeframe for it to come before the Oireachtas?

In recent days the Minister will have heard two voices expressing concern about these articles. On "Morning Ireland" last Friday, David Kenny, an assistant professor of law in Trinity College, said that some clarification should be made in the language used to enshrine the consideration of the best interests of the child in Article 42A.4. He is worried that the Bill does not go far enough to protect the interests of the child, in particular in cases of where guardianship is contested between adoptive and natural parents.

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I am sure the Government wishes the child's interests to be the paramount consideration in matters of adoption, custody, guardianship etc., and the amendment commands that this be placed in law where appropriate. It seems clear that while family interests may be regarded in such determinations, what the Government wishes to achieve is a situation where the best interests of the child, assessed independently of other interests, are the primary concern. Family and other interests would then be considered separately.

The problem is that the phrase "best interests" is not new to Irish law. For instance, section 3 of the Guardianship of Infants Act 1964 states that the best interests of the child shall be the "first and paramount consideration" in matters of guardianship. However, the courts have interpreted this phrase in a way that does not necessarily put the independent interests of the child first. The courts have ruled that, in light of the Constitution's very strong protection of the marital family, the best interests of the child presumptively lie with the marital parents.

The leading cases on this point, interpreting best interests in the 1964 Act, are *Re J* [1966] IR 295; *Re JH* [1985] IR 375; *North Western Health Board v HW & CW* [2001] 3 IR 622, which are the most well-known, certainly to me; and *N v Health Service Executive & Other* [2006] 4 IR 374, otherwise known as the baby Anne case. I seek clarification that this may lead to a situation where even though the best interests of the child are nominally the central consideration, in reality these are rendered subservient to the interests of the marital parent. One has to show very strong evidence that the child is not best served by its marital parents before this presumption can be shifted.

I believe the Government hopes that this judicial reasoning would be reconsidered in light of the new constitutional language. That may happen, but I do not believe it is guaranteed. The protection of the family in Article 41 will remain after this amendment has been passed, and it would be open to the courts to retain this interpretation of best interests in light of that. If a presumption operates in this way, the best interest of the child are not being independently considered, as I believe the Government would like to see happen. This is not a certain result and the Government's intended outcome could come about. I am simply not certain that this will be the case and I ask the Minister to clarify it. This is particularly the case given that the proposed amendment will not alter Articles 41 and 42 of the Constitution except in so far as it repeals Article 42.5 and inserts a new Article 42A.2.1.

In yesterday's *The Examiner*, Dr. Conor O'Mahony, a lecturer in constitutional law at UCC, raises a similar point. He states:

One of the reasons that this amendment is being put forward is that existing legislation, which already provides for the best interests principle and the right to be heard, has been found to be ineffective due to the overarching influence of the constitutional protection provided to the family in Article 41. In the hierarchy of laws, the Constitution takes precedence over legislation, and legislation falls to be interpreted in light of the Constitution.

I quote those two independent experts to reaffirm some of my own doubts.

I seek clarification also regarding cases not brought by the State for the safety and welfare of the child where the voice of the child should be heard. I do not know if the Minister read it but a case was brought to my attention this morning involving an article in yesterday's edition of *The Irish Times* which suggests that such cases would not be automatically entitled to the fourth proposal because the parents, and not the State, are bringing forward the case. Is that the

Government's intention and, if so, what is the reason?

I appreciate the Minister will not answer this question today but it concerns a judgment delivered on 3 July 2010, *KA v Health Service Executive and Others*. In that judgment it appears that where the State is not bringing forward the case, cases are not automatically entitled to the fourth proposal. That is worrying. I am sure the Minister will clarify if that is the Government's intention and, if so, give the reason.

At the outset I said we will support this referendum. I look forward to working with the Minister, all Members of the Oireachtas, the members of the Children's Rights Alliance and the various children's rights groups in a positive manner to ensure that we convey the true message about this referendum but we must be honest and up-front with the people. It is not a panacea. It will not fix everything. I hope the Minister responds to the issues I raised.

The issue of resources is critically important. I accept that what is proposed is a constitutional change but legislative changes were made in the past and reports detailing horrific events have continued to emerge. Without adequate resources and staff being put in place, what is proposed will be mere window dressing.

I have already referred to the adoption legislation, what is in the best interests of children and also children's right to be heard. In addition, I spoke about cases not being brought by the State. The most important aspect of the referendum will relate to eventual implementation. I look forward to working with Members on all sides in order to ensure that every child in this State will get what he or she deserves, namely, a loving and meaningful childhood.

Deputy Caoimhghín Ó Caoláin: I wish to share time with Deputy McLellan.

Acting Chairman (Deputy Joanna Tuffy): That is fine.

Deputy Caoimhghín Ó Caoláin: The term is often used but I am happy to say that, for me and, I am sure, for everyone else who is interested in the subject which lies at the core of this debate and that which will occur in the Seanad next week, this is an historic occasion. It is one that the children of Ireland have awaited far too long. I commend the Minister, Deputy Fitzgerald, on bringing forward a formula of words which, if passed, will provide a constitutional amendment acknowledging children's rights, as individuals in their own right.

We in Sinn Féin have called for children's rights to be enshrined in the Constitution for many years. It is our view that the minimum standard for children's rights within any state or legal system is the United Nations Convention on the Rights of the Child, UNCRC. This was the view we set out when the discussions around the enshrining of children's rights resumed in 2008. It was the view we held when the then Minister of State, the late Brian Lenihan, produced a formula of words. It was the view to which we adhered during the deliberations of the Joint Oireachtas Committee on the Constitutional Amendment on Children, chaired by former Deputy Mary O'Rourke. It was the view we retained when former Minister of State with responsibility for children and youth affairs, Barry Andrews, produced a formula of words. The UNCRC must be the document which underpins all of our laws concerning children. As contributors to the wording that eventually received cross-party endorsement at the joint Oireachtas committee, we were pleased that although it did not directly incorporate the UNCRC into domestic Irish law, it did go some way towards including some of the core elements within it. I refer, in this regard, to the principle of equality between all children and that the best interests of all children be paramount in matters concerning them. While the words contained in the final

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report of the committee, which was published in February 2010, received cross-party support, it is regrettable - it would be a mistake on my part not to say so - that it did not find favour with all who have addressed this matter since.

The Thirty-first Amendment of the Constitution (Children) Bill 2012 does not mirror that wording. However, I acknowledge that it addresses some important issues for children in Ireland. If passed, the constitutional amendment will mean that the “natural and imprescriptible” rights of all children will be protected and vindicated. The precise constitutional meaning of those natural and imprescriptible rights is not clear, however. There is no accompanying legislation which sets out said rights but it is quite clear to anyone familiar with the Irish legal system and establishment that the Supreme Court will not interpret this to mean that the UNCRC will suddenly be part of domestic Irish law. The Bill does acknowledge that children do have rights and this is important. In my view this is a significant step on the road towards ensuring that children’s rights, as set out in the UNCRC, will be incorporated into Bunreacht na hÉireann and will become binding upon the State. We in Sinn Féin do not view this amendment as being a panacea to rectify the myriad ways in which the State has failed to cherish all children of the nation equally. It is my opinion that the Minister also shares this view. Sinn Féin sees the amendment as the first step on the road towards incorporating the UNCRC into Irish law. We hope this will be achieved in due course.

This amendment does not do everything we would like it to but it does have the potential to rectify some of the legal barriers that have prevented the State from intervening in marital families where there is child is at risk or is being abused. The amendment will readjust the threshold for State intervention and place an onus on the State to support children and adopt a proportionate response to parental failure in order that cases such as the notorious Roscommon abuse case will not be allowed to happen again. It will also ensure that children who have, in very exceptional circumstances, been totally and utterly failed by their birth families and have been placed in the care of foster families and have formed loving family connections with their foster parents may be adopted by and become the legal children of the latter. It will further ensure that such children will be entitled to all of the rights and privileges which accompany that status. There are 6,000 children in the care of the State. Some of them have been in care for more than five years and have no contact with their birth parents.

The amendment will also accommodate those parents who are married and who, as a result of whatever unfortunate circumstances, may wish to place their children for adoption. While the State must do everything within its power to help keep families together and ensure that they are adequately supported, there will be those exceptional cases where this will simply not be possible. In such instances, the child or children must be given a second chance to experience a loving family relationship. This amendment will have no impact on the definition of the “family” under the Constitution. It will, however, permit the Oireachtas to legislate to allow abandoned marital children to be adopted if this is in their best interests. Under this constitutional amendment those children’s best interests would be the paramount consideration for the courts. We cannot underestimate the power of this.

Our only criticism is that this particular constitutional provision means that the courts will not be required to view the best interests of the child as the paramount consideration in cases where there is not a guardianship, or custody or access issue in question. The provision is specifically drafted to exclude the courts from being required to consider the best interests of the child as paramount where the State is merely a party to a case. The provision is drafted so that the wording means that if, for example, a parent of a child with a disability takes a case against

the State because she or he feels the latter has breached its duties under the Education for Persons with Special Educational Needs Act as a result of a lack of special needs assistant hours, the courts will not be required to examine what are said child's best interests. I would have argued strongly for a much stronger affirmation of the rights of the child through the process of the all-party committee but I acknowledge that what we arrived at was, of course, a compromise of our respective positions and discussions over that long engagement. Further, outside of those guardianship and custody cases, the child will have no constitutional right to ensure that his or her own views are taken into account by the deciding court. It is restrictive in that it is quite particular, specific, in the areas in which this particular right will be provided for.

If this amendment is passed either in its current form or as amended in our debates over this and next week in the Houses of the Oireachtas, it is important that the Government gives a commitment that the necessary resources will be provided so that the rights provided to children will then actually be realised. It will be essential that the legal profession and Judiciary receive appropriate training on the new constitutional and legislative provisions.

I am happy to note that some of the principles of the UN Convention on the Rights of the Child, UNCRC, have been encapsulated in the Minister's text although Sinn Féin was disappointed with how narrowly they were drawn. This constitutional amendment will not directly affect most children. It will resolve the outstanding child protection issues and adoption issues for children in marital families, but for the child who is living in poverty, or who has had his or her special needs supports cut, or who is in need of additional educational supports to help them through the school year, this constitutional amendment will not address, let alone resolve, their situation. We must be clear about what this amendment does and does not do. Some will be disappointed that it does not go far enough and I would be one of those. Some will think it goes too far and I would like to address that view. I believe the vast majority of people will support this constitutional amendment and see it as a real progress and a strengthening of the foundations of our society. I wish to record that this is how I see it. It is the reason that I and my party will campaign in support of this constitutional change at the conclusion of the debate.

I have referred to other opinion. I have read some of the commentary of those who oppose this proposed constitutional change. As I said earlier, this amendment will have no impact on the definition of the family in the Constitution. I understand that there are people who will be concerned that this amendment will mean that there will be unnecessary levels of State intervention or that the parent will not be the rightful automatic carer of their children. I wish to state categorically that these arguments are false and potentially misleading. While I would like to see a constitutional amendment to change the definition of family in order to more accurately reflect the diverse nature of modern families, this particular proposition will not do so. It will neither alter nor weaken the constitutional family unit. The special protection afforded to the traditional family construct in Article 41, will not be damaged.

I call on the Government to ensure that it invests the required resources to inform people as to the reason for this referendum. It is of the utmost importance that false arguments are shown to be so because what is at stake are children's lives, end of story. Childhood does not last forever, and for far too long in our society we have seen generations of children grow up without their needs being met. If this constitutional provision is passed it will mean that the Irish people will have acknowledged that children have legal rights as individuals. It will be a constitutional acknowledgement that children have the right to be seen and heard, something they did not have in 1937 or since. It will be another important step forward to a new and enlightened attitude towards children. For several years and with what has seemed an almost six-monthly regularity,

new reports have been published. Some are historical investigations while others are current and interim. I refer to the Ryan report, the Roscommon case, the independent child death review group reports, the inspections of the special care homes and the investigations into church dioceses. It has been a long and sorry litany. They have made for harrowing reading and we must all have felt ashamed. We have read the details of who knew of child abuse and when they found out and their failures to act. People have cried out: “Why did no one say stop?”

This constitutional amendment gives all voting citizens the opportunity to say “Stop”. It is also about starting anew. This amendment is not perfect but it is a major step forward. We in Sinn Féin commend to the Government and to all Members our amendments to the proposed wording. We have tabled them to help make the wording as strong and comprehensive as possible. This referendum is a very real opportunity to make further tangible changes to children’s lives in Ireland and it is an opportunity that may not present itself again for some considerable time. I appeal to the Government to look favourably and sympathetically at the proposals being made and to seize the moment and to make this proposed constitutional change the very best and most worthwhile possible. Whatever the outcome of our debate and deliberations over these couple of weeks, I am happy to confirm now that it is my party’s intention to proactively participate in the commendation to the electorate of the 31st amendment of the Constitution.

Deputy Sandra McLellan: I welcome the opportunity to speak on this issue. Sinn Féin welcomes the proposed referendum on children’s rights. As a State and a society, we are all too aware of our abysmal record in terms of the protection of children. Therefore, any measures and particularly legislative measures which safeguard and protect the rights of children, are significant and important. Since the foundation of the State and particularly since the enactment of Bunreacht na hÉireann, children and their accompanying rights were essentially subsumed within the rights of the family. Indeed, specifically child-centred rights are most notable in the 1937 Constitution by their almost total absence. The imposed invisibility, which is enshrined in law, has had major ramifications for the well-being of successive generations of Irish children.

In 1993, speaking during the Kilkenny incest investigation, Mrs. Justice Catherine McGuinness noted that “the very high emphasis on the rights of the family in the Constitution may consciously or unconsciously be interpreted as giving a higher value to the right of parents than to the rights of children”. The current lack of rights for children in the Constitution places significant restrictions on the legislation that may be enacted and on judicial decisions. Moreover, in many instances, children’s rights arise merely as a consequence of their membership of a family, defined in constitutional case law as the marital family. The proposed legislation, should it pass by way of referendum, will essentially give rights to children in their own right for the first time since the foundation of the State.

We welcome this proposal to acknowledge the rights of children as individuals under the Constitution. Nevertheless, Sinn Féin has several concerns in regard to specific provisions. Our first concern relates to language, particularly the vague and abstract nature of sections of the Bill. The proposed Article 42A, for example, begins thus: “The State recognises and affirms the natural and imprescriptible rights of all children and shall, as far as practicable, by its laws protect and vindicate those rights.” While the reference to “natural and imprescriptible rights” already appears in Article 42.5.5, there is no legislative or constitutional precedent defining exactly what these rights entail. In other words, it will be left to the Supreme Court to define what is meant by such rights. The lack of clarity in this regard is worrying. Moreover, while the Bill makes provision for the best interests of the child to be given paramount consideration, this applies only in instances where the State itself has taken a case regarding the child’s safety,

welfare, guardianship, custody and so on. Conversely, the courts are not obliged to consider the best interests of the child in cases where the State is a respondent or defendant.

The bottom line is that rights, be they economic, educational, to do with health care, the arts, sports or whatever, cost money. Unfortunately, as we in this House know only too well, when it comes to cutting spending in crucial areas of social provision which directly impact the lives of children, this Government has no qualms about slashing budgets. Lone parent households remain at risk of experiencing persistent poverty. Children of asylum seekers are still subjected to all the negative and destructive aspects of life in direct provision. Traveller children who benefited little from the boom years remain among the most excluded in Irish society. Moreover, not only has the State failed to address this appalling situation, it has actively engaged in the reproduction of Traveller inequality and disadvantage through the various educational reforms which eliminated resource teachers for Traveller children. One in ten children under 17 years of age in this country now lives in consistent poverty. An additional 20%, or 250,000 children, are at risk of poverty, as are children living in households headed by an unemployed person.

For these reasons, while Sinn Féin welcomes and supports the proposed constitutional amendment, we will continue to oppose the cruel and vicious measures which plunge so many ordinary families, including large numbers of children, into poverty. It was recently brought to my attention in my constituency that Youghal Town Council has taken upon itself, with the permission of the Department of the Environment, Community and Local Government, to include the foster carer's allowance as part of household income when determining the weekly rent allocation for a council house. As a result, a constituent of mine who is fostering four and a half year old twin girls has seen her weekly rent go from €32 to €120. When I contacted the Health Service Executive to inquire about this hike, the staff member to whom I spoke was adamant that it could not be the case. Likewise, the official at the Department of Children and Youth Affairs with whom I spoke was appalled by what she heard and said it should not have been done. It seems, however, that such matters can indeed be determined by each local authority and, as such, it is a matter for the Minister for the Environment, Community and Local Government. It is appalling that local authorities are taking so much money from the children for whom this particular allowance is intended.

Child poverty damages children's lives in many ways. While a lack of adequate income is at the core of the problem, it is the knock-on effects such as exclusion from adequate education and play, poor quality housing and inadequate and delayed access to health care, which make a real difference to a child's welfare and fundamentally determine his or her life chances. Sinn Féin supports the proposed constitutional amendment and welcomes any measure that enshrines the rights of children in the Constitution. We remain, however, firmly opposed to Government cuts which negatively impact the life chances of children and their families.

Deputy Catherine Murphy: I propose to share time with Deputy Maureen O'Sullivan.

Acting Chairman (Deputy Joanna Tuffy): That is agreed.

Deputy Catherine Murphy: We are very fortunate in this country to have a written Constitution. That is not to say I am satisfied with every provision therein or that I do not wish to see it modernised. However, it does serve to frame the higher principles from which laws are enacted and society is organised. The inclusion of a section in the Constitution dedicated to the rights of children is essential, particularly in view of the failures by the State over many decades to protect them. The wording of the proposed amendment has taken time to produce but is well

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considered and offers a fair balance. In short, it achieves what it is intended to achieve. It is, however, merely a starting point and must be seen as such. If we are to remedy the many failures involving the welfare of children and draw a line in the sand that will not be washed away by yet another scandal, we must construct integrated institutions that are capable of responding to changing needs and risks. We must resource key services and seek to ensure, in so far as it can be guaranteed, that the children of today and of the future will have better stories to tell than the many tragic stories of the past. Many of those children were not only robbed of their childhood but suffered serious consequences in their adult lives in terms of opportunities lost.

I commend the Minister on her work thus far and on her open-door approach in regard to consultation. This referendum must be about one issue only, namely, the welfare of children. The Minister's approach has reflected that imperative. I take this opportunity to express my support for the proposal and to encourage support for it. As others have observed, the passing of this referendum will lead to no immediate changes in practical terms. It will, however, afford rights the State must assume responsibility for delivering. I was a member of the Commission on the Family which was established following the second referendum on divorce. It was a major initiative which took some three years to complete its deliberations. Some of us found our eyesight was impacted by the volume of material we had to read. The intention was to consider how families could best be supported in the case of divorce and how the problems arising from marital break-up could be minimised. Divorce was intended as a second chance for those who wished and needed to avail of that chance. It was not intended to undermine families, despite some of the scaremongering claims that were a dominant feature of both divorce referendum campaigns.

In accordance with a recommendation of the Commission on the Family, the Department of Social Welfare was renamed the Department of Social and Family Affairs. This was one of a range of useful recommendations by the commission that were subsequently delivered, including the proposal that a Ministry dedicated to the welfare of children and young people be established. The Minister might consider whether there is an opportunity in the aftermath of the referendum to consider in a more complete way, by means of a consultation forum akin to the commission, how best to ensure children and young people can be supported. It is particularly important that such issues remain in focus during these difficult economic times. It will be necessary to examine how to make best use of resources and integrate services. I ask the Minister to consider adopting a similar approach to that taken by the Commission on the Family following the passing of the referendum on divorce.

Cuireadh an díospóireacht ar athló.

Debate adjourned.

Magdalene Laundries: Motion [Private Members]

Deputy Mary Lou McDonald: I move:

That Dáil Éireann:

notes that this motion has been drawn up with a survivor centred ethos;

agrees with the State's position, as articulated in Dáil Éireann in February 2002, that abuse occurred in the Magdalene Laundries, that the abuse was an appalling breach of trust and that

the victims of that abuse suffered and continue to suffer greatly;

acknowledges the hurt and hardship caused by the exclusion of survivors of the Magdalene Laundries from the Residential Institutions Redress Scheme;

acknowledges that the Magdalene survivor population is predominantly aging and elderly;

acknowledges that survivor testimony records that women were made to work without pay, were kept behind locked doors and returned by gardaí if they attempted to escape;

welcomes the establishment of the Inter-Departmental Committee on Magdalene Laundries to clarify any State interaction with the Magdalene Laundries and to produce a narrative detailing such interaction;

notes the Irish Human Rights Commission document entitled Assessment of the Human Rights Issues Arising in relation to the "Magdalene Laundries";

notes the UN Committee Against Torture's recommendations on the Magdalene Laundries, its insistence that the State ensure that survivors obtain redress and its grave concern at the failure by the State to institute prompt, independent and thorough investigations into the allegations of ill-treatment of the women;

further welcomes the public statement of June 2011 by four religious congregations which ran ten Magdalene Laundries expressing a willingness to bring greater clarity, understanding, healing and justice in the interests of all the women involved;

further acknowledges that there is growing evidence of the State:

- sending women and girls to the Magdalene Laundries;
- providing the religious orders with direct and indirect financial support; and
- failing to supervise the religious orders' operation of the Magdalene Laundries;

considers most serious the allegations of forced labour in the Magdalene Laundries, noting the incarceration and use of women and children as workers without pay would constitute forced labour under the 1930 Forced Labour Convention of the International Labour Organisation, which Ireland ratified in 1931, and accepts that the rejection and prohibition of slavery is a peremptory norm of international law;

acknowledges the need for immediate and meaningful discussion on an apology and redress;

commits to providing immediate funding for, and implementation of, a helpline for the survivors of the Magdalene Laundries;

commits to supporting survivors in accessing pensions that reflect their years of work in the Magdalene Laundries; and

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commits to an open and meaningful debate on the issue of an apology, redress and restorative justice measures once the Inter-Departmental Committee has reported.

Before dealing with the motion, I will take a moment to recognise the strength and bravery of the survivors of the Magdalene laundries. More than 30,000 women and girls were incarcerated in these institutions, endured brutal hardship and worked without pay. They have lived with the stigma attached to being confined in the laundries, a confinement that was not their fault. The State has failed these women at every turn. They are both victims and survivors. We applaud their courage in coming forward and telling their story, we stand alongside them in their fight for justice and we offer them our profound apology for the failure of the State to protect them. They did nothing wrong; they were innocent victims of a brutal, intolerant system overseen and enforced by the State and religious orders.

The motion has been written with a survivor centred ethos. Politics has failed the women in question so we have looked to them to tell us what they need and what must be delivered. By shirking its responsibilities the State has played for time, which the women in question do not have. We put the Government on notice that this issue and these women will not go away.

There has already been ample acknowledgement of the abuse that took place in the Magdalene laundries. In February 2010, the then Minister for Education and Science, while explaining his exclusion of the Magdalene women from the residential institutions redress scheme, stated he did not “wish to dismiss the fact that abuse of adults could and did occur in Magdalen Laundries or that the abuse was an appalling breach of trust or, indeed, that the victims of that abuse suffered and continue to suffer greatly.” Survivors have documented in heartbreaking detail the violence they endured. They worked without pay, were kept behind locked doors and were returned by the Garda if they attempted to leave.

There is a wealth of evidence in the public domain which shows the State provided direct and indirect financial supports to the laundries. The Ryan report details the women’s forced, unpaid labour in the laundries and notes that their working conditions were harsh. The women were deprived of their liberty and forced to work without pay, which constitutes slavery as defined in international law. The women and girls also suffered both physical and emotional abuse.

The need for acknowledgement and redress has also been set out in the public domain. In November 2010, the Irish Human Rights Commission found that serious human rights issues arose in the laundries and called on the Government to establish immediately a statutory inquiry into their treatment and provide redress to the survivors, as appropriate. In June 2011, the United Nations Committee Against Torture recommended that the State institute prompt, independent and thorough investigations and, in appropriate cases, prosecutions in addition to affording redress, compensation and rehabilitation to the Magdalene women. The women are predominantly elderly and many of them are in ill health as a direct consequence of their incarceration in the laundries.

Also in June 2011, the four religious congregations which ran the institutions expressed a willingness to bring greater clarity, understanding, healing and justice in the interests of all the women involved. Despite this, the State continues to refute its collusion with the same religious orders in the incarceration and forced labour of the women for commercial gain. It does so despite the fact that its judicial system regularly referred women to the Magdalene laundries. The Justice for Magdalenes group has provided the State with evidence that women and girls found

guilty of a crime were referred to the Magdalene laundries and other religious run institutions throughout the State in almost every year following independence until at least 1983. These committals were far worse than the equivalent prison sentence as the women were incarcerated for periods far exceeding their original sentences. In many cases, the crimes in question were as simple as the theft of an apple or a pen.

The stigma attached to incarcerations in the Magdalene laundries was horrendous. It is for this reason, perhaps above all other reasons, that an acknowledgement and a State apology are so urgently needed. In a Seanad debate in 1960, Senator Connolly O'Brien spoke of the lifelong stigma attaching to a girl sent to the laundries. She stated: "If I were asked to advise girl delinquents, no matter what offences they were charged with, whether to go to prison on remand, or to go to St. Mary Magdalen's Asylum on remand, I would advise them wholeheartedly to choose prison, because I think having a record of having been in prison as a juvenile delinquent would not be so detrimental to the after life of the girl as to have it legally recorded that she was an inmate of St. Mary Magdalen's Asylum." Justice for Magdalenes has also provided evidence dating back to the 1920s of a magistrate's comments that "in many instances offenders have expressed to me in Court a desire to go, in some cases they have begged to be sent, to prison rather than a home."

Women were held in the laundries pre-trial and sent to them after release from long sentences in prison. Orphaned, neglected or abandoned children and children who did not attend school were sent to industrial schools and their experiences have been well documented. Religious orders often transferred girls directly from these industrial schools into the laundries. The Ryan report contains evidence of girls as young as 13 being transferred to a Magdalene laundry to work in order to compensate the religious order for their mothers' failure to pay the required payments for their keep in the industrial school.

The State's complicity with the Magdalene regime was underwritten in law. The Local Government (Temporary Provisions) Act 1923 provided a statutory basis for using the Galway Magdalene laundry to confine women seeking public assistance for a second or subsequent pregnancy outside of marriage. In 1928, the Commission on the Relief of the Sick and the Destitute Poor similarly recommended mandatory incarceration in the laundries for women applying for maternity assistance a second time. More recently, the 1970 Kennedy report into reformatory and industrial schools details the many reasons why girls and women were placed in the laundries. It noted the so-called voluntary arrangement for placement could be criticised on several fronts, questioned their legal validity and found that the girls admitted were not aware of their rights.

Those who sought to escape their imprisonment were returned by the Garda, regardless of the reason they had been confined in the laundries in the first instance. One survivor, telling of her efforts to escape, was asked on her capture by the Garda why had she had tried to escape. She replied it was because the nuns were cutting her hair and putting her in a hole all the time. The gardaí involved did nothing to protect her; they simply returned her to the very people who were abusing her. This is just one example of a vast catalogue of the State's failure to supervise the religious orders' operation of the Magdalene laundries.

Tonight's motion sets out clear support for the work of the interdepartmental committee established under the chairmanship of Senator Martin McAleese. I do not, however, accept that this committee should be used as a delaying tactic or as a rationale for withholding the apology, acknowledgement and supports that the Magdalene women are due. The facts of the brutality

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in the laundries have been established. The complicity of the State has been established. The McAleese committee is tasked with quantifying the extent of that collusion. It must be very clear that the facts of cruelty and State collusion stand established.

This Government, however, hides behind the interdepartmental committee. It is its last fig-leaf, its last excuse to stand still. It does this in the full knowledge that time is not on the side of the aging Magdalene women. The Government offers no apology and refuses even the meagre comfort of their pension entitlements. Those are the pension entitlements of incarcerated women and girl slaves.

The Government's amendment to this motion is dishonourable. It dishonours this democratic assembly. It belies the Government's priority of protecting the State above vindicating the women, the same State that failed thousands of women and girls by holding them in the laundries. This evening, by failing to support this motion, it tramples on their rights again.

Several years ago, it was a different matter. In 2009, Labour Party women called for a separate redress scheme for the Magdalene women. In 2010, Deputy Burton, who was to become the Minister for Social Protection, said she strongly supported justice and restitution for these women. Deputy Alan Shatter, now the Minister for Justice and Equality, said the State was directly complicit in the confinement of these women and children. Three current Ministers of State made the very same arguments in opposition yet the Magdalene survivors still cannot even access their pension entitlements. Where did it all go wrong?

I acknowledge the support for this motion by the Independents and Technical Group Members. I also welcome Fianna Fáil's support. I had asked the Government to support this motion because it is couched in language that simply reflects what happened. However, it has refused to do so and it has refused to give some comfort to the Magdalene women. Instead, it has chosen to completely ignore the word, spirit and intent of the motion. The Labour Party and the Fine Gael Party cannot even commit to providing the meagre supports the Magdalene women need now. These women and girls were stripped of their rights. They were the innocent victims of a barbaric system. The State colluded with religious orders to enslave them in laundries run for commercial gain. Abuse did take place and trust was breached. These facts have already been established.

I ask for Members on the Government benches to support this motion. It is one they can support in good conscience. The Magdalene women deserve the Government's support. They have suffered for a very long time. The very least they can expect at this juncture is a unified voice from the Dáil that says to them that we acknowledge and accept their story, we apologise, we will ensure the basic services they need in the here and now will be put in place and we commit to redress. Time is against us, the clock is ticking and justice cannot wait for ever.

Deputy Caoimhghín Ó Caoláin: This is a very important motion. We must all hope that it is also another significant step on the road to justice and truth for the former detainees in the Magdalene laundries. That will be decided by the Minister and her colleagues in government.

I commend the Justice for Magdalenes campaign group for their work. It has given a voice to women who were appallingly treated over decades. They were the forgotten women and girls whose lives meant little or nothing to church and State authorities and whose memory was erased by official Ireland. Until they themselves spoke up through Justice for the Magdalenes, few knew the reality of what they endured.

This is no small scandal. We are talking about the illegal confinement, detention and treatment of thousands of innocent women forced to work in the so-called Magdalene laundries over several decades. These women had nothing. They did not know their rights. They had no one at that time to advocate for them. Like the children abused in other residential institutions, they were surrounded by a wall of silence and ignorance.

I commend to all Deputies the submission from Justice for Magdalenes to the interdepartmental committee in May of this year. I will cite one extract from it:

The reality is that incarceration in the Magdalene laundries was very similar to being sent to prison. The survivors clearly express this view. One recalls, "I felt as if I was being sentenced to a prison. Indeed, at a certain level I was a prisoner". Another says, "Definitely it was a prison. You get paid in a prison. But this was a prison. There was no doubt about it, it was a prison". A third says simply, "These were prisons".

The State resisted calls to establish a prison for young girls similar to the borstal-type institutions for young boys. The availability of the Magdalene laundries, operated by the Catholic religious orders, enabled the State's Judiciary to use them as an alternative to imposing a prison sentence.

With other Deputies in the last Dáil and before, I was proud to support this campaign. In July of last year, I hosted a briefing session here in Leinster House for Deputies and Senators and their support staff on the issue of the confinement, detention and treatment of thousands of innocent women forced to work in the so-called Magdalene laundries over several decades. It was the hard work of Justice for Magdalenes that conclusively disproved the State's claims that the women were in these institutions voluntarily or solely at the behest of their families. That fiction has now been firmly laid to rest, thanks to documents uncovered by Justice for Magdalenes. In response to the Justice for Magdalenes submission, the UN Committee against Torture called for an independent investigation into the abuse at the laundries and redress for the women held there. It also recommended prosecution and penalties for those who had perpetrated the abuse. It is regrettable that the Government did not see fit to issue an apology with its announcement of the interdepartmental group to investigate the role of the State. The Minister for Justice and Equality, Deputy Alan Shatter, said it would be more appropriate to wait until the outcome of the investigation. Sadly, some of the survivors will be unable to wait that long and they are all entitled to an apology now. Issuing it would not preclude a further apology when the full extent of the Government's complicity is revealed. Is it too much to expect that the State would say sorry twice?

The reply to a parliamentary question I tabled last year revealed that three of the four orders involved in running the Magdalene laundries had received a total of €87 million from the HSE in the past five years. During the so-called boom years the Sisters of Mercy made €165 million in land sales. The Sisters of Our Lady of Charity earned €61.8 million on the land surrounding the mass grave of Magdalene victims discovered in 1993. The contrast with the funds available to the laundry survivors could not be more stark: they received no pay for their years of forced labour; they are not in receipt of pensions and they were excluded from the residential institutions redress scheme. I reiterate our endorsement for the Justice for Magdalenes group's support for the inclusion of the Bethany Home survivors in the schedule to the residential institutions redress scheme.

I appeal earnestly to the Government to withdraw its amendment. It is not too late to do so.

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The motion not only has the stated support of all who have signed it and the further stated support of the Fianna Fáil Party, but I believe it also has the support of the Minister of State, Deputy Kathleen Lynch. I call on her to be courageous and stand up and so declare.

Deputy Jonathan O'Brien: I, too, welcome the opportunity to discuss this important issue. The Sinn Féin Party did everything in its power to try to ensure the motion received the support of every Member. It is unfortunate that we do not find ourselves in that position tonight, but I thank all of the Members who signed the motion and indicated their support for it, especially those in the Technical Group, Independent Deputies and Fianna Fáil Deputies. Unfortunately, the Government side has seen fit to bring forward its amendment. However well meaning they try to portray it, it is a matter of regret because this is a missed opportunity for all Members to speak with one voice on behalf of the victims. As the previous two speakers outlined, the primary purpose of the motion is to keep the issue of the Magdalene laundries at the top of the political agenda and try to finally arrive at a position where the Government will act decisively and swiftly, unlike previous Governments, by providing redress for the cruelty and abuse inflicted on the women concerned, with a much overdue apology on behalf of the State. Many speakers tonight and tomorrow night will rightly focus on the injustices inflicted on the women of the Magdalene laundries.

As Deputy Caoimhghín Ó Caoláin noted, it is equally important not to forget another dark episode in our recent history. We are mindful of another group of survivors who were treated in an equally appalling way by the State, that is, the women and children who suffered in Bethany Home. Like the Magdalene laundries survivors, they have campaigned courageously for an apology and an independent inquiry into what happened in that residential home. It is important to reflect on what happened. We know that between 1922 and 1949 more than 220 children died in Bethany Home, of whom some 219 are buried in unmarked graves in Mount Jerome cemetery. We know that countless others suffered illness and abuse resulting from neglect. As far back as 1939, there were reports of the abuse that people had suffered in this residential home. We have heard countless stories of children being insufficiently cared for, going unwashed, sick, neglected and left in soiled nappies for lengthy periods. This is the most appalling abuse that anyone could put any child through. Bethany Home symbolises the abandonment of the State's duty of care to women and children who found themselves in institutions.

It is regrettable that the plight of the victims of Bethany Home have been largely ignored and disregarded by previous Governments. Earlier this year when we were discussing the Residential Institutions Statutory Fund Bill, there was an opportunity to go some way to try to rectify this. During the debate we brought forward a motion that would have seen the establishment of a separate redress board for the women of the Magdalene laundries and the Bethany Home survivors. Unfortunately, like the previous Governments which failed to address this issue, the Minister for Education and Skills could not find it within himself to support the amendment. During the debate he cited the well worn excuses of previous Governments about the potential cost to the State and the fact that the Bethany Home survivors had come from a privately run mother and baby institution and, therefore, were not entitled to redress. This is all the more regrettable when one considers that there are serving Ministers and Ministers of State on the Government benches who held very different views when they sat on these benches. For example, in 2010 during a memorial service for the Bethany Home victims buried in Mount Jerome cemetery the Minister of State, Deputy Kathleen Lynch, said it was time for the Government to "do the decent thing and end this outrage". These sentiments were echoed by many within her party. We have heard Deputy McDonald quoting other Labour Party Deputies in this

regard. Now the Minister of State and other Labour Party Ministers who spoke so passionately on behalf of the victims two years ago find themselves in a position to honour what they said to rectify the situation and put an end to the outrage. It is baffling why this issue has not been resolved before now, given some of the comments the Minister of State has made.

It is more than 70 years since the first reports on events at Bethany Home. It appears from the Government amendment that once they attained power, those in government, like those in previous Governments, seem more concerned with refusing to face up to the State's responsibility to survivors and that they are willing to wash their hands. This is despicable - there is no other way of describing it. The actions of this and previous Governments in comparison to the dignity and integrity of the survivors' groups which have campaigned tirelessly on behalf of the victims bring shame on this and previous Governments. It is simply unacceptable by any moral or ethical standard that the women concerned are still being denied any official acknowledgement of their suffering. Just as the Minister of State, Deputy Kathleen Lynch, urged the previous Government, I urge the Government to do everything in its power to end this outrage.

The Government should start by withdrawing its amendment and supporting the motion. We should not miss the opportunity here for all of us, regardless of political affiliation or none, to speak on behalf of these victims with one voice, and I urge the Minister of State to do that.

Deputy Sandra McLellan: I welcome the opportunity to speak on this important issue. The purpose of this motion is to challenge the Government to act on the immediate measures necessary to support the survivors of the Magdalene laundries based on the information already in the public domain. To suggest this information is now virtually beyond dispute is almost an understatement. However, in spite of this the women and girls incarcerated in the Magdalene laundries have yet to receive an apology from the State and official acknowledgement of the injustices that were perpetrated upon them.

In his Fifth Report as Special Rapporteur as Child Protection to the Oireachtas, Mr. Geoffrey Shannon states:

The seriousness of the alleged abuses of the rights of these women and girls cannot be overstated. The allegations of forced labour in the laundries are of particular gravity... The detention and use of women and girls as workers without pay would amount to 'forced labour' under the 1930 Forced Labour Convention of the International Labour Organisation... It appears from the reports provided by these women and girls that their treatment constituted slavery.

He goes on to note that "The prohibition of slavery is a 'peremptory norm' of international law: that is a norm of state practice which is so fundamental that no derogation from it is ever permitted."

One could talk at length about the appalling injustices and crimes perpetuated against these women, the hopelessness of their lives, the cruelty and violence meted out to them on a daily basis and the lack of humanity which permeated virtually every aspect of their lives, but the fact is that the State is already aware of this appalling catalogue of information. This, of course, is to be expected as the State itself was actively involved in the perpetuation and reproduction of the Magdalene institutions. Thus, it is the specific responsibility of the State to make every effort to redress this grave injustice and in so doing, to atone for its past actions. Therefore, I call on the Government to act without further delay to implement the necessary supports that thus far

have been denied these women.

A state that continues to deny these women long overdue justice and proper and adequate economic reparation for their forced labour seriously diminishes its own moral and ethical authority in the eyes of all its citizens. Irish society recognised some time ago the grave injustice perpetuated against these women. It is time for the Government to do the same and to act without further delay in the best interests of the women concerned and also in the overall interest of Irish society. It is in the interest of all decent Irish men and women that justice, even at this late stage, is seen to be done and this is in the final analysis the responsibility of the State.

Deputy Catherine Murphy: I want to begin by adding to the comments of other Deputies in expressing my personal revulsion and horror at the record of church and State when it comes to the unimaginable cruelty delivered onto thousands of women and girls by these institutions, and I thank Deputy MacDonald and Sinn Féin for bringing forward the motion.

The stories of the barbaric, sadistic abuse handed out to these prisoners of the ten Magdalene asylums have been bravely brought to light by the determination and perseverance of the group committed to obtaining justice, and it is right that we acknowledge its efforts. The first duty we as legislators owe survivors is to acknowledge openly and loudly the full extent of the human suffering that went on in these institutions.

The many survivor accounts reveal this. The basic lack of humanity and compassion evident was made all the more insufferable in that these institutions were set up out of some perverted notion of Christian, Catholic sympathy and charity, that these women must be saved from themselves and from their imagined sins. Beneath that hypocritical piety, there is evidence through the survivor accounts of what can only be described as a barbaric programme of dehumanisation through enforced manual labour, physical abuse and psychological isolation.

It falls on us in this Parliament, both Government and Opposition, to seek whatever means are at our disposal to provide the justice and redress that has remained out of reach of these women and it is good to see that the interdepartmental committee, under Senator McAleese, is advancing this process. We do not know the full extent of the State's culpability - we must wait for the committee to report on that - but we know, through the work of Ms Mary Raftery and others, that several State agencies used the services of the Magdalene laundries. I suspect that we have scarcely begun to get to grips with the State's total responsibility to the survivors, and we have some way to go.

Tonight there will be a "Prime Time" programme dealing with the Magdalene laundries. No doubt that will produce an emotional response and a sense of revulsion, but it is not enough. We must do what is practical. We must do what is demanded by the victims themselves. The pension component of it is incredibly important to these victims to acknowledge what they went through. That particular aspect is something that can be practically done and I want to support that in particular.

Deputy Thomas Pringle: I welcome the opportunity to contribute to this motion to get justice for the Magdalenes. The scale of what was carried out in the Magdalene laundries is best summed up in the Justice for Magdalenes submission to the UN Committee Against Torture, which states:

the Magdalene Laundries abuse ... involved the unlawful deprivation of liberty of adult women and girls over extended periods, it involved school-age girls being deprived of an

education and it involved both women and girls being subjected to forced labour and servitude by private actors.

It is even more galling when these private actors went under the names of Sisters of Mercy and Sisters of Charity. There certainly was no mercy or charity involved in what the women in the Magdalene laundries went through.

This is an important motion and it is a pity that the Government has seen fit to amend it. The motion has been prepared with the full support of Justice for Magdalenes and it contains three simple recommendations. The first is that a helpline would be established. This is simply because many of the Magdalenes would still be suffering and would need ongoing support. A helpline would be an easy point of access for many of those who still have not come forward and campaigned but who would still be suffering in private, and it would be something of which they could avail and use easily.

Access to pensions, another of the recommendations, is vitally important. It would recognise that these women were forced to work and did a service on behalf of the State. It would be simple for the Government to recognise their pension rights and credit them with pension rights for the slave labour that they were forced to carry out.

An apology, redress and restorative justice - all three - are simple demands and something that no Government should have difficulty in dealing with. It would not add significant cost to the State to do this but it would be easy and positive and would go a long way to restoring the Magdalenes' faith in the State and in the State's ability to support them.

I also support the calls for the Bethany Home survivors to be included as well and redress to be provided for them because that is another shame on society that has been going on far too long.

Acting Chairman (Deputy Tom Hayes): I understand the Minister of State, Deputy Kathleen Lynch, is sharing time with Deputies Buttimer and McCarthy.

Minister of State at the Department of Justice and Equality (Deputy Kathleen Lynch): I move amendment No. 1:

To delete all words after "Dáil Éireann" and substitute the following:

“acknowledges that the untold story of those women who were in Magdalene laundries needs to be listened to with compassion and the facts about the Magdalene laundries need to be established and made public;

is conscious of the need to respect the rights of all concerned;

notes that the Irish Human Rights Commission document entitled ‘Assessment of the Human Rights Issues Arising in relation to the “Magdalene Laundries”’ in November 2010 had recommended in the context of a mechanism to investigate matters that:

— ‘such a mechanism should first examine the extent of the State’s involvement in and responsibility for:

— the girls and women entering the laundries;

— the conditions in the laundries;

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- the manner in which girls and women left the laundries; and
- end-of-life issues for those who remained’;

welcomes the fact that this Government, shortly after taking office in 2011, decided to establish an interdepartmental committee on Magdalene laundries, chaired by an independent person, to establish the facts of State involvement in Magdalene laundries;

welcomes the fact that the religious congregations who ran the Magdalene laundries, those individuals who were in Magdalene laundries and their advocacy and representative groups have all engaged with the committee;

notes that Senator Martin McAleese, chairman of the committee, has recently advised that:

- the committee has made excellent progress despite the considerable challenges faced;

and

- a significant level of information and documentation has been identified; however, relevant records continue to be identified by Government Departments and State agencies and the committee also continues to receive new submissions from representative and advocacy groups, with a submission in excess of over 100 pages only received from one such group as recently as 15 August 2012;

agrees that it would be wrong for the committee to conclude its work without examining the additional material and welcomes the excellent progress made by the committee and the statement that the committee intends to present a substantial final report as soon as possible and at the latest before the end of this year; and

commits to an open and meaningful response once the interdepartmental committee has reported.”

I am here today on behalf of my colleague, the Minister for Justice and Equality, Deputy Alan Shatter, to address the motion before the House. The first point I would like to make is that Members should be sensitive to the concerns of those who have been in Magdalene laundries. Both I and the Minister have met with many of the women who have been in Magdalene laundries and I understand Senator McAleese has met all of those who have come forward. All the women we met told their stories with a great deal of dignity and they deserve our respect. None of those we met were unmarried mothers and the branding of Magdalene laundries as a place for “fallen” women is a cause of great distress to them. We have also met with the various representative groups involved and those advocating on behalf of the women. We have listened carefully to all of them and we understand and share their desire, after so many years, to finally address their concerns and bring closure to this difficult chapter of their lives.

I assure the House that the Government is committed to addressing these issues. We began this process by establishing the interdepartmental committee under the independent chairmanship of Senator Martin McAleese and we are fully committed to addressing these issues once the final report is received. At all times, we have been conscious of the need to progress these matters as quickly as possible. I have a lot of sympathy for the position of those who ended up in Magdalene laundries. I have long held this view and I know many of the women involved

and what it meant for them. They existed in an era where Irish society could be harsh and even hostile to those less fortunate. It goes without saying, as I am sure many in this House will agree, that life in an institution can be a very poor substitute for the emotional and other support that is normally found in a family setting.

Turning to the Government amendment, the main point behind the amendment is that it is premature to have this debate without the benefit of Senator McAleese's report and the factual information it will bring. The Magdalene institutions that were still in operation when this State came into existence were all run by congregations of nuns. Like convents, they operated behind walls and closed doors, isolated from the mainstream of the community, and their story has not been told. The report of the interdepartmental committee will hopefully give us the first comprehensive, objective insight into that world. I do not doubt the sincerity of the women whom I have met and one must have sympathy with them for the hardships they faced and endured. Anyone who has read the Ryan report and its account of the industrial school system that operated in this State must be mindful of the possibility of abuses in other institutions run by religious orders. However, we cannot leap to conclusions without following fair procedures and trying in so far as we can to establish the facts.

As far as I am aware, allegations of abuse in Magdalene laundries has never been the subject of scrutiny by the courts, a commission of investigation or tribunal of inquiry, so the facts remain undetermined. I presume that is one of the reasons that led in June 2010 to the Justice for Magdalenes group contacting the Irish Human Rights Commission and requesting it to conduct an inquiry into the treatment of women and girls who resided in Magdalene laundries. The Irish Human Rights Commission decided not to conduct an inquiry. However, in its assessment published in November 2010, it considered that the issues raised warranted a statutory investigation. It recommended a two-stage approach. The first stage was to examine the extent of the State's involvement in and responsibility for what happened in the Magdalene laundries. Then, if State involvement and responsibility were established, a larger scale review of what occurred should take place and in appropriate cases redress should be granted where warranted. The previous Government did not take any action but within a month of taking office, this Government moved to set up the interdepartmental committee under the impeccable, independent chairmanship of Senator Martin McAleese.

Senator McAleese was appointed to the chairmanship of the committee so as to ensure there would be full confidence in the workings of the committee and no legitimate issue could arise with regard to the committee properly fulfilling its mandate. Both the Minister, Deputy Shatter, and the Government are very grateful to Senator McAleese for undertaking this important task and for the commitment he has shown to it. From conversation with him, I know his job has not been easy. Membership of the committee is drawn from representatives of six Departments: Justice and Equality; Health; the Environment, Community and Local Government; Education and Skills; Jobs, Enterprise and Innovation; and Children and Youth Affairs. Relevant Departments and State offices not represented on the committee have also been contacted with a view to checks being conducted on their records.

The committee was set up by the Government to establish the facts of State involvement with the Magdalene laundries, to clarify any State interaction and to produce a narrative detailing such interaction. It effectively is carrying out the first examination as recommended by the commission. It was deliberately decided not to start with a statutory inquiry. Our experience of statutory inquiries is that they are slow and expensive and the Government was conscious that many of the women concerned are elderly. It was confident that a non-statutory examination

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would be much quicker, less costly and equally, if not more, effective. The indications from Senator McAleese are that he expects to be in a position to submit a substantial final report in a matter of months, certainly before the end of the year. This will serve to confirm that the Government was right in taking this approach.

My understanding is that the religious congregations are giving their full co-operation. This is on a voluntary basis and has not given rise to the type of adversarial approach that often arises in statutory inquiries. I am glad to see that both the original motion and the Government amendment give due recognition to this co-operation. The House will know that the committee undertook to produce an interim report within three months of its establishment and that report was published within that timeframe, in October 2011. That report acknowledged the co-operation the committee was receiving from Departments, the religious orders and representative groups of women formerly resident in the laundries.

The committee also reported that extensive searches of all State records had commenced, with results being reported on a regular basis. While the interim progress report of the committee expressed the hope and intention that the committee could conclude its work by mid-2012, it pointed out that: "If the volume of records uncovered or available resources, including personnel, vary substantially from those currently anticipated, it may be necessary to adjust this intended time-line." I understand a significant level of information and documentation has already been identified by the committee and drafting of the final report has begun. However, relevant records continue to be identified and the committee also continues to receive new submissions from representative and advocacy groups. Indeed, a submission in excess of 100 pages was only recently received from one such group, on 15 August 2012. I am firmly of the view that the committee cannot be criticised for taking the time necessary to consider such material or any material which may of course have the potential to enhance the fact finding process and the eventual outcome of the committee's work.

Senator McAleese has advised that the committee intends to produce its final report as soon as possible, but at the latest before the end of the year. He has explained that information is still being identified which has the capacity to add to the overall outcome of the committee's work in a meaningful way. The committee feels that it would be improper to conclude without examining this additional information. The Minister and I have long believed that the issues raised by or on behalf of the women and girls who were resident in the Magdalene laundries must be addressed. We have great sympathy for these women and want to help in bringing some closure for the individuals concerned. The Government has put a process in place. All involved - the various Departments and agencies, the religious congregations who ran these institutions and the representative and advocacy groups of the women who formerly resided there - are co-operating with the process and we must now see it through. All the indications are that the report of the interdepartmental committee will put us in a position to have a meaningful debate on the issues raised by the different groups representing those who have been in Magdalene laundries and provide a proper response. The House is in full agreement on this issue.

Both the original motion and the Government amendment welcome the establishment of the committee and commit to an open and meaningful response to all the issues when the report is received. Indeed, the only difference is that the Government is not going to pre-empt the report of the committee by either making decisions or assertions. We have been told that we will have the report as soon as possible, and certainly before the end of year, which is only a matter of months. The only reasonable course of action now is to await the report. We will be better informed, the report will be published, and we will have a clearer understanding of the facts

involved. In fairness to everyone, I believe we will be better placed then to respond fully to the issues and for that reason I commend the Government amendment to the House.

Deputy Jerry Buttimer: I agree with Deputy McDonald that the women are both victims and survivors. They deserve the support of this House in their search for justice. I applaud their courage. Their support is paramount. It is safe to say there is broad agreement on the need to fully investigate the involvement of the State in the dreadful experiences of these women, who were shunned and separated from society. It is horrifying to contemplate the brutality that existed in these places, which lasted for the first 84 years of our State. Given that the last of the Magdalene laundries closed in 1996, we should realise that we are not just talking about a historic legacy. We are dealing with something that is a recent memory and a recent scar, unfortunately, for the many women who endured appalling treatment in these institutions.

I applaud the speech the Minister of State made tonight. For decades, these women were made to stand apart from society. They were removed from their families, their communities and their country. They deserve better. As a State, Ireland should be deeply ashamed of this legacy. As parliamentarians, we should work to ensure it never happens again. As a society and as a State, we have a duty to protect all our citizens, particularly those who are most vulnerable. The women who occupied the Magdalene laundries were not afforded this protection. Instead, they were subjected to physical abuse, emotional abuse and ill treatment. Their experiences have been described as “imprisonment” and as “slavery”. When one reads about their experiences and when listens to these women, one understands why these terms appropriately describe what happened.

The Government’s decision to establish an interdepartmental group, chaired by Senator McAleese, was a welcome one. This step signalled the beginning of our State taking responsibility for its action and its inaction. I am pleased that a quasi-legal approach was not taken. It is important for the committee’s work to conclude and for its report to be compiled quickly. The Minister of State mentioned that the deadline for the publication of the report, which was initially supposed to take place in the middle of this year, was extended after Senator McAleese’s group indicated that it needed more time. It behoves us to give more time to the group. We should bear in mind that these women are getting older. There has been huge anguish in their lives and they have been affected profoundly. Nevertheless, it is important for additional time to be made available to the group to ensure it can draw up a comprehensive appraisal of the involvement of the State. If that facilitates the compilation of a report that accurately reflects and acknowledges the involvement of the State, it will be a small and significant step towards due reparation for these women. That is very important.

I am aware of the desire of the Minister of State and the Government to address this issue properly. Following the publication of the report of the United Nations Committee against Torture, prompt action was taken to establish an independent and thorough investigation. Now that delays in the process have become evident, there is a need to consider whether the group requires additional resources. Government action should be taken to ensure there are no further delays. There should be consultation to see if the Government can act to expedite the delivery of this report in the interests of all involved.

There is an unwanted and undesirable symmetry to the issues that are being debated in this House tonight. The Second Stage debate on legislation providing for a referendum on children’s rights, which stems from the devastating failures of church and State, was commenced earlier this evening. This motion has been tabled to highlight the failure of the same institutions

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to deal compassionately with women who had children outside marriage or were otherwise treated wrongly. As I have said, their failure to compassionately protect children has necessitated a referendum on children's rights. Regrettably, the State that we as legislators work to change has failed the women of the Magdalene laundries. Regardless of party politics, we must take collective action to ensure they receive redress. Only when the involvement of the State has been fully catalogued will it be an appropriate time for a comprehensive apology to be made in the full knowledge of the facts. I hope this occurs quickly. These women deserve nothing less from the State.

Deputy Michael McCarthy: The Justice from Magdalenes survivors advocacy group has asked for a dignified debate on this motion to take place in the Chamber this evening and tomorrow evening. It is no less that we can do for these remarkable individuals who have always shown enormous grace and dignity in their dealings with this issue. They have stayed with it and made progress with it over the years. Without doubt, the era under discussion is one of the most shameful and distressing periods in our country's short history. It defies belief. It must be extremely upsetting for the people concerned and their families to think of the abuse, torture, neglect and societal stigma that were endured by those who were pushed away from the norms of society. These places were not intended to be used as prisons. No court orders were ever secured. These people were there against their will. They were put there to be kept out of the way. It further compounds our sense of disbelief to think that the people behind this abuse acted in the names of God, Jesus Christ and clerics of various descriptions.

As I said in the Seanad previously, this is our own holocaust. What was inflicted on these people was atrocious. There is no other way of describing it. As Deputy Buttimer pointed out, the last laundry closed in 1996, which is not that long ago. There will be a great deal of debate on the children's rights referendum in this Chamber and outside it in the weeks to come. In recent weeks, a senior cleric in Galway had the temerity to say that he had thought paedophilia was a step of friendship gone too far. That is the context in which we should reflect on the shameful behaviour of those who occupied positions of trust and respect in Irish society. Those who hid behind religion mocked it when they inflicted this kind of misery on people. It is shameful. I sincerely hope these people, many of whom are still around, hang their heads in shame at the thought that they went through this life inflicting such misery on others and engaging in such rank hypocrisy. It is disgraceful.

Many of the victims, or survivors as they have correctly been termed during this debate, never again saw their own families after they were incarcerated and, in effect, taken for slave labour purposes. They were worked to the bone for 10 hours a day, six days a week. They were completely cut off from what was happening outside these institutions. The initial trauma of being brought from one's community and one's home into these places must have been compounded by being used as slave labour. It makes the blood boil to think that capitalists who hid behind the name of religion profited from this free labour. The survivors are no longer physically incarcerated in these institutions but many of them have continued to feel forgotten and abandoned in the past and in the present. The lack of political conviction displayed by successive Administrations has compounded that sense of stigma and exploitation.

As we try to bring an element of dignity to this debate, we must acknowledge that the Minister, Deputy Shatter, established the interdepartmental group within three weeks of the formation of this Government. The Minister of State, Deputy Kathleen Lynch, worked like a Trojan on this issue in opposition and is continuing to do so in government. I believe that deserves to be acknowledged by those who tabled the motion this evening. I hope the fine and eloquent

contribution made by the Minister of State in explaining the amendment she has moved will not be lost on them. I am trying to be as restrained as I can when I say I sincerely hope that those who tabled this motion will always practice what they preach when it comes to the misery that has been inflicted on these people and on people in other sectors of this country in recent years.

I would like to quote from one of the victims who spoke out about her experience in a Magdalene Laundry:

Those places were the Irish gulags for women. When you went inside their doors you left behind your dignity, identity and humanity. We were locked up, had no outside contacts and got no wages, although we worked 10 hours a day, six days a week, 52 weeks a year. What else is that but slavery? And to think that they were doing all this in the name of a loving God.

A report on the Magdalene laundries that was published by the Irish Human Rights Council approximately two years ago provided further evidence of State complicity in the grave injustices that were visited upon the victims. It stated:

The treatment of these women and girls by the Religious Orders appears to have been harsh. They were reputedly forced to work long hours. Their names were often changed to a religious name, they were isolated from society and the girls were allegedly denied educational opportunities. The then Minister for Education and Science told the Oireachtas in 2001 that this treatment was abuse, that it involved an appalling breach of trust and that the victims suffered and continued to suffer.

Within a few short months this Government created the interdepartmental committee, independently chaired by Senator McAleese, and the advocacy group has recognised the important work Senator McAleese has carried out in this area. For reasons outlined by the Minister of State, Deputy Kathleen Lynch, and given the volume of work the committee has had to deal with, Senator McAleese has, naturally enough, sought an extension of time to deal with it.

Far from being a fig leaf, this is a genuine and constructive attempt by this Administration to deal with the appalling injustices in regard to the Magdalene laundries. I have no doubt that in the fullness of time these women will get the justice they deserve. I hope we can return to this issue in time and acknowledge that on the floor of this House.

Deputy Niall Collins: I wish to share time with Deputy Dara Calleary.

Acting Chairman (Deputy Tom Hayes): Is that agreed? Agreed.

Deputy Niall Collins: I am glad to have the opportunity to speak about the Magdalene laundries. While I am new to the justice portfolio, the groups representing women who were residents in these institutions had constant contact with my predecessor, Deputy Dara Calleary, who kept our party briefed on their ongoing issues. At the outset, I want to put on record my own opinion and that of Fianna Fáil that it was totally and utterly unacceptable that women were sent to Magdalene laundries and kept there against their will.

I am not here to make political points; nor should any Member of this House when speaking about this sensitive, hurtful and complex part of Ireland's history. There should be an all-party approach to reaching a satisfactory solution, if at all possible.

I am conscious also that we all use the term "Magdalene laundries" but that they were

known by a variety of terms, including “asylums”, “refuges” and “homes”. The women who resided and worked in the institutions were referred to as “penitents” or “inmates”, and latterly as “girls” and “women”. In my speech, I will be referring to them as “residents” even though the Justice for Magdalenes submission to the interdepartmental committee chaired by Senator McAleese has numerous contributions from residents who said they were held against their will and were never let out to visit their families or even to go into town to meet friends or go for a walk. There were women who said they were held in locked dormitories, with bars on the windows and with high walls surrounding the premises so the outside world was invisible. This, according to many residents, was particularly bad before the 1970s. According to one survivor, they seemed “to wake up in the 70’s and realise that people could not be treated in that way anymore”.

The Justice for Magdalenes submission, which is very detailed, refers to the legislation that covered these institutions, which applied in Ireland from the beginning of the last century. The Factory and Workshop Act 1907 entered into force on 1 January 1908 and applied to the whole of what was then the United Kingdom of Great Britain and Ireland. This Act had provisions covering laundries as a trade, hours of work and also “any premises forming part of an institution carried on for charitable or reformatory purposes”. Other legislation offering “protection to workers” was the 1901 Factory and Workshop Act, which, according to Justice for Magdalenes, should be considered by the interdepartmental committee. It included a section which outlines why any room a person is in “must not be locked or bolted or fastened in such a manner that they cannot be easily and immediately opened from the inside”. The Justice for Magdalenes submission gives many solid examples of sections of legislation from 1901 onwards, and some before, which, on the face of it, should have given some protection to the residents if it had been applied. However, there was little or no inspection and Justice for Magdalenes believes it was clear that, where the institutions were run by religious orders, “they fought tooth and nail to avoid inspection”. Even when letters of complaint were submitted, they were quickly dismissed.

The redacted parts of the Justice for Magdalenes report contains even more harrowing evidence but, even as it stands, the report gives a picture of society at the time, particularly the social stigma that applied to women who became pregnant outside of marriage. There is no doubt this stigma was due to what the Catholic Church predominantly dictated at the time and how society responded to this. It is important that this is all put into context and, while I am obviously not condoning what happened, context is crucial. Institutions such as these existed not only in Ireland; as confirmed in the Justice for Magdalenes report, there is also reference to such institutions run by religious orders in France and the UK and there are references to debates in the House of Commons in the 1920s regarding how inspections should be strengthened.

The Justice for Magdalenes report described how, in 1928, after Irish Independence, a Commission on the Relief of the Sick and Destitute Poor was set up, which outlined how a woman should be “incarcerated” for one year if pregnant outside marriage with her first child or for two years if it was her second pregnancy, and stated that the health board had the power to “retain for such period as they think fit, having considered the recommendation of the Superior or Matron of the Home”. It is stated the object was to “regulate, control [or] segregate those who have become sources of evil, danger, and expense to the community”.

Obviously, we are debating this in the Dáil in 2012. What we need to do is to determine what is best for the residents who have survived these institutions and what can be done for them to ease their pain, which is no doubt both physical and psychological. The State must do

all it can to co-operate as fully as possible in making notes, referrals and any other information available to the interdepartmental committee chaired by Senator McAleese. The religious orders and the Church also need to co-operate fully, and I welcome the announcement in July last by Archbishop Diarmuid Martin, who offered full and open access to the Dublin diocesan archives.

Everyone in Irish society needs to learn lessons from the Ryan report and other reports that exposed horrific stories from our past. The more open and honest the parties can be at every stage, the more it will enable a satisfactory solution. I see from the interim report that Senator McAleese has confirmed that full co-operation is being given, which is to be welcomed. However, the group is looking at ten institutions in operation since 1922 and this involves four religious orders. The work has been delayed slightly to allow all submissions to be examined, which is understandable given the extent of the task and given that records made before computerisation can be hard to find. There has been a call to include other institutions such as Bethany Home, and perhaps the Government could examine this request. Contact has been made by the committee with Departments, agencies, the Garda, the courts, the local authorities, the HSE, the LRC, the National Library and the National Archives, and the Irish Human Rights Commission has also made presentations to the committee.

When this report is finalised, it will be another step towards redress. I believe there should be a full debate in this House when the report is finalised and that there will be an all-party and constructive approach to redress.

Deputy Dara Calleary: I thank Deputy Collins for sharing time. There is an irony, as a number of Government speakers have noted, in the fact that we are debating this in a week when the entire machinery of the Oireachtas is being mobilised to ensure we get the necessary legislation passed for the referendum on children's rights, a referendum which is a direct consequence of many of the reports which are being cited here today and which dealt with acts that happened over many decades in this country's recent history.

It would be preferable if the House did not have to divide on this issue tomorrow. I again appeal to the Minister to see whether there can be any interaction with the Office of the Attorney General before 9 p.m. tomorrow to ensure an agreed wording can be drawn up.

The Justice for Magdalenes report summarises in horrific detail the reality for many of these women and their families - not just the families of the time but of today. It outlines the extent of the State's involvement in the Magdalene laundries. There was direct State financial support through the payment of capitation grants, while indirect financial support was provided through other means. The laundries were used for incarceration and there was a failure on the part of the State to insist that the laundries complied with health and safety legislation, as referred to by Deputy Collins. The State also failed to ensure that the children were educated, that tax and social welfare payments were collected from the laundries or that death certificates were issued by the laundries. There are unmarked graves in this city and elsewhere on this island and as a direct consequence of that, memories have been lost.

The point made by many Deputies is that this is not an historic event. This still goes on. Tonight there are people such as Maisie, who reports that she still suffers from nightmares 50 years later. In her dreams, she is locked in and cannot get out. She says that she cannot believe it still haunts her at her age, but "...it never leaves you...". Attracta says she feels very bitter and that Ireland let her down. Her husband says that she still cries at night and wakes up crying and

that it has effected all of her life.

There was no way out. When people tried to escape, as they did, they were caught by gardaí. One of the generous aspects of the Justice for Magdalenes submission is that they do not hold individual gardaí accountable. They want the force to respond. The forces of the State were mobilised to bring these people back into their prisons, which they are still in metaphorically tonight.

I thank Deputy McDonald for giving us the opportunity to discuss this matter. Deputy O'Sullivan has just joined us and I know that both Deputies have been very involved in this issue. I have absolutely no doubt that Senator Martin McAleese is giving this his full commitment. He was an inspired choice to lead this inquiry. I also have no doubt of the commitment of those in Government who are working on this issue. However, I doubt the institutions of the State. When I hear of cross-departmental committees, I get worried because immediately a defensive mechanism which is in-built in the institutions of the State kicks in. There is some sort of innate inability to acknowledge our role in this. We cannot acknowledge our debt to these people. We cannot admit or contemplate the fact that these women and their families are still living that nightmare. The motion before us puts the machinery of the State on notice that this Oireachtas will not waver. This Oireachtas has a moral mandate to deliver to these people and to account for the mistakes of previous Oireachtais and the machinery of Government.

In an article in *The Irish Times* today, Fintan O'Toole asks, "How long must they wait before the stain of the laundries is washed clean?". This Oireachtas is putting the machinery of Government on notice that we intend to do that. I know of the personal commitment of some of the Deputies on the other side of the House but we do not have a lot of time for a meaningful debate and response. Debate takes time and these women are owed their cleanliness moment and their dignity. I ask the Minister to ensure that when the report is published it is not passed off to some other interdepartmental committee for a report or response. I urge her to act on it so the 31st Dáil can say it gave these women back their dignity.

Deputy Maureen O'Sullivan: First, I acknowledge the work of Sinn Féin and Deputy McDonald, in particular, in bringing this debate to the Dáil and their efforts to secure cross-party and Independent support for this motion. The ladies deserve a dignified debate in this House. They were deprived of dignity in the laundries and some of them were deprived of it after they left. I also wish to acknowledge the work of the committee chaired by Senator McAleese and the work of Ms Nuala Ní Mhuircheartaigh, as well as the co-operation they received from various Departments and the religious orders. It is a tribute to the skills of the committee and Senator McAleese that all of that support and encouragement was received. However, I am disappointed by the delay in the completion of the report. Even more disappointing is the fact the report will not make any recommendations, which could result in further delays. That is no longer acceptable.

Above all, I wish to acknowledge the work of the Justice for Magdalenes group. Without them this is an episode in our history that people would have been delighted just to forget about and brush under the carpet. Were it not for their work, the issue would not be receiving the attention it is now getting. We have learned of the systematic abuse of people in industrial schools, the Magdalene laundries, the Bethany Home and in various sports organisations. These are very dark moments in our history but they do not belong to the past. They are still very much in the present because those people have to live with the scars of that abuse and the scars do not go away.

The ladies are asking for an apology and redress. Many of the women are living in very difficult circumstances. They are generally quite elderly so time is of the essence. It is important that more women do not die without an apology and redress. When I put a priority question to the Minister, he was quite horrified at my suggestion that delaying tactics were being employed but people cannot be blamed for thinking that.

The response to most of the questions posed by Members on this issue is that the Department wants to establish the facts fully. We know what Justice for Magdalenes has submitted regarding State involvement with the Magdalene laundries. Their submission document contained 12 files of supporting material and two files of survivor testimony, totalling 795 pages. They also submitted over 3,700 pages of archival and logistical documentation. These documents outlined what happened to these young girls and women. They were deprived of their liberty, physically and sexually abused, forced into slave labour, deprived of medical treatment, neglected and humiliated. They endured enormous fear, as well as the loss of their identity. One relative who visited a laundry described it as a “Gulag-style incarceration facility”.

There is clear evidence that the State’s judicial system routinely referred people to the Magdalene laundries. There was evidence of transfer from the industrial schools and from the mother and baby homes, which received State and local government funding. An aspect of this that I find particularly horrific is the number of young people who were put into the laundries by their families and simply left there, not to mention the State’s failure to supervise this.

The State apologised to the survivors of the industrial schools in May 1999, before carrying out the relevant inquiry and before establishing the redress scheme. A further apology was issued in 2009. In that context, I ask, as an interim measure, for a gesture of goodwill and an acknowledgement of what went on, that the apology could come sooner rather than later. I discovered in the Justice for Magdalene’s documentation that the first parliamentary question on the matter was asked in 1938.

In conclusion, this time last year I went to a play at the Dublin Fringe Festival called “Laundry” by Louise Lowe, whose family is from the north inner city. The play was based in the convent that was used as a Magdalene laundry in Sean McDermott Street and was like a virtual reality tour through the various rooms. I was totally traumatised by the experience, even though I was only there for about an hour and a half. It was a very visual representation of what those women went through. During the play, one of the characters said “Will you tell somebody?” and I reacted, as an audience member, and said “Who will I tell?”. Thinking about it afterwards I wondered who I would have told because nobody wanted to listen. Nobody in authority wanted to know what was going on. Finally, enough is enough for those ladies.

Deputy Michael Healy-Rae: I welcome the Minister of State and thank Deputy O’Sullivan for sharing time. I compliment Deputy McDonald and the group that came together to propose this motion, to which I was glad to put my name. This is a terribly important issue. Over 30,000 young people were stripped of their dignity and robbed of a happy and carefree childhood. This certainly deserves the utmost respect from the Government. The issue has been neglected for too long. Redress is required. Unfortunately, many fine, respectable people have gone to their graves without an apology or any form of redress. This is not about people seeking compensation. What they are seeking is acknowledgement. Redress is required for people who are still alive. It is sinful that so many have gone to their eternal reward without getting so much as a proper or acceptable apology. People only live for so long. It is awful to think of lovely young girls incarcerated in such institutions as the laundries who were mistreated and

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robbed of the happy days and nights they should have had. That is sad and an indictment of society at the time. It shows the lack of tolerance and humanity that existed at the time that beautiful, young people were mistreated in such a way. It was an awful period. It should never have been allowed to happen but it is the responsibility of each one of us elected to the Dáil to ensure we put forward our case and that the Government acts. I do not refer to the current Government specifically because there has been an unwillingness to deal adequately with the matter for many years. The State must live up to its responsibility. I compliment the Justice for Magdalenes group, which has done tremendous work, as have many other people in the past. It is time those in government ensure redress is provided and there is a proper apology.

I wish Senator Martin McAleese every success. He is a deeply committed individual whom I know is going about his job in a meticulous and hard-working fashion. We all acknowledge that. A stigma was put on those fine young people and the experience they went through was horrendous. Many of those affected are still alive and we must do everything we can to try to make up for the wrong that was perpetrated on them.

Unfortunately, there have been delays. I am not afraid to say and as has been stated that stalling tactics have been employed. When it comes to an issue such as this, sometimes the initial reaction of those in positions of responsibility is to stall in order to buy time. Unfortunately, time is running out for many and has run out for others who suffered in the past. I hope that once and for all proper justice will be done and that it will be seen to be done. It has been suggested that rather than taking different sides, we should all speak with the one voice on the issue. We should all sing from the same hymn sheet and ensure redress is provided.

I compliment and thank all of the speakers who have spoken on this important motion. I thank Deputy Mary Lou McDonald for introducing the Private Members' motion. Every week various important issues are raised on the floor of the House during Private Members' time. This is an important issue and must be given the utmost respect, which is the case. I am pleased to be present to support the motion.

Debate adjourned.

An Bille um an Aonú Leasú is Tríocha ar an mBunreacht (Leanaí) 2012: An Dara Céim (Atógáil)

Thirty-First Amendment of the Constitution (Children) Bill 2012: Second Stage (Resumed)

Atairgeadh an cheist: “Go léifear an Bille an Dara hUair anois.”

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

Deputy Catherine Murphy: Abuse takes many forms and poverty is one of the forms that rarely gets the kind of attention it deserves. Poverty takes power away from people. It was the children of poor families who often ended up in industrial schools or orphanages. Many of them suffered horrific abuse and were scarred for life. That was at a time when little children were supposed to be seen but not heard. Ironically, it was at a time when we had a greater number of families based on marriage. Often, they could not fight back because it was a time when religious institutions were at their most powerful. Some of that power led to horrific abuse, with successive reports detailing how a powerful institution such as the Roman Catholic Church abused its power by protecting itself at the expense of countless children. It is important to qualify that by saying that I refer to the institution of the church, because some members did not take any hand, act or part in the abuse. Sometimes, that is not said. We must learn from history or else we risk repeating it. That is the intention underlying what we do, namely, the commencement of a process by first putting a referendum to the people.

The commitment to be given in the Constitution, that “the best interests of the child shall be the paramount consideration” is one that must relate to all facets of a child’s life. The Ryan report, for example, sought for a culture of respecting and implementing rules and regulations and observing codes of conduct to be developed. That can only be achieved if the institutions are in place and are properly resourced. If all services for children are to be subject to regular inspections, as the Ryan report demands, there must be a sufficient number of inspectors who must be independent and capable of talking and listening to children. I frequently say that in this country we do not have experience of building good institutional architecture. Reform must include such an element of change. Too often we find that one arm of the State is not talking to the other and measures fail the very people they seek to protect. A great deal of attention must be paid to those failures at institutional level. In the context of reform, we currently talk about only one issue, namely, cutbacks. We must go beyond that to bring about serious institutional reform. We have a habit of throwing money at issues without going to the core of an issue to resolve it or building an integrated and workable solution.

While the referendum extends the prospect that many more children might be adopted, that happy outcome will not be available for all children in care. The Ryan report highlights the need for aftercare services. Serious work must be done in this area. Most families would not contemplate dumping out a child once he or she reached the age of 18, yet current guidelines indicate that the State “may” provide aftercare. It does not say it shall provide it. That approach is currently causing great distress for some young people and is in need of urgent change. It seems to me there are two sets of standards, one for services delivered by the HSE and another for 16 to 18 year olds in particular who are in the care of a service that is contracted out. I am concerned that the latter service is about looking after those aged 16 for whom one is paid and getting them out as quickly as one can when they reach 18. We must pay attention to the issue now to avoid talking about it in the future as a form of failure.

One of the major concerns that followed the failure of the economy in recent years was the damage to our reputation.

Our international reputation was further damaged after the publication of the Ryan report, which made international headlines in the UK, Australia, the Middle East, the United States and in other European countries. What the report had found was described as “appalling reading”, a shocking scale of sexual and physical abuse in the Irish education systems. “Ireland’s shameful tragedy” was the headline in the *New York Times*. We will rebuild our reputation if we do not repeat these mistakes and are seen to learn from and respond to them but it is not only about

our national reputation, which can be repaired. What cannot be repaired are the children who were damaged. We must anticipate problems and ensure they are not repeated. To do that we cannot merely pass a referendum. If it is to mean something further we will need a world-class child protection system. We cannot use the excuse that the state of the economy will not allow this. We need to make the best use of resources available to us but we also need a vision and a blueprint for the kind of service to which we aspire. We must begin to build and resource that system.

Too often, one institution of the State does not know what another arm of the State is doing. That must stop. Children are often not seen in the delivery of vital services. The Oireachtas Library & Information Service Bills digest draws attention to the family support model, describing the strong legislative framework and leadership that is especially needed to underpin services at levels 3 and 4. These levels are where one really comes across children at risk, where there may be violence and all kinds of abuse. I will offer one example from County Kildare, from the south of the county which is not my constituency. County Kildare has a population of 210,000 which makes it the fourth most populated county in the country. I say this to underline that it is a fairly large centre of population. The HSE built a refuge for victims of domestic violence but there is no money to open it although it is there and available. What is there at present is an information and support service which is really vital. I have referred people to it on several occasions and have been really impressed by the service provided, albeit very limited. When the centre opens the service will need a child protection worker to work in the refuge but it appears this is an afterthought for the HSE although there will be more children accommodated in that refuge, if it ever opens, than there will be women. It must be seen as an essential part of the service. There is also a suggestion that the centre will be run by volunteers. That would not meet the HIQA standards this State demands of such a service. The refuge might be opened, therefore, without meeting the very basic minimum standards expected of it. At present there are people staying in violent situations because there is no place for them to go. That is the kind of service in which one will see children at what are described as levels 3 and 4. We must put this situation right.

We also need to have detox beds for adults with a drug addiction. We often see such adults and can see their children being used and pushed around in situations where drug dealing may be going on, very openly. Those children very often end up in care. If we are serious about keeping children with their families we must deal with the origin of the problem. Having sufficient remedial action for people with a drug addiction is vital.

Increasingly, our focus is exclusively on the cost of everything, and what can be cut further. A greater reliance is being placed on any person or organisation that will assume responsibility for those with problems. In the absence of a blueprint we basically hope for the best. It is interesting to note that some of the most radical notions such as, for example, a welfare state, was conceived by the social reformer, William Beveridge, in 1942, in the middle years of one of the most tragic world events, the Second World War. He was capable of thinking beyond the present and constructing something worth aspiring to although his idea obviously played out differently depending on the country.

Let us aspire to something really world class for children. We need to look beyond what now seems certain and must aim for something bigger in the future. The kind of society we aspire to, how we share limited resources in a more equal way, how we can get more with less, how we protect our children, are all central issues for a good society. This referendum is a beginning but it must be followed by the means to deliver the aspiration it contains. I support

the referendum but it must be seen as a beginning and I believe this is something the Minister also accepts.

An Leas-Cheann Comhairle: Deputy Maureen O’Sullivan has 15 minutes.

Deputy Maureen O’Sullivan: The very frequently quoted line from our Proclamation mentions cherishing the children of the nation equally. That certainly has not happened in our history but this is an opportunity finally to get it right. The Minister and her Department have done amazing work to ensure the wording is as near perfect as is possible in the circumstances. It goes a long way. I take on board the support from the various reputable organisations involved in children’s rights, which is an affirmation of the Minister’s work. Those organisations have been calling for stronger protection for children’s rights for a long time.

The Ombudsman for Children gave the bottom line as the need to enshrine key children’s rights and principles in the Constitution in order to underpin a fundamental shift in our law, policy and practice regarding children. Of course, the irony cannot be lost on us in the Chamber tonight. We are now actively promoting children’s rights and seeking to include them in the Constitution but only five or six minutes ago I was speaking on the tragedy and horrors of what went on the Magdalene laundries, when children and young girls were confined, deprived of their rights, stripped of their identity and dignity and subject to humiliating and degrading treatment at the hands of adults. We know about the direct adult involvement, whether it was of members of religious orders or the different involvement of people in State organisations and Departments, or the gardaí who facilitated that abuse and allowed it to continue. For those few individuals who managed to escape there was the horror of being brought back by gardaí.

I am struck by another irony associated with the laundries and industrial schools. The family is central to our Constitution yet many families put their children into those institutions and allowed them to stay there for indeterminate times - one turned the key and forgot about it. That is not to take from those families who cared and visited, as is so powerfully conveyed in much of the work the Justice for Magdalenes group has done. That was not the end of it, of course, because we cannot say there was abuse only in the laundries and industrial schools. It went on in families, sports clubs and organisations and in residential care homes. The two reports, HIQA’s national standards for the protection and welfare of children in July and the independent review report on the deaths of children in care, show a litany of failures of instances of how children were so badly treated. This Bill, along with the National Vetting Bureau Bill, the Criminal Justice (Withholding of Information on Offences against Children) Bill, the Criminal Justice (Spent Convictions) Bill and the Mental Capacity Bill, will go a long way. The hope is that the measures will ensure not only adequate but thorough protection for all children. It all comes back to resources and the need for them to be in place to match what is intended.

I refer to the terms of the Bill, the “imprescriptible rights”, or rights that will not diminish over time. The Minister has mentioned “all” children. Will this term apply to those children living in the State who are not citizens of the State, in particular, to unaccompanied minors? We know from the Irish Refugee Council that the rights of these children are not being respected. The council’s recent report detailed children in our State asylum process who are living in extreme poverty in overcrowded accommodation and with inadequate food. These are the children in the direct provision centres. The report reviewed the conditions over a ten-year period. One of the points that struck me was that children were described as “alienated”, as a result of enforced poverty and social exclusion. There was a real risk of child abuse because of the overcrowding in the centres. A myriad issues arise in that regard.

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There have been improvements in the asylum process, but the process can take four years, if not longer. Some of the children born here have lived here all their lives. I am aware of the improvements, but these children are suffering in the meantime. I hope the Bill will cover them and also include those children whom we know have been trafficked.

Some reservations have been expressed about the possibility of high handed interference and intrusion in family life. We are aware of cases in which this has happened. There were some horrific cases in the United Kingdom where families were torn apart and children taken from their families. There was an abuse both of the rights of the children and those of their families. Some parents and individuals have a real fear in that regard. I hope the terms “to such extent”, “proportionate means” and “due regard” take this into account. I hope they are sufficiently adequate to ensure no family will feel threatened by what the Bill proposes to do.

People can be vicious. I was a teacher and the Minister was a social worker. We know about the making of allegations and the way in which situations can be misused and abused by young people. Care must be taken to ensure balance in order that no family is broken up or a child taken from a family needlessly and that no child is left in a position in which he or she should never be left in. We know there are such examples. We always presume that a child’s best interests are served in the family, but that is not always the case and the Bill is doing something to address this.

I am very interested in the adoption issue and aware that work in that area will accompany the Bill. It is welcome that married parents will be able to decide to have their children adopted and that children who have been in foster care for many years can now see light at the end of the tunnel. It is important also to acknowledge the work of foster carers. There are people who foster who do not want to go any further in the process, but there are also those who are fostering with a view to adoption. The reference in the Bill to a considerable period is welcome because a child can be in care for a number of years, there is a process to be followed and then a further process where the child is with the prospective adoptive parents. I am glad there will always be provision for children to maintain contact with their birth parents, but it is welcome that there will be a greater possibility for giving a second chance to these children. We know there are parents who will not parent and parents who cannot do so for a variety of reasons. Such parents need support. I hope the legislation will help parents with particular difficulties such as addiction who need support for a particular period, but it does not mean they are giving up on their children or do not want anything to do with them. Support is needed to ensure they can fulfil their duties. Sometimes there is too much emphasis on rights rather than responsibilities and this is one area where we can see this.

I am also conscious of the father where a couple is unmarried. There are various men’s organisations who cater for unmarried fathers who have been done a terrible injustice by the State. Their rights, responsibilities and interest in their child have often been disregarded. I hope they will be covered by the legislation and that they, too, will be eligible to participate in the fostering and adoption process.

I have mentioned the extent of addiction in the north inner city and the number of grandparents and extended family members who take on the responsibility of caring for children. I would hate to think this work would be undermined in any way and hope it can be supported by the Bill.

The Bill states the best interests of the child shall be the paramount consideration. I like the

reference that where a child is capable of forming his or her own views, his or her views shall be ascertained and given due weight. There is a balance to be struck in that regard. There is a song with the line, "You say it best when you say nothing at all". Social workers are trained professionals who can read situations and sometimes words do not reveal much; a child's silence can reveal more. If we want to protect children and vulnerable persons, they must be covered in the Constitution. The Minister is trying to do this in the Bill which reflects what we value in society. The Minister is including such provisions in the Bill because we did not value children in the past. I hope we have got it right this time.

This morning I was handing out certificates in a local primary school in the North Strand. The children received a blue flag and a green flag. I looked at all of them, some of whom had just started school. I am always struck by the line in Yeats' poem about the childish day being turned to tragedy. One hopes none of their days will ever be turned to the tragedy that comes with being abused and left in a situation they should not be in. I acknowledge all of the Minister's work on this legislation which goes a long way and I will support.

An Leas-Cheann Comhairle: I call Deputy Jerry Buttimer who will be followed by Deputies Tom Hayes and Tim Daly.

Deputy Jerry Buttimer: In welcoming the Thirty-First Amendment of the Constitution (Children) Bill 2012 I compliment the Minister for Child and Youth Affairs, her staff and her officials on their tenacity, commitment and resolve in adopting a bipartisan, cross-party approach to bring the legislation before the House. The Minister is to be commended for reaching out, listening and engaging. She was correct when she stated:

We must hope that some day the rights accruing to Irish citizens will be implicit. Until then we must make them explicit.

I hope the legislation will represent not just a new beginning but also the creation of a new Ireland which allows us to learn from what we have done wrong and protects and embraces the welfare of all our children.

This debate is critical. It is taking place at a time when our economic sovereignty is being questioned and our economic recovery is in its infancy. We are saying to families, children and the people that we value each other and that we want to live in a society that cherishes children. On an evening when we have debated the issue of the Magdalene laundries we are saying we have learned from the past and that we want to embrace the future through the medium of this constitutional amendment.

I had the pleasure and the privilege of chairing the Joint Committee on Health and Children which dealt with the Children First legislation. I have been fascinated by people's sense of expectation and excitement in looking forward to the referendum, but I have also been struck by the tremendous work, insight and ability of so many to reach out and make this a better society. The Bill is not just about children; it is also about building the family, supporting communities and stating children at risk must not just be a headline in a newspaper or a statistic in a report. It cannot be a catch-phrase. It states the State will act and work with parents to ensure the dark evil days will be no more.

The House debated the Magdalene laundries in Private Members' time. Seanad Éireann debated Private Members' motions on the issue of homophobic bullying and tonight in this Chamber we are dealing with a Bill to hold a children's rights referendum. It is about putting

people first. After the bringing forward of 17 reports, it is very much welcome that we will have a referendum which I hope the people will resoundly pass. Those who question the need for a referendum should do so, but they should also cast their minds back to the reports we have seen. Seventeen reports were written, independent of Governments of all hues; they outlined a catalogue of errors and a failure to act on behalf of children. We have a Government which has reached across the floor and stated we can no longer continue in the way we have been. The journey must not conclude with the referendum. We must continue to work with and provide for families which require the State to intervene and work for and with them. Mrs. Hillary Clinton famously wrote that it took a village to raise a child. I agree with her and, as the Minister stated at the press conference, that the best place for the child is at home with his or her family, but if the family cannot rear him or her, the State has a duty and right to intervene in exceptional circumstances. That is the reason the referendum is vital. It is about protecting children and supporting families. As Deputy Maureen O'Sullivan stated, the amendment is also concerned with addressing the issue of adoption in order to ensure that children who wish to be adopted will be adopted and that families which want to adopt will be able to do so.

The task of arriving at a formula of words may have taken a long time to complete and many may have believed that we would never reach this point. However, we have done what we set out to do. As Chairman of the Joint Committee on Health and Children, I compliment its Opposition members, Deputies Ó Caoláin, McConalogue, Troy and Seamus Healy, and Senator van Turnhout and those on the Government side on the work they have done to ensure that we put children first.

Lest people forget, it must be stated that the forthcoming referendum will reassert the view that the best place for a child is within his or her family. However, I cannot overemphasise the fact that this is not always the case and that there will be instances when intervention will be necessary. The Government has seen to it that for the first time in the history of the State a senior Minister with responsibility for children and youth affairs has a seat at the Cabinet table. It is also in the process of establishing a child and family support agency and has put in place the Children First legislation and drawn up the National Vetting Bureau (Children and Vulnerable Persons) Bill 2012. These comprise a suite of legislative and administrative procedures and policies designed to ensure that the referendum will be another part of the jigsaw relating to Irish society.

I welcome the new Article 42A, which deals with children. This is an important point. It is incumbent on everyone in this House, irrespective of his or her political affiliations or views, to ensure that children are protected. The forthcoming referendum is necessary not just as a result of the failure on the part of the State but also that of the church to act and intervene on behalf of children. The proposed new article declares that "The State recognises and affirms the natural and imprescriptible rights of all children and shall, as far as practicable, by its laws protect and vindicate those rights." That is what we are about, namely, ensuring that we allow our society to flourish and blossom. We must, as Deputy Catherine Murphy indicated, send a message to the outside world that this is a new and modern Ireland which has values and a sense of itself going forward.

If one considers our journey from the report compiled by former Supreme Court Justice Catherine McGuinness on the Kilkenny incest case to the point at which we find ourselves today, one can see that this referendum is necessary. The Bill does not merely relate to amending the Constitution, it also relates to people. If we are to cherish all of our children equally, then the referendum must be passed. If we fail to pass the referendum, it will not necessarily be a

regressive step. It will, however, be a statement to the effect that the work done in the past 18 months on a cross-party basis has been worthless. That work is not worthless, it is worthwhile.

In the context of adoption, the Minister for Children and Youth Affairs has in recent days reached out to the authorities in Vietnam and re-established our connection with that country. This shows that there is new thinking and a new approach within the Government in respect of the issues involved.

The forthcoming referendum is important and I encourage everyone to take the opportunity to vote. In particular, I wish to take this opportunity to reach out to the young people in our third level institutions to take advantage of the fact that the referendum is being held on a Saturday. I urge them to go home to vote or to register in the new constituencies in which they are living in order that they may do so. Everybody has a duty to vote "Yes" in the referendum. What is being done here is not about today, rather it relates to the Ireland of tomorrow.

Deputy Tom Hayes: I am pleased to contribute to the debate on this Bill, which is hugely important to many people throughout the country. Amending the Constitution is a serious matter which always requires serious debate. This has never been more true than in the case of the proposed thirty-first amendment to the Constitution. The aim of the amendment is clear, namely, to enshrine children's rights in the Constitution - a document which dictates how our Government operates and that for which our country stands - for the first time. This amendment was not drawn up overnight, it is the result of five years of formal deliberation and almost 12 years of public and private debate.

I compliment the Minister, Deputy Fitzgerald, on arriving at a wording that is acceptable to everybody in the House. Earlier this evening I listened with interest to the contributions of Opposition Members who also praised the Minister. It is a welcome, if not unique, development that we are discussing children in this House and that there is agreement on the matter. I again compliment the Minister in that regard. I also compliment those opposite on being fair and open. What is happening here bodes well for the Houses of the Oireachtas for the future and we must seek to learn from it.

Ireland has been obliged to learn the importance of children's rights the hard way. Members do not need to be reminded of that fact. Since 1993 there have been 17 reports in which the failures of our child protection system have been outlined in detail. Arguably, one of the most shocking reports relates to the Roscommon child care case. This report laid much of the blame at the feet of the State. It also detailed how it took the relevant health board eight years to react appropriately to horrific levels of child abuse. We watched in amazement as the details relating to that case emerged.

While most of us in this Chamber are in broad agreement on the need for the rights of children to be enshrined in our Constitution, some outside do not see matters in that way. Some opponents say that the forthcoming referendum is not necessary and that legislation alone would be sufficient. I disagree. While it was never the intention of those who framed it, the Constitution, as it currently stands, is vague on this issue. The Constitution can often be manipulated and interpreted as a document which places greater value on the rights of parents than on those of children. In some cases, this has allowed abuse to continue even when that should not have been the case. There are too many examples of instances when the State could have intervened but did not do so simply because it felt vulnerable from a legal standpoint. I contend that this will no longer be the case.

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The thirty-first amendment to the Constitution will put the rights of the child front and centre in our legal system. It will give children, having regard for their young age and potential vulnerability, special protection by virtue of formally recognising their importance within our Constitution. The amendment will also remove obstacles for married parents to the voluntary placement of children for adoption. In the absence of this change some children would remain in short-term care for the entire duration of their childhoods, without the possibility of being party to the security that adoption brings. The amendment will also end the current practice of treating children differently on foot of their parents' marital status. It will ensure that the rights of the family, as set out in Article 41 of the Constitution, will be respected and preserved in exactly the way they were meant to be. It must be remembered that our Constitution expresses our priorities as a country, shapes all of our discussions in this House and provides certainty as to that for which we stand.

I wish to conclude by recognising the work already done by the many families throughout the country that have devoted their lives to children in need. I refer to those who have taken in children and helped them through difficult periods in their own lives.

Deputy Jim Daly: Go raibh maith agat a Leas-Cheann Comhairle. Táim buíoch as ucht an deis labhairt san díospóireact tabhachtach seo. In the words of Herbert Hoover, the 31st President of the United States of America, children are our most valuable natural resource. In the 80 years since those words were uttered the value of that statement has not changed and, if anything, society has a stronger realisation of its truth.

Yesterday I had occasion to visit a residential centre offering treatment for substance misuse to teenagers. I spoke with many of the professional staff who deal with the teenagers and I also spoke with the teenagers themselves. The message I took from my visit is the same as the Minister's, which is the importance and need to support families. The best way to protect children and to enshrine their rights is by supporting families because the family is the natural home for children and teenagers.

My own family, for all its function and dysfunction, has the privilege of welcoming and taking care of children who are in the care of the State. The experience of fostering children has highlighted many of the wonderful elements associated with caring for children but it has also highlighted for me the very necessary changes required to ensure the well-being of children.

A cursory glance at case law will show there is a need for serious reform at judicial level. The constitutional amendment, which it is hoped will be passed, will make it easier for the Judiciary to recognise the rights of the child. It will ensure that for the first time - ashamedly - the welfare and the well-being of the child will be paramount in all judicial proceedings.

The decisions of the Judiciary which often seem to be cold and clinical, fail to recognise the importance of the needs of the child. I look forward to the day when cases of children being put into care will be decided not in the courts but by a committee of competent persons qualified in the necessary welfare of children.

I refer to other worrying trends that have developed in the child care area. In my past experience as a teacher and currently as a parent and foster parent, I have noted a worrying development in some cases where there is a tendency to over-compensate for a lack of parenting skills by diagnosing and labelling our children. This is detrimental to our society and it will be harmful to our children in the future.

The best support to offer children is to support the family. Society needs to recognise the needs of parents. Not every parent possesses the parenting skills necessary to rear children and many of us lack the necessary resources and wherewithal to do so. If the State is to genuinely put the needs of children first the first step must be to support families. I look forward to us developing those strengths and the necessary parenting skills.

Deputy Barry Cowen: Like many other speakers I congratulate the Minister, Deputy Fitzgerald and her staff on this momentous occasion. She has brought forward a wording which has been deliberated upon for many years by her predecessors and by Oireachtas joint committees. I welcome the wording of the amendment and the decision to hold the referendum on a Saturday which ensures that everyone in the State will have an opportunity to participate in the vote. I hope there will be full participation in the debate over the coming weeks.

The wording is similar to that proposed by Barry Andrews and agreed by the previous Government in January 2011. Significant progress has been made, despite many contentions to the opposite, in recent years. The rights of children have been enhanced through legislation such as the Children Act 2001 and the Child Care Act 2007.

I wish to acknowledge the work of former Ministers with responsibility for children, Barry Andrews and Brian Lenihan. That this proposed wording has achieved cross-party consensus is a tribute not only to the Minister but to all those across the political divide who were members of the previous Oireachtas joint committee chaired by Mary O'Rourke. There is universal approval for the measure before the House, which will be put to the people. It is right, however, to examine the failings of the State in the past and more important, seek to rectify the wording in the Constitution to ensure the many failings recognised in such damning reports are not repeated in the future.

A few points keep re-emerging and which were to the forefront of the minds of everyone who, in the past, sat down with a view to rectifying this situation in the Constitution. The aim is that all children, both from marital or non-marital relationships, are treated the same. The voice of the child must be recognised in the Constitution. A welcome provision is that children are to be treated equally with regard to adoption. This is a very welcome development in addition to the wording and it is vital that it is dealt with alongside the amendment to the Constitution.

Having witnessed these damning reports we have a duty as legislators and parliamentarians to give the electorate the opportunity to make this amendment, based on the best expert advice and opinion that has been used, through the leadership of the Minister. The amendment must ensure that the State takes responsibility and responds in a timely fashion to protect children who are being abused or neglected. It must ensure that the State takes responsibility and will never again stand idly by and allow troubled children to fall through the net and end up in prison and on the streets. It must ensure that children are never discriminated against again. It must ensure that in any legal or judicial setting where the future welfare of a child is at stake, the best interests of that child are paramount.

We accept that the children's rights referendum is not necessarily a panacea for all child protection issues but there are some immediate and substantial differences which it will bring about. It will allow for hundreds of children in long-term foster care to be adopted by their foster parents, something that until now has not been possible. I commend Deputy Jim Daly and I acknowledge his commitment in his capacity as a foster parent. I pay tribute, as did both he and the Minister, to all those who take it upon themselves to nurture and develop the minds of

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children who have not had the same opportunities as many of us. That is a most commendable trait in any person. Expending effort in so many ways, financially and emotionally, for someone else's child, is a significant service to the State which must be recognised. I am pleased that the proposed amendment contains the options for this service to be formalised in an adoptive nature in the future.

The Children's Rights Alliance notes that currently more than 2,000 children in long-term foster care will be affected by this proposal. As Mr. Geoffrey Shannon, the Government's special rapporteur on child protection, said this week, this amendment will help to prevent a situation where children are drifting rudderless in the welfare system and will allow hundreds of children in long-term foster care to be adopted. We hope the referendum will end the legal limbo in which hundreds of child find themselves and which hundreds more will face in the future unless the Constitution is changed to allow for the adoption of marital children. These are points we hope to reiterate at every given opportunity to ensure the public understands absolutely that these amendments to our Constitution can only improve the lot of the children we seek to protect.

Under the proposed amendment, married parents will be allowed to place their children for adoption. This is about giving all children equal rights regardless of the marital status of their parents. It is not about removing children from their families and putting them into care. The objective is to ensure that children in the care system are no longer left to drift but are instead given a second chance. Mr. Shannon has articulated his view that this will not lead to a situation where larger numbers of children go into the care system. Instead, it will ensure the right children are brought into the system, which is precisely what matters most.

One only has to consider the work of the Office of the Ombudsman for Children to see how children's rights are absent from decision making across a wide range of public bodies. In a report published by that office in April 2011, entitled A Children's Rights Analysis of Investigations, ten investigations by the office in recent years were reviewed from a children's rights perspective. These cases concerned school transport, local authority housing provision, special needs provision, Health Service Executive provision for alternative care and the handling of a child protection complaint. Several common themes emerged in these investigations, with all of them showing that children appear to be largely invisible in decision-making processes which affect their lives and that decision making by public bodies often was not informed by the impact on children or what was in their best interests. In short, decisions taken and how the decision-making process was handled were not informed by children's rights principles. It is amazing in this day and age, despite all the warning signs and all the damning reports, that arms of this State can make decisions without taking into consideration the basic rights of children. The report stressed the need for an amendment to the Constitution based on the principles of the United Nations Convention on the Rights of the Child.

Fianna Fáil considers the proposed amendment to the Constitution as a welcome addition to the legislation already in place to protect the welfare of children. Various items of legislation introduced in the Dáil in recent years were welcome in so far as they went, but they did not complete the package as this proposal will do. As such, we congratulate those involved in bringing the proposal to this stage. Our decision to submit amendments is based purely on a desire to strengthen the proposed wording as much as possible. It is not an attempt to take from what is before us or to deflect from the effort and commitment attached to the achievement of having brought the proposal before the House. It would be commendable of the Minister to assess our proposals on their merits. To reiterate, we fully support the Government proposal and

will campaign for a “Yes” vote. Nevertheless, we are of the view that the proposed wording could be amended slightly to afford even greater protection for children.

Specifically, our proposal is that the draft Article 42A.1 be amended to make it consistent with the constitutional protection afforded citizens under Article 40.3.1. The latter provides that, “The State guarantees in its laws to respect and, as far as practicable, by its laws to defend and vindicate the personal rights of the citizen.” A similar level of protection could be afforded in the new article concerning children by amending the proposed wording to read as follows:

The State recognises and affirms the natural and imprescriptible rights of all children and guarantees, as far as practicable, by its laws to defend and vindicate those rights.

This configuration would ensure the same protection for children as is provided to the citizen in Article 40.3.1. This is necessary and appropriate since it is likely that the courts will interpret children’s rights as being protected by the new Article 42A.1 rather than Article 40.3.1.

Our second amendment proposes that the exceptional cases intervention provided for in Article 42A.2.1 be clarified to correspond with the statutory protection afforded to the child under the Child Care Act 1991, which refers to the “health, development or welfare” of the child. It is proposed that this be mirrored in the wording of the constitutional protection. For the same reason, Fianna Fáil proposes, in its third amendment, that Article 42A. 4.1(i) be amended by replacing the reference to the “safety and welfare of any child” with a reference to the “health, safety, development or welfare of any child”.

I ask the Minister to give careful consideration to our amendments. I conclude by commending her once again on the work she has done to bring this proposal to the House. I hope she will be rewarded by way of a resounding “Yes” vote by the electorate. I thank other speakers for the insight and personal experience they brought to bear in their contributions. If this Dáil were to achieve nothing other than the successful passage of this proposal to include specific rights for children in the Constitution, it will have been a good Dáil.

Deputy Áine Collins: I propose to share time with Deputy Tony McLoughlin.

An Leas-Cheann Comhairle: That is agreed.

Deputy Áine Collins: I congratulate the Minister, Deputy Frances Fitzgerald, on her handling of this very sensitive issue. It has been recognised for years that a constitutional amendment was required to guarantee that children’s interests are foremost when the State is dealing with their rights. I take this opportunity to thank Deputy Barry Cowen for his contribution. It is heartening to see a Government proposal receiving such a resoundingly positive response from the Opposition. It goes to show that when we get it right, everybody is in agreement.

The family plays a very important role in Irish society, but the concept of “family” has changed over the years. We must seek to recognise these changes while always ensuring that the welfare of the child is protected. The balance between the rights of parents and children was always a sensitive issue and the Constitution has strong provisions protecting parents’ and family rights. The inclusion of the exceptional circumstances proviso seeks to maintain this balance by ensuring the State will intervene only where parents are totally incapable of looking after the best interests of their children. Unfortunately, several recent cases have shown the need for such intervention by the State.

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It has been argued that this type of intervention is already possibly through the application of existing laws. The reality, however, is that the current position sets up a conflict between the rights of parents and the rights of children, a lack of clarity which inevitably leaves matters open to interpretation by the courts. This constitutional amendment, along with the accompanying legislation, clarifies the whole area by putting the rights of children to the forefront. In future, all legislation will have to be proofed against its provisions.

I particularly welcome the provision that children in foster care may, in certain circumstances, be adopted. Again, the wording is well balanced:

Provision shall be made by law for the adoption of any child where the parents have failed for such a period of time as may be prescribed by law in their duty towards the child and where the best interest of the child so requires.

The practice in Ireland up to now is that children in long-term foster care placements were being adopted just before their 18th birthday. Long-term foster parents have adopted this approach so that the child they have fostered for many years can avail of all the legal rights offered to adopted children.

Given that the Constitution promises to cherish all the children of the nation equally, it is astonishing that the unjust circumstances pertaining to adoption have been allowed to continue for so long. Even in Britain, which does not have a constitution enshrining a promise to cherish the country's children, the adoption of children who have been in foster care for 12 months is permitted.

Under the proposed adoption legislation, children of married parents will be eligible for adoption once they have been fostered for 36 months. The key element in this proposal is that the time envisaged will ensure a child's parents have every opportunity to prove they have the capability of caring for their child should they wish to do so. The proposed law will also mean a child must spend 18 months in the foster care of his or her proposed adoptive parents. As a result, the adoptive parents and child will have sufficient time to ensure adoption is the desired option.

The new legislation recognises the right of children to be heard. Where children are capable of having a voice, their voice must be taken into account. The views of the child will be taken into consideration and given due weight in accordance with his or her age and maturity. For the first time, input about a child's welfare will not be made solely by adults because the opinions of the child in question must be taken into consideration.

This referendum has the potential to change children's lives for the better by enshrining their rights in the Constitution. I am pleased this major step forward in promoting the legal, emotional and social needs of all our children who remain vulnerable is being fully supported by all political parties and organisations dealing with child welfare. I believe that on polling day a large majority will vote in favour of this amendment to the Constitution. I concur with Deputy Cowen's point that if nothing else is achieved in this Dáil, the children's referendum will at least be remembered.

I congratulate the Minister on recently finalising agreement with the Vietnamese Government on the adoption issue that has been ongoing between Ireland and Vietnam. I understand Vietnam has signed up to the Hague Convention, which has allowed the Minister to sign an agreement that will resolve many of the difficulties experienced by Irish couples seeking to

adopt Vietnamese children.

Protecting the rights of children and giving them a better life must always be at the heart of society. For this reason, I am very pleased the Bill is before the House and that, on 10 November, people will be given a chance to vote on an important and necessary change to our Constitution. I am, therefore, pleased to commend this Bill to the House.

Deputy Tony McLoughlin: I am grateful for an opportunity to speak on this important Bill. I was elected to the House in 2011 when, for the first time in our history, the Taoiseach appointed a full Cabinet Minister with responsibility for children. It is important to pay tribute to him and the Tánaiste for recognising the importance of placing our children at the heart of government. The establishment of a full Department of Children and Youth Affairs is significant as it signals the intent of Fine Gael and the Labour Party in government to address children's rights.

Over the next seven weeks, children will be at the heart of political debate. This fact alone is to be welcomed. To date, opposition to the referendum is small and focused, which tells us much about the weight of opinion behind the "No" side of the debate. Nevertheless, it is important we examine the points of opposition to the Bill and referendum. The former Supreme Court judge, Hugh O'Flaherty, has argued that the referendum is unnecessary and in a recent eloquent article in the *Irish Independent* referred to the skill of President de Valera in drafting the 1937 Constitution. While I am not a lawyer or constitutional expert, it is clear from the Roscommon child abuse case that our Constitution proved inadequate when challenged to provide for the care of children. The shocking case to which I refer, involving the abuse and neglect of children at the hands of their parents, was well documented and highlighted in the media. Social workers who sought to intervene to protect the children in question were met by a High Court challenge taken by the parents of the children in question. Their action was successful and the children continued to suffer for some time afterwards.

Unacceptable as it was, the judge's decision in the case was based on a reading of Bunreacht na hÉireann. The children's interest makes the case for change. The new Article 42A provides that: "In exceptional cases, where the parents, regardless of their marital status, fail in their duty towards their children to such extent that the safety or welfare of any of their children is likely to be prejudicially affected, the State as guardian of the common good shall, by proportionate means as provided by law, endeavour to supply the place of the parents, but always with due regard for the natural and imprescriptible rights of the child."

Of approximately 30,000 child protection and welfare concerns reported to the welfare services last year, the majority were addressed by way of support to the parents and families in question. More than 16,000 of them related to child welfare, including 1,500 confirmed cases of sexual, physical or emotional abuse. This referendum seeks to ensure children at risk are protected from harm and sets out when and how intervention should occur. Intervention is an issue for the small number of people who oppose the referendum who argue that personnel from the Health Service Executive and social services will have *carte blanche* to remove children from their parents and homes. However, the key proposal sets out when and how intervention should occur and provides for a focus on the child in that it refers to the impact of parent failure on the child's safety and welfare rather than solely on such failure and the reasons for it. Overall, Article 42A focuses on affording protection to children under the Constitution, while respecting and preserving the rights of parents and families.

I welcome developments in adoption reform. I listened recently to a radio interview with

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a lady who detailed how she and her family had fostered a child for 12 years beginning at the age of three. It was obvious the child in question was in a loving home where it was cherished and loved. When the child sought to be adopted by the foster family, with its wholehearted endorsement, this proved impossible. The legislation and proposed constitutional amendment, if passed, will change the position for children and foster families in such circumstances and is, therefore, warmly welcome.

For many years, some children were taken into care and institutionalised and it is well documented that the State did not protect them. However, many people have provided magnificent support and care in their homes for children who had to be taken from their parents as a result of abuse. Many of the children in question were fantastic individuals who were able to progress to adulthood and lead lives free from social and mental deprivation. The real heroes are the foster families and the women and men who lead them. The referendum proposal and associated legislation to be published at the same time will provide greater possibilities than are currently provided for children to have a second chance by means of adoption by a loving family. In addition, it is intended to allow for the first time for the voluntary placement for adoption of a child of married parents who voluntarily decide they are not in a position to care for it. Such voluntary placements are currently only possible in the case of children of unmarried parents.

I share the belief held by many other Deputies that the family is at the centre of society and life. This is a Christian philosophy. I sometimes worry what the future will hold if the family model breaks down. Social breakdown, crime, drugs, sexual abuse and underage alcohol consumption have all resulted from family breakdown. When one parent leaves a relationship, the other partner may not be in a position to manage the children on his or her own and matters spin out of control. While this may be a debate for another day, it is a concern for society when family units break down because children in such broken partnerships often lose their way.

I welcome the proposal in the Bill to give firmer recognition to the protection of the rights of children under the Constitution while continuing to respect and preserve the rights of the family, as set out in the existing Article 41 of the Constitution. Many other proposals in the Bill are also worthy of mention but time does not permit me to discuss them. My final words are for the Minister for Children and Youth Affairs, Deputy Frances Fitzgerald, and her team in the Department who worked hard over the summer to prepare the legislation. They have got the wording and timing of the referendum right. The criticism levelled at the Minister that she should have moved more quickly and announced a date for the referendum earlier is not valid. Time is needed to prepare any proposed wording to change the Constitution.

Cuireadh an díospóireacht ar athló.

Debate adjourned.

The Dáil adjourned at 10 p.m. until 10.30 a.m. on Wednesday, 26 September 2012.