



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

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

Commission of Investigation Announcement on Tuam Mother and Baby Home: Statements (Resumed) . . .	129
Leaders' Questions	141
Questions on Promised Legislation	154
Ceisteanna - Questions	163
Taoiseach's Meetings and Engagements	163
Taoiseach's Meetings and Engagements	168
Priority Questions	175
Aviation Industry Regulations	175
Road Tolls	178
Bus Éireann	181
Railway Stations	182
Aviation Industry	185
Other Questions	187
Departmental Agencies Funding	187
Coast Guard Services	189
Fáilte Ireland	192
Bus Éireann	194
Road Projects	196
Road Projects	199
Topical Issue Matters	200
Topical Issue Debate	201
Residential Institutions Data	201
School Curriculum	204
Schools Building Projects	206
Arts Funding	209
Business of Dáil	211
Message from Select Committee	211
An Bille um an gCúigiú Leasú is Tríocha ar an mBunreacht (Cearta Eacnamaíochta, Sóisialacha agus Cultúir), 2016: An Dara Céim [Comhaltaí Príobháideacha]	212
Thirty-fifth Amendment of the Constitution (Economic, Social and Cultural Rights) Bill 2016: Second Stage [Private Members]	212
Health (Amendment) Bill 2017: Committee and Remaining Stages	235
Companies (Accounting) Bill 2016: Order for Report Stage	238
Mediation Bill 2017: Second Stage (Resumed)	251
Mediation Bill 2017: Referral to Select Committee	257

DÁIL ÉIREANN

Dé Céadaoin, 22 Márta 2017

Wednesday, 22 March 2017

Chuaigh an Ceann Comhairle i gceannas ar 10 a.m.

Paidir.
Prayer.

Commission of Investigation Announcement on Tuam Mother and Baby Home: Statements (Resumed)

Deputy Mary Butler: Recent confirmation that a significant number of babies and infants were buried at the site of the Bon Secours mother and baby home in Tuam reminds us how inhumane our country's history is. Fianna Fáil and I express our most sincere sympathy to all those affected by the mother and baby homes, particularly those women and children who were sent there by their families, which was, unfortunately, accepted by society then.

From the outset Fianna Fáil has been of the view that the terms of reference for any investigation should be sufficiently flexible to allow the stories of the widest possible range of institutions to be told. Fianna Fáil will engage with survivor groups to discuss the terms of reference and assess how the process can be best progressed. The treatment of mothers and children in these institutions is a dark chapter in our country's history. We must learn from our mistakes and we need to ensure there is a proper child protection environment for children today. Our hope is that the investigation under the direction of Judge Yvonne Murphy can contribute in a meaningful way to this process and that the work can be expedited.

The most important focus we must have is on the mothers and babies. These mothers, babies and families must come first and be our sole focus. Fianna Fáil recognises the considerable harm experienced by survivors of mother and baby homes and similar institutions in Ireland. The shock and horror of seeing the names, like a roll call, of the 796 babies buried in the mother and baby home in Tuam is incomprehensible - 796 babies aged between 35 weeks to three years buried, some in graves but most, we believe, in septic tanks. It is hard even to say the words. These children died of whooping cough, bronchitis, pneumonia and malnutrition. It is very hard to believe that children could die of hunger. These mothers and babies were separated at birth and torn apart, with some of the babies adopted and some sent to America for a better life, we hope.

I understand much of what I am saying was repeated last night when we were discussing the amendment to the motion, but this is my first opportunity to put this on the record. These babies, these mothers and these families need the ongoing commission of investigation into mother and baby homes to complete its work in a timely fashion. The mothers need the truth. They need to know why their babies died, whether their babies were adopted and, if so, what

happened to them. They need closure. These women, siblings and families need to know what happened. They have lived too long waking every day wondering what happened to their babies. I spoke to a woman affected recently. What happened to her baby is the first thing she thinks of in the morning and the last thing she thinks of going to bed. All they want is closure. If there is a grave, she wants to be able to visit the grave; if there was an adoption, she wants to know. She just needs to find out the truth. Having spoken to some of these women, I can say that the most important thing is that they be told what happened to their babies.

I believe a truth commission is necessary. It should be carried out in a manner that complements and does not infringe upon the ongoing commission of investigation. This will be done in co-operation with survivor groups to ensure the truth commission is solely focused on the needs of survivors, who must come first in this. The truth commission needs to be established following international best practice and guided by similar commissions in South Africa, Chile and Canada. The views and experiences of all survivors of mother and baby homes will have to be listened to, respected and acknowledged. We need to bring healing and reconciliation to survivor communities, the broader public, communities and the State.

In the 1970s, Tuam locals discovered what were believed to be human remains at the site of the mother and baby home. Furthermore, local historian Catherine Corless discovered death records for 796 babies and infants who did not have burial records, indicating that the remains found on the site may have been buried by the mother and baby homes. The work this lady has done is immense, and I pay tribute to her. In her own words, she was a kitchen-table historian. She shunned the limelight. It is not that she was happy to bring this story out, she just needed to know what had happened. She has spoken about her time in school as a child and the fact that the children from the mother and baby homes used to come in ten minutes after the other children and used to leave ten minutes before they went home in the evening so they were not allowed to mix. She has also recalled that they were always very pale-looking and that they never played with one another at playtime, so the segregation was happening even then. We owe Catherine Corless a great debt of gratitude as she has persevered all this time to try to bring closure to these people. As my colleague, Deputy Anne Rabbitte, said last night, this is not only about Tuam. This is about all the mother and baby homes, community hospitals and laundries all over Ireland. Tuam is only the tip of the iceberg and, unfortunately, I think a tsunami of cases similar to that of Tuam are coming down the road.

Excavations show that the remains are of children whose ages of death were between 35 foetal weeks and three years. It is not yet known how many remains are at the site, although the Minister has confirmed that there is likely a significant number. At this point, the Department of Children and Youth Affairs is co-ordinating with the commission, the north Galway coroner, Galway city and county councils, interested parties and local residents in establishing what the next steps should be. A number of factors will continue to be examined, including whether the remains should be exhumed; if so, where they should be reinterred; the future of the site; and the circumstances surrounding the deaths of the children interred at the site. This deeply saddening discovery reaffirms even our worst suspicions about mother and baby homes and underscores the importance of the ongoing commission of investigation into mother and baby homes across Ireland. Without rigorous examination of how women and children were treated during and after their ordeals in mother and baby homes, it is impossible to serve justice to all those affected by the homes. We must ensure that the stories and experiences of these women and children are not forgotten and that their memory is honoured.

As Deputy Fiona O'Loughlin said last night, we must be cognisant of the fact that Sunday

22 March 2017

coming is Mother's Day, which for many mothers, aunties and grannies is a very significant day, and that, unfortunately, for the past month, we seem to have been standing here speaking about horrific stories, from the Grace case to the mother and baby homes. If the only thing we can ensure is that this never happens again, it will be a job well done. Before we can move forward as a nation, we must turn to the past and recognise its implications for today.

Acting Chairman (Deputy Eugene Murphy): The next slot is Sinn Féin's. I presume either Deputy McDonald or Deputy Ó Snodaigh will take it. It is in the name of Deputy Funchion, but I will give-----

Deputy Mary Lou McDonald: Perhaps Deputy Funchion is on her way.

Acting Chairman (Deputy Eugene Murphy): Deputy McDonald may proceed.

Deputy Mary Lou McDonald: It goes almost beyond the constraints of our vocabulary to find the right words to describe the shock and horror all of us felt on hearing of the discovery of human remains at Tuam by the Commission of Investigation into Mother and Baby Homes. As shocked and horrified as we have been, many of us were not wholly surprised. As a mother, a citizen of this State and a human being, I am outraged that our most vulnerable young little citizens, those who were most in need of the protection of the State and its institutions and whose care was often left in the hands of the churches, both Catholic and Protestant, were so cruelly let down and disposed of in such a disgraceful, undignified and disrespectful way. I am not alone in having these sentiments. The anger of people is palpable. This latest horror perpetrated against these little innocents is just one more scandal in what has been a litany of unfolding scandals. It has left society numbed to some extent. Of course, we cannot afford to be numb, because the consequences of this cruelty live with us now.

I see Sheila in the Visitors Gallery. Perhaps she will give us a thumbs up. Sheila is just one of many dignified, wonderful people who are not so much victims but who describe themselves as survivors of what was a horrific system of abuse. It was perpetrated by many agencies, including the Roman Catholic church and the Protestant churches. All of it happened in, and was overseen by, the State. We need to get our heads around that. Yes, private institutions and individuals absolutely must be held to account for their actions, but it was the State that funded, regulated and oversaw this horrific system of abuse. Therein lies the big scandal. Did society go along with the prevailing views around women and their children? Yes. Did families go along with that? Were they coerced and bullied into those views? Absolutely. However, if we are serious about dealing with these issues we must not miss the fact that the defining actor or player in all of this was the State. The State allowed this to happen.

It was known that abuse was happening in institutions. It was known that babies were being taken from their mothers and being trafficked. I use that word advisedly. The records of debates in the Dáil reflect the fact that it was known, as do media reports from that time. The most essential point for us, as public representatives, Members of the Oireachtas and human beings, is to acknowledge that the principal accountability must be sought from, and provided by, the State. I make that point strongly because there is a danger that the agencies of the State will retreat behind the guilt of other parties and private institutions. That will not cut it. It is not good enough.

We know the history of neglect and abuse of women and girls in many institutions such as Magdalen laundries, mother and baby homes and county homes, not to mention industrial

schools. The fascinating and almost morbid element is that to get the full picture of what was going on under the nose of the State, and sponsored by the State, we must not just investigate what happened in individual institutions but also understand the interplay between those institutions. It was not at all unusual for a woman who had been in a Magdalen laundry to be subsequently in a mother and baby home or a county home. It was also not unusual for those individuals to have come from, or for their offspring to spend time in, industrial schools. I know from my work dealing with people that it is also not unusual to find that later on many of these people have spent time in and out of prison. In fact, I know people - I call them the institutionalised class in our Republic - whose entire human experiences as citizens of this Republic were spent bouncing from one institution to another, never being given the supports or opportunity to recover. I am sure my colleagues in the House are aware of the same scenario.

These institutions deprived women and children of their liberty, forced them to endure harsh conditions and ground them down in a mill of physical and emotional abuse. What more horrors have yet to be uncovered? More importantly, what can we do now? I appreciate that the Minister for Children and Youth Affairs, Deputy Zappone, is absolutely committed to doing the right thing. The least we can do now is afford to the women and babies, the victims and survivors, the respect and dignity that have been denied to them for so long. The response of State agencies to the discovery of the mass grave has been inadequate so far. That site and other equivalent sites, such as at Sean Ross Abbey, Bessborough and Castlepollard, must be preserved and protected. I believe all human remains found at the site must be recovered, although I realise there are mixed views on that subject. An appropriate and respectful burial is central to our atonement to these victims. The Garda Síochána must have the appropriate resources and approach in investigating the deaths and potentially appalling crimes.

Victims and survivors have travelled a long and arduous journey. It is only due to their tenacity and persistence that we find ourselves at this point. Catherine Corless has been vindicated. Her dedication and commitment led to this discovery. The work of survivors and campaigners, such as Sheila who is watching this debate, will undoubtedly continue. I commend to the Minister our proposal for a truth commission. It is an all-encompassing approach that allows for testimony, witness, ensures the protection of evidential material and allows people to have appropriate representation where that is deemed necessary and fitting. Let us stop doing this in a piecemeal way and examine it in its full scale. We commend to the Minister the truth commission that we described in our Private Members motion last night. I hope the Minister and the Dáil will support it.

Acting Chairman (Deputy Eugene Murphy): The next speaker is Deputy Richard Boyd Barrett, who has five minutes.

Deputy Richard Boyd Barrett: I have to say I find this whole issue extremely distressing, as do huge numbers of people. As Deputy McDonald has already done, I want to pay tribute to those who have campaigned for truth and justice on this issue. I am glad that we are at least close to the moment of vindication for those who suffered and died at the hands of the Bon Secours order in Tuam and the State that colluded with it in its systematic, immoral, inhumane abuse of women and children over many years. Of course, the Bon Secours Mother and Baby Home in Tuam was part of a wider architecture of oppression, degradation, dehumanisation and, ultimately, murder of women and children. We need, even at this belated hour, justice and truth for the survivors and victims of that terrible regime of oppression, imprisonment, degradation, murder and exploitation - an immoral exploitation involving the sale and commodification of young babies who were sold for headage payments and sent to the United States and elsewhere.

22 March 2017

This is particularly poignant for me because I was born in a mother and baby home. I was one of the lucky ones, although that is not something that I realised at the time. I was lucky to be adopted by a loving family, to have a decent upbringing and to finally be reunited with my own birth mother. However, even the latter had to happen against the resistance of the State and the religious orders who tried to prevent that reunification. This issue makes me think about what my fate could have been. It also makes me very conscious of the terrible fate that so many suffered, quite possibly also in the mother and baby home where I was born.

One of the things about which I am very conscious in all this is the issue of class, which has not been talked about enough. It was a brutal oppression of women and children but there was an overwhelming class dimension to it. The mothers who had children outside of marriage who were from poor or working class backgrounds were singled out for the worst treatment, exploitation and degradation. They were literally treated as subhuman. For women from slightly better-off backgrounds, the church still effectively enforced its rules, backed up by the State and forced the separation of mother and child and the adoption of that child but usually the treatment for those women was a bit better. The people who came from poor or working class backgrounds were essentially considered disposable. They were to be exploited and punished. Punishment was a very big part of what went on. There was punishment for sin but the punishment that was meted out to the poor women and children was of a particularly vicious and horrible kind. That is the legacy of this State.

I want to conclude on what we can and should do about this. At a very minimum, the Bon Secours order should be forced to pay for the memorial that has been requested. We need a full audit of everything that happened at Tuam. In particular, we need to know the fate of the more than 2,000 children who were sold or exported to the United States. We need a full uncovering of the truth about the 700 babies who lost their lives. We must do everything possible to uncover the truth but we need to go beyond that. The Bon Secours order needs to reconsider its entire existence. It has profited and continues to profit, to an extortionate level, from the support the State has given it through all this, while doing all this to people. The order continues to enjoy that support, as we saw with the recent visit of the Minister for Finance, Deputy Micheal Noonan, to the Bon Secours facility in Limerick. The congregational indemnity agreement needs to be scrapped and the religious orders must be forced to pay up to compensate the abuse victims.

Finally, I will make a call which I believe Fianna Fáil has echoed. The BonSecours hospitals, St. Vincent's Hospital, the Mater Private Hospital and other private, for-profit health institutions run by religious orders should be taken from them forthwith and brought under public control. That might have the spin-off effect of alleviating some of the pressure in the public health system but, more importantly, it would be just in the context of what they have done, particularly as the State supported them in doing it. We need the separation of church and State, particularly in the area of health care where these religious orders were relied on and were responsible for such horrific abuse, neglect, imprisonment and exploitation of women and children. If we do not do all this then frankly, all the weasel words will mean nothing. We must also stop mistreating children in direct provision and in the emergency homeless services, where this sort of treatment continues to be meted out to single mothers and the children of the poor and the less well off.

Acting Chairman (Deputy Eugene Murphy): I appreciated that the Deputy was telling his own story which is why I gave him an additional minute.

Deputy Richard Boyd Barrett: I thank the Acting Chairman for that.

Deputy Joan Collins: It is with heavy and angry hearts that we all came here this morning to discuss the conditions in which people lived in the decades following the foundation of this so-called republic. The treatment of people in mother and baby homes, Magdalen laundries and industrial schools as well as our attitude towards services for disabled children was appalling. We have a unique opportunity now to get to the bottom of this issue and deal with it as best we can. We must acknowledge Ms Catherine Corless, who stood up against the system and insisted that her discovery was true and that at least 800 infants and young children died in the mother and baby home in Tuam between 1925 and 1961. Without her persistence and without the mothers and survivors who were in that mother and baby home, we would not have known the horrible truth of what happened in Tuam. Indeed, what happened there happened in all mother and baby homes; I do not think any of those institutions were any different from Tuam.

The point about class was made in the House and that is very important. On the founding of this State in 1922, one of the first actions of the then Government was to introduce the Local Government (Temporary Provisions) Act. In that Act, unmarried mothers were singled out as a special problem. They were classed as offenders and were shamed as fallen women and the babies they gave birth to were classed as illegitimate. The term “illegitimate” was very important to both the church and the State because it allowed such children to be separated out from legitimate children. In 1924 the Commission on Relief of the Sick and Destitute Poor including the Insane Poor was set up against the backdrop of the then Cumann na nGaedhal Government’s implementation of an austerity programme. That Government believed in trickle-down economics, with the rich passing their wealth down to the poor. It cut pensions by 10% and supported farmers in driving down labourers’ wages by 16%. It reintroduced the seven-day working week and imposed a tax on blankets which were essential items for families, particularly in rural areas. We also had a forgotten famine in 1924, when the Government did not acknowledge the fact that 175,000 people were affected by food shortages in the west of Ireland, particularly along the coasts of Mayo and Donegal. In 1924, Ireland had a higher number of children in industrial schools than Northern Ireland, England, Scotland and Wales. As a result of an intervention at a church conference in 1934, anybody found to be bearing an illegitimate child was denounced by the church from the pulpit. Their names were not mentioned, but they were driven out of the locality. Parents were forced to bring their children to mother and baby homes. It was an absolute insult to hear the Taoiseach saying in this House earlier this month that “no nuns broke into our homes to kidnap our children”. An organised framework that was in place in this country allowed priests to call to someone’s door to say that his or her daughter had to be brought to a mother and baby home. On the back of the papal visit of 1979, a buoyant Catholic Church brought about the insertion of the eighth amendment to the Constitution. The church’s campaign for a “No” vote in the first divorce referendum in the 1980s led to the defeat of the Government proposal. Thankfully, the people responded differently in the second referendum and voted for divorce.

In 2002, the church specifically contacted its insurance company to get itself indemnified against anybody who might take a case relating to the industrial schools. It consciously intervened to ensure it was protected. It suggested to the Government of the time that if 2,000 children from industrial schools took a court challenge based on the treatment that was meted out to them, it would win most of those cases and would not have to pay out. That is why the State was forced into the dirty deal on congregation funding that Michael Woods signed off on in 2002. The church has a lot to answer for.

Huge respect has to be given to the mothers and others who survived the mother and baby homes, the industrial schools and the Magdalen laundries. I remind the House that the last Magdalen laundry closed in 1996, which is not much more than 20 years ago. The history of these institutions is one of oppression, particularly class oppression, facilitated by a weak Republic that was not able to stand up against the might of the church. The submissions to the commission should be opened up. They are closed at the moment. Many people have come forward to speak about what happened in previous times. The process should be reopened to allow more submissions to be received by the commission. We should have another debate in this House when the report comes back. We should listen intently to the survivors when they tell us what they want. We must proceed on the basis of what they think is necessary as the commission moves forward and not on the basis of what we think is necessary in that context. I know the Minister is particularly dedicated to trying to resolve these issues. We have to work closely with those who have been affected by them. They and not us are the key people in this regard.

Deputy Michael Moynihan: I welcome the opportunity to contribute to this debate. We are reflecting on a very difficult time in Irish society. While we are talking specifically about Tuam in this debate, we are aware that this kind of pain and suffering was endured by people all over the country. Every time we debate what happened in the Magdalen laundries or in institutions like Bessborough, I am reminded of a lengthy conversation I had when I was 18 or 19 with an older and wiser man when we were working on a farm. He passed away approximately 15 years ago, but he would be in his mid-90s now if he was still alive. During the conversation in question, he reflected on what happened in society in the 1940s and 1950s. As the previous speaker said, we did not think at that time that what was perpetrated in the 1940s and 1950s was continuing and would continue up to the 1990s. John Joe Bradley suggested to me that when we were at our most Catholic, we were at our least Christian. That phrase has rung true to me since then. Families and individuals were ostracised from society. We cannot imagine or attempt to put in words in this House or in any other commentary the pain and suffering encountered by these women and their families, including the children involved. When we hear anecdotes and stories about the 1940s, 1950s and 1960s, we often hear the phrase “the baby died”, but in some cases it subsequently emerges that the baby was sent to America or elsewhere. Nobody really knows where these babies went. I read Justine McCarthy’s very touching article at the weekend and I studied it again at length last night. She wrote about the pain experienced by her family and other families all over the country.

What are we to do as a society when we learn more about what happened in Tuam and elsewhere? Unfortunately, we cannot undo the past. We can acknowledge the pain and suffering that was inflicted because of society’s norms and we can consider who generated or perpetuated those norms and ordained that society should follow them. We need to reflect on the society we have been elected to this House to represent. Without wishing to bring religion into it, I would like to emphasise the need to ensure, in so far as is humanly possible, that the Christian ethos of caring for those who are less well-off and need our support is foremost in our minds. Is today’s society doing everything it can to ensure children, women and men are not suffering? Is solid support being provided to families that are under duress or stress for various reasons? What can we do for the memories of the babies in Tuam and elsewhere? How can we best enshrine the memories of the women who had to go into these places? Should we build a monument or should we do good in society by ensuring, in so far as is humanly possible, that this kind of scheme of society’s norms is not perpetrated on any future generation of people? We should reflect deeply on the many lessons that are to be learned from this episode. As we seek a fitting monument, we have to make sure Irish society grows from the awful cast that has been put upon

us as a result of what has happened.

Deputy Kathleen Funchion: I welcome the opportunity to speak on this issue, particularly as a woman and as a mother. I feel it is quite personal, to a certain extent, as somebody who potentially could have been sent to a Magdalen laundry for having a child out of wedlock if I had been born in a different generation. I always think of that when I am reading the stories. While I welcome the establishment of the commission of investigation and the progress that is being made, there is a need to acknowledge the shortcomings of the investigation and the concerns of survivors with regard to it. A United Nations committee recently published a report on Ireland's record on women's human rights. The committee's examination of Ireland in the context of the Convention on the Elimination of All Forms of Discrimination against Women resulted in the publication of a wide range of recommendations that are designed to address significant shortcomings in the protection of women's human rights in Ireland. It noted the unresolved issue of historical abuses of women and girls and the narrow terms of reference of the mother and baby homes inquiry. It called for prompt, independent and thorough investigations, in line with international human rights standards, into all allegations of abuse in Magdalen laundries, children's institutions and mother and baby homes. The recommendations reinforce the case for a truly independent inquiry that seeks to establish truth rather than minimise liability for the State.

As I said yesterday evening during our party's motion calling for a truth commission for mothers and babies and also during statements on the commission of investigation for Grace, we cannot place this kind of abuse and neglect towards women and children in the past as simply part of history, as if it is foreign to us. It is completely disingenuous to pretend that the idea that children were failed by the State is unfamiliar to us. Shameful treatment of children, and of lone parents in particular, continues to be part of our society. It is no coincidence that today's lone parents, the vast majority of whom are women, are the poorest members of our society. Under this Government, and the previous Government in particular, they have been further disproportionately impoverished by policies and recent budgets. More than a quarter of all lone parents and their children experience consistent poverty, while almost two thirds endure enforced separation. Lone parents are also disproportionately affected by homelessness. They make up 65% of people in emergency accommodation. As I have said on a number of occasions, I wonder how much we have learned from our history. We talk about stuff from the past and we all seem so shocked and dismayed and horrified, yet in this day and age we still have so many people in emergency accommodation and children going to school hungry. The vast majority of them are from families of lone parents. How much has really changed?

When we discuss the horrific, disrespectful treatment towards children and women through institutional abuses in the past, it is absolutely crucial that we acknowledge the familiar attitudes towards the care of vulnerable women and children today. I would like to echo the sentiments expressed by Deputy Boyd Barrett about direct provision in particular.

In regard to the current commission of investigation, there must be an end to the compartmentalisation, secrecy and disrespect surrounding the State's handling of mother and baby homes in Ireland and an acknowledgement that Tuam is only one of approximately 180 similar institutions. The victims of these institutions and their families should be treated with the dignity and compassion they deserve. It is essential that victims have their suffering acknowledged and for survivors to have full access to their own birth certificates and adoption files. If the State and this Government is being truthful about its desire to repair the past then the investigations must be forensically thorough, honest and public while examining these institutions, agencies and individuals.

22 March 2017

I would like to take this opportunity to thank all survivors and campaigners. In particular, I would like to thank Catherine Corless for her incredibly courageous and tireless work and commitment to exposing the truth of these issues so that we, as elected representatives, can carry the torch and fight for the justice all survivors deserve and so that we collectively, as a society, face our past and vow to end discriminatory treatment of women and children in this society once and for all.

Deputy Seán Crowe: I am delighted to be able to speak on this issue. I thought long and hard about whether to actually put my name forward to speak because, like other people, it is very difficult for me to be unemotional, rational, logical and have an intellectual discussion about this. Others have spoken about their backgrounds and in the discussions we have had with different people, it is very hard to separate the emotion from what happened.

We are talking about a regime, a system that was established by someone. It was established by the State and the religious orders. Someone came up with these ideas. I heard someone talking last night about the burials of the children. These children were not buried. They were dumped in sewers. That shocks me most of all. If one looks at any tribe in the world, even cannibals, would they do that to their children? I do not think so.

Who came up with this idea? Did they think what they were doing was right? Right for who? For what? We clearly dehumanised these people - they were treated like sub-humans. People can say that this happened in the past and that it did not happen on our watch. They can say we did not know about it and so on. We can come up with all sorts of excuses. However, many of these mother and baby homes were still in existence right up to the 1990s. It is not 100 years ago; it happened in the recent past.

What do we need to do? First of all, we need to stop excluding different groups and individuals from these investigations. That is the worst thing we have done in this whole process. In the 2000s, when different investigations were being talked about, we kept excluding people. I remember talking to one of the people who works in the Oireachtas and he asked me if they were going to mention Artane because he had been there. This man bawled in front of me and he told me about his experiences in Artane. While out socially, I have met other people in the same boat. They have come up to me and started telling the story of what they went through - the starvation, abuse, malnutrition and the fact their spirit was broken. That is what we did. We stripped people and took their clothes away. We took their identity, beat them and starved them. This was all done for what was supposed to be the greater good of some individuals or idea.

What can we do now? The most important thing is that we can listen. It is all very well talking about transparency but if we do not allow people access to their own files, how can we have transparency in these matters? We need to have a system where people can give evidence and get a sense that someone is listening to them. When one talks to survivors, people who have come out of this awful situation, nine times out of ten they are even more hurt now than they were at the start of this process. We are doing something wrong.

In regard to Tuam, the gardaí and the coroner should seal off the site. The big question is, will that happen? What are we going to do about the other sites that have been identified? These are simple things we can do as legislators if we are really genuine about trying to do something.

Our party put forward the idea of the truth commission. People can tear it apart if they wish.

It is an idea to complement the investigation that is going on, which people are saying is not working for them. If we are to have transparency and openness, the interim report should be released.

Those jumbled thoughts are some of the things I want to say. As I said at the start, I did not really want to talk on this issue. However, it is important that everyone raises his or her voice for those people who will probably never have the opportunity to be in here or be listened to. It is for those people that I am standing here today and saying to the Minister that we need to do things differently. It is about transparency and transformative measures that will make sure this never happens again. If we act collectively, we can come up with a better model than the one which we have been reproducing time after time.

Deputy Martin Kenny: I became very aware of the issue of the Tuam mother and baby home during the election campaign this time last year. I was canvassing in an area and was told a woman in a house wanted to see me. I went down to see her and spent half an hour with her. She told me she had been born in Tuam. Her earliest memory of growing up was hunger and how all the other little children that were with her were so hungry that sometimes they used to scrape bits of dirt off the walls and eat them. It was horrific to sit for 30 minutes and listen to this lady about what her life was like and about her early memories of childhood. In most cases, people's childhoods are joyous and happy. It is about the people one grows up with in a loving family; feeling cared for, sheltered and looked after. Her childhood was the direct opposite. It was about fear and the very worst horrors one could imagine. She told me how, during the three and half to four years that she was there, she was sent out at one stage to some kind of foster home - she was unsure what it was - where she was kept for a couple of months and then sent back to the home. She then ended up in an orphanage, I believe it was in Galway, where she stayed for many years and where again she felt like a slave. The other children around her all lived in fear of the people who ran the home; the nuns and the staff. The big irony in all of this is that we all know people who are in the religious life, be they nuns or priests, who are very caring, helpful and who have done great things, yet we have this scenario sitting alongside. This woman spoke about how they were always told that they were the product of sin and it was all about sin. It really shocked me that this was being used to abuse children. It was child abuse.

It was not just the religious. The Taoiseach has spoken about how the nuns did not come and drag these children from their homes and that the children were given up. The fact of the matter is that it was an oppressed society. Society and the culture of that time was very much dominated by Catholicism and the Catholic Church which created that oppression. The State worked hand in glove with it to make it happen. We have many thousands of victims of child abuse that was State sponsored and church sponsored. This lady told me how she and another girl escaped from the home in Galway and went to Dublin. They ended up working in a hospital washing dishes for two years before they got away to England. She told me that when they went on the boat to England, they cheered and danced because they were getting away from Ireland. They still lived in fear that they would be brought back to the home. Their stories need to be not just heard, but vindicated. We need a society that rises above all of this and the first step in making that happen is to ensure that whatever inquiries and institutions we set up to look at all of this does not just look back, but also looks forward in order to guarantee that these things can never happen again. When I was growing up I often wondered about Hitler, the Germans and what happened to the Jews and how he was able to do what he did. If one sits and thinks about it for a while, and when one thinks about the kind of Ireland we had, it is very easy to understand how people were able to do these things.

22 March 2017

Sinn Féin will table amendments to the proposals and we certainly hope that some truth will come out. It is just so horrific, so terrible and such a shame on Ireland that we worked through all of this and that we were part of it. People say that they did not know about it. The truth is that everybody knew about it but they just did not look because they did not want to know. Some were afraid and some were fearful. At the end of all this, we have to come to a place where we can acknowledge that these are our people, the best of our people, and Ireland let them down. We allowed the church to do all of that. We must create a new society where none of those things can happen. I think of refugees today – I met them in many of the direct provision centres - and their situation is not that much different in 2017. We have a long road to go but let us make the start together. I know the Minister has her heart in this and that she wants to do the right thing. She will have the support of everyone here and in the country to do the right thing, but she should not be held back by some legality that somebody may throw up. This is what they are going to do. They will come up with every excuse as to why we cannot do this, for example, that the State would be exposed to this, that or the other. These women and children were exposed to the greatest horrors known to mankind and we must do the right thing.

Deputy Ruth Coppinger: It must be registered that this is a massive issue among the public. I have never seen such anger as I did about the revelations at Tuam. We know the allegations are not new but the fact that they have been confirmed by a Government established commission has given it an authenticity. The pioneering work of Catherine Corless has been confirmed. Will the Minister indicate when she will announce the action that is needed in relation to these homes? The Minister has spoken in the media about a truth commission. What does that entail and when will she announce it? It is crystal clear that the types of commissions of investigation that the Government has established in the past are completely inadequate to deal with this issue.

We need all the sites where religious orders ran so-called homes to be investigated and excavated if there is evidence of similar burials. Records must be handed over by these religious orders. No longer can they evade responsibility in that regard. We need an investigation into allegations that have been going on in the HSE since 2012 about the trafficking of children for profit to the United States for adoption. We need criminal pursuance should that be warranted, which it is clearly. Most of all we need to have a serious separation of church and State in this country. I have no faith, unfortunately, that it will be done by Fine Gael or Fianna Fáil. These are the two parties who, for the guts of a century, have allowed the church to have this authority and control over women, sexuality, health and education.

I did some research into the types of laws brought in by Cumann na nGaedheal – as they were then – and then Fianna Fáil. There was nearly a competition to impress the church with parties outbidding and raising each other with censorship laws. That is the way it was in the 1920s and the 1930s. For example, in 1925, women in Ireland were barred from Civil Service exams. In 1926, Cumann na nGaedheal, the predecessors of those people with whom the Minister is now in coalition, and the then Department of Justice established a committee on evil literature made up of three laymen, obviously, a representative of the Catholic Church and Kevin O’ Higgins. The committee recommended the banning of publications that made any reference to birth control as were women’s magazines along with publications that covered any news of murders. Not to be outdone, in 1927, women were removed from juries, having played the great role in the so-called fight for independence and, in 1929, the Censorship of Publications Act was introduced.

Fianna Fáil came to power in the 1930s and having been excommunicated for fighting in

the civil war, the party had to impress the church. The Eucharistic Congress in 1932 turned the whole of Ireland into a shrine for the Pope's representative. In 1932, the marriage bar was brought in and female primary school teachers who got married lost their jobs. Then we had the Conditions of Employment Act to prohibit women from certain employment. One of my favourites came in 1936 when the National Maternity Hospital made it compulsory for the Archbishop of Dublin and the parish priest from Westland Row to be on the board of the National Maternity Hospital - I assume it was for their gynaecological expertise. I am bringing forward a Bill to remove that facility and to repeal that law. I will not go into the banning of divorce as I do not have time in the less than one minute remaining to me, but we can see from my examples the way the two big parties who have dominated this State have allowed the church to have this control and authority without any brakes being put on to them at all. We have seen that these commissions are very reluctant to overturn or open up the can of worms in respect of repealing the eighth amendment and other issues.

We should forget the idea that the Catholic Church can intervene in debates on morality or on matters such as repeal of the eighth amendment. What a joke that it says all life is sacred. It cared nothing about the babies' or children's bodies that were unceremoniously dumped or about poor and pregnant women. It should not be telling pregnant women what they can and cannot do. This is a gamechanger. We need complete separation of church and State. A

11 o'clock Government of the left is the only one that will do this because there does not seem to be an appetite for this on the part of Fianna Fáil and Fine Gael. I have not heard many other parties, critical as they may be of these events, call for it either. Representatives of the church should not be on hospital or school boards. We need a secular education system with sex education that is lesbian, gay, bisexual and transgender, LGBT, inclusive, that is not gender normative and does not lecture or prohibit discussion on issues. We also need to repeal the eighth amendment now. We need to forget about the church dominating and the State allowing it to.

Acting Chairman (Deputy Eugene Murphy): I thank Deputy Coppinger. Sin deireadh na díospóireachta agus críoch le ráitis maidir le fógra an choimisiúin imscrúdaithe ag dearbhú go bhfuil taisí daonna ar an suíomh in áras máithreacha agus naíonán Thuama.

I thank the Minister and Minister of State for listening very attentively to all Members. I thank all Deputies for their very genuine contributions. This is the third time we have debated this issue and I have been here at some stage for each of the three debates. Every side of the House was very sincere and genuine and people want something to really happen about those terrible situations. I will adjourn the sitting until 12 noon when it will resume on Leaders' Questions.

Deputy Ruth Coppinger: I thought this debate was going on until 12 noon and that the Minister might respond.

Acting Chairman (Deputy Eugene Murphy): The number of speakers has been completed. Quite a few Deputies have spoken over the three debates. I am more than willing to continue if other people who have not spoken want to speak but there is nobody else here to speak.

Deputy Ruth Coppinger: It was commented on last week that we could not get a quorum to start this debate. It is very disappointing that people have slots that they did not bother filling on such a topic.

22 March 2017

Acting Chairman (Deputy Eugene Murphy): I take the Deputy's point but all sides have contributed over the course of the three debates. There has been a genuine effort by everybody to-----

Deputy Ruth Coppinger: The people who asked for an extension of the debate are not here.

Acting Chairman (Deputy Eugene Murphy): As there are no other speakers available I conclude the debate and thank Deputies very much.

Sitting suspended at 11.03 a.m. and resumed at 12 noon.

Leaders' Questions

Deputy Micheál Martin: I raise a significant and very serious legacy issue affecting the State. It is one which, in many ways, informs how we continue to approach victims of sexual abuse. In the last number of weeks, we have, rightly, had very significant coverage of the mother and baby home scandal, the way in which single women were treated and the absence of any human response to that. At the same time that we have this outrage, however, the State is behaving in an appalling manner regarding those who were victims of child sexual abuse in primary schools and who have not had any or any significant redress. What many of these victims have gone through is shocking. I have met on a number of occasions an individual I can name, John Allen, who was sexually abused by a Christian Brother. For 17 years, he has tried to seek justice. He is living in a council house and his parents are in care. He is in very difficult financial circumstances and suffering from a chronic disease. He has had huge anxiety and trauma as a result of this. He has been dragged through the courts. There are many other victims as well. Deputy O'Dea has raised this issue in respect of 15 victims who are in a similar situation and have come to him about it. I raised this issue with the Taoiseach in October last.

The State fought against culpability for a long time on this one. Louise O'Keeffe had a major breakthrough in the European Court of Human Rights in 2014. I do this in a non-political way because all previous Governments are culpable in terms of fighting that up to 2014. It is since 2014 that we have had a bogus interpretation and application of the Louise O'Keeffe judgment to the victims which is just shocking, in particular in terms of this idea of a prior complaint. How in the name of God is a child supposed to know whether someone complained to a school manager about an abuser? Nevertheless, that is the litmus test for access to the redress scheme. It is cynical beyond belief. Likewise, it is clearly designed as a ready-up to limit access to the scheme. Many of the victims are in a very poor financial state and some have suicidal ideation because of the trauma that has been visited on them. They have been to the Supreme Court and back and to the High Court and back. They can no longer get redress in our courts notwithstanding the European Court of Human Rights.

I have met with Dr. Conor O'Mahony of the UCC child law clinic to go through this with him and a case is now being prepared to go back to the ECHR. We had all the outrage of two weeks ago, but this is all going on under our noses while the Government resists a proper, humane response. Are we seriously saying to these victims, notwithstanding the breakthrough judgment in the case of Louise O'Keeffe, that they will have to go back to the ECHR to get proper application of that judgment? I put it to the Taoiseach that the State needs to engage very quickly and very proactively on this and stop adding insult to the injury of victims of child

sexual abuse in our primary schools.

The Taoiseach: Every generation seems to carry with it its own set of scandals. I met Louise O’Keeffe and admired her courage in making the breakthrough in her case and the years that she fought for that. Deputy Jan O’Sullivan was Minister for Education and Skills and dealing with this when the outcome eventually occurred. The State has been cautious, to put it mildly, about this. What Deputy Martin is talking about now in the language he uses here is not just those who have come forward and were sexually abused in primary schools, but about looking at all the generations who went through primary schools, some of whom might not have understood the nature of sexual abuse or whatever. It seems to me that what Deputy Martin is saying is that we should go beyond just the cases that have been mentioned by him and one that was mentioned by Deputy O’Dea. I have no idea how many thousands of cases may come forward with views that they were sexually abused or not in the primary school system which has been up and running since the foundation of the State and long before that. If Deputy Martin is asking me that we reflect further on the preparation of a further case going back to the European Court of Human Rights, that is one thing. If he is now asking me to comment on the possibility of an enormous scale of sexual abuse over 100 years in the primary school system, that is a different matter. The language of what he has been referring to has been that people in the primary school system are being abused right under our noses.

Deputy Micheál Martin: I did not say that.

The Taoiseach: Gabh mo leithscéal then. If he is referring to the particular cases where we know sexual abuse was involved, that is a different matter.

Deputy Micheál Martin: The Taoiseach knows what I said.

The Taoiseach: Deputy Martin is talking about the primary school system. There are others out there who have claimed sexual abuse. There are some people on the other side of the argument who have had allegations of sexual abuse against them who were not guilty. As Deputy Martin knows, this is an enormously complex personal set of tragedies and circumstances. When the Deputy raises an issue like this with the possibility that it could be very, very broad indeed - and he mentioned the primary school system and all of those who have gone through that system - it raises the nature of sexual or other abuse that applied through the generations and is something we need to talk about. If the question he is asking me is about John Allen or the others who were involved in cases similar to that of Louise O’Keeffe where the point he mentioned is correct there would have to be prior notification and each case is taken on its individual way, that is a different matter. Deputy Martin might just clarify for me what it is he is actually asking. Is it about those cases that are parallel to the case of Louise O’Keeffe or is it for an analysis of the entire primary school system over the generations?

Deputy Micheál Martin: I do not want to accuse the Taoiseach of being disingenuous but I believe he is being so in this case. He knows full well what I am saying. It is the application by the Government of an interpretation of the Louise O’Keeffe judgment. The invocation of the prior complaint mechanism has no moral status and, I would argue, no legal status. Only seven out of 360 cases have been settled via this mechanism. I am speaking about people where convictions have taken place and the abusers are now in jail. In John Allen’s case this is exactly what has happened, but he has been pursuing justice for 17 years. People had to discontinue their cases in the courts because of the threat of legal costs against them-----

22 March 2017

Deputy Mary Lou McDonald: By the State.

Deputy Micheál Martin: -----by the State.

Deputy Mary Lou McDonald: Similar to what was done before.

Deputy Micheál Martin: I am not speaking about every item or accusation. I never said that and the Taoiseach knows it. Let us not introduce confusion or try to create a fog around this. It is very specific. I ask the Taoiseach and the Minister to engage with Dr. Conor O'Mahony in UCC, who has done an lot of work on this and has made submissions to Europe on it.

An Ceann Comhairle: Thank you, Deputy.

Deputy Micheál Martin: This is not complex, it is quite simple. What happened after the Louise O'Keefe judgment, it seems to me, is the Government asked how the hell would it limit this and how would it prevent genuine people who have been abused and whose abusers have been convicted and limit the numbers. This is what is going on and it is scandalous. What gets me every now and again is that we had all the outrage two or three weeks ago, but the current policy and current approaches by State victimise even more those who have already been abused. We must remember the Louise O'Keefe judgment was not about prior complaint.

An Ceann Comhairle: The time is up, Deputy.

Deputy Micheál Martin: It was about the lack of proactive measures by the State to protect children in schools such as an inspectorial regime. This was the essence of the Louise O'Keefe judgment. What is now going on is a scandal - the degree to which these victims have been left so high and dry. Many of them are in very difficult circumstances socially, financially and healthwise. It cries out for action and I appeal to the Taoiseach and the Minister for Education and Skills to engage humanely on this issue.

The Taoiseach: I am glad the Deputy clarified that and that he is not making a political point, in that some of these cases went through when a number of Government were *in situ*. The European Court of Human Rights found the State has liability in cases of sexual abuse in day schools and primary schools in specific circumstances. These circumstances are where there was a prior complaint-----

Deputy Micheál Martin: No.

Deputy Willie O'Dea: That is not correct.

The Taoiseach: -----and where the case was not statute barred.

Deputy Willie O'Dea: What about the first victim?

The Taoiseach: The Government put in place a process to provide compensation for all victims of sexual abuse who qualify under these criteria.

Deputy Micheál Martin: The Taoiseach is not quoting the court judgment.

The Taoiseach: The Government is following the ruling of the European Court of Human Rights-----

Deputy Micheál Martin: That is not the ruling.

The Taoiseach: -----and the approach the Government has taken has been upheld in the Irish High Court in a recent case.

Deputy Micheál Martin: No, it has not.

The Taoiseach: As an aside from this, yesterday the Government approved radical reform of the courts system in the country for the first time in more than 150 years-----

Deputy Willie O’Dea: That has nothing to do with it.

The Taoiseach: -----to be conducted by Mr. Justice Kelly.

Deputy Timmy Dooley: The Taoiseach is going well there.

The Taoiseach: Deputy Martin can nod all he likes. He had his question.

Deputy Willie O’Dea: What does that have to do with the question?

Deputy Sean Fleming: Another ten years.

Deputy Willie O’Dea: We are talking about the *ex gratia* payments.

The Taoiseach: I know the Deputies are bursting with information.

In December 2014, the State Claims Agency, which manages such cases on behalf of the State, was mandated to offer out of court settlements in current and future litigation where the circumstances of the case come within the terms of the European Court judgment and the case is not statute barred, and offers of €84,000 with costs have been made by the State Claims Agency in a number of cases. In July 2015, the Government agreed an *ex gratia* payment of up to €84,000 plus a specified amount for costs be offered to those who initiated and subsequently discontinued their legal proceedings against the State where it is established their claims were not statute barred prior to the case being discontinued and where they can establish a prior complaint to the school authority or an earlier school authority of sexual abuse by the school employee who abused them when they were children either in primary or post-primary schools. Survivors can submit the details to the State Claims Agency. Where plaintiffs institute claims against the State for historic child abuse which are not statute barred and which come within the terms of the Louise O’Keeffe ruling, the State Claims Agency is authorised to make settlement offers. I cannot comment on individual State cases, but this information may well be relevant to some of the names mentioned by the Deputy or maybe not.

Deputy Micheál Martin: I have all that. That is not helpful at all.

An Ceann Comhairle: Can I just point out to Members that Standing Orders of the House, not invented by me but ordered by the House, provide for eight minutes for each question. This question has taken 12 minutes.

Deputy Mary Lou McDonald: On Monday, the Ombudsman for Children, Dr. Muldoon, issued a report that is a damning indictment of the Government. His report dealt with those children who are awaiting scoliosis surgery. As the Taoiseach well knows, in some cases children living in absolute agony are waiting up to a year and a half for vital treatment. Dr. Muldoon’s report highlights the reality that children with scoliosis suffer what he calls severe physical and psychological effects due to these delays. Anybody paying attention to the media over recent weeks would have heard and read the overwhelming and heartbreaking personal stories of some

22 March 2017

of these children and young people forced to wait for surgeries which could change their lives. I am sure every parent and person is horrified by these stories.

Yesterday the *Irish Examiner* carried the story of Jane who, after a very long wait, eventually got her surgery after travelling to England. Her words are powerful. Jane wrote and reflected:

I was just so relieved to have the operation done but now, looking back, it's annoying and makes me angry. My operation could have been so much simpler and better. I wouldn't have been out of school for months afterwards. I wouldn't have been in hospital as long.

Jane is just one of very many cases. I am sure the Taoiseach would agree that no child or young person should go through what Jane went through. No child or young person should have to feel what Jane feels. The Ombudsman is damning in his assessment of the Government's failure to address the issue of access to scoliosis surgery for children. This is nothing short of a national disgrace. As Dr. Muldoon rightly reflects, this should not be happening in Ireland in 2017. It seems the Taoiseach, the Government and the Minister for Health are quite happy to preside over the chaos that is in our health system and these children and young people pay the price for this chaos every day of their lives.

Does the Taoiseach recognise the scale of the suffering inflicted on these children and their families? Does he accept the assessment of the Ombudsman for Children in respect of the Government's failure to uphold the rights of these children?

The Taoiseach: I thank Deputy McDonald. The Minister, Deputy Harris, welcomed the report published by the Ombudsman for Children which highlighted the need for significant improvements to be achieved in waiting times for scoliosis procedures for children and teenagers in this country. Nobody can justify a child having to go through these difficulties and challenges and this pain. I understand the children's hospital group board and the Office of the Ombudsman for Children have developed a joint initiative based on the UN Convention on the Rights of the Child to listen to the voices of children and young people using services in three hospitals in Dublin which will be rolled out this year. Improvement in scoliosis services is absolutely a priority for the Minister, the Government and the HSE in 2017.

I welcome the fact the HSE has committed that no child such as Jane or others will wait longer than four months for such a procedure by the end of this year. This will bring Ireland into line with NHS waiting times in the United Kingdom. As requested by the Minister for Health, the paediatric scoliosis waiting list action plan for 2017 has been jointly developed by the HSE and the children's hospital group. Engagement continues between the Department and the HSE towards finalising this plan. As part of the new proposal to address the scoliosis waiting list a number of children have been identified as clinically appropriate to have their scoliosis surgery in other hospitals, such as the Mater, Cappagh and Temple Street. The Minister will meet again with the scoliosis advocacy group in the coming weeks to update them on that progress.

An additional €2 million in additional resources was allocated for scoliosis and other orthopaedic service developments this year. A further €5 million of capital funding was provided to develop a new laminar flow orthopaedic theatre and there were difficulties in recruiting staff for this additional theatre. The service development funding was used to outsource patients with scoliosis for their surgery there during the 2015 to 2016 period. Additional funding provided in 2015 facilitated 105 patients to have their treatment provided in an alternative public or private hospital. Some 15 paediatric scoliosis patients who were waiting 18 months and over

for treatment were facilitated to have their surgery in the Blackrock Clinic as part of the winter initiative in 2016. In addition, the Department of Health provided another €350,000 directly to the children's hospital group for a further nine patients from Our Lady's Children's Hospital in Crumlin to have surgery in the Blackrock Clinic. Further, 34 adolescent or young adult patients from Tallaght were clinically reviewed, treated, and planned care was put in place for them at the Mater hospital.

Our Lady's Children's Hospital has also advised that the additional funding received in 2016 will facilitate a further 30 spinal fusion surgeries to be carried out there in 2017, which will be a total of 88 spinal fusions by the end of this year compared to 58 carried out in 2016. As well as an increase in the numbers of scoliosis surgeries being carried out at Our Lady's Children's Hospital and the Mater, Cappagh and Temple Street, they are all working together to develop immediate and sustainable solutions to increase capacity to address the current waiting list at Crumlin. This will include transition of children over 15 years of age to the Mater hospital and under 15 years of age as appropriate to either Temple Street or Cappagh hospital to have their scoliosis surgery in 2017. These things and the ombudsman's report have led to a significant improvement in dealing with children and young adults who have this enormous challenge and the frustration and pain that they have had to put up with.

Deputy Mary Lou McDonald: The Taoiseach's response, far from reflecting a level of priority or a thought-out strategy for dealing with these children and young people, reflects rather the chaotic nature of his Government and the very reason why he failed to get to grips with this problem. This is not a new issue. I and others have raised the issue of children and young people awaiting scoliosis surgery many times here. I remember on one occasion, having raised it, I was accused by the then Tánaiste, Deputy Joan Burton, of ranting. That was back in January 2016. Whether I was ranting or not is a matter of opinion but what is for sure is that I stand here now, towards the end of March 2017, and we are still faced with the same problem.

The Taoiseach did not mention the new orthopaedic ward in Crumlin in his response.

The Taoiseach: I did.

Deputy Mary Lou McDonald: Will it be up and fully operational in April? The initial promise was that this would happen in April 2016. April 2016 becomes April 2017, and my worry is that then becomes April 2018, and all the while these children suffer and wait. A confused approach like that where the Taoiseach gives an emergency response to the ombudsman's report is not sufficient. He needs to tell us now exactly when the necessary amounts of funding will be applied, when that ward will open in Crumlin, and he needs to tell these children and young people and their parents when it is that they will have their surgery, because they have waited a long time and suffered a great deal.

The Taoiseach: The Deputy is certainly in the top league of Deputies in putting forward the problems that we have. I have never heard the Deputy give one solution or potential solution-----

Deputy Brian Stanley: Open wards.

The Taoiseach: -----to any of these problems.

Deputy Mary Lou McDonald: The Taoiseach is clearly not listening.

22 March 2017

Deputy Brian Stanley: Open wards.

The Taoiseach: In her eloquent remarks Deputy McDonald never referred to any of the 88 children and young adults who are going to have their scoliosis operations carried out this year and the treatment that they are going to get, to the highest level. It seems that they do not interest the Deputy. She is only interested in the usual political problems. The extra capacity will be available in that theatre that she mentioned in April of this year----

Deputy Mary Lou McDonald: I did not hear that.

Deputy Timmy Dooley: The Deputy did not miss much.

The Taoiseach: The microphone is on. The Deputy should listen carefully.

Deputy Mary Lou McDonald: The Taoiseach needs to enunciate a bit more clearly.

The Taoiseach: Decisions about acceptance of patients by these hospitals will be made based on clinical assessment and age requirement and following review by paediatric young adult orthopaedic surgeons in these hospitals. Our Lady's Hospital in Crumlin has commenced contacting families on their surgical waiting list whose children fit these clinical and age criteria, to ask their permission to share the child's medical case details and history with the relevant hospitals. Crumlin hospital expects to undertake significantly more spinal procedures by the end of 2017 than last year and will achieve significant reductions in waiting lists for scoliosis and waiting times for scoliosis patients. No child will wait longer than four months by the end of this year. That will be in line with the best practice of the NHS across the water. I hope that is of some consolation-----

Deputy Mary Lou McDonald: And the ward in Crumlin?

Minister of State at the Department of Health (Deputy Helen McEntee): April.

Deputy Mary Lou McDonald: In April.

The Taoiseach: -----to the parents and the children who are involved here. I am sure that Deputy McDonald welcomes that in the interests of those children and the treatments being had this year.

Deputy Joan Collins: I have been contacted by three sets of parents over the last number of weeks. They include John and Marie whose 12 year old child has autism on the moderate to serious autistic spectrum, and has other complex needs, Claire, whose ten year-old child has Down syndrome, profound speech delay and other complex needs, and Melanie whose nine year old child is on the moderate to serious autistic spectrum and has other complex needs. All three children attend St. John of God Special School in Islandbridge in Dublin 8. This school has two classes of six. That is 12 children in total, who are mainly on the autistic spectrum, and are not very mild or mild but are affected profoundly. Three out of the 12 parents have independently come forward. A quarter of the parents at the school have actively approached me with serious issues about accessing service in the school.

The school is funded by the Department of Education and Skills and run by the St. John of God organisation, in the same grounds as the Menni services building, which is funded by the HSE. Menni services can provide multidisciplinary services to children who have complex needs. One can literally walk from one building to the other. It is a long walk for these children

because they are instead met with serious problems accessing speech therapy. They have problems accessing the swimming pool, and the Taoiseach knows that the pool is for more than just swimming for autistic children. There was no July provision last year and no July provision this year because the application has not been made for the school to get the July provision. There is no health nurse, no occupational therapy or physiotherapy, no access to multidisciplinary teams and the head principal has been out of school with a long-term illness. The deputy principal has also been in and out of school with illness and is retiring this year. As a direct result, there is no effective management of the school.

The parents have sought to resolve their issues despite all these serious problems. In May last year, they wrote to the Minister for Education and Skills and the Minister for Children and Youth Affairs, and they have written to the Minister of State with responsibility for children and disabilities, Deputy Finian McGrath. People are well aware of the problems. I submitted a question two weeks ago asking the Minister of State if he had been contacted by these parents and what was going to happen. They have been getting the bog-standard reply from private secretaries and HSE people. The principal, board of management of the school and chair of the board have also been contacted.

I ask the Taoiseach to intervene directly. It looks like parents have been sent from Billy to Jack. The Departments are not talking to each other and in the meantime parents and children cannot access the services outside school because the children are in the school where those services should be provided. I ask the Taoiseach to intervene in this, or to get someone directly under his charge to intervene and pull the Departments with responsibility for education, children and disabilities, and the Menni services and the school board together to resolve these issues. This has been going on for a long time in this school and it needs to be resolved very quickly.

The Taoiseach: The Minister for Education and Skills has set out as his priority the delivery of the best education in Europe inside ten years. A key part of that is becoming the best at supporting children with special educational needs. The Government is committed to ensuring that all children with special educational needs, including those with autism, are given the best opportunity to fulfil their potential. Everybody would agree with that.

The overall budget for special educational needs supports has increased from €1.28 billion in 2011 to more than €1.6 billion now, with special educational needs accounting for approximately one fifth of the overall education budget and correspondingly improved outcomes for students. I am surprised by the issues the Deputy has raised. I know that, for example, the Minister of State, Deputy Finian McGrath, has been to St. John of God's on a number of occasions and meets those parents regularly.

Deputy Joan Collins: No, he does not.

The Taoiseach: The outline the Deputy has given is not in accordance with what one would expect from the very best standards here. The number of special classes has doubled from 548 in 2011 to 1,153 across the country now, of which 889 are special autism spectrum disorder, or ASD, classes. The number of special classes at post-primary level has doubled in the past three years and continues to rise rapidly. All of these are paid for by the taxpayer and are all in accordance with the best standards.

As the Deputy knows, early intervention classes are also available to support pupils who have ASD. The Department of Education and Skills invests over €300 million in providing ad-

ditional resources specifically to support students who have autism in schools, enabling 63% of them to attend mainstream schools, 23% to attend particular classes in mainstream primary and post-primary schools, and about 14% to attend special schools.

The July provision scheme is available to support pupils with an extended school year to include the month of July. Approximately 14,000 students are diagnosed with autism, which indicates a national ASD prevalence rate of about 1.5% or one in every 65 students. Therefore a great deal of effort is being made. I will take to heart what the Deputy has said in respect of the issues she raised concerning St. John of God, including the proximity of the two buildings. However, the Deputy has made a clear statement that there are practically no services being provided at all here for these children. Let us verify whether that is the case because we are spending €1.6 billion a year on children with special particular circumstances, including specifically those with autism. I will take what the Deputy has said in the best spirit in respect of the three children she mentioned. Let us just see, however, if the facts she has outlined correspond with the reality of what we find on the ground.

Deputy Joan Collins: It is frustrating when three parents come to me individually, not organised, and tell me that they cannot access speech therapy, physiotherapy or multidisciplinary teams. They are in a school that is supposed to provide these services. The HSE admitted that during the moratorium it lost staff in the multidisciplinary team and has a limited service to offer these children and because they are in the school they cannot get a multidisciplinary team anywhere else.

I will quote what John, one of the parents of those children, said:

If we had to describe the crisis as a short-story in a short film, it would be similar to that described below. We parents of autistic children would be invited to a magic show to be held in St. John of God, Islandbridge. The performers and magicians would be the Departments of Health and of Education and Skills. Their assistants would be the many services in St. John of God. These magicians promised us parents that we were in for a treat and would have something wonderful. The show starts and the magician shows us around the establishment whilst pointing out that our children will get the best services. Like any magician, in order to convince us, he actually shows the staff of a multi-disciplinary team. As parents we cannot believe that these special people are real.

John goes on to say that at the end of the day they have been duped because they cannot access those services. The Taoiseach needs to intervene in this matter. What I am saying is true and I want a response. The Taoiseach should pull those Departments together and deal with the issue.

The Taoiseach: As I said, we are spending €1.6 billion at the moment and the number of classes has doubled to almost 900.

Deputy Joan Collins: That is not helping to fix the problem.

The Taoiseach: The Deputy should be clear on this point. The Minister for Education and Skills, Deputy Bruton, has set out the figures. The number of resource teachers has gone up by 41% from 5,200 to 7,500. Since 2011, the number of special needs assistants has increased by over 22% from 10,500 to 13,115. Since the previous Fine Gael-led Government took office in 2011, and despite an adverse economic climate, the sanctioned National Educational Psychological Service, NEPS, staffing numbers have been maintained at the same level. NEPS

now provides a service to an additional 20,000 pupils compared to 2011. We are committed to the programme for Government's commitment to deliver an additional 65 NEPS psychologists over the lifetime of the Government. We are also committed to recruiting a total of 21 educational psychologists by September 2017.

The Deputy has cited particular circumstances from parents who have approached her and others. Let me assure the Deputy, however, that the Minister for Education and Skills has secured exceptional resources from the Government and the Minister for Public Expenditure and Reform. It is the deployment of those resources that the Deputy is raising. We will query the Deputy's points with the school involved.

I know that the Minister of State, Deputy Finian McGrath, has been to that school on a number of occasions and has met with the parents. He will be down there again before too long. However, the Deputy has raised specific issues and I will see that they are followed through on.

Deputy Catherine Murphy: Last month, during priority questions to the Minister for Jobs, Enterprise and Innovation, Deputy Mitchell O'Connor, I asked about the anomalies emerging between IDA Ireland and ConnectIreland. There have been a number of articles in the *Sunday Business Post* which have caused me to question what actually transpired between the two agencies and if this is likely to result in a cost to the State because of the disagreement. In her reply, the Minister told me she could not go into detail because there was an ongoing legal dispute between the parties.

Yesterday, the Joint Committee on Jobs, Enterprise and Innovation heard allegations that ConnectIreland was possibly stymied in creating jobs in what sounds essentially like a turf war. On the other hand, IDA Ireland has noted that ConnectIreland failed by a long shot to reach the target set for the number of jobs the scheme was meant to create. Whichever side is correct, the fact remains that there is a significant and fundamental difference between the job numbers claimed both by IDA Ireland and ConnectIreland.

Earlier today, RTE's "Morning Ireland" programme reported that the verification process used by IDA Ireland to ascertain whether a connector would be due a payment under the scheme had refused a significant number of connections, yet one third of these were overturned on review. This suggests a serious issue with the verification process used by IDA Ireland.

The core issue is that jobs were potentially lost to Ireland. If this is the case, the reasons for that must be made clear. An important element of this is the potential reputational damage caused. One can imagine it from the viewpoint of someone who wanted to invest, but there are two State agencies essentially almost in dispute with each other. We must look at the confusion that would create.

The issue is time-sensitive in that the contract expires this coming Sunday. Clearly, these issues must be satisfactorily addressed, and not just behind closed doors, before any new contract is entered into or the current one is cancelled. Why is there such a fundamental difference between IDA Ireland and ConnectIreland regarding job numbers? Who is nearer to the truth here? If it transpires that ConnectIreland is telling the truth, how much public money will IDA Ireland have to fork out in compensation? Is that figure likely to be many millions, as has been reported in the media, with sums of around €14 million circulating? Will IDA Ireland or the Department be called upon to pay out compensation if that is the case? Has any amount been factored into the budgets of IDA Ireland or the Department for this?

22 March 2017

The Taoiseach: I am quite sure the Deputy welcomes the improvement in the numbers of people working in the country.

Deputy Catherine Murphy: That is not what I asked about.

The Taoiseach: Unemployment has fallen from 15.2% to 6.6% with over 2 million plus people now working in Ireland, spread throughout the regions in every sector. I was recently accused in Cork of being responsible for clogging up the roads with people going to work which is, I suppose, a challenge of success. I was interested in this initially because this was borne out of an initiative that came from the 2011 Global Irish Economic Forum, with the aim of involving the global diaspora in job creation here when things were very bad. The intention was that if a person's son, cousin or daughter or whoever was working for a firm in Brazil, for example, and if that firm intended to invest in Europe, then that employee would suggest that if the firm was going to invest in Europe, it might consider Ireland. If sustainable jobs in Ireland resulted from this a finder's fee would be made available for the person who initiated that.

It was never intended that the numbers involved would be on the scale of IDA Ireland as it generally deals with foreign direct investment in this county. Many of these would be smaller job numbers in places where IDA Ireland would not normally be in a position to invite or attract jobs. There could be four, ten or 20 jobs, and the number might grow subsequently. That was the intention of the scheme. I remember, arising from the 2011 Global Irish Forum, meeting all of the players involved in Government Buildings and we set that up. It started off in a very successful way.

Deputy Catherine Murphy: The Taoiseach is not answering the questions.

The Taoiseach: The Deputy has had her say. There are three issues here. One is the legal issue, which I cannot comment on. That is in respect of the financial situation. The second is the number of jobs that were, and are, created by the ambassadors and by the connectors of ConnectIreland. The third relates to the current position. This was a four-year scheme. It was extended, after contact was made with Government, for a further 12 months and that runs out on Monday. Irrespective of whether we wish it to continue after Monday, there would have to be another tender process. The Minister for Jobs, Enterprise and Innovation is carrying out a review of the issues that pertain to the Department, IDA Ireland and those numbers. I cannot comment on the legal dispute here.

Deputy Maurice Quinlivan: That review has not started.

The Taoiseach: There is a discrepancy between the numbers concerned here.

Deputy Maurice Quinlivan: The terms of the review are not agreed.

The Taoiseach: The challenge is that IDA Ireland is the statutory body, which does a superb job in attracting jobs into Ireland-----

Deputy Maurice Quinlivan: The review has not even started. It is closing down on Monday.

The Taoiseach: -----but if somebody in another country wants to invest in Europe and an indication is given to them to consider Ireland, it is through IDA Ireland, or the agency dealing with investment into the country, that that contact is made. If it is only for five or ten jobs however, then they are more important in Kinvara or Ballyvary than they might be in central Dublin.

Deputy Maurice Quinlivan: So why close it down?

The Taoiseach: Jobs are jobs however, and when we had none we were very lucky to get any kind of jobs in here. Deputy Howlin knows this because he was a member of the Government that approved it.

Deputy Mary Lou McDonald: Is the review under way?

The Taoiseach: I cannot comment on the court case but look forward to seeing the Minister's review. That is difficult given that there is litigation at the moment. The intention was to have smaller numbers dispersed throughout the country. That was the original intention, which worked very well initially.

Deputy Maurice Quinlivan: We were told yesterday that the terms had not been agreed yet.

The Taoiseach: I am disappointed that this dispute has arisen.

An Ceann Comhairle: Given, as the Deputy has said, some of these matters are *sub judice*, we need to be careful.

Deputy Mary Lou McDonald: Whether a review is under way or not is certainly not *sub judice*.

(Interruptions).

An Ceann Comhairle: Deputy Quinlivan, this is Leaders' Questions. The Deputy is not his party's leader. Please hold on.

Deputy Maurice Quinlivan: We were told the terms were not ready.

Deputy Catherine Murphy: The Taoiseach's reply was a disgrace.

Deputy Maurice Quinlivan: An absolute disgrace.

Deputy Catherine Murphy: It is very disingenuous to question whether I or others support jobs. Of course we support investment in jobs in this country. I know what the "succeed in Ireland" programme is about. I think most people in this House know what it is about. I asked the Taoiseach specific questions and I believe I am entitled to a response to those. The contract ends on Monday. There are people employed by ConnectIreland. What are they going to do on Monday? Is there an issue in respect of their jobs? When did the issues in respect of the number of jobs that do not seem to reconcile between ConnectIreland and IDA Ireland emerge?

The contract, as the Taoiseach has said, ended last year and it was continued. We were told it was continued so that there could be an orderly wind-down. Were there similar disagreements or concerns last year? Are there additional liabilities or potential liabilities as a consequence of extending that time? The Department has been lobbied by people like, for example, John Moran, on ConnectIreland. It would be useful to know who is lobbying. Is there a review actually taking place? It is time-sensitive in that this is closing down on Monday. The Taoiseach needs to address that issue.

The Taoiseach: Of course I know the Deputy supports jobs. I just thought it conveniently absent from her contribution that she never mentioned the fact that we have more than 2 million

people working in the country now.

Deputy Mary Lou McDonald: The Deputy is asking about ConnectIreland.

The Taoiseach: That is the point I am making. Perhaps the Deputy genuinely forgot about it.

Deputy Catherine Murphy: This is a question.

The Taoiseach: I will allow her that. The board of IDA Ireland considered this ConnectIreland scheme in November 2016. I am a big supporter of ConnectIreland. One of the reasons it was extended for a further 12 months was to allow for this very matter to be dealt with. I am disappointed that it has not been dealt with. I want to assure Deputy Catherine Murphy that if the contract were to be extended, we would be legally bound to go to public procurement. It might be ConnectIreland which would be awarded an extension of that contract, or it might not be.

Deputy Maurice Quinlivan: The Department can take it up without a contract. The Taoiseach's officials told us yesterday that can happen.

The Taoiseach: I am not suggesting that the Minister and the Department in their review of this will agree that there should not be some continuation of a scheme like ConnectIreland. It has brought a verifiable number of jobs to dispersed regions of the country, jobs that are very valuable in those regions. I was always a strong supporter of this, with the ambassadors, but it seems to have run into difficulties between both the ConnectIreland personnel and IDA Ireland. I cannot comment if that was in regard to the litigation there but I can say that if the Minister was to extend this contract, she or IDA Ireland would have to go for public procurement. The board considered that last November and it made its decision on that.

Deputy Maurice Quinlivan: The Department can take it up without going out to contract.

The Taoiseach: I think it is in order, and right and proper, to consider all of the issues to be taken into account by the Minister's review.

Deputy Mary Lou McDonald: Is the review under way?

The Taoiseach: I cannot comment on the legal case.

Deputy Mary Lou McDonald: Is the review under way?

The Taoiseach: The jobs are verifiable one way or the other. I am very glad that people are working.

Deputy Maurice Quinlivan: The review is not under way.

Deputy Mary Lou McDonald: There is no review.

Deputy Maurice Quinlivan: The terms of reference have not even been agreed.

The Taoiseach: They add to the overall number, whether it be 500 or 1,000, that is claimed by ConnectIreland versus IDA Ireland.

Deputy Maurice Quinlivan: It is closing down on Monday.

The Taoiseach: IDA Ireland is a world standard agency for bringing investment into the country.

Deputy Catherine Murphy: Is there a review?

Deputy Mary Lou McDonald: Is the review under way or not?

The Taoiseach: It is disappointing that it has ended up in this fashion.

Deputy Maurice Quinlivan: The Taoiseach did not answer one of the questions and it is closing down on Monday.

Deputy Mary Lou McDonald: It is closing on Monday. Is the review under way?

The Taoiseach: Obviously the court case will make its way.

Deputy Paul Murphy: Can we get answers?

Questions on Promised Legislation

Deputy Micheál Martin: It is accepted that, notwithstanding the very negative impacts of Brexit, one potential opportunity for Ireland was in the area of financial services, particularly relocation from the United Kingdom for companies which would wish to stay in the EU. I know the enterprise section of the programme for Government is very strong on the support of financial services. The Taoiseach will have noted the coverage in *The Financial Times* recently to the effect that Dublin will not attract as many jobs from the financial sector in London as it could because of the lack of infrastructure and regulatory capacity. That is a worrying comment on the attractiveness of Ireland in terms of financial services.

Nine months have passed since the Brexit result and we still have not addressed some of the concrete issues by which we could actually benefit from the EU in terms of making sure that we attract such business. The Minister of State at the Department of Finance, Deputy Eoghan Murphy, has complained about regulatory arbitrage and that other cities are being more aggressive in trying to win business and perhaps moving regulatory considerations to one side. The important point is, what does the Taoiseach intend to do to counteract this negative profiling of our capacity to attract further financial services into the country because of the infrastructure and regulatory capacity issues?

The Taoiseach: This is not so much about legislation as about activity that is taking place. Today on Bloomberg's "Brexit Bulletin" Dublin is ranked first in respect of 15 cities analysed for conditions for transfer of jobs. I note the comments from some senior chief executives of very big financial houses saying they are going to move. They are not all saying that they are going to come to Dublin but I can confirm that we have met with a number of people over the last three months who are examining Dublin in competition with other countries and other capitals very favourably.

The Central Bank has had quite extensive engagement with banking and financial houses which wish to relocate different sectors of their businesses from London to other locations. Ireland is being considered very favourably in that regard. The Central Bank is the regulator and, as the Deputy knows, the European Central Bank also provides personnel in terms of

22 March 2017

regulations and licences that might be involved. There is much activity, some of which I cannot discuss publicly. I expect that favourable decisions will be made for us.

Businesses want to locate in a country which is in the Single Market, where the English language is spoken, which has had 40 years or more of engagement with the European Union and which has connectivity between London and Dublin, the second busiest route in the world. Most important is the access to a continuous stream of talent. I will provide the Deputy with further facts at a later stage.

Deputy Mary Lou McDonald: Job creation is at the heart of the efforts of the Government and the programme for Government. In light of that, I want to ask the Taoiseach about ConnectIreland. Reports which suggest that what seems to be obstruction by IDA Ireland took place in the creation of jobs are very disturbing and concerning. We are all now aware that the ConnectIreland initiative will end on Monday. The Taoiseach has repeatedly stated today that a review into ConnectIreland is under way. I want the Taoiseach to confirm when the review commenced, its terms of reference, when it will conclude and what influence it will have on the likelihood of ConnectIreland continuing.

I ask the Taoiseach to clarify that he has not misled the Dáil on the matter of a review. The initiative is due to shut down on Monday, and it is alleged that it is shutting down not least because of the connivance and, it is alleged, bad will of IDA Ireland. The Taoiseach needs to clarify that matter. I ask him to tell us about the review, including when it started and its terms of reference.

An Ceann Comhairle: The Taoiseach can have one minute for a reply.

The Taoiseach: I will take 30 seconds. Perhaps Deputy McDonald would refer to the word “connivance” she used in regard to IDA Ireland.

Minister for Jobs, Enterprise and Innovation (Deputy Mary Mitchell O’Connor): It is disgusting.

Deputy Mary Lou McDonald: It is just a word.

The Taoiseach: Maybe she should correct the record in decrying IDA Ireland.

I said the Minister is to carry out a review. I said the board dealt with this last November and that the contract was extended for 12 months, and if the contract were to be extended beyond Monday it would have to go for public procurement. I will ask the Minister for Jobs, Enterprise and Innovation to give the Deputy specific details on when the review will start and the nature of that review. The Deputy will, of course, understand that litigation is involved.

Deputy Mary Mitchell O’Connor: I want to make sure that everyone understands that there is a legal dispute between ConnectIreland and IDA Ireland. This is unfortunate and a legal process is under way to address the differences. On the last occasion on which I took questions on ConnectIreland, I stated that the Department of Jobs, Enterprise and Innovation is drafting the terms of reference and guidelines for the review. We will consult the Joint Committee on Jobs, Enterprise and Innovation, and I know my officials attended the meeting of that committee yesterday. I had to attend a Cabinet meeting when the committee meeting took place. The committee was informed that I would not be available and the timing was unfortunate.

It is very difficult to carry out a review when a legal dispute is ongoing. We are putting the

guidelines together and hope that IDA Ireland and ConnectIreland can come to an agreement. There is a dispute about the number of jobs that have been created. At the moment, there does not seem to be any agreement.

Deputy Brendan Howlin: Ireland was described in an article I read as the wild west of gambling due to the lack of regulation of the gambling sector here. The Gambling Control Bill passed pre-legislative scrutiny in 2013. The current Minister of State at the Department of Justice and Equality, Deputy David Stanton, was Chairman of the Joint Committee on Justice and Equality when the pre-legislative scrutiny of that Bill was completed.

I understand some measures will be included in the Courts and Civil Law (Miscellaneous Provisions) Bill, including age restrictions. However, that is no substitute for the comprehensive reform and regulation measure which is now required. Bizarrely, I am also informed that the plans include increases to prizes and stakes for gambling machines.

In our offices we regularly hear the concerns expressed by parents who are encountering gambling problems, in particular online gambling. We need comprehensive legislation in this regard. When will the Gambling Control Bill, which has passed pre-legislative scrutiny, be brought before the Dáil?

The Taoiseach: I will ask the Minister for Justice and Equality to respond to Deputy Howlin.

Tánaiste and Minister for Justice and Equality (Deputy Frances Fitzgerald): As Deputy Howlin knows, the Minister of State, Deputy David Stanton, has made this a priority area. Perhaps he would like to comment on the work he is doing.

Minister of State at the Department of Justice and Equality (Deputy David Stanton): Since the committee report was produced many changes in the technology around gambling have taken place. We commissioned a report on that, which has been published on the website and which I am sure Deputy Howlin has seen. That has led to changes being required to the Bill, on which we are working very hard.

In the meantime, we have identified a number of areas which will be included in the miscellaneous provisions Bill to which the Deputy referred. It will be brought before the committee shortly for pre-legislative scrutiny. We will be advised by the wisdom of the committee on that. It includes age limits and stakes, which the Deputy mentioned. I am looking forward to receiving the report of the committee on that Bill. I hope to publish it before the summer recess.

Deputy Brendan Howlin: What about the main Bill?

Deputy David Stanton: I hope to publish the main Bill before the end of the year.

Deputy Paul Murphy: I am sure the Taoiseach is aware of what seems to be a very grave situation, namely, the condition of Irish citizen Ibrahim Halawa.

An Ceann Comhairle: No, that is not relevant. This is Questions on Promised Legislation.

Deputy Paul Murphy: I welcome the fact the Government is planning to send a medical expert-----

An Ceann Comhairle: That is still not relevant on promised legislation.

22 March 2017

Deputy Paul Murphy: We normally take a fairly lax-----

An Ceann Comhairle: No, we do not.

Deputy Paul Murphy: I think we do. Perhaps the Taoiseach could tell us what actions the Government is planning to take in terms of communications with President el-Sisi. Perhaps we could reconvene as the delegation-----

An Ceann Comhairle: Deputy Murphy will have received notice of a meeting that will take place tomorrow.

The Taoiseach: I was disturbed by the directly contradictory reports of the condition of young Ibrahim Halawa, who is an Irish and European citizen. For that reason, yesterday the Government made a clear decision to send a qualified medical person, on the recommendation of the chief medical officer, to carry out a medical examination on Ibrahim Halawa so that we have an accurate report of his medical condition.

I read a report which stated he was confined to a wheelchair and was being sustained by glucose injections, by which I was disturbed. The Minister for Foreign Affairs and Trade reported in depth to the Cabinet yesterday on the extensive discussions and visits by the Irish diplomatic services to the prisons involved that have taken place. *1 o'clock* The Ceann Comhairle led an inter-party delegation. We wanted to have verified for us, from the point of view of an Irish qualified medical person, the medical condition of Ibrahim Halawa.

I spoke to the Egyptian President on two occasions. I cannot interfere in the judicial process of another country. Getting all the defendants involved in the trial together at one time seems to have been beyond the recourse of the system. The case has been postponed many times.

In the context of being disturbed about the contradictory reports, I asked that the Government approve the sending of a qualified person on the recommendation of the chief medical officer to get an accurate medical report on the young man's condition, and that has happened.

Deputy Mattie McGrath: The Minister for Jobs, Enterprise and Innovation is in the House and this question is about the industrial development (amendment) Bill. We have the threatened closure of a Bord na Móna facility - a briquette factory - at Littleton, with more than 70 jobs-----

An Ceann Comhairle: No-----

Deputy Mattie McGrath: This is under the industrial development (amendment) Bill.

An Ceann Comhairle: No, it is not. That would be an incredible stretch of the imagination.

Deputy Mattie McGrath: It would not. At least I have legislation to refer to, unlike the last Deputy. It is an important issue. Last week in Nenagh we had Coty's announcement and in that regard I thank the Minister for meeting us yesterday. I want to know what action the Government will take to ensure that the Bord na Móna plant will be secured for the workers in Tipperary. We have had too many hits in Tipperary. In terms of jobs being lost, it is as if we are under siege at the moment. When I put the question yesterday about ConnectIreland, I did not get much of an answer from IDA Ireland once the Minister had left. Something funny is going on. There is not a nice tang off it. I want to talk about "ConnectTipperary". I want to stay connected. I want some answers about the future of the Bord na Móna plant at Littleton.

An Ceann Comhairle: The question is far more appropriate to the line Minister.

Deputy Mattie McGrath: She is here.

An Ceann Comhairle: The Deputy can table a parliamentary question.

Deputy Mattie McGrath: Tá sí anseo.

An Ceann Comhairle: Yes, but this slot is not for questions on constituency issues. Does the Minister or the Taoiseach wish to comment? We will not be getting into this on an ongoing basis.

Deputy Mary Mitchell O'Connor: The Deputy mentioned the industrial development (amendment) Bill. The draft heads of the Bill were approved by Government-----

Deputy Mattie McGrath: Now. Go raibh maith agat.

Deputy Mary Mitchell O'Connor: -----and we expect them in the first half of 2017. On Tipperary, given the Deputy mentioned the Bill-----

Deputy Mattie McGrath: I did, as it concerned legislation.

Deputy Mary Mitchell O'Connor: If I may answer the question, the Deputy asked me about Tipperary. I met the Deputy on two occasions along with the other Deputies from Tipperary. I will meet the action group from Tipperary, including the chief executive, along with any Oireachtas Members that wish to attend next week. I assure the Deputy that regional jobs are hugely important to me. I know Deputy Mattie McGrath knows that to be the case.

Deputy Mattie McGrath: Show me the money.

Deputy Mary Mitchell O'Connor: IDA Ireland, Enterprise Ireland and the local enterprise offices-----

Deputy Mattie McGrath: ConnectIreland.

Deputy Mary Mitchell O'Connor: -----are all trying to win regional jobs for Ireland, including Tipperary.

Deputy Frances Fitzgerald: Hear, hear.

Deputy Catherine Connolly: A review of A Vision for Change was promised under the programme for Government. Aside from water, health and sexual abuse, mental health has been the most debated subject in this Chamber since I was elected last February. I have asked repeatedly when the promised review will be published. I was told it would be before Christmas. Then I was told it would be the end of February. We are now past the middle of March. Where is the review of A Vision for Change?

The Taoiseach: I do not have a date for Deputy Connolly for its publication. I will have the Minister of State, Deputy Helen McEntee, contact the Deputy.

Deputy James Lawless: I wish to raise the issue of commercial rates, in particular the re-valuations that are ongoing across several counties, including County Kildare. This is causing difficulties for high street retailers, in particular, and small traders that have been unduly hit under this re-valuation. Some of them have seen a doubling and trebling of their current rates. On

22 March 2017

Monday the Minister for Housing, Planning, Community and Local Government announced his intention to bring forward a Bill on the rates valuation system. He acknowledged serious flaws in the legislation, which dates back to the 1800s, including the fact that the smallest sole trader pays the same rate multiplier as the largest multinational. There are many difficulties with the rates system that are causing significant difficulties for small businesses and high street retailers, in particular. Given the Minister's intention to bring forward legislation, does the Taoiseach consider it wise that the current re-valuation across ten counties should continue? When are we likely to see the proposed legislation in action?

An Ceann Comhairle: I call Deputy Fiona O'Loughlin on the same matter.

Deputy Fiona O'Loughlin: I also wish to raise a query on the commercial rates Bill, which I understand will consolidate the existing legislation. We know that businesses throughout the country are struggling. They are dealing with increases in insurance and rents and now in rates. Last week in my county of Kildare, where there are more than 5,000 of them, all the ratepayers got letters relating to increased rents. I accept that the council sets the rate, but the issue is with the valuation. In almost all of those cases, the valuation has increased. In one situation, where rent of €12,000 is being paid, the Valuation Office is saying that the rent for the area should be €30,000, so the rates have increased from €5,500 to €7,200. This is not sustainable. The hospitality industry has been particularly hard hit. We must do everything in our power to ensure that our businesses are sustainable. They are providing employment and services. We must do more on the rates.

An Ceann Comhairle: I call Deputy Tony McLoughlin on the same matter.

Deputy Tony McLoughlin: I am sure the Taoiseach is aware that new legislation is urgently needed to improve the outdated rates valuation system. Only this week, some ratepayers in County Sligo received increases of up to 400%. There is quite a lot of businesses in County Sligo. In support of the other Deputies, I say that the increases are quite simply unacceptable. Will the Taoiseach provide an update on the progress of the new rates Bill?

The Taoiseach: There are always problems associated with rates and commercial premises. In terms of retail outlets, everyone should be aware of the double digit increases in online retail sales. Government has set out a series of assistances for retailers, including opportunities to go online with assistance from the Department of Jobs, Enterprise and Innovation. Deputy Fiona O'Loughlin mentioned increases in rents. Those may be related to the issue but they have nothing to do with the legislation itself. The heads of the Bill are due to be brought before Government next month and will be subject to pre-legislative scrutiny.

In respect of the comments about the hospitality sector, the Government abolished the travel tax, reduced VAT from 13.5% to 9% and maintained the VAT rate at that lower level through the last three or four budgets. The Government has worked with the agencies for Norwegian Air to fly new routes from four airports to the United States. The number of new outlets flying into Ireland for the hospitality sector has greatly increased over recent years. Everyone involved in the hospitality sector can avail of various opportunities. In particular, I mention the Wild Atlantic Way, the midlands region and Ireland's Ancient East, which offer ideal opportunities to the hospitality sector.

Deputy Thomas Byrne: The programme for Government speaks about improving the provision of school resources for children with special needs. Yesterday the National Council for

Special Education, NCSE, published documentation on resource teaching, learning supports and special needs assistants. Shockingly, there is no longer an appeals process available to parents who are dissatisfied with the number of resources hours and learning supports being provided for their child. The appeals process that was in place has now been abolished, which is an extremely retrograde step. Many people were worried about the NCSE's new model for allocation but were listening to the strong arguments being put forward by it. Many people are shocked that parents no longer have a right to appeal a resource allocation provided, in this case, by the teachers.

An Ceann Comhairle: I call Deputy Michael Moynihan on the same matter.

Deputy Michael Moynihan: This decision is horrendous. I compliment Deputy Thomas Byrne for highlighting it. Allocations had been made to schools and, right up until last Wednesday or Thursday, the Department of Education and Skills was advising parents to wait until the mechanism for the appeals process was in place before lodging an appeal. Those parents were waiting because they were assured that a process would be put in place this week. It now transpires that the Department is putting no such mechanism in place. Surely to God it is the case that these children need the best supports possible. The Taoiseach should examine this matter urgently because, as my colleague stated, it is a disgrace.

The Taoiseach: I am surprised to hear this. A great deal of work has been done in respect of special needs, both in terms of the provision of facilities and the extent of public moneys available, which is at more than €1.6 billion. I will have the matter in respect of the appeals mechanism raised directly with the Minister for Education and Skills. I am sure he will be interested it.

Deputy Willie O'Dea: Today we had a presentation from those who represent people who suffer the dreadful medical condition called cystic fibrosis. They are anxious to ascertain when the Government's proposed legislation on family consent and an opt-out register for organ donation will be introduced. They are also concerned to ascertain the latest position on the drug Orkambi.

The Taoiseach: I do not have a date for the Deputy on the legislation. As I stated the last time Orkambi was raised in the context of setting out some sort of certainty for the health system, the discussions centre around Orkambi, Kalydeco and any other new drug that comes on stream. My understanding from the Minister for Health is that it is hoped to conclude the discussions in a matter of weeks. I know I said that the last time the matter was raised but that is my information. This issue is of serious concern to those who have cystic fibrosis and their parents. It is hoped the discussions will be concluded in an overall sense in a couple of weeks. I will revert to the Deputy on the legislation.

Deputy Willie O'Dea: Will the Taoiseach send me a note on the legislation?

The Taoiseach: Yes, I will provide an update on work on the Bill and when it is expected.

Deputy Sean Fleming: I raise the long-promised and overdue revised guidelines for the wind energy industry. The Taoiseach will be aware that in 2016 the European Court of Justice ruled that Ireland will have to carry out a strategic environmental assessment before any revised guidelines are issued. As any planner will agree, the process of carrying out a nationwide assessment takes more than two years to complete and the procurement process could take another year. In light of this ruling, will the Taoiseach confirm that the revised guidelines will not

be available for several years and we will be stuck with the current guidelines?

The Taoiseach: The Deputy seems to be seeking a timescale. All I can tell him is that the Minister for Housing, Planning, Community and Local Government, Deputy Simon Coveney, and Minister for Communications, Climate Action and Environment, Deputy Denis Naughten, are talking. This matter dragged on for some time with previous Ministers. I will give the Deputy an up-to-date account on the status of the discussions.

Deputy Shane Cassells: In respect of the commitment in the planning reform section of the programme for Government to promote higher urban housing densities, particularly in public transport corridors, through the national planning framework, are plans in place to simultaneously fund the creation of community centres and facilities for these new high-density areas? The new policy being promoted by the Minister for Housing, Planning, Community and Local Government, Deputy Simon Coveney, in a nationwide roadshow has the potential, if not handled properly, to exacerbate problems in urban areas where thousands of families can be displaced from their home town in search of affordable housing, only to find a dearth of community facilities. Are plans in place to reinstate the capital funds previously provided by the Department for the construction of community centres?

The Taoiseach: That is a matter for legislation and one to which the Minister for Housing, Planning, Community and Local Government will respond in accordance with the statutory plans set out by each local authority. The Deputy will be aware that in respect of special development zones, restrictions and prohibitions apply to the provision of extensive housing unless other facilities are provided in parallel.

Deputy Shane Cassells: We have a special development zone in Navan.

The Taoiseach: One cannot provide large numbers of houses without providing the facilities that go along with them.

Deputy Shane Cassells: That has happened.

The Taoiseach: In the past, people sometimes forgot that children were born on housing estates and they need facilities. This is all about proper planning.

Deputy Pat Deering: We have heard much today about jobs. The south-east region suffered a great deal as a result of the problems the country experienced in recent years. One of the key drivers of the Action Plan for Jobs in the south east was the development of a technological university for the region. Successive Governments set this as a priority. Will the Taoiseach provide an update on the progress of the Technological Universities Bill? Is it still Government policy to develop a technological university for the south east based on parity of esteem and multi-campus technology?

The Taoiseach: This was one of the first decisions made by the previous Government in 2011 on account of the demise of TalkTalk in Waterford. Since then, the Government has fully supported the concept of technological universities. We are awaiting Committee Stage of the Technological Universities Bill in the Dáil, which should be taken not too far from now.

Deputy Danny Healy-Rae: The programme for Government makes specific reference to the farming community, farmers' income and support for the family farm. In 2009, the disadvantaged payment made to farmers in the least productive land was cut from €4,400 to €3,400.

Farmers may now only claim for 34 ha rather than 45 ha. The new ANC payment rate as well as how and where it is paid will be decided later this year. I ask that the €1,000 taken from farmers in disadvantaged areas be restored to farmers who badly miss and need this money because they are struggling. Incomes that were cut in many other sectors have been restored, which I welcome. I ask that the payment be restored to its previous level for farmers in disadvantaged areas when the new ANC payment is being distributed.

The Taoiseach: While I take the Deputy's point, these are all matters to be considered at the relevant time. Preparations for the 2018 budget will start in due course and the level of grant assistance from the Common Agricultural Policy and Exchequer are always monitored.

Deputy Donnchadh Ó Laoghaire: While the issue I raise was addressed previously, I have a specific question on the programme for Government commitment to tackling the current challenges in health. Cystic fibrosis is one such challenge. With 1,200 people in Ireland suffering from the condition, we have one of the highest rates of cystic fibrosis in the developed world. Will the Taoiseach update the House on the current status of negotiations with Vertex on the availability of Orkambi and the extension of specialist therapies?

The Taoiseach: I just answered a similar question from Deputy O'Dea. The Minister hopes the discussions with the companies involved in the manufacture of Kalydeco, Orkambi and any future drug for cystic fibrosis can be concluded in a matter of weeks.

Deputy David Cullinane: The Taoiseach previously gave a commitment to establish a commission of investigation into Project Eagle. In previous responses to questions asked by me and others, he stated he would hold off on doing so pending the report on Project Eagle from the Committee of Public Accounts. The committee's report has been published and we now have allegations that the National Asset Management Agency sold loans worth hundreds of millions of euro in private, rather than through the proper procedure. A commission of investigation into a range of matters is needed. Now that the red herring of the report of the Committee of Public Accounts has been taken from the water, will the Taoiseach provide an update as to when the terms of reference of the commission of investigation will be published and when the commission will be established?

The Taoiseach: I agreed in principle, when I met the leaders of the parties opposite on a number of occasions, to have a commission of investigation.

Deputy David Cullinane: It was not agreed in principle; it was agreed.

The Taoiseach: I believed it was appropriate to wait until the report of the Committee of Public Accounts had been published. As the Deputy is well aware, the report, which will be the subject of a debate tomorrow, is disputed. I need to hear the views of Deputies on the value of the extensive work done by the committee and the areas a commission of investigation could not deal with, both in terms of documentation and personnel who are available or live outside the jurisdiction. Deputies should give their views as to the value and estimated costs of such a commission of investigation and what it would hope to achieve. I am not resiling from the principle we set out but members of the Committee of Public Accounts and others have valid contributions to make and we should hear those. We agreed in principle to have a commission of investigation and there are quite serious constraints upon that, both in terms of legal areas, jurisdictional problems, evidence problems and the extent of work carried out by the committee, which resulted in a disputed report at the end of the day.

22 March 2017

Estimates for Public Services 2017: Message from Select Committee

An Ceann Comhairle: The Select Committee on Agriculture, Food and the Marine has completed its consideration of the following Revised Estimate for Public Services for the service of the year ending 31 December 2017 - Vote 30.

Ceisteanna - Questions

Taoiseach's Meetings and Engagements

1. **Deputy Micheál Martin** asked the Taoiseach if he held any bilateral meetings with any EU leaders at the European Council meeting of 9 March 2017; and the issues that were discussed. [13175/17]

2. **Deputy Brendan Howlin** asked the Taoiseach if he will report on the outcome of the European Council meeting of 9 and 10 March 2017. [13188/17]

3. **Deputy Joan Burton** asked the Taoiseach if he will report on his Department's preparations for the forthcoming European Council meeting in Rome. [13424/17]

4. **Deputy Joan Burton** asked the Taoiseach if his attention has been drawn to the comments by President Hollande regarding the establishment of a two-speed European Union; and if he has discussed this with President Hollande. [13425/17]

5. **Deputy Gerry Adams** asked the Taoiseach if he will report on the informal meeting of European Union Heads of State and Government held on 10 March 2017. [13683/17]

The Taoiseach: I propose to take Questions Nos. 1 to 5, inclusive, together.

As reported to the House in yesterday's debate, I attended the spring European Council meeting and a meeting of the 27 Heads of State and Government in Brussels on 9 and 10 March. As Deputies are aware, I also held a short bilateral meeting with Prime Minister May. I had no other bilateral meetings over the two days, although I engaged with my counterparts in the margins of the EU meetings. The European Council agenda on 9 March included a decision on the President of the European Council and on the European Public Prosecutor's office; migration; security and defence, which was primarily a report on the state of play; the Western Balkans; and issues relating to jobs, growth and competitiveness, including the economic policy of the euro area, banking union, EFSI, the Single Market, digital Single Market and trade.

On Friday, 10 March, the Heads of State and Government of the 27 member states met to continue our discussion on the future direction of the Union, in advance of the Rome summit later this week, which will mark the 60th anniversary of the Treaty of Rome. In Brussels, there was some discussion of the European Commission's White Paper, which outlined the challenges facing the Union and set out, in non-prescriptive terms, a number of possible future scenarios. In our preparatory discussions on this matter, I have consistently stressed the need to remain united and to focus on those areas where we agree and where the EU can add value to the lives of our citizens. Completing the Single Market and supporting jobs through trade are good examples of where Europe really works for citizens and we will continue to stress the

priority of these areas in the period ahead.

In my bilateral meeting with Prime Minister May, we discussed the situation in Northern Ireland and agreed on the need to re-establish the power-sharing institutions of the Good Friday Agreement. I underlined the importance of making progress in respect of legacy issues, in particular. We also discussed the implications of the UK's decision to leave the EU, and the need to ensure that this does not lead to the reimposition of a hard border on the island of Ireland. I stressed that this presents a significant political challenge and will require a political solution.

Since my meeting with Prime Minister May, the UK Government has completed its internal legal procedures and indicated that it will trigger Article 50 on 29 March. I hope that we will now see greater clarity on the UK approach to the negotiation process, including how it is prioritising its issues and, in particular, the UK's proposed approach to avoiding any reintroduction of a hard border on this island. Once Article 50 has been triggered, the other 27 member states, including Ireland, will discuss and agree our guidelines for the negotiations ahead. European Council President, Donald Tusk, has indicated that the meeting of the 27 Heads of State and Government to finalise those guidelines will take place on 29 April.

I am aware of President Hollande's comments about the possibility of a two-speed Europe, although I have not discussed these with him in a bilateral meeting. This concept has been talked about for many years; it is nothing new. Member states co-operate to different degrees. For example, not all partners are in the eurozone or in Schengen, and the treaties provide for enhanced co-operation. From Ireland's perspective, the anniversary of the Treaty of Rome is an important opportunity to mark the real and lasting achievements of the EU, to promote unity, and to highlight the need for delivery for our citizens. I am sure that most Members agree that Ireland's place is, and remains, at the very heart of Europe.

Deputy Micheál Martin: I thank the Taoiseach. I was in Brussels last week where I met seven Prime Ministers and four Commissioners as part of the ALDE group, when we had a particular meeting. Many people said to us that Ireland's approach to the Brexit negotiations is one where we have to move from talking about the problems to proposing solutions. I had meetings with officials as well. It is fair to say that there is a significant appreciation of Ireland's position in Europe and we will be able to win support for measures which allow us to protect the common travel area and to limit the damage and the administrative barriers at the Border, although there is a great need for specifics on that. However, beyond that, there is no obvious progress or even any proposals on the table. The Government's Brexit document sets out broad policy objectives with limited detail. When will this change? When will we be given any insight into what the Government is asking for in terms of the right to support badly hit industries or to subsidise businesses in respect of the cost of Brexit-related regulations?

The pace of bilaterals has increased but the evidence is that we are spread too thin and simply do not have enough people working on what will be a 27-way negotiation. We do not have the level of staff required to maintain active bilateral engagements throughout these negotiations. We also do not have the right staffing to deal with the fact that we have to approach UK relations in a different way post-Brexit and have to have a new approach to Council meetings. Has a staffing audit been carried out in respect of diplomatic and expert staffing needs for bilateral relations? If not, will the Taoiseach agree to carry one out urgently given the enormity of the challenge ahead?

The Taoiseach: It is not just about numbers. I am glad the Deputy was in Brussels and I

22 March 2017

am glad he met members of the group to which his party belongs. It is important that he, as the leader of this party, can outline to them the issues that are important for Ireland. We can agree on those - our trading relationships, protection of the peace process, the Border issue, the common travel area and our place as a continuing member of the EU in the future. We now know that the British Prime Minister will trigger Article 50 next Wednesday, 29 March. The Union will respond to that with a draft set of guidelines. We will have a part in those guidelines. There will be a particular short section relevant to Ireland. I would envisage that this draft document will go for publication and discussion, and will come back for decision on 29 April to set out what will be the foundation for those negotiations. I have outlined the priorities for us on quite a number of occasions. That section, which is prioritised, has to be a priority for Michel Barnier's task force on the European end of things, and it will be important. It will also take into account the really important issue for us of the requirement for protection of the peace process, political stability and no contemplation of a return to any hard border. It depends on the language one uses here. Other countries have different views. We cannot formally negotiate with Britain before these negotiations start but we are clear what we want here.

I have addressed staffing previously. The Deputy is fully entitled to get an up-to-date briefing on all these matters. We are in a position, if necessary, to recruit specialist staff that we might consider necessary and that will be done if necessary, but I assure the Deputy that every leader at European level knows full well what Ireland's priorities are because they have been met by all our Ministers at different Council meetings and I am glad he met some of the leaders from the socialist group.

Deputy Micheál Martin: I am talking about the level of officialdom.

The Taoiseach: I will give the Deputy the detail of that.

Deputy Brendan Howlin: We had questions yesterday and statements on the recent European Council meeting. Am I to understand from the Taoiseach's response that he had sight of the draft response that will be issued by President Tusk once he receives the letter from Prime Minister May and that there is a paragraph on Ireland in that? Is that what he is suggesting?

The Taoiseach: No, I have not seen it.

Deputy Brendan Howlin: The Taoiseach can come back and explain exactly. Do we have any input into crafting this particular outline of the policy platform being discussed and proposed to be adopted by the 27 member states? Are we crafting that particular section?

I was intrigued yesterday to read in *The Irish Times* under the headline, "Government believes it can secure Brexit deal on Border" that "... the Government believes it can secure agreement that the future of the Border should be left to Dublin and London". Under a byline of Pat Leahy, the article suggests that somehow there is an agreement on a bilateral deal. That obviously is counter to everything that was said recently - that there will not be bilateral discussions on fundamental issues like that and that once the negotiations start, there will be two sides to the table - the UK side and the 27 side. Is there any substance to that report? What, in particular, led to that being written? Is there an understanding that some sort of bilateral arrangement between Dublin and London will have to be accommodated in the overarching 27 position? Has that been discussed either formally at the discussions of the 27 or bilaterally between the Taoiseach and President Tusk?

The Taoiseach: No, I have not seen the proposed draft from President Tusk. It is a docu-

ment that will be - whatever number of pages it is - a draft response from the 27 countries. Ireland has an input into it, as will the other 26.

Deputy Brendan Howlin: He said he will respond in 48 hours so it must be in existence already.

The Taoiseach: Yes, but I have not seen it. That is my point. I have not seen it. As we are talking, there are discussions going on. We will craft the paragraph that will deal with Ireland.

Deputy Brendan Howlin: Ireland will craft it.

The Taoiseach: We will craft it, yes. Ireland will craft it. We will also have an input directly into the general document because of the meetings that take place with COREPER and other officials. To be clear, there can be no formal negotiations before Article 50 is triggered. I do not want to be accused of having formal negotiations about Brexit with the British Government but I want everybody to understand that in my discussions with Prime Minister May, we clearly understood there should be no return to a hard border. That is accepted by the Barnier task force which recognises the unique circumstances and special case that applies in Ireland because of the PEACE funds, the internationally legally binding agreement and because the Border that was there brought with it sectarian violence. We will make that case from my point of view, the Government's point of view and from Ireland's point of view that any contemplation of a return to what was there before will bring both political instability and the possibility of sectarian violence and we are not going back there.

President Tusk will publish the draft document within 48 hours which will probably be next Friday week and it will go for circulation and discussion. We will have a specific paragraph in there relevant to our issues but also general input into the document. It will be circulated, discussed and we will have whatever rows there will be about it. It will then go for finalisation on 29 April at the European Council. It may not be concluded at that meeting.

Deputy Joan Burton: What we understand, in particular from various British commentators, including the Prime Minister, is that Britain will be leaving the Single Market and will also be leaving the customs union. If that is so, and we can only go on what is being suggested by all the different parties in the UK, how then will there be no border? Will the border be at the ports and airports of the island of Ireland? Will the border be at the sea frontiers of the island of Ireland? We have had many different suggestions on vehicle movements such as number plate recognition and technology is very well advanced. What is the Taoiseach's understanding of what that position will be? Will the island of Ireland get a specific mention in the response led by President Tusk? The Taoiseach indicated already, if I understood him correctly, that Ireland will draft it. Will he confirm that? Will it be drafted in the context of the island of Ireland or will it be drafted in the context of the Republic?

An Ceann Comhairle: I thank the Deputy.

Deputy Joan Burton: A series of meetings have taken place in recent times, some initiated by President Hollande and some initiated by the Italians, indicating that post-Brexit, quite a number of the 26 are looking at new arrangements for the European Union which would potentially put countries into different groups. Not too long ago, the Taoiseach met the Prime Minister of Poland which is part of the eastern European group.

An Ceann Comhairle: Deputy, the time is up.

22 March 2017

Deputy Joan Burton: It is not very keen on that kind of an approach. In terms of the Taoiseach's conversations with the other European leaders, who will be meeting in Rome at the weekend, and what is his view on the idea now being put forward of a two-speed Europe or one with three or four different European groups? Where will Ireland be in that?

An Ceann Comhairle: I thank the Deputy.

Deputy Joan Burton: Has the Taoiseach had an opportunity to discuss with President Hollande where France stands on his specific proposals and invitations? Was the Taoiseach invited by President Hollande to any discussions or was it simply countries he felt were like-minded?

An Ceann Comhairle: We have now overrun the time allowed for that block of questions by almost two minutes. If we are to adhere to the rules of the House, we should not allow the Taoiseach to answer. I am in the hands of the Members now. What do they propose to do when people cannot abide by the time limits set? What do they propose we do?

Deputy Brendan Howlin: A rigorous Chair, I suggest.

An Ceann Comhairle: Perhaps, but Deputies ignore the Chair, although not Deputy Howlin, in fairness.

Deputy Brendan Howlin: Certainly not.

An Ceann Comhairle: Since most Members choose to ignore the Chair-----

Deputy David Cullinane: We have not made our contribution yet.

An Ceann Comhairle: Deputy Cullinane has not made his contribution. Do Members want to allocate some additional time for this?

Deputy Brendan Howlin: An additional five minutes.

An Ceann Comhairle: An extra five minutes. Perhaps we will take Deputy Cullinane's question and then go to the Taoiseach.

Deputy Eamon Ryan: This issue needs to come back to the Dáil reform committee because it is serious. We had the same problem yesterday when the Taoiseach rightly said, when he had one and a half minutes to respond to four very detailed questions, that we have to look at the overrunning of time on a regular basis. It has been raised before. It cannot continue like this.

An Ceann Comhairle: Will Deputy Cullinane put his question?

Deputy David Cullinane: I will be very brief. I thank the Ceann Comhairle. The Taoiseach previously expressed impatience at the lack of clarity from Britain on Brexit. There was some very important clarity on Monday when the British Government announced it will trigger Article 50 on Wednesday, 29 March, which is in only one week's time. We need to get clarity from the Taoiseach. He said in a previous response that the Irish Government's position is very clear on what we want. It is not very clear on what we want in the North of Ireland and it is not very clear that this Government will support special status for the North. When the Taoiseach says there should be no return to a hard border, what exactly does it mean? We do not want a hard border or a soft border. There are very real concerns about the implications all of this will have on the all-island economy, on cross-Border trade, on agriculture North and South and on a range of other issues. Did the Taoiseach raise any or all of these issues at the informal meeting

of the European Heads of Government on 10 March?

An Ceann Comhairle: The Taoiseach has about a minute and a half to respond to those questions.

The Taoiseach: The notification will be issued on 29 March by the British Government. The General Affairs Council, which is Ministers from the 27 member states, will then adopt more detailed negotiating directives and authorise the opening of the negotiations. The European Council will remain permanently apprised of the negotiations and will update the guidelines and negotiating directives as necessary in the course of those negotiations. The Commission will lead the technical negotiations on behalf of the Union. They will be led by Michel Barnier. Representatives of the President of the European Council will be present alongside the European Commission representatives at all of those negotiation issues.

Our position is very clear on minimising the impact on trade and the economy, protecting the Northern Ireland peace process, maintaining the common travel area and contributing positively to the discussions about the future of the European Union. One section will deal with what everybody now knows, which is that there is a peace process in Ireland, which is the subject of dual guarantorship by the Irish Government and British Government and lodged in the United Nations, and that the only land border internally in the European Union will run from Dundalk to Derry. Therein lies the question of what do we mean when we say no return to a hard border. What I mean is no return to customs posts on the main arteries across the road links from the Republic to Northern Ireland. That brought with it sectarian violence. That is what I mean by it.

In respect of the section, for Deputy Howlin's information, dealing with the Irish problem that is about the peace process and the Border situation, it impacts on the island of Ireland, obviously, but it is specifically referenced to our wanting the peace process protected and no return to that kind of Border of the past.

Taoiseach's Meetings and Engagements

An Ceann Comhairle: The second group of questions ranges from Nos. 6 to 15.

Deputy Brendan Howlin: On a point of order, it makes no sense to have 15-minute slots for nine questions and 15-minute slots for two questions.

Deputy Micheál Martin: Revert to the Business Committee.

An Ceann Comhairle: We do not group the questions, I am afraid.

Deputy Joan Burton: Who does?

Deputy Micheál Martin: Let us go, please.

Deputy Brendan Howlin: Yes.

Deputy Micheál Martin: We know well who groups them.

The Taoiseach: I would not mind taking the questions individually, if that is what the Deputies want,-----

22 March 2017

Deputy Micheál Martin: Keep going, Taoiseach.

The Taoiseach: -----but there will be overlaps on all fronts.

Deputy Brendan Howlin: No. Groups just need adequate time.

Deputy Micheál Martin: We are wasting time.

The Taoiseach: I will have to try to read this in three minutes flat.

Deputy Brendan Howlin: Off you go.

6. **Deputy Micheál Martin** asked the Taoiseach if he will report on his trip to the USA to commemorate St. Patrick's Day 2017; the bilaterals that were held; the issues that were discussed directly with President Trump; and if the Irish undocumented were discussed. [13176/17]

7. **Deputy Brendan Howlin** asked the Taoiseach if he will report on his meeting with President Trump and his other engagements during his visit to the United States of America for St. Patrick's Day. [13186/17]

8. **Deputy Joan Burton** asked the Taoiseach if he will report on his meeting with President Trump in Washington. [13423/17]

9. **Deputy Gerry Adams** asked the Taoiseach if he will report on his recent visit to the United States of America. [13681/17]

10. **Deputy Brendan Smith** asked the Taoiseach the outcome of his discussions with President Trump and with members of the US House of Representatives and Senate in relation to immigration reform. [13876/17]

11. **Deputy Brendan Smith** asked the Taoiseach if he had discussions with Irish representative organisations in relation to immigration reform during his recent visit to the US. [13877/17]

12. **Deputy Mick Barry** asked the Taoiseach if he will report on his recent visit to the United States of America and meetings with President Donald Trump and members of his Administration. [13921/17]

13. **Deputy Eamon Ryan** asked the Taoiseach if he will report on his trip to the United States of America as part of his St Patrick's Day visit. [13924/17]

14. **Deputy Brendan Smith** asked the Taoiseach if discussions arose in his recent meetings in the United States in relation to the implications for the implementation of the Good Friday Agreement following Brexit. [14183/17]

15. **Deputy Brendan Smith** asked the Taoiseach if discussions arose in his recent meetings in the United States in relation to the implications of Brexit for all of the island. [14184/17]

The Taoiseach: I propose to take Questions Nos. 6 to 15, inclusive, together.

As the House is aware, I travelled to the United States last week for the annual St. Patrick's Day visit. My visit from 11 to 17 March encompassed four cities: Philadelphia, Boston, Washington and New York. Unfortunately, due to very adverse weather conditions, my programme in Boston was curtailed and a scheduled visit to Rhode Island had to be cancelled. Nevertheless, my programme for the visit included over 30 different engagements, including bilateral

meetings, formal speaking events, and media and civic engagements.

I had an extensive set of meetings and engagements with political, business and civil society representatives. My main focus was on advancing Ireland's economic and political interests in the US, including continuing to make the case for US immigration reform, highlighting the importance of the European Union and Ireland's commitment to membership, our priorities in the context of Brexit and promoting Ireland as a location for jobs, trade, tourism and investment.

In Philadelphia, I attended the 247th St. Patrick's Day parade before meeting the board of the Irish immigration centre. At an event at the Irish Famine memorial, I announced the Government's decision to hold a referendum on the matter of Irish citizens residing outside the State voting in Irish presidential elections from 2025. In Boston, I had meetings with Mayor Walsh and Governor Baker. I participated in a number of engagements arranged by IDA Ireland and Enterprise Ireland with existing and potential client companies.

My political engagements in Washington DC included bilateral talks with President Trump in the Oval Office. Issues discussed included bilateral economic relations, the importance of free trade, immigration reform, the implications of Brexit and the future of the EU as well as Northern Ireland and the peace process. I highlighted the plight of the up to 50,000 undocumented Irish and the importance to us of finding a solution to regularise their situation. These issues were also discussed during my meetings with Vice President Pence, the Speaker of the House of Representatives, Mr. Paul Ryan, Senate minority leader Mr. Chuck Schumer, Senator Patrick Leahy, the congressional Friends of Ireland group and General John Kelly of the Department of Homeland Security. I also presented President Trump with the traditional gift of a bowl of shamrock at the White House St. Patrick's Day reception.

In Washington, I attended and spoke at the American Ireland Fund dinner and the enterprise agencies economic promotion lunch, at which I launched the *creative.ireland.ie* portal. I also presented two SFI science medals at a Science Foundation Ireland event. While in New York, as well as attending the 255th St. Patrick's Day parade, I attended a number of business engagements, including Ireland Day, a major event to promote Ireland at Bloomberg, as well as participating at the greening of the One World Trade Centre.

Overall, this visit to the US was extremely important. It presented a valuable opportunity to highlight Ireland's key policy priorities and interests with the new US Administration, including on immigration, as well as to promote Ireland as a location for trade, tourism and investment. I believe I succeeded in achieving these objectives during my visit.

Deputy Micheál Martin: I thank the Taoiseach. In recent months, there has been a sense of some Deputies being almost relieved that Donald Trump is the US President because it allows them to revert to their default position of attacking the US for everything while ignoring the behaviour of other countries. Before November, I was clear about where I stood. We must manage the situation as it is.

Ireland's connection and relationship with the US is a broad, historic and deep one that does not depend on one President or electoral cycle. We do not choose other people's leaders. We must protect, enhance and nurture long-term relationships. I supported maintaining the tradition of the Taoiseach visiting the US and its President, Donald Trump. I did not join Deputy Howlin and others who sought cheap ways of attacking the Taoiseach. The Taoiseach's remarks in Congress were welcome and appropriate. The reality is that, at the moment, the US

Administration is not one that accepts the idea of critical friendship.

The Taoiseach has outlined the issues that he raised. In his address, he managed to uphold our values while getting messages across and maintaining a deep relationship. In Washington, he managed what was a difficult situation well. In the overall national interest, it was important that he made the visit and conducted it in that manner.

Deputy Brendan Howlin: Are there questions?

Deputy Micheál Martin: What did Congress say about some of the issues that the Taoiseach raised, for example, the benefit that countries got from current trading arrangements? Were there indications of when the US would start reducing its corporate tax rates? What practical response did the Taoiseach get on the issue of undocumented immigrants? Mayor Marty Walsh stated his belief that a special deal could not be achieved for Irish immigrants. What was the Taoiseach's response to that when he met him? What is the Taoiseach's sense of the undocumented question now?

The Taoiseach: I thank the Deputy for his comments. I said at the beginning that he understood fully the importance of maintaining the traditional links with the United States, which go beyond the occupancy of this seat by whoever or the Presidency of the United States. These are very valuable opportunities to promote the country in so many ways, given the extraordinary impact of Irish contributions to the United States over the years and the fact that Irish companies now employ over 100,000 people across 50 states.

I did notice Deputy Howlin's comments, which I think were probably issued before I ever emerged from the White House, but somebody pushes the button. In any event, let me say that my feeling is that what the Administration will follow in sequence will be the health issue arising from the original Obamacare schedule, the taxation issue and immigration, plus all of the other issues that will arise, but that seemed to be the sort of sequence of priorities that the Administration was focusing on.

I do think, a Cheann Comhairle, that we have a duty here as Members of the Oireachtas to continuously explain to American representatives the nature and the value of what the European Union actually stands for and how it does its business. This is a new Administration. There are still several thousand people to be appointed to it. It is important that, when Vice President Pence came to Brussels and Europe, he made a very good impression in the sense of wanting to understand, and showing an understanding of, the mechanics of how Europe actually worked. I hope to arrange a meeting between the President of the European Parliament and Speaker Ryan in Congress. With the European Parliament representing so many countries and so many people, these are important opportunities for people to understand each other.

I made the point directly to the President that I did feel that a proper trading relationship for the two most developed economic regions on the planet would yield several million jobs on either side of the Atlantic. I think that is a priority that we should pursue, both as Irish people and as members of the European Union.

Deputy Brendan Howlin: I make no apologies at all for fulfilling my role as leader of a political party outlining the values for which this country stands, values that are the absolute opposite of those of the current President of the United States. That provides a valuable counterbalance to the role of the Taoiseach and doing otherwise would have been remiss of me and others in opposition who should set out the real values of this country, which we should assert

with pride and clarity whenever we meet anyone abroad. Consider the opening of the statement by Chancellor Merkel, who is not in my political family. She outlined clearly the European and German values on which she would base her engagement with the US. That was the approach. Interestingly too the comments of former Governor, Martin O'Malley, re-echoed those points. Those are really important things to say. One cannot always fumble in the greasy till. Commerce is not everything. We have valuable connections but they are not the only values we have.

I welcome the fact the Taoiseach raised the issue of the undocumented but what will come of that? I ask that having listened to all the commentary from Mr. Spicer and others after the visit. Does the Taoiseach have a commitment to legislative change on the undocumented?

In regard to taxation policy, did the Taoiseach raise with anybody on his visit the so-called border adjustment tax, which would be devastating for this country, or corporation tax reform? Does he have any indication of what is likely to be proposed by the Trump presidency in those regards?

The Taoiseach: I noted the comments of former Governor O'Malley, who I know well. He made attempts himself to the get to the White House but the effort was not successful.

Deputy Brendan Howlin: So far.

The Taoiseach: He is entitled to his opinion. He may well decide to stand again. That is entirely his business.

I agree that commerce is not everything, which is why it is all the more important that we focus on what politics is always about, namely, people. We have some who are not in a position to contribute in the way they know they can. I do not support situations where Irish citizens, documented or undocumented, continuously break the law in other countries, nor would Deputy Howlin, but in respect of those who want to play their part and do so, it is a case of finding a method of legalisation for them.

Deputy Brendan Howlin: By definition, everybody who is there who is not documented is breaking the law.

The Taoiseach: The President himself made the point to me that he wants to hear from the Democratic Party on this issue. I had a lengthy conversation with Senator Schumer, who introduced a Bill in the previous Administration for 10,500 E3 visas for Irish people on an annual basis. The Bill was passed by the Senate but did not get through to Congress. That is an issue I would like to see raised separately from immigration reform. The President himself is very interested in dealing with the number of Irish there.

I had a very good conversation with General Kelly, a four star general, who is apolitical. He is dealing with homeland security. He made his views perfectly clear. He said he put on their websites on so many occasions that legislators must find a way, as Deputy Howlin pointed out, to deal with the undocumented Irish who contribute to American society.

Deputy Mick Barry: A Cheann Comhairle, the Taoiseach is talking the clock down.

The Taoiseach: The point is that this requires co-operation and political will from the parties involved. We had a very straightforward, constructive conversation with the President and his full team and I thank him for that. I intend to follow through very strongly on the matters

we discussed and how we should go about them. I hope that is in the interests of significant numbers of Irish people and that we can proceed on that basis.

Deputy Mick Barry: The Taoiseach is talking down the clock.

The Taoiseach: Clearly, comprehensive immigration reform was attempted by John McCain and prior to that Edward Kennedy and so many others but because it was so broad and complicated it never reached the conclusion we know could happen.

Deputy Joan Burton: Did the Taoiseach have an opportunity to seek President Trump's views on the Good Friday Agreement? Does the President accept that it is an international agreement which has been supported by the United States? Does he have a position on the Agreement, and specifically, does he have a position or does he or his advisers have any thoughts on the consequences of Brexit, for which he has vociferously tweeted his support, as have other parties here? Could the Taoiseach enlighten us as to what the discussion was?

In regard to his interest in Northern Ireland and the continuation and development of the peace process, was there any conversation about President Trump appointing an envoy to assist with the Northern Ireland process? That approach has been very successful in the past. On occasion, the envoys do not have very much to do but at other times, they are very busy. At the moment the talks are under way in some form and the expiry date is soon. Did the Taoiseach find that the President was interested in the Good Friday Agreement and in developments specifically relating to Northern Ireland and the island of Ireland? I am aware that the President is very friendly with people such as the MP, Ian Paisley Jr., who was present, as well as others. Did he specifically reference those issues in the discussions with the Taoiseach?

An Ceann Comhairle: If Members are amenable, I will take all the questions together and then ask the Taoiseach to respond. Is that agreed? Agreed. I ask Members to please be brief. We have just eight minutes remaining.

Deputy David Cullinane: I will be very brief. I welcomed the Taoiseach's commitment when he was in the US to hold a referendum in respect of voting rights in presidential elections for citizens in the North and the Irish diaspora. That is long overdue. I note the Taoiseach was not in a position to respond yesterday when he was asked for a timeframe. Given that this issue was considered by the Constitutional Convention and that the Taoiseach himself was the one who made the announcement it is important that he would inform this House as to exactly how the issue will be progressed. The Taoiseach must have some notion as to how the measure will be implemented. Will he commit and explain to us even in broad terms what type of timeframe he envisages and what type of structure and process will be put in place to make that happen?

Deputy Brendan Smith: I am very pleased the Taoiseach raised immigration reform in his meeting with the President and other members of Congress. Has any structure been put in place to follow it up at political level? We all know the embassy is in ongoing contact with decision makers but does the Taoiseach propose to put a structure in place in order that this particular issue will be followed at political level between the Government here and in the United States?

With regard to Brexit, in her early days as Prime Minister, Theresa May, indicated that Britain would leave the European Convention on Human Rights. The Minister of State for Brexit, in winding up the debate in the House of Commons, indicated the opposite, namely, that the UK would remain as a member of the convention. Could the Taoiseach provide some clarity in that regard?

The Secretary of State, David Davis, stated there will be customs controls between North and South. The Taoiseach is aware we have a Border of 499 km with 300 formal crossings plus numerous informal crossings. If border controls are restored in any form they will do immense damage to trade and social and economic development. One point I made in this House on numerous occasions is that we cannot adequately quantify the progress that has been made in the Border area and all over the island as a result of the Good Friday Agreement. Let us remember that due to the lack of economic development of the Border region, predominantly due to the Troubles, our enterprises are small and medium sized and they are almost totally dependent on the sterling market to export their products. Any hindrance to trade would cause us very serious economic damage.

Deputy Mick Barry: I gather from media reports that the Taoiseach was put out that the positive media coverage he received internationally for the speech he gave last week in President Trump's presence was not replicated in Ireland. He had the benefit of Channel 4 and *The New York Times* not being too well acquainted with how his fine words in Washington square up to the reality in Ireland. Conversely, the Irish media, being aware of the manner in which undocumented migrants are treated in this State, knew the ridicule to which they would be open if they were as effusive as the international media.

The reality in Ireland is that if a St. Patrick were to arrive today, depending on his country of origin, he could well find himself caught up in our inhumane, degrading and racist system of direct provision. If he was an adult, he would be permitted a pittance of €19.10 per week or €15.60 if he was a minor. He would have a 40% chance of languishing in this position for five years and a 20% chance of still being unregularised after seven years. Between this and the constant threat of deportation, it should come as no surprise that direct provision has proven to be deleterious to the physical and mental health of people caught in it. The 5,000 people in direct provision in Ireland would be equivalent to over 300,000 people in the US. The plight of 50,000 undocumented Irish in the US is bad enough but could we imagine for a moment what it would be like if an equivalent or greater amount of undocumented Irish were kept in the conditions that migrants experience here on the Taoiseach's watch?

2 o'clock

I put it to the Taoiseach that ending the inhumane regime of direct provision might escape the attention of Channel 4 and *The New York Times* but it would be an act of infinitely greater significance than the speech in Washington if it could be ended. Is it not the case that by not ending direct provision and providing a scale of amnesty the likes of which the Taoiseach correctly demands for the Irish in the US, the Taoiseach will correctly be seen by the 5,000 people in direct provision in Ireland as being two-faced and hypocritical?

The Taoiseach: I am not really interested in the comments of Deputy Barry except to say that the Minister of State, Deputy Stanton, has done quite a deal of work in respect of the Mahon report and I have asked him to consider having a conversation in the House when it is appropriate on the changes that have been made and the work that has been done in his unceasing efforts to deal with the issue of direct provision.

Deputy Brendan Smith raised a number of important points. I have set out that I do not contemplate any return to that hard Border of customs posts where they used to apply back in the time of the Troubles, as the Deputy is aware, with unapproved crossings blown up or impassable. We are well acquainted with the Deputy's point about the impact on the economy North and South. There is an agreement and understanding of there being no return to that kind

22 March 2017

of Border. It is a political issue that requires a political solution. In my mind and that of the British Prime Minister, there must be a way found to deal with that. Until she writes her letter, we do not know the exact issue about customs union from the British perspective. We know the British Prime Minister wants as close a relationship as possible with the European Union, which we support. It will be known in the next couple of days and the Deputy's point in that sense is valuable.

I will follow through on the issues I discussed with the US President, the US Vice President, the Speaker of the House, Mr. Ryan, and members of the Senate and House, including the Ireland caucus and Friends of Ireland. It is about contact and follow-through in respect of the issues I discussed with the US President.

Deputy Cullinane raised the point of voting for members of the diaspora, including those in Northern Ireland, in presidential elections. We will publish the options paper this week on that. There are a number of legal, policy and practical issues and we must have a debate about this. The paper will be one of the topics for discussion at the Global Irish Civic Forum to be held in Dublin in May. I will not name a date for a referendum as we must get all of that together in the first instance. We will look at how the register is compiled and how people will vote in an international setting. Would a welder in Alaska have to travel to Washington to vote? One needs to be able to do this online safely. We will publish that this week and get it moving.

Deputy Burton also raised an important point. I spent quite a deal of time in my discussions with the US President talking about the Good Friday Agreement and Northern Ireland, including how this came about with support from America when President Clinton appointed Senator Mitchell to be the lead negotiator. I asked him in the context of what happened before to have a desk in the Administration available for Northern Ireland with a person at that desk and, if necessary, to follow through with the appointment of an envoy. He was very interested in this and there was a very clear understanding of the nature of how sensitive this was and the troubles that existed which were ended by negotiation. I hope he will follow through on that.

I made the point that it is very important for the European Union to engage continuously with the US Administration on the basis of the potential of setting down trade conditions for the next 50 years between the two most economically developed regions on the planet. There are potentially millions of jobs either side of the Atlantic in this regard. That part of the conversation was very important, constructive and informative for the US President and his Administration.

Priority Questions

Aviation Industry Regulations

19. **Deputy Robert Troy** asked the Minister for Transport, Tourism and Sport when he completed the statutory instrument giving authority to the Irish Aviation Authority for the control of noise levels at Dublin Airport; the consultation he had when preparing this; and when he will publish the statutory instrument. [14446/17]

Deputy Robert Troy: Before beginning, I ask for the Leas-Cheann Comhairle's forbear-

ance so we can express our sympathies to the family of the late Captain Dara Fitzpatrick, who tragically lost her life on Rescue 116 last week. We think of the families of the remaining crew, Captain Mark Duffy, winch operator Paul Ormsby and winch man Ciarán Smith. It is fair to say that across all political divides, our thoughts and prayers are with the families. These are invaluable services and I think of those people today. I understand the wreckage has been found in the past hour and I hope and pray the bodies of the missing crew members will be located.

My first question relates to the statutory instrument that gives authority to the IAA for the control of noise levels at Dublin Airport. When was it completed and what level of consultation did the Minister have with the various stakeholders? When will the statutory instrument be published?

Minister for Transport, Tourism and Sport (Deputy Shane Ross): There is a question about the Coast Guard and I will reciprocate the Deputy's sincere comments, with the Leas-Cheann Comhairle's indulgence, when the question arises. I echo the Deputy's comments in the meantime and it is of course a very sad day for the nation and people of all political parties. Sympathies must go to the families.

I thank Deputy Troy for putting this question. The statutory instrument has not been completed. EU Regulation No. 598/2014 entered into force in June 2016 and is directly applicable in the State. Key stakeholders were consulted in 2012 on the draft of this regulation proposed by the European Commission for the purposes of informing Ireland's negotiating position in the European Union legislative process. The regulation represents a shift in responsibility for aircraft noise from the airport operator to a separate, independent statutory entity or competent authority that will be required to oversee the delivery of the new, more prescriptive approach to aircraft noise management. As the Deputy is aware, I have already announced that I am appointing the IAA as the competent authority to deal with aircraft noise management at Dublin Airport.

Officials in my Department are currently engaged with the Office of the Parliamentary Counsel in order to finalise the details of the statutory instrument that will transpose EU Regulation 598/2014. Whereas I fully recognise and regret that the legislative requirements to give full effect to this regulation have been delayed, I reassure the Deputy that the reason for the delay is to ensure that the introduction of the new noise regulatory regime is robust and fit for purpose. Before any decision is taken on noise-related operating restrictions at Dublin Airport, consultation will be undertaken by the competent authority with all interested parties. My Department has during the course of the drafting process consulted the IAA and the DAA, given their key interests as prospective competent authority and sole regulated entity. The draft statutory instrument is nearing completion and I expect to be in a position to sign off on this important piece of legislation in the coming weeks.

Deputy Robert Troy: The reply is similar to one given to a previous question, that the Minister expects to be in a position to do something in the coming weeks. Will the Minister clarify when are "the coming weeks" and has he a timeline set for when it will be completed? Who are the key stakeholders which have been engaged with? Have members of the residential community in the area been consulted?

The Minister talks about capacity at Dublin Airport. In July last, the Minister and the junior Minister met a lobby group on the operation of a private terminal at Dublin Airport. In September, the Minister announced, perhaps as a consequence of meeting that lobby group, that he

22 March 2017

would seek tenders for how a third terminal would operate at Dublin Airport. That tender document went out in November and recently, at an aviation group meeting, the Minister stated he could foresee how that tender would come back. The Minister clearly has a vision of how the third terminal will operate at Dublin Airport but I would suggest that until such time as we get the second runway into operation at Dublin Airport, it will not be able to grow and expand-----

An Leas-Cheann Comhairle: Go raibh maith agat.

Deputy Robert Troy: -----to meet the capacity.

An Leas-Cheann Comhairle: Sin é.

Deputy Robert Troy: This legislation and the statutory instrument are long overdue. The Minister has promised it for a number of months. Perhaps he could be more definite on when it will be implemented.

An Leas-Cheann Comhairle: I ask Members and the Minister to keep an eye on the clock. I do not want to have to intervene all the time to give those whose questions are further down the list an opportunity. The Minister has one minute.

Deputy Shane Ross: There are a lot of questions to answer. The Deputy correctly stated the reply is similar to that on the previous occasion. This is a complex statutory instrument. We do not know at this stage whether there will necessarily be primary legislation but I suspect there will be. As the Deputy will be aware, it is extremely important it is robust and will not be challenged. It is important legislation. It is with the Attorney General and is expected shortly. Indeed, I got a draft of the secondary instrument earlier this week. It is fairly immediate but I do not want to give a hostage to fortune by saying it will be next week or the week after. Let me assure the Deputy that it is a matter of great urgency. He would be the first person to criticise me, if I rushed it through and if it was not done properly. The pressure is certainly on that office.

On the issue of the visit I had from a private group, I do not think my junior Minister was present but he is here and can tell us. If Deputy Troy is referring to the McEvaddy group, it looked for a meeting and I said "Yes", but a third terminal was not necessarily on the agenda. I am aware of its interest in that but it wanted to talk to me about aviation in general, and that was absolutely fine.

On the issue of the third terminal, I am seeking consultants to look at capacity.

An Leas-Cheann Comhairle: I am sorry. The Minister will have to tailor his answers. That was two minutes.

Deputy Shane Ross: I will answer that in my next contribution, with this next bit as well.

Deputy Robert Troy: I was merely referring to an article in the Sunday newspapers resulting from a freedom of information request that stated the Minister of State, Deputy O'Donovan, was present. It seems somewhat coincidental that the Minister met the group advocating a private terminal at Dublin Airport and, two months later, announces he is going out tender to seek expressions of interest. Perhaps it is coincidental but I take the Minister's word on that. I certainly hope he will not be influenced by lobbyists.

I raise the issue of the capacity at Dublin Airport, which is now stretched beyond capacity. One of the big restrictions is the need for construction and implementation of the second

runway. This is an important instrument. The Minister correctly states it is important that he gets it right. It is important it is robust and that the various stakeholders have their opinions heard. That being said, the Minister promised during the past number of Question Times that it was imminent but it has not been forthcoming. The Minister still cannot confirm to the House whether or not primary legislation is required, and I wonder why. Surely he needs to have a deadline date when he can indicate to the House when this instrument will be ready and whether or not primary legislation is required.

Deputy Shane Ross: I will not give the Deputy a deadline date but it is a matter of urgency. I have made that quite clear. That question was repeated. It is a matter of urgency but I will not say it will be next week when there are complex legal problems involved. Deputy Troy can be assured I will be putting pressure on all parties involved to get this to us quickly. The Minister of State, Deputy O'Donovan, confirmed to me that he was not present at the meeting Deputy Troy referred to. The media report, if it stated he was present, was wrong.

On the issue of the third terminal and capacity, what we will do is have a capacity review. It is important to hold a capacity review because the airport is bursting at the seams. Included in that capacity review - it is not the sole reason for it - is a debate about whether there should be a third terminal, which is appropriate, and included in that is the debate about whether that third terminal should be private or public, and the merits of that. The reason I have asked for this review is that a recommendation can be made on that by an independent group. We will look at it at that stage. I have personal views on it but we will undoubtedly hear the views of someone who is independent and expert. That is why it is being set up. I could have merely stated I want to do it but I will not do that. I want to hear the arguments and views of independent consultants on the third terminal.

Road Tolls

20. **Deputy Imelda Munster** asked the Minister for Transport, Tourism and Sport his views on his Department's policy regarding slip road tolls on the outskirts of towns, in view of the detrimental effect they have on investment, local economies and tourism in towns; his plans to review slip road tolls or if he will consider same; if he will consider reviewing current contracts, especially in Drogheda in view of its position as a Border town as Britain prepares to leave the EU; if he met Transport Infrastructure Ireland, TII, on the matter as he had indicated in Dáil Éireann on 19 July 2016; the details of the outcome of raising this issue at that meeting; and if he will make a statement on the matter. [14442/17]

Deputy Imelda Munster: I want to know the Minister's views on his Department's policy regarding slip road tolls on the outskirts of towns, in view of the detrimental effect they have on investment, tourism and the local economy. I want to know if he plans to review slip road tolls or if he will consider same, if he will consider reviewing the current contracts, especially in Drogheda in view of its position as a Border town as Britain prepares to leave the EU, if he met Transport Infrastructure Ireland, as he committed to do in July 2016, the details of the outcome of him raising this issue at that meeting and if he will make a statement on the matter.

Deputy Shane Ross: I thank Deputy Munster for this question, which is on the same lines as questions the Deputy has been following up over a period of time.

As Minister for Transport, Tourism and Sport, I have responsibility for overall policy and

22 March 2017

funding in regard to the national roads programme. The planning, design and operation of individual roads is a matter for TII under the Roads Acts 1993 to 2015 in conjunction with the local authorities concerned. Furthermore, the statutory power to levy tolls on national roads, to make toll by-laws and to enter into agreements relating to tolls on national roads is vested in TII. The planning and construction of the M1, associated slip roads and contractual arrangements relating to tolls are, therefore, matters for TII.

I undertook, in response to the Deputy's question on 19 July 2016, to raise the issue at a meeting with TII. This took place in early August 2016. TII subsequently briefed my Department on the 2002 toll scheme and the findings of a 2012 study of the implications of the removal of the tolls at the north-facing slip roads at M1 Junction 9. Details of TII's briefing were forwarded to the Deputy in October 2016. I understand that TII has also outlined the conclusions of the 2012 study to the Deputy in response to recent questions.

In the 2012 study, two scenarios were considered. The first scenario involved removing ramp tolls only while the second scenario involved removing ramp tolls and increasing the mainline toll. The study concluded that significant levels of additional traffic would divert to local routes such as the R152 through Duleek and the R132 through Julianstown with thousands more vehicles per day affecting the safety, quality of life and commercial viability of these communities.

In addition, both scenarios would have substantial financial implications because TII would be contractually required to compensate the PPP company for losses arising out of any change. Under the first scenario, it was estimated that between €6 million and €7 million would have to be paid to the PPP company in the first year, increasing each year to 2034. Under the second scenario, given the higher rates of diversion off the M1, it was estimated that mainline tolls would have to be increased by between 40% and 60%.

Additional information not given on the floor of the House

It is important to point out that the aim of the Donore ramp toll plazas was to mitigate possible "rat-running" with adverse impacts on local communities. In response to concerns expressed about the possible impact on business in Drogheda, the approved toll scheme allows vehicles to exit the motorway, having paid a toll, and re-enter within three hours, with no further charge. At the same time, I note that removing congestion and heavy traffic often has a beneficial effect on investment, local economies and tourism in towns.

Deputy Imelda Munster: As I said to the Minister before, the slip road tolls are, in effect, a tax on people living, working, shopping and visiting Drogheda. It is the only town in Ireland with a toll. It is a tax on entering and exiting the town. I cannot emphasise enough the adverse effects on local businesses, investment, tourism and day-to-day life for people living in Drogheda and the surrounding areas and I do not think the Minister is getting it. One has to pay a toll to get from one side of the town to the other and from one retail park to another. If one is dropping children to primary and secondary school, one has to go through the toll. To say it has added to the serious congestion is an understatement. It has ground traffic in Drogheda to a halt. Why would any investor comparing Drogheda with other towns seek to invest there knowing one has to pay a toll to get from one side of it to the other? The Minister has given a commitment to a meeting but did he just accept TII's response, the make-up figures it gave him on the cost of removing the slip road tolls and the excuses as to why they should remain in place? Is he going to request TII to find a way to remove the tolls? He is the Minister in charge

and the TII comes under the Roads Acts.

Deputy Shane Ross: I understand the reasons Deputy Munster is saying this - it is her constituency and her constituents obviously feel this is unfair to them. I do not accept that the figures are made up. I accept the fact that they may be subjective and not entirely and totally accurate in circumstances where one cannot measure it down to the last lorry or car, but the Deputy must accept that a contract has been made by the TII with the PPP that is binding until 2034, which is a long time. If the contract is breached by the removal of the tolls on the slip roads, compensation will obviously have to be made. The TII says it is between €6 million and €7 million to give a range, but it is obvious that it is a very substantial amount of money. I am not, nor should I be, in the business of going in to direct the TII on how to manage an individual toll on an individual road. It would be absurd if a Minister were to do that. As the Deputy knows, if lorries pay the toll and do not stay more than three hours, they get the toll money back.

Deputy Imelda Munster: I am blue in the face from outlining to the Minister the adverse effects the toll is having on the town of Drogheda. In the response I received from TII, it said it had commissioned a bespoke, made-to-order set of origin-to-destination surveys in Drogheda to project the cost of the impact of removing the slip road tolls in the town. This was one methodology and calculation on one slip road purely for Drogheda and it was not applied anywhere else in the world. To say that is a basis for TII's argument is incredible. It is ridiculous and it is invented. Coming up with figures which have never been used anywhere else means it is impossible to compare them against anything else. The Minister cannot justify those figures or the excuse and neither can the TII. Given that this was a purposely commissioned study solely for Drogheda and never calculated against anything anywhere across the world, there is no basis to it whatsoever. As I said at the start, it is an excuse. Is the Minister going to go along with it? The TII cannot justify it, the Minister cannot justify it and it would not stand up to any scrutiny whatsoever. A figure was pulled out of the air and is being used to justify this. Is the Minister going to stand over it given the adverse effects on Drogheda, its people and the surrounding areas?

Deputy Shane Ross: If the Deputy wishes to say the TII's figures are wrong, I would like her to produce evidence to the contrary. I would like her to produce conflicting figures.

Deputy Imelda Munster: I have asked-----

Deputy Shane Ross: The Deputy said they are wrong, make-up figures. She may be right but there is no evidence for it whatsoever. I assume TII, which is employed to do this sort of work, has an expertise in tolling and counting the number of cars and lorries that go through. The Deputy has produced no evidence whatsoever that it is incorrect.

Deputy Imelda Munster: I requested evidence.

An Leas-Cheann Comhairle: The Minister without interruption.

Deputy Shane Ross: I am not going to interfere with a single toll in a single place because that is not my role as Minister. It is the TII's role. I understand the reasons the Deputy raises the matter, but I note that the aim of the Donore ramp toll plazas was to help the local communities by mitigating possible rat-running with adverse impacts on them. In response to concerns expressed about the possible impact on business in Drogheda, the approved toll scheme allows vehicles to exit the motorway having paid a toll and to re-enter within three hours with no further charge. At the same time, I note that removing congestion and heavy traffic often has a

beneficial effect on investment, local economies and tourism in towns like Drogheda.

Bus Éireann

21. **Deputy Robert Troy** asked the Minister for Transport, Tourism and Sport the level of engagement he has had with the management of Bus Éireann regarding its restructuring plan. [14447/17]

Deputy Robert Troy: The financial challenges facing Bus Éireann have been known to the Minister and his predecessor for in excess of 16 months, going back to January 2016. We are now told that we face insolvency in Bus Éireann within a matter of weeks. What level of engagement has the Minister had with the board and management of Bus Éireann in the past number of weeks on the proposed restructuring plan?

Deputy Shane Ross: I share the Deputy's concern about this particular problem, which is still going on as we speak and remains unresolved. As I have previously indicated to the Deputy, during the course of 2016 Bus Éireann management worked on developing a business plan to address the loss making situation in its commercial Expressway business. Several drafts of Bus Éireann's proposals were presented to my Department and NewERA, my Department's financial advisers, and discussed. These discussions highlighted some shortcomings that existed in the draft proposals as presented. Previously, I informed the Deputy that these shortcomings included issues such as the commercial rationale, financing, implementation, sensitivity, risk analysis and the need to consider both state aid and competition law interactions. In September 2016, the board of the company commissioned Grant Thornton to review the proposals as previously developed by the company. Unsurprisingly, that review highlighted the same shortcomings identified in my own Department's analysis. No doubt the Deputy's own review of the Grant Thornton report has led him to a similar conclusion.

Bus Éireann is continuing work to develop a new plan to address the company's loss making situation and restore it to a sustainable future. As clearly stated in the code of practice for the governance of State bodies, the preparation of strategic plans and-or business plans are the responsibility of the board of a State-owned company. In line with normal good corporate governance, draft strategic and business plans are discussed with Departments and observations are provided. As I have just mentioned, this is exactly the type of interaction which has taken place between my Department and Bus Éireann. My Department has kept me fully informed at all times as this work has developed. I have met with the chairman of the company on a number of occasions throughout 2016 and 2017 and have been updated personally on relevant developments.

Deputy Robert Troy: Has the Minister seen the plan the board is discussing today and which it intends to implement unilaterally from next week? Previously, the Minister said he was a party and had a number of drafts referred to him, but has he seen the proposed plan the board wishes to implement in the next number of days? Has he been consulted on the implementation of that plan without the agreement of the unions? Does he agree with the implementation of that plan without having achieved consultation with the unions?

Deputy Shane Ross: Let me answer that question as fully as I possibly can for the Deputy with regard to implementation of the plan without the agreement of the unions. It is not for me to intervene between management and unions in this particular dispute, and I certainly would

not be intervening to approve or disapprove of the plan proceeding. I have made it absolutely clear that my intention during the dispute is to keep as far away from it as possible and to leave it to the two parties involved. I would not be doing anything which would stand in the way of that plan or intervening in respect of that plan. I urge the management and unions to get down to talks as fast as possible at the Workplace Relations Commission or in the Labour Court and to use the institutions of the State to resolve this dispute. It is not up to me to take sides, it is up to them to resolve the industrial relations problems.

Deputy Robert Troy: Why are the plans referred to the Minister and the Department if he does not need to approve them? Does he approve of the restructuring plans being put forward, “Yes” or “No”? What is the Minister’s opinion on the board and management of Bus Éireann seeking legal advice on reckless trading? If the plan is not implemented, I am told that the board and directors could be held up for reckless trading. Surely, as the main shareholder in a semi-State body, the Minister has responsibility if he feels a company is trading recklessly. He has abdicated his responsibilities in respect of this matter. Total inaction in recent months on the part of the Minister and the Department - this stretches back years if the Minister’s predecessor’s time in office is included - has led us to a situation where we are at the edge of the cliff. The unions and the workers were not alone in contributing to the huge deficit in Bus Éireann. As the Minister will acknowledge, the company requires structural reform and he, the NTA and the various stakeholders have a role to play in that regard.

Deputy Shane Ross: I agree with much of what Deputy Troy said at the end. If structural reform is necessary, certainly the NTA, I, as Minister, the workforce, the management and others will have a serious role to play. I agree with that absolutely.

Deputy Robert Troy: When?

Deputy Shane Ross: It will be the shareholders’ duty to get involved in structural reform, if that is necessary, but not to get involved in an industrial relations dispute. I have made it quite clear to Deputy Troy and others in the House many times that once the dispute-----

Deputy Robert Troy: Will the Minister answer the question on reckless trading?

Deputy Shane Ross: If I could, without interruption, Deputy Troy, please.

Deputy Robert Troy: The Minister can talk down the clock without answering the question.

Deputy Shane Ross: Once the dispute is ended, I will be very happy to engage in talks with any of the stakeholders involved to discuss the very issues the Deputy wants me to discuss, but not before that and not under the threat of industrial action.

On the reckless trading issue, I am absolutely assured, not just by its public statements but by my conversations with it, that the company is very conscious of its duties as regards reckless trading and it has repeated that publicly many times in recent weeks also.

Railway Stations

22. **Deputy Richard Boyd Barrett** asked the Minister for Transport, Tourism and Sport if he will ensure that there are no changes made within Iarnród Éireann that will result in the

removal of staff from DART stations throughout Dublin; and if he will make a statement on the matter. [14409/17]

Deputy Richard Boyd Barrett: Staff are being progressively eliminated from our DART stations. We have it on good authority there are plans to remove staff altogether from DART stations including those at Sandycove and Glathule, Grand Canal Dock and Lansdowne Road and then move on to de-staff other stations afterwards. DART staff provide absolutely vital health and safety protection, line safety protection, access for people with disabilities and the elderly and passive surveillance against anti-social behaviour and are responsible for a range of measures that, if removed, would seriously compromise access and safety in our DART stations. I am looking for a commitment to the effect that the Minister will tell Iarnród Éireann to abandon plans to de-staff our DART stations.

Deputy Shane Ross: The Deputy is presumably aware that issues such as staffing levels at train stations are operational matters for Iarnród Éireann and are not matters in respect of which I have any statutory function. I am, however, informed by Iarnród Éireann that it has not introduced staffing changes at DART stations but that the issue of station staffing is under review in response to changed customer behaviour.

The company's priorities in determining staffing levels at stations are: to ensure that busier stations are manned at all times; to provide more flexible station resourcing to respond to customer demand and improve response for customers requiring assistance, ensuring a balanced coverage of stations across the network; working with the live monitored CCTV system and contracted private security resources and liaising with the Garda to ensure a safe and secure environment; and working with its revenue protection unit to ensure revenue is protected.

Specifically for customers requiring assistance, Iarnród Éireann plans to confirm new pilot arrangements for mobility-impaired customers shortly that will dramatically reduce the current advance notification period and ensure a better response when customers requiring assistance cannot give notice. These new arrangements are being designed following extensive customer research and liaison with the company's disability users group. I am informed that the company will shortly be commencing recruitment for temporary employees to assist with customer service duties throughout the greater Dublin area during the busy summer months.

I believe I have a duty to ensure that accessibility is a priority, particularly as there is a national priority which extends certainly to stations, buses, trains and elsewhere. However, I cannot intervene in specific stations or staffing difficulties.

Deputy Richard Boyd Barrett: It is very disappointing the Minister read - word for word - from the letter I received in response from David Franks, the CEO of CIE, and it typifies what is going on. I do not want to hear the propaganda of Iarnród Éireann as it axes staff and compromises health and safety. If there are no staff in certain DART stations, particularly at night, older and disabled people will not go to those stations. There will not be staff on site to help people with wheelchairs to get onto trains. There will not be people to prevent suicide attempts, and I will give the Minister an example. At Salthill and Monkstown DART station last year, somebody attempted suicide but because there were staff there the trains were stopped and the suicide was prevented. Later that night, at Killiney DART station, the life of somebody who threw themselves in front of a train was lost because staff had been removed. There have been a number of attacks around Shankill DART station because staff have been removed at night. To say it is not the Minister's responsibility to ensure safety and access for elderly people and

people with disabilities, to ensure line safety and to ensure equality of access to DART stations is, frankly, disgraceful. I want a better response and I want an assurance we will continue to have staff to ensure safety and access.

Deputy Shane Ross: I thank Deputy Boyd Barrett. I did not read word for word from David Franks's letter. I have not seen David Franks's letter, so, wrong.

Deputy Richard Boyd Barrett: I will give it to the Minister.

Deputy Shane Ross: Yes, but I did not read word for word from it.

Deputy Richard Boyd Barrett: It is word for word-----

Deputy Shane Ross: I have not seen it-----

Deputy Richard Boyd Barrett: -----David Franks's letter to me.

Deputy Shane Ross: -----and seeing as some of it came out my own head it is unlikely. Perhaps some of it is stuff which has come from inquiries to the company and I accept that.

Deputy Richard Boyd Barrett: Word for word.

Deputy Shane Ross: I wish to make the Deputy an offer. If he has evidence of these things happening in those stations and if he has not received a satisfactory response to representations which, presumably, he has made about all of those incidents he mentioned, I would be more than happy, in the name of natural and human justice, to make representations as well to Iarnród Éireann and anybody else and ask them what has happened. If the Deputy has the evidence for the things he has said - I do not doubt him for one second - I will deal with it because these are important and serious matters. If incidents are happening because there are no staff at stations, which would be contrary to Iarnród Éireann's assurance to me that it is not de-staffing them, I will ask the company to respond to me and I will respond to the Deputy in turn in respect of these serious matters

Deputy Richard Boyd Barrett: Let me assure the Minister that de-staffing is taking place. Killiney has lost its staff. There is nobody there at night and it is seriously compromising access and safety. People in wheelchairs cannot get on the train if there is not somebody there to put out a ramp. They already have to give huge amounts of notice to get on the train.

Pat in the Sandycove station told me this Saturday that he was only on at 6.30 p.m. because of the rugby match, and there were otherwise no staff on duty after 4 p.m. Somebody arrived in a wheelchair on spec at 6.30 p.m., needing to get back to Clontarf by 10.30 p.m. That person was only able to get on the train because Pat was there and able to arrange for staff at the other end in Clontarf to be there for that person in the wheelchair to get off. That person would have been stranded in the wheelchair with no access to the DART if Pat was not there, and he was there only because of the exceptional circumstance of the rugby match. That is the reality. There is no access if there are no staff. I met a member of our own staff here, a woman, who gets off at Seapoint, and she said that she would not go to Seapoint station at night if there was not a member of staff there, because there is a long, dark alleyway. Attacks have increased around Shankill since staff were removed at night. This is an imperative issue and I want the Minister to intervene to ensure we have the staff to ensure equality, access and a community service provided by our DART staff.

22 March 2017

Deputy Shane Ross: I will reiterate what I presume is an offer which the Deputy will take up.

Deputy Richard Boyd Barrett: What is that?

Deputy Shane Ross: It is an offer which the Deputy will take up. Provide me with the facts, with the incidents and I will make representations and see how this gels with the statement that we should not introduce staffing changes at DART stations. That is important. I have to respond to it in a necessary way if it is having resultant effects and consequences, as the Deputy outlined. I have no hesitation about that. There has been a dramatic change in other ways, in customers' purchasing preferences and there has been changed customer behaviour. Where there is changed customer behaviour, it will result in prepaid ticketing and ticket vending machines being used increasingly, including Leap card and monthly and annual season tickets being used. If there is more automation and more technology being used, fewer staff will be used in certain circumstances. If it is leading to less protection-----

Deputy Richard Boyd Barrett: It is.

Deputy Shane Ross: -----and situations where disabled people or people who are immobilised in other ways are not being properly protected or looked after, that is a matter which I will address in a general way. Please do not ask me to address individual stations. That is not a ministerial job. That is a job for the DART.

Aviation Industry

23. **Deputy Clare Daly** asked the Minister for Transport, Tourism and Sport if he will provide for the involvement of a community representative (details supplied) in relation to the implementation of EU Regulation 598/2014, in advance of its implementation; and if he has had discussions on this matter or on the actions by the DAA to lift the An Bord Pleanála restrictions on night flights, in recent months. [14445/17]

Deputy Clare Daly: This question relates to the Minister's decision to place the Irish Aviation Authority as the competent authority to transcribe EU Regulation 598/2014, on airport noise. I wonder, on foot of a discussion that we had at the last Minister's questions, whether the Minister has given any further consideration to the possibility of residents, particularly a representative of the Dublin Airport Stakeholders Forum, being involved in that process upfront and early on, and whether he has had any recent discussions with the DAA on that and where we are with it.

Deputy Shane Ross: I thank the Deputy for her question on behalf of the residents and the forum group.

I wish to ensure that there are robust consultation requirements with all key stakeholders, including local residents, as I have indicated previously. As I mentioned in my response to Priority Question No. 1, officials in my Department are currently finalising the legislation to give full effect to Regulation 598/2014.

Before any decisions are made about aircraft noise management, there will be an opportunity for all stakeholders to have their views taken into consideration by the competent authority to be appointed in accordance with the regulation. It is proposed that the statutory instrument

will outline requirements concerning the collaborative working arrangements to apply between the competent authority and the various statutory bodies that have roles and expertise related to noise management. In so far as public consultation arrangements are concerned, the competent authority will also be required to organise consultation processes to secure the views of all concerned stakeholders, including from local residents and businesses.

While I have not had discussions on these issues in recent months other than with my officials, the Deputy will be aware that I held a number of meetings with local resident groups late last year. The Dublin Airport Authority also continues to provide information on noise to local communities. Most recently, it arranged a presentation by experts Bickerdike Allen Partners to the Dublin Airport environmental working group on 15 March regarding noise data from the permanent noise monitoring terminals in the vicinity of the airport. The longitudinal noise data analysis requested at the St. Margaret's Community Liaison Group is currently being finalised and will be presented at the next meeting of that forum, which is scheduled for 30 March.

On foot of Deputy Daly's request, I will happily arrange a meeting with a community representative from the forum group and the IAA in the coming weeks to discuss the upcoming implementation of EU Regulation 598/2014.

Deputy Clare Daly: I thank the Minister for his response. I do not mean to be disrespectful, but we are not any the wiser from the point of view that there still is not clarity about whether the changes are going to be brought in solely by statutory instruments or by statutory instruments and legislation. That is important because, as the Minister knows, the DAA is determined to lift the restrictions that are currently in place on night time noise. It is particularly essential that residents would be involved and not just after the event but upfront. That is validated to me by a response the Minister sent to me earlier this month when I presented him with a table about how Dublin Airport was one of the least regulated in Europe. The Minister replied to me, presumably with advice from the DAA, that that was not quite true and that other airports such as at Copenhagen and Palma were outside of that scope. What the Minister's officials or the DAA did not tell the Minister is that was not comparing like with like. Copenhagen has three runways exceeding 3,000 m in length. Departing aircraft can take off over the sea, mitigating airport noise in any circumstance in that location. Similarly, in Palma, the two parallel runways are very close to the sea. Residents have expertise. They are often people who work in the airport and who live there. The Minister will not get that expertise from officials, and he should try to tap it earlier in the process.

Deputy Shane Ross: We are on the same page to some extent. I gave an answer about the statutory instrument or primary legislation to Deputy Robert Troy and I think Deputy Daly had just not arrived yet. That will be decided very shortly. It has taken longer than I expected and I have apologised to the House already about this. It is very complicated. It is a matter of competing legislation and it is with the Attorney General's office. A draft came back of the secondary legislation already this week and it has gone back for more tweaking and is nearly ready. Whether there will be primary legislation or not still has to be decided. That is a matter of urgency. It is not a simple legal problem. I do not want to come back to this House with legislation which is going to be challenged *ad nauseam* in the courts. I would rather have some fairly robust legislation which I can stand over.

On the issue of someone from the forum coming to talk to the IAA, I do not know whether it will welcome it or not, but I do not care much who welcomes it or not. It is important that input is taken from residents. I hope they will be able to select someone fairly agreeably without too

22 March 2017

much difficulty, because I know there are a lot of competing residents in this situation. I would like to make it rather conditional on that rather than it leading to some sort of turf war. I would be very happy for them to have an input into this.

Deputy Clare Daly: I appreciate that and hopefully we can follow that on. The key point is that there is a unique expertise which people who live in the area but also who depend on the airport for their livelihood and who have a unique aviation expertise can bring to the table, that organisations such as the DAA cannot. While I appreciate the Minister's points about the statutory instrument or legislation and that it is not a simple legal problem, the problem we have is that we have been getting that answer for almost a year now. The communities around Dublin airport are beginning to look a bit like a war zone.

Development is under way. People are worried because it is the deliberate and stated intention of the DAA that, once it gets this runway up and running, it intends to move to restrict the conditions which it imposed and which were only minimal years ago where quality of life for residents was concerned. I welcome the fact that the Minister will bring some of them on board and I hope that the matter can be fast-tracked. However, we need the Attorney General to bring some clarity to this situation.

Deputy Shane Ross: I agree that the delay is far too long. The House will understand, however, that it would be worse to bring forward flawed legislation which could be challenged. Deputies Daly and Troy would be the first to say that such legislation had been rushed, so it is difficult.

As regards bringing people into the consultation process on the noise factor, there is a constant difficulty when one has State monopolies of this sort that are likely to ride roughshod over the wishes of people who are suffering as a result of aircraft noise. I know it is taking a long time but I can assure the Deputy that it is important for a Minister in my position to ensure they are given the fullest hearing. They must also be given a voice, and not just a token one, when confronted by a State monopoly which has an enormous amount of power and they feel powerless.

The projects we are talking about must ultimately go ahead, but they must be undertaken with minimal discomfort for local people. The public must be assured that they have been given a fair hearing.

An Leas-Cheann Comhairle: Until such time as the Standing Orders are changed we must all observe the time limits. I now call on Deputy Hildegard Naughton to present her question.

Other Questions

Departmental Agencies Funding

24. **Deputy Hildegard Naughton** asked the Minister for Transport, Tourism and Sport the amount of funding allocated annually by Fáilte Ireland to St. Patrick's Day parades; the parades to which it is allocated; the basis on which that allocation is made; and if he will make a statement on the matter. [14009/17]

Deputy Hildegarde Naughton: I thank the Minister for attending the House. I wish to ask about the amount of funding which is allocated annually by Fáilte Ireland to St. Patrick's Day parades and festivals. We all know the value of our national day to tourism, so I would like to know what St. Patrick's Day parades and festivals are funded by Fáilte Ireland and the basis on which that allocation is made.

Minister of State at the Department of Transport, Tourism and Sport (Deputy Patrick O'Donovan): At the outset, I apologise for being late. When I was entering the Chamber a question was being answered by the Minister, Deputy Ross. I understood the question to be about whether I attended a meeting with him. I did not but a meeting was requested of my office in regard to the promoters of a scheme at Dublin Airport, which I facilitated in the context of tourism. I do that all the time. However, I want to apologise again for being late.

My Department's primary role in regard to tourism lies in the area of national tourism policy. It is not directly involved in the management or development of individual tourism projects, which are operational matters for the board and management of Fáilte Ireland. The provision of funding for festivals, including St Patrick's Day parades, falls to be met from the resources available to Fáilte Ireland from its national and regional festivals and participative events programmes. I am informed that in recent years the only application received by Fáilte Ireland in regard to St Patrick's Day has been made by Féilte Dhuibh Linne Teoranta which organises the St. Patrick's Festival in Dublin.

This year, St Patrick's Festival took place between Thursday, 16 March and Sunday, 19 March and featured events including street theatre, walking tours, literary, historical, music and sporting events. To this end, a festival grant of approximately €1 million was allocated by Fáilte Ireland towards the cost of the festival in 2017. This allocation is based on an assessment of an application which Féilte Dhuibh Linne Teoranta submitted under the national festivals and participative events programme and is subject to key performance indicators and a review of the benefits delivered by the festival.

It is open to any festival organiser to apply for funding under the national or regional festivals programmes, which open for applications on an annual basis. It is expected that these programmes will reopen for applications in August and December 2017, respectively.

Both the Minister, Deputy Ross, and myself have met with representatives of the St. Patrick's Day Festival committee in Dublin. It is my view that the St. Patrick's Day festivities should be celebrated across the country, but they also need to be supported. If the Deputy wishes to ask a supplementary question, I can provide further details.

Deputy Hildegarde Naughton: I thank the Minister of State for his response which confirmed that Dublin is the only St. Patrick's Day festival funded by Fáilte Ireland. We are all aware of the benefits that the capital city gains from this funding. Earlier this week, I noted an article in *The Irish Times* by the chairman of the Grow Dublin Tourism Advisory Board, which indicated that the Dublin festival is worth €50 million in revenue. He also said that it attracts 100,000 tourists to the capital, as well as enhancing the city's reputation as a place to visit. I have no difficulty with that because it provides a good return on a solid investment. However, I would welcome the Minister of State's supplementary response concerning the funding of other festivals around the country. Every region should have an opportunity to apply for funding and get the benefits of the festival.

22 March 2017

Deputy Patrick O'Donovan: Last December I asked Fáilte Ireland to re-examine funding for St. Patrick's Day festivities across the country because I was not happy with a situation whereby only one location is funded. That is not appropriate particularly in the context of commitments in the programme for Government to balanced regional development. Whether St. Patrick's Day festivals are being organised in Athlone, Cork, Limerick or the Leas-Cheann Comhairle's own constituency of Donegal, Fáilte Ireland has a role to support them. I have therefore asked Fáilte Ireland to review funding in that regard.

There are perhaps greater opportunities to raise commercial revenue to support a festival of this order in Dublin than elsewhere, but there has to be an economic return for the State's investment through Fáilte Ireland. I believe that we can do a lot more around the country, so I am waiting to see what Fáilte Ireland proposes. I hope there will be changes for 2018 at the earliest.

Deputy Hildegard Naughton: I thank the Minister of State for his welcome comments on opening up funding for other areas of the country. I take his point that an economic return for funding these festivals is important. With so many tourists travelling around the country, however, it is also important to showcase all of our regions. I look forward to getting the results of that review.

An Leas-Cheann Comhairle: In accordance with Standing Orders, I will allow a brief supplementary question from Deputy Troy.

Deputy Robert Troy: I welcome the commitment by the Minister of State. I acknowledge that Westmeath County Council provides good funding for community groups in the various parades that are held there. Has the Minister, Deputy Ross, delegated some powers and functions to the Minister of State? It has been a matter of curiosity and concern both for the Minister and other Members of the House. Can he confirm whether or not those functions have been delegated to date?

An Leas-Cheann Comhairle: That is a matter for the Minister to answer if he so wishes.

Deputy Patrick O'Donovan: I am delighted to update Deputy Troy. The portfolio established by the Minister of State, Deputy Ring, has been reassigned by the Department of Transport, Tourism and Sport to myself.

Deputies Naughton and Troy are right concerning funding by local authorities. This was why I asked for a review of funding for the St. Patrick's Day festival in Dublin. There is a greater opportunity in Dublin to raise such commercial revenues while, in addition, Dublin local authorities benefit through commercial rates. The load needs to be widened, particularly in Dublin where there is a greater opportunity for people to put more effort into raising revenue from the commercial sector.

Other parts of the country, such as Cork, Limerick, Galway and elsewhere, should have an opportunity to apply for State funding via Fáilte Ireland, and I would encourage them to do so.

Coast Guard Services

25. **Deputy Imelda Munster** asked the Minister for Transport, Tourism and Sport if he will enact legislation in order that the Irish Coast Guard can become a stand alone primary response agency; if he has met with representatives from the Coast Guard to discuss these matters; and if

he will make a statement on the matter. [14222/17]

Deputy Imelda Munster: I wish to ask the Minister for Transport, Tourism and Sport if he will enact legislation in order that the Irish Coast Guard can become a stand alone primary response agency; if he has met with representatives from the Coast Guard to discuss these matters; and if he will make a statement on the matter.

Deputy Shane Ross: On my own behalf and that of my Department, I would like again to express our deepest condolences and sincere sympathies to all those affected by the recent tragedy, particularly to the family members of the crew of Rescue 116 and also to thank all those individuals and organisations who have been so generous in giving their time and resources to support the search effort. The full resources of the State remain committed to ensure that every effort is being made to locate the wreckage of Rescue 116 and the three missing crew.

My Department and I have the utmost respect for the volunteers and helicopter crew who provide a search and rescue service on behalf of the Irish Coast Guard, a division of my Department.

Their bravery, dedication and commitment is nothing short of remarkable.

As regards the question, it is true that the Irish Coast Guard is not a separately established legal entity. It is a division of my Department. It was established as such under a Government decision in 1990, initially as the Irish Marine Emergency Service. The name was later changed to the Irish Coast Guard in 2000, and the division was subsequently transferred from the Department of the Marine to the Department of Transport in 2006. *3 o'clock* Notwithstanding its functional location as a division of my Department it is in all operational respects a stand-alone primary response agency. The Coast Guard has a number of functions, which include among other things, search and rescue and maritime pollution prevention and response. I am satisfied that the Coast Guard has sufficient powers as a division of my Department to carry out its functions. These powers are augmented by the various merchant shipping and sea pollution legislative provisions.

I am of the view, in light of the context set out above, that there is no need to place the Coast Guard on any additional statutory footing. It is difficult to identify any specific need for legislation, or to establish what the purpose of any legislation would be. Legislating for a voluntary group would give rise to very complex matters and in all probability the volunteer sector would not be covered in any such legislation, as is evidenced by the Civil Defence Act which does not contain any provisions in respect of its large volunteer force. The same applies to matters such as training standards, which are dynamic and constantly evolving, and which are not therefore an appropriate subject for legislation.

In these circumstances, and I am sure the Deputy will understand, I see no need to bring forward legislative proposals at this time. I see no underlying reasons why it would be necessary. Subject to being persuaded by the Deputy's remarks in the next two or three minutes, I have no intention of doing so.

Deputy Imelda Munster: Now, more than ever, we are aware of the important, often dangerous and admirable work of the Coast Guard. No one can deny the fantastic and important work which it carries out. In 2016 the service co-ordinated 2,500 incidents throughout its three marine rescue co-ordination centres and 405 people who were rescued were categorised as lives saved. The Coast Guard also assisted with the recovery of 45 bodies from our waters. It

provides services to the HSE and investigates suspected pollution investigation missions. In recent times however, members of the Coast Guard have expressed frustration at the lack of funding available to them and there have been requests seeking to put the Coast Guard on a legislative footing. Senior members of the Coast Guard have been quoted in the media as being frustrated at the lack of support and resources from the Department of Transport, Tourism and Sport. They made fresh appeals last week to ensure the Coast Guard is equipped with access to its own fixed-wing aircraft to provide top cover in the wake of the Rescue 116 tragedy.

There is a complete lack of legislation on the Coast Guard. It is the only one of the blue light services not on a proper legislative footing. The Minister has stated before that the volunteer element of the Coast Guard is seeking legislation but I think it goes further than that. There are many issues with the Coast Guard. I think a review of the service and its needs is in order. Is the Minister agreeable to that?

Deputy Shane Ross: I am a bit at a loss. What the Deputy has said leaves me unconvinced about legislating for a voluntary group. The tributes which we have all paid to the Coast Guard in the last few days have all been deserved and indicate the great respect in which it is held but the fact is the Coast Guard is working. The vast majority of the Coast Guard comprises volunteers, to whom we should all be immensely grateful. Its operation is working in a very disciplined and very effective manner. The accidents are tragedies, which I suspect remind us of the extraordinary and very effective work that the Coast Guard does. The number of rescues that the Deputy has just mentioned in her speech is phenomenal and spectacular and they are something for which we have to be grateful. I have not experienced, as Minister, the expressions of frustration to which the Deputy has referred in any meaningful way and I would need some convincing to feel that she reflects the view of the majority of people in the Coast Guard.

Deputy Imelda Munster: If the Coast Guard itself and the volunteers are requesting and putting to the Minister the need to be put on a legislative footing, and if they are also raising issues about the lack of resources and support that they feel they are getting from the Department of Transport, Tourism and Sport, that should be enough to warrant the Minister agreeing to a review. We trust these volunteers and staff members with our lives every single day of the year. We should listen to them when they draw attention to problems in the Coast Guard. They are doing so because they feel there is a real need for them to be addressed. There is an onus on the Minister to address those needs, or at least to agree to carry out a review and take it from there. Will the Minister agree to do that?

Deputy Robert Troy: This is something that I raised a number of weeks ago with the Minister. Perhaps there might be merit in meeting with the representative body of the Coast Guard, to listen to its concerns and proposals and perhaps not to knock it down so forcefully as the Minister has done today, and indeed did a number of weeks ago. Perhaps if the proposal that we put a number of weeks ago, or that of Deputy Munster, cannot meet with his approval he would meet with the representatives of the Coast Guard and listen to their concerns and see if they could be alleviated by himself and the officials in his Department.

Deputy Shane Ross: In response to what Deputies Troy and Munster have said, I am certainly not going to refuse to meet anybody. It is not in my nature. I think both of the Deputies will know that from being in this House. I will be delighted to meet anybody who requests a meeting on reasonable grounds. Certainly if there are representatives of the Coast Guard who are unhappy with their situation I would be very happy to meet them. I will be delighted to hear what they have to say. I do not want there to be any controversy around the Coast Guard in the

present circumstances. All I am saying is that my inclination at the moment is not to legislate in the terms the Deputy has spelt out because I think the Coast Guard is doing such a fantastic job. I do not believe it is necessary at this time, but I am very happy to meet representatives and to hear what they have to say if a credible and sensible request comes to me. In response to what the Deputies have said I will certainly meet them.

An Leas-Cheann Comhairle: Questions 26 and 27 are in the name of Deputy Alan Farrell who is unavoidably absent and sends his apologies. We move to Question 28.

Questions No. 26 and 27 replied to with Written Answers.

Fáilte Ireland

28. **Deputy Clare Daly** asked the Minister for Transport, Tourism and Sport his views on the decision of Fáilte Ireland to close its Dublin Airport information desk in view of the fact that this is a facility which is widely used and is of important benefit to tourists and the tourism industry; and if he will make a statement on the matter. [14255/17]

Deputy Clare Daly: This again relates to a decision by Fáilte Ireland, in this instance to shut its office at Dublin Airport a mere two years after it shut down its office in Terminal 2, meaning that we will have no tourist office in the country's biggest airport. It is becoming a bit of a trend when one considers that it also shut down its office in Newgrange and moved the staff to the city centre. Airport staff are now being told they have to move to the city centre making it a very Dublin-centred organisation. I wonder how Fáilte Ireland is achieving its objective of developing Ireland as a destination if it does not even have a location in our main airport. What are the Minister of State's thoughts in that regard?

Deputy Patrick O'Donovan: I thank Deputy Daly for the question. I am aware that Fáilte Ireland plans to close its tourist information office in Terminal 2 in Dublin Airport and I understand from Fáilte Ireland that this decision follows a review of the engagement levels there and nature of the queries. The management of the tourist information office network is an operational matter for the board and management of Fáilte Ireland, in line with its functions as set out in legislation, and is not something in which I have any role. I have asked Fáilte Ireland to prepare a reply for me which I will forward directly to the Deputy. In the meantime I am meeting the newly-appointed CEO of Fáilte Ireland next week for a scheduled meeting. This is an issue in regard to tourist information offices in general which I want to discuss with him. It is an issue close to my own heart. In my constituency a tourist information office was closed. It reinvented itself and was redeveloped. There is a precedent for how we do things differently in regard to tourism information officers. Following my meeting with the CEO next week, I will revert to Deputy Daly directly and give her an up-to-date statement as to the rationale behind the decision and what it will mean for the employees and tourist information in Dublin Airport.

The referred reply under Standing Order 42A was forwarded to the Deputy.

Deputy Clare Daly: I thank the Minister of State. This is important. Some two weeks ago, 13 members of staff were summoned to a meeting in an airport hotel and told the office would be closed and all of the staff moved in June, which is the start of the summer season in an airport which, as we know from our previous discussion, needs an extra runway to accommodate the volume of passengers passing through its doors. It seems bizarre that no tourist office is to be

located there.

It feeds in to a question from Deputy Naughton to which the Minister of State responded. A Dublin-centric organisation is being developed around Fáilte Ireland, which is inherently dangerous. I ask the Minister of State to put it to Fáilte Ireland that its facilities at Dublin Airport were given to it for free by the DAA. It was such a vital linchpin in smoothing the passage of passengers through the airport and made their welcome in Ireland very much céad míle fáilte that the DAA did not charge it for the facilities. It is something well worth retaining and I stress that the Minister of State needs to raise those points in the context of the holistic development of tourism on the entire island of Ireland, not just Dublin.

Deputy Patrick O'Donovan: I wish to set Deputy Daly's mind at ease. The development of tourism in Ireland is far from Dublin-centric. Some 10 million people visited the island of Ireland last year. As the Deputy knows, Ireland's Ancient East and the Wild Atlantic Way have been phenomenal successes. Fáilte Ireland has 28 tourist information offices across the country and there is also a network of over 40 offices that operate on a volunteer basis and have a different management structure and relationship. I would contest that the system is Dublin-centric. Tourist information offices have a role to play.

I want to understand the rationale of Fáilte Ireland in terms of its proposals regarding staff and what that will mean for tourists coming in through Dublin Airport. I can categorically tell the House that there is no shortage of such people; anybody who is trying to get a room in Dublin will know that, which is excellent. I am anxious to understand the approach of Fáilte Ireland, which is why I am meeting the CEO. I also want to know how it will supplement its services in terms of technologies, such as apps that can be downloaded, in the absence of a tourism information point at Dublin Airport. I want to understand the effectiveness of the tourism information point in the first place, including the footfall and number of people who availed of the service. Once I have that information I will be able to revert to the Deputy with greater detail.

Deputy Clare Daly: I thank the Minister of State. It is something to which we will return. It is a devastating blow for the staff involved that they have to move from north county Dublin or routes on the M50 to Dublin city centre, and it is very inconvenient.

More important is the loss of skilled workers who have a great knowledge of airport facilities, local transport networks and countrywide tourism and were located at the first point of arrival for millions of passengers every year. They should be the first port of call. They have played an exceptional role in the tourism sector. Their offices could be decorated with the thank you letters they receive. The closure will leave a huge gap at the first point of entry for tourists.

It will be interesting to hear what Fáilte Ireland says to the Minister of State. I have no doubt it involves rationalisation or restructuring. It might be worth the while of the Minister of State to meet delegations representing the workforce or DAA. I reiterate that this is a facility provided at the first point of entry for free. It does not cost Fáilte Ireland anything; it pays no rent for the facility. To lose it and relocate staff to Dublin city centre would be ludicrous. A better solution could be developed. I look forward to the Minister of State's reply.

Deputy Patrick O'Donovan: Since I have been appointed I have engaged with many airports across the country and have discussed the points of entry for tourists entering Ireland in terms of what they are looking for. There has been a change in the behaviour of tourists in terms

of how they want to access information. In many cases, that involves tourist offices. We have to reflect on the number of people actually availing of the services.

The Deputy is correct; we also have to reflect on the skill set available within the staff of Fáilte Ireland who do a very good job across the country. It has developed a large range of products, including the Wild Atlantic Way and Dublin: A Breath of Fresh Air, in terms of marketing. My first priority is to understand the rationale for the decision. As Deputy Collins knows, a tourist office in was closed in Adare, which is in our constituency. The tourist information point was changed, and there are other examples across the country.

There may be opportunities for the DAA, which I am due to meet in the context of the development of tourism. I will raise the matter with its CEO when I meet him. At the earliest opportunity, I will give Deputy Daly a full reply on the progress I have made.

Bus Éireann

29. **Deputy Dara Calleary** asked the Minister for Transport, Tourism and Sport if proposals will be forthcoming from his Department in regard to the financial difficulties in Bus Éireann; and if he will make a statement on the matter. [10848/17]

Deputy Dara Calleary: Can the Minister bring clarity to the exact financial position of Bus Éireann? There are conflicting reports about losses for 2016 and the first two months of 2017. I hope he will be able to provide the House with some information on the exact position regarding the losses. How much of the 2016 figure refers to operational rather than accounting losses? What is the position for the first two months of 2017, in particular the performance of the Expressway network?

Deputy Shane Ross: In recent months I have taken action on a number of fronts in order to address issues raised by stakeholders in Bus Éireann. I have increased the amount of public service obligation, PSO, funding so that in 2017 almost €263 million will be provided to the NTA to allocate to public transport operators. That figure represents an 11% increase on 2016, and I have publicly committed to further increasing the level of PSO funding in the coming years as financial resources permit.

I have assured rural Ireland that the NTA will continue to use its statutory powers to ensure public transport connectivity is maintained for rural communities affected by changes to routes in the commercial bus market. I have written to my colleague, the Minister for Social Protection, Deputy Leo Varadkar, regarding concerns about the level of funding associated with the free travel scheme and we have mandated our Departments to work together to review this matter.

On the company's industrial relations issues, I am clear that I cannot and will not involve myself in discussions relating to the way in which the company organises itself. I have consistently urged Bus Éireann management and trade unions to constructively engage on those internal matters which require attention within the company.

Last week's comments by management and unions reinforce my stated position that there are issues internal to the company which require attention if we are to resolve this situation. I do not believe that any member of this House can ignore the existence of such issues when a

company's management and trade unions are highlighting inefficiencies which require attention, as both did last week.

The company needs to develop a business plan for the years ahead. In developing such a plan there must be realistic engagement between the company and its trade unions in order to ensure the company can deliver its services in an efficient and financially sustainable manner.

Deputy Dara Calleary: I ask the Minister to outline the exact loss for Bus Éireann for 2016. Was it €9.4 million? If it was, can he confirm how much of that was operational and how much involved accounting issues? I ask the Minister to outline the losses for Bus Éireann for January and February 2017, specifically the losses on the Expressway service.

Of the €263 million in the PSO that the NTA receives, how much will go to Bus Éireann, Dublin Bus and Irish Rail in 2017? In terms of the money going to Bus Eireann, how much of an increase is it compared to the 2016 figure?

Deputy Shane Ross: The figures for 2017 will be decided at a later date. In respect of the figures for 2016, the total is €9.4 million. We have not seen the accounts because they will not be published until such time as they are ready. The Deputy can be certain that the figures are very high, and completely and utterly unacceptable. As Deputy Troy said, the figures are verging on reckless trading. Management is very conscious of the fact we must ensure we are not running into a situation in 2017 where it is trading in a reckless manner, which is to trade while insolvent. That is vitally important and something my Department and I are watching closely. I cannot tell the Deputies what the accounts will say because they have not yet been published. However, they will be published and the figures will be dramatically unacceptable and bad.

Deputy Dara Calleary: The Minister is the principal shareholder and cannot tell us this information, yet management is writing to various people stating that losses were 41% higher for the first two months of this year than the same period a year ago. Surely the Minister, when he saw it in yesterday's newspapers, would have got his people to state what exactly is the figure. Surely we, as parliamentarians, have a right to know the figure. Further, is the figure for 2016 €9.4 million? The board of Bus Éireann is due to sign off on those figures. How has the Minister engaged with his representatives on the board or on that final report? What is the point of having a Dáil if we can go onto *rte.ie* and see the figures that the Minister - the principal shareholder - is refusing to give here. We might as well not be here. It is time for the Minister to take his head out of the sand in terms of what is going on in Bus Éireann. I have just come from a presentation by Transport Infrastructure Ireland about the roads programme, which is another disaster. We all agree that there is a serious issue with Bus Éireann and we want to help and be constructive. However, by denying information to Members of this Parliament, the Minister is not being helpful.

An Leas-Cheann Comhairle: I insist that Deputy Troy's supplementary question be very short.

Deputy Robert Troy: The sad fact of the matter is I do not think the Minister is withholding the information because I do not think the Minister knows it. That is the sad reality. During my priority question, I asked the Minister about his concern about the board and reckless trading. The board itself has stated that it will have to implement the plan to avoid reckless trading. Is the Minister in agreement that the plan would be implemented unilaterally and without the agreement of the unions to ensure there is no reckless trading? Does he feel that the implemen-

tation of the plan without agreement will prove to be positive or beneficial?

Deputy Shane Ross: If the management puts figures of that sort into the public arena, I have to accept them and take them seriously. However, I will not announce profit or loss figures for a semi-State company before they are published. That would be absurd. The figures will be published in due course in the annual report. For me to pre-empt that would be absurd. Despite the fact the Opposition wants to make me so, I am not the operating entity. I am the shareholder.

Deputy Dara Calleary: Do your job.

Deputy Shane Ross: I am a shareholder that allows Bus Éireann to get on with its job and to produce its figures. Do not ask me to pre-empt them before they are even audited. That would be utterly and totally irresponsible. I utterly accept what is being said at the moment as being an honest reflection of the figures that are anticipated for 2016 and 2017.

Deputy Robert Troy: Reckless trading.

Road Projects

30. **Deputy Brendan Smith** asked the Minister for Transport, Tourism and Sport if he will ensure that the road development needs of the Border region are given particular consideration in the review of the present capital plan given the many challenges that will arise for business and commerce in the Border region due to Brexit; and if he will make a statement on the matter. [14185/17]

82. **Deputy Brendan Smith** asked the Minister for Transport, Tourism and Sport if his attention has been drawn to the concerns of businesses in the Border region due to the difficulties arising from Brexit and the need to improve infrastructure, particularly the road network, to assist businesses in remaining competitive; if the road development needs of this region will be prioritised for investment; and if he will make a statement on the matter. [14186/17]

Deputy Brendan Smith: The Minister and I had the opportunity to discuss the substance of this matter in the House before. Given the huge challenges emerging for business and commerce in the Border region due to Brexit and its adverse impacts on the Border economy, I put the need to upgrade the road infrastructure in the region to the Minister during Question Time, in a Topical Issue debate and privately at a meeting with him, for which I am grateful. We do not have a rail network in Ulster and we need a modern road network. There is an urgent need to prioritise a number of routes in the Border region to ensure that they are up to the standard which local business and commerce and residents deserve.

Deputy Shane Ross: I propose to take Questions Nos. 30 and 82 together.

I have a rather long answer for the Deputy, but I will amalgamate the two questions. Forgive me if I take a few minutes to do it. As Minister for Transport, I have responsibility for overall policy and funding in regard to the national roads programme. The construction, improvement and maintenance of individual national roads is a matter for Transport Infrastructure Ireland under the Roads Acts 1993 to 2015 in conjunction with the local authorities concerned.

In accordance with the provisions of section 13 of the Roads Act 1993, the improvement and maintenance of regional and local roads is the statutory responsibility of the relevant local

authority. Works on those roads are funded from the local authorities' own resources, supplemented by State road grants. The initial selection and prioritisation of works to be funded is also a matter for the local authority.

The transport element of the capital plan sets out investment priorities to 2022 and was framed by the conclusions reached in my Department's strategic investment framework for land transport. Based on the findings in that report it is envisaged that maintenance and renewal of the road network will continue to be the main priority over the next period and the bulk of the roads capital budget, approximately €4.4 billion, is earmarked for such essential work. A further €600 million has been allocated for implementation of the PPP road programme which is already under way and the balance for the limited number of road improvement projects included in the plan.

The Minister for Public Expenditure and Reform has indicated that there is a total of €2.6 billion in additional funding available between 2018 and 2021 for allocation under the review of the capital plan. While I am conscious of the many competing demands for extra resources, my Department has submitted a very strong case for additional funding consistent with the principles identified and a number of the proposed measures, if approved for funding, will be of benefit to the Border counties. I understand that departmental submissions will be published by the Department of Public Expenditure and Reform.

I will list a few of the roads in the Border region where the capital plan provides for significant investment in transport links impacting on the wider Border region. These include the N4 Collooney-Castlebaldwin section of the Dublin-Sligo route, the two rolling schemes from Dungloe to Glenties and Inver to Mountcharles on the N56 - strengthening regional links in Donegal - and the N2 Slane bypass, subject to planning, on the Dublin-Monaghan route. The capital plan also restates the Government's commitment to €75 million over three years to the development of the A5 in Northern Ireland.

Deputy Brendan Smith: I thank the Minister for his reply. Will he make a strong argument to Government on the need to provide additional funding in the mid-term capital review to address the infrastructural deficit in the Border region, particularly the road network? As I mentioned earlier, unfortunately we do not have a rail network and movement of persons and goods, including goods for export, has to be by road. Public representatives, the Minister as a member of Government, colleagues and civic society in general will spend a lot of time over the next two years discussing issues pertaining to Brexit as well as having many discussions with the British Government and at European Union level. Many of the issues are outside the competence of Government to decide. One thing within the competence of Government is to decide where national expenditure should go and to seek particular EU funding for infrastructural development. I previously asked the Minister to put forward a case through the Department of Public Expenditure and Reform on the need to seek cohesion funding post-2020 given the specific needs of the Border region and the adverse impacts Brexit will have on that region and economy.

Deputy Shane Ross: I gave a commitment to Deputy Smith that I would do that and when I leave this evening I will find out the current position. The Deputy was seeking special EU cohesion funds for Border areas, which I consider a reasonable request. I do not know the current position. It was only a couple of weeks ago and I do not know if we have received a response at this stage. I will follow it up because I consider the request perfectly fair. As the Deputy knows, the whole Brexit situation is in a state of flux. It might be a little early to say

that we are looking for some sort of special deal for roads in the Border regions because of the adverse effects of Brexit and a hard border on them, given that we do not know what the effect will be at the moment. However, I understand the difficulties for Border towns and Border trade and am sympathetic. If this requires additional infrastructure, I will certainly look at it as being a particular case. I do not want to give a complete and utter blanket commitment at this stage when we do not know specifically what the consequences will be for the Border areas or anywhere else.

Deputy Brendan Smith: I disagree with the Minister in one respect in that Brexit has already had adverse impacts on the Border region, particularly on some of the food sectors. It has also damaged business confidence. Those of us who represent the Border region are all aware that some enterprises have shelved plans to consolidate or expand and increase employment.

Another telling argument is that the Troubles and a lack of economic development in the Border region have meant employment in the region is predominately based in small and medium enterprises. The facts show that of all the regions, the Border region has the highest proportion of exports to the sterling area. It will, therefore, be impacted when we no longer share a trading area with Britain. The estimated costs of Brexit to business are readily identifiable they will impact most on the Border region. I emphasise that small and medium enterprises in the region are more dependent on the British market than those of any other part of the country.

Deputy Niamh Smyth: The Minister stated that it is a little early to say what will be the impact on the Border region. Speaking for those living in counties Cavan and Monaghan, it is never too early to start shouting for Border counties. Brexit looms large in the hearts and minds of everyone in my constituency, particularly those involved in small and medium enterprises and agriculture. Lakeland areas in the heart of the constituency, including Killeshandra, Lough Egish and Baileborough, have significant industry, with thousands of gallons of milk from the North processed daily in the area.

Roads in Cavan-Monaghan are being hammered because the funding available to local authorities to spend on local roads has declined by 50% since 2008. No money has been spent on the local improvement scheme in the constituency. It is not too early to fly the flag for Border counties.

Deputy Shane Ross: The issue is simply that the detail is not known. I take the Deputies' point, however, because I know the Border counties are feeling the pinch already, particularly on trade and by small and medium enterprises to which both Deputies referred. This will obviously have a knock-on effect on infrastructure and roads.

My Department has submitted its proposals for the current capital review. The final outcome will be decided by the Minister for Public Expenditure and Reform and Government. However, a number of possible investments impacting on the Border region have been considered in the submission. In identifying projects, I considered a range of factors, including congestion, regional development and the wider development context. For example, if the A5 proceeds as planned, the N2 links to the A5 from Monaghan will need to be improved and this was factored into the submission. Similarly, current IDA Ireland plans for investment in Sligo require investment in regional and local roads. Projects which had cleared planning were also factored in, for example, the Ardee bypass on the N2 in County Louth and linking Monaghan to Dublin.

22 March 2017

Road Projects

31. **Deputy Brendan Griffin** asked the Minister for Transport, Tourism and Sport if his attention has been drawn to the socioeconomic benefits that would accrue from the construction of the new N22 Cork to Kerry road; if his attention has been further drawn to the rate of fatalities and serious injuries on the stretch of road in need of replacement; and if he will make a statement on the matter. [14095/17]

70. **Deputy Brendan Griffin** asked the Minister for Transport, Tourism and Sport if the new N22 Cork to Kerry road will be prioritised for construction; and if he will make a statement on the matter. [14094/17]

An Leas-Cheann Comhairle: We have only three minutes remaining to take Deputy Griffin's question. The Deputy will have more time if we proceed directly to the response.

Deputy Brendan Griffin: I have spoken umpteen times in the Chamber in the past six years about the N22 Cork to Kerry road project. Since 1990, there have been more than 40 fatalities on this section of road. It would be a great socioeconomic development for the entire south west region if the road project were to be accelerated in the capital plan. Clearance works are starting this year and a contract valued at €14 million to prepare the route has been signed. However, funding is needed to lay the tarmac and allow the works to begin in earnest.

An Leas-Cheann Comhairle: I ask the Minister to tailor his response.

Deputy Shane Ross: I propose to take Questions Nos. 31 and 70 together.

I will be as fast as I can. Deputy Griffin will be aware that I was meant to travel the road in question with him last week. Unfortunately, I had to postpone my visit, for which I apologise, as a result of events in County Mayo. I will visit the area in the next week or two or soon after Easter to see the route at first hand.

In cases where a road authority, namely, the local authority, has information that indicates that road safety improvement measures on a national route are warranted, the road authority should prepare a feasibility report and carry out an analysis of the collision history on the route. If the number of collisions meet the criteria for a high collision location, the road authority can design a scheme to deal with the safety issues and cost and prioritise the scheme in relation to other works being proposed. Transport Infrastructure Ireland, TII, has allocated €16.7 million for high collision location safety works on the national road network in 2017. In addition, TII also provides a programme to address improvements to skid resistance. A total of €415,000 has been allocated to Cork County Council and €260,000 to Kerry County Council in respect of this programme.

I am fully aware of the strategic importance of the N22 Ballyvourney to Macroom scheme and I understand from TII that it is intended that mainline construction will commence in 2020. As regards an earlier construction start date, the extra funding for allocation across Government under the capital plan and the current review of the plan reflect the constraints associated with European Union fiscal rules. The bulk of additional funding, both currently and under the review, will be available in 2020 and 2021, with significantly lower amounts in 2018 and 2019. This significantly constrains the scope to accelerate major investment projects. Decisions under the review are ultimately matters for the Minister for Public Expenditure and Reform and Government. However, I take very seriously the safety elements the Deputy has brought to my

attention again.

Deputy Brendan Griffin: In terms of the number of projects nationwide that are or will be shovel ready in 2018, the Ballyvourney to Macroom road merits serious consideration for many reasons. The project would open up the engine of Cork city and its jobs market to a new cohort of people who wish to continue to live in County Kerry, contribute to their local economy and spend in their local community. The project would be a significant leap forward for the county and would also enable us to attract investment, thus reducing the problem of geographical peripherality that we have suffered for many generations. This is a key project which should be accelerated. While I understand that constraints apply and the scope for accelerating projects is narrow, from a national perspective, this project stands out as one that could be accelerated in the review. I ask the Minister to give it every consideration.

Deputy Aindrias Moynihan: People believe the N22 Macroom bypass project could proceed much quicker than is currently the case. The key issue is the tendering for construction, which, for a project of this scale, would take the best part of a year to complete. The tendering process could run in parallel with the land purchase and could have started at any time from 2013 onwards. It did not commence in 2014, 2015 or 2016. Will the Minister release the Macroom bypass project to tender for construction this year?

The other key point relates to the archaeological and sensing works proposed for later this year, which are being packaged as an advance project. These works formed part of the construction contract which was parked. They were plucked from that contract and repackaged as advance works. The substantive contract must be released to tender for construction. We do not need to wait for land purchase. The tender could have proceeded at any time since 2013 when the compulsory purchase order was confirmed. Will the Minister release the project for tender this year?

Deputy Shane Ross: I thank Deputies Brendan Griffin and Aindrias Moynihan for raising this issue which has been addressed many times previously. I assure them I will give the matter due and serious consideration in the capital review.

Written Answers are published on the Oireachtas website.

Topical Issue Matters

An Ceann Comhairle: I wish to advise the House of the following matters in respect of which notice has been given under Standing Order 29A and the name of the Member in each case: (1) Deputy Niall Collins - protection of records of the former Glin industrial school in Limerick; (2) Deputy Bernard J. Durkan - funding to The Moat Club, Naas, County Kildare; (3) Deputy Michael D'Arcy - review of Garda resources and geographic spread of stations; (4) Deputy Thomas Byrne - the process for DEIS selections; (5) Deputy Robert Troy - Irish Water's engagement with local authorities; (6) Deputy Aindrias Moynihan - the progress of the new primary school for Ballincollig in 2017; (7) Deputy Frank O'Rourke - consideration of the commercial rates system for town centres; (8) Deputy Dessie Ellis - the need for a new primary school and new community facilities in the Meakstown area, Dublin 11; (9) Deputy Niamh Smyth - waiting lists for orthodontic assessments in Cavan-Monaghan; (10) Deputies Dara Calleary, Willie O'Dea, John Brassil, James Browne, John Lahart, James Lawless, Michael Moynihan, Kevin O'Keeffe and Fiona O'Loughlin - the Impact of Jobpath on the operation of

22 March 2017

CE schemes and the need for an urgent review of Jobpath; (11) Deputy Noel Rock - the lack of mixed development in Social Housing PPP Bundle 1; (12) Deputy Clare Daly - recent comments by Chief Executive of Caranua regarding applicants to the scheme and media coverage surrounding those comments; (13) Deputy Mattie McGrath - concerns regarding the future of the Bord na Móna plant at Littleton, County Tipperary; (14) Deputy Mick Wallace - current waiting times to access child psychology services in Wexford, particularly for children and adolescents who present with suicidal ideation; (15) Deputy Eamon Scanlon - the unavailability of a Leaving Certificate Applied Programme in County Leitrim; (16) Deputies Brid Smith, Richard Boyd Barrett - the deteriorating health of Ibrahim Halawa in Egypt; (17) Deputy Declan Breathnach - the option of giving the Post Office service responsibility for the the compilation of the electoral register and enumeration of census data to make the service more viable and reverse the closure of post offices around the country; (18) Deputy Barry Cowen - the impact of current carbon policy on falling sales of briquettes and the impact on employment in factories in Derrinlough, County Offaly and Littleton, County Tipperary; (19) Deputy Lisa Chambers - the Air Corps and its resourcing; and (20) Deputy Billy Kelleher - an update on reviewing the fair deal scheme as it applies to farmers.

The matters raised by Deputies Deputy Niall Collins, Eamon Scanlon, Dessie Ellis and Bernard J. Durkan have been selected for discussion.

Topical Issue Debate

Residential Institutions Data

Deputy Niall Collins: I thank the Minister for taking this matter. I sent him some of the documents I have in advance, which I am sure he has in his pack.

I was approached by Mr. Tom Wall, who is a former resident of St. Joseph's industrial school, Glin, County Limerick, which was a notorious industrial school that featured in many publications. It featured in the Ryan report and, indeed, Tom Wall wrote a book on his experience, life and times in the former industrial school, which states:

Tom Wall was born in Limerick in 1949. At three years of age, he was detained at St. Joseph's industrial school for senior boys in Glin, County Limerick, where he was regularly beaten, bullied, left cold and hungry, and, worst of all, sexually abused. He is the only survivor from Glin industrial school who continues to live in Glin, a short distance from where the industrial school once stood.

Mr. Wall approached me recently and revealed that in 1973, when he was in his early 20s, he was brought back to work in the industrial school by the Christian Brothers who were in the process of vacating the premises. One of the duties he was asked to perform was to take all the records of all the former residents of the school and burn them. There was a file on every boy who went through the school, which contained many pieces of information in respect of each resident. He asked if he could retain his own file and he was told that he could retain whatever he wanted. He retained a significant number of documents, put them in safe keeping and held them for 40 years. That was a proactive move at that point in time because he moved to preserve those documents, which the Christian Brothers wanted to burn.

In 2015, he donated the entire collection of original documents to the University of Limerick, UL, for safe keeping and for them to be maintained and catalogued. However, the Christian Brothers acting through one of the most high profile solicitors in the country are now threatening legal action and seeking to recover the documents from UL in their entirety. Mr. Wall has engaged with the Christian Brothers in a proactive manner and has said to them that they will afford the Christian Brothers a copy of the documents but they are not getting the original documents. That is at his insistence. He feels that, unfortunately - it is with regret that I say this - the Christian Brothers cannot be trusted in regard to having exclusive possession of the original documents.

A recent report of the Committee of Public Accounts highlighted how they have not lived up to their obligations under the deal they did with the State and we also have seen what is documented in the Ryan report. It is important to realise that these documents include health reports of the former residents, referral letters from the courts service, education referral letters from the Department of Education as well as letters the boys in the schools wrote to their parents and families which were never sent by the Christian Brothers. There are different types of documents in these records. They are, in the first instance, the property of the former residents of the industrial school or their representatives and, second, the State has a claim on these papers because many of them are State papers. I do not have an issue with the Christian Brothers having a copy of these documents. However, a former resident, who is an abuse survivor and who has acted to preserve these records, is being threatened in a high handed manner by them as they seek to recover these documents to the exclusion of everybody else.

Can the Minister intervene on behalf of the State to secure the documents? Can he take possession of the documents? I also wrote to Tusla about this issue. Would the Minister be willing to meet Mr. Wall to hear at first hand his account of this matter?

Minister for Education and Skills (Deputy Richard Bruton): I thank the Deputy for raising this matter, which only came into the public domain recently. I had no knowledge of it until it was reported in the newspapers.

With regard to records over which the Department has control, we have a number that relate to the former industrial and reformatory schools. They cover areas such as general inspection, medical inspection and certification. There are also registers which provide details of children who were admitted through the courts system as well as individual files on some of these children. The Department made available such records as were required for the work of the Commission to Inquire into Child Abuse, CICA, which ultimately led to the Ryan report. The Department also provided personal records of many thousands of former residents who applied for such records under freedom of information legislation.

Apart from such records held by my Department, a significant volume of records are also held in the archives of the congregations that managed the schools. Indeed, such records were also sought and used in the work of CICA and the formulation of the Ryan report. The existence of such distinct sets of records held by the various congregations has been acknowledged by the State. They were obviously created, maintained and archived independently of the State. In such circumstances, my Department has never sought to take ownership of such records. While I understand that the question of the use and ownership of the records in question has been under discussion among various parties, this has only recently come to the attention of my Department.

22 March 2017

I understand that a number of parties have expressed an interest in the retention, use and ownership of the records in question. It also appears that certain parties in question have sought independent legal services and that all involved have specific views on a resolution of the issue. It is important to emphasise that the State is not a party to these proceedings. This is not surprising given the State has not now, or at any previous time, had ownership or possession of the records in question. In such circumstances, where litigation is pending, it would be inappropriate for me to comment on how and where these records should be dealt with.

The Deputy raised specific questions about whether the State has the power to seize these documents. I do not know of any such power in my Department but I cannot be decisive on that issue because I do not know whether powers reside in another Department.

Deputy Niall Collins: It is important that the Minister understands that the fear is that the Christian Brothers would take sole possession of these documents and they would not be available to any of the former residents or their representatives. That is the key point. Unfortunately - I say it with regret - the Christian Brothers have not been honourable in their dealings with many former abuse survivors or with the State. It is imperative that there should be an honest broker in the middle and the State should be that honest broker. Tusla or the Minister's Department should maintain a copy of the records.

Mr. Wall is clear that he has no issue with the Christian Brothers getting a copy of the documents. The reason they should not have sole possession of the documents is that some of them are incriminating. For example, a document was given to me which is effectively a contract for sale under which boys were sold out of the industrial school into the labour market. Boys worked for a number of years on farms but the Christian Brothers were paid. The boys were effectively sold into slavery. If somebody knocks on their door, the Christian Brothers will not make these records available to former residents or their representatives. It is important that the State should take an active interest in this dispute because, regardless of whether we like it, the State is a player. The State placed these children in the former industrial schools where they were abused and let down. These records should be available to them. In fairness to UL, it is an honest broker. The documents are sealed in the university and a dispute is pending. It is incumbent on the Minister and the chief executive officer of Tusla to address this issue. I have written to the CEO of Tusla and he has not responded yet. I received an acknowledgement from the Minister and he is responding to this matter now. We need to see the State showing an interest. Will the Minister be available to meet Mr. Wall to discuss this issue further following this debate?

Deputy Richard Bruton: As I understand it, this issue is potentially being litigated in the courts so it is not appropriate for me to get involved in meeting sides-----

Deputy Niall Collins: It is not in the courts yet.

Deputy Richard Bruton: -----in the context of a potential court case. Those who hold the records have indicated they will only release them on foot of a court order. I recognise the concern the Deputy raises about whether there is a power somewhere to protect these records. There is another issue about who has access to such records. The records that were presented to the Ryan report were highly confidential and they are not discoverable by individuals apart from individuals who have a right to their personal records under FOI and so on. I simply do not have the knowledge about whether there is power to provide a protection order of some description to records of this nature. As far as I can establish, there is no such power in my

Department to essentially put a freeze on what are private records in this context. All I can say to the Deputy is that I will make further inquiries to see if there are such powers. I can understand the concern people have that such records should be protected and preserved and available where individuals have concerns. I do not know whether these are records that were submitted to the Ryan report or what their status is. This has only come to our attention very recently. They are private records as far as my Department is concerned. The Department was never given power, through the Ryan report or any of that phase, to seize, protect or collate on behalf of the State records that were in the hands of the congregations. I will have to come back to the Deputy on the issue.

School Curriculum

Deputy Eamon Scanlon: I thank the Minister for being here to answer the question. I was shocked to discover before Christmas last year that there are no leaving certificate applied options available for secondary school students in all of County Leitrim. Since it was brought to my attention, I raised the issue initially with the Taoiseach on December 13 during Questions on Promised Legislation. I submitted several parliamentary questions and wrote to the Minister highlighting the situation. I find it incredible that a recognised State curriculum is completely unavailable to students in all of County Leitrim.

There are over 800,000 people aged between ten and 24 in Ireland. As these young people transition from adolescence to adulthood and from primary school to secondary school and further education or work, they are faced with major changes, pressures, expectations and opportunities. We must ensure their voices are heard and that they are respected, safe and healthy and that they meet their full potential in life and education. The two-year leaving certificate applied programme is designed for students who do not wish to proceed directly to higher education or for those whose needs, aptitudes and learning styles are not fully catered for by the other two leaving certificate programmes. The experiences are active and practical with less emphasis on final examinations. The programme provides for a wealth of opportunity which enhances the self-esteem and confidence of students with regular feedback on their success and achievements. Education is the key to giving every child an equal opportunity in life. Ireland is recognised as having a strong education system with a well-trained and committed teaching profession yet too many of our children still fall through the cracks and are in danger of being left behind, as is the case in County Leitrim. Page 86 of the programme for Government states that “the Government, working in conjunction with the Oireachtas must ... equip young people with key enabling skills for the future so they can meet their full potential in a fast-changing world”. Page 90 of the programme states that the Government will “introduce greater flexibility in our schools and pursue measures to achieve this” and that “This may include nurturing different ambitions through new subject choices, greater engagement with enterprise on future skills needs, and increased flexibility”. The Government is not adhering to its own commitments.

There is a concerned parent in south County Leitrim whose child attends school there and whose educational psychologist has recommended the student be enrolled on a leaving certificate applied course. However, the school the student attends does not provide that programme. No school in County Leitrim offers the leaving certificate applied curriculum. In response to a parliamentary question and a letter to the Minister, Deputy Bruton, I received a copy and paste response which advised me that “It is the responsibility and choice of each individual

school to decide to put in place the LCA programme, including the admittance of a student to the programme". In this instance, is it not a matter for the Department to intervene? Are parents and children in County Leitrim just to get on with it? Teachers have raised concerns that the falling numbers opting for LCA are as a result of choices forced on schools by education cutbacks. Due to staffing limitations imposed by several budgets, some schools have dropped programmes such as the LCA altogether. This is a matter for the Department of Education and Skills and the Department must address it, particularly in the instances where the educational psychologist has recommended a student for the leaving certificate applied programme.

Level 4 education is an essential component of the education system which each and every child is entitled to and it is being denied to children in County Leitrim. Society has an expectation that young people embrace change. Those of us charged with education must step up to the mark. There are students in County Leitrim who are not being educationally supported to prepare positively for their future. They are being denied the entitlement of their required educational needs, which is confirmed by the National Educational Psychological Service as the leaving certificate applied qualification. The statistics relating to schools in neighbouring counties offering the programme are staggering. Records from 2016 show there were 48 in County Sligo, 14 in County Roscommon, 79 in County Galway, 73 in County Mayo and 136 in County Donegal but none in County Leitrim. This is not an acceptable situation. Students in County Leitrim are losing out. The education system is failing children in the county. Putting them on a bus and sending them to counties Sligo or Roscommon is not the answer.

An Leas-Cheann Comhairle: The Deputy will have further opportunity to reply.

Deputy Eamon Scanlon: I am calling on the Minister for Education and Skills to rectify the situation and ensure all students have access to the leaving certificate applied irrespective of where they live.

Deputy Richard Bruton: I thank Deputy Scanlon for raising this issue. It is our desire that parents and children should have the best pathway possible available to them. I see from the statistics in respect of County Leitrim that while last year no children from County Leitrim participated in the leaving certificate applied, the previous year 11 children took part. It is not that no school is offering it. Where children seek it in a school that provides it they obviously will be provided with the option. The Department has not imposed cutbacks in any way in this area - far from it. A school that decides to take on the leaving certificate applied gets an additional allocation of half a teaching post regardless of the number of children who take it on. We have taken steps to ensure there is resourcing available for schools to take this on. Notwithstanding that, it is true that about one third of all schools offer the leaving certificate applied. It is not every school, by any means, but it is available and they get the premium staffing resource to allow them to deliver it. We do not compel schools to provide it. We do not have the legal power to compel schools to run particular items of curriculum apart from elements of the curriculum that are compulsory. We do not have that power. It is up to the local schools to decide, based on the needs and desires of their pupils, to provide this programme. We provide a substantial incentive to support them in providing that programme.

It is correct, as the Deputy says, that there has been some decline in participation, which is down from 5.8% in 2010 to 4.7%. The NCCA is reviewing this, along with the rest of the leaving certificate, to see if provision in this area is appropriate to the needs of all children who are offering to participate in the leaving certificate programme. We will look specifically at things

that may be discouraging participation such as its standing with employers. We will also look at the pathways. It is hoped that the leaving certificate applied can provide a pathway into post-leaving certificate courses, traineeships and other options so that it is an attractive pathway.

However, we do not do what the Deputy has suggested and impose an obligation on schools to provide the leaving certificate applied programme. It is the responsibility of each school to decide the matter based on its student composition. If the Deputy wishes to draw attention to a particular case though, I would be happy to get the advice of appropriate agencies in the Department for him and the family concerned.

Deputy Eamon Scanlon: I thank the Minister for his response. I understand his point and have read the answers to my parliamentary questions. Officials write those answers, but the Minister, like me, must consider the human side of this matter. We meet the people who attend our clinics.

The case in question involves a single mother with a young child for whom a psychologist has recommended a leaving certificate applied course, but such a course is not available in the child's school. I understand the Minister's comments on extra staffing, but if the school cannot, or refuses to, offer the course, I do not know what can be done. The mother is out of her mind with worry, as the parent of any child with special needs would be. She is working and providing for her family, but she is not in a position to drive 20, 30 or 40 miles to and from another school. The stress that she is being placed under is unfair.

I will revert to the Minister regarding this case. Through his good office, will he do everything that he can to ensure that this child is catered for?

Deputy Richard Bruton: I will attempt to assist. It is a different programme with a different structure - vocational preparation, general education and vocational education - over four half-year blocks that are accredited at the end of each. The programme is not just an add-on, and a school undertaking it must commit to providing a certain structure to the course.

I do not know the details of individual schools, but it would appear that schools in Leitrim have provided this programme previously. Given that a number of children in Leitrim are offering to participate in it next year, they must be attending some school that is providing it. It may be possible that the programme can be provided in a school other than the one the child in question is attending.

This has nothing to do with cutbacks, which the Deputy suggested in his opening remarks. This is not a move to reduce the programme. We are constantly increasing our investment in this area and are trying to add resource teachers and so on to meet needs. This is a matter of seeking practical solutions to meet each individual's needs.

I will arrange for people to contact the Deputy so that we can see whether there is any assistance the Department can offer.

Schools Building Projects

Deputy Dessie Ellis: I thank the Minister for taking this matter. I am unsure as to whether he is familiar with the Meakstown area. It has grown considerably to over 3,000 units, with more on the way. It covers Charlestown, Lanesborough, Seagrave, Mayeston, Creston and

22 March 2017

Melville in the Fingal area and Hampton Wood in the Dublin City Council area. According to recent statistics, its population has increased by 15%. It has been in existence for nearly 18 years, and in that time no community centre, crèche, school, playing surface or playground has been provided. Even the main park has not been completed thanks to a dispute over a piece of land. The rates levied on the Charlestown shopping centre have run into the millions of euro over the centre's existence.

When I raised these matters with the planners in the early stages, I was told that all of the money had to be pooled to pay for facilities in other areas. This area has deliberately been built up with no infrastructure and the fees it has paid have been invested in other areas. That is scandalous and I have never heard of the like happening elsewhere.

More developments are being built in Charlestown, Creston, Lanesborough and Mayeston. Recently, Fingal County Council engaged in a local area plan and consulted residents. After years of being pressed by me, Councillor Philip Lynam, other public representatives and the residents themselves, we have managed for the first time to get the council to consult. In fairness, the new CEO is on board, but previous CEOs and others let us down badly in terms of planning.

The area development plan is broken. I call on the Minister and his officials to tell Fingal County Council that this is unacceptable and facilities must be put in place. The past has shown us that, if facilities are not put in place, we will end up with anti-social problems and other issues and the area will become run down. To build an area like Meakstown and not provide facilities is criminal, but that is how the area has been treated. It is unacceptable. Every requirement of proper planning has been contravened. The practice of pooling money and spending it elsewhere instead of on a new scheme - I am not just referring to small schemes, but large ones like new schools - makes no sense to me. It makes no sense to the Minister either. Will he explain to Fingal County Council through his officials that this situation is unacceptable and action is needed?

Deputy Richard Bruton: I thank Deputy Ellis for raising this matter. Like many of the issues that he raises, I sympathise with it, as I understand the pressure on growing areas and the difficulties that poses. However, questions of development fees being collected and applied to purposes other than local community facilities are more for the local authority than me as Minister for Education and Skills.

Regarding my Department's approach to such matters, we have 314 local planning areas. We examine the demographical statistics, enrolments at preschool level and so on in order to identify any upcoming need for schools. We are conducting such an analysis at the moment using fresh demographic data. As of today, however, the Department has not identified a need within the Ballymun-Finglas east planning area. Currently, there is an enrolment of 3,642 pupils in the area. As of today, the Department believes that the nine schools have the capacity to provide the necessary service. A fresh review is under way. In the event of it identifying a need, there will be a process to find a patron for any new school.

Regarding longer term planning where houses are being built, my Department has a protocol or code of practice in place with the local authorities for school provision so that land is reserved in the event of there being substantial population growth. As such, there is a capacity to identify and provide sites. As of today, the Department reports that the existing schools in the neighbourhood, of which there are nine, have the capacity to meet the immediate demand for

places so there is not a plan for a commitment to a construction project in this area at present.

Deputy Dessie Ellis: In the course of the local area plan consultation, people were asked to identify the problems in the area and everyone pointed to the lack of a community centre and education facilities, among other issues which I outlined. The situation is not good enough. This is a vast area and people are being told there is capacity at the other end of Finglas to deal with the population needs. The population is rising and more houses and apartments are being built.

I note what the Minister said about how he calculates what is needed in the area in terms of the building of schools but I do not accept it. There is an opportunity to build a multidenominational Irish or other school in the area. Such a school is badly needed. The area is vast and the public transport linkages are very poor and people must travel a distance to bring their children to school.

I urge the Minister to talk to the Minister for Housing, Planning, Community and Local Government, Deputy Coveney. It is not good enough to build residential developments and not to put infrastructural facilities in place. I accept that the responsibility of the Minister, Deputy Bruton, is education, but I would be grateful if he could ask the Minister for Housing, Planning, Community and Local Government to examine the issue with his officials and convey to the local authority in question, Fingal County Council, that in future, it must ensure proper facilities are put in place. Those facilities include schools. There is a need for schools in the area as there is a growth in population and more housing schemes are coming on-stream. There will be a deficit of school places in the future and the Minister must make provision for that. It is all well and good looking at statistics but when one is on the ground one sees the need and people tell us they need the facilities.

Deputy Richard Bruton: I understand the Minister for Housing, Planning, Community and Local Government, Deputy Coveney, is currently consulting on a spatial strategy that considers the type of issues raised by Deputy Ellis, such as how we plan for growth in communities and ensure we do not have overpopulation in some areas and the run-down of facilities in others. There is an opportunity for that much broader point to be presented to the Minister in a very coherent way by the Deputy and the community he represents. I will convey the Deputy's concerns to the Minister, Deputy Coveney.

From an educational point of view, I am working hard to provide seats for 20,000 students every year based on proven need where existing schools simply do not have enough provision. The provision of 20,000 places exhausts 80% of the budget so it leaves me with very little scope for expansion beyond that. I am working hard to ensure that whenever a child comes out of pre-school that there is a place for him or her. We do not build schools in advance on the basis that an area will have 10,000 houses in 20 years' time and we should start building the school now.

Deputy Dessie Ellis: We should do that.

Deputy Richard Bruton: That is not the way it is done in the Department. We build on a just-in-time basis, to use the related commercial term for the way school facilities are delivered, and that exhausts our resources.

I assure the Deputy that we will examine planning in the area based on need and we will examine the demographic trends, the trends in preschools serving the area and assessing where that is heading and if there is a need for which we must begin to plan.

22 March 2017

Arts Funding

Deputy Bernard J. Durkan: I thank the Ceann Comhairle for affording me the opportunity to raise this issue, which is a very important matter locally. I thank the Minister for coming into the House to reply to the debate.

The matter I raise refers to The Moat Club in Naas, County Kildare, which is famous for its traditional fostering of the arts in drama and music and also for the number of people it has assisted, promoted and attracted to its facilities over the years. The centre is renowned locally and nationally for the quality and professionalism of its performances.

Like all voluntary organisations, The Moat Club has ongoing funding needs, and in order to comply with health and safety requirements and to ensure patrons, staff and all associated with it are in a safe environment, the club made an application to the Minister for grant aid in the current year. Unfortunately, due to a number of issues that were beyond my control and that of most others, the club did not qualify for funding. An application had been made for in excess of €180,000 and it was a huge blow to the club that it did not get it, given that it was relying on the funding to continue its performances in the future, to keep the quality and standards high, and to ensure that it operated in a safe environment. However, that was not to be but that is another story. The show goes on and we must find ways and means to ensure the club operates in a safe environment.

The Minister has access to some funding later in the year which could possibly facilitate groups and organisations such as The Moat Club in Naas. It would be money well spent. I ask the Minister to favourably consider an application from the club for funding when the time comes. The town and its environs suffered considerably during the downturn in the economy and it is taking somewhat longer to recover than some of the other towns in the area. In those circumstances, it is of particular importance that we would apply ourselves to the best of our ability to try to ensure that the funding required by the club, or at least most of it, might be made available to it in the shortest possible time.

The club is a local community organisation that has put on shows for generations. It has won awards at national and international level and people of international stature perform at the club. I refer, for example, to Celine Byrne, Rebecca Storm, Tommy Fleming, John Kenny and Mary McEvoy, Ballet Ireland, Neil Delamere and Pat Shortt, who have all performed there with distinction. A total of 23,000 people go through the doors to support those performances on an annual basis. The club provides five to six shows every year and it is renowned for the quality of the performances. The Minister knows the story and I urge her to bear it in mind when the time comes for the allocation of the remaining resources within the Department which could aptly be applied to this organisation.

Minister for Arts, Heritage, Regional, Rural and Gaeltacht Affairs (Deputy Heather Humphreys): I thank Deputy Durkan for raising this matter. The arts and culture capital scheme is the most significant investment in regional arts and cultural centres in a decade. This kind of investment goes to the very heart of what I am trying to achieve through Creative Ireland and the Action Plan for Rural Development. Creative Ireland aims to place culture and creativity at the heart of every community nationwide, while the rural action plan seeks to revitalise rural towns and villages through a range of investments and initiatives. The Creative Ireland programme places a focus on investing in our cultural infrastructure, because high quality infrastructure is critical for a vibrant arts and culture sector, which in turn underpins social

cohesion and supports sustainable economic growth.

I have visited numerous arts and cultural centres in recent years, and it is abundantly clear to me that we are well served in terms of the number of centres nationwide. The main objective of the capital grants is to maintain and enhance the existing stock of arts and culture centres across the country, many of which need to be upgraded. In that regard, more than 85% of the investment is going to projects outside Dublin. The scheme was considerably over-subscribed. My Department received 106 applications in total under stream 1 and 2 requesting funding of just over €20 million. Detailed selection criteria and eligibility requirements were published in the guidelines of the scheme. There was a two-stage assessment process. The first stage involved all applications being reviewed on receipt to ensure eligibility. All eligible applications were then forwarded to an assessment panel which undertook the second stage of the assessment of the applications which advanced from stage one. The assessment panel reviewed each eligible application within the defined criteria and scored them accordingly. The recommendations were then forwarded to me for decision as set out in the published scheme conditions. Following the assessment process, 56 projects are being funded and will benefit from this capital investment, including theatres, heritage centres, galleries, archives, integrated arts centres, artist studios and creative and performance spaces.

Unfortunately, some organisations, including the project to which the Deputy refers, have been unsuccessful on this occasion as they did not meet the eligibility criteria as set out under the terms of the scheme. However, my Department is happy to engage with each applicant on the specific applications. In this regard, my Department has been in contact with the applicant, which has since forwarded the outstanding documentation not provided at the time of the application. Should further funding become available, this application can be given further consideration. Unsuccessful applicants have also been informed of the stream 3 small capital grant scheme for arts and cultural facilities, which I will be announcing shortly. It will be geared towards providing smaller capital grants of up to €20,000 to not-for-profit organisations with a defined arts and cultural remit. Whereas the amounts involved are relatively modest, the grants will in themselves make a major difference to individual organisations.

I understand the disappointment of the Moat Theatre and arts centre, which is run on a totally voluntary basis, as the Deputy noted. I understand its disappointment but my Department is happy to work with the organisation.

Deputy Bernard J. Durkan: I hope that in the course of the discussions that take place in the near future, it will be possible to identify the most likely opportunities to make some funding available. I do not wish to select one particular aspect of the application against another as that could be worked out in the course of the discussions taking place now. The organisation would be extremely grateful and appreciative as it put in a major effort. There are approximately 40 people in the voluntary group who are always involved with the productions and fund-raising, and that is happening now. They are not looking for a handout as they are well capable of making fund-raising efforts themselves. They do that all the time. Having exhausted their facilities at various levels, they need to move to the next stage. Meeting health and safety requirements is fundamental to everything they do and stand for. The Minister would agree it is very important that we meet health and safety requirements on an ongoing basis. Anything that happens in that area usually brings a negative response.

I hope the Minister will find ways and means to address the issue in a favourable way. To quote the old phrase, the show must go on. It cannot go on unless we have resources and meet

22 March 2017

health and safety requirements. I hope that some time in the current year, one or more aspects of the theatre's programme might be funded under the headings already referred to by the Minister.

Deputy Heather Humphreys: I know the Deputy is very committed to and passionate about the Moat Theatre and the good work it does in Naas and the surrounding communities in Kildare. Volunteers are the backbone of communities right across the country, doing much work while giving up their time. I acknowledge that. This theatre underwent major upgrade works in 2003 and it has a 200-seat auditorium with retractable seating in place. I know it has an excellent programme of events coming up in the next few weeks, including "Some Like it Hot", an evening of one-act plays and Pat Shortt, just to name a few. It is certainly a very active theatre, which is good to see.

Various clubs and organisations in my constituency were not successful in getting funding and I understand the absolute disappointment coming from that. The arts and culture capital scheme was designed to be as flexible as possible to ensure projects of varying sizes could benefit. The vast majority of eligible applications received some level of funding. Seven flagship projects will receive substantial funding allocations, including the €1 million investment in the Riverbank Theatre in Kildare. A further 49 projects will receive funding ranging from €20,000 to €276,000. All these projects aim to improve the audience and creative experience. This funding package will also ensure past investment in these arts and cultural centres will be protected and sustained.

My Department has received the necessary additional information from Moat Theatre and should further funding become available, my Department will consider the matter at that stage. The application is valid and on a shortlist. I would be very optimistic that support will be forthcoming. I thank the Deputy for raising the matter.

Business of Dáil

Minister for Arts, Heritage, Regional, Rural and Gaeltacht Affairs (Deputy Heather Humphreys): I move:

That notwithstanding anything in Standing Orders, any division which would normally be taken at the weekly division time tomorrow, Thursday, 23 March 2017, shall be taken immediately following Topical Issues on Tuesday, 28 March 2017.

Question put and agreed to.

Sitting suspended at 4.25 p.m. and resumed at 5.05 p.m.

Message from Select Committee

An Ceann Comhairle: The Select Committee on Health has completed its consideration of the Misuse of Drugs (Supervised Injecting Facilities) Bill 2017 and has made no amendments thereto.

An Bille um an gCúigiú Leasú is Tríocha ar an mBunreacht (Cearta Eacnamaíochta, Sóisialacha agus Cultúir), 2016: An Dara Céim [Comhaltaí Priobháideacha]

**Thirty-fifth Amendment of the Constitution (Economic, Social and Cultural Rights) Bill
2016: Second Stage [Private Members]**

Deputy Thomas Pringle: Tairgim: “Go léifear an Bille an Dara hUair anois.”

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

Since 1973 when Ireland signed the International Covenant on Economic, Social and Cultural Rights, ESC rights, and since its ratification in 1989, rights covered by this treaty have slowly and progressively been eroded by successive Governments intent on the ever increasing commercialisation of our public services. As we emerge from an economic recession, it is becoming ever more evident that every person has traded in something for this recovery at their expense. Most people do not know how to describe or understand what that something is and do not use the terminology we throw across the floor of this House but they do sense a general feeling of unease as if we are heading in the wrong direction, and they are right. What they are feeling is an encroachment of the commercialisation of many aspects of their lives, most vitally, the public services that provide basic security for people in this country and which they are fundamentally entitled to. Why is there such opposition to water charges, the property tax, closure of post offices and Garda stations, and cuts to bus services and health services, including mental health and disability supports? Not to mention the catastrophic housing crisis or, as I prefer to call it, crisis of inaction by this Government, caused by its reliance on encouragement of the private sector to fill the void of an ineffective Government housing policy and which has thrown people out into the streets and families into hotel bedrooms over the Christmas period.

People are asking why can their family members not get a public hospital bed when private beds are lying empty. What they are really asking is, “Where is our right to health care?”. It is an intolerable fact that health outcomes are determined by wealth and poverty. Dr. Robert O’Connor, the head of research at the Irish Cancer Society, confirms this, noting that cancer deaths in Mulhuddart are three times those in Castleknock despite them being bordering areas. People ask if their children will get the necessary resource teaching hours or special needs assistance in their local school and if they will have to face third level student loans which will have to be repaid over a lifetime. Workers are asking why they feel less secure in their jobs and more fearful of life in retirement and how they will provide for their families if work dries up. People are asking these questions because during the recent austerity programme from 2008 to 2013, the bottom 10% of people experienced an income contraction of 22% compared with the average fall in income of 13%.

All of this offers a grim picture but it is the reality for many as a result of the ideology pursued by this and previous Governments that commercialisation or privatisation of our public services is best for everybody. That is why, time and again, people feel compelled to protest. They know this ideology is a lie. It is corrosive. The best example is the community led nationwide protest against water charges. Something about the symbol of our water being sold off to private companies caught people’s imagination and represented for them where they did not want this country to go. Fine Gael’s reaction to this was an example of a Government out of touch with its people and its contempt for the so-called “criminal” protestor was a reaction

from a place of blind loyalty to the vision of global capitalism. The Bill I present offers the exact antidote for which people are searching. It is a countermeasure to all of the corrosive policies of Fine Gael and previous Governments which have led to the breakdown of vital public services, successive cuts to social welfare supports, health services and social housing, supports for schools and cuts to wages, including terms and conditions of work. These policies have perpetuated wealth inequality, gender inequality and social inequality. My Bill seeks to counteract these effects by enshrining fundamental rights such as the right to housing, health care and education in our Constitution by way of referendum.

In the ninth and final meeting of the Constitutional Convention in February 2013, 85% of the members voted in favour of amending the Constitution to strengthen the protection of economic, social and cultural rights. A majority of members of the convention voted in favour of a constitutional provision to realise such rights progressively, subject to the maximum available resources, and to enshrine that this duty be cognisable by the courts. The convention voted on whether specific additional rights should be enumerated in the Constitution and voted in favour of a proposal that all of the rights contained in the International Covenant on Economic, Social and Cultural Rights be enumerated within the Constitution. The Bill is intended to give effect to that determination. In March 2014, the Constitutional Convention sent a recommendation to the Government to implement these rights and the Government was due to respond by July of that year.

I introduced the Bill during the last Dáil in May 2015 but it was voted down by Fine Gael, Fianna Fáil and Labour at the time. Two years later and after a general election in 2016, the programme for Government had watered down commitments on economic, social and cultural rights to the point of only committing to referring the report of the Constitutional Convention to the new Oireachtas committee on housing for consideration. Despite this watered-down commitment, the Government has also failed on this promise. A year into new politics we are still waiting for the Government to address proactively the status of these rights. The proposed wording in the Bill is intended to be in addition to the text of Article 45 of the Constitution to the effect that the State shall progressively realise, subject to its maximum available resources and without discrimination, the rights contained in the International Covenant on Economic, Social and Cultural Rights and that this duty be cognisable by the courts.

Prevailing myths and misconceptions about economic, social and cultural rights, combined with a lack of political will, have hindered their application in Ireland. These misconceptions do not stand up. The first myth that economic, social and cultural rights should not be intended to be part of the judicial system is a misconception. Decisions in courts in other countries have proven time and again that these rights are legally enforceable. These rights have been recognised through a wide range of legal systems found in but not limited to Finland, Germany, Latvia, Portugal, Argentina, South Africa, India, Brazil, Kenya, Colombia and Mexico. Rights currently protected, including freedom of expression and the right to privacy, are as broadly worded as economic, social and cultural rights which has not prevented the courts from adjudicating these issues.

According to the second myth, there is a lot of anxiety about the separation of powers principle. Many who have voted against this Bill reiterate that only Government should decide matters of taxation and distribution. Of course, laws are a matter for the Legislature, but there is also a complementarity as well as a separation between the different parts of the State. The Irish Judiciary has been acutely conscious of not stepping into areas of decision-making that rightly belong with the Executive and the Legislature. A large body of case law on economic,

social and cultural rights has emerged from countries such as South Africa showing that courts have remained conscious of their role when adjudicating economic, social and cultural rights claims. A reasonableness doctrine was incorporated as a doctrine which has been held in court proceedings.

A final prevailing myth relates to how Government could possibly meet the huge demand that justiciable rights could create if people can claim these rights through the courts. Economic, social and cultural rights are not unqualified rights. Progressive realisation means that states must provide according to available resources. Reasonableness is another important concept of human rights law interpretation. As such, it simply is not the reality that everybody will be looking for a key to their own house overnight. These myths only reflect the lack of interest on the part of those in government in being held accountable for policy decisions because fiscal policy takes front stage at every turn. “Progressive realisation” is the key term here. The courts can apply the principle of proportionality and weigh it up against other policy considerations.

Right now, people can only argue against peripheral issues as opposed to the fundamental issue, for example, unfair procedures in accessing housing. Incorporating these rights will have a trickle-down effect into all policy areas at every level of power. If the right to housing was introduced, it would not mean a person would be given a house. It would mean that when the Government was drafting housing policy, it would have to take into account and be aware of the right to housing and be obliged to develop policy with this in mind. It is intended to hold Governments to account, not dismantle them so that if they do not have the resources, they will at least have to show how they came to the decision not to allocate resources which would better defend the rights inherent in this Bill. This will be particularly valid in the lead up to budgets which continuously leave out a balanced approach to economic and social matters.

Enshrining these rights in our Constitution will not change things overnight. We have to be reasonable. It may not translate into an Act, a statutory instrument or even a circular but it will compel decision makers to vindicate these rights as far as they can, subject to the availability of resources. Most importantly, it would fundamentally change the decision-making culture within Government and place it on a rights-based footing.

Deputy Maureen O’Sullivan: Thanks to Deputy Thomas Pringle, we are discussing an amendment to our Constitution. The first question is what a constitution is about. When I looked it up to be totally sure, I saw that it is a body of fundamental principles or system of beliefs according to which a state or another body is acknowledged to be governed. In effect, it controls the exercise of power. When I look at that definition, it makes perfect sense to me that human rights, economic, cultural and social, as contained in the International Covenant on Economic, Social and Cultural Rights should be in our Constitution. Ireland ratified that covenant in 1989 but we have yet to incorporate it into either domestic Irish law or the Constitution. Enshrining economic, social and cultural rights in our Constitution is an important step in the improvement of Irish society.

I attended a press conference organised by Deputy Pringle this morning at which Fr. Peter McVerry identified what he and many others believe are the basic human rights. They are the right to adequate food, a right to health care, a right to education, a right to work and a right to housing. Housing is central because unless one has a decent house or home, one is not going to be able to eat adequately. It is going to be very difficult, if not impossible, to continue in education. It will be difficult to access or maintain a job. Poor and inadequate or no housing has detrimental effects on a person’s physical and mental health. Enshrining those rights in our

22 March 2017

Constitution will send the message that we value our citizens and want them to live fulfilled lives, reach their potential and function as active members of society. Enshrining these rights would show that we have a rights-based approach to legislation. If that had been done years ago, the issues facing the north inner city, as I outlined during Leaders' Questions yesterday, would not have reached the devastating levels that developed over the years on foot of the lack of respect for the rights of people living in the north inner city. It also happened in other parts of Ireland. The common denominator was the lack of a human-rights based approach to policy and legislation so that some citizens and communities did not have the same rights to housing, education, a fulfilling lifestyle and a safe, pleasant environment as other citizens. Drugs were allowed to devastate those communities because the rights of the people living in them were not respected.

I turn to cultural rights. We are becoming increasingly multicultural and our Constitution needs to reflect that. The constitutional recognition of cultural rights would go a long way toward making new communities feel welcome and valued in Irish society. The recent recognition of Traveller ethnicity was a welcome step towards ensuring respect for minority cultures, but there are a lot of barriers to accessing education, housing and employment among Traveller communities which have to be addressed. Statistics from local authorities show that there are huge waiting lists and a number of Traveller families living in overcrowded or unsafe conditions. In terms of new communities, non-EU migrants are 11% more likely to be in poverty than Irish people. There are education barriers to those from new communities because their status has not been resolved. Those inequalities across cultural groups demonstrate the importance of access to the courts to remedy current inequalities. We had a very powerful presentation yesterday in the AV room on the consequences of the new International Protection Act and the reality of life for those living in direct provision. We heard repeatedly of the lack of concern for the asylum seeker and his or her rights. As one person put it, seeking asylum is not a crime. There is a very definite scarcity of respect for human rights. I was struck by a quote from a US court of appeal that the denial of an opportunity to earn a livelihood is the equivalent of a sentence to death by means of slow starvation. Researchers tell us socio economic scarcity has a consistent effect on the human brain of limiting and distorting our skills and impairing our ability to think ahead or engage beyond the immediate circumstances of scarcity. This contributes to poverty cycles and in overall engagement with the wider world. If these economic, social and cultural rights were enshrined in the Constitution it would provide people with greater opportunities to become active citizens.

I was a member of the Constitutional Convention which voted overwhelmingly in favour of amending the Constitution to strengthen the protection of these rights. The Government responded to some issues from the Constitutional Convention but it did not respond to this, so it is overdue.

Deputy Mick Wallace: We again propose to incorporate the covenant in the Constitution, something we should have done a long time ago. The Labour Party introduced two Private Members' Bills which proposed to do the same thing as Deputy Pringle's Bill, one by Ruairí Quinn in 2000 and a second more recent one by the then Deputy and now Senator Kevin Humphreys in 2012. The Labour Party voted against the Bill in 2015, and it will be interesting to see how it votes this time.

On the previous occasion Deputy Pringle discussed the Bill in the Dáil in May 2015, the Labour Party, speaking on behalf of the Government, argued there was no need to incorporate the covenant because we had the appropriate policies in place. It would say that. According to fig-

ures from the Dublin Region Homeless Executive, in May 2015, 1,122 children were homeless in Dublin and 677 adults with children were homeless. In January 2016, 1,570 children were homeless in Dublin and 1,042 adults with children were homeless. The policies of the Labour Party and Fine Gael Government obviously contributed to the problem. In January 2017, 1,353 adults with dependent children were homeless and 2,046 children were homeless. Since we last discussed the Bill in the Dáil the number of homeless in Dublin has almost doubled. Will the Government's response be different today? Will it state it has allocated resources and implemented the right policies? The last time those claims and reassurances came from Government benches they were empty, and they have not been supported by reality. We will not accept the assurances of empty promises now. This is just the housing crisis.

Mental health services are a disaster in this country and we also speak about a mental health crisis. The situation in Wexford is particularly bad. Our suicide rate is almost double the national average. If any child or adolescent in south Wexford reports to a mental health service with an emergency he or she will not be seen by anyone or receive any treatment if the child psychologist is on holiday. The HSE knows for months in advance when these holidays are due to fall, but it does not send someone to cover the position. This has led to children who had expressed a wish to take their own lives simply being sent home or sometimes kept on a ward in a general hospital in extreme distress for days on end while nurses do their best to calm them down. This is a violation of the child's human rights.

Add to this the simple fact the State refuses to provide adequate talking therapies for children and adolescents and instead is busy prescribing drugs to them by the bucket load. As the executive clinical director for community healthcare organisation, CHO, area 5 explained to one of my staff at a meeting in November, there is no point talking to the mentally ill, as he calls people with mental health issues, as the most scientific approach to treat mental illness is to prescribe medication, he argued. The best results internationally on mental health are in countries where people are moving away from the medicalised model of care and towards empowering people to make decisions about how their care proceeds. Autonomy is a human rights issue and the bedrock of self-respect. What hope do people in distress have when those running the show in Ireland hold views that would not be out of place in the 18th century? Here, we come at mental health issues from a biological perspective. We label people with so-called illnesses, which are nothing more than different collections of outward behaviours given names. The vulnerability stress model with which the HSE works presupposes that people with mental health issues have a biological disposition towards certain types of so-called mental illnesses. This is just a theory which is impossible to prove. It just presumes people are born with defects even when no one really knows what a healthy mind should even look like. Once diagnosed, people and families must suffer the stigma associated with being labelled biologically defective.

Mental health care is a human rights issue. Housing is a human rights issue. People should have legal recourse surrounding these areas and the Bill would allow this. There is a precedent. We are in the dark ages when it comes to caring for the vulnerable and we still do not do accountability in this country. Is this what the Government is really scared of, justice for those who suffer at the hands of the State? That is what it certainly looks like. The Government states it has the appropriate policies in place and is allocating resources in the right places. This is not the reality. We are speaking about a mental health crisis and a housing crisis. We know the problems are getting worse, inequality is rising, and people are suffering and these problems are connected. Deputy Pringle's Bill would enshrine the protection of people who need the help of the State. The Bill would put a responsibility on the State and prevent it from reneging on

looking after those who most need its help. This is why the Bill should be passed. I commend Deputy Pringle on tabling it.

Minister of State at the Department of Health (Deputy Helen McEntee): I thank Deputy Pringle for again introducing the Bill, which seeks to incorporate in the Constitution rights enshrined in the International Covenant on Economic, Social and Cultural Rights and make them cognisable by the courts. As Members are aware, economic, social and cultural rights was one of two additional topics selected for consideration by the Constitutional Convention, and its recommendations are covered in the convention's eighth report. The House previously considered this issue in 2015 and it is referred to in A Programme for a Partnership Government, which includes a commitment to refer the Constitutional Convention's report to the new Oireachtas committee on housing for consideration due to the substantial raised questions on the balance of rights, proper governance and resources. I do not propose to repeat the detailed background information on the International Covenant on Economic, Social and Cultural Rights set out by the Government when the matter first came before the House in May 2015. The Government believes it is essential the proposal is analysed in detail by the Oireachtas committee because of its potential ramifications.

I assure the House the Government is fully committed to ensuring the progressive implementation of economic, social and cultural rights in Ireland and in the context of international co-operation. A Programme for a Partnership Government clearly demonstrates a commitment to tackling the most pressing challenges Ireland faces in areas such as housing and health while continuing to focus on increasing employment throughout the country. The potential impacts of the Bill are immense and require very careful and informed consideration. The Government's response in the Dáil in January last year on the eighth report pointed out this matter was considered by the Constitutional Convention, which endorsed the proposal in principle. In turn, A Programme for a Partnership Government committed to referring the report to an Oireachtas committee given the substantial questions raised on the balance of rights, proper governance and resources. A Programme for a Partnership Government states the eighth report of the Constitutional Convention on economic, social and cultural rights recommended the State progressively realise economic, social and cultural rights subject to maximum available resources, that this duty be recognisable by the courts and that specific additional rights on housing be inserted in the Constitution. Due to the substantial questions raised on the balance of rights, proper governance and resources we will refer the report to the new Oireachtas committee on housing for consideration.

While the International Covenant on Economic, Social and Cultural Rights has not been incorporated into domestic law, the substance of a number of the rights contained in the covenant are already protected by the Constitution and legislation. Article 45 of the Constitution sets out directive principles of social policy for the general guidance of the Legislature. The Bill proposed would make these issues cognisable by the courts. There is already power by legislation to confer rights and to determine expenditure via primary and secondary legislation. As signatory to the International Covenant on Economic, Social and Cultural Rights, Ireland reports periodically on its implementation before the United Nations Committee on Economic, Social and Cultural Rights in Geneva, most recently in 2015. Important progress continues to be made throughout the Government in giving effect to the covenant's provisions.

The issues that arise with the Bill are not about its substance. Rather there are some serious ramifications for the separation of powers, which lies at the heart of any democracy. The effective separation of powers creates a system of checks and balances between the three branches

of administration to avoid concentration of power. This fundamental tenet is at the heart of our Constitution, which created the Legislature, the Executive and the Judiciary, each of which has its own particular functions. The primary difficulty with the proposals before the House today is that if the rights contained in the International Covenant on Economic, Social and Cultural Rights were to be incorporated into the Constitution, and therefore become cognisable by the courts, the Government and the Oireachtas would give up the ultimate responsibility for making decisions on the allocated limit of public resources. Decisions on resource allocation and taxation issues are at the heart of politics in a democracy and are the essence of the choices that political parties offer when seeking support from their voters. To put the ultimate responsibility for these choices beyond the control of Government and the Dáil could insulate them from the wishes of the electorate. Candidates offer different political visions and put forward different policy priorities for society to the people at election time. The voters make their choices known when they exercise their democratic right to select who will represent them in the Dáil and ultimately who will form a Government and make decisions about public policy priorities. As elected representatives, we remain answerable to the people.

The Constitution is the bedrock of our legal system and it sets out the fundamental principles by which we are governed. However, it does not comprise the entirety of our law but is reinforced and augmented by legislation passed by the Oireachtas. It is, therefore, not the only means we have of giving legal effect to commitments and obligations we have entered into when acceding to international treaties and agreements. While the International Covenant on Economic, Social and Cultural rights has not been incorporated into domestic law, the substance of a number of rights contained in the covenant is protected by the Constitution and by legislation, reflecting the priority successive Governments have attached to these policy areas. The Government ensures that the State's obligations to implement the covenant are met through policies aimed at improving the enjoyment of economic, social and cultural rights, including by fighting persistent poverty and social exclusion.

Ireland implements these policies in a number of ways. The rights of the family, based on marriage, are protected by Articles 41 and 42 of the Constitution and the right to education, including free primary care education, is protected by Article 42. The right to freedom of association, including membership of trade unions, is guaranteed by Article 40.6.1° of the Constitution, and the right to work and earn a livelihood is guaranteed as an unenumerated personal right under Article 40.3 of the Constitution. Ireland signed the optional protocol to the covenant in 2012, thus reaffirming our commitment to the promotion and protection of economic, social and cultural rights. The Department is currently consulting with all relevant Departments on the measures necessary to enable us to move to ratification.

Among the many remarkable achievements of the past few years, we can all take pride in the fact that Ireland was the first country in the world to achieve marriage equality through a public vote. The large majority by which the 2015 referendum was passed shows how committed Ireland is both as a State and as a people to equality and to promoting the rights of our LGBTI community. More recently, the Taoiseach, with the support of all parties in the House, announced the recognition of Travellers as an ethnic minority on 1 March. Following this historic step, we are putting the finishing touches to a new Traveller and Roma inclusion strategy, which will be completed over the coming weeks. Ireland has come a significant way in recent times with the matter of mental health and we have turned from a country that did not believe in recovery or prevention to our sole focus being on a recovery-based model and prevention. While we have difficulties with staffing levels, we are beginning to see change with it.

22 March 2017

Throughout Ireland's economic crisis, we prioritised protecting the most vulnerable in society. In 2016, the three key areas of health, education and social protection accounted for over 80% of gross Voted current expenditure. As set out in the expenditure report 2017, real increases to public spending can continue to be made on a substantial basis to deliver both on economic priorities and also on the social goals for a fairer and more inclusive society.

As we look forward to a period of more economic stability and growth, we will pursue our commitment to protect our most vulnerable and to provide a fair and just society for all. The promotion of human rights will remain as a central focus to our domestic and foreign policies and we look forward to working with all stakeholders to realise our common goals and to make our human rights obligations and aspirations a reality.

As the Eighth Report of the Convention on the Constitution is being referred to the Oireachtas Joint Committee on Housing, Planning, Community and Local Government for consideration, I ask the House to reject the Bill to allow us to fulfil our commitment in the programme for Government, having regard to the serious issues involved. I thank Deputy Pringle for having provided the opportunity to debate these important issues.

Deputy Thomas Pringle: Is there a copy of the script?

An Ceann Comhairle: We will arrange that. I call Deputy Darragh O'Brien.

Deputy Darragh O'Brien: I would like to share time, with the House's permission, with Deputies Jim O'Callaghan and Pat Casey.

I thank Deputy Thomas Pringle and commend him on the good intent behind this Bill. We are committed as a party to the realisation of economic, social and cultural rights for all citizens in this State. We should all strive towards that goal. We recognise that many people are living at the margins of society due to poverty and social exclusion and that there has been no economic recovery for many. The latest survey on income and living conditions shows that consistent poverty is 8.7%, while the number of those at risk of poverty is just short of 17%. Moreover, when we look at the segments within that, lone parent households have a consistent poverty rate of over 26%, while the deprivation rate for this household type remains far too high at almost 58%. We have much work to do. That is one of the things that we all need to be acutely aware of, that many people have not shared and have not seen any type of recovery. That is why the debate here today and the publication of the Bill is certainly useful.

However, at this juncture we do not regard this Bill, which would explicitly enshrine rights in the Constitution, as the appropriate mechanism right now to address these issues and we have several concerns which I will go into in a moment about the consequences, unintended or otherwise, of the legislation. Bunreacht na hÉireann, our 1937 Constitution, makes only limited reference to economic, social and cultural rights which are by and large referred to in Articles 40 to 44 of the Constitution. However, the courts have recognised that personal rights are not limited to those expressly set out or enumerated in the constitutional text. Changing this to explicitly enshrining economic, social and cultural rights in the Constitution is in itself not the problem *per se* but it is how we define such rights and also the parameters of such rights, while also having in place effective and efficient methods for the enforcement of those rights that this Bill will enshrine in the Constitution.

A key issue that was raised during the discussions on this matter at the Constitutional Convention was whether enshrining socio-economic rights would mean handing decisions on the

allocation of Exchequer resources, limited as they are right now, away from the Oireachtas and to the Judiciary. This is a key question and requires further investigation. Another element would be the implications such a move would have for our court system. Would it result in a significant increase in cases against the State? What are the unintended consequences of enshrining such rights in the Constitution, including the financial burden that it could place on the State? Would it take responsibility away from Government in allocation of resources, and would it take responsibility and power from the Oireachtas, and the Dáil in particular, that the people vote for freely at election time?

This Bill, if enacted, while desirable in principle, and I genuinely mean that, does not have precise definitions or clear proposals. Before such a change should be introduced, we need a detailed and considered analysis of what such a move would mean for the individual, society and the State as a whole. While economic and social rights should be viewed as more than an aspiration or more than a lofty ideal, the practicalities and implications of enshrining such rights in our Constitution cannot be discounted or dismissed, particularly when the economic recovery is as fragile and fragmented as we have it right now.

Deputy Pat Casey: The issue of enshrined economic, social and cultural rights is a complex and contested area not just in Ireland, but in political debate internationally. It is a debate that I welcome, and while Fianna Fáil is opposing this Bill, at this time, I note that we are in agreement with the principles behind this Bill. It is central to our thinking as a republican party that the provision of rights for citizens is a proper function of Government. In point of fact, I will argue that political debate in this area will be one of crucial importance to the future of democratic governance in the western world. I have long held the view that citizens should be entitled to a broader scope of rights than those that currently exist. However, a wider portfolio of rights places greater responsibilities on the State and this must be rooted in some semblance of reality and in the capacity to deliver.

Human rights are one of the pillars upon which modern democratic societies have put forward basic human needs that must be met by a functioning state. Rights-based societies have grown since the foundation of the United Nations. The International Covenant on Economic, Social and Cultural Rights is a significant broadening of the scope of human rights that is not without controversy. We know, however, that even the most basic of human rights are not universally upheld internationally. If even the most basic rights cannot be delivered by many democratic governments, then many people would argue that we are lowering the value of rights by widening them to cover every aspect of human life. This is a powerful and wide-ranging conversation that needs much more debate and analysis than this Bill allows.

I have been of the view for most of my political career that the State needs to be more ambitious in the range of public services that an Irish citizen can rightly expect in a modern 21st century republic. One of the reasons I joined Fianna Fáil is that I believe that at crucial times in the history of this Republic, Fianna Fáil has broadened and deepened the range of public services that citizens can expect. It was Fianna Fáil that introduced a detailed written Constitution in 1937, including rights for citizens when the rest of Europe was burning books and entering a new dark age. It was also Fianna Fáil that decided that every child deserved free secondary education, and that a minimum State pension was a necessary contribution for every older citizen. It is that republican tradition that needs to be built upon. What separates Fianna Fáil from those on the far left, for example, is that rights need to be based on what can be delivered in reality. There is no point in having several additional rights enshrined in the Constitution if they have no bearing on what the State can deliver for every citizen.

22 March 2017

I take rights seriously. I believe that if we declare something to be a right, the State should be obliged to deliver it. I come from a business background, so I do not make a commitment unless it can be backed up. In fact, one of the reasons that many citizens feel fed up with politics is that they are sick of hearing grand plans and theories that are never delivered upon. That type of fantasy land politics does not help the very people who most need our help.

I am strongly of the view that in the area of housing, a minimum housing provision should be considered a right to which every citizen is entitled. I am fully aware of the obligations that this ambition places upon the State, but I believe that housing is an area where too many Irish citizens are in too much need. Housing in 2017 is where the Irish Government and this House need to be radical and determined.

Every Irish citizen should have a right to a home. It is an abuse of human rights that Irish families are living in hotel rooms. It is an abuse of human rights that Irish citizens are sleeping in doorways. The Irish know their history well. There is a particular sympathy for those in need of housing that stretches far back into our history when we were a dispossessed people. This Dáil needs to move towards viewing the provision of homes as a right and every citizen should feel it is the State's obligation to meet a minimum standard in this regard.

I note that Rebuilding Ireland begins with a declaration that housing is a basic requirement. There is a difference between a requirement and a right. It is one of the reasons I believe that this Government is being far too timid in dealing with housing. I will be pursuing this ambition further both within my party and in the House.

Deputy Jim O'Callaghan: I thank Deputy Pringle for introducing this Bill. As a result of it, focus has been placed on Article 45 of the Constitution, which is one of the most remarkable articles in that document. It reveals what a progressive Constitution we introduced back in 1937. Article 45 sets out a series of directive principles that this House and the Seanad should adopt when deciding on what laws to introduce. It sets out a series of requirements that we should take into account by way of guidance when deciding how we introduce laws. It seeks to ensure that the State will prioritise justice and charity when it comes to the introduction of laws. It also seeks to ensure that citizens will have jobs to enable them to find the means of making reasonable provision for their domestic needs.

The article seeks fair ownership of the material resources of our community. It seeks that free competition would not result in the concentration of the ownership or control of essential commodities in the hands of a few individuals to the common detriment. It seeks to ensure that credit would be available for the welfare of the people as a whole. In addition, it seeks to allow as many families to live on the land in economic security as was practical. It seeks to promote private initiative in industry and commerce. It also seeks that private enterprise would be reasonable and efficient, and would not be used to permit unjust exploitation. It seeks to safeguard the economic interests of the weaker sections of the community. It seeks to protect the infirm so that they would not have to enter vocations unsuited to their infirmities.

I think all of those principles would be supported by every Member of this House. That article should be recognised as a guide for Members of the Oireachtas when it comes to drafting our laws. Not only should it be a guide, but in the past that article has been an inspiration to other countries. Article 45 was the inspiration for Articles 37 to 39, inclusive, and 46 of the Indian constitution, yet people may legitimately ask why it is that Article 45 has not got the political or judicial attention that many believe it deserves. The reason no doubt is that the pro-

vision expressly states that the social principles will not be cognisable by the courts. It means that one cannot go to court to say that individuals have been denied rights or access to certain benefits because the principles of Article 45 have not been complied with.

It is interesting to note that when the Constitution was being drafted, many of the provisions in Article 45 were contained in an earlier draft of Article 43. That article did make them cognisable before the courts. At the time that the Constitution was being drafted by Mr. Hearne and Mr. de Valera, there were serious objections from the Department of Finance and the Department of Justice as to the consequences of making Article 45 cognisable before the courts. A senior official in the Department of Finance, Mr. James McElligott, was particularly concerned about making the provisioning of Article 45 rights that could be used and availed of by citizens before the courts. He said:

These declaratory phrases, while individually unobjectionable as a statement of social policy, might, if launched into the void in the draft Constitution, recoil like a boomerang on the government of some future day in circumstances not anticipated by the originators.

I derived that information from Gerard Hogan's book on the foundations of the Irish Constitution, which reveals exactly how the changes took place in respect of the Constitution. Lobbying by the Department of Justice and the Department of Finance had an effect because afterwards Mr. de Valera decided that the rights in Article 43 would be put into Article 45 and would expressly not be cognisable by the courts of this land. It is also instructive to note that Mr. de Valera was contacted by individuals in America who welcomed the fact that the rights were not going to be given cognisability before the courts.

Nonetheless, Deputy Pringle's proposed amendment to the Constitution seeks to insert after the introductory paragraph in Article 45 a further paragraph that refers to another document, which is the International Covenant on Economic, Social and Cultural Rights. As we are aware, this country signed up to that convention back in 1989. The criticism that is made is that we have not ratified it or introduced it into Irish domestic law. However, when one looks at Part 3 of the convention one will see that many of the rights set out in it have in fact been incorporated into Irish law over the years. In fact, some of them predated the signing of the convention in 1989.

For instance, Article 6 refers to the rights of everyone to "the opportunity to gain his living by work, which he freely chooses or accepts". I would have thought that the right to earn a livelihood is already an unenumerated right in the Irish Constitution. There is also a provision in Article 7 of the convention regarding the enjoyment of just and favourable conditions of work. We have good employment legislation in this country that ensures that workers are protected. Article 8 deals with the rights of individuals to join trade unions. Not only is that a right recognised under the Irish Constitution in terms of the right of association, but there is also legislation in place which ensures that individuals, in practice, have the right to join trade unions. Article 9 refers to the right of everyone to social security. I would have thought in terms of the social security system that rights exist in Irish law at present. Article 10 refers to the protection given to the family. Under our Constitution those rights exist.

Article 11 is a particularly interesting provision and there is a question as to whether the rights contained within that article exist in Irish law at present. At the heart of Deputy Pringle's proposal is the fact that many people legitimately think that a specific right to housing should be inserted into the Constitution. If one looks at Article 11 of the convention, it states that the

22 March 2017

State parties will “recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing”.

I have an open mind in respect of whether we should have a right to housing in our Constitution. If it results in individuals getting more housing and more housing being built, I will be in favour of it. I remember this was discussed before in the context of whether we should amend the Constitution to have a right to housing. My only concern about it is that having a constitutional amendment can make the political class feel very good about itself. We can go on to argue about how it is so important to have a right to housing in the Constitution, but the reality of it is ultimately, if such a right is introduced, it may not assist as many people in practical terms as we hope it would. For instance, are there many people in this House who think that the rights of the children in this country have significantly improved, or improved at all, since we introduced the children’s rights referendum? I question whether they have improved.

One of the factors to be taken into account in terms of including a right to housing in our Constitution is what the practical impact of that would be. I can see the benefits of it. At present the Government has not recognised the emergency nature of the housing problem that we have in this country. I have said before that we need to introduce emergency legislation, similar to the emergency legislation that was introduced to protect and uphold our financial system a number of years ago. We need to introduce such legislation and it needs to specify that extraordinary powers are to be given to the Minister for Housing, Planning, Community and Local Government to ensure measures can be taken, with immediate effect, to commence the construction of housing.

The one real benefit of a right to housing in our Constitution would be that such legislation would be less easy to challenge before the courts. There is no doubt that if such legislation was introduced and gave a Minister the right to, perhaps, transfer the land from NAMA, to seize land held by State entities or to insist that land zoned for residential use is built on within a short period of time, that legislation would be challenged. If, however, there was a right to housing in the Constitution it may protect that legislation from challenge. That is a matter that can be looked at in more detail in due course.

To address the downside, there have been examples before where rights existing in the Constitution, such as the right to free primary education, have been challenged before the courts to ensure its full and adequate vindication. One thing that is noticeable, and has happened in the past, is that an advantage is given to the people who are well-informed enough to get good lawyers to represent them and challenge the State on their behalf. They then go to court and get a judgment vindicating their rights, but the effect of that is only in respect of the individual who takes the case. The effect of court judgments vindicating the constitutional rights of individuals in such circumstances is that the individual gets provision in respect of primary education.

Similarly, it would be the case, in my opinion, in respect of housing. There would be people who are well-informed and who are able to get good lawyers and they would be able to establish that they have a constitutional right to housing and the State would be obliged to provide it. It does not take into account that such issues, where there are individual rights, require a general policy decision by Government that will involve protecting the rights of everyone and ensuring that as much as possible can be done for the community at large.

I commend Deputy Pringle on introducing this Bill. The whole issue of economic, social and cultural rights is an area that is developing and one to which we will undoubtedly return to

again.

Deputy Brendan Howlin: I move amendment No. 1:

To delete all words after “That” and substitute the following: “Dáil Éireann: notes that the Convention on the Constitution, in its eighth report, recommended greater constitutional protection for economic, social and cultural rights, making them amenable to supervision by the courts in certain circumstances, and extending in particular to:

- housing;
- social security;
- essential health care;
- rights of people with disabilities;
- linguistic and cultural rights; and
- rights covered in the International Covenant on Economic, Social and Cultural Rights;

further notes the response by the Government to the Constitutional Convention recommendations, given in this House on 14 January 2016, which response neither accepted nor rejected the recommendations but decided that the report should be referred to an Oireachtas committee for consideration of the various issues that arise from it; believes that the proposals require detailed consideration by an all-party committee, with the assistance of expert advice; resolves that:

(a) a special all-party committee, which shall be called the Committee on Economic, Social and Cultural Rights, shall be established, to consider the recommendations of the Constitutional Convention in its eighth report;

(b) the committee shall be made up of 14 Members of the Dáil, of which four Members shall be appointed by the Government, three members by Fianna Fáil, two members by Sinn Féin, one member by the Labour Party, one member by Independents 4 Change, one member by the Anti-Austerity Alliance–People Before Profit, one member by the Rural Independent group and one member by the Social Democrats–Green Party group, and four shall constitute a quorum; members may be substituted as provided under Standing Order 95(2);

(c) notwithstanding Standing Order 93, the committee shall elect one of its members to be chairman, who shall have one vote;

(d) the Ceann Comhairle shall announce the names of the members appointed under paragraph (b) for the information of the Dáil on the first sitting day following their appointment;

(e) the committee shall have the powers defined in Standing Order 85 other than paragraphs (3), (4) and (6);

(f) the committee shall hold hearings in public with expert witnesses, invite and accept written submissions, draw up a report, make findings and recommendations;

(g) the committee shall produce an interim report, containing also its proposed work

schedule, to be debated at a meeting of the Dáil no less than one month after its establishment; and

(h) the committee shall publish its final report within eight months of its establishment; and accordingly declines to give a Second Reading to the Thirty-fifth Amendment of the Constitution (Economic, Social and Cultural Rights) Bill 2016.”

I, too, am very happy to have the opportunity to speak on this Bill because it raises a profoundly important question - in truth a number of profoundly important questions. I congratulate Deputy Pringle on tabling it and initiating this discussion. It is too important a subject for any knee-jerk response. It deserves careful analysis, study and reflection so that we actually achieve the objective, because I agree with Deputy O’Callaghan that quite often in this House we like to pretend we are achieving an objective that may not actually have the consequences the House intends.

Recourse to the courts to address socioeconomic issues is not new. Test cases, specially selected by social campaigners and argued by lawyers with a campaigning agenda, are a familiar part of the landscape, particularly in recent times. If what is being sought is a radical transformation of society then, frankly speaking, public interest litigation alone will never be up to that task. The Bill proposes to put such litigation centre-stage, as a means of vindicating the rights of citizens of this State. That is a very important objective.

My starting point in considering the proposal is to assert that all democratic politics eventually come down to where one stands between two, sometimes competing, sets of claims - the claim of social cohesion and that of individual liberty. On the one hand, personal freedom is a fundamental human right and, on the other, no society is truly free unless all the men and women who make up that society are free individuals. Poverty, homelessness, unemployment and ignorance are all profound enemies of personal freedom.

Even if we are mostly agreed as to our common purposes across this House, there is still room for debate as to how we achieve those objectives. There is objection on the part of some to the idea of judges as contestants in the process rather than as umpires. That is something we have to think about. We have democratic accountability in this House. We are elected with a mandate from the people. We need to ensure that we jealously guard that right.

There is a range of objections to the idea that the courts should get involved with socioeconomic rights and that these rights should be judicially enforceable. We would be familiar enough with the valiant efforts to pursue this course of action before the courts, and how so often, unfortunately, it has failed. At the start of this century, the families of so-called out of control children, of children at risk and of children with profound intellectual and learning disabilities became engaged before our courts in a great civil rights campaign. There was an insistent demand for dignity and independence and they sought from the courts a response under our Constitution. Unfortunately, they were disappointed.

Two cases, *Sinnott v. Minister for Education* and *T.D. v. Minister for Education*, succeeded in the High Court, but the appeals taken by the State against the decisions were upheld by the Supreme Court and senior members of that court signalled their strong opposition to the idea that what are called socio-economic rights enjoyed constitutional recognition and protection. I have no doubt but that constitutional provisions dealing with socio-economic rights can be carefully crafted so that the courts would always have to take into account the State’s financial

position and make decisions in the context of resources that are available.

We need to acknowledge that the Constitution already contains a socioeconomic right to free primary education, as Deputy O'Callaghan has already instanced, by imposing a duty on the State to provide for it. The express obligations of the State towards children in the children's rights amendment also give rise to clear socio-economic rights. On the other hand, there are no provisions of the Constitution expressly requiring the State to provide medical services or social protection of any kind, for any of our citizens.

This gives rise to further questions. Does anyone really believe that, for want of constitutional protection, there is any risk of our health services being dismantled? Does anyone think that, because it is constitutionally protected, our education system is somehow profoundly stronger than our health system?

We should, therefore, be cautious in ascribing too great an effect on simply including a constitutional change. I accept that protecting socioeconomic rights is primarily a matter of political interest. The main reason for accepting that is that the political process has much more room for manoeuvre when it comes to formulating policy, not to mention democratic underpinning.

Why, for example, do people with disabilities and their families persist in demanding human rights-based legislation? Their position is based on their insight and experience from the lives they have lived, resulting from various forms of maladministration and being on the receiving end of dubious services yielded by a charity model of service delivery. The drive to move away from charity and towards a rights-based system is also motivated by the fear of families as to what will happen to those who rely on them when they are beyond making choices for their loved ones.

I am reminded of the Department of Finance's response to the report of Mr. Justice Flood's commission on the status of people with disabilities. The report included a recommendation that every disabled person be given a statement of needs. This passport would entitle them to public services without having to argue their case repeatedly with Departments and agencies. The Department of Finance's reaction to this recommendation was included in the report Towards Equal Citizenship. It stated:

The Department of Finance cannot accept these recommendations, which imply the underpinning by law of access to, and provision of, services for people with disabilities as a right. This right, if given a statutory basis, would be prohibitively expensive for the Exchequer and could lead to requests from other persons seeking access to health and other services without regard to the eventual cost of providing these services.

That is it in a nutshell. The underpinning by law of access to and provision of services as a right imposes non-discretionary spending obligations which, according to the Department of Finance, could lead to requests from other persons. We need to address these issues.

The whole point about constitutional rights is that they endure and survive economic cycles and changes of Minister and Government. My amendment would give the House an opportunity to fully debate how we will advance this in a way that will have a real impact on and meaning for all of our people. I hope the House will support it.

22 March 2017

Deputy Richard Boyd Barrett: As I listened to the speakers from Fianna Fáil and Fine Gael talk about why they will not support the adoption of the International Covenant on Economic, Social and Cultural Rights in the Constitution, for some reason the word “sophistry” sprang to mind. I looked up the definition of sophistry. It comes from the Greek sophist, and refers to the use of clever but false arguments especially with the intention of deceiving. That is what we got from Fianna Fáil and Fine Gael, namely, very erudite and clever arguments as to why we should not sign up to basic rights like equal rights for men and women which might, for example, address gender inequality and the pay gap.

The covenant refers to just and favourable conditions of work, equal pay for equal work, the right of trade unions to function freely, the right of protection and assistance for young persons and the right of everyone to housing and the continuous improvement of living standards and the right to education. Does any Government need the discretion not to deliver on those things? Is that some sort of defence of democracy? It is not; it is all about money.

We heard the quote from Mr. McElligott from the Department of Finance, which removed references in the original Constitution to try to make the rights in it cognisable by law so that they were more than just pious aspirations and were instead rights that citizens could legally enforce from the State. The Departments of Finance and Justice and Equality said that they could not possibly give legally enforceable rights to people. In other words, they did not want to give them rights that mean anything at all on basic things like those I have mentioned.

I want to say why we desperately need legally enforceable rights. I have received a call from a young student and journalist in DIT, one of our major national educational institutions. I have been told about a decision that will affect students on the access programme in DIT. The programme enables students from disadvantaged backgrounds to attend third level education. As of this year, DIT is insisting that all students on the access programme have to be Garda vetted before entering the institution. This has never happened in any other college.

The rest of the student body in DIT who enter through the normal CAO system are not Garda vetted unless they are studying a specific course related to working with children, such as social work. Only a small number of the general student body will be Garda vetted for specific reasons related to their courses, but those from disadvantaged communities will, as a matter of course, be Garda vetted. It is a specific form of discrimination against people from disadvantaged communities, and suggests that they are somehow more prone to criminal behaviour, the possible abuse of children or other behaviours which mean that the Garda needs to look into their character, background and history. It is outrageous.

Students who are victims of that policy should be able to take legal action against DIT because it is denying them a right under the covenant, which states that higher education should be made equally accessible to all on the basis of capacity. This DIT policy is outrageous and students should have legal recourse and rights that are enforceable against DIT.

Young teachers are working beside people who are doing the same job. They should receive equal pay for the same work, but because they happen to have been recruited a couple of years later than those they are working with they can be paid less. It is a form of blatant discrimination which has no justification or basis. They should have legally enforceable rights to hold the State or their employer, which, in most cases, is the State, responsible for addressing that discrimination.

Housing is a critical issue and has been referred to by many Deputies. I recently mentioned a young mother with a four year old daughter, a family which has suffered a terrible history of abuse. I will not go into details. They are currently homeless and were told by homeless services that despite the fact that the girl attends school in Monkstown Farm and the family comes from the greater Dún Laoghaire area, they will have to stay in a hostel above a pub in Francis Street.

Many vulnerable young mothers and children are being sent to completely inappropriate so-called homeless accommodation which means that the welfare of children is at risk. The future, protection and welfare of those children is at risk, not to mind that of their mothers. It is completely unacceptable and is a result of the failure of the State to provide adequate and secure housing for them.

We have a long history of an absolutely chronic, systematic and cruel failure of the State in respect of our vulnerable young people that goes back to the Tuam babies, the Magdalen laundries and the industrial schools. These people were from working class and poor backgrounds and in those institutions they were degraded, abused, tortured and killed. Should those people not have a legal right of recourse to protect them and a right of recourse against the State if it fails to vindicate those rights and, in particular, fails to protect children and to provide the basic right of putting a roof over one's head?

How can the Fianna Fáil and Fine Gael parties, or the Labour Party which it would seem is sitting on the fence, state that a Parliament needs discretion not to give those rights? That is what they are saying in a very sophisticated way, like the Sophists. There is no reason for any civilised society not to give those legal and enforceable rights to its citizens.

An Leas-Cheann Comhairle: I call Deputy Joan Collins, who I understand is sharing time with Deputies Catherine Connolly and Clare Daly.

Deputy Joan Collins: I am pleased to support the Bill, which is a matter of some urgency given the failure of the State throughout its history to provide basic rights. I disagree with some of the points Fianna Fáil made. I supported the Bill that was proposed by Deputy Pringle in 2015 when the Fine Gael, Fianna Fáil and Labour parties voted against it. The Labour Party had previously supported it, but it seems to have changed its mind again.

I was horrified last week to read an article in *The Irish Times* in which Tanya Ward, the CEO of the Children's Rights Alliance, stated that some 25% of Traveller and Roma children do not have access to sanitation and running water. She stated that this probably goes some way to explaining why their infant mortality rate is almost four times higher than that in the settled community. If they were provided for in the Constitution, the right of access to water and sanitation would be one of the economic, social and cultural rights. I do not see why families should not be able to take the State to task for not providing those basic human rights.

It is also the case that Traveller families experience overcrowding in their living accommodation. The figure is 8% for settled communities. We know that the local authorities are handing back money to the State because they have not used it. If the right to housing was provided for in our Constitution and money was allocated and not spent, should those people not have the right to challenge the State for not providing the housing given the money was available? The resources are in the coffers of the local authority but at this stage they can be handed back without anyone being able to challenge the situation. This is simply an outrage in a prosperous

country in the 21st century.

One third of all children live in poverty or are at risk of poverty. Some 2,500 children are in emergency accommodation. Despite the promises of the Minister, most of them will still be there after June of this year. We know that to be the case because more families are entering emergency accommodation than are leaving it. We have inherited a situation of historically low levels of public services and are unique in Europe with a health service that has no universal entitlement. We are also unique in that our welfare provision has only one universal entitlement, which is child support payments.

I am a member of the Committee on the Future of Healthcare. As a consequence, my parliamentary assistant has carried out a lot of research into the health service, how it operates, the history of its development and so on, and a clear thread has emerged: There is no concept whatsoever that affordable health care is a right. This does not just apply to the health services. The Bill proposed by Deputy Pringle seeks to insert such a right into our Constitution, based on resources.

I raised a question today relating to families in St. John of God's who cannot access multidisciplinary teams due to the cuts to the services over the past eight years. I have a copy of a letter from the HSE which states:

Referrals to the MDT are prioritised by the school principal. [In this school, the team] lost a number of positions for therapy staff during the moratorium on recruitment and has limited capacity for the provision of therapy interventions. Under the current system a dual referral for services is not accepted. In effect a referral for a child attending a special school with its own MDT [which this school does not have] such as [St. John of God's] will not be accepted by another MDT.

If the right to health was provided for in our Constitution, those families could challenge the State and say that they should be able to go somewhere else to get a multidisciplinary team to look after their children given they cannot access basic speech therapy, psychotherapy and so forth.

We are still providing health care for those who cannot afford to pay as an act of charity. It is still the case that the mindset has hardly moved on from the 19th century. The mindset that the State can abdicate its responsibility to provide services that are a right and can farm out its responsibilities to charities has had horrifying consequences. Putting economic, social and cultural rights into the Constitution at the same level as civil and political rights would be a significant step forward. There would still be a question of resources and willpower, but campaigners would be in a better position to fight for economic, social and cultural rights for all citizens.

I urge Deputies to support the Bill.

Deputy Clare Daly: Deputy Connolly is not taking part in this session so Deputy Collins and I are dividing the time between the two of us.

An Leas-Cheann Comhairle: It is at the pleasure of the House.

Deputy Clare Daly: I thank the Leas-Cheann Comhairle. I compliment Deputy Pringle on proposing the Bill. Our job as parliamentarians is to look at the world turned upside down or, as we would say, right side up. There is an incredible irony in the current juncture. We live in

a world where society has more resources at its disposal than ever before, yet things that our parents perhaps in some ways took for granted are being threatened. The idea that one would have a right to health care when sick, to access food when hungry, to a roof over one's head and to an education and that one would hold out the prospect that one's children could have a better life than one's own is being stood on its head. The rights that people thought were there for life such as the right to a pension on retirement are under threat. In that sense, the Bill is to be hugely welcomed because it puts the focus on where things should be, starting at how we meet the needs of citizens in this country and around the globe.

I do not have much time, but I want to deal with the same aspect on which many Deputies focused. The Bill has the potential to bestow the right to housing. At this juncture, this is absolutely critical. Of all the instruments of international law and UN conventions that Ireland is party to, the International Covenant on Economic, Social and Cultural Rights provides the most comprehensive protection for the right to housing and, God only knows, we need that at the moment. There is a disgusting irony in the fact that our Constitution protects property rights but not the right to housing, which is really telling about the priorities of successive Governments in this State. We must put it on the record that we are an exception in global terms or certainly in European terms in that regard. Ireland is one of only three countries in the EU 15 in which people have neither a constitutional nor a legislative right to housing. Such a right is therefore not even that radical. Most European countries have it already.

In 2012, a poll commissioned by Focus Ireland found that 80% of the public supported a constitutional right to housing. It would probably be 98% now given the crisis that has unfolded. The housing crisis is not an accident but Government policy. Throughout the country, thousands of people are homeless. In my area, 300 people are without a home and those are only the ones that the council know about. Tens of thousands of people are barely hanging on, having to fork out 50% to 60% of their income to keep a roof over their heads. All of this is to prop up the banks and the elite. It is reprehensible.

Sr. Stanislaus Kennedy described Ireland's housing crisis as a debased currency. It is not new to use housing as a gambling chip in Ireland, but the grim end game is very much apparent now. I do not think anyone here is saying that if we pass this legislation it will be a magic wand to address the situation. It certainly is not, but it will go some way towards re-tilting the balance in favour of citizens and giving some form of redress. I find it astounding that the Minister for Finance, Deputy Noonan, on the back of a housing crisis, recently stated the following: "Homelessness is explained by a shortage of accommodation and while an increase in rent might push an individual family into homelessness, the rental unit vacated will accommodate another family." With such a sociopathic callousness - that is the only way to describe it - at the top of the Department of Finance, is it any wonder we have reached this point? Perhaps the Minister picked up this valuable insight in one of the 65 meetings held between his officials and vulture funds between 2013 and 2014.

The future will be incredibly bleak for citizens if we continue to let the market dictate our basic rights. The Government has repeatedly rejected rent controls on the basis they may distort the market. What we are trying to do with this legislation is ensure political and civil rights are enshrined in the Constitution. It is difficult to create a market for those areas that are protected by rights. What we are trying to do is remove the commodification of basic rights. This Bill is an excellent step forward and addresses precisely the type of issue the Oireachtas should address. I compliment Deputy Pringle on bringing it before the House.

22 March 2017

Minister of State at the Department of Justice and Equality (Deputy David Stanton):

I thank Deputies for the wide range of arguments and analyses put forward in this debate. This is an important debate which addresses our common desire to see the economic, social and cultural well-being of all our citizens looked after. There is no doubt that this is a priority for all parties represented in the House.

The advancement of human rights is at the centre of Ireland's values and foreign policy. For this reason, we can take very seriously our engagement with international human rights institutions. Ireland has been actively engaged with the United Nations Committee on Economic, Social and Cultural Rights precisely because we believe the rights enshrined in the International Covenant on Economic, Social and Cultural Rights are essential to ensuring a life of dignity for all Irish citizens. In June 2015, Ireland was reviewed by the UN Committee on Economic, Social and Cultural Rights which welcomed the significant steps made in this State, including the referendum on marriage equality and the establishment of the low pay commission and Irish Human Rights and Equality Commission. Most recently, as Deputies will be aware, the Taoiseach announced the recognition of Travellers as an ethnic group. Ireland also underwent a peer review through the universal periodic review mechanism in the United Nations in May 2016. The United Nations treaty monitoring bodies play an important role in holding states to account and the Government will continue to actively engage with them.

By signing and ratifying the International Covenant on Economic, Social and Cultural Rights, Ireland has already agreed to progressively achieve the full realisation of these rights. The core question for debate is how these rights are best given effect. As previously outlined, the Government is firmly committed to promoting the economic, social and cultural well-being of our citizens and we have made significant progress in advancing these policy priorities. This is seen across all relevant areas, from creating steady, stable economic growth and reducing unemployment to its lowest level since 2008 to putting the finishing touches on the new Traveller and Roma inclusion strategy, which will be published shortly, and providing a system of social transfers which remains among the most effective in Europe. This demonstrates the effective role of the Parliament and Government in advancing the economic, social and cultural well-being of citizens through the annual allocation of resources and development of national policies.

While the international covenant has not been incorporated into domestic law, the substance of a number of the rights contained in it is protected by the Constitution and legislation. The right to education, for example, is recognised as a fundamental right in the Constitution. There is no doubt that the question of the suitability of the Constitution as a vehicle for providing for the detailed rights provided in the International Covenant on Economic, Social and Cultural Rights is a significant question that requires careful consideration. For example, the incorporation of the covenant in the Constitution would have the effect of transferring to the Judiciary the power to review decisions of the Government and Oireachtas affecting the allocation of resources. Decisions on resource allocation and taxation are at the heart of the politics of democracy and, as legislators, we all have a fundamental responsibility to make these decisions. Placing them beyond the control of the Government and Oireachtas and under the aegis of the courts would result in the electorate losing its say on issues such as the maximum level of resources the State should deploy at any particular time or what competing priorities would utilise available resources. This is one of the reasons the Oireachtas committee needs to give serious and detailed consideration to these proposals.

The State has learned several lessons in recent years on which it would be appropriate to draw today. First, through the economic and fiscal crisis, when Ireland's underlying general

Government deficit reached more than 30% of GDP, we learned that sustainable public finances are necessary to be in a position to provide the necessary social supports and deliver essential services. In 2016, the three key areas of health, education and social protection accounted for more than 80% of gross voted current expenditure. As set out in the expenditure report 2017, real increases in public expenditure can continue to be made on a sustainable basis to deliver on economic priorities and the social goals of a fairer and more inclusive society. Second, the Constitution, as the bedrock of our legal system, displays the progressive and inclusive convictions of the nation's founders, which have fostered generations of Irishmen and Irishwomen with a respect for human dignity.

At this point, it is unclear what this amendment could mean from both a resource and expenditure perspective. Amending the Constitution to enshrine such rights could affect the ability of the Government and Oireachtas to allocate, prioritise and reprioritise expenditure to best meet social policy objectives. The decision we are faced with today is not a matter of whether we support the provision of these rights, but how that provision is best implemented. As promised in A Programme for a Partnership Government, the recommendations made in the eighth report of the Constitutional Convention, particularly on the balance of rights, proper governance and resources, will be referred for consideration to the new Oireachtas committee on housing. For this reason, the Government will vote against the Bill. In the meantime, we will maintain our focus on developing policies and legislation, which will most effectively realise the rights set out in the International Covenant on Economic, Social and Cultural Rights.

Ireland signed the optional protocol to the international convention in 2012 but has not yet ratified it. The optional protocol will provide for victims of violations of the rights under the convention to have access to a complaints procedure. The question of ratification of the optional protocol will require considerable examination across all Departments.

The Government is committed to ratification of the UN Convention on the Rights of Persons with Disabilities as quickly as possible, taking into account the need to ensure all necessary legislative and administrative requirements under the convention are first in place. We will shortly finalise and publish a new national disability inclusion strategy under the aegis of the Minister of State, Deputy Finian McGrath.

The European Convention on Human Rights Act was enacted by the Oireachtas in 2003 to give further effect to the European Convention on Human Rights in Irish law. The Act contains some of the rights provided for in the International Convention on Economic, Social and Cultural Rights and, therefore, is an example of existing legislation which protects those rights. The brevity of the international convention is both its strength and weakness. By enshrining the covenant in the Constitution, we would place decisions on resource allocation and taxation issues, which are at the heart of democracy, beyond the control of the Government and Oireachtas and under the aegis of the courts. It is unclear what implications this would have.

I thank again Deputy Pringle for introducing this important Bill for debate. When I was Chairman of the Committee on Justice and Equality we established a sub-committee on human rights in the justice and equality area. Many parliaments have committees which deal specifically with human rights and perhaps we should consider doing likewise. This is an important and welcome debate. Unfortunately, however, the Government will not be in a position to support the Bill for the reasons outlined.

Deputy Thomas P. Broughan: I am pleased to have an opportunity to speak briefly on the

22 March 2017

Thirty-fifth Amendment of the Constitution (Economic, Social and Cultural Rights) Bill 2016. I commend my colleague, Deputy Thomas Pringle, on bringing the legislation before the House and the tremendous work he has done on the Bill in this and the previous Dáil.

The International Covenant on Economic, Social and Cultural Rights or ICESCR was ratified by Ireland almost 30 years ago in 1989, yet we have still not incorporated it in the Constitution and domestic law. Despite the UN's reviews in 1999 and 2002 which called on Ireland to adopt the ICESCR, we are still evading doing so and the Minister of State has not given any hope that the position will change. The vast majority of members of the Constitutional Convention - 85% - voted in favour of these rights being protected in the Constitution, yet the Government has avoided following through on the convention's decision. Instead, it has offered referendums on issues of lesser importance, including the referendum the Taoiseach announced last weekend. At the final meeting of the Constitutional Convention in February 2014, members voted to highlight certain rights which should be expressly stated in the Constitution, namely, the rights of persons with disabilities; the rights to housing, health care and social security; linguistic and cultural rights; and the rights provided for in the International Covenant on Economic, Social and Cultural Rights,

Earlier, when opening the debate, Deputy Pringle dealt comprehensively and efficiently with one of the key critiques of the amendment, which is that it is merely aspirational because of the expression, "subject to its maximum available resources", but this is an unfair interpretation by people who have criticised the motion in that regard, because it means if the amendment had been made to the Constitution, Governments would have had to make decisions to best utilise the resources available to ensure these rights were protected, progressed and improved and would have had to protect the most vulnerable in society during the draconian cuts of the austerity years since 2008. Passage of this Bill and the amendment of Article 45 would also trigger support for these citizens' rights from the Judiciary in the mere fact of upholding the Constitution. The section which states, "This duty shall be cognisable by the Courts", is important.

Former Deputies, Ruairí Quinn and Kevin Humphreys, attempted in 2000 and 2012 to bring forward similar legislation. They had the opportunity during a long number of years in government to bring the legislation through the Dáil and have it easily passed in a referendum. In the last general election, I stood as an Independent candidate, alongside my colleague Deputy Pringle, as a Right2Change candidate. We believe strongly in the rights to water, jobs, decent work, housing, health, debt justice, education, democratic reform, equality, sustainable environment, and natural resources. The Bill reinforces those principles and will enshrine certain rights in law by amending Bunreacht na hÉireann.

The ICESCR includes the rights to work and just and favourable conditions of work, to form and join trade unions, to social security to protection and assistance for the family, and to an adequate standard of living. All those rights are provided for in the Bill if the House wishes to pass it. Some of the ESC rights are provided for under the Universal Declaration of Human Rights and various conventions such as the UN Convention on the Rights of Persons with Disabilities. Over the years, attempts have been made to realise key elements of these rights. I brought forward the first trade union recognition Bill in the history of the State in the Oireachtas, but, in many respects, since the 1980s, we have seen vigorous attacks on people's economic and social rights. Having these rights enshrined in our Constitution would ensure they were protected and not at the mercy of the Government of the day. It would also ensure a more consistent application of the rights even when Governments change.

I have just completed reading Professor Joe Stiglitz's book, *The Price of Inequality*, a powerful advocacy for ending the gross inequality that has developed since the mid-1980s, in particular. Professor Stiglitz recalls how President Reagan, who is so reminiscent of the current US President, and Mrs. Thatcher and her Tory gang led all-out assaults on these fundamental rights in the UK and US and began turning back the social equality gains of the 1960s and 1970s. The onset of financialisation from the early 1990s facilitated outrageous regressive developments, including whereby mortgages of families were bought and sold in bundles and the commercialisation of basic social services was developed. In this country, the Progressive Democrats Party was the cancerous element along with Fianna Fáil and Fine Gael, that influenced the adoption of these changes.

I warmly congratulate Deputy Pringle. It is time for this Bill to be brought forward and to give the electorate a say. If the Bill is put to them, 98% will vote overwhelmingly to incorporate the amendment in the Constitution. I warmly welcome it.

Deputy Thomas Pringle: I thank my colleagues in Independents 4 Change for their support for the Bill as well as the AAA-PBP Members. They outlined in their contributions the necessity to have ESC rights enshrined in our Constitution and how, rather than debating them in the House, we should debate them with citizens. As Deputy Broughan said, I have no doubt the amendment would be passed by an overwhelming majority.

Perhaps that is what Fianna Fáil and Fine Gael are afraid of because it would make Governments accountable for the decisions that they make. The common theme in the contributions of both parties to the debate is that they do not want to be accountable for making decisions that destroy people's lives across the State. I will deal with the contributions of both parties together because they are similar. I would summarise them in two points. The first is "Leave your rights with us and we will look after them". We have seen how that has worked for people. Both Ministers cited that fact that Traveller ethnicity was recognised a few weeks ago in the House. Is it something to be proud of that it took 30 years to get to the point where the House would recognise the citizenship rights of an ethnic minority? The second is "You can have your rights but not just now so you have to wait". The Minister of State outlined that the Government would progressively deal with these rights but they cannot be inserted in the Constitution.

The crux of the argument is that doing so would remove power from the Dáil and hand it over to the courts. Obviously that shows that he has not read the convention because it refers to "the principle of progressive realisation". That means that states are subject to resource constraints and, therefore, the convention recognises that. It also means that states are expected to act as best they can within the means available to them, which further strengthens this. That concept is perfectly in accordance with constitutional obligations on ESC rights. Portugal, Latvia and other countries have enshrined these rights in their constitutions and the world has not stopped turning. The lights have not gone out and everything has not collapsed. Those countries are still functioning democracies and judges are not running around making laws, ruling the state and deciding what taxation should be used for. This is not rocket science. This is about accountability and changing the culture of Governments whereby they can bestow virtues on people and bestow tax cuts, etc., on them.

If these rights had been enshrined in our Constitution, the Government might have been restrained in giving away €2.5 billion in tax breaks over the past few years and could have used that money to deliver housing for people and to deliver a health care system that they could be proud of and use to care for themselves. It could have made the past eight or nine years of

22 March 2017

austerity less burdensome on people because, for example, when the Latvian Government was negotiating with international lenders, it was able to use the fact that ESC rights were enshrined in its constitution to ease the burden of the conditions that were placed on the state in its bailout programme. That is what ESC rights could have for our Governments rather than placing constraints on them and making it more difficult for them.

One of the most startling issues concerns the right to housing and the fact that, as Deputy Wallace outlined, thousands of children and families are living in hotels while there are thousands of unused houses throughout the country. However, the Government parties will not act in this regard because they insist on ensuring that banks are able to pump up and falsely build their balance sheets in order that they can be sold off at the best price. They have manufactured a crisis rather than dealing with the issues and the problems. Scotland has enshrined the right to housing in legislation. The provision of housing is more cost effective there than it is here because the country has those rights. That is the difference they could make.

I did not deal with the Labour Party amendment but that is okay because there is no need to. I thank the ESC Rights Initiative for its work on this. It was a pleasure to work with Aiden Lloyd, especially, on this. He is present in the Visitors Gallery. I would also like to thank Fr. Peter McVerry of the McVerry Trust and Bríd O'Brien of the INOU who attended the launch of the Bill earlier. It is disappointing that the Government would not accept the legislation and that Fianna Fáil wants us to put the amendment on the long finger and wait another 20 or 30 years for it to be realised but that is not surprising. We will keep going and we will keep pushing. We will get there eventually.

Cuireadh an leasú agus faisnéiseadh go rabhthas tar éis diúltú dó.

Amendment put and declared lost.

An Leas-Cheann Comhairle: We now move to the substantive motion. The Labour Party amendment was defeated and there is no vote. We now move to the substantive motion.

Cuireadh an cheist.

Question put.

An Leas-Cheann Comhairle: In accordance with Standing Order 70(2), the division is postponed until the weekly division time which will be on Tuesday, 28 March 2017.

Health (Amendment) Bill 2017: Committee and Remaining Stages

An Leas-Cheann Comhairle: Does Deputy Sherlock wish to speak on section 1?

Deputy Sean Sherlock: I wish to speak to section 5, le do thoil.

An Leas-Cheann Comhairle: I will give the Deputy the opportunity to do that.

Sections 1 to 4, inclusive agreed to.

SECTION 5

Question proposed: "That section 5 stand part of the Bill."

Deputy Sean Sherlock: I received correspondence from the Ceann Comhairle. I had proposed an amendment to section 70 of the Health Act 1970 and I will refer specifically to that section. My proposed amendment related to screening tests for foetal anomalies. The original wording going back to 1970 was that “A health board shall make arrangements for carrying out tests on persons without charge, for the purpose of ascertaining the presence of a particular disease, defect or condition that may be prescribed”. I had proposed an amendment to that which stated that “Without prejudice to the generality of section 70, arrangements made under that section shall include arrangements for carrying out without charge ultrasound and other standardised prenatal foetal diagnostic tests, to accurately date the pregnancy and to assess the foetus for diagnosable anomalies or defects, during the antenatal period”.

I was very surprised to receive correspondence from the Ceann Comhairle which stated that he regretted to inform me that my amendment tabled at this Stage had been ruled out of order as it involves a potential charge on the Exchequer. All I sought to do was to make an amendment to ensure that the language of the 1970 Act was updated to ensure that, as of right, every woman will have access to the foetal anomaly scan in pregnancy and to make sure there was some degree of universality around that. I do not understand why that is deemed to be a charge on the Exchequer. I spoke very briefly to the Minister, Deputy Harris, about this today and I am hopeful this can be addressed. I refer specifically to the HSE’s national women and infants health programme and the issue around the recruitment of ultrasonographers in the State. I refer specifically to Cork University Maternity Hospital where not every woman has access to that vital scan. If we are talking about positive outcomes for babies and mothers, it is vitally important that we have these scans so we can ensure the best outcomes for both mother and child.

I fail to understand how my amendment could be deemed to potentially put a charge on the Exchequer when the 1970 Act already states that the health board “shall make arrangements for carrying out tests on persons without charge, for the purpose of ascertaining the presence of a particular disease, defect or condition that may be prescribed”. I am hopeful at this late hour, even though the amendment was tabled in good time, that the Minister of State will address the issue and, on the basis of common sense, ensure that women who do not have access to these scans at present will have access to them and that there will be adequate resources deployed through the national maternity strategy. It is the language of the national maternity strategy I am using here. We need to ensure that access is not denied to women and that the resources are deployed.

I take some solace from the fact that, with the restructuring of hospital groups, a new clinical director of the women and children services directorate for the South/South West hospital group was appointed on 27 February 2017. I understand an order has been made under section 16 of the Health Act subdelegating certain functions in maternity services to a person. I understand that those functions having been delegated is a positive move. The question is whether that delegated function will result in a budget line that will ensure every woman in the region I serve will have access to the scans. We cannot have a situation in this country where some women are denied access to scans by dint of geography. We know what the import of these scans is in terms of the best outcomes for mothers and babies. It is a public health issue and I am hopeful the Minister of State will address the point I make in a non-partisan way. It is something that affects all of us. It is a positive move. If the Minister of State was inclined to accept my amendment, I would be very grateful. If the Minister of State was inclined to address the issue before us it would be very beneficial to the women and children of the Munster region.

An Leas-Cheann Comhairle: I will clarify the Chair’s position. Deputy Sherlock was

advised that his amendment was ruled out of order because amendment No. 1 seeks to insert a section after section 70 of the principal Act to provide for ultrasound and other standardised pre-natal foetal diagnostic tests without charge. The amendment is not relevant to the provisions and therefore must be ruled out of order in accordance with Standing Order 154(1). I am advised the amendment could impose a charge on the Exchequer and therefore must also be ruled out of order in accordance with Standing Order 179(3). However, the Minister of State might wish to address this and consider it before Report Stage.

Minister of State at the Department of Health (Deputy Finian McGrath): I will address the issues raised. The proposed amendment being submitted has been ruled out of order by the Clerk due to it being irrelevant to this legislation. The Ceann Comhairle contacted Deputy Sherlock on this issue. The current legislation provides for women to receive medical, surgical and midwifery services in pregnancy free of charge. Therefore, where screening services are required and available, these are provided free of charge. While ultrasonography services are not available consistently throughout the country, foetal anomaly scans are available in all hospital groups. Those hospitals maternity units currently providing anomaly scans accept referrals from other maternity units if requested. This occurs where the medical team in the referring maternity unit considers that an anomaly scan is clinically indicated. The national maternity strategy is very clear that all women must have equal access to standardised ultrasound services. Consequently, anomaly scanning is a priority issue for the newly established HSE national women and infants health programme, NWIHP. An early priority for the programme will be to develop clinical guidance regarding routine detailed scans at 20 weeks. In the meantime, the NWIHP will continue to work with the six hospital groups to assist in increasing access to anomaly scans for those units with limited availability.

One of the current challenges in terms of increasing access to scans is the recruitment of ultrasonographers. It is expected that the establishment of maternity networks across both hospital groups will assist in developing a sustainable model that ensures that every woman within each group can have access to scans.

An Leas-Cheann Comhairle: Before calling Deputy O'Reilly, I remind her that the amendment has been ruled out of order and we are only addressing section 5.

Deputy Louise O'Reilly: I wish to correct the Minister of State. He mentioned that tests were offered where clinically indicated, but they are screening tests. There cannot be a clinical indication before a woman has had the screening test. The tests are not being offered to women. Along with other Deputies, I would like to hear a commitment from the Minister of State on a timeframe.

Deputy Sean Sherlock: The Minister of State's position is contradictory. I tabled Parliamentary Question No. 254 on 2 February. Effectively, I asked whether all pregnant women in Ireland had access to a foetal anomaly scan and for the number of foetal anomaly scans relative to actual births for every individual maternity unit in the State for the years 2015 and 2016 in tabular form. I will cite the HSE's response for the record, so I hope the departmental officials and the Minister of State are taking note. According to the response, foetal anomaly scanning is not available to all pregnant women in the public health system. The three maternity hospitals in Dublin and the units in Galway and Waterford provide 100% access, but most of the remaining units only provide some access to scanning, usually where it is clinically indicated or based on other agreed criteria.

In the context of the 1970 Act, every woman as of right should have the scan available to her regardless of whether it is clinically indicated. Also according to the response, the NWIHP does not currently collect the information that I had requested. We do not even have proper data on the number of scans performed in Ireland. Finding out took some work by OBGYNs and consultants across the State. Figures show that approximately 23,000 women, accounting for 36% of all births each year, are not able to access publicly funded anomaly scans. The consultants were happy to share these data. This is a matter of record within the Houses of the Oireachtas through the health committee.

The Minister of State's answer contradicts what the HSE and, based on their data analysis, the consultants are telling me. As a matter of urgency, we must reach the point whereby women in the regions in question - particularly in Cork, but not just there - have access to these scans, not in the third quarter of the NWIHP, but now.

I would like the Minister of State to reply to the effect that the Government, of which he is a part, will do its utmost to ensure that a process is put in place to recruit sonographers within the first or, at the latest, second quarter of this year. We are discussing public health. Were I the Minister of State, I would not rely on the Fine Gael Minister for an answer. I accept the Minister of State's point about taking this debate, but I am sure that he has a position on the matter as a member of the Government through the Independent Alliance. He has a responsibility for this issue as well, if I may put it so bluntly. It is not just a Fine Gael responsibility.

I feel strongly about this matter. If we are to be equal in our treatment of patients, every woman and child must, as a right and a public health issue, have access to this scan.

Deputy Finian McGrath: I accept some of Deputy Sherlock's points. For example, the Independent Alliance's priority is to build and develop services using the public health model. However, I do not accept his other points.

I will revert to Deputy O'Reilly regarding the timeline issue after I have clarified it with the Minister, Deputy Harris.

Deputy Sherlock referred to the 23,000 women and the recruitment process. I will push the latter issue further with a view to putting the process in place as quickly as possible.

Question put and agreed to.

Title agreed to.

Bill reported without amendment, received for final consideration and passed.

Companies (Accounting) Bill 2016: Order for Report Stage

Minister for Jobs, Enterprise and Innovation (Deputy Mary Mitchell O'Connor): I move: "That Report Stage be taken now."

Question put and agreed to.

Companies (Accounting) Bill 2016: Report and Final Stages

An Leas-Cheann Comhairle: Amendments Nos. 1, 19 and 20 are related. Amendment No. 19 is a logical alternative to amendment No. 20. Amendments Nos. 1, 19 and 20 will be discussed together.

Minister for Jobs, Enterprise and Innovation (Deputy Mary Mitchell O'Connor): I move amendment No. 1:

In page 7, line 17, to delete “This Act” and substitute “Subject to *subsection (2) of section 78*, this Act”.

Amendment No. 1 is a technical amendment that is related to my Amendment No. 20. As Deputies know, Irish company law offers people the choice to establish either limited liability companies or unlimited companies. One consequence of creating a limited liability company is that the assets of the owners of the company are not necessarily available to meet any debts of the company. As a result, the only security that a limited company offers to third parties is the assets that the company owns itself. Therefore, the only way that a supplier, creditor or employee can know the financial position of the company is if the company is transparent about its finances. That is why the law requires limited liability companies to file financial statements in the Companies Registration Office.

The vast majority of people forming companies in Ireland choose to establish limited liability companies and, accordingly, the vast majority of companies in Ireland disclose their financial statements in public. They conduct their business in a transparent manner. The situation is different for unlimited companies. In the case of unlimited companies, the assets of the owners of an unlimited company are available to meet the debts of that company. Therefore, a supplier, creditor or employee can look to the owners of the company to pay any amounts that are owed to them by that company for the supply of goods or for fees, loans or wages. In that context, the Companies Act 2014 provides an exemption for unlimited companies from the general rules of transparency. Therefore, unlimited companies are not required to file financial statements with the Companies Registration Office.

It is important to recall that the Bill before us maintains that exemption. However, the current scope of the exemption has allowed it to be used in ways that are not in line with the principles underpinning company law and that have raised concerns with regulators. One of those concerns relates to the transparency of groups of companies. As a rule, company law requires group financial statements because they are an important part of the picture. Group financial statements are important as they add to the entity statements that the members of a group file by giving a clearer picture of the overall business of a group. Also, the picture of any one subsidiary given by its filed financial statements may well not correspond to economic reality. For example, all the staff might be formally the employees of one company, while most of the property might be in the name of another.

Without group financial statements, only part of the picture is available. However, the exemption for unlimited companies permits unlimited holding companies of groups not to file group financial statements. If all the companies in the group are unlimited, then the case for that is reasonable. However, the exemption applies even if the group conducts some or all of its trading through limited liability companies. In other words, once the holding company qualifies for the exemption, third parties will not have access to financial information on the business

of the group as a whole even though they may be doing business with a group of companies that is virtually identical to a group of limited liability companies. In some cases, the only difference between this structure and any other group of limited companies is that the holding company is an unlimited company, yet this group is not obliged to file group financial statements as it would if the holding company was a limited liability company.

Given the importance of group financial information for protecting third parties, the Government considers that all groups with limited liability members should be treated equally and be required to file group financial statements. Therefore, one of the new criteria that section 76 introduces in order to qualify for the exemption is that the unlimited company is not a holding company of one or more limited liability subsidiaries. The new requirement is an important transparency measure. Nevertheless, I accept that it will be significant for those companies that are affected by it. Moreover, I have heard the concerns of some of those companies about the timing of this change. Many Deputies present will have heard the same concerns. I acknowledge that we are in uncertain times and that companies may need time to assess how various international developments will impact on their business.

Some companies have told me the exemption for unlimited companies is key to their ability to meet the challenges that they are facing in the next few years. They may need to restructure to meet the new rules if they wish to continue to use the exemption. That type of restructuring takes time. I believe a transitional period would be fair and appropriate in the circumstances. Accordingly, I have tabled an amendment to defer application of this particular provision until 2022. That will give the relevant companies nearly five years to put any restructuring in place in order to meet the new requirements for the exemption.

For those unlimited holding companies that do not own limited liability subsidiaries, they will continue to be able to avail of the exemption without making any changes to their corporate structures. Once the transitional period ends, any unlimited holding company that does not meet this new requirement and has not used the transitional period to restructure in order to qualify for the exemption, will start filing financial statements for years beginning in 2022 and those statements will show comparable figures for years beginning in 2021.

As I have said, I accept that will be a change for some companies so the transitional period also allows time for those companies to adapt to the new rules. I should point out that company law is kept under regular review by the Department and this change to the exemption for unlimited companies is no different in that regard. Officials in the Department are always interested to hear the views of stakeholders.

I do not support Deputy Collins's approach on his amendment No. 21. The amendment would remove an important new transparency measure and if the amendment was accepted, people doing business with some groups of limited liability companies would not have access to the same protections as they would if they were doing business with other groups of limited liability companies. My amendment No. 20 proposes a fair transition period for companies to decide whether they wish to continue to avail of the exemption and, if so, whether they need to reorganise their affairs in any way. It is the appropriate solution to the genuine concern of the companies affected.

Deputy Bríd Smith: I will make a general comment on the amendments as I see them before me. I will come to the Minister's amendment in a moment but I am really astonished to see Deputy Alan Kelly's amendment ruled out of order. I am speaking to amendments Nos. 3

and 28, which try to deal with the outcome of what happened with Clerys and the Duffy-Cahill report.

An Leas-Cheann Comhairle: We are not addressing amendment No. 3 now.

Deputy Bríd Smith: I know we are not addressing it as it has been ruled out of order. Why was it ruled out of order? I would have thought it was obvious for the Government to use the opportunity of this legislation for the Minister to legislate on the back of the Duffy-Cahill report and not allow another incident like what happened in Clerys. Will the Minister address that question?

I spoke to Deputy Collins earlier, who is withdrawing his amendment in favour of the Minister's. I see they are both on the same page but on the other hand I wonder what is the point of the legislation at all. The Minister is giving a very generous period to suspend the implementation of the rules about limited and unlimited companies; it is extraordinarily generous and I assume that when she refers to the "uncertain" period in which we live, she is referring to Brexit. We expect the Brexit negotiations to be completed and the changes to be on the road within two years but the Minister is allowing five years for companies to make up their minds about what way they want to restructure, declaring themselves unlimited and not showing profits and accounts in this country. I have a real problem with that. I strongly argue that if we allow this amendment to go through, there has been no point in this exercise and the Bill has been negated.

I refer to an issue we raised last summer in this Parliament regarding bin charges and specifically the standing charge being raised by something like 200% for citizens for bin collection throughout the State. When it became a big political issue on the floor, we discovered a group of companies were unlimited and registered offshore. We considered whether waste management companies have an issue with the amount they could charge per lift or per standing charge per year as they were declaring poverty and argued they were nearly broke. We could not find out their financial condition when we looked for it. Panda Waste Management had moved to the Isle of Man, The City Bin Company was in Jersey, Oxigen was in the Isle of Man, Killarney Waste Disposal was in New Zealand, Country Clean Recycling was in the British Virgin Islands, as was Clean (Ireland) Refuse and Recycling, and Greyhound - one of the biggest operators - was in the Isle of Man.

I see a real problem with allowing this to continue, even taking into account the argument that we are in uncertain times. The Minister might clarify whether she is referring to Brexit or the general uncertainty of the financial and capitalist world in which we live, which seems to continuously throw everybody into turmoil. The Minister is allowing five years of delay or suspension, so she might not be sitting in the chair opposite. That may be in the next Dáil or perhaps the one after it. God knows.

Deputy Mary Mitchell O'Connor: Uncertainty.

Deputy Bríd Smith: We should object to the amendment as five years is an extraordinary and overly generous period to allow companies to restructure in line with Brexit, if that is what the Minister is referring to. She can explain if it is not Brexit to which she refers. I object to the amendment as if we do not, we negate the purpose of the Bill.

Deputy Niall Collins: Given what Deputy Smith alluded to, it is important that the Minister in her reply outlines the difference between an Irish-registered company and a company registered, for example, in the Isle of Man? Will she differentiate the two so people will understand

there is a difference between Irish-registered companies and those registered offshore? That is very important.

I will withdraw amendment No. 19 in support of amendment No. 20 from the Minister, as she outlined. It is very important that people understand and appreciate that there are many good Irish companies that are good employers and treat their employees very well. They operate through the structure that will be affected by the change brought by this legislation. It could potentially threaten people's jobs because these companies are in competition with many other businesses around the globe in selling into the global market. Irish companies are put at a commercial disadvantage because they must disclose their financial information and make their margins available publicly but they are not able to see the same type of information from competitors. They would be susceptible to commercial disadvantage in that respect. That point has been well made by the people talking to me and others.

The Minister's amendment goes a long way towards dealing with the concerns brought to my attention. It has been said to me that the amendment should include the fact that in 2022 there will be a ministerial order; that was the message from the Department. Perhaps the Minister could outline that to us in her reply. The important point is that the country is facing challenges and we are dealing in a global market. We must be able to protect the indigenous industries that have grown in this country that compete on a global scale. They must have a level playing pitch. That is exactly what this is about. There must be a reasonable lead-in time and I am happy with what has been specified. I am happy to support the Minister's amendment at this point.

Amendment agreed to.

Deputy Mary Mitchell O'Connor: I move amendment No. 2:

In page 8, between lines 8 and 9, to insert the following:

“(j) subsection (5) of section 1237;”.

This is a technical amendment. Deputies may recall I signalled on Committee Stage my intention to table an amendment to clarify that an application process under the Companies Act 2014 has now ended. The Companies Act 2014 was a significant modernisation of Irish company law. In order to accommodate companies adapting to the changes in that Act, a transitional period of 18 months was provided. One of the changes in that Act was to make the requirement for company types to display their company type at the end of their names apply to all company types. Up to that time it had applied to almost all company types, but not all. In light of the organisational preparations that might be needed by some companies, section 1237(5) allowed companies, in special circumstances, to apply to the Minister for an extension of time to make those arrangements. The period for applying to the Minister ran alongside the transitional period, which has now ended. Any company that required the extension of time has now been granted it.

Accordingly, this amendment clarifies that the application period has ended.

Amendment agreed to.

An Leas-Cheann Comhairle: Amendment No. 3 is out of order.

Deputy Niall Collins: Can I say something on that?

22 March 2017

An Leas-Cheann Comhairle: The Deputy can say it in the context of the section.

Deputy Niall Collins: In the context of the section, this is a big issue - I know it is ruled out of order - for American multinational companies and their reporting requirements in the US *vis-à-vis* Ireland and Europe. It is something which should be dealt with as part of this Bill. We discussed it at committee recently and all the members of the committee were in agreement. The Fianna Fáil spokesperson will table this amendment in the Seanad.

An Leas-Cheann Comhairle: Strictly speaking it is out of order.

Deputy Niall Collins: The point is made.

Deputy Maurice Quinlivan: May I have just a second on that one?

An Leas-Cheann Comhairle: Twenty seconds.

Deputy Maurice Quinlivan: I agree with Deputy Niall Collins that we should have taken that amendment. It is a sensible amendment. It will come back through the Seanad anyway. It is something that does need to be taken.

An Leas-Cheann Comhairle: So that we fully understand, the amendment does not arise out of committee proceedings and, therefore, had to be ruled out of order. That is standard practice.

Amendment No. 3 not moved.

An Leas-Cheann Comhairle: Amendment No. 4 in the name of an tAire arises out of committee proceedings. Amendments Nos. 6 to 13, inclusive, and 35 are related and will be discussed together.

Deputy Mary Mitchell O'Connor: I move amendment No. 4:

In page 13, line 7, to delete “section 280” and substitute “section 277”.

This amendment is grouped with amendments Nos. 6 to 13, inclusive, and 35. All of these amendments are technical. They correct either cross-references in the Bill or grammatical errors.

Amendment agreed to.

Deputy Mary Mitchell O'Connor: I move amendment No. 5:

In page 13, to delete lines 8 to 14 and substitute the following:

“**277A.**(1) Subject to this section, the directors of a company may, before the operative date of the provisions of the *Act of 2017* specified in subsection (4) (the ‘specified provisions of the *Act of 2017*’), opt to prepare and approve statutory financial statements for the company in accordance with those specified provisions for any financial year which commenced on or after 1 January 2015.”.

This amendment is technical. This amendment removes the reference to the date 24 December 2016 from section 14. Deputies will recall that section 14 allows companies to apply the benefits of this Bill to financial statements in respect of some financial years that have now finished. This is considered important to mitigate the effects of delay with transposing the EU

Accounting Directive. However, by including the end date of 24 December 2016, the Bill could have excluded some companies from using section 14 only because their financial year ended a few days after that date. It could also give rise to a gap where some companies could use section 14 to apply the new rules for one year, then have to revert to the old rules for a single year before applying the new rules again. Clearly, this would not be our intention.

This amendment is intended to ensure that there will be a smooth transition to the new reporting requirements and that section 14 will be useful in practice.

Amendment agreed to.

Deputy Mary Mitchell O'Connor: I move amendment No. 6:

In page 13, line 34, to delete “section 5” and substitute “*section 4*”.

Amendment agreed to.

Deputy Mary Mitchell O'Connor: I move amendment No. 7:

In page 13, line 35, to delete “sections 11 to 13” and substitute “*sections 10 to 12*”.

Amendment agreed to.

Deputy Mary Mitchell O'Connor: I move amendment No. 8:

In page 14, line 2, to delete “sections 79 and 80” and substitute “*sections 81 and 82*”.

Amendment agreed to.

Deputy Mary Mitchell O'Connor: I move amendment No. 9:

In page 14, line 3, to delete “section 82” and substitute “*section 84*”.

Amendment agreed to.

Deputy Mary Mitchell O'Connor: I move amendment No. 10:

In page 14, line 4, to delete “section 85” and substitute “*section 88*”.

Amendment agreed to.

Deputy Mary Mitchell O'Connor: I move amendment No. 11:

In page 14, line 5, to delete “section 87;” and substitute “*section 89*”.

Amendment agreed to.

Deputy Mary Mitchell O'Connor: I move amendment No. 12:

In page 14, to delete line 6.

Amendment agreed to.

Deputy Mary Mitchell O'Connor: I move amendment No. 13:

In page 43, line 2, to delete “subsections” and substitute “*subsection*”.

Amendment agreed to.

An Leas-Cheann Comhairle: Amendment No. 14 in the name of an tAire arises out of committee proceedings. Amendments Nos. 14 to 18, inclusive, and 24 are related and will be discussed together.

Deputy Mary Mitchell O'Connor: I move amendment No. 14:

In page 44, to delete line 21 and substitute the following:

“

<i>Qualification of company based on size of company</i>	<i>Sections 280A to 280G</i>
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“

Amendments Nos. 14 to 18, inclusive, and 24 are all technical.

The Companies Act 2014 prohibits certain types of companies from using the small company regime. This is because the reduced reporting requirements on small companies are not appropriate to those types of companies. The types of company concerned are public companies and investment companies.

These amendments provide that public companies and investment companies continue to be ineligible for the small and micro-company regimes that this Bill introduces. While the definition of “ineligible entities” was amended at Committee Stage, it is still necessary to carry through these amendments across the rest of the Companies Act 2014.

Amendment agreed to.

Deputy Mary Mitchell O'Connor: I move amendment No. 15:

In page 44, between lines 22 and 23, to insert the following:

“Modification of definition of “ineligible entities” in case of PLCs

75. The Principal Act is amended by the insertion of the following section after section 1116:

“1116A. The definition of ‘ineligible entities’ in section 275(1) shall apply to a PLC as if—

(a) in paragraph (c), ‘undertakings,’ were substituted for ‘undertakings, or’,

(b) in paragraph (d)(ii), ‘shall be read accordingly, or’ were substituted for ‘shall be read accordingly;’, and

(c) the following paragraph were inserted after paragraph (d):

‘(e) are PLCs;’.’”.

Amendment agreed to.

Deputy Mary Mitchell O'Connor: I move amendment No. 16:

In page 44, to delete line 27 and substitute the following:

“

<i>Qualification of company based on size of company</i>	<i>Sections 280A to 280G</i>
--	------------------------------

“

Amendment agreed to.

Deputy Mary Mitchell O'Connor: I move amendment No. 17:

In page 44, to delete line 32 and substitute the following:

“

<i>Qualification of company based on size of company</i>	<i>Sections 280A to 280G</i>
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“

Amendment agreed to.

Deputy Mary Mitchell O'Connor: I move amendment No. 18:

In page 44, after line 33, to insert the following:

“Modification of definition of “ineligible entities” in case of PUCs and PULCs

76. The Principal Act is amended by the insertion of the following section after section 1267:

“1267A. The definition of ‘ineligible entities’ in section 275(1) shall apply to a PUC or a PULC as if—

(a) in paragraph (c), ‘undertakings,’ were substituted for ‘undertakings, or’,

(b) in paragraph (d)(ii), ‘shall be read accordingly, or’ were substituted for ‘shall be read accordingly;’, and

(c) the following paragraph were inserted after paragraph (d):

‘(e) are PUCs and PULCs;’ .’”.

Amendment agreed to.

Amendment No. 19 not moved.

Deputy Mary Mitchell O'Connor: I move amendment No. 20:

In page 46, between lines 10 and 11, to insert the following:

“(2) *Subsection (1)*, in so far as it relates to subsection (2)(a)(iii) of section 1274

22 March 2017

of the Principal Act, shall come into operation on 1 January 2022 for any financial year which commences on or after that date.”.

Deputy Maurice Quinlivan: Deputy Bríd Smith had an objection to that one. She took unwell.

An Leas-Cheann Comhairle: We have no choice.

Amendment agreed to.

An Leas-Cheann Comhairle: Amendment No. 21 in the name of Deputy Niall Collins arises out of committee proceedings. Amendments Nos. 21 to 23, inclusive, are related. Amendments Nos. 22 and 23 are physical alternatives to amendment No. 21. Amendments Nos. 21 to 23, inclusive, will be discussed together.

Deputy Niall Collins: I move amendment No. 21:

In page 46, to delete lines 15 to 31.

In support of amendment No. 20, I am withdrawing amendment No. 21.

Amendment, by leave, withdrawn.

Deputy Mary Mitchell O'Connor: I move amendment No. 22:

In page 46, to delete lines 19 to 23 and substitute the following:

“ “ ‘EEA company’ means—

(a) a body corporate—

(i) which is incorporated in a state (other than the State) that is an EEA state, and

(ii) whose members’ liability in respect of such body corporate is limited,

or

(b) an undertaking—

(i) which is formed or incorporated in a state (other than the State) that is an EEA state,

(ii) whose members’ liability in respect of such undertaking is unlimited, and

(iii) which is a subsidiary undertaking of a body corporate whose members’ liability in respect of such body corporate is limited;”.”.

Amendment agreed to.

Deputy Mary Mitchell O'Connor: I move amendment No. 23:

In page 46, to delete lines 27 to 31 and substitute the following:

“ “ ‘non-EEA company’ means—

(a) a body corporate—

- (i) which is incorporated in a state that is not an EEA state, and
 - (ii) whose members' liability in respect of such body corporate is limited,
- or
- (b) an undertaking—
 - (i) which is formed or incorporated in a state that is not an EEA state,
 - (ii) whose members' liability in respect of such undertaking is unlimited, and
 - (iii) which is a subsidiary undertaking of a body corporate whose members' liability in respect of such body corporate is limited.”.”.

Amendment agreed to.

Deputy Mary Mitchell O'Connor: I move amendment No. 24:

In page 48, between lines 8 and 9, to insert the following:

“Modification of definition of “ineligible entities” in case of investment companies

83. The Principal Act is amended by the insertion of the following section after section 1400:

“1400A. The definition of ‘ineligible entities’ in section 275(1) shall apply to an investment company as if—

- (a) in paragraph (c), ‘undertakings,’ were substituted for ‘undertakings, or’,
- (b) in paragraph (d)(ii), ‘shall be read accordingly, or’ were substituted for ‘shall be read accordingly;’, and
- (c) the following paragraph were inserted after paragraph (d):
 - ‘(e) are investment companies;’.”.”.

Amendment agreed to.

An Leas-Cheann Comhairle: Amendments Nos. 25 to 27, inclusive, are related and will be discussed together.

Deputy Mary Mitchell O'Connor: I move amendment No. 25:

In page 57, line 26, to delete “Act,” and substitute “Act, and”.

These amendment together delete section 86(g) of the Bill. That section inserts a provision into Schedule 14 of the Companies Act 2014 that requires unregistered companies to prepare a directors' compliance statement.

However, I now intend to introduce regulations to the Oireachtas Joint Committee on Jobs, Enterprise and Innovation on 11 April. Those regulations will insert the provision into company law. As a result, section 86(g) of the Bill is now redundant.

Amendment agreed to.

Deputy Mary Mitchell O'Connor: I move amendment No. 26:

In page 57, line 27, to delete “Act, and” and substitute “Act.”.

Amendment agreed to.

Deputy Mary Mitchell O'Connor: I move amendment No. 27:

In page 57, to delete lines 28 to 32.

Amendment agreed to.

An Leas-Cheann Comhairle: Amendment No. 28 is out of order.

Amendment No. 28 not moved.

An Leas-Cheann Comhairle: Amendments Nos. 29 and 30 are related and will be discussed together.

Deputy Mary Mitchell O'Connor: I move amendment No. 29:

In page 59, lines 12 and 13, to delete all words from and including “Section” in line 12 down to and including line 13 and substitute the following:

“Section 633 of the Principal Act is amended—

(a) by the substitution of the following subsection for subsection (4):”.

Amendments Nos. 29 and 30 are technical amendments and make further changes to section 633 of the Companies Act 2014.

The purpose of these amendments is to extend the period for a person to apply to the Irish Auditing and Accounting Supervisory Authority, IAASA, for authorisation as a liquidator from two years after the commencement of the Companies Act 2014 to 30 months after its commencement. As a result, the application period will run to the end of November 2017.

This extension is necessary as IAASA has only got the powers to prescribe the application forms and fees in this Bill and authorisation cannot begin before this Bill is enacted.

Amendment agreed to.

Deputy Mary Mitchell O'Connor: I move amendment No. 30:

In page 59, to delete line 19 and substitute the following:

“Supervisory Authority.”,

and

(b) in paragraph (5)(a) of the Table to the section, by the substitution of “within 30 months after” for “within 2 years after”.

Amendment agreed to.

An Leas-Cheann Comhairle: Amendments Nos. 31 and 34 are related and may be discussed together.

Deputy Mary Mitchell O'Connor: I move amendment No. 31:

In page 61, after line 37, to insert the following:

“(b) in section 183—

(i) in subsection (9), by the substitution of “previous death of the appointer” for “previous death or insanity of the appointer”, and

(ii) in subsection (10), by the substitution of “such death, revocation or transfer” for “such death, insanity, revocation or transfer”.”.

This is a technical amendment which is related to amendment No. 34. As I signalled on Committee Stage, the purpose of the amendments is to remove the terms “unsound mind” and “insanity” from the Companies Act 2014 and replace them with new terms. While the terms have been removed from the majority of company law provisions, just a few remain. The amendments will remove their remaining uses.

Amendment agreed to.

An Leas-Cheann Comhairle: Amendments Nos. 32 and 33 are related and may be discussed together.

Deputy Mary Mitchell O'Connor: I move amendment No. 32:

In page 62, line 6, to delete “any floating charge created by the company” and substitute “a floating charge”.

Amendment No. 32 is related to amendment No. 33. Both are technical and propose to correct a typographical error in an amendment tabled on Committee Stage.

Amendment agreed to.

Deputy Mary Mitchell O'Connor: I move amendment No. 33:

In page 62, line 11, to delete “subsection (1)(c)(i)” and substitute “subsection (1)(i) or (ii)”.

Amendment agreed to.

Deputy Mary Mitchell O'Connor: I move amendment No. 34:

In page 62, to delete lines 17 to 19 and substitute the following:

“(j) in section 1205—

(i) in paragraph (b), by the substitution of “subsection (9)” for “subsection (8)”, and

(ii) by the substitution of the following paragraph for paragraph (c):

“(c) in subsection (10), there shall be substituted ‘such death or revocation’

22 March 2017

for ‘such death, insanity, revocation or transfer’.”.”.

Amendment agreed to.

Deputy Mary Mitchell O’Connor: I move amendment No. 35:

In page 64, line 42, to delete “section 91” and substitute “*section 100**”.

Amendment agreed to.

Bill, as amended, received for final consideration and passed.

Mediation Bill 2017: Second Stage (Resumed)

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

Deputy Jim O’Callaghan: If one enters any law library anywhere in the world, one will notice that the shelves are full of volumes of reported court cases. The reported cases record disputes between parties which they could not resolve themselves and which required the intervention and determination of a court of law. Law reports record the facts of a dispute, the parties involved, the arguments advanced, the legal issues in dispute, the identities of the judge and lawyers and the decision of the court. Every country has law reports which record previous decisions. The reason they are recorded is to assist future courts to reach decisions in cases and on legal issues which are similar. While law reports play a valuable role in our understanding of the law and the manner in which disputes are determined before the courts, it is important to acknowledge that many people regard the fact that a case goes to court and requires the determination of a judge as constituting a failure on the part of those who are party to the dispute. Many consider that cases which reach a determination could and should have been resolved by the parties themselves without having to go through the process of a court imposing a decision on them. For each reported law decision in this country, there are at least 100 court resolutions of which the public has never heard. The vast majority of disputes initiated in the courts are resolved by the parties reaching a settlement among themselves. One of the important skills of a lawyer or other adviser advising people in a difficult position is letting them know that there is always a mechanism and an advantage in trying to resolve the dispute without awaiting a determination from the court. That does not simply apply to court cases, it also applies in life, including politics. It is beneficial to reach a resolution of disputes where conflict can be avoided and a compromise can be attained. It provides certainty for the individuals involved.

There are a number of advantages to people settling disputes without requiring them to go before a court. The purpose behind this legislation is to encourage those involved in disputes to mediate them in order that they will not have to go through the costly and lengthy process of having to go all the way to adjudication by a court of law. There are many advantages for parties who can manage to settle a dispute between themselves rather than having to go the whole way to a determination by a court of law. The first advantage is that settlement provides certainty for the parties. If individuals go before a court of law, it is extremely difficult for them to be certain about the outcome. The advantage of settlement is that they know what they are agreeing to and are participants in that agreement. They are party to the agreement and, as a result, can feel satisfied that they have secured from it part of what they sought to achieve by being involved in proceedings in the first place. A second advantage is that settling a court

case buys off risk. Courts are risky places for individuals and not like other parts of life such as politics where one can make an agreement which constitutes a partial victory and a partial defeat and where there is compromise and give. In courts, there are only winners and losers. If one takes a civil action, one will either win or lose it. As a result, it is always preferable for people to recognise that they should be able to buy off that risk by seeking a resolution of the dispute before it goes to court. A third advantage of settling a court case is that individuals find a resolution cheaper and quicker than if they wait for the process to go through the courts to reach a final determination.

Settlement can be achieved through mediation. That is the main reason I welcome the Mediation Bill 2017 which is being introduced by the Government having been proposed for a number of years. Mediation is a method for parties to be formally manoeuvred into the process of compromise. For that reason it should be welcomed, and we as a Legislature should seek to put it on a statutory basis in order that people know it comes with the formal approval of the House and the State.

It is important to note on a practical basis what is involved in the process of mediation. In the process of mediation a mediator is appointed. This person is a qualified individual who will try to reach a resolution of a dispute between two parties. We have seen it happen in politics. It happens quite successfully. The most famous mediator we have had in this country was a foreign man, Senator George Mitchell, who came here and managed to mediate a settlement for the parties in the North of Ireland, which ultimately led to the historic Good Friday Agreement. Mediation is not simply limited to cases which go to court. It can be used in any other walk of life as well, where there may be disputes between parties.

It is also important to note the mediation process is voluntary. Nobody is being forced into it against his or her will. Many people will want their day in court. Many people will want to ensure they try to achieve every last demand they have set out in their court proceedings through the court process. This happens seldom but individuals are entitled to seek to try to have their results achieved in the fullest way possible.

Many people wonder why it is that all the court case disputes one reads about in newspapers cannot be resolved through some form of mediation or some form of settlement at an earlier stage. Part of the reason is that individuals before the courts in civil actions, it is important to note we are speaking about civil and not criminal actions, find themselves in difficult financial or professional positions. There also can be a difficulty on the part of individuals in acknowledging mistakes, facing up to wrongdoing or acknowledging they were at fault. Primarily this can be a stance adopted by individuals before the courts who refuse to see the advantage of trying to reach a resolution. There is an obligation on all lawyers to try to ensure their clients involved in court cases recognise there is an option of trying to settle the case in advance. Each lawyer worth his or her salt should be able to bring to the attention of the client the benefits of trying to settle a dispute and the advantage to the client in trying to resolve it without going to court.

There is a certain irony in the fact it is the State, through the Government, that is trying to introduce legislation to encourage parties before the courts to resolve their disputes through mediation. The entity that is most often before our civil courts is, in fact, the State itself. The State is involved in more litigation than any other party coming before our courts. In many instances the State is one of the most difficult parties with which to get a resolution. Part of the reason for this is making a decision to resolve a dispute involves individuals taking responsibil-

ity and probably opening themselves up to criticism. If a dispute is settled, and it is not settled on the maximum terms possible, or a sum of money is paid out which someone potentially may not have had to pay out had the matter gone to court, it means someone is making a decision for which he or she is ultimately responsible. Sometimes there is a tendency on the part of many litigants, but particularly the State, not to seek to resolve litigation before it is determined by the courts, partially because there is concern individuals who make the decision could be subjected to criticism for making it. This is something we need to change and although the Mediation Bill when enacted will apply to all parties, we must recognise the State itself needs to make considerable steps to ensure it encourages mediation in respect of proceedings instituted against it.

Mediation should not just be recognised as being available in circumstances where litigation has instituted. There are many examples in employment and environmental law where disputes that have arisen can be resolved before they ever get near a court or a lawyer. This is why it is very important in the context of employment law, particularly in the public sector, that mechanisms are put in place whereby an employee who has a complaint or dispute against his or her employer in the public service has an opportunity to try to reach a resolution of the complaints through a mediation process.

Sometimes individuals before the courts are not aware of the consequences of pushing a case the whole way to court, where there can be either victory or defeat. People need to recognise they may have very legitimate claims and may have claims deserving of empathy but, in fact, such claims may not give rise to a legal claim against the other party. Sometimes people come to us as politicians and we give them a very fair and empathetic hearing. We feel and recognise they seem to have been treated harshly. This does not mean they have an entitlement to win a court case against the State or any other entity they sue. Courts are, and should be, cold and impersonal places. People looking for empathy should not go to a court. All courts will do is identify whether a person's rights have been violated or some legal entitlement to which someone has a claim has been or deserves to be vindicated. Courts will not get involved in listening to general complaints in circumstances where there is not a specific identification of a party's legal rights or how the law has been broken.

I will now briefly consider the Bill and some of its relevant sections. Section 3 of the Bill sets out the nature of the proceedings to which the Mediation Bill will apply. Section 3(1) notes it will apply to any civil proceedings but the section then excludes a number of civil proceedings. The exclusions are understandable and defensible and it is right, for instance, that judicial review proceedings or proceedings involving infringements of the fundamental rights of the person should not be subject to the mandatory provisions of the Mediation Bill. In particular, where the Bill will be of use when enacted is in the area of employment law, which is an area with a considerable number of opportunities for mediators to enter to try to resolve disputes.

Section 6, which deals in general with mediation, also deserves mention. It emphasises in section 6(2) that participation in mediation shall be voluntary at all times. It is absolutely essential the voluntary nature of mediation is kept in place. It is not like an arbitration where, under terms of a contract, the parties agree if there is a dispute they shall go to arbitration and be bound by it.

Section 8 refers to the role of the mediator. It is important to recognise a mediator must have sufficient qualifications, training and experience and the Bill intends to do so. What one does not want to happen is for individuals to find themselves going through a mediation process that provides no proper mechanism for them to achieve settlement. The mediation process itself

costs money. It is absolutely essential the process has a chance of success and is organised in such a way that it is designed to succeed. This will only happen if the mediators who are to be recognised under the legislation have the appropriate qualifications, training and experience.

Section 10 of the Bill deals with the question of confidentiality. It is implicit in most mediation agreements or explicit in many mediation agreements that the process shall remain confidential. The reason it is so important for it to remain confidential is if the process of mediation does not succeed, inevitably the parties will go on and the case will be dealt with in court. What cannot happen is parties are able to refer to what was said in the mediation process in the court hearing that takes place subsequently, in which individuals should be able to attend and participate without being worried their submissions or admissions will be used against them.

Section 14 deals with the substance of what the Bill requires. Ultimately, the Bill proposes a net requirement on legal practitioners, namely, solicitors at present. It requires that if a solicitor is giving information to, or is about to institute proceedings on behalf of, a client in respect of a dispute covered by the Bill, he or she must at the outset provide the client with information about the advantages of resolving the dispute and the benefits of mediation. There will now, therefore, once this Bill is enacted, be a requirement of all solicitors to ensure that, before the case starts, they tell the client that there are benefits to trying to settle this case and there are benefits to the mediation process. I hope that does not turn into a box-ticking exercise whereby solicitors will simply say that they have to tell a person formally that there are benefits to mediation. That will undermine the whole purpose of the legislation and it will also undermine the real benefits for parties in trying to reach a resolution of disputes early on. Section 15 will not apply until such a time as barristers have an opportunity to institute proceedings on behalf of a client. If and when that occurs, in that instance a similar obligation will be placed upon a barrister as has been placed upon the solicitor under section 14. It then sets out in section 16 the role of the court in the mediation. It is important to note that, in many respects, the courts are ahead of the Legislature when it comes to mediation. For many years now, the rules of the Commercial Court have contained a provision whereby the court can, of its own volition, direct parties to engage in mediation before the commencement of a hearing of an action. That has succeeded on many occasions. However, I agree with the provision in the Bill because unless the courts are seen actively to promote mediation, it is unlikely that parties are going to buy in to the process. It is appropriate and I welcome the fact that section 17 sets out a requirement for the mediator to make a report to a court.

There are potential downsides to the mediation process. One of the downsides, as I mentioned earlier, is that it will cost money. It is going to cost money to pay for a mediator who is going to come in and for persons who are representing the party or the parties who are at the mediation for a period of a day or sometimes two days. Nonetheless, there is a benefit at an early stage in trying to resolve a dispute by seeking the intervention of a mediator. We should also recognise that mediation is not a matter exclusively for court cases. It can be used in employment disputes. I am sure it can also be used in politics. There are some problems in politics which appear intractable and that parties find difficult to resolve. They can be resolved through the intervention of a mediator. I note that at the talks between Fine Gael and ourselves, we did not go for the option of having a mediator there to chair the talks or organise the discussion, but it did happen, I understand, for Fine Gael's discussions with other parties.

Any intractable political problem that exists - I know it is not dealt with by this legislation - can also benefit from the intervention of a mediator or mediation. There are certain political disputes at present. We have a party at present which has an intractable dispute around trying

to organise the replacement of its leader. A couple of younger politicians are trying to remove an older leader. Perhaps that might benefit-----

Deputy David Stanton: Is Deputy Micheál Martin leaving?

Deputy Jim O'Callaghan: Perhaps that might benefit from the intervention of a mediation. I only suggest that in deference to the Minister of State, Deputy Stanton. Others may be prepared to do it. Perhaps the Acting Chairman could sit in as a mediator. He could try and hear what the two young, aspiring politicians have to say and have them listen to the old, experienced man who is the person who is leading the party, and then he might come up with a report. It would probably take about six months or so and may involve a resolution of the matter.

In any event, Fianna Fáil and I will be supporting this Bill. I welcome that it has been introduced.

Acting Chairman (Deputy John Lahart): I am told that is beyond the scope of this Bill. As a psychotherapist, I might be able to offer better skills than mediation.

Deputy Peter Fitzpatrick: I welcome the opportunity to participate in this debate. The Bill before us is very important legislation and will bring many real benefits to people who find themselves in dispute. The main purpose of the Bill is to encourage and promote settlement of civil disputes by way of mediation as opposed to the very costly litigation process. It will do this through a number of actions, including specifying the principles that are applicable to mediation and specifying arrangements for mediation that can be used as an alternative to costly litigation. It will also provide for the publication of a code of practice which mediators may subscribe to and for the recognition of a body to be known as the Mediation Council of Ireland. Finally, there is provision for parties to family law to attend mediation information sessions. One of the real benefits this Bill will bring is that if used early enough, it can avoid costly litigation which in many cases places undue financial hardship on those involved.

One of the challenges of getting mediation more openly available will be making people more aware that it will be available. I know that from dealing with many very contentious issues in my constituency work that mediation would be a difficult process for those involved. The biggest challenge this legislation will face will be to get those affected to accept mediation as a means of settling their differences. In many cases the people involved are hell-bent on going the legal route and will spend vast sums of money on legal advice and representation. We need to change this mindset and also that of the legal profession. I am happy that this Bill will establish obligations for solicitors to advise their clients to consider mediation and also provide information about mediation services. Likewise similar obligations will also be extended to barristers where they are taking proceedings on behalf of a client who is not represented by a solicitor. I will be interested in seeing how this will work when enacted. I have fears that the legal profession will not embrace this as we would hope but I will adopt a wait and see policy. As I have stated, the biggest challenge will be raising awareness and acceptance that mediation is available. On that matter, I am pleased to see that the courts will be allowed to invite opposing parties to consider mediation and provide them with valuable information about the benefits of the mediation process.

The provisions of the Bill will allow the mediation to avail of civil proceedings with certain exceptions. Included in these exceptions are proceedings under the Arbitration Act, disputes arising within an employment context, matters under tax and customs legislation, proceedings

under the Child Care Act and proceedings under the Domestic Violence Act. The Bill will also allow the Minister to publish or approve a code of practice for the conduct of the mediator.

It is proposed that prior to commencement of mediation, a mediator must provide all parties with a copy of any code of practice to which he or she subscribes. I have a major problem in this regard as the Bill does not appear to require mediators to subscribe to a code of practice. How will this work if a mediator does not subscribe to a code of practice? Surely this will lead to problems and create unnecessary problems for all concerned. As far as I am concerned, any person acting as a mediator must subscribe to a code of practice and this must be mandatory in all cases. I would prefer to see this included in the Bill. There is no point in the Minister publishing a code of practice for the conduct of mediators only for mediators not to be obliged to follow them. It would make a mockery of the legislation and leave it open to abuse.

Section 12 proposes the establishment of the Mediation Council of Ireland and the setting out of minimum standards to which the council must adhere. The council will be required to submit a report to the Minister by the end of June each year in which it will report on its performance and activities during the preceding year. This will ensure the performance of the council will be open to scrutiny each year. I have listened to many representations from concerned groups about this Bill. One such group, Women's Aid, has made some very valid points and I welcome them. They include that a provision to exclude from the mediation process family law cases where domestic violence is alleged to have taken place. It also proposes that a provision be included in section 8 that, prior to commencing mediation, a mediator make separate inquiries of each party as to whether there has been domestic violence in the relationship to assess if the case is suitable for mediation. It also states that solicitors, barristers and mediators should be trained in recognising domestic violence.

I very much welcome the passage of this Bill through the House. There are enormous benefits attached to it. It will provide significant savings to those involved in legal disputes and should improve their experience of the legal process. I want to put on record that I, too, share the concerns of Women's Aid and hope and expect that its concerns can be addressed satisfactorily. I also hope my concerns about mediators and the code of practice are addressed. We cannot have a situation where a code of practice exists and yet the mediators are not required to subscribe to it. It must be mandatory for mediators to subscribe to an approved code of practice. I welcome this Bill and look forward to seeing it enacted in due course.

Minister of State at the Department of Justice and Equality (Deputy David Stanton): I thank Deputies for their constructive comments on this important Bill. As mentioned at the outset, its general objective is to promote mediation as a viable, effective and efficient alternative to court proceedings. Its enactment will help to reduce legal costs, speed up the resolution of disputes and reduce stress levels for all the parties. The Bill is also part of the Government's broader strategy to promote the increased use of alternative dispute resolution mechanisms and to reduce legal costs.

As Deputy O'Callaghan said, the Bill contains two key provisions relating to obligations on solicitors and barristers as regards mediation. Section 14 will require practising solicitors to advise clients to consider mediation as an alternative to court proceedings. Under section 4, solicitors must provide clients with information on mediation services, including details of mediators, information about the advantages and benefits of mediation, and information on confidentiality obligations and the enforceability of mediation settlements. To ensure that this

22 March 2017

requirement is met, the section provides that where court proceedings are instituted on behalf of a client, the application must be accompanied by a statutory declaration made by the solicitor confirming that these obligations have been discharged in respect of the client and the proceedings to which the declaration relates. If the declaration is not submitted, the court will adjourn the proceedings until the solicitor complies with the requirements. This is intended to ensure that the obligation is taken seriously. I agree with Deputy O'Callaghan's emphasis on the voluntary nature of mediation. The right of access to the courts must be recognised even if mediation is promoted and encouraged. That is important.

The Bill also takes account of certain matters raised by the Joint Committee on Justice, Equality and Defence hearings following its pre-legislative scrutiny of the general scheme, including the matter of regulation of the sector. I chaired those hearings at the time and I thank all the bodies and individuals that offered information, scrutinised the Bill and appeared before the committee to engage with members. This led to the Bill being improved as a consequence. That is the way that pre-legislative scrutiny should work.

I am somewhat concerned that certain Bills are going through the House at the moment - especially Private Members' Bills - which are not being scrutinised in that way. That is a pity because they could otherwise be improved and enhanced by using this methodology. I ask all colleagues to take account of that.

Arising from the committee's observations, further discussions were held with the mediation sector. The Bill now provides for the possible future establishment of a mediation council to undertake the functions set out in the Schedule to the Bill. This is an opportunity for the various parts of the mediation sector to join forces in order to promote mediation and develop mediation standards.

I have taken into account what Deputy Fitzpatrick said about standards, accountability and qualifications. I look forward to engaging with the sector on this aspect as the legislation proceeds through the Dáil.

I commend the Bill to the House.

Question put and agreed to.

Mediation Bill 2017: Referral to Select Committee

Minister of State at the Department of Justice and Equality (Deputy David Stanton):
I move:

That the Bill be referred to the Select Committee on Justice and Equality pursuant to Standing Orders 84A(3)(a) and 149(1).

Question put and agreed to.

The Dáil adjourned at 8.05 p.m. until 12 noon on Thursday, 23 March 2017.