



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

**DÁIL ÉIREANN**

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

Ceisteanna - Questions . . . . .	2
Priority Questions . . . . .	2
Energy Prices . . . . .	2
Exploration Industry . . . . .	4
Electricity Transmission Network . . . . .	6
Post Office Network . . . . .	8
Broadband Service Provision . . . . .	10
Other Questions . . . . .	12
Sale of State Assets . . . . .	12
Hydraulic Fracturing . . . . .	13
Hydraulic Fracturing . . . . .	14
Ministerial Priorities . . . . .	15
Post Office Network . . . . .	17
Broadband Service Provision . . . . .	19
Competition and Consumer Protection Bill 2014: From the Seanad . . . . .	21
Health (General Practitioner Service) Bill 2014: From the Seanad . . . . .	21
Betting (Amendment) Bill 2013: Order for Report Stage . . . . .	24
Betting (Amendment) Bill 2013: Report and Final Stages . . . . .	24
Topical Issue Matters . . . . .	34
Leaders' Questions . . . . .	35
Order of Business . . . . .	42
Membership of Committees: Motion . . . . .	47
Statement of Estimates for the Houses of the Oireachtas: Motion . . . . .	47
Standing Orders 125 and 129: Motion . . . . .	48
Draft Commission of Investigation (Ronan MacLochlainn) Order 2014: Motion . . . . .	48
Interdepartmental Report on the Commission of Investigation into the Mother and Baby Homes: Statements . . . . .	49
Topical Issue Debate . . . . .	73
Employment Rights . . . . .	73
Telecommunications Services Provision . . . . .	77
Defence Forces Fatalities . . . . .	79
Local Authority Housing Provision . . . . .	82

# DÁIL ÉIREANN

*Déardaoin, 17 Iúil 2014*

*Thursday, 17 July 2014*

Chuaigh an Leas-Cheann Comhairle i gceannas ar 9.30 a.m.

*Paidir.*

*Prayer.*

---

## Ceisteanna - Questions

### Priority Questions

#### Energy Prices

1. **Deputy Michael Moynihan** asked the Minister for Communications, Energy and Natural Resources the actions he will take to address the increasing cost of electricity for customers and businesses; if his attention has been drawn to the great concern amongst multinationals at the recent increase in the PSO levy; and if he will make a statement on the matter. [31677/14]

**Deputy Michael Moynihan:** I congratulate the new Minister and Minister of State and wish them the very best in the Department of Communications, Marine and Natural Resources. I pay tribute to the former Minister, Deputy Pat Rabbitte, and the former Minister of State, Deputy Fergus O'Dowd, and thank them for their courtesy over the past two years. I hope we will have as good a working relationship with the new Minister and Minister of State as we had with their predecessors.

Could the Minister tell me what actions he will take to address the increasing cost of electricity for consumers and business customers, whether his attention has been drawn to the great concern among high-energy users such as multinationals in respect of increasing the PSO levy and if he will make a statement on the matter?

**Minister for Communications, Energy and Natural Resources (Deputy Alex White):** I thank the Deputy for his kind words and I look forward to a fruitful relationship with him, the Opposition spokespersons and all Members of the House. I also join him in paying tribute to my predecessor, Deputy Rabbitte, for his stewardship in this role, and the former Minister of State, Deputy O'Dowd.

17 July 2014

I am acutely aware of the financial challenges faced by families and businesses as a result of high electricity prices. However, it is important to note that the electricity and gas markets are commercial, liberalised and competitive, and operate within national and European regulatory regimes. As Minister, I have no statutory function in the setting of electricity prices. Responsibility for electricity and gas market regulation is a matter for the Commission for Energy Regulation, CER, which is an independent statutory body.

At a national level, the competitive energy market in place results in choices for consumers and businesses in terms of suppliers, products and prices. Such competition places downward pressure on prices. Consumers can seek to mitigate rising electricity prices by shopping around, and measures such as comparison websites, approved by the CER, exist to assist them. They can and should shop around to get the best possible price and service deal from suppliers.

The CER is focused on actions that can mitigate costs for business and domestic customers, including rigorous regulatory scrutiny of the network costs component of retail prices. Households can reduce their energy costs by being energy efficient. Indeed, there are energy efficiency measures to assist business and domestic energy consumers, with significant funding allocated to them. The energy efficiency fund, announced in February 2013, funds specific measures, including projects in the public and commercial sectors. In addition, the Sustainable Energy Authority of Ireland, SEAI, administers a number of grant schemes for homes under the better energy homes scheme, as well as assisting businesses.

The public service obligation, PSO, levy has been in place since 2001 and is the overall support mechanism for generation constructed for security of supply purposes, including the security of supply provided by using indigenous peat for electricity generation. The PSO also provides the support mechanism for the development of renewable electricity. The levy is designed to compensate electricity suppliers for the additional costs they incur by purchasing electricity generated by these producers.

The greatest driver for the proposed levy increase for 2014-15 is the lower predicted wholesale market electricity price, currently estimated to be some 10% lower than last year. This results in lower predicted market income for the PSO plants, which means a higher levy is required to cover the allowed costs. Lower wholesale electricity prices are currently resulting from the lower international gas prices evident since the spring. If these lower gas prices are sustained for the coming months, they should help to reduce the wholesale cost of electricity paid by suppliers and, in turn, enable suppliers to reduce their retail prices.

**Deputy Michael Moynihan:** I thank the Minister for his reply. One of the main energy suppliers in the Irish market, ESB, made a profit of some €425 million in 2013, an increase of 23% on the previous year. My understanding is that the CER is there to protect householders and businesses by ensuring there is a competitive market and helping them to secure the cheapest possible electricity. I am concerned that the commission is not doing its job. Indeed, if an energy provider can make close to €0.5 billion in profits on the backs of Irish householders and business owners, it seems clear the CER is not fulfilling its protective role.

In the past three or four years, whenever energy prices have risen on the wholesale markets, energy providers have immediately raised the cost for consumers. When wholesale prices go down, however, the suppliers claim they must wait until the reserves are used up before they can reduce retail prices. It is time the CER justified its existence in terms of how it sets electricity prices in a situation where a prominent energy provider made profits of more than €400

million last year. I understand the Minister's point regarding statutory powers and so on, but I urge him to take a hands-on approach to address this unacceptable situation.

**Deputy Alex White:** The Minister's role in this matter is very clearly delineated in law, as is the role of the Commission for Energy Regulation. That is as it should be in terms of the configuration of the different responsibilities residing in different entities. However, I note the Deputy's point in regard to prices generally. This issue is the subject of ongoing debate in a context where electricity prices in this country have historically been high compared with other countries. A long period without any price increases being granted to the ESB coupled with rapid growth in electricity demand resulted in a legacy of under-investment in energy infrastructure, both generation and networks. Accordingly, our current generation portfolio is older and less efficient than those of our neighbours, which sees plant performance suffer. A much higher level of investment is required and is being applied in our transmission and distribution systems.

Another point to note is that Ireland has possibly the highest dependence on fossil fuels in the EU, at more than 85%. Only Italy and the Netherlands have a comparable level of fossil fuel penetration. These are issues we must bear in mind when we survey the overall position in respect of prices.

**Deputy Michael Moynihan:** Notwithstanding his point regarding statutory powers and so forth, which I accept, does the Minister, as custodian for the public interest in this area, intend to engage with the CER on this issue? I am sure there is provision for the Minister to seek a meeting with the regulator to discuss its performance and convey the concerns of the public and business owners regarding decisions it has already made and the decisions it will be making on costs, the PSO levy and so on.

**Deputy Alex White:** To reiterate, there is no basis for the Minister in any way directing the CER. However, the Minister does, of course, have a responsibility in these matters in the public interest. On 6 June, the regulator published the proposed decision paper on the PSO levy for 2014-2015. That levy is of critical importance in the context of the issues the Deputy has raised. My predecessor wrote to the chairperson of the CER on 16 June noting that the proposed increase was very significant and that a reduction in retail prices might logically be assumed to follow on from falling wholesale electricity prices. The Minister further noted that although wholesale prices have fallen in recent years, consumers have not seen the benefit in lower retail prices. While acknowledging that other factors such as rising network costs may also affect retail prices, he noted that customers should be able to understand the relationship between wholesale and retail prices. The Minister concluded by expressing his confidence that the CER would take all appropriate action within the regulatory framework to ensure proper and effective price competition for the benefit of consumers. I intend to continue that approach as Minister in this portfolio.

## **Exploration Industry**

2. **Deputy Michael Colreavy** asked the Minister for Communications, Energy and Natural Resources the approach he will take regarding subterranean drilling and any conflict that could arise with property owners; and if he will make a statement on the matter. [31949/14]

**Deputy Michael Colreavy:** I take this opportunity to congratulate the Minister, Deputy

17 July 2014

Alex White, and Minister of State, Deputy Joe McHugh, on their appointments. I look forward to working with them. Although I crossed swords on many occasions with their predecessors, Deputies Pat Rabbitte and Fergus O'Dowd, and was sometimes frustrated with them, I do recognise that they worked very hard and were making progress. In my view, the process around the ministerial reshuffle lacked decency. I will leave it at that.

My question concerns the approach the Minister intends to take on the issue of subterranean drilling and any potential associated conflict with property owners.

**Minister of State at the Department of Communications, Energy and Natural Resources (Deputy Joe McHugh):** I thank the Deputy for his kind words. I look forward to working with him and with the Minister and departmental officials. The Deputy's question is a broad one and my response reflects that. If there is a specific issue the Deputy wishes to raise, I will be happy to address it in my supplementary reply.

Drilling is a normal part of mineral and hydrocarbon exploration and is comprehensively regulated under the authorisation rules of the Department and of other regulatory regimes. Landowners' interests are fully recognised and protected through statutory notification and public consultation processes afforded by the relevant licensing regime, the statutory planning process and the integrated pollution prevention control licensing regime, as appropriate. Entry onto land is subject to landowner agreement. There are also provisions for the reinstatement of lands and the payment of compensation to affected landowners in specified circumstances.

In terms of the impacts of exploration and drilling for minerals on land, it should be recognised that drilling small diameter bore holes to obtain basic geological information does not cause significant impacts. In the case of mining operations, works may be several hundred metres below the surface of the land. When damage or a nuisance is caused under authorisations, there is a requirement under the statute to pay compensation for such damage or nuisance to affected parties.

**Deputy Michael Colreavy:** I thank the Minister of State for his reply. However, I am as wise now as I was before I tabled the question. Hydraulic fracturing involves vertical and horizontal drilling. A drill rig might be located 1 km from my home but as a result of the horizontal aspect, drilling could actually occur underneath it. What is the legal position for home owners and landowners in circumstances where this activity is occurring underneath their properties? Do they have the right to object? There is no question of a drilling company entering through a gate because the type of process to which I refer occurs underground. What rights do people have in the context of ensuring the integrity of their lands and homes will not be damaged? What legal protections are in place?

**Deputy Joe McHugh:** As already stated, the Deputy's initial question was general in nature and referred to subterranean drilling. Obviously, the latter encompasses mining. I asked him to pose a specific question following my reply and he has done so by focusing on hydraulic fracturing, or fracking, of rock formations. There is no plan at present to allow hydraulic fracturing to take place. Both of our predecessors in the Department, Deputies O'Dowd and Rabbitte, consistently stated that it is not proposed to consider applications for authorisations involving the use of hydraulic fracturing to take place until research the Environmental Protection Agency is carrying out into the potential environmental impact of this process has been completed and considered. It is important to point out that there are no plans to allow the use of hydraulic fracturing. It is also important to highlight that a call for tenders was issued by the

EPA in November 2013 and that a steering group involving various departmental agencies has been established. That group has been reviewing the tenders received and an announcement on the award of the contract is expected shortly.

**Deputy Michael Colreavy:** What precise legal protections are available to landowners, home owners, etc., if companies decide to drill beneath their properties? Will the Minister of State establish the position in that regard and communicate further with me in respect of it?

**Deputy Joe McHugh:** The Deputy asked a specific question on protections for landowners. In any context, entry onto land is subject to the agreement of the owner.

**Deputy Michael Colreavy:** What legal protections apply with regard to underground or subterranean drilling?

**Deputy Joe McHugh:** Mining on land occurs in this country and there are statutory processes and planning obligations which apply. There are no plans to get involved in the hydraulic fracturing process.

**Deputy Michael Colreavy:** Will the Minister of State just establish for me the legal rights home owners would have if subterranean mining occurred under their properties?

**Deputy Joe McHugh:** I reiterate that entry onto land, be it on the surface or underground, is subject to the agreement of the owner. I am not going to waffle or bluff. That is the answer.

**Deputy Michael Colreavy:** So that is what applies.

**Deputy Joe McHugh:** Absolutely.

### **Electricity Transmission Network**

3. **Deputy Seamus Healy** asked the Minister for Communications, Energy and Natural Resources if he will provide an update on the work of the expert panel appointed to review the Grid Link routes, with specific reference to the undergrounding of cables; and if he will make a statement on the matter. [31679/14]

**Deputy Seamus Healy:** I congratulate the Minister and Minister of State on their appointments and wish them well for the future. The proposal to construct monster pylons 45 m high - ten times the height of an average bungalow - throughout the country to carry high-voltage power lines has given rise to significant concern among members of the public. When the process for submissions in respect of these closed on 8 January last, some 35,000 had been received. This provides an indication of the concern which exists. It is for this reason I have asked the Minister to provide an update on the work of the expert panel appointed to review the Grid Link routes, with specific reference to the undergrounding of cables.

**Deputy Alex White:** I thank the Deputy for raising this issue. The independent expert panel considering EirGrid's Grid West and Grid Link projects has held six meetings. The panel was asked to oversee the integrity of a process to be undertaken by EirGrid to report on the Grid West and Grid Link projects. That process is now under way and the panel expects to be in a position to provide an opinion to me on the Grid West project in January 2015 and on the Grid Link project by August 2015. The panel also agreed to provide an opinion to my predecessor

17 July 2014

on the compatibility of the methodologies to be employed on the Grid West and Grid Link projects with what has already been done in respect of the North-South project. Having considered multiple reports and discussed the matter at several meetings, on 1 July 2014, the panel advised it was unanimously of the opinion that, in all material respects, what has already been done on the North-South project is compatible with the methodologies now being employed on the Grid West and Grid Link projects. While the panel acknowledged that no two grid infrastructure projects are identical, and that some non-comparabilities were likely to arise when assessing the potential environmental impacts, technical efficacy and cost factors, it was of the opinion that no material differences in the methodologies arose.

The panel also noted that the North-South project is part of an ongoing process which it expects will be subjected to a rigorous assessment as part of the planning processes in Ireland and Northern Ireland. Those planning processes allow all concerned parties, including potential objectors to the North-South project, to register their objections and to have them considered by the planning authorities. Having provided this opinion to the previous Minister earlier this month, the panel has completed its consideration of the North-South project.

**Deputy Seamus Healy:** The Minister stated that the independent expert panel is examining this matter. Many people throughout the country are concerned about the actual independence of the panel. That concern arises for two reasons in particular. In the first instance, the panel is being advised and provided with technical, financial and engineering information by EirGrid. There is a significant lack of confidence regarding the latter being in a position to provide independent advice and expertise to the panel. The process of consultation used by EirGrid up to now has been flawed. A further difficulty arises in that the panel will be making recommendations to the Minister, Deputy White. His predecessor made it quite clear that he was wedded to the option of using overhead pylons. Will the Minister confirm that he has an open mind, that he is not wedded to the latter option and that he is prepared to consider the undergrounding of cables?

**Deputy Alex White:** One of the key concerns arising from the public consultation process on Grid25 was the extent to which undergrounding options had been explored to allow ready comparison to be made in respect of overhead line solutions for individual projects. That is why EirGrid was asked to conduct a comprehensive analysis of what would be involved in undergrounding the high-voltage cables for the Grid West and Grid Link projects. As already outlined, the independent expert panel was put in place by my predecessor.

*10 o'clock*

To the extent that there is any concern or lack of confidence about the process or its independence, the composition of this independent expert panel and the expertise of its members should allay any such concern or lack of confidence. Mrs. Justice Catherine McGuinness, a retired Supreme Court judge, is chairing the expert panel. The other members are the economists Mr. John FitzGerald and Mr. Colm McCarthy, engineering professor Keith Bell of the University of Strathclyde and Dr. Karen Foley, head of the school of landscape architecture in UCD. They are entirely independent persons who will do a good job and provide their report to me. I will await that report before making any further comment.

**Deputy Seamus Healy:** Membership of the panel is not the issue I raised. The issue is that this panel will be making recommendations to the Minister. The previous Minister made it quite clear that he was completely wedded to pylons and I am asking the current Minister

to confirm that he at least has an open mind on this issue and that he is prepared to consider seriously, and to construct if that be the case, the undergrounding of these cables. Can he give confirmation of that?

**Deputy Alex White:** These are complex processes involving the assessment of evidence, particularly relating to planning. The Deputy knows the planning process is set out quite clearly in statute and is not a matter of the opinion of any individual Minister or otherwise on it. The job I must do is to uphold the integrity of that process, and I intend to do that. The independent expert panel will enhance the integrity of the process. The panel's job is to provide an opinion to me on the objectivity, comparability and completeness of the studies that have been done. Are the methodologies up to scratch and fit for purpose? Are they right and are they in accordance with what one would expect in terms of proper assessment and evaluation of these projects? That is what the independent expert panel is doing. It is not making ultimate decisions on the merits but looking at the methodologies employed in comparing underground and overground options. I will await the views of the independent panel before making any comment on it.

### **Post Office Network**

4. **Deputy Michael Moynihan** asked the Minister for Communications, Energy and Natural Resources the actions he has taken to secure the future of our post office network; his position regarding the impact on local post offices of the use of electronic transfer for social welfare payments; and if he will make a statement on the matter. [31678/14]

**Deputy Michael Moynihan:** What actions does the Minister intend to take regarding the future of the post office network? The network is under constant threat due to the impact of electronic transfers in the social welfare payments system. Will he give his opinion on the future of the post office network?

**Deputy Alex White:** It is Government policy that An Post remains a strong and viable company, in a position to provide a high quality, nationwide postal service and maintain a nationwide customer-focused network of post offices in the community. Proposals for a whole-of-government review of the scope for providing additional public services through local post offices were presented to the Cabinet committee on social policy at its meeting on 28 April last. In its initial consideration, the committee agreed to the proposal for a review of the scope for providing additional public services through the post offices. This process is under way and my Department is examining the initial responses received from other Departments with a view to engaging in further discussions with the relevant Departments, as necessary, with the aim of presenting a final report to the Cabinet committee in September. The impact of the use of electronic transfer for social welfare payments on local post offices is a factor to be considered as part of this process.

An Post has undertaken a programme of capital investment in the computerisation of the post office network, including the automation of all post offices. The post office network is well positioned to become the front office provider of choice for Government and the financial services sector for both electronic transactions as well as the more traditional over-the-counter transactions. Any such developments would be subject to public procurement requirements. I envisage a strong future for the network by using its existing strengths to remain a significant player in the provision of Government, financial and other services.

17 July 2014

**Deputy Michael Moynihan:** There has been huge debate both inside and outside this House about the post office network and what it requires. We all support the post office network but despite that, the network across the country is dwindling. It is time for a fundamental shift in policy. Earlier we referred to the obligation on the ESB to maintain its network deep in rural communities, which is an obligation imposed on the company under statutory instrument and legislation. It is time we examined the memorandum of understanding for the establishment of An Post and its management and governance and told An Post that it must maintain the network. It must be provided for in statute that An Post must maintain the network in rural communities. Then it can go after the business to make those post offices viable. What is happening at present is that services are being withdrawn, piece by piece, from An Post and the post offices are becoming non-viable both for the postmasters or the postmistresses and An Post. We must fundamentally change the way An Post is established to ensure there is a statutory obligation on it to maintain the network. After that, it can pursue the business.

**Deputy Alex White:** The Deputy makes some interesting points which I am sure will feature in the ongoing debate and consideration of this issue. As he correctly pointed out, it has been debated extensively in the Dáil. An Post has the largest retail presence in the country. Ireland has one of the most extensive post office networks per head of population in the EU. There are 1,147 active company and contractor operated post offices and 145 postal agents. A total of 65% of post offices are located in rural areas, bringing important local services to local communities in rural areas of the country. The Deputy mentioned that the number is dwindling. There have been some closures but it is interesting to note that although there were 197 closures between 2006 and 2010, from the end of 2010 to date only 17 closures have occurred. It is important to bear that in mind, but I accept the points the Deputy makes.

**Deputy Michael Moynihan:** I have studied this back and forth. There has been much talk about giving State business to An Post. The driver licence system should have been given to An Post and the terms of reference for the tendering should have been changed to ensure it did go to An Post. What should emerge from the whole-of-government report is that every State service should be geared towards An Post. Of the 17 post offices the Minister mentioned that have closed, I believe three of them closed in north Cork over the past six or eight months. We must fundamentally change how An Post is set up and governed. We might talk about putting Government services in An Post or making it a special office for Government services but unless we compel the State company, An Post, to maintain the services deep in the rural communities, that 65% of post offices will dwindle further over the years.

**Deputy Alex White:** I accept the Deputy's point regarding the post office network and this issue being an important matter of public policy. However, we also live in a world that is characterised by public procurement rules, and we must live with those rules. I doubt that anybody is suggesting that such important rules should be bent or moved in a particular direction. I believe the two worlds, the world of the rules governing public procurement on the one hand and the important public policy consideration that the Deputy mentions on the other, can co-exist. How best to balance these imperatives is the issue the Cabinet committee on social policy is addressing. As I mentioned earlier, that Cabinet committee will return to this matter in the autumn. The Deputy should be reassured that the Government strongly believes in the continuing role of the post office network in providing important services in local communities.

## **Broadband Service Provision**

5. **Deputy Seamus Healy** asked the Minister for Communications, Energy and Natural Resources if he will provide an update on the provision of high-speed broadband throughout the country; the progress being made in the provision of high-speed broadband services to rural areas; and if he will make a statement on the matter. [31680/14]

**Deputy Seamus Healy:** The availability of quality high-speed broadband in both urban and rural areas throughout the country is vital for job retention, job creation and social and economic development. Will the Minister provide an update on the provision of this broadband throughout the country?

**Deputy Alex White:** The Government's statement of priorities for the period 2014 to 2016 reaffirms our commitment to delivering State-led broadband intervention in rural areas. The Government's national broadband plan aims to change radically the broadband landscape in Ireland by ensuring high-speed broadband is available to all citizens and businesses. This is being achieved through measures designed to accelerate commercial investment and the development of State-led intervention for non-commercial areas.

Since publication of the plan, investments by the commercial sector have accelerated with commercial operators investing, or committing to invest, approximately €2.5 billion in networks and services. The recent announcement of a joint venture between ESB and Vodafone will result in further deployment of high-speed networks in 50 towns, providing the possibility of direct fibre connectivity for 500,000 premises.

The Government has committed to an ambitious plan which involves ensuring the delivery of broadband services to those parts of rural Ireland that will not be served by the commercial sector. Services will be delivered over a network, with fibre at its foundation, which is sustainable and guarantees a quality broadband service to rural consumers in future. This will be the key element of an intervention strategy that will ensure all citizens and businesses can access high-speed broadband services regardless of where they live.

Under EU state aid guidelines, member states cannot intervene where commercial investors have plans to roll out services. A comprehensive mapping exercise is under way in my Department to identify areas that require State intervention. An initial list has already been identified and includes over 1,100 locations throughout the country.

A stakeholder consultation on the implementation of the State-led intervention has recently been launched and will feed in to the mapping exercise, which I expect to conclude in the autumn. It is my intention to conduct a full public consultation on the outcome of the mapping process and the proposed intervention strategy. EU state aid clearance will be required. This will be followed by a detailed procurement process with a view to commencing the roll-out of high-speed broadband services as quickly as possible.

*Additional information not given on the floor of the House*

It is my intention to progress this complex and ambitious project as a key priority. I believe it will address current connectivity challenges in a sustainable and meaningful way and will ensure that rural Ireland can enjoy comparable levels of quality and service to those experienced in urban areas.

17 July 2014

**Deputy Seamus Healy:** I thank the Minister for his reply. This is a vital area for job retention and creation especially in areas deemed to be non-commercial. These areas are generally small towns and villages and rural areas where job creation is all about small industries such as home industries or individuals working from home. This is vital. Will the Minister give some indication of the timescale for the development?

**Deputy Alex White:** Intensive work is continuing in the Department to develop full details of the intervention strategy I have outlined. The outcome of the mapping exercise to which I referred will be published for public consultation in quarter four of this year. There are two items. The mapping exercise will be available in quarter four of this year and the comprehensive implementation strategy to which I referred will be published in early 2015 for public consultation. It is important for this to be done. Stakeholder consultation on the implementation of the intervention has recently been launched. It is important to seek views on the criteria to be used in finalising the locations throughout the country.

I agree with what the Deputy has said about the importance of this area. He said it was vital and I agree with him. It is my intention to progress this ambitious project and it is a key priority for me and the Department. We need to do this to address the connectivity challenges that exist and that cannot and realistically will not be addressed by the commercial sector and which, therefore, must be addressed through state intervention. I am committed to ensuring this happens.

**Deputy Seamus Healy:** Will the Minister indicate the nature of the consultation? It is vital that there is full and adequate consultation on this issue.

**Deputy Alex White:** As I said, the steps required to be taken include the completion of the mapping exercise. I referred to that earlier. The idea is to map out where the areas of need are throughout the country. We are being assisted by NUI Maynooth in this regard. This is a useful mapping exercise which I have seen used in other areas of public policy. The idea is that where we see need across the country, we map it. Then people can get the chance for consultation on the mapping exercise in respect of their own areas and towns. For example, the Deputy will have the opportunity in respect of his constituency and the areas of need he may have identified there. Other colleagues and citizens will have an opportunity to respond as well. We will publish the exercise for public consultation in quarter four of this year. The implementation strategy that arises from all of this will then be published for public consultation in early 2015. I cannot give a specific date but it is my intention that it will be done in early 2015. The consultation is critical to this process. There should be every opportunity for citizens, public representatives and businesses to have an input into the process in order that we get the thing right.

*Dáil Éireann*  
**Other Questions**

**Sale of State Assets**

6. **Deputy Michael Moynihan** asked the Minister for Communications, Energy and Natural Resources to set out the final revenues raised by the sale of Bord Gáis Energy; the way the resources generated by the sale will be used by Government; the spend on consultants and other expertise during and on completion of the sale; and if he will make a statement on the matter. [31426/14]

**Deputy Michael Moynihan:** Will the Minister for Communications, Energy and Natural Resources set out the final revenues raised by the sale of Bord Gáis Energy, the way the resources generated by the sale will be used by Government, the spend on consultants and other expertise during and on completion of the sale, and make a statement on the matter?

**Deputy Alex White:** On 30 June last, the sale of Bord Gáis Energy was completed. In line with the share purchase agreement entered into by Ervia, formally Bord Gáis Éireann, the total enterprise value, inclusive of debt, for the sale is €1.1 billion, including a small element of contingent consideration.

On 7 July, a special dividend of €150 million was received from Ervia representing the first instalment of proceeds from the sale of Bord Gáis Energy. Further special dividends will accrue from that sale. Under EUROSTAT rules, there are limits to the amount of such dividends that can benefit the general Government balance in any one year. Potential future dividends to be achieved in the coming years will be subject to two criteria. The restructuring of the company will involve the establishment of the proposed new gas networks company in accordance with the Gas Regulation Act 2013, which is expected to be completed later this year. There will have to be full consideration of the appropriate gearing level in line with the company's growth plans as well as regulatory and policy objectives. The net proceeds of the sale, when combined with the planned re-gearing and the contingent consideration, are expected to deliver total dividends in the order of €1 billion for the Exchequer.

Deputy Moynihan asked about the revenue raised from the sale of Bord Gáis Energy. The Government's consistent position is that the funds released from asset disposals, to include the proceeds from the sale of Bord Gáis Energy, should be used, to the greatest extent possible, to support job creating initiatives in the economy.

I can confirm that the total fees to be paid to the Government's financial and legal advisers amount to €1.2 million, excluding VAT. The Ervia annual report has recently been published and Ervia has provided additional details on professional fees paid relating to the transaction amounting to €18 million. I am advised that the fees and transaction costs are within the normal range for this type of large and complex transaction.

**Deputy Michael Moynihan:** We opposed the Bill as it was going through the House. The Minister has outlined what has been accrued from the sale. It is vital that the moneys from the sale are used to best possible effect for job creation. The Department should examine the shortfalls in the areas under its remit and what is needed within the Department. The previous question from Deputy Healy related to broadband. That is one of the major barriers to job creation in rural communities. It is vital that the moneys used have a tangible benefit and that they

17 July 2014

are not simply used to write down debt and so on. They should be used for job creation and to benefit the economy and the State for generations to come. Previous Governments set up Bord Gáis, the ESB and other semi-state bodies. It is vital that we consider that and ensure there is a tangible benefit to the State for generations to come.

**Deputy Alex White:** It is worth repeating that the Government's consistent position has been that the funds released from asset disposals, including the proceeds from the sale under discussion, that is, the sale of Bord Gáis Energy, should be used to support job creating initiatives in the economy. I agree with the general tenor of the Deputy's remarks to the extent that, where sale agreements like this are concluded and a certain value accrues to the State, there should be a dividend in the broad sense to the economy by the opportunity to invest in job creation.

### **Hydraulic Fracturing**

7. **Deputy Michael Colreavy** asked the Minister for Communications, Energy and Natural Resources if his Department has an official definition of the hydraulic fracturing process; and if he will make a statement on the matter. [31642/14]

**Deputy Michael Colreavy:** My question is whether the Department has a definition of the hydraulic fracturing process.

**Deputy Joe McHugh:** While the term "hydraulic fracturing" is not defined in legislation, it is a well understood term. I can point the Deputy to a clear definition of the term provided on the Environmental Protection Agency's website in the context of the call for proposals issued on 22 November 2013 seeking tenders to undertake further detailed research on the potential impacts on the environment and human health from unconventional gas exploration and extraction projects. Hydraulic fracturing is defined by the EPA as a process which involves the creation of, or the propagation of, a fracture in a rock layer, by means of a pressurised fluid in order to release petroleum, natural gas, coal-seam gas or other substances for extraction. The energy from the injection of a highly pressurised fluid, such as water, creates new channels in the rock which can increase the extraction rate and ultimately recovery of fossil fuels.

The EPA research programme will be significant and will include identification and a detailed examination of potential impacts on the environment and human health, as well as potential successful mitigation measures to counteract the impacts of such projects and operations that have come to the fore worldwide. Where appropriate, it is expected that findings will be accompanied by reference to experiences in other countries. The selection process, overseen by a steering group chaired by the EPA and which includes representatives from my Department and a number of other Departments and agencies, has been concluded. An announcement from the EPA on the award of the tender is expected shortly.

**Deputy Michael Colreavy:** The context in which I asked the question is the planning application process in the Six Counties, specifically in Antrim by Rathlin Energy Limited. It is disturbing because the company is using different words as part of the application process. The company talks about production scale shale gas, conventional versus unconventional exploration, low volume versus high volume and rock or shale stimulation. It says it is not fracturing because proppants such as quartz sand will not be added to the fracking fluid. The company is trying to change the definition and we need to keep an eye on the planning application process.

The worrying thing is that the Department of the Environment in the North is beginning to use the same language.

**Deputy Joe McHugh:** I share the Deputy's concerns. We have heard conflicting reports on the fracking process. North Dakota comes to mind. As part of the research, which has not yet been awarded, dual emphasis must be placed on the environment and human health. The Minister shares my concerns and the Department shares these two parameters as twofold concerns. The more detailed research programme will be conducted over a period of two years and will not be published until 2016. We have two years to learn and there are examples in the Six Counties from which we must learn. Let us learn from there, from the United States and from other countries. We must look at the twofold important parameters of human health and the environment.

**Deputy Michael Colreavy:** I welcome the fact that the Minister has put on record his concern about this and his awareness of the risks. If I had my way, we would not consider fracking on a small island. We must learn but we must also be conscious that companies will say and write anything in order to get investors and planning applications for fracking. Once the gas is gone in 15 years' time, they will not care as their investors will have the money and we will be left with the mess.

**Deputy Joe McHugh:** Let us learn from experiences and let us be on the ball. We have a two-year period so we should use all aspects of the mechanics within the democratic House, such as the Joint Committee on Communications and Transport. The community must also be involved in the research over the two years. We must be open with people, learn from experiences and ensure every t is crossed and every i is dotted in ensuring that health and the environment are protected during this detailed research programme.

*Question No. 8 replied to with Written Answers.*

## **Hydraulic Fracturing**

9. **Deputy Michael Moynihan** asked the Minister for Communications, Energy and Natural Resources when the Environmental Protection Agency will complete its review of hydraulic fracturing; his position on hydraulic fracturing; and if he will make a statement on the matter. [31427/14]

**Deputy Michael Moynihan:** The question is on the same theme as the previous question. When will the Environmental Protection Agency complete its review of hydraulic fracking? What is the position of the Minister of State on hydraulic fracking?

**Deputy Joe McHugh:** We will be going over the same ground, if Members will forgive the pun. In November 2013, the Environmental Protection Agency, EPA, issued a call for tenders to engage the relevant expertise to conduct detailed research into the potential impacts of hydraulic fracturing technology. The selection process, overseen by a steering group that includes representatives from my Department and a number of other Departments and agencies, has concluded. An announcement from the EPA on the award of the tender is expected shortly. The research programme envisaged will be very significant and will include identification and a detailed examination of potential impacts on the environment and human health, as well as potential successful mitigation measures to counteract the impacts of such projects and opera-

17 July 2014

tions that have come to the fore worldwide. Where appropriate, it is expected that findings will be accompanied by reference to experiences in other countries. The research programme will take in the region of two years to complete.

**Deputy Mick Wallace:** Large corporations, who are likely to engage in the fracking process if they are allowed, have a wonderful capacity to buy the research and influence how the media covers the matter. In America, fracking has been lauded as a wonderful form of cheap energy and a great help to the state, while others are trying to highlight the fact that the water table has been seriously damaged. The short-term financial gains could be damaging in the long term for the health of individuals who live in the area as well as the environment. It is important that we do not accept lock stock and barrel everything the large companies tell us because they have a poor history in the area.

**Deputy Joe McHugh:** Vigilance is key and there will be vigilance in the House. In framing public policy, we must review how we work with our communities and the community representation structures. Lessons must be learned from some of the bigger issues, such as pylons and the question of underground versus overground lines, and about how public policy must include the community. It must be part of this and, within the two-year period, I will be vigilant and adamant that community has a voice about its concerns from the human and environmental points of view.

### **Ministerial Priorities**

10. **Deputy Michael Moynihan** asked the Minister for Communications, Energy and Natural Resources to outline his priorities for his Department for the coming 12 months and the key goals he is setting for the coming two years; and if he will make a statement on the matter. [31425/14]

**Deputy Michael Moynihan:** I would like the Minister to set out his priorities for the next 12 months and his key goals for the coming two years.

**Deputy Alex White:** The Government's statement of priorities for the period between 2014 and 2016 sets out clear and ambitious targets, which will build on the achievements of the last three years, broaden and deepen the economic and social recovery and improve the living standards of our citizens. Energy and broadband connectivity, which are among the most strategic sectors of the economy, are clearly reflected in the strategy for economic and social recovery set out in the statement. It identifies the promotion of investment in indigenous energy production, the reduction of emissions, the improvement of security of supply and the creation of jobs as overriding objectives. We need to be cognisant of energy cost competitiveness while anchoring Irish energy policy in the three pillars of EU energy policy. In the area of broadband, the national broadband plan aims to ensure high-speed broadband is available to all citizens and businesses irrespective of location. Significant commercial investment is under way and will be complemented by State investment aimed at addressing areas where there is no commercial case for investment. An online trading voucher scheme, which is targeting support to over 2,000 small and medium-sized enterprises over a two-year period, has been launched to help create jobs and growth in such enterprises.

Over the coming months, I will engage with my Department in the preparation of a new statement of strategy which will set out the key objectives, outputs and related strategies for the

Department over the next three years. While I would not attempt to anticipate the full scope of the statement or list all the priority areas for action at this stage, I expect it will include a legislative programme that will include new broadcasting, minerals and fisheries legislation. An energy White Paper that takes account of energy and climate change objectives and targets over the medium and long terms, specific obligations relating to renewable energy deployment and energy efficiency for the period up to 2020 and the need to ensure security of supply and competitiveness in our energy system will be developed. The statement will also provide for the further development of the national broadband plan, the continued roll-out of the national digital strategy; the provision of support to a diverse and financially stable broadcasting sector; the roll-out of the national postcode project; and the overseeing of the 2015 offshore oil and gas licensing round.

**Deputy Michael Moynihan:** I would see a number of issues as priorities in the highly unlikely event that I would ever sit in the Minister's seat. The priority on the communications side has to be broadband. We have a two-tier society in relation to broadband. People in some places can get broadband but people in other places cannot. The new broadcasting charge is a huge issue for the independent radio networks, which will celebrate 25 years in existence this year and have done exceptional work. It is high time for us to look at their funding in the context of the funding of the State broadcaster, with which I would have many issues. As I said during our discussion on a previous question, it is high time we changed the memorandum of understanding in relation to the post office network. The cost of energy to consumers and business users also has to be prioritised. On natural resources, the fracking issue has to be dealt with because there are huge fears among people in this regard. It is time we made our inland fisheries a priority because they are a huge resource that is totally under-utilised. A large part of our tourism industry could be built on it. These matters should be priorities

**Deputy Alex White:** We do not know what the destination of anyone in this House will be. We do not know which side of the House we will be on, or which positions we might occupy, in the future. On the basis of the manner in which the Deputy has outlined his priorities, I could see every possibility that he will have an opportunity to take up a position in the future. I agree with his survey of the main issues. He is right in respect of broadband. I have already spoken about the importance I attach to that issue. I do not disagree with the Deputy at all in this regard. Broadcasting is a hugely important area. We must ensure the public and private sectors in broadcasting are strong and vibrant. We must ensure support for both. We have had a vibrant and dynamic independent sector since it was set up on a statutory basis in the late 1980s. Various stations were legalised when the legislation came through in 1988 or 1989. I support this sector and want to see it going from strength to strength. Equally, we must ensure we have a strong public broadcaster. The approach I will be taking is that the two sectors should complement each other.

The Deputy is right to raise issues like the post office network, which we have already debated, the cost of energy and inland fisheries. I am not just observing the niceties of the last day of this parliamentary session when I say I am looking forward to working with Deputies across the House and hearing their views. For example, I would like to have a further discussion with Deputy Moynihan on his views on the post office memorandum he mentioned to understand better what he has in mind. Equally, I am very interested to hear what Deputies Colreavy, Wallace, Healy and Ó Cuív have to say.

**Deputy Michael Moynihan:** The independent networks, which are 25 years old this year, have provided a fantastic service throughout the land. Value for money is an issue within the

17 July 2014

State broadcaster. We cannot continue to ignore the huge issues in relation to the State broadcaster. It is vitally important for us to look at them. The other issue I raised was the complete under-utilisation of our inland fisheries as a natural resource. We need to bring that to the fore as well. Those issues will have to be adjudicated on in this House over the next while. When we ask questions approximately once a month on the issues involving this Department that are affecting the public, we will seek to make sure action is being taken on them.

**Deputy Alex White:** I repeat that I am willing to work with the Deputies on these issues. I know the Minister of State, Deputy McHugh, who is responsible for natural resources, has the same view. We can try to address what the Deputy referred to as the “under-utilisation of our inland fisheries” and seek to bring forward ideas in that regard. We can return to the question of broadcasting on a future occasion. I hope it does not always come down to a zero-sum debate between public and private broadcasting. It is a little unfortunate that in these debates, people sometimes press for an advantage for one sector which they think will put the other sector at a disadvantage. We should try to support both and ensure the balance is right.

### **Post Office Network**

11. **Deputy Éamon Ó Cuív** asked the Minister for Communications, Energy and Natural Resources the policy focus and the discussions he has had in relation to the provision of enhanced services from the post office network; and if he will make a statement on the matter. [31296/14]

**Deputy Éamon Ó Cuív:** I suppose there is no issue that is more debated in Ireland than the future of our post offices. This question goes to the kernel of the dilemma we face as we try to make our minds up on this issue. Some people see State companies as ordinary companies that happen to be in State ownership. Other people see them as a way of providing the community with vital services that would not otherwise be provided by the public sector. What is the Minister’s view of where we should go with the post offices? How will he develop them as public service offices?

**Deputy Alex White:** It is Government policy that An Post should remain a strong and viable company that is in a position to provide a high-quality, nationwide postal service and maintain a nationwide customer-focused network of post offices in the community. Proposals for a whole-of-Government review of the scope for providing additional public services through local post offices were presented to the Cabinet committee on social policy at its meeting on 28 April last. In its initial consideration, the committee agreed to the proposal for a review of the scope of additional public services in the post offices. This process is under way. My Department is examining the initial responses received with a view to engaging in further discussions with Departments as necessary, and with the overall aim of presenting a final report to the Cabinet committee this September.

I see a strong future for the network if it uses its existing strengths to remain a significant player in the provision of Government, financial and other services. Securing the future viability of the post office network in the longer term will entail the network continuing to modernise, as it is doing, to provide the services its customers require. Of course any such developments will need to be subject to competition and public procurement requirements as appropriate. I do not doubt that we will return to this issue in the House, particularly on foot of the work being carried out in the Cabinet committee on social policy.

**Deputy Éamon Ó Cuív:** I thank the Minister for his reply. First, we will not be able to do justice to this issue this morning but has the Minister had even preliminary discussions with his colleague, the Minister for Social Protection, to ensure that the social welfare contract will remain with post offices? That is the anchor, and it can be done by demanding that whoever provides that particular social welfare service has an office on offshore islands and in every rural community. I do not see Tesco or Aldi making that bid.

Second, does the Minister envisage new public services being provided through post offices during the remainder of his term? For example, there was talk of making licences available and so on. Does he see that happening?

Third, the Minister mentioned An Post but post is a declining business. Fewer people use the postal service because of e-mail. Does the Minister see these as post offices with adjunct services or the nearest local delivery point of a range of public services into the future, with the postal service being only a small part of a big package of services?

**Deputy Alex White:** I have had only the most preliminary discussion on this issue with the Tánaiste and Minister for Social Protection but I have no doubt I will have an opportunity to discuss this matter further with her in the period ahead.

I do see opportunities in respect of the post office network but like any other sector, those opportunities must be sought, developed and brought forward. That is what An Post needs to do and, I am sure, that is what it will do.

The Deputy mentioned the Department of Social Protection cash contract. He will be aware that in June 2012, An Post was selected as a supplier for over the counter cash services for social welfare payments as phase 1 of that payment strategy. On foot of the AIB decision to close a number of branches, an extended range of AIB services is now available through post offices in the locality of those closures. An Post and Aviva have completed an arrangement whereby An Post has taken over Aviva's retail business. In respect of local property tax, An Post was selected by the Revenue as one of three approved payment service providers.

There are opportunities, therefore, for business development. For example, in 2013, Government revenue earned by An Post amounted to €175 million as between social protection - €58 million; the National Treasury Management Agency - €54 million; mails income - €49 million; election referendum - €2 million; TV and dog licences - €11 million; and other - €0.8 million. There are opportunities.

**Deputy Éamon Ó Cuív:** Does the Minister see the post office network as just another competing bidder for contracts or as the State provider of a range of local services into the future? The figures the Minister gave are interesting in that the postal part of An Post is no longer the main income source. Philosophically, where is the Government on this? Does the Minister agree with me that An Post should be the nearest point of contact with as many State services as possible or should it be one of a range of bidders that might win State contracts and might provide those services? That is a fundamental question, and I am very interested to know which side of the fence the Minister stands on regarding it.

**Deputy Alex White:** I have encountered a number of fences in my first few days as Minister so I do not propose to jump on either side of any fence for the moment regarding these matters other than to agree with the Deputy that there is a tension, although describing it as a tension is a bit strong. Historically, there is the public service remit that we all understand,

17 July 2014

and then the commercial world and public procurement context in which we all must live. An Post, no different from any other organisation, lives in that world where there are these different imperatives.

I have outlined the many opportunities with regard to Government revenue but An Post cannot rely solely on Government business. Given the challenges facing An Post its key focus will be to secure new revenue sources based on services and products across the board that offer higher value in local communities. Those are issues we are looking at and which the Cabinet Committee on Social Policy examined, and I look forward to returning to them in this House in terms of debate.

**An Leas-Cheann Comhairle:** We lost some time at the start of Question Time but we have time for one more question. Question No. 12 is in the name of Deputy Seamus Healy.

### **Broadband Service Provision**

12. **Deputy Seamus Healy** asked the Minister for Communications, Energy and Natural Resources the position regarding the roll out of high speed broadband to rural areas of County Tipperary; and if he will make a statement on the matter. [31290/14]

**Deputy Seamus Healy:** The question of the availability of quality, high speed broadband, particularly in areas outside the major urban centres, is crucial for job creation and job retention. I ask the Minister the position on the provision of those services in County Tipperary.

**(Deputy Alex White):** The Government's statement of priorities for the period 2014 to 2016 reaffirms our commitment to delivering a State-led broadband intervention in rural areas. The Government's national broadband plan aims to radically change the broadband landscape in Ireland by ensuring that high speed broadband is available to all citizens and businesses.

Since publication of the plan, investments by the commercial sector have accelerated with commercial operators investing, or committing to invest, approximately €2.5 billion in networks and services. I understand that at least one network operator has published a programme to roll out 43 fibre-based broadband networks in County Tipperary by July 2016. In addition, the recent announcement of a joint venture between ESB and Vodafone includes a proposal to provide high speed broadband in Clonmel, County Tipperary.

The Government has committed to an ambitious plan which involves ensuring the delivery of broadband services to those parts of rural Ireland that will not be served by the commercial sector. Services will be delivered over a network, with fibre at its foundation, which is sustainable and guarantees a quality service to rural consumers into the future. This will be the key element of an intervention strategy that will ensure that all citizens and businesses can access high speed broadband services regardless of location.

Under EU state aid guidelines, member states cannot intervene where commercial investors have plans to roll out services. A comprehensive mapping exercise is under way in my Department to identify those areas that require a State intervention. An initial list has already been identified and I can tell the Deputy it includes 79 areas in County Tipperary.

A stakeholder consultation on the implementation of the State-led intervention has recently been launched and will feed into the mapping exercise, which I expect to conclude in the au-

tumn. It is my intention to conduct a full public consultation on the outcome of the mapping process and the proposed intervention strategy, and we will need EU state aid clearance also regarding those matters. This will flow into a detailed procurement process with a view to commencing the roll out of high speed broadband services as quickly as possible. I repeat that I regard that very much as a priority.

*Additional information not given on the floor of the House*

I believe that it will address current connectivity challenges in a sustainable and meaningful way and will ensure that rural Ireland can enjoy comparable levels of quality and service as those experienced in urban areas.

**Deputy Seamus Healy:** I welcome the statement from the Minister on the various initiatives he mentioned. These are vital for County Tipperary because we have significant levels of unemployment, with more than 1,500 people unemployed in the county. That figure has increased in the past two consecutive months. The IDA announced 100 investments in the past 18 months, not one of which was in County Tipperary. The creation of 8,000 jobs was announced, but not one in County Tipperary. This Government, and successive Governments, have favoured the east coast and major urban centres for job creation and investment, therefore, the provision of broadband is crucial for Tipperary to create and maintain jobs. I hope the details the Minister has given will happen in the very near future.

**Deputy Alex White:** I repeat that this is a priority. The mapping exercise is under way to identify locations. I have given the Deputy and the House indicative information relating to County Tipperary. There is a need in that county but there is an identified need across the country, particularly in rural areas and in areas where there is no real prospect of commercial involvement.

In many areas of public policy, particularly in the economic field, it is the role of the State to intervene where the market fails. That is what we intend to do in this vital area of public infrastructure.

**Deputy Mick Wallace:** I welcome direct State intervention. However, because of EU rules, the State is not allowed to get involved in areas that have been marked out by the private sector and the Minister states that the role of the State is to get involved where the private sector does not deliver.

The private sector is earmarked to bring high-speed broadband to my area, around Wellingtonbridge and Bannow in Wexford, but cannot do it for a few years. That is not delivery. Does the Minister agree that the State should be allowed to intervene with the provision of broadband where the private sector is not able to bring it on stream quickly enough and that, if this is an EU rule, irrespective of the number of years that they have to wait, surely it is something that should be challenged?

**Deputy Alex White:** We want to ensure that the entire country gets the service and to the extent that there is commercial involvement in areas of the country where that occurs, that should be allowed to occur. I agree with Deputy Wallace that it is always best that any project, whether it is in the public or private sector, should be expedited, but all State resources are scarce. Decisions must be made about priorities in relation to any State resource, not only in this area but right across the board.

17 July 2014

Deputy Ó Cuív asked me a question about my philosophical approach. The most important, although not the only, objective for the State in terms of public economic infrastructure is to ensure that areas where the commercial interests will not go do not lose out. That arises in the area of public transport and in all sorts of other areas. It seems that would be the key objective, to ensure that somebody living in a particular area or wanting to business in a particular remote part of the country does not lose out simply because there is not a commercial reason for an operator to come in and provide broadband.

*Written Answers follow Adjournment.*

### **Competition and Consumer Protection Bill 2014: From the Seanad**

The Dáil went into Committee to consider amendments from the Seanad.

Seanad amendment No. 1:

Section 49: In page 45, line 15, to delete “*section 34*” and substitute “*section 37*”.

**Minister for Jobs, Enterprise and Innovation (Deputy Richard Bruton):** This is merely a technical amendment that was picked up in drafting.

Seanad amendment agreed to.

Seanad amendment reported.

**An Leas-Cheann Comhairle:** A message will be sent to Seanad Éireann acquainting it accordingly.

### **Health (General Practitioner Service) Bill 2014: From the Seanad**

The Dáil went into Committee to consider amendments from the Seanad.

Seanad amendment No. 1:

Section 6: In page 7, between lines 10 and 11, to insert the following:

“**6.** To amend section 58C of the Act of 1970 by inserting the following new subsection:

“(13) Notwithstanding any other part of this section, the agreement, referred to in subsection (1) shall not:

(a) include any provision to restrict the criticism of the Health Service Executive, or the Department of Health;

(b) impose an obligation upon any general practitioner to limit criticism of the Health Service Executive, or the Department of Health;

(c) require any general practitioner to notify the Health Service Executive, or the Department of Health in advance of making a public statement;

(d) require any general practitioner to receive prior approval from the Health Service Executive, or the Department of Health, for any public statement they wish to make;

(e) require any general practitioner to dilute their natural rights to freedom of expression implicit in article 40.3.1o, of Bunreacht na hÉireann and explicit in article 10.1 in the European Convention on Human Rights.”.

**Minister for Health (Deputy Leo Varadkar):** I do not intend to object to the Seanad’s amendment. However, I do wish to clarify a number of points for the record.

I am sympathetic to the intent and purpose of the Seanad amendment, as proposed by Senator Crown and adopted by the other House. It would not be appropriate to restrict criticism, to impose obligations to limit criticism, to require a GP to notify or to get prior approval from the HSE in advance of saying something, or in any way to dilute the natural right to freedom of expression implicit in the Constitution.

However, it is important to be clear that there were no such restrictions in the draft contract. The specific clause in the draft GP contract which prompted this amendment stated that the service provider, that is, the GP, shall not do anything to prejudice the name or reputation of the Health Service Executive. This is not an unusual clause in a service contract. The draft clause 28.4.4 was not in any sense intended to impose unwarranted or inappropriate restrictions on individual GPs in advocating on behalf of their patients.

Deputies will be aware that the Department of Health and the HSE are currently in substantive discussions with the Irish Medical Organisation, IMO, on the draft contract for the provision of GP services to all children aged five and younger. At a recent meeting, the Department and the HSE confirmed to the IMO that this clause will not be included in the final contract.

*11 o’clock*

There was never any intention by the Department or the Health Service Executive to gag GPs. This clarification to the Irish Medical Organisation has removed any doubt on the matter.

While I will not object to the amendment, its exact wording may give rise to some concerns. The effect of the amendment on any obligations on GPs as to confidentiality or privacy may need to be considered in the future. The language is unusual. Indeed, the reference to the implicit recognition of the right to freedom of expression in Article 40.3.1° of the Constitution is peculiar, as the same right is explicitly guaranteed, subject to public order and morality, by Article 40.6.1°.

On a general point, I acknowledge the widespread support in principle for this Bill, both in this House and in the Seanad. Members quite legitimately made their alternative views known and raised their concerns during the debates on this legislation. I also acknowledge the significant work that went into advancing this legislation by the former Minister for Health, now

17 July 2014

Minister for Children and Youth Affairs, Deputy James Reilly, and the former Minister of State with responsibility for primary care, now Minister for Communications, Energy and Natural Resources, Deputy Alex White.

The Bill will provide for a GP service for all children up to the age of six years as the first phase of universal primary care, central to which is access to GP care without payment of fees. A recent survey by the Pfizer Health Index found the Government's plan to provide a universal GP service to all children aged under six enjoys strong public support. It was suggested support for the initiative may be linked to the belief that families with young children have been impacted hardest by the recession. This Bill will be of great benefit to many middle class and working families who continue to struggle in their daily lives and who have to pay €55 to visit a GP and perhaps more again at the pharmacy. It will remove the need for many families with young children who are forced into deciding whether their child is sick enough to justify paying for a visit to the GP.

This legislation is not an end in itself. It is merely the next step in delivering on the Government's vision of universal health care. A GP service for the entire population is in line with the programme for Government and provides a basis for further reform of our health service as we move from a service based on treating illness to one about good health and prevention and from one centred on hospitals to general practice and primary care.

**Deputy Dara Calleary:** I welcome the Minister's acceptance of the amendment from the Seanad. It suggests there will be a different style at the Department of Health. While I wish the former Ministers, Deputies Reilly and White, every success in their new ministerial roles, their approach, particularly that of the former Minister, Deputy Reilly did not instil confidence in the legislation among GPs. The new Minister's acceptance of this amendment suggests a different style of engagement which is welcome.

It is important that in accepting the amendment, the Minister is respecting the role of Seanad Éireann. This amendment was tabled by a Member there who is a medical practitioner. It shows the Upper House can be effective and change legislation. It is unusual for the Government to accept amendments from either the Opposition or the Upper House, so I welcome the Minister's statement of intent in this regard. The provision of free GP care for children under six is important. However, when we cannot guarantee basic services to people with serious illnesses, we must be careful in the choices we make.

I wish the new Minister, Deputy Varadkar, every success in the Department. I have no doubt he will bring much energy and effort to it. It is a difficult Department. As the Minister said last week about its previous comparison to Angola, Angola is actually doing pretty well now.

Seanad amendment agreed to.

Seanad amendment reported.

**Acting Chairman (Deputy Robert Troy):** A message will be sent to Seanad Éireann acquainting it accordingly.

### **Betting (Amendment) Bill 2013: Order for Report Stage**

**Minister of State at the Department of Agriculture, Food and the Marine (Deputy Tom Hayes):** I move: “That Report Stage be taken now.”

Question put and agreed to.

### **Betting (Amendment) Bill 2013: Report and Final Stages**

**Deputy Michael McGrath:** I move amendment No. 1:

In page 15, between lines 8 and 9, to insert the following:

“(c) the holder of the certificate failed to take adequate steps to prevent persons under the age of 18 undertaking betting transactions.”.

This issue was discussed on Committee Stage. While I did not press the amendment then, I feel it is important to highlight the issue of under age betting again. This amendment proposes to add the failure to take adequate steps to prevent persons under the age of 18 undertaking betting transactions as a reason for excluding a person from holding a bookmaker’s certificate.

The reason I put down this amendment is to highlight the fact we have a growing problem with young people engaging in gambling, whether it is going into betting shops, highlighted explicitly in a recent “Prime Time” exposé, and online gambling. It is easy for a 16 or 17 year old to tick the over-18 box when registering an online betting account and engaging in gambling. We all know the problems that fall from that. A recent European Commission paper stated young people have increasing exposure to such sites with 6% of 14 to 17 year olds gambling online. On Committee Stage, the Minister stated it is implicit in the Bill that a certificate can be revoked if the holder of the licence is not dealing with the issue adequately. I would like to make it explicit and I hope the Minister will agree to this amendment.

**Minister of State at the Department of Agriculture, Food and the Marine (Deputy Tom Hayes):** The principal Act provides that it is an offence to make a bet or enter into a betting transaction with a person under the age of 18 years. The Bill, as published, provides that the Minister for Justice and Equality may revoke a certificate of personal fitness where he is satisfied that, among other reasons, the holder of the certificate is not a fit and proper person to hold a bookmaker’s, a remote bookmaker’s or a remote betting intermediary’s licence. The Bill, as published, further provides that a relevant consideration in the refusal to issue or the revocation of a certificate of personal fitness, arises where the applicant or body corporate stands convicted of an offence under certain Acts of the Oireachtas, including the Betting Acts. Accordingly, the Minister agrees that the protection of minors is a fundamental principle of the legislation and is satisfied that this is already provided for through the provisions under the existing legislation and in the Bill as published.

**Deputy Michael McGrath:** I thank the Minister of State for his reply. I take his point that the protection of minors is implicit in the Bill. However, I would like it to be more explicit. Gambling is a serious problem. We know from the “Prime Time” exposé, for example, that it is all too easy for a 16-year old or 17-year old to place a bet in a bookmaker’s shop. The controls

17 July 2014

do not seem to be adequate. Given the proficiency of young people in the online world it is all too easy for someone to open an account, engage in gambling and build up what is in many cases a bad habit for life.

I will not press the amendment but I wish to highlight the issue. I hope the provisions in the Bill will be interpreted to include underage gambling. If a bookie is not dealing with the issue adequately and is found to have not implemented the law properly, his or her licence should be revoked. It is important that we send out a very strong signal that under age gambling is not acceptable and will be dealt with.

**Deputy Tom Hayes:** I do not wish to repeat myself, but I wish to make it clear that is the intention in the Bill.

Amendment, by leave, withdrawn.

**Acting Chairman (Deputy Robert Troy):** Amendments Nos. 2 and 3 are related and will be discussed together.

**Deputy Michael McGrath:** I move amendment No. 2:

In page 18, line 40, to delete “€250,000” and substitute “€1,000,000”.

I have discussed the amendments with officials from the Department of Finance and I am satisfied with the reply for now, so I will not press the amendments.

Amendment, by leave, withdrawn.

Amendment No. 3 not moved.

**Deputy Pearse Doherty:** I move amendment No. 4:

In page 41, between lines 8 and 9, to insert the following:

“**38.** Section 32 of the Principal Act is repealed.”.

We discussed the matter on Committee Stage and I tabled a number of parliamentary questions on it. The background to the situation is that someone was explaining to me the outdated legislation that surrounds gambling. The person furnished my office with a picture of An Taoiseach in a Paddy Power’s shop in Mayo. He was holding a sign showing the odds for the all-Ireland final between Donegal and Mayo. The individual who sent me the picture asked whether I knew that under section 32 of the 1931 Betting Act that the Taoiseach was involved in illegal activity. Perhaps the Taoiseach was not implicated but bookies certainly were because it is illegal in this jurisdiction to advertise the odds of any football match in the State. It is also illegal for a publication produced for sale or distribution outside a betting shop to advertise the odds for football matches in the State. That took me by surprise. The incident coincided with the debate on Paddy Power offering odds on whether Oscar Pistorius would be found guilty of the murder of a South African citizen. The situation highlights how our laws have been defined. In 1931 we thought it was a terrible thing for a newspaper or advertisement to hang outside a shop referring to the bookmaker’s odds for a local football derby, yet we believe that the odds of somebody charged with murder being sentenced to life imprisonment should be allowed to be advertised in national newspapers and other places.

The amendment proposes the deletion of section 32, which prohibits the advertisement of

betting on football games. I listened to what the Minister of State said about the gambling control Bill. We must remember that the gambling control Bill was supposed to be introduced in tandem with the Betting (Amendment) Bill, which is nearly three years in the making. We now know that the betting control Bill will be published next year but political circumstances may dictate that something else will overtake it. Issues arose in the Department of Justice and Equality relating to the Garda Commissioner, the Garda Síochána Ombudsman Commission, whistleblowers and penalty points which stalled legislation. Let us delete section 32 or present an argument for why the Minister thinks the Garda should be called if the Taoiseach, Deputy Enda Kenny, or any other Taoiseach or bookmaker, decides to advertise the odds of Manchester United versus Chelsea or Donegal versus Dublin in the all-Ireland final, or on any other football match taking place in the State.

**Deputy Tom Hayes:** Section 32 of the Betting Act 1931 deals with the prohibition of advertising relating to betting on football games and provides that, other than in the case of the distribution of advertising by the registered proprietor of a registered premises in such premises, “it shall not be lawful for any person to write, print, publish or knowingly circulate any advertisement, circular or coupon advocating or inviting or otherwise relating to betting on football games or knowingly to cause or procure, or attempt to cause or procure, any such advertisement, circular or coupon to be written, printed, published or circulated”. An examination of the Dáil debates at the time of the passing of the Bill in 1931 appears to suggest that the term “football” applies to both Gaelic football and soccer.

The Deputy will be aware that it has always been the intention that this Bill is an interim measure, to put a regulatory system in place for the remote sector pending the enactment of the gambling control Bill. However, the Minister agrees that this provision should be removed from the Statute Book and if the Deputy will withdraw his amendment, the Minister will bring forward an amendment to address the issue in the Seanad.

**Deputy Pearse Doherty:** I thank the Minister of State for his response. I am pleased the amendment has been accepted. I will withdraw my version of the amendment based on the fact that the Minister will introduce one in the Seanad.

Amendment, by leave, withdrawn.

**Deputy Michael McGrath:** I move amendment No. 5:

In page 41, between lines 13 and 14, to insert the following:

“**39.** The Minister shall, within 3 months of the enactment of this Act, lay before both Houses of the Oireachtas a report on measures that will be undertaken to protect vulnerable people from engaging in harmful gambling and the manner in which remote betting intermediaries must assist in this.”.

It is deeply regrettable that we are not taking the gambling control Bill in parallel with the Betting (Amendment) Bill because we are all well aware of the harmful effects of gambling. For many people, unfortunately, it does become an addiction and it can destroy lives and families. The European Commission paper which was published this week flew a warning flag in pointing out that up to 3% of the population are problem gamblers or in danger of developing an addiction. It is critically important that the gambling control Bill be introduced. At a minimum I seek a commitment from the Minister of State that the Bill will be introduced in the House as quickly as possible.

17 July 2014

The amendment seeks a report on measures that will be undertaken to protect vulnerable people from engaging in harmful gambling and the manner in which remote betting intermediaries must assist in that regard. There is no doubt it is a growing problem in society and it must be dealt with. We must have certain restrictions in place to prevent the problem getting worse, especially for young people. I look forward to the response of the Minister of State.

**Deputy Tom Hayes:** The Betting (Amendment) Bill is an interim measure, pending the enactment of the gambling control Bill, which is due to be published in early 2015. One of the fundamental principles underpinning the gambling control Bill is the protection of minors and other vulnerable persons. That Bill will make clear the responsibilities of licensed operators when it comes to ensuring to that these persons are not permitted to access gambling services. The Minister for Justice and Equality will be responsible for the monitoring of the activities of operators in this regard. Accordingly, I do not propose to accept the amendment.

**Deputy Michael McGrath:** I thank the Minister of State. I welcome the fact that the gambling control Bill will be published early next year, although I would like to see it earlier than that. The reality is, by virtue of this legislation, the State will get more revenue from the betting industry and some of that should be used to deal with problems arising from harmful gambling. I hope the Minister of State can impress upon his officials the need to bring forward that Bill as quickly as possible, ideally before the end of 2014, as that would be a good day's work that all sides of the House would support.

**Deputy Pearse Doherty:** The gambling control Bill is the legislation best suited to dealing with this issue and I am frustrated by its delay. However, it is appropriate that there should be a report on gambling addiction and those susceptible to it, given that the Betting (Amendment) Bill will be enacted shortly. I repeat the point I made on Committee Stage to the effect that it is wrong to see gambling only as something involving Boylesports, Paddy Power and other high street betting shops and intermediate bookmakers. Gambling also involves the State as it encourages and facilitates people to gamble through the national lottery. People gamble every day on the national lottery and spend a great deal on scratch cards that some people find very addictive, which is another area of concern. It is important that there be a report to feed into the gambling control Bill but it is also important that the State understands that it is a beneficiary of gambling, not only through VAT reaped from high street bookies and intermediate bookmakers but directly through the national lottery.

I am not suggesting the State should try to stop people playing lotto, daily millions or scratch cards but the State must face its responsibilities by understanding that not everyone who plays lotto or buys scratch cards can afford to do so. Some people are chasing a dream they will never realise, some cannot afford this gambling and some have an addiction. I know of cases where people wait for the weekend to spend much of their wages on scratch cards. Those that profit most from this industry should foot the bill but I understand that bookmakers are the only ones that fund gambling addiction services in the State, though I am open to correction. It is equally important that the State recognises its role in facilitating gambling. As I said before, I have placed many bets on sports, horses, roulette, casino tables and so on and this can be enjoyable but many people are addicted and need help. It is important that all involved in profiting from, encouraging or facilitating gambling are held accountable for the consequences.

**Deputy Tom Hayes:** The gambling control Bill will be before the House early next year and I will pass on to officials Deputy Michael McGrath's desire to see it here earlier. This might happen. The issues raised by Deputy Doherty can be discussed when the Bill is before

the House.

Amendment put and declared lost.

**Acting Chairman (Deputy Robert Troy):** Amendment No. 6 arises from committee proceedings. Amendments Nos. 6 and 7 are logical alternatives and will be discussed together.

**Deputy Michael McGrath:** I move amendment No. 6:

In page 41, between lines 13 and 14, to insert the following:

“39. The Minister shall, within 3 months of the enactment of this Act, lay before both Houses of the Oireachtas a report on the VAT treatment of gaming transactions which are conducted with licensed bookmakers, including where the bookmaker operates as a remote intermediary.”.

This issue, relating to VAT on gambling, has been pursued by Deputy Doherty for some time through parliamentary questions and he raised it on Committee Stage. I want to put my own concerns on the record, given the advice I have received from the Department on this issue. I have taken the opportunity since Committee Stage to examine this area and I am concerned that the State may be accruing a contingent liability. Will the Minister of State put on the record the advice he has received in this regard? The matter has been pursued by Deputy Doherty a number of times and it may be a significant issue that must be addressed.

**Deputy Pearse Doherty:** I am glad that Deputy Michael McGrath tabled his amendment. We seek a report within three months on the VAT treatment of bookmakers, remote bookmakers and remote intermediate bookmakers. This arises from a legacy issue and I have been trying to deal with it for over a year. I am frustrated by the responses I have received. Bookmakers are exempt from VAT if they pay betting duty and this is acceptable - nobody is suggesting they should also pay VAT. However, remote bookies and intermediate bookmakers have not been paying betting duty and therefore are liable for VAT. A different set of rules says that if a company is not established in Ireland but is based in the EU it is exempt from VAT so this rules out a number of bookmaker intermediates. Some of these companies are operating from Gibraltar and, for the purposes of the EU VAT directive, that is not deemed part of the EU.

It is clear these intermediate bookmakers are providing a service to which VAT should apply but the question is whether they are exempt. They would be exempt if they paid betting duty but they do not. They could also be exempt if they were established outside the State and within the EU but Gibraltar is not deemed part of the EU for VAT purposes. It seems they should, therefore, be liable for VAT in Ireland for services provided here. This is a serious matter because intermediate bookmakers have been allowed to operate in the State without licence, without paying betting duty and without paying VAT on services provided.

It is estimated the annual turnover from offshore online and telephone gambling in Ireland is €1.7 billion per annum and it would be interesting to see how much of this went to companies established in Gibraltar. From my understanding, such companies should pay VAT in Ireland for the reasons I have outlined. I am deeply frustrated by this but want the Minister of State to correct me, if possible, with specific details. This matter has been teased out through parliamentary questions for some time and it has not been resolved.

Section 34 (1) of the Value-Added Tax Consolidation Act 2010 says the supply of electronic

17 July 2014

services is provided by remote or intermediate bookmakers. The Act says that when the supply of electronic services is to a non-taxable person in the State, in this case the punter, by taxable persons whose business is outside the European Community, in this case offshore operators, the VAT arises in Ireland. I have serious concerns that intermediate bookmakers established in Gibraltar that provide electronically supplied services to non-taxable persons in this State are not paying the VAT for which they are liable. This has been going on for years and the relevant turnover is €1.7 billion per annum. Not all of this €1.7 billion is liable for VAT because some of it relates to companies established in jurisdictions that are VAT-exempt under EU rules but Gibraltar is not such a jurisdiction. I seek a report on this or an investigation because this matter requires something more than a paragraph or two in reply to a parliamentary question. We will be dealing with this for years if it is not addressed properly.

This is a genuine attempt to see whether the laws have not been applied in the right fashion. At yesterday's meeting of the Oireachtas Joint Committee on Finance and Public Expenditure and Reform, I raised the issue of a housing association which provides security alarms for elderly vulnerable people in their homes. If one presses the alarm, somebody answers the phone 24 hours a day, seven days a week. It has written to all of its customers in the Twenty-six Counties to state it thought it was exempt from VAT for the services it supplies but has been told by Revenue it is not and from now on it must charge an extra 23% on the cost of the service. This service is provided to very vulnerable, mostly elderly, people living in rural communities. I have been contacted by some of them stating they cannot believe it is happening. Their telephone allowance was cut and now they face a 23% increase in the cost of this service because of VAT.

My point is this happens all the time. Revenue carries out an inspection and states a 23% VAT rate should have been applied to a service and that this must be rectified. It is estimated the offshore turnover of remote intermediate betting is €1.7 billion per annum. At least it should be given the same treatment as elderly vulnerable people in remote areas, and we should ensure they have personal intruder alarms. We should investigate whether those involved in remote intermediate betting were liable to pay the VAT rate at the time and furnish a report which spells out in black and white that they were. We should examine all of the legislation I have quoted. This is my best estimation from reading the various Acts. We know this intertwines with European directives and our national laws on taxation. It is a complex area, but I am not satisfied that they were excluded from VAT in the first place.

**Deputy Tom Hayes:** The Deputy should be aware that the EU VAT directive provides for an exemption for betting, lotteries and other forms of gambling subject to conditions and limitations laid down by each member state. In Ireland, the Value-Added Tax Consolidation Act provides that bets placed with bookmakers or on the tote are exempt from VAT. European Court of Justice jurisprudence has confirmed the principle of VAT fiscal neutrality for gambling, namely, that the exemption applies regardless of the medium through which the bet is placed once the services provided are identical or similar from the perspective of the consumer and meet the same needs of the consumer. This means that electronically-supplied gambling services that are identical or similar from the perspective of the consumer to those services provided by traditional bookmakers, which are those subject to betting duty, also benefit from the VAT exemption. Remote bookmakers and remote betting intermediaries will continue to be exempt from VAT following the enactment of the Bill. Accordingly, I do not propose to accept these amendments.

**Deputy Pearse Doherty:** We are going into a minefield. This goes to the definition of what remote intermediaries do. The Minister of State mentioned that the Value-Added Tax Consoli-

ation Act 2010 provides that the acceptance of bets subject to betting duty is exempt from VAT. The question is whether remote intermediate providers accept bets, and the argument is they do not. A bookie accepts bets, but intermediate bookmakers provide a service whereby one person places a bet and another person lays it. It is a service and they themselves do not accept the bets. They cannot accept the bets; there must be somebody else to do so. They provide a service to join up people. This is the service provided by BETDAQ and Betfair. If someone wants to place a bet on a horse running in Fairyhouse, BETDAQ will not accept the bet unless somebody else is willing to lay it. All Betfair and BETDAQ do is provide a service where two people can join up. The question which goes to the core of this is whether these companies accept bets and therefore whether they are exempt from VAT.

One must remember that these creatures, and I do not say remote intermediaries are bad or we should be against them, were not envisaged when these laws were being drawn up. They are new entities and new ways of providing gambling. They are outside what was thought of when we were dealing with this. They have found ways and loopholes. I suggest that at a minimum there should be an investigation about all of the concerns which have raised for a substantial period of time and it should be in the form of a report, however long it takes. At least the Department needs to take more notice because, with respect, the responses given by the Minister of State are very similar to the responses I have received for the past year and I am still not satisfied we have dealt adequately with the issue.

**Deputy Tom Hayes:** I am sorry the Deputy is not happy with the responses he has received but, as he stated, we are dealing with a new ball game particularly with regard to VAT. If it is okay with the Deputy, I suggest Revenue officials deal with some of the Deputy's queries and this might be helpful in solving some of the issues. It is not possible for me to get into the exact details.

**Deputy Pearse Doherty:** I appreciate that.

Amendment put and declared lost.

Amendment No. 7 not moved.

**Acting Chairman (Deputy Robert Troy):** Amendment No. 8 arises out of committee proceedings. Amendments Nos. 8 and 9 are related and may be discussed together.

**Deputy Pearse Doherty:** I move amendment No. 8:

In page 41, between lines 13 and 14, to insert the following:

“**39.** The Minister shall, within 3 months of the passing of this Act, present to the Houses of the Oireachtas a report on his or her future plans for betting duty and the funding of the horse racing and greyhound racing industries and his or her plans for taxation of other areas of gambling.”.

I welcome the passage of the legislation, which will take place in the House in a couple of minutes. It will bring additional revenue to the State, which will help next year's budget and offset measures which may have been necessary if this revenue was not available to the State. It will be approximately €20 million per annum. It is deplorable that this was not done when the Government took office and that we have waited for so long to apply this duty to online and remote bookmakers. It will not cost them a fortune and they will not lose any sleep over

17 July 2014

it. One must consider the effect an amount less than €20 million had on discretionary medical cards and children with disabilities, whom we discussed yesterday. We are dealing with only a fraction of the amount involved. Much pain and suffering has been inflicted on the people as a result of various measures. This measure is relatively painless and should have been introduced many years ago.

I point this out because while the Bill is welcome, it is only a drop in the ocean. We need to go further than this. The betting duty needs to be increased to an appropriate amount, which I believe is 3%. As amendment No. 9 states, the betting duty should be placed on the customer and not the operator. High street bookies are closing down because they cannot afford their overheads or betting duty of 1%. I have spoken to independent bookmakers who have told me they are in engagements and arrangements with the Revenue Commissioners to pay the 1% betting duty. They have already closed some of their operations because they are trying to restructure and downsize. If the betting duty were increased to 3% and charged on them, it would put the majority of them out of business, but if it were charged on the customer, as it always used to be in the State, it would not only ensure they remained open but would mean they would grow because their profits would increase overnight. One person told me that the shops he closed he could reopen if the betting duty were passed on to the customer. In my view the bigger operators will be able to absorb a betting duty of 2% and will force the smaller operators to do the same, but they will not be able to carry that weight. I believe the bigger operators would not be able to carry 3% themselves and would be forced to pass it on to the customer, which would provide a level playing field.

Amendment No. 9 deals with a report on the funding of the horse and greyhound industries. There is a serious question over that. Will the horse and greyhound industries be funded to the appropriate level? Will the money from the betting duty be ring-fenced for that purpose or will it just go into the general pot? Will there continue to be a reduction to the Horse and Greyhound Racing Fund as we have seen in recent years? Can we give some certainty to the industry that employs thousands of people and brings in a large amount of foreign currency to the country? Can we support that and give it some sort of stability? With this legislation coming forward, questions remain to be answered.

There is also a bigger issue, which is that the other areas of gambling are not being taxed. The Bill is called the Betting (Amendment) Bill, but it only places a tax on the sports books of the bookies; the other books are not taxed. Those going onto the Paddy Power website, as I have done in the past, go into the card games, including Texas Hold 'Em, poker and the tournaments, which is where much of the money is generated. Also no taxes are being levied on any of the casino games such as roulette which are very profitable. The sports book represents a smaller part of the overall book.

While we are making progress with this legislation we need to remember we are taxing online bookies on sports - horseracing, greyhound racing, football and so forth - but we are not taxing the other parts of the industry which are very profitable. I believe this is relatively painless. Any punter who bets €10 on a roulette table and wins €100 will be willing to pay 3% on the profits. They would be willing to do that if they won €100 on the horses, but they are also willing to do it if they win it at a card game, such as blackjack, a roulette table or whatever. It is important that we get our act together and place an appropriate levy that is capable of sustaining the industry. Revenues should be brought into the State that will offset measures that may have to be taken in other areas.

I believe this is a no-brainer. I welcome that we are moving three years on to apply this tax. However, we should increase the rate and ask the punter to pay the tax because it is the only vice that goes untaxed. On everything else people pay tax. On this one a punter does not pay tax. The revenue that could be generated for the State from taxing the other books within the gambling sector would be quite substantial. The Government needs to start working as soon as possible on a more comprehensive Bill to deal with those other areas that have remained untouched by the betting duty.

**Deputy Tom Hayes:** With regard to amendment No. 8, while there has traditionally been a link between revenues accruing from betting taxes and the allocation to the Horse and Greyhound Racing Fund, there is no hypothecation of these revenues. All receipts from betting will go to the Exchequer. The funding of the horse and greyhound industries is primarily a matter for discussion between the Minister for Agriculture, Food and Marine, and the Minister for Public Expenditure and Reform in the context of the annual Estimates campaign.

Having said that, the Minister, Deputy Noonan, is on the record as stating that any increase in revenues as a result of these measures will allow the Government to provide additional funding in certain areas including the horse and greyhound industries. However, I reiterate, the question of funding these industries is a matter in the first place for the Ministers concerned.

With regard to amendment No. 9, the Minister has consistently said that his priority is to extend the existing system to the remote sector so that all betting activity is included in the tax net. Once a level playing field is in place, all other options relating to the rate and type of tax can be explored. It is the Minister's intention that all the options available in this regard, including the taxation of other forms of gambling, will be fully explored.

Accordingly, I do not propose to accept these amendments.

**Deputy Pearse Doherty:** I welcome the latter part of what the Minister of State has said, which is that all other forms of gambling will be explored because we are missing out on tens of millions of euro to the Exchequer because we do not tax this. Last night we had a debate over less than €2 million for the disability sector and yet multiples of that have gone untaxed in the gambling area. It defies logic that we are not looking at this. The Minister said that he would look at other areas and the rates last year. How long do we need to wait? In the meantime we have cut disability services and taken away discretionary medical cards. We are preparing for another budget that I am sure will have impacts on the least well off, the most vulnerable in society. How long are we going to wait?

While I support the Bill and I support the Minister of State's comments, I am frustrated at the delay and lack of commitment. Stronger sentiment should be expressed at the passage of this Bill that the rate will increase and that we will extend this to all forms of gambling, particularly the areas I have mentioned. Any online gambling operation has the sports book, the casino book and the card games. Those are basically the three areas and we are only taxing one of them. There should be more of a commitment and a timeframe. My amendment is trying to impress on the Government the urgency in this regard.

The Government did not hesitate to introduce property tax and then double the charge for property tax. It did not hesitate to introduce water charges. It did not hesitate to increase VAT to 23%. It did not hesitate to increase excise duty on alcohol and cigarettes. It did not hesitate to increase prescription charges or increase the threshold for the drugs repayment scheme.

17 July 2014

However, when it comes to these other sectors, which are relatively painless and could bring in millions of euro to the Exchequer, we have nothing but hesitation, soft words and a lack of commitment.

**Deputy Tom Hayes:** It is important to level the playing field and all sectors need to be sorted out. The enactment of the Bill will help in levelling the playing field.

Regarding the Horse and Greyhound Racing Fund, we should not underestimate the value of horseracing, HRI and Bord na gCon to rural economies. There has been considerable action in respect of Bord na gCon in recent weeks and it has been dealt with. There are a large number of jobs in remote rural areas. A big operation in my constituency of Tipperary employs well over 1,000 people. We should never forget that applies to all rural constituencies. The downstream jobs provide a huge benefit to the economy. Some of us living in rural areas understand that. However, some people do not understand the impact of that industry and the benefit it provides to our country. Consequently, I hope that with the enactment of this legislation and with more funding available - the Minister, Deputy Noonan, has given that commitment and I hope it will happen - jobs will be protected. Ultimately, this is about the protection of jobs and the creation of jobs in rural areas. There is potential revenue to come in from across the water and from all over the world, because Ireland has a top-class product and its dogs and horses are recognised worldwide. This is an industry to which insufficient attention has been paid in the past and if it is looked after properly, it has real potential.

**Deputy Pearse Doherty:** The point about the horse and greyhound industries and rural constituencies goes without saying. All Members are aware of the economic benefits, have seen the reports and so on. This issue is wider than that and is about trying to get the Government to live up to its stated intention and to give at least some indication as to when Members are likely to have sight of legislation or a report of some kind on examining the issue of extending betting duty to other forms of gambling that I already have mentioned, as well as examining the rate. I do not expect the Minister of State to amend this Bill and increase the rate to 3% or to start over again by applying it to casinos, cards and so on. However, I do expect some kind of commitment stating that given that this legislation will be implemented, the Government expects to start that work now. Members need something because this matter has already taken too long to come to the table. The Minister of State should at least give Members a commitment on the timeframe within which they can begin to examine these issues.

**Deputy Tom Hayes:** Increasing the rates is a budgetary issue that can be dealt with. I will relay the Deputy's concerns to the Minister. As the points he makes are quite relevant, hopefully the Government will get to them in the future.

Amendment put and declared lost.

**Deputy Pearse Doherty:** I move amendment No. 9:

In page 41, between lines 13 and 14, to insert the following:

“39. The Minister shall, within 3 months of the passing of this Act, present to the Houses of the Oireachtas a report on the financial implications of charging betting duty as a tax to be paid by the customer or as a tax paid by the bookmaker.”.

Amendment put and declared lost.

Bill received for final consideration and passed.

*Sitting suspended at 11.55 a.m. and resumed at 12 noon.*

*12 o'clock*

### **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 27A and the name of the Member in each case: (1) Deputy David Stanton - to ask the Minister for Transport, Tourism and Sport to discuss progress in sanctioning the R624 Cobh Road project which involves the construction of a new road and bridge to replace the current Fota Road, the only vehicle access route to Great Island from the mainland;

(2) Deputy Éamon Ó Cuív - the need to provide direct funding to various voluntary groups such as Muintir na Tíre, Traveller groups and the national women's community network;

(3) Deputy Caoimhghín Ó Caoláin - the wrong done to the women victims of symphysiotomy, the need for full acknowledgement and an apology and the right of the survivors to be heard and appropriately compensated;

(4) Deputy Maureen O'Sullivan - to discuss badger culling in light of Russia banning Irish beef due to suspected bovine tuberculosis;

(5) Deputy Seán Ó Feargháil - the diplomatic initiatives to facilitate a resolution of the case involving the murder of Privates Derek Smallhorne and Thomas Barrett in Lebanon;

(6) Deputy Timmy Dooley - the need to provide funding for flood damage repairs in County Clare;

(7) Deputy Sean Fleming - the need for funding for the school meals local projects scheme for Scoil Bhríde, Portlaoise, County Laois; (8) Deputy Jonathan O'Brien - to discuss the urgent matter of older people being unable to remain in the senior alert scheme due to the recent introduction of VAT on alarms and the prohibitive cost of doing so;

(9) Deputy Michael McNamara - the need to increase live cattle exports to improve beef prices;

(10) Deputy Terence Flanagan - the need for Irish Water to ensure water meters are fully accessible to those with disabilities;

(11) Deputy Willie Penrose - the need to amend the Protection of Employees (Employers' Insolvency) Acts 1984 to 2006;

(12) Deputy Mattie McGrath - the need to provide immediate emergency funding for Muintir na Tíre;

(13) Deputy Thomas P. Broughan - the shortage of social housing provision;

17 July 2014

(14) Deputy Robert Troy - the need for the Minister for Health to direct the Health Service Executive to introduce an early access programme to new direct acting antiviral drugs which provide effective curative therapies for patients with hepatitis C;

(15) Deputy Clare Daly - to discuss the controversial decision of the Department of Agriculture, Food and the Marine to offer a two-year contract to cull more than 12,000 badgers;

(16) Deputy Joan Collins - to raise the matter of student service charges on apprentices;

(17) Deputy Mick Wallace - to discuss the controversial decision by the Department of Agriculture, Food and the Marine to offer a two-year contract to cull more than 12,000 badgers;

(18) Deputy Dessie Ellis - the need to maintain a motor tax office in the Ballymun area;

(19) Deputy Catherine Murphy - further revelations which emerged today regarding the mismanagement of Anglo Irish Bank;

(20) Deputy Richard Boyd Barrett - the State's failure to uphold human rights for children in terms of the severe shortage of inpatient child mental health facilities;

(21) Deputy Ruth Coppinger - the killing of children in Gaza;

(22) and Deputy Catherine Byrne - the high cost of telephone rental and standing charges for senior citizens.

The matters raised by Deputies Willie Penrose, Catherine Byrne, Seán Ó Feargháil and Thomas P. Broughan have been selected for discussion.

### **Leaders' Questions**

**Deputy Charlie McConalogue:** I welcome members of the Irish Deaf Society in the Visitors Gallery and commend the Ceann Comhairle on arranging, for the first time, to make a sign language interpreter available in the Dáil for the occasion. This is a welcome and notable occasion for the deaf community.

I condemn the ongoing attacks on civilians in Gaza and send my sympathies to the families of all the deceased. The reports on an air strike on four young boys playing football on a beach in Gaza have been appalling. While Israel has a right to defend itself, its response is totally disproportionate to attacks from Gaza. It has also shut down all access to Gaza where more than 210 people have died, many of whom are civilians, including women and children. Gaza is also running out of medical supplies and its people are in dire straits. While the five-hour ceasefire is welcome, it is too little. The Government should immediately invite in the Israeli ambassador and express its concerns in a clear and forthright manner.

Moving on, my question to the Tánaiste relates to the establishment of a commemoration centre at 14 to 17 Moore Street in advance of the centenary events marking the Easter Rising.

**An Ceann Comhairle:** The Deputy may only deal with one issue.

**Deputy Charlie McConalogue:** As the Tánaiste is aware, after years of campaigning by

relatives of the leaders and veterans of the 1916 Rising, 14 to 17 Moore Street was granted protected national monument status in 2007. Since then, many reports and recommendations have issued on how the General Post Office and Moore Street should be preserved. This has involved all parties in the Oireachtas and Dublin City Council. The most recent report on the matter was published by Dublin City Council in April 2013. The former Minister for the Arts, Heritage and the Gaeltacht, Deputy Jimmy Deenihan, signed an order of consent in July 2013 and new designs were submitted in March this year. In April, the former Minister approved-----

**An Ceann Comhairle:** I am sorry to interrupt the Deputy but as I stated, Deputies may raise only one topic on Leaders' Questions. I assume Gaza is the topic the Deputy wishes to raise with the Tánaiste. Deputies may not deal with two topics.

**Deputy Charlie McConalogue:** I wish to note-----

**An Ceann Comhairle:** The second matter the Deputy raises was dealt with in the Chamber not later than yesterday. I cannot allow the rules to be breached. If the Deputy wishes to speak to the issue of Gaza, he should please do so.

**The Tánaiste:** I will facilitate the Deputy if he selects a topic.

**An Ceann Comhairle:** No, he has already made a case on the issue of Gaza.

**Deputy Charlie McConalogue:** I accept the ruling of the Chair on the matter.

I ask the Tánaiste to address developments in Gaza. Deputies will have seen a newspaper photograph this morning of the father of two of four children who died as a result of a missile attack on a beach in Gaza yesterday. It was an abhorrent sight. I ask the Tánaiste to outline how the Government intends to respond to developments in Gaza.

**The Tánaiste:** I also note the first ever appearance of a sign language interpreter in the Visitors Gallery and thank the Ceann Comhairle for facilitating this for members of the deaf community who are with us.

**Deputy Mattie McGrath:** The Government should give back the €1.2 million that was cut from disability groups.

**The Tánaiste:** On the pressing issue of Gaza, I draw the Deputy's attention to the statement issued by the Minister for Foreign Affairs and Trade on Monday in which he condemned unreservedly the indiscriminate firing of rockets into Israel, which are largely aimed at civilian targets. His statement equally condemned the mounting civilian casualties, including a large number of women and children, resulting from Israeli air strikes against Gaza. This followed and reinforced a statement made last week by the former Tánaiste and Minister for Foreign Affairs and Trade, Deputy Eamon Gilmore. I and most Deputies will have heard of further deaths in Gaza in recent hours.

The people of Gaza and Israel have the right to live in peace and security without the threat of indiscriminate violence being visited upon them. The dreadful episode yesterday in which four Palestinian children were killed by an Israeli shell at the Gaza port underlines the absolute urgency of bringing the exchange of fire to an end for the sake of both communities. Regrettably, a serious effort to reach a ceasefire on Tuesday, which was proposed by Egypt, did not take hold, although it is positive that Israel ceased firing for six hours. Today, there has been a five-hour humanitarian pause at the request of the United Nations to allow people to buy food

17 July 2014

and engage in necessary activities and movement. This is a hopeful development and it may be possible to build on it to achieve something more lasting.

As I stated last week, the Department of Foreign Affairs is closely monitoring developments and maintains contact with our missions in Tel Aviv and Ramallah. Last week, I also advised Irish citizens in the area to keep in contact with Irish embassies in the region.

The weeks following the recent horrendous murders of four young people have been incredibly difficult for all of those who are concerned with promoting the cause of peace in the Middle East. Despite this, we cannot be deflected from addressing the underlying causes of the conflict and redoubling our efforts to promote a viable two-state solution, the only sustainable basis for a just settlement and resolution of the Israeli-Arab conflict.

**Deputy Finian McGrath:** The Israelis will never accept a two-state solution.

**Deputy John Halligan:** The Government should bring in the Israeli ambassador.

**Deputy Charlie McConalogue:** While the five-hour ceasefire today is welcome and greatly needed, it is not enough. The ongoing situation is unacceptable for the citizens of Gaza who cannot access essential medicines. Apart from a five-hour period this morning, goods are restricted from entering the area. While Government statements setting out its position on the matter are welcome and necessary, it must also meet the Israeli ambassador to outline its position. Ireland may be a small country but, like every other country, we have much to offer in terms of setting out our views and trying to find a resolution to the problem. In particular, we must provide some relief to those in Gaza who are suffering from disproportionate actions and missile attacks by Israel. All of us will have seen the evidence in the images being relayed daily from Gaza. Will the Tánaiste agree to meet the Israeli ambassador immediately to relay to him the Government's views on the situation?

**The Tánaiste:** I agree with Deputy McConalogue that the important thing is to seek to extend the ceasefire. It got off to a shaky start for a limited period yesterday and there is a further period today. If that could be extended to stop the armed conflict it would be a significant achievement.

The Minister for Foreign Affairs and Trade will have absolutely no difficulty in meeting the Israeli ambassador and making arrangements to meet him.

**Deputy Finian McGrath:** He should call him in.

**The Tánaiste:** In addition, EU Foreign Affairs Ministers will be discussing the issue immediately after the weekend. Every effort should be used by all countries that have diplomatic relations both with Israel and Palestine. At the end of the day the attempt at a ceasefire, which is being brokered by Egypt and is assisted by the UN, is the most important way of ending the bloodshed and dreadful deaths, particularly of children. We all know that living conditions in the area are very difficult.

Going back to my own time as Minister of State with responsibility for overseas development, I was involved in initiating and expanding the programme of assistance into Palestine and the territories. That was followed by successive Governments, including Fianna Fáil Administrations. I want to acknowledge the Deputy's concern about the matter.

**Deputy Finian McGrath:** Call in the ambassador.

**The Tánaiste:** A significant amount of aid and development money from the Irish Aid programme is spent in Palestine, as is correct. We will lend every support we can to the expansion and continuation of the ceasefire in order that there will be an opportunity for innocent civilians to be protected.

**Deputy Mary Lou McDonald:** I also extend a warm welcome to members of the deaf community in the Visitors Gallery. They are very welcome and it is great to see an interpreter in the Gallery for the first time.

I had intended to raise a different issue with the Tánaiste concerning mother and baby homes but, having heard her entirely limp and lily-livered response to Deputy McConalogue's question on Gaza, I feel I must question her further on the matter. I cannot believe that for a second week in a row, when the Tánaiste was asked about casualties and the deaths of Palestinian civilians, including children, she reverted in her answer to giving advice to Irish citizens who may happen to be in the vicinity or the region generally.

It is not sufficient for the Government or any Minister simply to issue a statement on this matter. There is an obligation to act. To clarify matters for the Tánaiste, in case she is not aware of this, the crux of this issue revolves around the Israeli Administration and Israeli state's failure to abide by international law. It is long past the time that the Israeli Administration was called to account. It is also long past time for the Irish Government to tell the Israeli Administration that it cannot act with impunity. There are no excuses or alibis for shelling and bombarding a civilian population, for inflicting collective punishment on the Palestinian people, and for murdering Palestinian children. That needs to be the message. If it is not the message then, frankly, we are all wasting our time. The power disparity between Palestinian civilians and the Israeli military and political apparatus is very clear.

When the Minister for Foreign Affairs and Trade meets the Israeli ambassador, what will be the Government's position on this matter? What is the Government's position on the bombardment of a civilian population and the collective punishment of the Palestinian people?

**The Tánaiste:** Let me make it clear what Ireland's interest in this is. We want to see an end to the violence from both sides because we want to see an end to the deaths and injuries, in particular of innocent civilians - men, women and children. That is the role a country like Ireland can best play in a conflict like this one. Over the weekend, for instance, the Minister for Foreign Affairs and Trade has been in direct contact with his counterpart in Egypt concerning the ceasefire and bringing the violence to an end in an orderly way.

Deputy McDonald may want to make an issue about warnings by the Department of Foreign Affairs and Trade to Irish civilians who are working in a danger zone. As somebody who in a previous capacity worked in such zones, I can say that it is extremely important for Irish individuals and their families here to have the full help and resources of that Department. Notwithstanding the Deputy's passionate concern for civilians who come from the conflict zone, which I accept, she should not equivocate. She should equally have regard for Irish citizens or others who have been resident here, who may face dangers. They should keep in touch with the official advice available from this country. There would be an awful lot of grief for families in Ireland if Irish people living in the region put themselves in danger. It is absolutely appropriate that the Minister for Foreign Affairs and Trade and his Department should be concerned about that.

17 July 2014

**Deputy Pearse Doherty:** They are bombing them.

*(Interruptions).*

**An Ceann Comhairle:** Excuse me, we do not shout down people in this Chamber.

**Deputy Eric Byrne:** They know all about bombings and how to deliver bombs.

**An Ceann Comhairle:** And you too, Deputy Byrne. I call the Tánaiste to proceed.

**Deputy Eric Byrne:** We saw it in Colombia.

**An Ceann Comhairle:** In case the Deputy did not hear me, we do not shout down people in this Chamber. Deputy Eric Byrne should stay quiet and allow the Tánaiste to reply.

**The Tánaiste:** Given the Deputy's comments, it may seem unsatisfactory that seeking to broker a ceasefire is somehow inadequate as an expression of Irish foreign policy. Ireland's helping to make peace in conflicts is at the heart of what Irish foreign policy has been about since this State was formed.

**Deputy Finian McGrath:** The Tánaiste is eroding our foreign policy.

**The Tánaiste:** I will not apologise for the work our soldiers and gardaí have done right around the world. Coming from the background of her particular party and her involvement in a peace process which had a successful outcome, I am surprised the Deputy would belittle the value of a peace process and a ceasefire.

I reiterate that the important issue is to get a sustainable ceasefire under way. That is the best way of protecting all the civilians, including men, women and children. One would want to have a heart of stone not to be moved by the appalling deaths of young children over this period of escalating violence.

**A Deputy:** You obviously do.

**Deputy John Halligan:** Tell that to the Israeli ambassador.

**The Tánaiste:** Everybody in this House is deeply concerned, upset and aggrieved by what we have witnessed.

**Deputy Mary Lou McDonald:** I do not question for a second the right or responsibility of Government to give sound advice to Irish citizens. I am, however, questioning the Tánaiste's sense of priority or perspective on this issue. This is the second week in a row that I have raised this matter. On both occasions the Tánaiste's priority message was to Irish citizens. As noble as that may be, I suggest to her that there is a more burning issue here. She talks about civilian deaths, but which civilians? In her reply, can the Tánaiste spell out for the Chamber who precisely has died in this bombardment? Can she spell out for the Dáil where the balance of suffering and bloodshed lies? Can the Tánaiste state clearly that there is no equivalence between the civilian Palestinian population and the Israeli military apparatus? Can she at least do that? Does she also understand that Ireland's interests in pursuing the move to broker a permanent ceasefire and a just conclusion to this conflict are not well served by dodging the core issues or letting the Israelis off the hook? If she is not prepared to say it, I am prepared to do say on my

own behalf and on behalf of every other Irish person who believes in peace-----

**Deputy Eric Byrne:** The Deputy is a late convert.

**Deputy Mary Lou McDonald:** -----and justice in the Middle East that the behaviour of Israel in targeting, bombarding and killing Palestinian civilians is repulsive and reprehensible. There is no excuse for it and there is no alibi for it.

**An Ceann Comhairle:** We are over time.

**Deputy Mary Lou McDonald:** I wish the Tánaiste would take her cue from the Irish people who in recent days have been out in their hundreds and thousands in solidarity with the people of Gaza. They have made their decision. I only wish the Irish Government would share that clarity of thought.

**Deputy Emmet Stagg:** It is a pity you did not believe that 15 years ago.

**The Tánaiste:** All I can say is that winning and sustaining peace is a serious process.

**Deputy Mary Lou McDonald:** Really.

**The Tánaiste:** Yes, really. It is a serious process. The Deputy, and other Members from her party, frequently come in here or travel around the world to explain to other people the importance of building a sustainable peace. Almost all the members of her parliamentary party have spoken movingly on that subject on different occasions.

**Deputy Eric Byrne:** They went to Colombia as well.

**The Tánaiste:** Let us cut to the important point, which is that yesterday there was a short, and not long enough, cessation of hostilities brokered by the Egyptians. Today another cessation is under way for a limited number of hours. I put it to the Deputy that in making peace, the first and most important step is to extend that ceasefire and to make it permanent. That is the first role for people who want to make peace, preserve life and protect the civilians who are caught up in the conflict. That is the role of Irish foreign policy in relation to this, as it has been down the decades. We are a country which is very proud of our work and our deserved reputation in regard to peace-making.

**An Ceann Comhairle:** I call Deputy Catherine Murphy.

**Deputy Finian McGrath:** An independent foreign policy.

**An Ceann Comhairle:** Show respect for your leader.

**Deputy Finian McGrath:** I apologise.

**Deputy Catherine Murphy:** I extend a warm welcome to the members of the deaf community who are in the Gallery and welcome the Ceann Comhairle's initiative in facilitating the signing of our deliberations. I expect that it is difficult to sign our proceedings given all the heckling but I am sure the signer is doing very well.

This week's damning review of our human rights practices by the United Nations Human Rights Committee makes for grim reading but it is hardly surprising. Our failure in regard to the Magdalen laundries survivors, the symphysiotomy survivors, those who spent time in moth-

17 July 2014

er and baby homes and those who were victims of clerical child abuse is shameful. However, we stand to repeat the mistakes of the past if we do not act to address the grossly discriminatory laws that govern abortion. The UN committee confirmed that we are in breach of the International Covenant on Civil and Political Rights by denying women the option to avail of abortion in certain circumstances, namely, rape, incest, fatal foetal abnormalities and where a woman's health is in danger. I would argue that we are not only in breach of the covenant but also in breach of basic humanity in denying an abortion to a woman who has been raped, is a victim of incest or has to endure carrying to full term a pregnancy when there is no prospect of delivering a live baby. I found it profoundly chilling to listen to the remarks of the principal officer of the Department of Health who told the committee that denying these women the right to abortion was the will of the people. I question what people are meant. The eighth amendment to the Constitution was inserted more than 30 years ago and attitudes have changed significantly since then, as recent polls have shown.

The Labour Party is a socially progressive party. The Tánaiste is the leader of that party as well as the deputy leader of this country, and she is also one of the few women in a decision-making role in this Government. Is she going to use her powerful position to bring about change in this area and, if so, how is she going to do that?

**The Tánaiste:** In regard to Deputy Catherine Murphy's comments on the Minister for Justice and Equality's visit to the Human Rights Committee in Geneva, I am sure it did not escape the Deputy's notice that yesterday was a significant day in terms of the appointment of Judge Murphy to the commission of inquiry into mother and baby homes. The Deputy may also have noted the publication of an extensive report based on the work of the interdepartmental committee on the history of mother and baby homes. In the period since his appointment, the then Minister for Children and Youth Affairs, Deputy Charles Flanagan, did considerable work to advance that, and I want to use this opportunity to thank him and his predecessor, Deputy Frances Fitzgerald, for the significant progress that has been made on the issue in a relatively short period. Work is now ongoing on the terms of reference for that inquiry.

In regard to the Deputy's comments on the meetings in Geneva, it is recognised internationally this country has inherited a series of extraordinarily difficult legacy issues which have affected at least 50% of families in this country at some stage down the decade, and have affected women in particular. They have also affected children born as a consequence of relationships which in earlier decades were non-marital relationships and who, therefore, were given up for institutional care and, in many cases, for adoption or fostering out. When international organisations examine Ireland's legacy, it is important that they also recognise the progress that has been made by all parties in this House and by civil society in addressing a series of issues which are a legacy of an earlier period. I am proud to be a member of a Government that is currently implementing a redress scheme for the women who were in the Magdalen laundries. From the point of view of my Department, which is significantly involved in providing payments and income supports to the women who were in that situation, it is very satisfactory that work in this regard is proceeding apace.

In regard to the issues arising around fatal foetal abnormalities, the Deputy will be aware that some time ago the Government legislated successfully in regard to the X case. That is reflected in our legislation and is an issue that both parties in Government have addressed. In regard to fatal foetal abnormalities, I am on record as stating that I would like to see a situation where it is possible to address them. As of yet we do not have agreement on that in the programme for Government. It is a personal position and I have been on public record in this

regard over a long period.

**Deputy Catherine Murphy:** I know we have legacy issues and it is very uncomfortable to consider past failures in hindsight. We are asking how we allowed such things to happen and who was in power at the time, but will the pattern be repeated by people in power now, and will we have the same conversations in 30 years?

**Deputy John Halligan:** Exactly.

**Deputy Catherine Murphy:** The same committee might then be reviewing how the country dealt with issues like fatal foetal abnormalities, for example, or people who have been raped or subject to incest and who have been denied their human rights. The Tánaiste indicated her personal views are on the record but I ask her as Tánaiste - deputy leader of the country - and the leader of the Labour Party for her position on the issue.

I went to Liverpool Women's Hospital with people who were part of a study group on fatal foetal abnormalities. People were put through a tortuous process where, for example, they would have had to retrieve the remains of a baby they wanted by way of something like DHL delivery, which is absolutely appalling. It is inhumane and we cannot rely on a 31 year old referendum decision, presuming that people have not moved on when so many events have taken place in this country. We need a referendum, as the Tánaiste knows, if we are to change that position. Does the Tánaiste accept we need a referendum and will she commit to working towards such a referendum?

**The Tánaiste:** There has been an extensive process with the Constitutional Convention, which considered various issues and reported findings. As I pointed out, the Government and the Dáil has dealt with issues arising from the X case. Those had been unresolved over a very long period of years. We want a position in Ireland where every baby is a wanted baby. The Deputy spoke about cases and the people she accompanied in Liverpool, and those are tragic circumstances as the babies are wanted but their life outcomes were in doubt because of medical issues.

It was referenced in Geneva that on a previous occasion, the Irish people gave a view - as was their entitlement - on what they wanted reflected in the Constitution. I did not share the view at the time and my party and others like me recommended voting against the amendment to the Constitution. As a democrat, the Deputy must recognise that the people voted for the eighth amendment to the Constitution. The Government has legislated for and dealt with issues surrounding the X case, which has been a difficult issue in this country over a very long period. That is what was agreed in the programme for Government.

**Deputy John Halligan:** So the Tánaiste will not agree to a new referendum.

### **Order of Business**

**The Tánaiste:** It is proposed to take No. 7a, motion re membership of committees; No. 7b, motion re statement of Estimates for the Houses of the Oireachtas Commission; No. 7c, motion re Standing Orders 125 and 129; No. 8, motion re proposed approval by Dáil Éireann of the draft Commission of Investigation (Ronan MacLochlainn) Order 2014, back from committee;

17 July 2014

and No. 24, statements on the interdepartmental report on the commission of investigation into the mother and baby homes.

It is proposed, notwithstanding anything in Standing Orders, that (1) the Dáil shall sit later than 5.30 p.m. today and shall adjourn on the conclusion of the Topical Issue debate; (2) Nos. 7a, 7b, 7c and 8 shall be decided without debate; (3) the proceedings relating to No. 24 shall be taken not later than 4 p.m. and shall, if not previously concluded, be brought to a conclusion after two hours today and the following arrangements shall apply: (i) the statement of a Minister or Minister of State and of the main spokespersons for Fianna Fáil, Sinn Féin and the Technical Group, who shall be called upon in that order, shall not exceed 15 minutes in each case, and such Members may share their time; (ii) the statement of each other Member called upon shall not exceed ten minutes in each case, and such Members may share their time; and (iii) a Minister or Minister of State shall be called upon to make a statement in reply which shall not exceed ten minutes, and the Topical Issue debate shall be taken thereafter; and (4) the Dáil on its rising today shall adjourn until 2.30 p.m. on Wednesday, 17 September, 2014.

**An Ceann Comhairle:** There are four proposals to be put to the House. Is the proposal for dealing with the late sitting agreed to? Agreed. Is the proposal for dealing with Nos. 7a, 7b, 7c and 8 agreed to? Agreed. Is the proposal for dealing with No. 24 agreed to? Agreed. Is the proposal that the Dáil on its rising today shall adjourn until 2.30 p.m. on Wednesday, 17 September, 2014 agreed to?

**Deputy Gerry Adams:** It is not agreed.

**Deputy Paul Kehoe:** Careful, Gerry.

**Deputy Patrick O'Donovan:** Perhaps he wants a longer break.

**Deputy Gerry Adams:** Chuir Sinn Féin leasú síos ar an gclár. Táimid ag lorg díospóireachta maidin amárach faoin ngéarchéim i nGaza. Mar is eol don Teach, tá rudaí ag éirí níos measa ansin. Sinn Féin has proposed a formal amendment to the Order of Business and we have put it to the Ceann Comhairle. We will propose to the Government Whip that we set aside four hours tomorrow morning to debate the Middle East and particularly the onslaught on Palestinian citizens in the Gaza Strip. It is important that we pay attention to what is happening there and with due deference discuss these matters.

There should be an end to all acts of aggression, whether from Gaza or from Israel into Gaza. We welcome the sos declared but there are still many issues. As I heard the Tánaiste indicate earlier, we are in a prime position because of our peace process to make a stand and send a very clear message to people in that region, particularly the citizens and families of those who have been killed. I ask for a debate on that tomorrow morning.

**An Ceann Comhairle:** Before proceeding to other Deputies' contributions, I advise the House that an amendment cannot be made on the Order of Business which will clearly introduce a new matter. That would be contrary to Standing Order 26. It is a matter for the Government, through the Tánaiste, to alter business if it so wishes.

**Deputy Charles Flanagan:** He knows that anyway.

**Deputy Gerry Adams:** Our whip contacted the Chief Whip last evening. The Government can set time aside. It is not such a big issue for us. The Dáil does not have to adjourn. We can

meet here tomorrow morning for four hours and send a very clear signal from this Parliament and from the people of this State, of this island, that we want to chur stad leis an slad.

**An Ceann Comhairle:** I can only apply the rules of the House. I can do no more.

**Deputy Charlie McConalogue:** I wish to support that proposal and object to the Order of Business.

**An Ceann Comhairle:** The Deputy can object to the Order of Business.

**Deputy Charlie McConalogue:** We should seek agreement from the Government for a debate tomorrow morning. The Tánaiste's response this morning was weak on the actions the Government will take to engage with Israel, and the Israeli ambassador.

This is a sensible proposal. I ask the Tánaiste to agree to that. It is not a big request but this is a massive concern around the world and on the streets of Ireland as people watch what is happening in the Gaza strip and hear the stories of the experiences of the people of Gaza. Given the season we are in the Tánaiste should agree to this very sensible proposal this morning.

**Deputy Joe Higgins:** I too agree with the objection to the conclusion of the Dáil today on the basis that the atrocities in Gaza absolutely must be discussed.

I also oppose the adjournment while the housing crisis causes ever more suffering in this country. At 4.30 yesterday afternoon three thugs arrived at the home of a vulnerable mother and family in Castleknock-----

**An Ceann Comhairle:** The Deputy knows that he cannot discuss individual cases.

**Deputy Joe Higgins:** -----ripped out their front door and took it away on the orders of their landlord.

**An Ceann Comhairle:** I appreciate that this is a very serious issue but the Deputy cannot raise it on the Order of Business.

**Deputy Joe Higgins:** The family had been renting the place for eight years.

**An Ceann Comhairle:** The Deputy should resume his seat.

**Deputy Joe Higgins:** I am saying briefly, as I am entitled to under Standing Orders, why I oppose the adjournment of the Dáil.

**An Ceann Comhairle:** That is fine but the Deputy should not extend that into individual cases.

**Deputy Joe Higgins:** It is brief. The Tánaiste must hear this. Three hours later those thugs returned and only that my colleague, Deputy Coppinger, was on the scene they would have physically ejected that family with violence. Four and a half hours later the gardaí had not arrived because there is only one car in Blanchardstown.

**Deputy Paul Kehoe:** Deputy Higgins's microphone is off.

**Deputy Joe Higgins:** The Tánaiste is the Minister for Social Protection. She represents this constituency. Is she satisfied that landlords can act like this in this day and age and that the gardaí have no resources to respond to people in such a vulnerable situation?

17 July 2014

**An Ceann Comhairle:** We are not dealing with individual problems on the Order of Business. It is as simple as that.

**Deputy Mattie McGrath:** The Government should stand by the people.

**The Tánaiste:** The proposal to extend the Dáil sitting is not acceptable. I suggest to those who are understandably and properly very interested in what is happening, and the continuation of the violence in Gaza, that the Oireachtas Joint Committee on Foreign Affairs and Trade can be convened tomorrow. There can be a detailed discussion with the Minister for Foreign Affairs and Trade.

*(Interruptions).*

**Deputy Timmy Dooley:** That is waffle.

**The Tánaiste:** The Minister for Foreign Affairs and Trade will be available-----

**Deputy Mattie McGrath:** Bring back Deputy Gilmore.

**Deputy Timmy Dooley:** It is a matter of making a statement.

**Deputy Pádraig Mac Lochlainn:** That is just symbolism.

**Deputy Finian McGrath:** Bring back Deputy Costello. He would not have let this happen.

**Deputy Timmy Dooley:** It is appalling.

**The Tánaiste:** If the Deputies are interested in making peace the best way to do so is to have a serious, detailed conversation with the Minister for Foreign Affairs and Trade and the Joint Committee on Foreign Affairs. People like Deputy McConalogue will be welcome to attend and to discuss the matters in detail.

**Deputy Timmy Dooley:** Will the Tánaiste be there?

**The Tánaiste:** The proposal is for the Dáil to rise tomorrow. May I advise Deputies that the number of sitting days has been significantly increased since the change of Government?

**Deputy Timmy Dooley:** That matters to Gaza.

**The Tánaiste:** A comparison of sitting days between this Government's first three years and four months in office when the Dáil sat for 425 days, with the first three years and four months in office of the Fianna Fáil-led Government, shows that the Dáil sat then for 313 days, a full 100 days fewer.

**Deputy Mattie McGrath:** What has that got to do with the proposal?

*(Interruptions).*

**Deputy Mattie McGrath:** Bring back Deputy Gilmore.

**The Tánaiste:** The Deputies opposite should reflect that we want to be of serious assistance

in enforcing peace in Gaza.

**An Ceann Comhairle:** I will put the question.

**Deputy Joe Higgins:** Does the Tánaiste wish to respond to the point about the intimidation of vulnerable people in her constituency?

**An Ceann Comhairle:** Deputy Higgins should resume his seat. I am putting a question.

**Deputy Joe Higgins:** I proposed that the Dáil would not adjourn today. The Tánaiste did not answer my point.

**Deputy Ruth Coppinger:** What does the Tánaiste have to say?

**An Ceann Comhairle:** Would the Deputy please do as he is asked?

**Deputy Mattie McGrath:** This is new transparency in government.

**An Ceann Comhairle:** Would Deputy McGrath please stay quiet as well?

Question put: “That the Dáil, on its rising today, shall adjourn until 2.30 p.m. on Wednesday, 17 September 2014.”

The Dáil divided: Tá, 68; Níl, 46. Tá: Breen, Pat. Bruton, Richard. Burton, Joan. Butler, Ray. Buttimer, Jerry. Byrne, Catherine. Byrne, Eric. Cannon, Ciarán. Carey, Joe. Collins, Áine. Conaghan, Michael. Connaughton, Paul J. Coonan, Noel. Corcoran Kennedy, Marcella. Costello, Joe. Coveney, Simon. Daly, Jim. Deenihan, Jimmy. Deering, Pat. Dowds, Robert. Doyle, Andrew. Durkan, Bernard J. Farrell, Alan. Feighan, Frank. Ferris, Anne. Flanagan, Charles. Hannigan, Dominic. Harrington, Noel. Heydon, Martin. Howlin, Brendan. Humphreys, Kevin. Keating, Derek. Kehoe, Paul. Kenny, Seán. Kyne, Seán. Lawlor, Anthony. McCarthy, Michael. McFadden, Gabrielle. McHugh, Joe. McLoughlin, Tony. McNamara, Michael. Maloney, Eamonn. Mulherin, Michelle. Murphy, Eoghan. Nash, Gerald. Neville, Dan. Nolan, Derek. Ó Ríordáin, Aodhán. O’Donnell, Kieran. O’Donovan, Patrick. O’Mahony, John. O’Reilly, Joe. O’Sullivan, Jan. Penrose, Willie. Perry, John. Phelan, Ann. Phelan, John. Paul. Quinn, Ruairí. Rabbitte, Pat. Ring, Michael. Ryan, Brendan. Spring, Arthur. Stagg, Emmet. Stanton, David. Tuffey, Joanna. Twomey, Liam. Walsh, Brian. White, Alex. Níl: Adams, Gerry. Boyd Barrett, Richard. Broughan, Thomas P. Browne, John. Calleary, Dara. Collins, Joan. Colreavy, Michael. Coppinger, Ruth. Crowe, Seán. Daly, Clare. Doherty, Pearse. Donnelly, Stephen S. Dooley, Timmy. Ellis, Dessie. Ferris, Martin. Grealish, Noel. Halligan, John. Healy, Seamus. Higgins, Joe. Kirk, Seamus. Kitt, Michael P. Mac Lochlainn, Pádraig. McConalogue, Charlie. McDonald, Mary Lou. McGrath, Finian. McGrath, Mattie. McGrath, Michael. McGuinness, John. McLellan, Sandra. Martin, Micheál. Mathews, Peter. Moynihan, Michael. Murphy, Catherine. Ó Caoláin, Caoimhghín. Ó Cuív, Éamon. Ó Feargháil, Seán. Ó Snodaigh, Aengus. O’Brien, Jonathan. O’Sullivan, Maureen. Pringle, Thomas. Ross, Shane. Shortall, Róisín. Smith, Brendan. Tóibín, Peadar. Troy, Robert. Wallace, Mick.

Tellers: Tá, Deputies Paul Kehoe and Emmet Stagg; Níl, Deputies Seán Ó Feargháil and Aengus Ó Snodaigh.

Question declared carried.

*1 o'clock*

**Deputy Gerry Adams:** A Cheann Comhairle, I very much regret that the Government has ruled out this debate. I ask you to invite the Dáil to stand for one minute in solidarity with the people of Gaza and the Middle East.

**An Ceann Comhairle:** Sorry-----

*Members rose.*

**An Ceann Comhairle:** Excuse me. We are in session. I ask Deputy Adams that if he has a proposal like that in future, he pay the Chair the courtesy of giving me advance notice.

**Deputies:** Hear, hear.

**Deputy Gerry Adams:** Okay.

**An Ceann Comhairle:** I do not want to be put in that position ever again. Thank you.

We now move on to the motion re membership of committees.

**Deputy Joe Higgins:** What about the Order of Business?

**An Ceann Comhairle:** The time for the Order of Business has expired. As you can see, the clock is at zero.

**Deputy Joe Higgins:** The Tánaiste did not respond to the point about intimidation of families in her area.

**An Ceann Comhairle:** Resume your seat. The time has expired. The Standing Order provides for 20 minutes and the time has expired.

### **Membership of Committees: Motion**

**Minister of State at the Department of the Taoiseach (Deputy Paul Kehoe):** I move:

That Deputy Damien English (*Minister of State at the Departments of Education and Skills and Jobs, Enterprise and Innovation*) be discharged from the Select Committee on Jobs, Enterprise and Innovation and that Deputy Marcella Corcoran Kennedy be appointed in substitution for him.

Question put and agreed to.

**Statement of Estimates for the Houses of the Oireachtas: Motion**

**Minister of State at the Department of the Taoiseach (Deputy Paul Kehoe):** I move:

That Dáil Éireann take note of the Statement of Estimates of moneys required in respect of ongoing expenditure for the period beginning on 1 January 2015 and ending on 31 December 2015, prepared and published by the Houses of the Oireachtas Commission in accordance with section 13 of the Houses of the Oireachtas Commission Act 2003 as amended by section 8 of the Houses of the Oireachtas Commission (Amendment) Act 2006 and section 9 of the Houses of the Oireachtas Commission (Amendment) Act 2009, which was laid before both Houses of the Oireachtas on 15 July 2014.

Question put and agreed to.

**Standing Orders 125 and 129: Motion**

**Minister of State at the Department of the Taoiseach (Deputy Paul Kehoe):** I move:

That, pursuant to Standing Order 99(1)(a), the Committee on Procedure and Privileges recommends that the Standing Orders of Dáil Éireann relative to Public Business are hereby amended—

(a) in Standing Order 125, by the deletion of paragraph (2); and

(b) in Standing Order 129, by the substitution of the following for paragraph (2):

‘(2) When the amendments (if any) offered to a section have been disposed of, the question shall be proposed, “That such section (or such section as amended) stand part of the Bill”, or, as appropriate, “That such section be deleted from the Bill”.’.

Question put and agreed to.

**Draft Commission of Investigation (Ronan MacLochlainn) Order 2014: Motion**

**Minister of State at the Department of the Taoiseach (Deputy Paul Kehoe):** I move:

That Dáil Éireann:

bearing in mind the specific matters considered by Government to be of significant public concern arising from the fatal shooting of Ronan MacLochlainn by members of the Garda Síochána during the course of an attempted armed robbery of a Securicor van in Co. Wicklow on 1 May 1998;

noting that it is the opinion of the Government that a Commission of Investigation represents the best method of addressing the issues involved; and

17 July 2014

further noting that a draft of the proposed Commission of Investigation (Ronan MacLochlainn) Order 2014 and a statement of the reasons for establishing the commission have been laid before Dáil Éireann resolves to approve the draft.

Question put and agreed to.

### **Interdepartmental Report on the Commission of Investigation into the Mother and Baby Homes: Statements**

**An Ceann Comhairle:** I call the Minister for Children and Youth Affairs, Deputy James Reilly, to make his statement. The Minister has 15 minutes.

**Minister for Children and Youth Affairs (Deputy James Reilly):** I welcome today's opportunity for statements on mother and baby homes. In line with the motion passed on 11 June, I wish to update the House on the significant progress which has been achieved in just five weeks on the establishment of a commission of investigation into these issues of public concern.

It is just a matter of days since my appointment as Minister for Children and Youth Affairs so in making this statement I am very much drawing on the work commenced by my colleague, the Minister for Foreign Affairs and Trade, Deputy Charles Flanagan. At the outset, I want to acknowledge the constructive contributions and co-operation of colleagues on all sides of the House in assisting deliberations on this sensitive issue. I would like to continue the process of engagement and dialogue with a view to achieving the widest possible consensus on the establishment of this commission of investigation. I am confident that this inclusive approach in the essential scoping phase will assist in establishing an inquiry which is capable of effectively addressing these important matters in a sensitive and timely manner.

Following the tragic revelations surrounding the Tuam mother and baby home, which I know greatly disturbed Members on all sides of the House and the wider public, the Government committed to establishing a commission of investigation to comprehensively investigate these institutions and the experiences of mothers and children in their care. In the weeks since these revelations we have witnessed further public debate and commentary on the involvement of church and State in the role played by mother and baby homes. Questions have also been posed on the role of families and wider communities because we must recognise, and accept, that these institutions did not exist or operate in isolation.

As an initial step, an inter-departmental group was established to gather relevant information so as to inform Government decisions on the scope, format and terms of reference of a commission of investigation. The group comprises senior officials from eight Government Departments, the Office of the Attorney General and relevant agencies. The work and approach of the inter-departmental group was adapted to take cognisance of the motion adopted by Dáil Éireann.

I wish to take some time to speak about the report of the inter-departmental group, which demonstrates the complexity of the issues we must consider before deciding upon the terms of reference of the commission. The report of the inter-departmental group on mother and baby

homes was laid before the Houses and published yesterday. I wish to record my appreciation of the considerable work of officials in delivering this detailed report within the tight timeframe specified by the Oireachtas. My predecessor, the Minister for Foreign Affairs and Trade, Deputy Flanagan, received the interim report of the committee in line with the due date of 30 June and its contents, including some updated factual information, were further considered by the Cabinet on Tuesday. In publishing the report, I hope to assist the wider public in understanding the complexity of the issues involved and the challenge in finalising precise terms of reference.

As the report indicates, the group concentrated on some of the more salient records which were accessible to map important dimensions of the issues in the short time available. The information provided mostly draws upon secondary sources, particularly a number of very relevant and relatively recently published social histories, but with some consultation of primary records contained in Department of Health files and the General Register Office. I wish to acknowledge the valuable role currently being played by historians in making their research known to the public. This is of great assistance in achieving an objective assessment, but this must now be added to by the formal process of an inquiry.

In its examination of the treatment of single mothers and their children, the group notes that mother and baby homes have their origins as far back as the 1920s and were a manifestation of attitudes to and treatment of unmarried mothers and their children. However, it is clear that their role and purpose has been the subject of public debate and concern over the intervening period. Those confined to institutions represented only a small proportion of women and girls who became pregnant outside of marriage. The group considers that the institutional features to such treatment cannot arguably be properly investigated without a wider examination of the social history of the period. Figures published by academics show that some 89,247 so-called illegitimate births, as they were described then, were recorded between 1922 and 1973, although the figures recorded were distorted by an under-registration. The rate of illegitimate births as a percentage of total births ranged between 1.6% and 3.9% over the period.

The children of unmarried mothers appear to have fared poorly, even in comparison with the relatively poor general standards of child welfare applying at the time. It has been calculated that the infant mortality rate per 1,000 so-called illegitimate births was at least 3.8 times that of other births. This issue of mortality rates has received considerable attention in public debate and the group reports that the mortality rate for so-called illegitimate births was highest at 344 per 1,000 births in 1923, but it exceeded 200 per 1,000 births in 23 of the 28 years for which data are provided.

The report also highlights the extent of societal changes, medical advances and legislative reform since the establishment of the State. Attitudes changed over the years and, in response, so too, in time, did the institutions. The introduction in the Social Welfare Act 1973 of the unmarried mother's allowance and the Unfair Dismissals Act 1977 served to provide some protection for unmarried mothers. The valuable contribution of voluntary and advocacy groups to these changes is noted by the interdepartmental group. The practice of delivery on-site in mother and baby homes fell away over the period, with births increasingly taking place in maternity hospitals. The group notes that the remaining mother and baby homes either closed or evolved into different roles.

The group expresses the view that the particular social and historical issues which the commission of investigation will be asked to explore are likely to distinguish the nature of its investigations from those of many other commissions. Accordingly, the report concludes that a

comprehensive historical survey of the treatment of unmarried mothers and their children in Ireland would be of considerable relevance to public understanding. The report suggests the foundation of the State in 1922 as the appropriate starting point for this survey and suggests a potential end point as 1987, when the Status of Children Act 1987 abolished the concept of illegitimacy and sought to equalise the rights of children, including those born outside marriage.

This research module could potentially examine a wide range of institutions, including mother and baby homes, county homes, private nursing homes, homes for infants or children, and Magdalen laundries. Patterns relating to the admission of unmarried mothers into these institutions and the pathways experienced by unmarried mothers and children on leaving such institutions could be assessed to determine the relative significance of these types of institution and the relationship between them. Research on the management and operation of these institutions, including religious and State involvement, and information on the conditions within these institutions and the welfare of those accommodated could add significantly to current knowledge.

An early priority for the group was to compile relevant information on the mother and baby home run by the Bon Secours from 1925 to 1961. Deputies will recall that reports of the presence of infant remains buried on the grounds of this former mother and baby home were the initial focus of public concern. The General Register Office has identified the deaths of 796 children who died at the Tuam home during the 36 years, averaging 22.2 deaths per year but ranging from one in 1958 to 53 in 1947. The report includes details of the wide-ranging reported causes of death and identifies the need for specialist analysis to examine these rates in more detail.

In addition, the report signals the need for detailed investigation into the practices and particular concerns which have arisen in relation to specific mother and baby homes. On the basis of its analysis of accessible records and publications, the group offers a basis for the inclusion in this module of the commission's work of nine specific institutions in which 24,700 births were recorded. The number of children in these institutions would have been considerably higher as many births took place in local maternity units or elsewhere. The institutions are Ard Mhuire, Dunboyne, County Meath; Bessborough, Cork; Manor House, Castlepollard, County Westmeath; Sean Ross Abbey, Roscrea; Bethany Home, originally of Blackhall Place prior to moving to Orwell Road in Rathgar; Pelletstown on the Navan Road, Dublin; Tuam, County Galway; Kilrush, County Clare; and St. Gerard's, 39 Mountjoy Square, Dublin.

In its work to identify other potentially relevant institutions, the group reviewed the range of institutions which were registered under the Registration of Maternity Homes Act 1934. The scale of this task was demonstrated by the fact that more than 200 locations were identified in a snapshot of files examined by the Department of Health from the records relating to 1949. The group assesses the overall difficulty as being the challenge to identify those institutions which may have played a significant role in relation to unmarried mothers in a manner consistent with the areas to be addressed by the commission.

It is the view of the group that considerable historical research is likely to be needed to establish the role played by particular institutions. This would assist in determining the extent to which a practical methodology could be utilised, based upon the availability of records, to contribute to the overall work of the commission in a timely and effective manner.

The group considered the available information relating to vaccine trials and notes that at

least some were undertaken on children in mother and baby homes. A review by the chief medical officer in 2000 provides an overview of the known information related to three trials in the 1960s and 1970s. In addition, mother and baby homes were among the institutions from which the remains of 474 infants were transferred to medical schools for anatomical examinations under the Anatomy Act 1832.

The issue of adoption has been raised at many of the consultative meetings which took place between my predecessor, the Minister, Deputy Charles Flanagan, and advocacy groups in recent weeks. In excess of 40,000 adoptions were approved by the Adoption Authority subsequent to the Adoption Act 1952. In the absence of adoption legislation, the placement of children with others before 1952 was much more informal, with boarding out, fostering and de facto adoptions directly or through intermediaries. Natural mothers have strongly disputed the voluntary nature of the consent given to these arrangements in particular cases, even after 1952.

While the commission should certainly look at adoption issues, a commission of investigation is not a suitable or effective vehicle for addressing the interest of individuals in securing access to their own records. An accelerated legislative and operational programme of reform to tackle this important issue to the greatest degree possible is the most appropriate means to progress this matter.

My Department has been working to finalise a general scheme and heads of an adoption (information and tracing) Bill. This is a complex undertaking with important legal issues, including constitutional considerations. While the major issues arising from the mother and baby homes controversy are placing additional demands on the Department's limited resources in this area, it is my wish that this general scheme can be referred to the Oireachtas Joint Committee on Health and Children in the autumn of this year and prioritised within the Government's legislative programme.

The Child and Family Agency provides an information and tracing service throughout the country to birth mothers, adopted persons and their families. Work by the agency on the organising and storage of records, including some 25,000 records from the Sacred Heart congregation, has taken place.

The National Adoption Contact Preference Register was set up in 2005 to facilitate contact between adopted persons and their natural families. Participation is voluntary and contact through the register will only be initiated where both parties register. The register is maintained by the Adoption Authority of Ireland and it is intended to put the register on a statutory basis. I am advised that applications to the register have doubled since the announcement that a commission of investigation will be established.

Yesterday I announced that Judge Yvonne Murphy has agreed to chair the commission. I am delighted that such a widely respected person of the calibre of Judge Murphy has agreed to head up this investigation. She has a strong track record in effectively establishing the truth in important and sensitive matters. She is ideally suited to this challenging role. The Government may give consideration to the appointment of further members to the commission but I believe Judge Murphy's agreement to undertake the role of chair of the commission is a positive development in the process to establish an effective and independent investigation.

Considerable momentum has been achieved in the work to establish the commission and I want to maintain this over the coming weeks. The group's report acknowledges the need to

17 July 2014

learn from the experience and lessons of previous statutory inquiries. The remaining important task is to capture accurately in the terms of reference the precise issues and methods of investigation, together with estimated costs and timeframe.

The group recommends that the commission should not encroach on the terms of reference or duplicate the work of previous investigations, in particular, the Commission to Inquire into Child Abuse. It is my view that establishing the investigation in a manner which allows it to build on what is known should be a core objective of this investigation. I am confident this work will be completed on a timely basis but with due care and attention.

**An Ceann Comhairle:** I am sorry for interrupting. Is it agreed to extend the time available to the Minister to complete his speech?

**Deputy Caoimhghín Ó Caoláin:** Agreed.

**Deputy James Reilly:** The report acknowledges the absolute need to develop an opportunity for those who were mothers or children in these mother and baby homes to input their experiences. This is recognised as requiring considerable and careful management, taking account of learning from similar processes. The report also notes the need for the confidentiality of sensitive personal information to be protected through appropriate protocols. In seeking to establish the truth, we must be respectful of those who were in mother and baby homes, and their families, many of whom will want to tell their stories and others of whom may want to maintain their right to privacy. Given the breadth and complexity of the issues involved, as evidenced from the interdepartmental group's report and the range of submissions and meetings, it is now apparent some additional time is required for review of submissions and drafting to finalise workable terms of reference for this investigation. This is a complex task which must be completed to the highest standards. To do otherwise would not be in the best interests of those most concerned or serve the wider public interest.

I wish to again acknowledge the constructive contribution of Opposition spokespersons and Members on both sides of the House with whom I have met. Seeking the widest consensus possible in developing the terms of reference will assist in establishing an inquiry which is capable of effectively addressing these important matters in a sensitive and timely manner. I also welcome the indications of co-operation and assistance which have been forthcoming from church leaders - from the Roman Catholic Church, Diarmuid Martin, Archbishop of Dublin, Michael Neary, Archbishop of Tuam, and John Buckley Bishop of Cork and Ross; from the Church of Ireland, Michael Jackson, Archbishop of Dublin and Glendalough. The previous Minister, Deputy Charles Flanagan, has already met with representatives of a number of key advocacy groups and church leaders, including the Adoption Rights Alliance, First Mothers Group, Bethany Homes Survivors Group, Cúnamh, Adoption Loss, Coalition of Mother and Baby Home Survivors and Archbishop Diarmuid Martin. I also hope to meet with Archbishop Jackson and I intend to maintain communication with these groups as matters progress.

All views expressed during these constructive discussions, together with now over 120 submissions received through my Department's dedicated e-mail facility, are assisting to inform the current deliberative process. I am very cognisant of the interdepartmental group's conclusion that: "Past experience indicates that the finalisation of a draft order providing for the establishment of a commission of investigation must be handled very carefully and precisely in order to ensure the commission is established on the most sound footing possible". The group also suggested precise terms of reference will likely need to specify the institutions and issues

to be investigated, as well as to provide for different methodologies and approaches to uncover the truth.

The Government is committed to establishing an effective commission which can deliver on public expectations in a realistic manner. My Department has already discussed and corresponded on preliminary draft terms of reference with the Attorney General and her officials. It is clear precise terms of reference are, ultimately, a critical factor in determining an investigation's ambit, length, complexity, cost and ultimately, its success. I intend to continue engagement with my Government colleagues over the coming weeks with a view to finalising our deliberations on the terms of reference in early course. I then hope to be in a position to bring a memorandum to Government setting out the proposed terms of reference, together with a statement of the estimated cost. I expect to return to both Houses with a draft order to establish the commission early in the autumn. I will continue to liaise with Opposition spokespersons during the course of this process.

The commission which the Government will establish will be the means by which we will achieve the goal, so widely shared, to bring a true and clear picture of this part of our history into full public view. There are challenges inherent in this task but we must organise an effective investigation process to face up to our past where our children were not cherished equally, and most importantly, we must all learn from it.

**Deputy Robert Troy:** Fianna Fáil fully supports the decision to establish a statutory commission of investigation into the treatment of women and children at mother and baby homes. This came about following the horrific revelations in the national media regarding the barbaric practices in the mother and baby home in Tuam, County Galway. We have been consistent in our belief that this matter should be progressed in a non-partisan way, that it be done in a sensitive manner and that the key objective must be to establish the true facts of what happened in these homes.

Yesterday, the Minister for Children and Youth Affairs published the interdepartmental group report and announced the appointment of Judge Yvonne Murphy to chair the commission of inquiry. I welcome that in so far as it goes. However, I had hoped that I would be welcoming the publication of the terms of reference for the commission. We were clearly given the impression in regular updates from the Minister's predecessor that they would be published before the Dáil rose for the summer recess. Did the Minister or his predecessor actually draw up terms of reference and circulate them for observation among Cabinet colleagues? Were they shot down by the Attorney General? In any case, we are left with a situation where the terms of reference for the proposed commission of inquiry will not now appear until the autumn. For my part, I hope this is not a delaying tactic designed to give the Government time to condition expectations as to what is reasonable or appropriate for the commission of investigation to inquire into.

In his press statement accompanying the publication of the interim report yesterday, the Minister also drew attention to the issues of cost, saying the terms of reference would have to be accompanied by an estimate of the costs, including legal costs, to be incurred by the commission in conducting the investigation and preparing its reports, as well as a timeframe for the submission of the commission's final report to the specified Minister. No one is suggesting the commission should be given a blank cheque. We want to see a comprehensive inquiry, however, that will bring these issues to a satisfactory conclusion that affords closure to all those who suffered and that shows people, both here and abroad, that we as a country and as a people are dealing with the difficult issues from our past.

17 July 2014

The fact the Child and Family Agency also published reports yesterday that show the need for more resources to tackle deficiencies under its remit was a notable coincidence. There is a clear prospect now that the terms of reference will be published around the time of the budget when there is obviously strong focus on available resources. I hope the Government is not using this to diminish the scope of the inquiry. If so, the cross-party approach could be jeopardised. This should, after all, be above party politics. There has been significant goodwill and support for the investigation right across society. The Archbishop of Dublin, Diarmuid Martin, and other bishops came forward in support of this investigation. I hope all the religious will support it. As I said last month, international media reports over the past week have put Ireland in the spotlight for the wrong reasons. The eyes of the world are now on Ireland. How we, as a society, will deal with this issue will indicate how we should be judged internationally.

The conclusions of yesterday's report certainly give the impression there is an anxiety about the prospect of a commission of investigation. It seems more adept at pointing up problems rather than solutions. Certainly, it looks as if the commission will be limited to investigating nine baby homes. The second conclusion talks up the option of using sampling techniques with selection of examples and case studies. The issue of adoption is also downplayed although its relevance is accepted. While the commission cannot itself resolve the issue of records, this should not be used to constrain it looking into the issue.

I obviously agree with the suggestion that an opportunity for those who were mothers or children in these homes to input their experiences should be developed. The report is right to highlight the need for confidentiality in this regard. I hope that it will be as comprehensive as possible and that all those who wish to provide oral testimony can do so. Many women who went through this process and are still haunted by it have been in contact with me. They want nothing more than to have their say and their voices heard.

The final two conclusions of the report are notable for the absence of any mention of the commission of investigation. Instead, the report calls for a survey and an inventory. No one can dispute the value of such work but it should also be relevant to the commission's work. The report acknowledges its work is very modest given the scale of the records, understandable given the time involved. However, the work of the commission must not be modest.

I note some of the concerns I am raising today are shared by organisations outside this House. The Adoption Rights Alliance, while welcoming the appointment of Judge Murphy, cites grave concerns about the interdepartmental report. It points out that the Minister's predecessor, Deputy Charles Flanagan, clearly stated from the outset of this process that there was little point in limiting the scope of a statutory independent inquiry and that it was in the State's interest, as well as that of the tens of thousands of victims, that the inquiry would comprehensively deal with all matters relating to mother and baby homes. The alliance states the report appears to want to rule out any investigation of homes where unmarried mothers were either not present, such as in the case of infant homes, or not the sole residents of a home, as was the case in county homes, erroneously stating their inclusion would risk repeating much of the work of the Ryan commission to inquire into child abuse. The alliance maintains this is simply not true of institutions such as Temple Hill and Stamullen infant hospitals which handled a mixture of children destined for adoption from public and private hospitals, State-funded mother and baby homes, as well as private nursing homes. They also say that consigning or relegating institutions such as the county homes and the Magdalen laundries to a historical survey sends a very clear message to the most vulnerable, most ignored victims of those institutions, which is that their humanity could be set aside in the past and will continue to be set aside in any investigation,

lest it embarrass or financially encumber the State. They maintain that this is a discriminatory approach and suggest that it is indicative of the investigation failing before it has even started. They conclude by saying that: "If the commission of investigation is to enjoy the confidence of the adoption community, it is imperative that the terms of reference are as broad as is necessary and reflect the views of those affected most". I look forward to a response from the Minister in that regard. I hope he sees yesterday's report as a building block rather than a template.

I also received correspondence this morning from the Coalition of Mother and Baby Home Survivors. The group indicated concern on a number of matters which I will draw to the Minister's attention. Yesterday's report states: "In relation to lawful burials - as indicated in the Magdalen Report - prior to 1994 there were no conditions applying to burial sites attaching to religious homes and no onus to report or give notification of burials therein to any authority." There is concern that this looks like a blanket statement covering all burials at angels' plots and that the essential message is that there will be no investigation of burial practices. Concern has also been expressed that of two mid-sized holding centres that held babies and children only, rather than mothers prior to giving birth, Stamullen is included but St. Patrick's Infant Hospital in Temple Hill, Blackrock, County Dublin is not included.

The group is alarmed that the report seeks to dodge the issue of closed adoptions with the reference to the old reliable "legal complexities", and that the investigation will not examine closed adoptions as part of the punishment for single mothers and their children, which there is no doubt it was. Reference has been made to the tracing Bill, which is currently going through the motions and is an absolute farce. There is nothing new in the Bill; it simply puts the Department's guidelines in statutory form and copperfastens the lifelong closed adoption system in contravention of Article 7 of the UN children's rights convention. Adoptees, mothers of loss, and survivors in general will be gutted. That is appalling.

While we cannot rewrite history, this investigation, if properly framed with the right terms of reference, would have the opportunity to ensure we have an independent, transparent and factual record of what happened at the homes. This is a sensitive and complex issue and must be addressed in a calm and measured manner. Some of the sensationalist coverage that we saw initially in May and June was not helpful to those affected by mother and baby homes. However, a calm and measured manner should not mean we should lack in ambition in pursuing the inquiry.

In addressing the issues it is important to acknowledge again the hard and persistent work of Ms Catherine Corless, who was determined to get to the bottom of the facts by accessing archived materials in order that the mothers and babies of Tuam could be remembered correctly. Considerable work has also been done by historians in colleges across the country on the history of mother and baby homes not only in Ireland but across Europe. None of the work should be ignored. While the Commission will seek to establish the true facts of what happened over many decades, there is one finding we do not need to await, namely, that we as a State failed in our duty to protect the women who only got pregnant but were treated as outcasts by society. There has been little debate on the role of the fathers. They were treated very differently by society at the time. There was no requirement in law to put the father's name on the birth certificate. That was totally unfair on the women and babies. No doubt, there are some fathers wondering whether their sons and daughters are alive. The truth is that this was just as much a societal issue of the time.

I initially called for a full independent investigation to ensure the full facts could be gathered

and the truth of how the homes were run would be made known. We owe it to the women. It is the very least they deserve. We must establish the truth based on the facts. The last thing the women need or deserve is the sensationalisation of what they have already lived through at the hands of their families, society, the State and religious institutions. The women have been wronged and they must have full confidence that if they wish to come forward, they can be assured of compassion, sensitivity and confidentiality and that nobody will judge them. All of the coverage is undoubtedly reigniting feelings which have been suppressed for many years.

For my part and that of my party, we believe the commission of investigation should carry out the following functions. The commission should inquire into the treatment of mothers and children in mother and baby homes, county homes and all residential institutions in which single mothers and their children were accommodated from the foundation of the State. There is a need for us as a society to shed as much transparency and light as possible on the matter. It is only in that way we can bring closure to such matters. Existing archives should be utilised and all records that are requested should be provided to the inquiry. The commission should shed light on the manner in which mothers and children were placed, and the circumstances in which they continued to be resident in mother and baby homes.

Questions must be asked about the existence or otherwise of cover for medical officers and obstetricians from local hospitals, whether there were service contracts and how such people were reimbursed for their services. The commission should hear evidence from mothers and children as to how they were treated during their time in homes: the average length of a normal working day in such homes must be ascertained, how residents were treated, what work was required of them, whether the women had access to education, if they were in locked facilities, whether visitors were allowed and whether corporal punishment was used as a disciplinary measure.

In addition, the commission should seek to establish the extent of the State's role in and knowledge of mother and baby homes and the practices within them. Did the State deliberately and as a matter of policy decide such homes were the appropriate residence for unmarried women and their children? Were explicit directions made to give effect to such a policy? What legislation was invoked to support such decisions? If the State decided either to contract out or opt out of such matters, what mandate did it give to the religious orders for management of the homes?

The commission should inquire into the role of the religious organisations in facilitating such treatment. Clearly, the commission should seek statements from all who worked in such homes. It should also seek to establish how lay staff were employed and on what basis. Furthermore, it should seek to find out the extent to which non-clergy staff were involved in administering the rules and procedures employed in the homes.

We all know now, and it was known at the time, that there was a much higher mortality rate among children in such homes. As the interdepartmental report states: "The children of unmarried mothers appear to have fared poorly, even in comparison with the relatively poor general standards of child welfare applying at the time". The commission must establish the causes of the unexplained high mortality rates. The indications are that they were 40% to 50% higher than among children in the population at large. The question must be asked as to whether medical staff were aware of the high mortality rate and how the rates compared to mortality rates in similar homes across Europe in the same period.

I am conscious that I am coming to the end of my allotted time. The commission should also seek to establish how many mothers died while resident in such homes. The issue of mortality naturally leads to the circumstances of the burial of any deceased children. It has been estimated that hundreds of infants may have been buried in the grounds of the homes. The commission should establish the number of burials. For those children who survived, the inquiry should establish the number of children adopted from the homes, including how were adopted post the introduction of the Adoption Act 1952. It must be examined whether the homes considered being an adoption agency as one of their key functions.

I made a written submission to the Minister on what I would like to see the commission examine. I and my party hope we can maintain the cross-party consensus that has existed to date. I am available to meet with the Minister for most of the summer if he feels that is necessary. The report the Minister published yesterday is useful but it should just be a step on the way. As the spokeswoman for the Coalition of Mother and Baby Home Survivors, CMABS, said yesterday: "This is our one chance - our last chance to get justice and closure. Therefore the inquiry needs to be all inclusive".

**Deputy Caoimhghín Ó Caoláin:** I believe this is my first opportunity to address the Minister in the Dáil Chamber since he received his new portfolio. At the Oireachtas committee this morning, I wished the Minister success with his new responsibilities and I wish to do so again on the record of the House.

Last month, Sinn Féin tabled a Dáil Private Members' motion in response to the issues raised by the scandal of the Tuam mother and baby home. When the Government indicated that it would establish a commission of investigation with statutory powers, including the compellability of witnesses and over the release of all relevant documentation, we agreed to accept the Government's amending motion and we did not divide the Dáil. We were seeking, and still seek, a united all-party approach in order to achieve the best outcome for the survivors of these scandals and in memory of those who died.

An inter-departmental group was established and its report was published yesterday. To that extent, the process so far has been carried out in good time, although it would have been better had we been able to adopt acceptable terms of reference before the Dáil recess today, as committed to by the former Minister for Children and Youth Affairs. The commission of inquiry's terms of reference must be comprehensive and inclusive of all relevant places where mothers and babies were held and where the issues highlighted recently in relation to Tuam arise. I place great emphasis on the word "inclusive". The report of the inter-departmental group sets out a roadmap which, in our view, does not go far enough. The inquiry should not be confined to the nine institutions listed in the report. County homes and Magdalen laundries should definitely be included. The issues of adoptions, involving both Catholic and Protestant institutions, and of vaccination trials should also be included. There is no word of redress of any kind in this report. That too, and much more, must be addressed, as I will set out in a moment. There now needs to be full and immediate consultation with all survivor groups regarding the terms of reference following the publication of the cross-departmental report and the appointment of the remaining members of the commission of inquiry.

We have concerns relating to the appointment of Judge Yvonne Murphy by the Minister for Children and Youth Affairs, Deputy James Reilly, to chair the commission. Judge Murphy was also appointed by the Minister, Deputy James Reilly, when he was Minister for Health to report on symphysiotomy and produced what was, in my view and the view of many, a fundamentally

17 July 2014

flawed report. It would be remiss of me not to mention that fact, and I am not alone in my view as this point has also been made by the Coalition of Mother and Baby Home Survivors. I hope the judge takes note and I hope she takes the right approach this time. For this, of course, much will depend on the terms of reference that are presented to the House in the autumn. It is essential that the Government sets the proper and appropriate terms of reference for the commission of investigation. Its scope needs to be wide enough to cover all the key issues involved in the scandal of mother and baby homes. At the same time, the terms of reference need to be clear and comprehensive, while making possible a timely conclusion to the work of the investigation.

Yesterday, Sinn Féin published its own detailed submission on the terms of reference and composition of the commission based on what was presented to the former Minister. I have spoken to the former Minister and the Minister, Deputy James Reilly, on the matter this week. We will continue to advance these proposals prior to the final determination of the terms of reference by the Oireachtas in the autumn.

I will now set out the main points of our submission. The purpose of the investigation should be to recover and establish the truth, identify any violations of the rights of citizens and their causes, locate responsibility and propose effective remedy. In particular, it should identify whether there are persons, institutions, corporations and State agencies that were culpable in any violations and make recommendations to hold them to account, as appropriate. It must examine and establish how this interlocking institutional system developed and was maintained for so long. It must be in a position to establish whether institutional or State failings in this regard were systemic. However, the underlying purpose of this investigation must be to restore dignity to the victims and survivors and to acknowledge their existence, experiences, importance and place within the Irish national family.

The establishment order, under section 3 of the Commissions of Investigation Act 2004, must specify the terms of reference, under section 5, in order to permit sufficient democratic scrutiny. In other words, it must permit the Oireachtas to propose and debate amendments, if necessary, and to formally record endorsement if possible, or dissent otherwise. The order must also specify that any proposed amendment to the terms, as provided for under section 6 of the Act, must also be brought before the Oireachtas for prior approval. The establishment order must specify the proposed appointments to the commission or any replacements under section 7 for prior Oireachtas approval. It must specify that all appointments to advise or otherwise assist the commission under section 8 must be by way of open, competitive public tender. Appropriate qualifications must be central to these appointments. The establishment order should specify that the conduct of the investigation by the commission, as per section 11, should permit the option of public testimony in the case of survivors and should consider that the public interest test is met under section 11(1)(b) as to the testimony of any witness who is not a survivor electing to have his or her evidence heard in private. In this way, this commission must provide a structure for receiving and examining testimony that is analogous to that of the Commission to Inquire Into Child Abuse and the ongoing historical abuse inquiry in the North - that is to say, before an investigation committee, or investigation and inquiry panel in the case of contested evidence, unless a survivor opts to provide uncontested evidence in private before a confidential committee or in an acknowledgement forum.

The commission must have full compellability powers as to testimonial and documentary evidence. We acknowledge the strong compellability powers of the commission under section 16, reinforced by the offences in sections 18, 30 and 31 and the penalties in section 50. The commission must also have sufficient powers to make findings of fact, conclusions and recom-

mendations, in particular, as to effective remedies both individual and systemic. It must have the power to recommend further public inquiry. It should have the additional power to recommend further criminal investigation and-or civil action. Only if the establishment order can specify the above within the terms of the 2004 Act should this legislation be used.

The cost to the State of adequate representation is an important factor but cannot be allowed to outweigh the right to effective representation to ensure justice and the restoration of dignity to victims and survivors. If properly resourced, an independent witness support and advocacy service to provide support and advice before, during and after the investigation could potentially be provided and managed in co-operation with the network of Free Legal Advice Centres. Any scheme adopted must meet Ireland's international obligations. The commission's terms of reference must capture the all-Ireland, cross-Border and international extent and scope of the matters under investigation. The terms of reference should include, but not be limited to, all mother and baby homes regardless of denomination, including Bethany Home and other Protestant-run institutions, the Magdalen laundries, and the county homes.

We note the position set out in the submission by Justice for Magdalenes and the Adoption Rights Alliance. They state that the commission "should focus on the issue of children born out of wedlock in Ireland since 1922 rather than institutions *per se*". They also state that this should include, at a minimum, all institutions licensed by and operating under the Registration of Maternity Homes Act 1934, institutions operating under the terms of the Public Assistance Act 1939, Magdalen institutions, private institutions and adoption facilitators, "as well as other institutions and arrangements in the State that were involved in the birthing and infant care of children born outside wedlock". We propose the modification "children born out of wedlock and their mothers" to ensure issues related to the women concerned are fully included. Ideally, the commission should be able to use its discretion to look at any and all relevant aspects of maternity and child welfare since the foundation of the State. The terms should also clearly direct the commission to investigate the responsibility and involvement of the State, including but not limited to local authorities; the Departments with responsibility for health, education, justice and external and foreign affairs; any other public bodies such as the Adoption Board and Adoption Authority of Ireland; religious orders; adoption agencies; academic institutions; and medical professional bodies, including any relevant financial transactions of these bodies and institutions.

We believe the terms of reference should specify in their scope matters including how these institutions were established and run; how the women and children came to reside or be born there, and the numbers involved; infant, child and adult mortality and morbidity rates; adoption practices; nursing, fostering and boarding out practices; vaccine and any other clinical or medical trials and medical experimentation; forced labour and incarceration of unmarried girls and women; general conditions in the institutions, including but not limited to whether treatment of babies and children amounted to neglect; whether there was denial of adequate nutrition and medical care to the women and children; whether age-appropriate education was provided; whether conditions amounted to cruel, inhuman and degrading treatment; burial practices and burial locations of the unmarried mothers and their children; and cross-Border and international movements of pregnant women, their babies and children.

Within this context, special attention should be paid to the State's regulation and inspection regimes and its statutory responsibilities towards citizens, including under the relevant employment law, adoption law, child protection law, criminal law and procedures and law regarding burials and exhumations. It must also consider the State's responsibilities towards its citizens

17 July 2014

under international law. Attention should be paid to whether concerns regarding any of the above were raised either during ordinary regulation and inspection duties, otherwise by internal whistleblowers, or by journalists releasing information into the public domain, and what actions were or were not taken by the State in response. Furthermore, any financial benefit flowing from associated institutional practices and their beneficiaries should be identified. Particular attention should be paid to the role of the State in funding or contracting for services from the institutions.

The terms of reference must take account of the cross-Border and international dimensions, including the cross-Border movement of pregnant women and children on the island of Ireland, and inter-state movement of the babies and children born to these women to Britain, the US and elsewhere, for the purposes of either adoption or labour. The terms should permit the commission to establish the numbers involved, what happened to these citizens, the responsible institutions and individuals, and the legislative basis on which they were moved. The terms of reference should also include a methodology for co-operation on these aspects of the investigation between the commission and the ongoing Six Counties historical abuse inquiry, and with the appropriate authorities in other jurisdictions.

I hope the new Minister and his officials, who are a continuum and the same officials I met in tandem with the former Minister, Deputy Charles Flanagan, will study carefully the Sinn Féin submission and the submissions of all other interested parties, particularly those of the various representative groups. The points contained therein are worthy not only of careful evaluation but also of inclusion in the main substance of the terms of reference which must present here on the resumption. We should aim to come back here in September with the right terms of reference and an inclusive project for the commission of investigation, which leaves none of the victim and survivor groups outside. It is very important, as I stated yesterday at our press conference, that we are speaking about people who were locked away, in some cases for years. What we must not do in 2014 is turn around and lock them out from this process.

**Acting Chairman (Deputy Joanna Tuffy):** The next speaker is Deputy Catherine Murphy, who is sharing time.

**Deputy Catherine Murphy:** I am sharing time with Deputies Boyd Barrett and Clare Daly.

I welcome the publication of the interdepartmental report, which is very much a Civil Service report. I understand it will be a help in forming the terms of reference, but that is all it will be and there will have to be significant political input. I also welcome the fact we have been continually briefed. It is very important that the scope will be wide enough. I understand it must be focused, but it must also be wide enough in order that we do not require further reports. We have had the Ryan, Ferns and McAleese reports, and it is quite damaging to society that we must continually go back. The terms of reference for this must be ambitious to deal with these legacy issues once and for all. It must be powerful and the terms of reference must be very well considered. We are all capable of giving it time to ensure we get this part of it right.

Many countries successfully come from a dark past. Most of these were brutal totalitarian regimes, but our regime was pretty brutal. We need to be courageous and confront the legacy. The Minister is right to speak about looking at society, as it is very important that we have context, although it also translates to current culture. We need to be quite courageous in confronting the legacy of the brutality, misogyny, violence and abuse which appear to have infested the first decades following independence. As we know, it was mostly women and children who

were the unfortunate victims. We speak about survivors, and if one happened to be born to an unmarried woman, one had to survive the State.

The Tuam report has prompted this action. What is quite shocking is the statistic in the document produced and published yesterday that of the 1,101 births in the home, 796 died there. I still find it quite difficult to accept the method of burial as it was relayed in the media. Yesterday, remains were unearthed outside Trinity College. We are not sure whether they are human remains, but one can see the difference between the approach taken there and the approach in Tuam, where there is something less than a cemetery. For me it is a potential crime scene and I do not understand why, so many weeks later, we are flailing around on the issue.

We have a tendency to work backwards from problems, and the UN report mentions that redress looks back, rather than putting in place systems to ensure they do not happen again.

*2 o'clock*

Those lessons have to be learned from this because there are current lessons also.

The cost will tell us a lot when it comes to that projection into the future. It will be essential that sufficient resources are put in place to have an archive that is properly resourced and properly run. When we consider how under-resourced the National Archives of Ireland is, it will not be possible to do that there.

I am dealing with a person who is a survivor of the Magdalen laundries. She has been through the whole process and because the records do not support what she is saying, the institution's records are what are believed. Going through that has been a really damaging experience for her. We need to think that kind of thing through. We cannot afford to add further damage by not dealing with the record aspect in a comprehensive way because that is what will allow people to put the jigsaw puzzle together for themselves.

**Deputy Richard Boyd Barrett:** The horror we have learned about regarding what happened in the mother and baby homes represents another dark chapter in a pretty bleak history in the State's treatment of children and women. It is a history of abuse, mistreatment, discrimination, and needless death and mortality. These are the most serious of failings by the State imaginable. Some of the facts that have been revealed about what happened in Tuam are horrifying, including 796 children dying in these institutions; infant mortality rates multiples of what the normal rates in the rest of society were; 474 children's bodies experimented on; thousands of children put up for adoption illegally; mass graves; and bodies found in septic tanks. It is really extraordinary.

While I welcome the interdepartmental report and the Government's commitment to a statutory commission, we need to remind ourselves that this has only come to light - as was the case with the Magdalen laundries, the industrial schools and Bethany Home, which has now been finally included - because the victims of this abuse from this long and dark period of our history fought for years in order to bring those issues to light. They fought against the resistance, indifference and denial of State and church institutions that did not want to know because they did not want to own up to what had gone on. Those groups and organisations are to be commended on that fight because without that fight this would not be happening.

In defining the terms of reference for the investigation to be set up, the Minister must take the lead from those organisations that represent the victims, the people who have campaigned

17 July 2014

and brought this to our attention. They feel the scope must be comprehensive and wide enough to include issues such as adoption and access to the identities - the lives, if one likes - that were stolen. It must cover all the institutions where people were imprisoned, locked away, hidden away and brushed under the carpet, and with it their identities, their lives and so on locked away, imprisoned and in many cases extinguished.

Much of the commentary in the report suggests we need to understand the history. While I accept we need to understand the history, let us not use history as an excuse to somehow sanitise what went on because all the way along there were people and political forces involved. While I do not want to politicise it overly, in historicising what happened we must remember there were people back then who were arguing against what was going on and the political establishment vilified those people, denied them and tried to undermine them. Let us think about Noel Browne and how the mother and child scheme was shot down by the political establishment and the church in cahoots with each other. We only got rid of the status of illegitimacy in the 1980s; Russia got rid of the status of illegitimacy in 1917 after a revolution, nearly 100 years before. There were people challenging these things all the way along the line and those people were vilified.

It is not just about the past, but also about the present. The situation in direct provision for children is absolutely shocking and the Minister for Children and Youth Affairs must look into it. The situation for our youth in mental health services at the moment is shocking also. Children who are suicidal are being sent home or put into adult facilities which are completely inappropriate. This is a scandal. It is not possible to find a bed in a mental health facility for a young person that is appropriate at the moment. These are shocking things that are happening right now. Children are still being neglected and abused and the State does not want to know until it is forced to look into it and admit things. Let us have a Government that is proactive in seeking out the truth about our treatment of children both in the past and in the present if we are to ensure these things are never to happen again.

**Deputy Clare Daly:** Yesterday, I received a heart-breaking letter from a woman down the country who had a baby in the 1960s. That baby was taken away from her within minutes of the birth. She was quite ill herself. When she came to and was spoken to, she was told that the baby had died a week later. There was no autopsy, no body and no closure. She is left wondering if he is out there thinking that he is the child of somebody else. We need to remind ourselves that at the heart of all this are human cases, people who have been severely damaged by the actions of this State. Who we are and where we come from are vital questions for many people.

At the committee, the Minister made the point that this inquiry needed to be timely and cost effective, which raised some alarm bells with people. While I accept the investigation is urgent because of the age profile of the people and there cannot be any more delays, it must be inclusive and it must be prepared to expand the terms of reference as it proceeds and situations emerge. We need to get the balance right in that regard and some of the groups are concerned in that context.

One of the biggest problems that has already been flagged is that there seems to be a Chinese wall being put between the investigation into the homes and the issue of adoption. It is repeatedly said that adoption will be addressed in the new legislation; it will not. Adoption information and tracing legislation will not in any way deal with the illegal and criminal activity that took place with these forced adoptions, much less hold people to account. That is one of the biggest problems with how things seem to be emerging that we need to address early on.

It must investigate the issue of illegal adoptions which were facilitated through the homes, the religious institutions and the State - in particular the Department of External Affairs, which provided passports for illegally registered children to leave this country and be given to others. We should not allow the role of the Adoption Board to be excluded. From what we are reading so far, there is not an adequate grasp of the impact of forced and illegal adoptions, and that has to be addressed. What is required is a truth-finding investigation that gets to the heart of things. Mr. Paul Redmond, from Adoption Rights Now made the point that it is worrying that the only mention of illegal adoptions was to kind of sanitise them by calling them illegal registrations which he said was like comparing an armed robbery to an unauthorised withdrawal. It does not take it into account seriously enough. It is the case that much of the information in respect of Tuam and what emerged there was known. The first inquiry into abuse, the Carrigan report, was undertaken behind closed doors in the 1930s and was covered up. Mike Milotte wrote about illegal adoptions 17 years ago, with supportive evidence on all these matters and again it was well known.

I must also mention the United Nations Human Rights Committee hearing in Geneva this week, at which Sir Nigel Rodley made a point regarding the extent of the social issues in Ireland, to which he referred as being “quite a collection”. That collection in many ways involves women and the State’s attitude to women and their sexuality in all sorts of ways. Moreover, this continues to this day, where the State fails to deal with abortion in cases of rape and fatal foetal abnormalities. In that sense, I understand why people would have asked for an international person to take charge of this investigation. I echo the points made by Deputy Ó Caoláin and would be worried about Judge Murphy. I acknowledge the Minister made the point at committee this morning that she is the chair, that it is open to her to bring others on board and that the Minister would favour international involvement. It should be a requirement that this should be done because the United Nations has disagreed with the conclusion of her report on symphysiotomy, particularly that it did not hold anybody to account.

In the future, the question of whether this inquiry will work will depend on the level of ongoing engagement the Minister is prepared to make in working with the survivors’ organisations. That will be the key in this regard. Many points have been made as to what has been excluded and obviously, the county homes and Magdalen laundries must be included, as must the vaccination trials. Thus far, there has been no mention of criminal prosecutions, of the religious orders being dealt with regarding the amount of money that was made by selling these babies and I note the omission of what has been called the second layer, in between the mother and baby homes and the Magdalen laundries. The role of holding centres and hostels must also be included as, critically, must many of the issues concerning adopted people.

In a final point, I echo Deputy Catherine Murphy’s remarks on the burial and Angel plot aspects of this issue. There is no reason that memorials and these plots cannot be developed in tandem with the work being done in this investigation. The Coalition of Mother and Baby Home Survivors summed this up by stating its determination that no one would get left behind. It concluded by stating its members mean it, which they do. This investigation must be comprehensive and expandable and must be survivor-led as otherwise, there will be reports into the future.

**Deputy Anne Ferris:** Two weeks ago, I met my younger sister for tea across the road in the Merrion Hotel. It was an unusual day, but not because neither of us had taken the time to have tea in the very posh Merrion Hotel. It was unusual because it was the first time we had ever shared a pot of tea. Before that day two weeks ago, I had never laid eyes on my sister. Each of

17 July 2014

us was adopted from a different mother and baby home into different families and eventually, we ended up living in different countries. Sitting together, we looked like sisters but we did not talk like sisters. Where other sisters in our age group have shared experiences and a shared family history, we just have had a long gap in our lives. I never played childhood games with this sister. I never fought with her over toys. We never skipped together or climbed trees. She was not handed down my old clothes. We did not go to school together or to discos and nor did we fight over boys. She does not know my children and I have never met hers. We look very alike but thus far, that is the only aspect of our lives that we share.

What of our shared mother? I know, from the documented experiences of many women of her era, that women who bore more than one baby in a mother and baby home frequently were obliged to serve time in a Magdalen laundry. Perhaps our mother managed to avoid such a sentence by not choosing the same home twice for her confinement. The evidence, however, is that most women in her circumstances would have been made to pay their penance by toiling for years in one of Ireland's notorious laundries. Research carried out by the Magdalene Name Project and published just last week shows that in the year I was born, more than 60% of the Magdalen women, that is, six women in ten, whose names were recorded as inmates in two Dublin laundries subsequently also were recorded on headstones in Magdalen grave plots. These women did not leave the laundries alive.

My sister and I feel lucky. We were both adopted as babies into loving families but not everyone born in a mother and baby home was so lucky. The morning after I met my younger sister for the first time, I had the pleasure of meeting three beautiful intelligent women who had spent their entire childhood and teenage years to adulthood in religious-run institutions. They were born in the 1960s. Their fathers were doctors and black while their mothers were Irish and white. These mixed-race Irish children were not considered by the church or the State to be appropriate candidates for adoption. Their stories of racial discrimination, physical abuse and mental abuse are truly shocking. Having heard their stories and other stories from survivors and victims of abuse in Catholic institutions and Protestant-run institutions such as the Westbank Children's Home in Greystones in my constituency of Wicklow, I know I have been lucky.

I also am lucky in another important sense. As a Member of this House, I have the freedom within this debate to add my story to the public record. Many other people with similar backgrounds to mine had intended to come into the House at 4 p.m. for this debate and would have been barricaded behind the glass partition of the Visitors Gallery. They have not yet been offered the opportunity to have their voices and stories heard. Their stories, and what the future Ireland can learn from them, are the reason this commission of investigation is so important. Their stories, like my story and that of my sister, demonstrate why this must be a broad and all-embracing inquiry. The mother and baby homes, the adoption processes, the Magdalen laundries, the private nursing homes, the county homes, the church hierarchies, the religious organisations and the State all are part of a very large jigsaw puzzle that must be considered in its entirety. Until this is done openly, honestly and comprehensively, the gaps in the lives of families all over the country cannot begin to be filled.

I made a submission on the mother and baby commission to the Minister's predecessor, Deputy Charles Flanagan. He had professed a genuine interest in the subject and gave me certain commitments about his prioritisation of much-needed adoption legislation concerning both historic and modern day adoptions. One such commitment was to hold committee hearings into both closed and open adoption practices as part of the process. He told me that I would be invited to these hearings because as the Minister probably is aware, I recently introduced into

the House my own Bill on open adoption, which has not yet been debated. There is a legitimate public concern about the recent turnover of Ministers in the Department of Children and Youth Affairs and in that context, I would welcome a commitment from the Minister to give the issues discussed here today his top priority. I acknowledge he has done that. This is one of the last items on the agenda before the House enters its summer recess and I hope it is one of the first items to which Members will return. Moreover, if the Minister needs any help over the summer months - I was delighted to hear he will be working over the summer to make sure he returns in September with the terms of inquiry - I will be available all summer to give him any assistance I can.

**Deputy Sandra McLellan:** This is one of the most important issues with which this Dáil must deal. Members must get it right but they also must get it done. They must be sensitive and respectful and must ensure international best practice guides the investigation. It is imperative that survivors are provided with legal advocacy representation and all documentation and evidence that currently is at risk of destruction must be secured with urgency by the commission. The State should apologise. There should be an official memorial and a framework for effective redress and survivors, their next of kin and advocates should be directly involved in this process at all stages. The final report's findings must be published.

These critical matters require urgent clarification from the Minister and the Government. Full cross-party support exists and no obstacle should stand in the way of allowing the commission of investigation to get under way with the critical task of fully uncovering the truth and establishing the evidence of how the State failed in its duty of care to protect its most vulnerable and defenceless citizens, which now must be faced up to and justice served. This commission of investigation must command the full confidence of the survivors of these institutions, as well as the affected families and next-of-kin. By extension, it will only be able to command full public confidence when this has been achieved.

All Members of the Oireachtas should lay aside partisan interests and co-operate on what must be our common objectives in this process, namely, providing truth, justice, support and healing for the victims and survivors and ensuring lessons are learned and sufficient preventative measures are in place to protect similarly vulnerable people now and in future. Only when these criteria have been satisfied will we be able finally and collectively to close this chapter of Irish history. The urgency of getting this process right cannot be overstated. We do not want to find ourselves having to repeat the process in future, either because a deserving group of victims or survivors was left out or a relevant issue or factor was excluded from the terms of reference for the sake of temporary expediency or to shield a culpable individual or group.

The State has been repeatedly criticised at home and by the United Nations for its failure to date to conduct effective and timely investigations that fully comply with international human rights standards and provide adequate redress for victims, as was the case with the McAleese inquiry. Let us, therefore, come together to agree a process over which all concerned can stand with pride and on the basis that justice was ultimately and unquestionably served, despite being unreasonably delayed for decades.

This issue also has cross-Border and international dimensions, which must be taken into account in setting the terms of reference and making appointments to the commission. The purpose of the investigation should be to recover and establish the truth, identify any violations of the rights of citizens and their causes, locate responsibility and propose effective remedies. In particular, it should identify if there are persons, institutions, corporations or State agencies

17 July 2014

who were culpable in any violations and make recommendations to hold them to account, as appropriate. It must examine and establish how this interlocking institutional system developed and was maintained for so long. It must be in a position to establish whether institutional or State failings in this regard were systemic. However, the underlying purpose of this investigation must be to restore dignity to the victims and survivors and acknowledge their existence, experiences, importance and place within the Irish national family.

Sinn Féin has concerns about the appointment by the Minister of Judge Yvonne Murphy to chair the commission of investigation. Judge Murphy was also appointed by the Minister when he was Minister for Health to report on symphysiotomy and produced a report that failed to provide a means to achieve truth and justice for the victims of that barbaric practice. Given the concerns raised by several United Nations bodies regarding State failures to investigate properly and provide effective remedies in compliance with its international treaty obligations in the case of the survivors of the Magdalen laundries and in light of the international dimensions of the issues that will come before it, the commission of investigation should be led by an international judicial figure with relevant expertise. If more than one member is to be appointed, as I hope will be the case, at least one member should be an international judicial figure or other expert in international human rights law.

The commission of investigation must have full compellability powers in respect of testimonial and documentary evidence and sufficient powers to make findings of fact, conclusions and recommendations. It must also have the power to recommend further public inquiry and should have the additional power to recommend further criminal investigation and-or civil action. Only if the establishment order can specify these requirements within the terms of the 2004 Act should this legislation be used. The terms of reference should include but not be limited to all mother and baby homes regardless of denomination, including the Bethany Home and other Protestant run institutions, the Magdalen laundries and the county homes.

We propose modifying the terms of reference of the commission of investigation to include “children born out of wedlock and their mothers” to ensure that issues related to the women concerned are fully included. Ideally, the commission of investigation should be able to use its discretion to examine any and all relevant aspects of maternity and child welfare since the foundation of the State. The terms of reference should also clearly direct the commission of investigation to investigate the responsibility and involvement of the State, including but not limited to local authorities, the Departments of Health, Education and Skills, Justice and Equality, Foreign Affairs and Trade and other public bodies such as the Adoption Board, Adoption Authority of Ireland, religious orders, adoption agencies, academic institutions and medical professional bodies, including any relevant financial transactions completed by these bodies and institutions.

In this context, special attention should be paid to the State’s regulation and inspection regimes and its statutory responsibilities towards citizens, including under the relevant employment, adoption, child protection and criminal laws and procedures and law regarding burials and exhumations. It must also consider the State’s responsibilities towards its citizens under international law. Furthermore, any financial benefit flowing from associated institutional practices and the beneficiaries thereof should be identified. Particular attention should be paid to the role of the State in funding or contracting for services from the institutions in question.

The terms of reference must take account of the cross-Border and international dimensions, including the cross-Border movement of pregnant women and children and inter-state move-

ment of the babies and children born to these women to Britain, the United States and elsewhere for the purposes of adoption or labour. They should permit the commission of investigation to establish the numbers involved, what happened to the citizens in question, which institutions and individuals were responsible and the legislative basis on which people were moved. They should also include a methodology for co-operation on these aspects of the investigation between the commission of investigation, the historical abuse inquiry in the North and appropriate authorities in other jurisdictions.

The commission of investigation must be survivor centred. Full inclusion of survivors and their next-of-kin and representative and advocacy groups must be central to the inquiry at all stages of the process. We note and welcome that the Minister has made a positive start in this regard.

All who went through these institutions deserve a fitting public tribute. Provision must also be made for official mourning and commemoration of those who died in these institutions. This must specifically include the right to a name and dignified burial for those who were buried anonymously and in mass graves. Consideration should be given to establishing a national monument and local monuments and museum sites to provide for commemoration and education for this and future generations. Survivors, their families and next-of-kin and their representatives and advocates must be fully included in all stages of the process of planning for this.

Given the age profile of the survivors, a timely and full public State apology is of the utmost importance. It is not necessary to wait for the outcome of the commission of investigation's final report before doing so. Sinn Féin urges the Minister to take the opportunity presented by this debate to issue an apology.

**Deputy Charlie McConalogue:** I extend best wishes to the Minister, Deputy James Reilly, in his new portfolio. Through his experience in the Department of Health, he had considerable involvement in issues pertaining to the Department of Children and Youth Affairs and, as such, he will be in a position to hit the ground running. He has moved to an important Department and I wish him well in his new role.

I commend Deputy Anne Ferris on her contribution and the dignity and articulacy with which she recounted her personal story. I have no doubt that in doing so, she will provide strength and support to many others who have experienced similar circumstances. She showed great strength today and on previous occasions that she spoke about this issue.

I welcome the establishment of the commission of investigation and extend good wishes to its chairperson, Judge Yvonne Murphy, in her role. The terms of reference of the commission of investigation must be published promptly. They must be comprehensive and cover all the issues pertaining to the mother and child homes. We must ensure light is shone on what occurred in these homes, the circumstances in which many people came to be in them and how the mothers and children in them were treated. The commission of investigation must assess the impact confinement in these homes had on the lives of those concerned. The State must acknowledge this and support the survivors as they continue their lives.

Coming from a Border constituency, I particularly want to emphasise the importance of ensuring that the experience of many mothers and children from the Republic, who were resident in mother and child homes in Northern Ireland, will be included in the investigation's terms of reference. In many cases there were referrals from mother and child homes in County Done-

17 July 2014

gal to such homes in the North of Ireland. Many children were brought up and spent much of their early lives, until their teenage years, in such homes. I realise that there is a difficulty with cross-jurisdictional issues, but it is important that they too should have a light shone on their experience. They were born in the Republic, yet were referred to homes outside the State. Although it may be more difficult to do so, it is important to ensure that equal attention is paid to their experiences through this inquiry.

As regards the State's experience of these homes and their role, it is easy at this remove to look back and abhor many of the practices that may have taken place at the time. We should acknowledge, however, that society turned a blind eye, tolerating and going along with the system. While this commission of inquiry has been established to assess what happened and how we failed people, we should also examine any current situations where we may be standing over practices which, in 20 or 30 years time, may not be looked upon kindly. We should bear in mind how we treat those applying for asylum and ensure they receive the human dignity and respect they merit. Unfortunately, however, many of those who went through the mother and baby homes were not afforded the dignity they deserved.

Earlier in the debate, Deputy Clare Daly referred to the importance of identity, background and knowing where one comes from. Having a sense of belonging is so important. Given the past experience of adoptions, a current issue which merits a policy assessment is that of sperm donation. In 20 or 30 years time, citizens of this country who may have been conceived through sperm donation will be unable to trace their parents, unless the current policy is altered. We should reassess that policy now in order to ensure that situation does not arise in 20, 30, 40 or 50 years time. We must look to the future and ensure that we value the right of citizens to know such details.

I wish the Minister well with this matter and I urge him to publish the terms of reference as soon as possible.

**Deputy Mick Wallace:** I also wish the Minister well and hope he enjoys his new portfolio more than the last one.

This week, Ireland's compliance with the International Covenant on Civil and Political Rights was examined by the UN Human Rights Committee. The State was found wanting across a range of areas but the committee reserved some of its most severe criticisms for Ireland's record on women's rights. Given the events in Geneva, I am surprised and concerned by the Government's decision to appoint Judge Yvonne Murphy to chair this commission of investigation. Members will be aware that the Survivors of Symphysiotomy group unanimously voted to reject Judge Murphy's proposed redress scheme. The survivors' group stated that "Each woman deserves to know that her voice has been heard by those in authority".

In a move reminiscent of Martin McAleese's treatment of the Justice for Magdalenes group, Judge Murphy took no account of the testimony offered by survivors of symphysiotomy. The group's chairperson, Marie O'Connor, was even more critical in her statement to the UN Human Rights Committee, stating:

The scheme is based on the official lie that these operations were medically acceptable. It forces women to waive their legal and constitutional rights before they know the outcome of this State's process. There is to be no independent board, women will have no right to independent doctors, nor will their lawyers have a right of audience.

The UN committee also expressed serious concern about the redress scheme drawn up by the judge. It asked the State whether the scheme, presented by the Government as a solution to the problem of survivors, is compatible with Ireland's obligations under international human rights treaties. The Government's decision to appoint Judge Murphy will not give the women involved any confidence that this matter will be dealt with properly, satisfactorily and in accordance with international human rights standards.

The committee also raised the issue of the Magdalen laundries, asking why the State refuses to investigate the abuses in these institutions head on. The Human Rights and Equality Commission made a clear recommendation that the laundries should be included within the scope of the inquiry into mother and baby homes. This recommendation has been supported by the Justice for Magdalenes group and their arguments are hard to ignore. They point out that the McAleese report only looked at State involvement and did not investigate abuse in the laundries. They have highlighted the fact that the institutions are inextricably linked to the issue of adoption. If this investigation is to look into adoption practices and related issues, the final report will have a gaping hole if the laundries are not included.

In a recent article on the subject, Justice for Magdalenes committee member, Maeve O'Rourke, also points to the Government's comments to the UN Committee Against Torture, where it stated there is no evidence of abuse in the laundries. Ms O'Rourke wrote: "The fact that the Government's position on the international stage is that systematic torture or other cruel, inhumane or degrading treatment, did not occur in the Magdalen laundries is reason enough for these institutions to be included in the upcoming commission of investigation". I would ask the Government to take a serious look at the detailed submissions on this matter, both by Justice for Magdalenes and the Irish Human Rights and Equality Commission, when developing the terms of reference for this inquiry.

I have not had a chance to read in full the report of the interdepartmental group on mother and baby homes, published yesterday. However, I am concerned that this report is laying the groundwork for making the scope of the investigation as narrow as possible. The references to the cost of previous inquiries are troubling. I also have serious questions about the way in which the survivors of the homes will be included in the process. Both the McAleese and Walsh reports were heavily criticised for ignoring the testimony of survivors. Is the Government prepared to learn from these mistakes?

The mother and baby homes, Magdalen laundries, symphysiotomy and abortion rights all come down to the fact that, historically and up to the present day, the State has had a fundamentally misogynistic attitude to women. This expresses itself most severely when it comes to female bodily autonomy and women's sexuality. All of the women affected by these issues have been horribly wronged by the State. We cannot undo the damage that has been done but, at the very least, we must give them truth and accountability.

**Deputy Maureen O'Sullivan:** Comhghairdeas, Minister, and my very best wishes for the new role.

Initially I thought it was a pity that the terms of reference were not ready for today but I accept there is a vital need to get them right. I do hope that in the coming months that will be done, so there will be greater clarity on those terms of reference when we come back after the recess. I want to acknowledge the work of support groups and individuals who have been working tirelessly on these matters over the years, pursuing justice for the women and children

17 July 2014

involved, both in Ireland and abroad.

While work on the terms of reference continues during the recess, there will be an opportunity for officials to meet those groups in the interests of justice and getting it right. We are talking about a dark time in our history when there was little or no regard for women and children, especially those from poorer backgrounds, as well as others with mental health issues and especially children born outside marriage and their mothers.

The men are missing from that picture having not accepted the responsibilities of fatherhood. The men in the picture were responsible for putting daughters, wives, mothers and sisters into the institutions. It is also an opportunity to learn from the mistakes and omissions of previous inquiries. There were drawbacks to both the McAleese and Ryan commissions. All parties need to be involved, and all documents must be released. I supported the inclusion of the Magdalen laundries in light of evidence uncovered by Justice for Magdalenes and the oral testimony that babies were born and nursed in the Magdalen laundry in Sean McDermott Street. Justice for Magdalenes uncovered Department of Health archives and biannual reports which contained information on 26 children in the Tuam baby home between 1953 and 1958 whose parents are recorded as a mother in a Magdalen home or mother in the Galway Magdalen home. The records for Galway and Mayo county councils also note that children were maintained at Tuam. We know that it was State policy in 1933 that unmarried mothers who had given birth for the second time would be transferred to a Magdalen laundry. There were connections between the Magdalen laundries, the mother and baby homes, the auxiliary homes and the county homes and hostels. However, while calls have been made for the inclusion of all of these institutions, two of the organisations most directly involved, Justice for Magdalenes and Adoption Rights Alliance, have taken a slightly different approach by calling on the commission to focus on the issue of children born out of marriage in Ireland since 1922 rather than on the institutions of themselves. They have identified various fields of inquiry, as follows: infant mortality rates in light of concerns that the rate of infant mortality was higher in the homes than in general society; issues of vaccines and medical experimentation, including the denial of adequate medical care; forced placing of unmarried girls and women who had given birth or were seen to be at risk of giving birth; the conditions for women and children; and the use of punishment, in which regard the McAleese report has been criticised.

I have seen evidence that homes were involved in adoptions to the US, including correspondence between the homes and the Department of Foreign Affairs, which makes for grim reading. A focus on these areas will bring the commission into the various institutions involved. We do not want to see inaccuracies or gaps after this commission has completed its work. The McAleese report found that 61% of known entries spent less than one year in Ireland's ten Magdalen laundries but the names project carried out by Justice for Magdalenes cast serious doubt on this finding through a comparison of electoral registers with Magdalen grave records. This research identifies issues pertaining to exhumations at Hyde Park and records for the Good Shepherd Laundry in Cork, among other matters. The McAleese report did not make findings on treatment and I think that is owed to the women who were in the laundries. This criticism should be heeded and, in particular, the voices of those who were affected must be heard. These include the surviving women and children, as well as those who have campaigning on the issue over many years with the aim of uncovering the truth. Although we are ashamed of what happened in the past, we cannot be afraid of facing the truth. It may be a cliché that truth can set us free but that is what we owe to the women and children concerned. They have been denied the truth about their identity for too long.

I wish the commission well in its work over the coming months and hope that the job can be done properly and comprehensively. It has to be independent and have statutory powers to compel evidence. All records must be made available and examined by trained archivists or historians. The process must be transparent, sensitive and, above all, accountable. We have to face up to the past and accept what happened.

**Minister for Children and Youth Affairs (Deputy James Reilly):** I thank Deputies for their contributions to the debate. I appreciate the input and support from colleagues on all sides of the House in our consideration of this sensitive issue. I also acknowledge the valuable work carried out by a number of historians and advocacy groups, which has informed the public debate on the issue. In particular, I commend the research undertaken by Ms Catherine Corless which brought these matters to public attention. The report of the interdepartmental group will make an important input into the Government's deliberations on the scope of the commission's work but, as one Deputy noted, it is a building block rather than a template. It is appropriate that we should place the report into the public domain in order to provide wide access to the factual information that the group was in a position to compile in the relatively short time available to it. The report will also serve to inform and stimulate further debate on the relevant questions in regard to the mother and baby homes.

The range of matters to be investigated, as raised by Deputies, will be considered as part of the Government's deliberations on the commission's terms of reference. The calls to include a range of institutions are also being considered as part of this work. Judge Yvonne Murphy's agreement to undertake the role of chair of the commission is a very positive development in the process of establishing an effective and independent investigation. I am personally well disposed to an international presence on the commission but this would require a decision of the Government. We will consult on that matter over the summer. Consideration may also be given to the appointment of further members of the commission as the terms of reference are drafted. It will also be open to the commission, in accordance with the provisions of the 2004 Act, to appoint persons with relevant expertise to assist or advise it. A considerable number of expressions of interest in supporting the work of the commission have been already received by my Department from persons with a broad range of skills and experience. These expressions can now be passed on to Judge Murphy for her consideration.

I share the concern that if the cost of a commission investigating past pregnancies is to fall on today's children, and particularly the most vulnerable, the Government's response would be counterproductive. However, that is not a reason for not establishing a commission with terms of reference that are broad and thorough enough to provide a thorough understanding of the issue while at the same time being precise enough to allow for a timely and cost effective outcome. I acknowledge that people are concerned by perceptions that we are trying to limit the inquiry. In my view, that would be counterproductive in terms of excluding any group because it would only lead to further problems down the road. The terms of reference will have to be carefully set in order to achieve the outcome that the people, this House and the Government desire. The Department of Children and Youth Affairs will consult the Department of Public Expenditure and Reform when compiling the estimate of costs and, more generally, providing for the establishment of the commission on the most cost effective basis. We want to ensure the moneys available to us are spent on services rather than prolonged commission deliberations. The terms of reference will have to be thorough, inclusive and precise to ensure we get a full understanding of these matters.

The task of establishing the commission will be further advanced in the coming weeks and

17 July 2014

it is in everyone's interest that it completes its work in a timely manner, with due care and attention. I will continue to engage with Opposition Deputies in finalising arrangements. I intend to complete the task of developing comprehensive and precise terms of reference in a timely manner and I expect to return to both Houses with a draft order to establish the commission early in the autumn.

Deputy Troy may not have been aware that the Department has had to revise its approach to identity and tracing following the advice from the Attorney General. The approach is now to ensure that people have access to as much birth information as possible, and this will be reflected in the new heads when they are brought to the Committee on Health and Children. It is our intention to do this in the autumn. I have said the report is not a template, as that was a concern. I echo the point raised today that all these children had fathers and it is important that consideration is given to their role. We will ensure there is a level of engagement with all the survivors who wish to come forward and we will ensure the stories of survivors will not just be told but will be heard.

I thank Deputy Anne Ferris for her offer of assistance and the very dignified way in which she made a contribution today. On a lighter note, I can say to Deputy Wallace that I enjoyed being Minister for Health and I hope I will enjoy being Minister for Children and Youth Affairs. I know already I will enjoy it every bit as much because it is a very important area that reaches into every other Department. I cannot think of anything more important than the safety of our children and their future well-being. I wish to correct a remark which Deputy Wallace put on the record erroneously. With regard to symphysiotomy it is not true that women would not know the award they would receive before waiving their rights to go to court. They would have the information and make a decision based on it, which is only right and proper. That is now a matter for the Minister for Health, Deputy Varadkar.

I reiterate my argument that the voices of those affected must and will be heard. The inter-departmental group will continue in place to help with the monitoring and gathering of required information. I reassure the House and all those affected that the Government wants a commission that delivers what people want in a timely fashion in order that we can identify and understand the issues comprehensively and move to a point where those affected can have some sense of closure. I echo the comments of others that we certainly cannot undo the wrong done in the past but we can bring some closure for those who are still with us.

## **Topical Issue Debate**

### **Employment Rights**

**Deputy Willie Penrose:** I thank the Ceann Comhairle for selecting this important issue. I welcome the Minister of State, Deputy Ann Phelan, to the House and wish her well on her new and very important role for rural people in particular.

The downturn in the economy has clearly brought to our attention the significant and glaring weakness in the protection of employees who may find themselves very vulnerable in light of

various types of insolvency that can now arise. One of the major failings is the restrictive way in which the Protection of Employees (Employers' Insolvency) Acts 1984 to 2006 recognise insolvency. They classify some failures of businesses as insolvency but others do not qualify under the strict criteria laid down. In particular, there has been no recognition of informal insolvencies which have arisen in recent months which are the nub of a problem. These arise where employers stop trading but do not go into liquidation or receivership or have the company wound up officially. In such cases, employees lose jobs but their employers simply walk away, meaning employees are left in the lurch with no wages or entitlements of any kind being paid.

The Irish Congress of Trade Unions has been very active in this area and it submitted comprehensive proposals last February to the Government seeking appropriate amendments to the legislative framework so as to stamp out the occurrence of such insolvency issues. Very often employers dismiss employees, cease trading but do not wind up the company. In doing so they avoid paying employees unpaid wages and other awards made by employment rights bodies. In such cases, the employees would find it impossible to access the Department of Social Protection insolvency payment scheme because of a failure to wind up a company in a proper fashion. This is in contrast to the redundancy payment scheme, which does not bar access to employees in such circumstances.

The purpose of the insolvency payment scheme is to protect pay related entitlements owed to employees who lose employment because of the insolvency of an employer, in accordance with the requirements of the EU directive. Under the scheme, employees may claim arrears of pay, holiday pay, pay in lieu of statutory notice and employment rights awards owed to them by an insolvent employer. The Department of Social Protection would make payments only in circumstances where the employer is legally insolvent and no payments would be made to employees from the insolvency payment scheme in circumstances where the employer has not properly wound up the company.

The Protection of Employees (Employers' Insolvency) Acts provide that an employer is only insolvent for the purpose of accessing this fund when the employer falls within a particular category. These are where a business is in liquidation; when a business is in receivership; when an employer is legally bankrupt; where the employer has died and the estate is being administered under relevant legislation; and where an employer is insolvent under legislation from another EU member state. Informal insolvencies are not covered by this and as a consequence, any affected employees would be barred from accessing a much-needed safety net.

The question arises of whether the Legislature has failed to provide employees in informal insolvency arrangements as I described with appropriate access to the insolvency scheme and whether this failure is in breach of the EU directive on the protection of employee rights in the event of an insolvency by an employer. The answer is unequivocally "Yes" on both counts. The directive provides that to ensure equitable protection for the employee's concern, the state of insolvency should be defined in legislative trends in the member states, and that concept should also include insolvency proceedings other than liquidation. That is Directive 2008/94/EC.

My submission is there should be recognition of deemed insolvency, as I have described it, in order to fulfil the objective of the directive. A deemed insolvency would arise where an employer has ceased trading and payments have *de facto* been stopped on a permanent basis, with this done for proceedings other than the five categories already in national law. The questions would then arise as to what is meant by "permanent basis" and what forms should be used to

determine a scenario of “deemed insolvency”.

*3 o'clock*

How do we define permanent basis? The Irish Congress of Trade Unions, ICTU, has suggested that where payments have stopped for six weeks or more that should constitute a permanent basis. We must then ascertain the forum to be used to make the determination that a situation of deemed insolvency exists to protect the insolvency accountant. This could be done by the Department of Social Protection, which is already responsible for deciding payments under the insolvency and redundancy payment schemes. This situation for employees could be easily addressed in this fashion by amending the rules of the insolvency payment scheme to recognise a situation of deemed insolvency, where trading has ceased and payments have *de facto* been stopped on a permanent basis defined as a period of six weeks or more. Further amendments will be required to facilitate the Minister for Social Protection assuming responsibility for the payments and so that the Department can continue to pursue the payments from the directors of the company.

**Minister of State at the Department of Agriculture, Food and the Marine (Deputy Ann Phelan):** I thank Deputy Penrose for raising this matter. It is a very difficult situation for any person to be in.

The purpose of the insolvency payments scheme, which operates under the Protection of Employees (Employers’ Insolvency) Act 1984, which, in turn, derives from EU Council Directive 987-80, is to protect certain outstanding pay-related entitlements due to employees in the event of the insolvency of their employer. These entitlements include wages, holiday pay, sick pay, payment in lieu of minimum notice due under the Minimum Notice and Terms of Employment Acts 1973-2001, and certain pension contributions. Various other statutory awards made by the Employment Appeals Tribunal, Rights Commissioners, etc., are also covered by the scheme.

Section 1(3) and Section 4 of the Protection of Employees (Employers’ Insolvency) Act 1984, as amended, sets out the circumstances in which an employer is deemed to be insolvent for the purposes of the Act. In summary, section 1(3) provides that for the purposes of the Act, an employer shall be taken to be insolvent only in the following circumstances: liquidation or receivership, where the employer is a company and a winding-up order is made or a resolution for voluntary winding up is passed, or a receiver has been appointed by or for the holder of a debenture secured by a floating charge, or possession taken by or for the debenture holder of company property comprised in or subject to the charge; death of employer, where the employer has died, and the estate is insolvent and being administered in accordance with the rules of Part 1 of the First Schedule to the Succession Act 1965; bankruptcy, where the employer has been adjudicated bankrupt or has filed a petition for or executed a deed of arrangement within section 4 of the Deeds of Arrangement Act 1887; or insolvency of the employer under the legislation of another EU member state and where the employees concerned are habitually employed in insurable employment in Ireland.

To summarise, therefore, where a person’s former employer was a limited company, the company must be in liquidation or receivership in order for the person to be eligible to claim under the insolvency payments scheme. In such circumstances, the liquidator or receiver becomes the relevant officer for submitting claims as he or she has access to the company records and can certify that the amounts claimed are in order. I am aware that there are cases where companies

have ceased trading without engaging in a formal winding-up process and that in some such cases those employers owe moneys to their employees. Such employees are not eligible for payments under the insolvency payments scheme.

My Department is reviewing the position to establish what, if anything, can be done to progress payments to individuals in these situations. In progressing this review the Department must have regard to the integrity of the social insurance fund, from which insolvency payments are made. Any policy development to deal with this issue must have measures which would contain potential abuse by employers. After all, directors of companies who avail of limited liability have responsibilities under company law to ensure that proper books of accounts are kept and that the appropriate returns are made in a timely manner to relevant authorities. The Department will consult with a range of interested parties in this review including the Office of the Director of Corporate Enforcement, ODCE, the Department of Jobs, Enterprise and Innovation and the Revenue Commissioners. The Department has received submissions from the ICTU on the issue. In its review the Department will also have to have regard to legal issues arising in the general area of insolvency law and the potential impacts that any proposed policy development will have on that area of law.

**Deputy Willie Penrose:** I thank the Minister of State for her reply. Nobody wants to open up a vista of abuse and the concept of limited liability is jettisoned. I want to ensure that employees who find themselves in this situation, people who have no money and who face dilemmas trying to look after their families when their employer leaves them in limbo has to be addressed. I take account of all the consultation with the Department of Enterprise, Jobs and Innovation, the Revenue Commissioners, the ODCE and the Department of Social Protection but it is no use burying our heads in the sand. It is no use getting into a bureaucratic tangle and setting up reviews and so on.

This is an urgent issue, which is very relevant. In the past six months there were many people out on the streets of Dublin and everywhere else around the country. It is becoming a prominent issue and we have an obligation to help the employees, who are in the weaker position – employers are always more prominent and dominant. Many employees are not unionised. I salute Mandate, the union, and the other unions which have fought vigorously on this issue and advocate strongly for them. My heart and soul and sympathy are with the workers who find themselves in that position which brings dread to people. If one can access funds it carries one over for a few months while seeking alternative employment. It is time for this to be brought forward.

I will indict the Government if I do not see progress on this matter by the end of the year. There is too much pussyfooting, foot-dragging and obfuscation. Let us deal with this issue. The ICTU has presented a very fair and balanced way of dealing with it. There is no need for any further delays. Let us sit down with legal people. The Department could bring in some of the senior boys, such as Mr. Thomas Courtney. He would deal with this in a few weeks. Let us not delay and put it off. I know the Minister of State is faced with the dilemma of dealing with a bureaucratic reply. I do not accept bureaucracy. I generally kick over the traces of bureaucracy if I can.

**An Leas-Cheann Comhairle:** I thank the Deputy.

**Deputy Willie Penrose:** This is very important. I would like another minute to deal with this. It is time to deal with this matter. The Government could hand it over to Thomas Court-

17 July 2014

ney. Let him bring together the relevant parties. Let us sort it once and for all. I will not rest. I will be back, please God, if I am still alive in October, to raise this again, provided the Leas-Cheann Comhairle allows me.

**An Leas-Cheann Comhairle:** The Deputy got a good innings.

**Deputy Willie Penrose:** I thank the Leas-Cheann Comhairle for the extra minute. I know he is a west of Ireland man, like the Taoiseach.

**Deputy Ann Phelan:** I thank the Deputy. I understand his passion for this type of situation. The employers in these situations are in extremely difficult circumstances. I will take the Deputy's concerns to the Minister for Social Protection and hope to respond to him in a timely fashion.

### **Telecommunications Services Provision**

**Deputy Catherine Byrne:** I thank the Ceann Comhairle for the opportunity to bring up this important issue this afternoon.

I am very concerned at the high cost of the standing charges on Eircom bills, and bills from other service providers, being charged to senior citizens. This needs to be addressed urgently by the Minister for Communications, Energy and Natural Resources. A significant number of people, particularly elderly people, have contacted me in the past couple of months about their telephone bills. Some are paying up to €60 and €70 for two months but only €5 of that is for calls. The rest is the Eircom package charge, service charges and value added tax, VAT. In one bill I received, the customer's Eircom package charge was €44.42, the service charge was €4.58, calls cost €4.73 and VAT was €12.35 bringing the total to €69.55. These are very high bills. They do not represent good value for many senior citizens who struggle to pay them but are afraid to cancel their accounts.

A landline is invaluable for most senior citizens, many of whom do not have enough confidence to use a mobile telephone or are not near a mobile telephone network. In addition, many people still need their landlines because they are of great importance for their monitored pendant alarms. When senior citizens contact me, I encourage them to retain their landlines so that they can use these devices. For many elderly people, the pendant alarm is the only lifeline that enables them to contact emergency services. I urge Eircom and other telephone companies to bring out a specially designed package for senior citizens which is more affordable and better suited to their needs.

Many Opposition Deputies have called for the reinstatement of the telephone allowance. I do not believe this is the answer. There is no simple answer. Telephone companies have been lining their pockets for many years. They are paid big bonuses and big cheques at the end of the year. It is all about profit for them.

Some €113 million was spent on the telephone allowance in 2012, but that figure had been reduced to €48 million last year. We are not in a position to go back to paying these extravagant sums to these companies, which make huge profits. Most of the people of this country are on their networks. When the telephone allowance was withdrawn last year, the current Tánaiste told us that Eircom was providing a special TalkTime package for vulnerable customers who

were having difficulties paying their bills. I find it hard to meet many people who even know about this package. I would be interested to know how many people, if any, are availing of it. Are those who are on this package making savings? I have not spoken to anyone who is on this package. The people I speak to do not know anything about it. When they make inquiries with Eircom, they are told they have to wait until their current package ends before any new agreement can be reached. I do not see any reduction in any of their bills. Many vulnerable elderly people throughout the country are facing this serious issue. I ask the Minister to intervene in this regard.

**Minister for Communications, Energy and Natural Resources (Deputy Alex White):** I thank Deputy Byrne. I am glad to have this opportunity to report to the House on the measures in place to regulate the provision of telecommunications services and the options available to users to minimise costs. Since the telecommunications market was fully liberalised in 1999, in accordance with an EU timetable, the increased convergence in telecommunications technologies has allowed mobile telephone and cable service providers to compete with the traditional fixed line service providers. Telecommunications services are now provided by commercial operators working to market economy principles. Some State intervention is necessary and permissible to ensure universal access to basic telecommunications services across the country.

The Commission for Communications Regulation is authorised to impose a universal service obligation to ensure all citizens can access basic telecommunications services at regulated retail prices that are based on the average costs for the provision of such services at any fixed location in the State. The commission recently reappointed Eircom as the universal service obligation provider of basic telecommunications services across the State. Eircom is required to set connection and line rental charges at geographical averaged prices to ensure within reason that citizens in the most rural areas pay no more for basic fixed line telecommunications access than those in the most profitable urban areas. Any proposal by Eircom to increase these prices is regulated by the commission. This approach is within the limit of the discretion allowed within the EU to regulate retail prices in a market liberalised by EU directives without distorting competition.

I was interested to hear what the Deputy had to say about Eircom's TalkTime product, which is aimed at customers who were in receipt of the Department of Social Protection's telephone allowance at 31 December 2013. The TalkTime product is charged at €19.50 per month, inclusive of VAT. This includes line rental and a call allowance of up to €5. The comparable regulated retail line rental charge is €25.78. This service was introduced by Eircom. It is a matter for other competing service providers to decide whether to match this offer. I have mentioned the increasing convergence between mobile, cable and fixed line services. It is important to advise all users to look at the alternatives to the traditional telephone to secure best value. Some mobile service providers are marketing monthly rates, including calls, below the current and reduced line rental charges. These mobile options may provide a better opportunity to users who incur the line rental charge and lower call charges.

The universal service obligation is the only means available to public bodies to regulate retail prices in the liberalised telecommunications market in compliance with EU competition rules. I say that in direct response to the Deputy's question about the opportunity for intervention on the part of the Minister or any other public entity. The opportunity for intervention is quite limited. It is limited to the universal service obligation, which is the only means available to regulate prices within the market we have. The option to impose regulated retail prices on telecommunications services providers ceased when market liberalisation took place. The

17 July 2014

limited right to regulate retail prices under a universal service obligation is implemented by the Commission for Communications Regulation. The best advice to users is to examine all the market options so they can identify a service which best meets their needs.

**Deputy Catherine Byrne:** I thank the Minister for his comprehensive reply and wish him well in his new role. It is great that, as he has said, landlines are cheaper in more restricted rural areas. Unfortunately, it is not possible for many of the elderly people I deal with, who are based in Dublin, to use a mobile telephone, never mind having one. Unfortunately, mobile telephones do not allow for the pendants used by many senior citizens to be monitored. I will examine the Minister's reply in detail. I did not have much time to do so because I did not receive it until the Minister was halfway through reading it. I will have to read over it. I encourage the Minister to connect with Eircom and other service providers and ask them to advertise the TalkTime package and similar offers. Some of the problem might relate to how well it is publicised. It is sometimes difficult to explain new deals to older people, in particular. Perhaps Eircom might consider putting together some kind of information leaflet on which the details of the TalkTime package would be clearly outlined. This would allow older people to understand the process of taking up a deal that is based on limited-hours usage. I hope it would also give them a chance to keep their landlines, which are vital services for many elderly people who are reluctant to use mobile phones. The process of putting money on a phone has become very difficult for them.

I thank the Minister for his answer, which I need to study. Perhaps I will come back to this issue in the future. I wish the Minister all the best in his new role. I thank him for being so helpful to me on many occasions in his past role when I was dealing with community issues.

**Deputy Alex White:** I thank the Deputy for her gracious words. I look forward to being as helpful in my new role as I hope I was able to be in my previous role. I take the points she has made on the basis of her experience and contact with her constituents, particular older people who sometimes find it difficult to change from a landline to a mobile telephone. It is a challenge for people who are used to the simpler technology of the landline to switch to a mobile phone. I also take the Deputy's point that the newer mobile phone formats are not as easily adaptable to the monitoring of pendants. This interesting and fair point had not occurred to me.

I want to respond to the Deputy's reasonable point in respect of the need to advertise or promote the TalkTime product and similar products that are made available. There is little point to having such a service unless people know that it exists. I am sure everybody would agree with that, and I believe Eircom would agree with that also. The challenge is to ensure that where services are tailored to particular needs they should be promoted, and one would hope they would be promoted. I agree with the Deputy in that regard. I thank the Deputy for raising the issue and if she has any additional aspects to what we have discussed that she wants to raise with me arising from my reply, I would be happy to address those.

### **Defence Forces Fatalities**

**Deputy Seán Ó Feargháil:** I thank the Leas-Cheann Comhairle for selecting this matter. It has been on the agenda for some time. I realise there have been some initiatives in the United States in the intervening period. At the outset I want to congratulate the Minister of State, Deputy Murphy, on his appointment to the Department. The issue is the brutal murder of Derek Smallhorne from Bluebell and Thomas Barrett from Macroom when serving as part of the 46th Infantry Battalion near the village of Maroun al-Ras in 1980. We understand they

were murdered by a self-confessed individual, Mahmoud Bazzi, who claimed that the murders had been carried out in retribution for deaths that had taken place earlier in April 1980 at the battle of At-Tiri. Mahmoud Bazzi subsequently left south Lebanon and took up residence in the United States of America, and we understand he has been living in Detroit for the past 34 years. Diplomatic efforts have been made by various Governments over the years to highlight the fact that this man was living with impunity in the United States of America but it seems that no efforts have been made to bring him to justice, notwithstanding the fact that there is no extradition arrangement between Lebanon, where the murder occurred, and the US.

One would have to pay tribute to the two families involved, the Smallhornes and the Barretts, for carrying on a dignified campaign on behalf of their family members over the years. In particular I pay tribute to the Justice for Smallhorne and Barrett Committee, which was recently established with the participation of people like John O'Mahony, who was injured in the attack, Paul Clarke, and led by Robbie Masterson. They have been very effective in highlighting this issue nationally and internationally, and their dignified vigils held outside the US Embassy recently have served to highlight the issue once again. Bazzi was arrested in recent days and he is being held as a result of immigration charges emanating from the Department of Homeland Security.

It is important that active engagement continues between the Department of Foreign Affairs and Trade and the US authorities. There should be active engagement with the Lebanese authorities in the event of Bazzi being deported from the United States of America.

I understand the Taoiseach raised this matter with the Lebanese authorities during his recent visit to the UNIFIL troops. It would be important to hear the response given to the Taoiseach during that meeting but it is important also that there is continued engagement among the Irish authorities, the US immigration authorities, the Department of Homeland Security and the Lebanese Government because if this man is deported to the Lebanon, which all of us would wish to see, it is vital that he is arrested and charged with very serious crimes, which are effectively war crimes.

**Minister of State at the Department of Foreign Affairs and Trade (Deputy Dara Murphy):** I thank Deputy Ó Feargháil, with whom I served on committees and had other interactions, for his kind words. I know he has a great interest in this area on which there tends to be much more consensus than is the case in other areas.

I thank the Deputy for raising the issue of the tragic deaths of Private Derek Smallhorne and Private Thomas Barrett, who served their country as peacekeepers with the United Nations Interim Force in Lebanon, UNIFIL. As the House will be aware, on 18 April 1980, they were both cruelly murdered and another soldier, Private John O'Mahony, was seriously injured in an incident in Lebanon. Since this tragic event in 1980, the families have engaged in dignified campaigns, as the Deputy mentioned, but successive Governments also have made every effort to ensure justice for Privates Barrett and Smallhorne.

Since the murder, the Department of Foreign Affairs and Trade, in conjunction with the Department of Defence, the Attorney General's office and the Office of the Director of Public Prosecutions have examined all measures open to the Irish authorities to bring the perpetrator, or perpetrators, to justice. I understand that following an examination of the available evidence by the Office of the Director of Public Prosecutions, as well as an assessment of the jurisdictional issues by the Office of the Attorney General, it was concluded that it would not be pos-

17 July 2014

sible for Ireland to pursue a prosecution against the alleged perpetrator. Accordingly, we have focused our efforts on ensuring the alleged perpetrator of the crime is tried where it occurred, as mentioned by the Deputy.

As Privates Smallhorne and Barrett were killed in the line of duty with UNIFIL, Lebanon is the country with primary jurisdiction in this case. As such, my colleagues in the Department of Foreign Affairs and Trade have maintained diplomatic contact at the highest level with the Lebanese authorities to ensure justice is done for Privates Smallhorne and Barrett and, crucially, their families. Most recently, the matter was raised with the Lebanese authorities by the Taoiseach during his visit to UNIFIL on 16 June 2014.

The Lebanese authorities have advised on numerous occasions that, as the alleged perpetrator of the crime resides in the United States, proceedings against him cannot be initiated at this point. Furthermore, the Lebanese authorities cannot request his extradition from the United States as no extradition treaty currently exists between the two countries. However, my colleagues in the Department have received assurances that in the event the alleged perpetrator of the murder of Privates Smallhorne and Barrett is returned to the Lebanon, the national authorities there will be of every possible assistance.

As the alleged perpetrator of the crime has been residing in the United States, the Department is also in continual liaison with the US authorities regarding the case, both through our embassy in Washington and through contact between the Department's headquarters in Dublin and the US Embassy in Ireland. Earlier this year, the US authorities confirmed that the Department of Homeland Security was investigating the matter. The Department of Defence also liaises regularly with the US authorities on this matter.

Mr. Bazzi, the alleged perpetrator of the murder of Privates Smallhorne and Barrett, was arrested at his home in Dearborn, Michigan for administrative immigration violations and is now reportedly being held in custody by the US Immigration and Customs Enforcement authorities pending removal proceedings.

While this news is very welcome on one level, I would like to emphasise that no finding has yet been made in the case against the alleged perpetrator and we should be careful in our public statements not to be seen to be intervening in legal proceedings in another jurisdiction. As the Minister, Deputy Coveney, stated yesterday, this development represents a first step on a further long and difficult road to the resolution of this matter. However, I would like to assure the House that the Minister and my colleagues in the Department of Foreign Affairs and Trade, both at home and throughout the embassy network, will continue to raise this issue with both the US and Lebanese authorities at every appropriate occasion to pursue justice for both of these brave men, Privates Smallhorne and Barrett, and their families.

**Deputy Seán Ó Fearghail:** I am grateful for that positive response from the Minister. My request is simple. This needs to remain a priority issue for us in terms of our diplomatic engagement with the United States. Of course, we cannot interfere with their justice system but it is important that we continue to let them know that this is an issue of major importance to us. I would like to see the Minister of State, Deputy Dara Murphy, or the Minister have discussions with the US ambassador, Mr. Kevin O'Malley, when he takes up his position here in the near future because that would be useful. Equally, it is important that we continue to retain ongoing diplomatic connections and contacts with the Lebanese authorities because it is essential that a deportation, if one takes place, is followed by the appropriate arrest warrants being issued in

respect of this man.

I had the great privilege some weeks ago of meeting former Private John O'Mahony who survived the abduction and attack. It was a humbling experience to meet one of our peacekeepers who had gone through such trauma to see at first hand the commitment that he has to achieving justice for his two fallen comrades.

It behoves us all here to continue to assure the families and the campaigners that the Houses of the Oireachtas are united in support of the campaign. We want to see justice achieved. One is struck by the principle that justice delayed is justice denied. Some 34 years is a long time to wait to see justice take its course and anything the Minister of State and the Government can do will be much appreciated.

**Deputy Peter Mathews:** Hear, hear.

**Deputy Dara Murphy:** There is no dispute there. Deputy Ó Feargháil is correct about justice delayed. Some 34 years is, by any estimation, a significant period. What we have now for the first time is, perhaps, some movement.

Deputy Ó Feargháil mentioned the desire to unite. There has been unity of purpose, not only in this House but from successive Governments, to see that justice is delivered for both of the deceased and former Private O'Mahony. The Deputy had the pleasure to meet him; I have not had that pleasure.

The matter has been addressed in recent days by the Minister for Defence, Deputy Coveney. There is currently high-level interaction between the Minister and US authorities. However, as the Deputy will be aware, it is an exceptionally sensitive matter. The Minister, myself and the Department are reluctant at this time to make any further comment for fear of obvious implications that may arise there.

The sentiment of Deputy Ó Feargháil's Topical Issue matter is taken on board by the Department and the Government, and, I hope, by this House. I hope it is something to which we will see a resolution, which is very much deserved for those who do a brave job in defending us. It is incumbent on us here to ensure that we protect their memory in any way we can and by pursuing the matter, and not leaving time be a reason to let justice be ultimately denied or delayed.

### **Local Authority Housing Provision**

**Deputy Thomas P. Broughan:** First, I take the opportunity to warmly congratulate the Minister, Deputy Alan Kelly, on his appointment as Minister for the Environment, Community and Local Government and to wish him well. Today, I appeal to him to take all steps necessary urgently to address the severe housing crisis, in this city and in the country, being experienced by more than 100,000 of our fellow citizens and to take dramatic and urgent action. I have made those appeals to the then Minister of State in the housing area, the new Minister for Education and Skills, Deputy Jan O'Sullivan, and also, on many occasions in this House, to the Taoiseach.

We have got to the place we are in now because of the almost complete abandonment of the social housing programme by mainly Fianna Fáil-led Governments from the late 1980s onwards, the shift in policy towards relying on the private sector and the ongoing mortgage arrears crisis. We need to take account of all of these reasons in devising medium-term and longer-term

17 July 2014

solutions, but we need an urgent emergency programme and I hope that is something the Minister would address, even while the Dáil is not in session, over the coming weeks.

The statement of Government priorities included a section devoted to the aim of improving housing availability and affordability. I note the review by the Minister for Finance, Deputy Noonan of a section 227 review of NAMA. Unfortunately, NAMA has provided a minuscule number of houses for the local authorities of this country since it was established. What immediate action will the Minister take to address the almost 200 families with over 300 children tonight living in emergency accommodation in this city? All of us have incredible and terrible stories of the suffering of those who are homeless, who are in poor rented accommodation or who are threatened with the ending of their tenancies. We all could probably spend the rest of today up to 9 o'clock recounting some of these horror stories.

A key common factor in them all is the mistreatment of children. Earlier we debated Government institutions, but it is a shocking indictment of the Government, of the State and of this Parliament how children are being treated in families, either when they are homeless or when they face eviction from private tenancies because of the escalation of rents. I hope the Minister will address it.

What action will the Minister take in regard to the rough sleepers in the streets, of whom there was a record number of 177 on the streets of Dublin a few days ago? In my area of Dublin Bay North, Dublin North-Central, housing area B, there are well over 4,000 families and individuals on the housing list and on the homeless list.

The Minister's predecessor promised to give us between 4,000 and 6,000 new homes this year. Few of those have been delivered and almost none have been delivered in Dublin Bay North or in the Dublin North-Central area. Indeed, without counting the other 40 constituencies, the needs of which also must be addressed, we could use all of them. There have been almost no new builds in Dublin Bay North. There were 28 units in the Bunratty area and 35 new homes are to come forward by 2016 in Darndale. We have been promised new funding in Fingal county as well, but this also has been a minuscule response. In particular, I would ask the Minister to look at my area as to whether the significant expansion that was planned for the north fringe of Dublin city, from the sea across to Finglas, is something that he could address and establish as a strategic development zone in accordance with the promises that have been made for the Dublin docklands area.

The rental accommodation scheme, as the Minister will be aware from his own experience, has collapsed. Many families are in the process of being made homeless by landlords exiting the scheme because they can get, as they perceive, higher rents elsewhere.

The four Dublin local authorities have come together proposing a number of important steps to address this crisis remotely in the four Dublin counties. They seek, in particular, more funding and leadership from the Minister. The moment to act is now. There is a housing emergency and the Minister should declare it. He should take action on it. According to the last assessment, there are 90,000 families involved. The Minister should bring to an end the suffering, uncertainty and terror these families, in particular, the children, face in these circumstances. I urge the Minister to take action.

**Minister for the Environment, Community and Local Government (Deputy Alan Kelly):** I thank Deputy Broughan for his good wishes. I appreciate them.

Deputy Broughan may have heard it before but I personally am determined to deal with this issue for many of the reasons he stated. It has been re-prioritised by Government. It is a top priority. I will give all the hours I can to try and deal with this issue because it is wrong that we have such a housing situation in this country. Given the history, particularly over the past 15 to 20 years, it is quite a phenomenon.

Last year, a national assessment of the need for social housing support was carried out. The results of the assessment, which were published in December 2013, show that, nationally, as at 7 May 2013, just under 90,000 households had qualified for social housing support with housing authorities throughout the country. The Dublin region accounted for approximately a third of this figure, indicating that there clearly continues to be a high demand for social housing in these local authority areas which needs to be addressed.

Every Government since the founding of the State has been asked to increase provision of social housing. The significant numbers referred to represent unprecedented challenges on the budgetary front. There is no single solution and it will not be done overnight. We are, however, moving in the right direction, while continuing to protect the most vulnerable and disadvantaged as best as possible. It is, and continues to be, my Department's objective to maximise the delivery of social housing using all of the resources available.

It is clear that the present and foreseeable economic context in which we must address social housing need is such that innovative, indeed challenging, solutions must be found which will harness new funding streams. Under action 8 of Construction 2020 - A Strategy for a Renewed Construction Sector, a social housing strategy will be published by the third quarter of 2014. My intention is the social housing strategy will be both challenging and innovative, as well as providing the basis for an enhanced approach to social housing provision. It will contain clear measurable actions that will be taken to increase the supply of social housing and, most importantly, reduce the number of people on waiting lists.

The core objectives of the rental accommodation scheme, RAS, were to reform the approach towards providing accommodation in the private rented sector for long-term dependants under the supplementary welfare allowance scheme while contributing to the attainment of better value for money for the State in the provision of long-term accommodation options. Those objectives are as relevant today as they were when the scheme commenced in late 2004. While times have changed in the area of housing, particularly in the provision of social housing, little has changed in so far as RAS is concerned.

Far from collapsing, the scheme remains one of the principal mechanisms available to local authorities to provide suitable quality accommodation for those in need of housing. Up to the end of May 2014, almost 49,500 households had been transferred by local authorities from rent supplement and housed directly under RAS and other social housing options. RAS has and continues to be a successful programme which has achieved considerable output levels to date and delivered quality housing to a large number of households. The figures speak for themselves.

That said it needs to be borne in mind that it is difficult to achieve any large-scale delivery as many of the transfers are done on a case-by-case basis with individual property owners. One of the reasons the social housing leasing initiative was introduced was to facilitate an approach which would allow delivery on a larger scale and leasing continues to represent an essential element of supply within social housing supports generally. Furthermore, the introduction of

17 July 2014

the housing assistance payment, HAP, this year will provide a further additional form of housing support to meet the challenges presented in addressing overall housing need. The relevant legislation for HAP has just completed its journey through the Houses and will be enacted in the coming days.

An administrative pilot for HAP is already under way in Limerick City and County Council. With the legislation to be enacted next week, the scheme will then roll out to a further six local authorities identified. As for overall supply, the recent injection of €46 million for social housing, on top of the original housing budget of more than €500 million, I now expect the final output across all social housing programmes for 2014 to be approximately 6,000 new housing units.

Every avenue to deliver social housing will be explored. This morning I met the County and City Management Association, CCMA, expressing how urgent this issue is and that they cooperate and work closely with the Department in tackling it. I am going through all the various funding mechanisms available in detail. I will continue to work on delivering a strategy which we hope we can all get behind after the summer.

**Deputy Thomas P. Broughan:** I am glad the Minister has met the county managers. Will he meet at an early date with the 31 directors of housing in all local authorities to explain to them the targets he has in mind? I know there are issues around getting funding off the Government's balance sheet and that some decision was taken on this at the first new Cabinet meeting on Tuesday. Will any building programmes be financed through the European Investment Bank, the Ireland Strategic Investment Fund, pension funds or the private market? Will there be legislation in this regard? Will there be the development of cost-rental models, as proposed in a recent National Economic and Social Council report? What progress does the Minister hope to present to the Dáil when it resumes after the recess?

The Taoiseach advised the House this week that the heads of a Bill had been approved by Cabinet for approved housing bodies. The former housing Minister, Deputy Jan O'Sullivan, was asked to bring forward legislation in this area urgently. What is the timeline for this?

There is still uncertainty about HAP, a key element of the recently passed housing Bill. People in RAS and in private rented accommodation are concerned there is no security of tenure. We are back to the days of our predecessors in the national movement in the 1870s. Will the Minister take responsibility for this issue and address it?

The Minister will also have read the section 227 review of the National Asset Management Agency. By the end of 2013, 596 social housing units were delivered by the agency, while this year 500 residential units are due to be delivered. This is nowhere near enough to cope with the 100,000 families requiring social housing in areas such as east Galway, south Dublin, north Dublin and Tipperary. It is a dismal response from NAMA. What will the Minister do to get NAMA to deliver on socioeconomic objectives which are clearly laid out in the NAMA legislation? Will the Minister examine the models in other European countries which have strong social housing programmes to start to claw back the horrible housing situation that has developed over the past 20 years?

**Deputy Alan Kelly:** I commend the Deputy on his passion for this issue which he has raised on many occasions before. We will continue to deliver social housing units from all available sources. I am acutely aware of the difficulties caused by rising rents and the problems of source-

ing suitable accommodation, particularly in Dublin, but also in other urban areas and large towns. I am looking at all finance options. NAMA released its report today on social housing provision and it has made a commitment to deliver in this area, a commitment it has not made before. I will set very defined objectives and strategies. I will have discussions with the CCMA and local authority housing managers. I want to see their plans in place by September when we publish the social housing strategy. I do not want to see time delays with issues such as planning. I also want to know if there are any blockages in delivery that are outside of their powers but on which I can work. I am going through every avenue across the Government on sourcing extra funding for social housing programmes. I will deal with the other questions the Deputy raised off site here.

The Dáil adjourned at 3.50 p.m. until 2.30 p.m. on Wednesday, 17 September 2014.