



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

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

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DÁIL ÉIREANN

Dé Céadaoin, 28 Eanáir 2015

Wednesday, 28 January 2015

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

*Paidir.
Prayer.*

Ceisteanna - Questions

Priority Questions

An Leas-Cheann Comhairle: The first priority question is in the name of Deputy Éamon Ó Cuív, who is not present at the moment, so we will go on to question No. 2, in the name of Deputy Brian Stanley.

Water Charges Yield

2. **Deputy Brian Stanley** asked the Minister for the Environment, Community and Local Government the net figure collected from domestic water charges in 2015; the cost of collection; and the projected net cost to the Exchequer of the household conservation grant. [3663/15]

Deputy Brian Stanley: My question relates to the funding of Irish Water in the current year. Will the Minister outline how the charges are going to work, the projected cost to the Exchequer of the household conservation grant, and the amount to be collected for domestic charges in 2015?

Minister for the Environment, Community and Local Government (Deputy Alan Kelly): The main aspects of the Irish Water funding model are set out in a detailed fact sheet published on my Department's website. In 2015 Irish Water expects billed income from domestic customers to total €271 million and that from non-domestic customers to total some €229 million, giving a total billed income from customers of €500 million. The estimated annual cost of Irish Water's billing and customer services for domestic customers is approximately €22 million. Irish Water's costs have been examined by the Commission for Energy Regulation, CER,

and only efficiently incurred costs can be passed on to the customer.

The Government is proposing to provide for the payment of a water conservation grant of €100 per annum, which will be available to all eligible households in respect of their primary residence. The water conservation grant will commence this year and an allocation of €130 million has been provided in my Department's estimates for 2015. The budget allocation for the water conservation grant is based on an estimate of up to 1.3 million households applying for the grant. This estimated level of demand for 2015 takes account of the number of primary residences recorded in census 2011 as well as experience with other demand-led schemes.

Deputy Brian Stanley: The concern here is that the Minister has said that he expects to bring in €271 million from domestic water charges. What compliance rate is that based on? If it is going to cost €20 million to collect the charges and there is a non-compliance rate of 30%, that brings the income down to €190 million. If one takes €20 million from that, one is left with €170 million, and when one takes the water conservation grant, for which the Minister has budgeted €130 million, that leaves €40 million. The cost to date of setting up the corporate structure is more than €200 million, so he has already overshot the runway in terms of the cost of this. The economics of this do not add up. I am saying this honestly. This is voodoo economics. Will the Minister outline the level of compliance on which the €271 million is based on?

Deputy Alan Kelly: I will not take lectures from Sinn Féin on voodoo economics, especially after the performance the other night.

Deputy Brian Stanley: I know the Minister will not, but let us deal with the reality. Let us deal with the hard figures. Come on now.

Deputy Paudie Coffey: Deputy Adams got his figures wrong.

An Leas-Cheann Comhairle: Give the Minister a chance.

Deputy Alan Kelly: We are very happy that the funding model for Irish Water is very thorough and is going to work. The registration levels are improving all the time. As of yesterday, 1.03 million people had registered. The funding model for Irish Water and the expenditure is all set out. The €271 million for domestic income is what is expected and what has been gone through with the CER.

Deputy Brian Stanley: What is the compliance rate? Is it 18% or 19%?

Deputy Alan Kelly: It is impossible to assess now, but similar to all other schemes, the property tax and everything else, we expect a very high compliance rate. Income from commercial charges is €229 million, so that is bringing in a total of €500 million. With the €399 million, that is €899 million, as the Deputy is well aware, in relation to the total operating spend on Irish Water.

Deputy Brian Stanley: How much was brought in by commercial water charges last year? These are the figures. This is what must stack up here. The Minister has not told me what compliance level he needs to achieve to bring in the €271 million. He might answer those two questions. The European Commission is quoted as saying that the water conservation grant is a transfer from the Exchequer to Irish Water and that this may not meet the market corporation test.

Deputy Barry Cowen: That is a later question.

Deputy Brian Stanley: This is a reality the Minister must deal with. This is something this State must deal with if it does not meet the market corporation test. Does the Minister believe that it will meet the market corporation test and does he believe that the reported remarks of representatives of the European Commission are not true? It was reported heavily last week that this is the line taken by the European Commission, that it is counting this €130 million as a direct transfer from the Exchequer. This is not off-balance sheet. It counts this as State funding to Irish Water. Has the Minister had an exchange with the European Commission in the past week on this matter?

Deputy Alan Kelly: Another Deputy has a similar question later on. I am confident this will pass the market corporation test. Comments by the European Commission were leaked over the past several weeks. We are, however, confident the market corporation test will be met. Several Deputies have referred to the water conservation grant as if it would have a negative impact on this. This will be a demand-led scheme which will be available universally, including for the Deputy's backyard, for those with private wells and those in group schemes. The Government is very confident the package being put together will pass the market corporation test.

It must be remembered that EUROSTAT is independent of the European Commission, like the Central Statistics Office is of the Government. It will make its own determination which should be available in April.

Local Development Companies Funding

1. **Deputy Éamon Ó Cuív** asked the Minister for the Environment, Community and Local Government his plans to ensure the local development companies on the non-Gaeltacht islands have adequate funding after the end of March 2015; and if he will make a statement on the matter. [3662/15]

Deputy Éamon Ó Cuív: There have been island development companies on the non-Gaeltacht islands for some time which have been funded on a regular basis. They are seeking permanent funding through three-year or five-year schemes with an understanding that funding could be rolled over on review after that period.

Minister of State at the Department of the Environment, Community and Local Government (Deputy Ann Phelan): My Department's local and community development programme, LCDP, is the largest social inclusion intervention of its kind in the State. The current programme officially ended at the end of 2013, having operated for four years with funding of €281 million over that period. It is being implemented on a transitional basis for 2014 with a budget of €47 million pending the roll-out of the new social inclusion and community activation programme, SICAP, in April 2015.

My Department provides LCDP funding to Comhar na nOileán Teoranta, the local development company for the islands, for the delivery of LCDP to offshore islands. In terms of the successor programme, SICAP, the intention is that island areas would be eligible for inclusion in the tendering process currently under way and due to be completed in February 2015. SICAP funding allocations are informed by a specific resource allocation model, or RAM, which focuses on relative disadvantage of individual areas.

Discussions have taken place recently between my Department and the Department of Arts,

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Heritage and the Gaeltacht, which has lead responsibility for the islands, in response to issues raised regarding the continuation of funding for the development offices on several non-Gaeltacht Islands. This reflected the fact that the issues involved are broader than just those relating to SICAP. Both Departments fully understand the importance of the community development infrastructure on these islands. Along with my colleague, the Minister of State at the Department of Arts, Heritage and the Gaeltacht with special responsibility for Gaeltacht affairs, Deputy Joe McHugh, I will be ensuring both our Departments agree a workable solution in the matter. In the meantime, LCDP funding for the groups concerned will continue until the end of March 2015.

Deputy Éamon Ó Cuív: I welcome the vague assurances from the Minister of State but the clock is ticking. As she knows with employment law, etc., unless there is certainty of funding and the amount of it, protective notice will have to be given to the staff, many of them long serving, of the development companies in question. The Minister of State has not given any indication of the amount of money being made available, whether all the companies that received funding in the past will continue to be funded and what term of funding will be involved. There have been months of opportunity to deal with this. I raised this with the Minister of State's predecessor, the former Minister, Phil Hogan, over a long time. I was assured then that the islands, particularly the non-Gaeltacht islands, would not be left in this situation.

Can the Minister of State tell me when an announcement will be made? Will she indicate the amounts of money that will be involved? Will she indicate the term of the funding involved? Will it be a three-year, five-year or an eight-year programme?

Deputy Ann Phelan: The Deputy's concerns and those of the islands have been taken on board. We are working together with the two Departments. I am precluded from saying anything while we are in the tendering process. I am sure the Deputy understands this. Once we are through the tendering process, timelines and funding will become apparent and I will then inform the Deputy.

Deputy Éamon Ó Cuív: I understood from the Minister of State's reply that the funding for the development companies on the non-Gaeltacht islands would not come under SICAP as the tender will not cover the type of activity mainly covered by these development companies. These are broad development companies which assist everybody on the islands. They tend to become the liaison point for all government services on the islands. In what way is the tendering process holding this up when it will not be part of it? When will a decision be made on the tendering processes, as it was meant to be over a long time ago? How much money will be set aside for this? For what length of time will the programmes run?

Deputy Ann Phelan: As the tendering process is taking place, I am precluded from saying anything specific. The Deputy's concerns and those of the islands have been taken on board. Along with the Minister of State, Deputy Joe McHugh, I am working through these concerns. When the tendering process is over - which will be very soon - I will then be in a position to let the Deputy have more detail.

Irish Water Funding

3. **Deputy Catherine Murphy** asked the Minister for the Environment, Community and Local Government the details of the funding model of Irish Water; the net income from the

model annually broken down by category; the estimation of households in the State that Irish Water is relying on to determine the full cost of the €100 allowance and the cost in each year up to 2019; the plans of Irish Water to engage any supplementary measures such as borrowing to augment income; and if he will make a statement on the matter. [3675/15]

Deputy Catherine Murphy: The Department has made the assumption that 35,000 households - customers of Irish Water - will not apply for the water conservation grant. This goes to the heart of the viability of Irish Water as it raises questions over the costs of the quango itself and the billing system. The grant itself, in turn, will use up moneys intended for investment. These are the issues I have raised in this question.

(Deputy Alan Kelly): The establishment of Irish Water is an integral component of the Government's water sector reform strategy and will lead to lower costs and improved services in the future, providing much better outcomes for customers and the environment. Irish Water is being funded by a combination of domestic and non-domestic water charges, Government subvention and the raising of debt on capital markets.

In 2015, Irish Water expects billed income from domestic customers to total €271 million and from non-domestic customers to total some €229 million, giving a total billed income from customers of €500 million. In addition, the Government will provide €399 million in operating subvention to Irish Water in 2015. Irish Water has been progressing funding initiatives with a view to putting in place several debt facilities with commercial lenders during 2015.

The Government is proposing to provide for the payment of a water conservation grant of €100 per annum which will be available to all eligible households in respect of their primary residence. The water conservation grant will commence this year and an allocation of €130 million has been provided in my Department's Estimates for 2015. The allocation of €130 million represents an increase of some €64 million on the previous alleviation measures included in budget 2015.

The budget allocation for the water conservation grant is based on an estimate of up to 1.3 million households applying for the grant. This estimated level of demand for 2015 takes account of the number of primary residences recorded in the 2011 census, as well as experiences with other demand-led schemes. The provisions required in future years will be determined as part of the annual budgetary process, having regard to the take-up of the scheme and forecast growth in household numbers.

Deputy Catherine Murphy: The Minister claimed it will lead to lower costs in the future. For whom? Essentially, the whole idea of establishing Irish Water was to ensure corresponding funding could be raised off balance sheet. There will be difficulties if it does not pass the EU-ROSTAT market corporation test. Essentially, much of what has been estimated as the income for Irish Water with the new regime is going to leave nothing available to invest in remediating the system. All it is going to do is add to household costs. The €100 conservation grant, which has nothing to do with conservation, is really an exercise in creative accounting to find political acceptance, so that increased charges can be introduced in the future. There is no requirement to provide any evidence that water is being conserved or that anything is being done to achieve that. That is what people see. The economics of this are going to sink Irish Water - I cannot see how they can do anything else. It is extraordinary that a whole income stream in the form of development contributions for water and waste water systems has been dispensed with for the whole of 2014. That was a viable income stream and it has been dispensed with. I do not

understand the rationale in terms of where this investment is going to come from.

Deputy Alan Kelly: Irish Water is set up in order to ensure that it can invest into the future - that it can have capital to invest on a scale that was not there before. It is a model that is necessary so that we do not have to argue about whether we are going to invest in schools, health care, or water. We need a separate mechanism to be able to fund this. Deputy Murphy is well aware of issues around water in her own area. EPA reports over the last months show the necessity for us to invest at a sufficient level to encourage inward investment, for domestic reasons, for tourism and for many other reasons, as the Deputy well knows.

The water conservation grant is far from an exercise in creative accounting. I have met with the group schemes and many people who have their own wells, and they have invested huge amounts of money in protecting their own water infrastructure. They are very happy with the scheme that has been put in place. If the Deputy feels that giving €100 as a water conservation grant is a case of creative accounting, does she feel the same about the fuel allowance, which is given out in a very similar way?

Deputy Catherine Murphy: The point is that there will be no money to invest. The Minister is talking about the need to invest, but there will be no money. He has not made a convincing argument about where this money is going to come from. He talks about people in group water schemes investing - and yes, they did - but equally, people in public schemes and commercial enterprise made an investment in water and waste water systems through development contributions. Investment has not been exclusive to one sector of the community. There are some €11 billion worth of assets, so it is not all about liabilities. On the development contribution side, local authorities are no longer allowed to apply water and wastewater development contributions, which would be the biggest portion of development contributions. However, Irish Water has not been given that competence. A whole year has gone by in which a viable income stream has not been exploited. That money would formerly have been invested in water and wastewater schemes. Where is the money going to come from for the investment?

Deputy Alan Kelly: There has been an awful lot of analysis of Irish Water, but the way in which it has been set up as a utility means that it now has huge capacity to borrow and invest into the future. Deputy Murphy knows there will be economies and deferred costs in the future as a result of the investments that have been made. It will be possible to prioritise projects. Irish Water is currently in the process of undergoing various techniques as regards borrowing for the future. We would not be able to intercept these projects and put in place the capital plan that I am going to receive from Irish Water in the next couple of months. The Government simply would not have the capacity to put in that investment. Given the way Irish Water has been set up, and its borrowing capacity and income streams, we will be able to do that. It will be able to deal with the multitude of issues coming down the track, particularly, dare I say, in the conurbation around Dublin where we sit, which will have serious water problems in the very near future if the investment is not fast forwarded. I am not convinced that governments in the future would be in any position to invest at the necessary level if Irish Water had not been set up in this way. That is the reason we went down this road.

Homeless Accommodation Provision

4. **Deputy Barry Cowen** asked the Minister for the Environment, Community and Local Government if he will provide an update on progress in the 20-point action plan to tackle emer-

gency and short-term homelessness; and if he will make a statement on the matter. [3443/15]

Deputy Barry Cowen: The Minister, Deputy Kelly, put in place a task force to address the crisis that emerged following the unfortunate death of Jonathan Corrie, a homeless person, before Christmas. There have unfortunately been subsequent deaths of a similar nature. Following the consultation process with the various stakeholders, the Minister and his Department introduced a 20-point plan, which we welcomed. I acknowledge that some progress has been made. However, the Minister owes it to the House to inform us of the progress made since along the path of the 20-point plan. It should not be allowed to slip off the agenda and it is incumbent on us as representatives to ensure that the commitments made in the plan are honoured. I ask the Minister for an update.

Deputy Alan Kelly: I thank Deputy Cowen for raising this issue. I also commend the Deputies opposite, many of whom participated in this process in a very non-political and open way. Many people outside the House of various political persuasions acted in a similar vein. I want to publicly thank them for that.

On 4 December 2014, as everyone is aware, I hosted a special summit on homelessness to reaffirm the Government's commitment to end involuntary long-term homelessness by the end of 2016. A number of actions arising from the summit were formalised into an action plan to address homelessness, and substantial progress has been made in implementing that plan. Overall progress is overseen by the Cabinet committee on social policy and public service reform. The plan and progress reports are available on my Department's website at <http://www.environ.ie/en/DevelopmentHousing/Housing/SpecialNeeds/HomelessPeople/>.

I am satisfied that there is enough accommodation available for all those sleeping rough and that no one needs to sleep rough unless they choose to do so. Of course, we need to try to intercept that as well. The number and availability of emergency beds is being monitored closely, particularly in the Dublin area by Dublin City Council, and further beds will be brought on stream should the need arise. I am very much committed to that and have made public statements expressing my commitment. If necessary, we will bring more beds on stream.

The long-term solution to homelessness is to increase the supply of homes. In November 2014, I launched the Government's Social Housing Strategy 2020. This six-year strategy sets out to provide 35,000 new social housing units at a cost of €3.8 billion and restores the State to a central role in the provision of social housing through, *inter alia*, a resumption of direct building on a significant scale by local authorities, approved housing bodies and a number of other mechanisms.

Deputy Barry Cowen: I thank the Minister for his response and for the publication of the status of the 20-point plan on the website. I look forward to monitoring that progress. I acknowledge that a commitment has been given on a short-term basis to address the issue of people sleeping rough, and much progress has been made here in Dublin and in the cities in that regard. Has the Minister or his Department conducted any similar negotiation in the regions? Unfortunately, the issue is not confined to the cities, although there has been a crisis in recent times, which, thankfully, has been addressed in the short term. It is incumbent on the Minister and the Department to spread their wings as far as possible in order to address the issue on a regional basis. Even in my own county issues such as this exist, and it is important that non-governmental agencies are given every assistance in working with local authorities to address these issues in a meaningful manner so that they are all singing from the same hymn sheet and

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working off the same page. Assuming the Minister is amenable to providing such resources to those funding agencies, I ask for an update in that regard.

10 o'clock

Deputy Alan Kelly: As the Deputy will be aware, Dublin was prioritised and transport services, night cafés etc. were introduced. A number of other changes are also under way. Nevertheless, I share the Deputy's concerns as we both represent the lower midlands. I understand and appreciate that homelessness is a broad issue that does not only affect urban areas, even if the acute problems arise in the conurbation in and around Dublin. Working with the relevant local authorities, we have made a number of changes in other cities.

We have examined homelessness in the context of the regions, specifically large towns in more rural areas. These areas are also being reprioritised on the basis of many comments that have been received, including from Members of the Oireachtas. As Deputy Cowen will be aware, the new Housing First programme has been announced for the midlands. This is an excellent initiative which has been taken by a number of highly dedicated individuals.

I have managed to secure an increase in funding for homelessness. The Department is re-allocating funding for the regions and will present new budgets that target preventative measures in the area of homelessness. This is an opportune time to re-examine these issues.

Deputy Barry Cowen: I thank the Minister for his response on this issue. I also acknowledge the public commitment he has given to the regions through the Housing First programme in the first instance and the provision of further funding in the short term to address these issues in a meaningful way. As with the first issue I raised, I hope his public relations team and officials will keep members of the public and Deputies informed about progress in this area, including through the departmental website. The Minister is committed to publishing reports at various stages in the years ahead and I expect him to do likewise on this matter.

Other Questions

Pyrite Remediation Programme Implementation

5. **Deputy Clare Daly** asked the Minister for the Environment, Community and Local Government the progress of the pyrite remediation scheme; the targeted number of properties to be remediated in 2015; the cost of the project to date; and if he will make a statement on the matter. [3603/15]

Deputy Clare Daly: As the Minister will be aware, there are thousands of home owners whose dwellings are falling down around them because pyrite was used in the in-fill material. The pyrite remediation scheme established by the Government, while welcome, is making incredibly slow progress, with no houses remediated to date. How many houses will be remediated in 2015? Is the Minister satisfied that sufficient funding has been provided for remediation works? Does he have any plans to extend the scheme given that thousands of other home owners are precluded from applying to the Pyrite Resolution Board for remediation on the basis of their geographical location? These home owners have no prospect of having their homes remediated this year.

Minister of State at the Department of the Environment, Community and Local Government (Deputy Paudie Coffey): I thank Deputy Clare Daly for raising this important issue. The pyrite remediation scheme is a targeted initiative to assist a restricted group of home owners who have no other practical options to access redress. It is a scheme of last resort to repair homes affected by significant damage.

The pyrite remediation scheme involves a number of stages commencing with a validation process by the Pyrite Resolution Board to check each application for compliance with the scheme's eligibility criteria. This procedure is followed by a damage verification process carried out by the Housing Agency. The next stage involves a decision by the Pyrite Resolution Board on whether a dwelling will be included in or excluded from the scheme. Once a dwelling has been included in the scheme, tendering processes are arranged by the Housing Agency for the appointment of a design professional and works contractor for the preparation and execution of a remedial works plan in respect of the dwelling concerned.

The Deputy sought an update on the progress of the scheme. Since details of the scheme were published in February 2014, the Pyrite Resolution Board has received 627 completed applications. A total of 485 applications have been validated and forwarded to the Housing Agency for the verification stage. Of these, 295 have been approved by the board for inclusion in the scheme and applicants have been notified. A pilot project involving the remediation of five dwellings was completed in the latter half of 2014. The funds provided in respect of the pyrite remediation scheme in 2014 amounted to €2.2 million. Over the course of 2015, the board anticipates that remediation works will commence on projects comprising approximately 280 dwellings.

Deputy Clare Daly: The problem of pyrite is a serious crisis. The pyrite remediation scheme is a last resort for a large number of home owners. As late as yesterday, I learned of a new estate in my constituency where the presence of pyrite has been verified for the first time. The Minister of State will also be aware that home owners in south Dublin, where pyrite has also been identified, are precluded from applying to the scheme. Houses in counties Donegal and Mayo are falling down because of problems with block works. This crisis has arisen through no fault of the home owners.

The Minister of State indicated that no houses have been remediated.

Deputy Paudie Coffey: Five homes have been remediated.

Deputy Clare Daly: That is as close to zero as-----

Deputy Paudie Coffey: The figure is five.

Deputy Clare Daly: He also stated that 280 homes will be remediated in 2015. Based on the figures provided, the budget for remediation works will be quickly gobbled up. A sum of €10 million was allocated for these works last year and again this year, with €2.2 million expended last year on remediating five homes. Given that the cost of remediation per house is likely to be roughly €50,000, is the Minister of State confident that sufficient funds are available to complete the process? What does he propose to do about the thousands of home owners who have been excluded from the scheme? Will he address the exclusion from the scheme of home owners whose houses have been given a damage condition rating of "1 with progression"?

Deputy Paudie Coffey: As the Deputy noted, many legacy issues have arisen in various

areas of the country. We are discussing the issue of pyrite, however. The Deputy will agree that the primary responsibility for building defects lies with the builder, developer or company which supplied the relevant building material. They should be the focus of any redress.

As I outlined, the pyrite resolution scheme is an issue of last resort for people who do not have access to any other form of redress. The State has intervened in this area at a cost to the taxpayer and must ensure everything that is done to help those who require assistance is justified. The Government established the Pyrite Resolution Board, which has introduced a validation and verification process, while an independent agency, the Housing Agency, is managing many of the technical aspects of the project.

Five houses were remediated last year as part of a pilot project costing €2.2 million. It is important, however, that we achieve economies of scale in providing a solution to the problem. The Government has committed funding to pyrite remediation works, with a sum of €10 million allocated in 2015. We are also considering whether other areas, including those to which the Deputy referred, can be included in the pyrite resolution scheme. I will make a decision on that matter shortly.

Deputy Clare Daly: The Minister of State has tried to portray the State as a benevolent white knight that has stepped in despite not having any responsibility in this area. While our building regulations were on a par with those in place in Britain, the difference here was that they were not enforced and hard-pressed home owners were left holding the can.

I welcome the pyrite resolution scheme. I have worked well with the Pyrite Resolution Board and would like it to succeed in its work. I am concerned, however, about the Minister of State's statement that remediation works will commence on 280 properties this year. This will not be possible, as the cost of the works will exceed the budget of €10 million allocated for 2015. Moreover, the proposed works do not even begin to address the exclusion from the scheme of thousands of home owners in south Dublin, Dublin city and counties Donegal and Mayo whose houses are falling down.

As the Minister of State may be aware, two commercial buildings on the north side of Dublin are being demolished because pyrite has been found in the block work. This is an extremely important issue and it is not good enough for the Minister of State to argue that it was someone else's fault and the State is stepping in as a last resort. The State has a responsibility in this regard and the Department must invest more resources and effort in resolving the problem because it will not go away.

Deputy Paudie Coffey: I am certainly not trying to absolve the Government or State of any responsibility in this regard. It is a pity the new building regulations and inspection regime introduced by the Government had not been in place many years ago as they may have prevented many of the legacy issues highlighted by Deputy Clare Daly.

I reiterate that the pyrite resolution scheme is an option of last resort. The Deputy referred to many other issues related to defects in building materials and construction. The primary responsibility for those problems rests with the builders who cannot be let off the hook if they are found to have been in any way negligent. We are dealing with the pyrite issue because these people have been left in isolation, with little or no support, and the Government is intervening to assist them. I reassure the Deputy that the funding is in place to address the remediation of a number of houses, which we have outlined will happen in 2015. There will be continuous

engagement between the project managers, under the auspices of the Housing Agency, my Department and the Pyrite Resolution Board to assist these people as much as possible.

Irish Water Funding

6. **Deputy Barry Cowen** asked the Minister for the Environment, Community and Local Government if his Department has had any discussion with the Central Statistics Office regarding the EUROSTAT market corporation test; when a decision will issue; and if he will make a statement on the matter. [3441/15]

Deputy Barry Cowen: The Minister has, in previous answers, briefly mentioned this issue. I wish to examine some of the specifics of it. Prior to the announcement of a new charging mechanism for Irish Water's income stream and the costs associated with it, the Tánaiste confirmed that 44% was the figure for Government subvention. Is the Minister aware of, or can he inform the House, what the percentage subvention is now, subsequent to the establishment of the new regime? Has this followed communications with the CSO, which has confirmed those figures to be actual, or is it that such an adjudication can only take place in April, by EUROSTAT, when actual figures rather than estimated figures on revenue are agreed?

Deputy Alan Kelly: A key component of the strategy to establish Irish Water is that Irish Water will be classified as a market corporation under EUROSTAT rules and, as a result, will not, other than in terms of Government operating subvention, be included in the calculation of the general Government balance. The market corporation test is a requirement that income from customers be greater than 50% of production costs. The Central Statistics Office is responsible, as the Deputy is aware, for engagement with EUROSTAT on such matters. My Department has met with that office, which is independent, and is providing the necessary information to facilitate this work. Early engagement with that office by my Department centred around understanding the rules by which a utility such as Irish Water would be considered a market corporation. Based on this understanding, the Government is confident that the underlying funding model for Irish Water supports increased investment in the water sector through an off-balance sheet classification of the utility while, at the same time, providing for water charges which are affordable, clear and certain. The Government remains confident that Irish Water will pass the market corporation test, MCT. However, the decision, based on the information we are providing through the CSO and onto EUROSTAT, is a matter for EUROSTAT. It is my understanding, as outlined earlier, that a decision will be made in or about April.

Deputy Barry Cowen: From what the Minister has said, it appears to me that his discussions with the CSO centred around its informing the Minister of the rules and his obligations under those rules. Based on that information, EUROSTAT will make an adjudication. However, the CSO, as an independent authority, cannot confirm whether the Minister is within the rules or meets the guidelines. Is the Minister aware that a journalist was informed recently by a senior official in the Department of Finance that it is frantically looking at ways and means of dealing with this issue should the Government's proposals fail the EUROSTAT market test, and that the same official is of the opinion that the Government would meet the requirement that the deficit be less than 3% of GDP given the forthcoming increase in taxation revenues? However, this does not get around the situation in which the Government may find itself, as the costs associated with that subvention will be back on the balance sheet and there will be no prospect of Irish Water borrowing off-balance sheet from the markets. This being the case, it will be back

on the Government's agenda to fund the forthcoming proposals from Irish Water mentioned by the Minister. Are we then back to a default position, which the Taoiseach mentioned some months ago when he was asked about this issue, with the public being faced with a 4% increase in taxation in order to fund the works that Irish Water believes the programme needs?

Deputy Alan Kelly: I will not engage in speculation on communications between a journalist and Department of Finance officials. I cannot confirm it one way or the other, although I find it very hard to believe. We are engaging with the CSO in terms of providing all the necessary information. We are very confident that it will pass the test. The figure the Deputy quoted is accurate; I think it is 44.38%. We are very confident in the model that has been put in place and, once this has been outlined through the CSO and the information provided to EUROSTAT, that EUROSTAT's determination will be fair and we will pass the MCT. As a result, Irish Water will be in a very strong position. This is what was always intended by the Government. We are very confident that Irish Water, as currently modelled, will pass the MCT.

Deputy Barry Cowen: I understood that 44% was the figure prior to the introduction of the new regime and the associated new costs. Apart from this, it is worrying that the Minister can neither confirm nor deny that a high-ranking Department of Finance official has stated that frantic efforts are being made to devise a mechanism to deal with this issue in the event that we fail the EUROSTAT test. I ask the Minister to speak with his colleague, Deputy Noonan, and confirm or deny that this is the case. If it is the case - I asked this question several months ago - what is plan B in the event that we fail the test? I do not think there is anything wrong with having a plan B in place. Suffice to say that, in the absence of such a plan B, and given what we are hearing, the State will be able to absolve the costs by virtue of increased revenue and still meet the 3% of GDP deficit target, as was envisaged initially. This paints a whole new picture as to the total and utter mismanagement of the process and this debacle since it began two years ago. As I have stated in recent weeks, the Government's credibility, let alone that of Irish Water, would be shot by the idea that so much effort, cost and funding from the taxpayers had gone into creating a model that could not do what it was supposed to do and what it said on the tin. I ask the Minister to confirm to the House as soon as possible that no efforts are being made to subvert the whole process, which he has stood steadfastly behind, as has his Government up to this point.

Deputy Alan Kelly: What I said was that I could not confirm what journalists were saying. I do not think any one of us in this House ever can. However, I am not aware of any such process - I would be so aware, given my Department's role in this - or of any official going down the route referred to by the Deputy. Journalists speculate. However, I can state categorically that my Department and the Government are not examining any other option aside from passing the MCT.

Leader Programmes Administration

7. **Deputy Éamon Ó Cuív** asked the Minister for the Environment, Community and Local Government when the new Leader programme will commence; and if he will make a statement on the matter. [3437/15]

Deputy Éamon Ó Cuív: I congratulate the Minister of State on her transfer to the Department of the Environment, Community and Local Government. The Leader programme is probably the biggest single programme within her responsibility. I know what the Leader

programme is. I know the money that is going to be provided is wanted. All I wish to know is when it will start.

Deputy Ann Phelan: My Department is currently working with the Department of Agriculture, Food and the Marine and the European Commission to finalise the text of the rural development programme with a view to commencing the Leader local development strategy selection process in the coming weeks. The Leader local development strategy selection process will be open and transparent and will consist of two separate stages, providing the opportunity for all interested local development and community groups to participate. Stage one, a call for expressions of interest to design and implement Leader local development strategies for the 2014-20 programme period, will commence shortly. This stage will be open to any entity that can show broad local and community participation and that has a coherent vision for the development of their area. While the Government's preferred outcome is one local development strategy for each area, there will be no limit on the number of groups allowed to express an interest from within a sub-regional area. The expressions of interest will be evaluated and entities will be selected to develop prospective local development strategies through a process of assessment by an independent evaluation committee, comprising an independent chair, officials from my Department and the Department of Agriculture, Food and the Marine, along with external rural and local development expertise. Notwithstanding the level of work to be done in advance of the programme becoming operational, I expect the programme will be in a position to start selecting local development strategies for implementation by mid-2015.

In regard to the Deputy's question on when this process will commence, the expressions of interest stage is imminent. This is a major priority for me. I went to Brussels last week to discuss the matter with the European Commission, including the Commissioner for Agriculture and Rural Development, Mr. Phil Hogan. We had a positive meeting and I was able to impress on the Commission the importance of rolling out this programme at the earliest opportunity in order that we can support communities.

Deputy Éamon Ó Cuív: I understand the Minister of State will be receiving a letter of comfort to allow her to commence the process. Can she confirm that she cannot invite expressions of interest until she gets that letter of comfort? Having received the letter of comfort and invited expressions of interest, is it correct that the tendering companies will have a period of approximately six weeks to respond, following which there will be an evaluation process and the drafting of detailed plans? Preparation of detailed plans could take six to eight weeks or longer and will then have to be assessed. At the end of that process, contracts will need to be put in place. Given that all sorts of answers were provided in this Chamber predicting that the social inclusion and community activation programme, SICAP, would be up and running long before now, it is unlikely that we will see any Leader companies disbursing money in 2015.

Deputy Ann Phelan: The Deputy is very familiar with the process of establishing Leader companies and the potential for a hiatus at various points in the development of the programme. I have gone through the process on a number of occasions and know that it always comes out very well in the end. My job is to expedite the rural development programme and I assure the Deputy that we had an extremely positive meeting in Brussels last week. It is a priority for me to get it rolled out at the earliest opportunity because I know communities depend on this support. It will take time to go through the process, as the Deputy is aware, but we will get there in the end.

Deputy Éamon Ó Cuív: That is the nub of my question. We will get there in the end but

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these processes always take longer than anticipated and Ministers tend to suggest overly optimistic timescales. In light of what happened with SICAP, as well as my own experience, I believe the timescale suggested by the Minister of State is totally unrealistic. How much money has been put aside for Leader expenditure under the new programme this year? If, as I suspect, it becomes obvious that she will not spend the money under the programme this year, will she arrange for the money to be spent in rural areas under other programmes this year? Otherwise, rural areas will lose out on this money.

Deputy Ann Phelan: The Deputy is entitled to believe what he wants. All I can do is reassure him that we will be rolling out the rural development programme at the earliest opportunity. Expressions of interest are imminent and the details will be announced shortly.

Social and Affordable Housing Provision

8. **Deputy Ruth Coppinger** asked the Minister for the Environment, Community and Local Government the number of new social homes that are targeted to be built by the local authorities in 2015 and 2016 arising from the Government's housing strategy; and if he will make a statement on the matter. [3650/15]

Deputy Ruth Coppinger: The information that I have received indicates that the number built will be nowhere near the numbers outlined in the strategy. Will the Minister provide a breakdown by local authority of the number of homes anticipated in the next two years?

Deputy Alan Kelly: Social housing is a key priority for the Government, as is evident in the additional €2.2 billion in funding announced for social housing in budget 2015 and the publication of the Social Housing Strategy 2020 in November 2014. The strategy builds on the provisions contained in budget 2015 and sets out clear, measurable actions and targets to increase the supply of social housing, reform delivery arrangements and meet the housing needs of all households on the housing list. Importantly, the strategy restores the State to a central role in the provision of social housing.

The total targeted provision of more than 110,000 social housing units through the delivery of 35,000 new social housing units and meeting the housing needs of some 75,000 households through the housing assistance payment and rental accommodation scheme will address the needs of the 90,000 households on the housing waiting list in full, with flexibility to meet future demand. In committing to provide these 35,000 new social housing units at a projected cost of €3.8 billion, the strategy marks a fresh start for social housing in Ireland.

Over the six years of the strategy, I anticipate that the 35,000 units will be delivered as follows: 22,300 units to be built or acquired utilising both current and capital moneys, 11,000 units to be leased and 2,300 units to be supplied through refurbishing and bringing back to use vacant local authority stock, which I confess is a bugbear for me. Under the relevant actions of the social housing strategy, national targets for delivery of social housing on a local authority basis are to be agreed for each year. This work is already under way with local authorities in so far as 2015 is concerned and I expect it to be finalised next month. In 2015, I expect that 7,400 new social housing units will be provided, as follows: 1,400 units to be built or acquired by local authorities and approved housing bodies, 3,000 units under the social housing leasing initiative, 1,000 vacant local authority units returned to use and 2,000 new rental accommodation scheme units. In addition, a further 8,400 households will be assisted through the housing

assistance payment.

Deputy Ruth Coppinger: If the Minister could provide a breakdown by local authority, that would be even more helpful.

Let me get this straight: he anticipates 22,300 housing in the housing strategy but indicates that 1,400 houses will be built next year. That is far below the target he outlined previously. We should not fool people out there who are desperate. The 2,000 units to be leased from private landlords are existing rather than new houses. As I do not think these houses will be found, will the Minister explain where he anticipates finding them, given that we know landlords are not interested? Approximately 1,000 vacant units will also come from existing housing stock. The rental accommodation scheme will be continued even though landlords have no interest in this scheme and 8,400 households will transfer to the housing assistance payment scheme.

The Minister made great fanfare but his Government is spending less money on social housing than Fianna Fáil and the Green Party spent in 2010. He claimed that the Government was massively increasing expenditure in this area but it is spending less than that shower spent before the crisis began. He referred to expenditure of €700 million but the previous Government spent more than €800 million. People in the midst of a crisis of homelessness think the Government is increasing expenditure but actually it is doing less than previous Governments.

Deputy Alan Kelly: I am slightly bemused by the Deputy's comment. People across the Houses can criticise the social housing strategy if they so wish, but, by and large, the principles around it have been accepted as regards our going in the right direction. Considering the Deputy's philosophical background, I found her contribution quite strange.

The figures I have are those I have consistently given. They have been the same all the time. They show that there will be a huge push in 2015 towards meeting the needs of the volume of people concerned. The Deputy is not comparing apples with apples or oranges with oranges as regards previous spends. We are getting into the process of rebuilding social houses, council houses, the building of which should not have been stopped in the first place. There was a period of intense need to ramp that up. I am in the process of increasing the volume of local authority staff around the country in order to do that, which is necessary, and we are planning that in advance.

The Deputy will be aware of the figures I gave for 2015 in terms of 7,400 units broken down in the way I outlined. As regards the breakdown of units by local authority, I would be happy to share those with the House post announcement,-----

Deputy Ruth Coppinger: When?

Deputy Alan Kelly: -----which will be next month, as I stated in my initial reply to the question. I have a meeting today on that matter after this business. We will be in a position next month to outline to the House where this funding will go. I am conscious of the pressure areas across the country, which we have heat-mapped. There are areas all over the country that have housing demand but we must deal primarily with the acute areas.

Deputy Ruth Coppinger: I have the figures here. It is outlined in the Social Housing Strategy 2020 that the Government will invest €2.2 billion from 2015 to 2017, inclusive. That works out at a capital investment in social housing averaging €733 million a year. In 2010, the Fianna Fáil-Green Party Government invested €980.6 million on social affordable housing. Therefore,

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this Government is spending less than it did, contrary to what the Tánaiste came in here and said. There is nothing to meet the emergency that exists in this area.

I have two final questions. When jobs are being created or houses are being built, usually politicians are only too keen to promote it. Why has it taken so long for the Minister's Department to give Deputies an outline of exactly where these houses will be built? Could the Minister also clarify for council tenants and for people in private rented accommodation when he will bring forward the legislation relating to water charges?

Deputy Alan Kelly: I took this job primarily to deal with the issue of housing because it is something that is quite close to my heart and is one of the largest issues facing this country both from the public and from the private perspectives. The work that is going on between my Department, a number of agencies and the local authorities is nearing conclusion. It has taken a period of time. The Deputy must remember that I only announced the social housing strategy and the allocation of €3.8 million in December.

I am hopeful that in a few weeks time we will have broken down the allocations across the country. All Deputies across all sides of the House will be made aware of the allocations and, dare I say it, there are some very good projects out there. I have made it my personal business to visit as many local authorities as possible or else have met their representatives here. I have met representatives of the local authorities here on numerous occasions to prioritise the provision of housing. When I took this job, the first thing I did was address local authority managers to tell them that this is my priority, that I would get the funding and for us to ensure that there would not be a big lag time in being able to get sites moving as regards developing houses and working with the approved housing bodies and other organisations. I can assure the Deputy that in the next month or so we will have an outline across local authorities and in particular we will take account of where the demand is most acute.

Unfinished Housing Developments

9. **Deputy Catherine Murphy** asked the Minister for the Environment, Community and Local Government his plans to initiate any legislative reform to address the continued difficulties that exist in the taking in charge of estates where outstanding issues have not been addressed; if his attention has been drawn to the fact that with construction activity increasing the need for these measures has never been greater; if he proposes to tackle the problems caused by extended permissions making it impossible for estates to be taken in charge; and if he will make a statement on the matter. [3610/15]

Deputy Catherine Murphy: We are constantly told that the biggest investment individuals will make will be the purchase of a home, yet there is very little consumer protection for purchasers. Construction is beginning to ramp up again, yet many of the defects and deficiencies in the planning system in regard to taking estates in charge, bonds and matters such as that, have not been addressed and are not contained in the planning and development (No. 1) Bill and the planning and development (No. 2) Bill, one of which is at the stage of pre-legislative scrutiny before a committee.

Deputy Paudie Coffey: My Department is currently reviewing, in the context of the forthcoming planning and development (No. 2) Bill, the provisions in section 180 of the Planning and Development Act 2000, as amended, relating to the taking in charge of housing estates with

a view to improving and streamlining the taking in charge procedures. A particular focus of the review will be the time limits for the taking in charge of housing estates. My Department will consult with planning authorities in this regard.

Consideration will be given in this context to any amendments to the taking in charge procedures required to streamline the arrangements with regard to water services infrastructure, but I would emphasise that there is no barrier to taking in charge of estates as a result of the establishment of Irish Water. This was clarified again in circular 5/14 to local authorities issued by my Department in November 2014.

With regard to the extension of duration of planning permissions, section 42 of the Planning Act provides that the duration of a planning permission may be extended for up to five years where substantial works relating to the permitted development have been carried out during the period of the original planning permission, or where substantial works have not been carried out because there were considerations of a commercial, economic or technical nature beyond the control of the holder of the planning permission that substantially mitigated against either the commencement of development or the carrying out of substantial works during the period of the original planning permission.

A facility to obtain a second extension of duration of planning permission was rescinded in 2010. I am not aware of any particular problems with the current provisions regarding the extension of duration of planning permissions. However, if the Deputy wishes to write to me with specific examples, I would be happy to have my officials examine them.

Deputy Catherine Murphy: I welcome the fact that the Minister of State is open to changing section 180. I had sought that in a provision in legislation that was not opposed and I had hoped to see it included in the planning and development (No. 2) Bill. For a person who lives in a housing estate who wants to petition to have the estate taken in charge, the extension of duration means that it cannot happen before 17 years have expired. That includes the period of seven years after the planning permission has expired plus another five years. There is where the 17 years is arrived at, which is outrageous. I can give the Minister of State some examples of that.

It is one of the areas where there is a legacy issue. It is not only a legacy issue of this crash, but of the previous crash. It was one of the dominant issues I dealt with right through the 1990s when there was more consumer protection for a bag of crisps than there was for a person purchasing a house where a developer had not complied with the planning permission. Now that we are at the point of recommencing development and particularly now that the property tax has been introduced, people ask what they are getting for it if their estate cannot be taken in charge when the developer has not completed the road or the landscaping and other related issues. If there is a management company involved, it adds to the individual costs for householders. It is important that we address the issues from the home owner's perspective. There is plenty of protection for the developer. The local authority is assumed to be the guardian of the home owner, but I can tell the Minister of State that is not how I have found it to be. Some of it has to do with the resourcing of local authorities.

Deputy Paudie Coffey: The Deputy is right to point out that there are many legacy issues. We are all witnessing those in our own constituencies. However, ultimately, the developer has responsibility and should not be left off the hook. The local authority has enforcement powers so that a developer is pursued to ensure that full planning compliance and conditions are

adhered to.

The Deputy is aware that a planning authority is required to initiate the taking in charge of an estate in two scenarios. The first is where the estate is properly finished and it is at the request of the developer or a majority of the owners of the houses. The second is where the estate is not finished properly in accordance with the planning permission and enforcement proceedings have not been commenced within seven years of the expiration of the permission authorising the development at the request of the majority of the owners.

What that means is that, where a local authority has not been proactive in enforcement and pursuing the developer, the majority of the owners can then petition a local authority to take the estate in charge. I recognise from where the Deputy is coming. The planning (No. 2) Bill, which will come before the Oireachtas and has been published, will provide further opportunity for engagement with Deputy Catherine Murphy and other Deputies, as well as the joint committee.

I wish to reassure Deputies that the new building regulations and inspection regimes and the requirement for certification and standards will, I hope, mean we will not see further legacy issues in any new Bill to which the Deputy refers.

Deputy Catherine Murphy: The last time I checked, 19,000 houses in County Kildare had not been taken in charge. Some of the cases in housing estates went back 20 years. There is an issue on which I hope we can all be at one. There are issues relating to bonds and bonds expiring. Bonds have a seven-year duration and are not in perpetuity. When a local authority can take an estate in charge, it will take in charge a liability when developers are still involved. We need to strip out the offenders and reward good behaviour in the kind of legislative provisions that are being put in place.

I welcome the fact that the Minister will be open to some of the proposed changes at a pre-legislative stage in the planning (No. 2) Bill because it is important that we are not still talking about this in 20 years' time. I will not be here in 20 years' time. This does not involve just the recent crash; there are legacy issues that go back to the last crash. We cannot allow that to happen.

Deputy Paudie Coffey: I acknowledge many of the concerns the Deputy has outlined. I reiterate that the planning authorities, which are local authorities, have responsibilities with regard to ensuring planning compliance within their respective planning areas. There are legacy issues with regard to unfinished estates, bonds and other matters. Some of them are the result of obvious economic reasons such as developers going bust, which have other implications for home owners. Local authorities have to ensure that they are on top of the planning permissions they grant and that they are proactive in enforcement where problems arise. We need to ensure the problem is not exacerbated.

There is an opportunity in the planning (No. 2) Bill to examine the taking in charge process. Protocols and procedures are already in place and if they are adhered to in the way they are intended we should not see the problems arising to which the Deputy referred. I look forward to further engagement on this issue.

Waste Management Regulations

10. **Deputy Brian Stanley** asked the Minister for the Environment, Community and Local

Government his plans to introduce a waiver for domestic waste collections as promised in the programme for Government. [3607/15]

Deputy Brian Stanley: I refer to the promised waiver for charges for refuse collection, which was a commitment in the programme for Government and was quite clear. It stated: "A public service obligation would include a fee waiver scheme for low income households." That was a Labour Party demand in the programme for Government, or so I am led to believe. It is not too late for the Government to try to do something about this now that there is a Labour Party Minister in the Department of the Environment, Community and Local Government and he has the upper hand. Phil Hogan is in Europe and the Minister, Deputy Kelly, is in the hot seat. I would like to know what plans the Minister has to introduce a waiver scheme.

Deputy Alan Kelly: I thank the Deputy. Flattery will get him everywhere. The Government's waste policy, A Resource Opportunity - Waste Management Policy in Ireland, was published in July 2012. Among the measures included in the policy document was the establishment of an interdepartmental working group to report to the Government with options to minimise the impact of waste charges on low income families. The working group, which comprises representatives of my Department and the Departments of Social Protection, Public Expenditure and Reform and Finance and the Tánaiste's office, submitted its second report to Government on 23 July 2013.

The Government considered the report. Given the complexity of the issues involved, including the fact that the vast majority of households have moved away from local authority collection - I understand only Kilkenny and Killarney are still involved in it - and have engaged private waste collectors on whom it would be difficult to impose any obligation to provide a waiver system, the Government mandated the working group to continue to examine the issue, with a view to submitting a third report to it shortly. All of those issues are being examined and I expect the report to come before the Government very soon. It is something of which I am quite mindful. It is a complex area, given the fragmentation of waste collection services across the country.

Deputy Brian Stanley: The reply is very disappointing. I received a similar reply from Phil Hogan a couple of years ago. The Minister said he referred the matter for further examination, but waste collection charges are increasing every year. The company I am with has increased its charges every year for the past three years. That is driven, as the Minister knows, by a number of factors, such as landfill and other associated charges.

Illegal dumping is also on the rise, and one can see evidence of that in Dublin city. There is no excuse for it, regardless of the charges. Our party is very concerned about its effects on the environment, tourism, the Tidy Towns competition and towns, villages and cities across the State. As the Minister knows - he lives in a rural area - farmers are gathering up the bags of rubbish people have dumped. We want the situation to change.

I hope the Labour Party has not given up on trying to do something about this issue. Illegal dumping is a separate, but related, issue. I agree with the Minister. Many of those involved in illegal dumping have vehicles worth €30,000, €40,000 or €50,000, which I could not afford to buy. In some cases it is not a question of affordability, which is a key point. Some of those brought to court and fined for illegal dumping have, as litter wardens will say, very expensive vehicles. There is an issue in terms of affordability, on which I hope the Minister has not given up. I hope he can return with a package for low income households.

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Deputy Alan Kelly: I concur regarding fly-tipping. It is disgraceful and I agree it is not always done by people from a certain income base. It is a complex issue because of how waste collection services have changed. I have committed to a number of regulatory reforms, of which the Deputy is well aware. July 2015 will be an important month for the household waste collection industry in terms of changes to regulations. It is not an issue on which we have concluded. I expect a report based on the changes I will introduce from a regulatory point of view, and will report that to the Dáil. It is an issue which has not left the agenda.

Written Answers follow Adjournment.

Free Trade Agreements between the European Union and Columbia and Peru: Motion

Minister for Jobs, Enterprise and Innovation (Deputy Richard Bruton): I move:

That Dáil Éireann approves the terms of the Free Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part, which was signed on 26th June, 2012, and laid before Dáil Éireann on 2nd October, 2014.”

The free trade agreement between the EU and its member states and Columbia and Peru is one of a new generation of agreements between the EU and third parties that includes far-reaching measures on the protection of human rights and the rule of law, as well as commitments effectively to implement international conventions on labour rights and environmental protection.

Negotiations on this free trade agreement were opened in 2007 and the agreement was signed in Brussels on 26 June 2012 and ratified by the European Parliament in December 2012. The agreement is already in operation, as it has been provisionally applied with Peru since 1 March 2013 and with Colombia since 1 August 2013.

All EU member states, including Ireland, are signatories to this agreement in their own right. This means that the agreement requires ratification by all member states as well as the EU. EU member states ratify the agreement according to their own domestic requirements. Today’s motion in Dáil Éireann, approving the terms of the agreement, is necessary to complete Ireland’s internal legal procedures. So far, 19 member states have ratified the agreement, so Ireland is one of the remaining few yet to ratify it formally.

The agreement with Peru and Colombia is the first of these new generation free trade agreements to be concluded with South American countries. This is a multi-party agreement and it will be followed by one dealing with Ecuador and possibly other nations in the region. There are significant and realistic opportunities for trade and partnership between Ireland and South America. South America offers huge markets, which represent great opportunities for Irish companies. This is vital for the Government’s efforts to increase export activity in line with the Government trade strategy and the Action Plan for Jobs.

The trade agreement between the EU and Colombia and Peru establishes the conditions that will open markets on both sides and increase the stability of the trade relationship that was worth €21.1 billion in bilateral trade in goods in 2011. As well as the elimination of tariffs, the agreement will improve transparency by enhancing communication and co-operation in the area of technical regulations, standards and conformity assessment. Given the relative size of our economies, the economic and social impact of the agreement in Colombia and Peru will by far outweigh, in relative terms, the benefits it will generate for the EU, which can, in turn,

contribute to the development of more equitable, just and stable societies. According to an independent study, this agreement could boost Colombian GDP by 1.3% and Peruvian GDP by 0.7% in the long term. Trade is expected to grow significantly as the agreement's provisions take effect and there is evidence already of increased interest in export opportunities by Irish companies wishing to enter the Colombian market. For Europe, and for Ireland in particular, the agreement provides access to a growing market the size of Germany with a reduction of tariffs and appropriate protection for intellectual property. Our combined total goods exports to Colombia and Peru were €61 million in 2013, the bulk of them in computers and computer products, medical and pharmaceutical devices and infant formula.

Turning to the agreement itself, it comprises 14 titles, 14 annexes, 24 appendices and two joint declarations. Title 1 contains the initial provisions which define the objectives and scope of the agreement and the obligations of parties to the agreement. Chapter 1 contains the essential elements of the agreement, and these include the general principles of respect for democratic principles and fundamental human rights, as laid down in the Universal Declaration of Human Rights, and for the principle of the rule of law, which underpins the internal and international policies of the parties. This provision of the agreement specifically provides that respect for these principles constitutes an essential element of the agreement. The significance of this is that, if one party breaches the essential elements, the other party is entitled to adopt proportionate measures without delay. Such measures could include the termination of the agreement.

Title 2 contains the institutional provisions under the agreement. It provides for the establishment of the trade committee, its functions, decision-making powers and specialised sub-committees. The eight sub-committees are market access, agriculture, technical obstacles to trade, customs, trade facilitation and rules of origin, government procurement, trade and sustainable development, sanitary and phytosanitary measures and intellectual property. The first meeting of the trade committee was held on 16 May 2014 in Lima. This committee will meet once a year on a rotational basis. Each subcommittee has also held one meeting in 2014.

Title 3 covers trade in goods and contains provisions on market access for goods, trade remedies, customs and trade facilitation, technical barriers to trade, sanitary and phytosanitary or SPS measures, movement of goods and exceptions. It also defines the role and functions of five of the sub-committees, which are those relating to market access, agriculture, technical barriers to trade, customs, trade facilitation and rules of origin, and sanitary and phytosanitary measures.

Title 4 deals with trade in services, establishment and e-commerce, and it sets out provisions, including those relating to market access, through establishment by investors, cross-border supply of services, temporary presence for business purposes and domestic regulation for sectors, including e-commerce, computer services, financial services, maritime transport services and telecommunications services. There is also provision for a sub-committee to manage the commitments under this title.

Title 5 includes standard EU provisions concerning current and capital account movements. Title 6 contains the provisions covering government procurement and includes the role and functions of the sub-committee on government procurement under the agreement. Title 7 covers intellectual property, the stated objectives of which are to promote innovation and creativity and facilitate the production and commercialisation of innovative and creative products, and to achieve an adequate and effective level of protection and enforcement of intellectual property rights that contributes to transfer and dissemination of technology and favours social

and economic welfare and the balance between the rights of the holders and the public interest. The role and functions of the sub-committee on intellectual property are also provided for under this title.

Title 8 covers competition and ensures that operators will benefit from an open, fair and reliable competition environment in which the parties are required to ban, through their national and regional legislation, the most harmful anti-competitive practices, including restrictive agreements, cartels and abuse of dominance.

Title 9 contains the important trade and sustainable development provisions, which promote the pursuit of social and environmental protection policies and offer adequate guarantees to ensure the EU's trade policy works in favour of sustainable development. There are firm commitments to implement core labour standards effectively, as contained in the International Labour Organization fundamental conventions, and to implement eight key environmental international conventions. This legally binding sustainable development title includes provisions on labour and the mechanisms through which civil society groups, including trade unions and non-governmental organisations, can participate, raise concerns and express views. The parties to the agreement are obliged to review and consider these views.

In addition, there are domestic advisory groups composed of civil society representatives that must be consulted and which can also make recommendations on their own initiative. There is provision for regular intergovernmental meetings. These meetings must include an open session where civil society organisations and citizens can directly raise issues. All decisions or reports from these intergovernmental meetings must be public. This title establishes a specific arbitration system to deal with disagreements on the implementation of its provisions. An independent group of experts can be requested to assess the signatories' fulfilment of their obligations and to issue public reports on the basis of which an action plan or other corrective action is to be implemented. The provisions of this title of the agreement are managed by a trade and sustainable development sub-committee, the functions of which are set out under this title. The sub-committee met for the first time on 6 February 2014 and the next meeting is planned to take place during the first half of this year.

Title 10 covers transparency and administration procedures. This includes increased transparency regarding laws, regulations, judicial decisions, procedures and administrative rulings. Title 11 deals with the general exceptions and title 12 deals with a state-to-state dispute settlement mechanism. Title 13 deals with technical assistance and trade capacity building. Title 14 sets out the final provisions and includes the annexes, appendices, declarations and footnotes in the agreement.

I wish to say a few words more about human rights, which are a matter of particular concern for us all in this House, especially in the case of Colombia. Before doing so, however, let me note the context in which these issues are addressed. Colombia is in the process of emerging from a prolonged civil war in the course of which the most egregious human rights abuses have been committed by parties across the board. Displacement and dispossession, sustained terrorism from the right and the left, organised crime and the drugs trade have blighted the lives of too many Colombians for much of this period. Very significant progress has been made and continues to be made. Colombia has pulled itself back from the brink of failed state status and democracy has been restored and is functioning.

The Colombian Government accepts the importance of respect for human rights and is

seeking to advance them through the necessary reforms. Negotiations on a peace agreement, initiated by President Santos - recently re-elected - between the Government side and FARC, the main guerrilla group, are ongoing in Havana. We strongly support these developments and, in particular, encourage all parties to a speedy and comprehensive peace agreement. In case anyone doubts either the link between the prospects for peace and the prospects for improved respect for human rights in Colombia or the commitment of the Colombian Government in this regard, let me recall last year's report to the General Assembly by the UN High Commissioner for Human Rights on the situation in Colombia. The High Commissioner:

commends the government of Colombia for its determined pursuit of a negotiated end to the armed conflict and the ongoing efforts made to meet its international human rights obligations. Many human rights violations linked to the internal armed conflict could be ended or greatly reduced if the progress made in the peace negotiations leads to well-conceived and implemented peace accords. An end to hostilities would also create a unique opportunity to address human rights more broadly.

11 o'clock

The promotion and protection of human rights is a core principle of Irish foreign policy and I believe the provisions in this agreement support this core principle. The provisions of this agreement, including asymmetric trade preferences for the Andean countries and the binding provisions on human rights, labour standards and sustainable development are complementary to the existing mechanisms for multilateral political dialogues, such as the EU's human rights dialogue with Colombia.

Any human rights issues arising in the context of the free trade agreement will be addressed under that dialogue, the most recent meeting of which took place in Bogota in October last year. I am gratified that the Colombian Government engaged in the talks in an open and constructive spirit. The talks addressed the new Colombian comprehensive policy for human rights, the judicial system, land restitution processes, reintegration programmes, migration and the fight against poverty and agreed a number of follow-up actions.

The agreement entered into with democratically elected governments gives us the opportunity to engage in a constructive and supportive manner with Colombia and Peru. We know there are serious shortcomings in regard to human rights especially in Colombia - shortcomings that will take time and effort to overcome - but we know that engagement is the best means to advance our values and for that reason, I strongly commend the agreement to the House.

Deputy Dara Calleary: I want to apologise that I will have to leave the debate early, owing to the late rescheduling of it. I had made another commitment. We will oppose this motion but that should not be a surprise because, as a member of the Joint Committee on Jobs, Enterprise and Innovation, I very readily signed up to the all-party agreement on the concerns of the committee around this agreement. Those concerns were not addressed by the Minister. For the benefit of the House, I will quote the conclusions of the committee:

The Committee is of the opinion that the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part, does not provide a monitoring mechanism sufficient for the protection of human rights. The Committee is concerned that calling "on the Andean countries to ensure the establishment of a transparent and binding road map to ensure labour, human rights and environmental pro-

tection” is insufficient; in the absence of robust monitoring and enforcement mechanisms, human rights cannot be proven to be protected.

It is the opinion of this Committee that the Trade Agreement in its present form fails to provide for monitoring of the human rights clause and thus presumes protection of human rights rather than proves their protection. The Committee finds that the provisional application and potential ratification of this Trade Agreement could be interpreted as condoning reported ongoing abuses.

That document was endorsed by every member of the committee and signed off on by the Chairman. The Minister’s remarks focused primarily on the economic side and were very aspirational in regard to human rights issues. During 2013, the first year of the agreement, 78 human rights defenders, including 15 lawyers, were killed in Colombia. In the first six months of 2014, 30 human rights defenders killed. The difficulty of enforcing and the ignorance of human rights in these countries are still real and very apparent, despite the fact this agreement has been in place.

This motion will probably pass today given the Government’s majority but we need a number of commitment from it to ensure some sort of protection of human rights. I would like an annual review of this agreement by both Houses of the Oireachtas to ensure the provisions signed up to by the other side are actually delivered on. Although the Minister said that one of the founding principles of the agreement was respect for various human rights principles, there is nothing really strong in regard to enforcement measures in it. Unless we have an annual review in this House, then it will be a dereliction of our duty to campaign on and monitor the abuses still going on in these countries.

The Minister mentioned our very proud record in foreign affairs, about which he is right, but signing this agreement will sully that proud record. Signing this agreement in its current form, where the protection of human rights is seen as an AOB item in these countries and where opposition and voices of opposition in civil society are seen as an AOB item after trade, after commerce and after profit, is wrong. That is not the foreign affairs and foreign policy tradition on which we have based our country.

If we are to have any respect in this Parliament for the committee system, about which will speak so highly and in which we all participate, surely we cannot ignore the views of the committee which actually discussed this agreement in detail. I understand there was also a very good discussion at the Joint Committee on Foreign Affairs and Trade on this. Many members will vote on this today without knowing fully what they are supporting and the conditions of this agreement, in particular the conditions of people in the countries with which we are supposed to reach agreement. Committees have discussed it and have come to an opinion on it. The Joint Committee on Jobs, Enterprise and Innovation, of which I am a member, stated clearly that this should not be ratified in its current form and in the current environment. The European Union seems happy to treat its own citizens as economic instruments but we need to stand up to criticism outside the European Union.

Deputy Peadar Tóibín: Before I address this motion, I welcome to the Visitors Gallery the representatives of a number of NGOs and trade unions, who have engaged constructively with members of the Joint Committee on Jobs, Enterprise and Innovation over the past number of months to highlight the devastating impact of free trade agreements on human rights in Colombia. In December last year, the committee issued a political contribution stating that it was its

collective view that this trade agreement does not provide a monitoring mechanism sufficient for the protection of human rights in Colombia and that this trade agreement, in its present form, fails to provide for monitoring of the human rights clause and thus presumes protection of human rights rather than proves their protection. The committee found that the provisional application and potential ratification of this trade agreement could be interpreted as condoning reported ongoing abuses. It endorsed the European Parliament's recommendation that all agreements containing human rights clauses should provide for a permanent human rights committee with a mandate to monitor their implementation.

This agreement has been provisionally applied since August 2013 and yet abuses continue. The Joint Committee on Jobs, Enterprise and Innovation holds the view that participation of the EU in this agreement actually involves no incentive to Colombia to rectify the current position and fails to improve the protection of human rights.

In an open letter to members of the Dáil from representatives of more than 50 organisations, representing workers indigenous populations, women and farmers from the province of Putumayo, we were told that instead of producing peace, the EU trade agreement will only serve to increase social conflict and further repressive action. They told us that the Colombian Government, despite its international commitments, has actually militarised their territory and depopulated their province in order to attract international investment. As Justice for Colombia, LASC and Christian Aid have highlighted, the EU's trade agreement provides for the expansion of large-scale extractive industries and agribusinesses. As it stands, 80% of the land in Colombia is in the hands of 14% of landowners. We know from our history that inequality to access to land is directly linked to poverty.

We know from the US FTA that it is the peasant farmers – 34% of Colombia's population – who have lost out, causing widescale social unrest. This has been followed by a violent state clampdown on human rights and trade union activists, with reports of up to 78 community leaders killed by the Colombian security forces in 2013 alone. In the first half of 2014, 30 human rights defenders were killed. This free trade agreement is blood soaked and if we ratify it, we are directly accountable for that. We talk about accountability in this House on a regular basis but if we ratify an agreement that is leading to this level of bloodshed, there is an accountability issue here also.

Colombia's congress of trade unions, in a letter circulated to Deputies this morning, notes that free trade agreements, including the EU's, have contributed to the destruction of agriculture and industry in Colombia. They have provided greedy corporations with a *carte blanche* to disregard the living standards of the Colombian people. They are polluting the environment. They are evicting people from their lands, which is leading to the further impoverishment of the population.

The Government has a democratic right to refuse to ratify this agreement but, as usual, it is standing submissively by in the hope that the Commission apparatus might kick into action where human rights abuses inevitably occur. The Minister has said that if breaches do occur, that will give rise to the adoption of the appropriate measures but he knows full well that the measures he refers to are not set out in any agreement and the effect will invalidate his own position.

If it is the Minister's intention to go ahead with this trade agreement, will he at least bring the joint committee's political contribution statements before the Dáil as a motion or resolu-

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tion as provided for under existing Standing Orders? This is the first time in my four years as a Deputy that I have been part of a committee that has issued an all-party position that is directly at odds with that of the Government. It is a serious development where Fine Gael and Labour Deputies-----

Deputy Finian McGrath: Very serious.

Deputy Peadar Tóibín: -----in a committee would come to the view that this particular agreement should be voted down against the views of the Government.

Sinn Féin does not support this motion. We do not believe that the Irish Government should ratify the EU-Colombia Free Trade Agreement. To quote representatives of the people of the Putumayo province: “We are opposed to the EU’s Free Trade Agreement with Colombia because it will only serve to create more violence, more displacements and it will further destroy communities and the natural environment.”

Deputy Seán Crowe: Sinn Féin opposes the timing, the content and the lack of viable human rights safeguards and mechanisms within this agreement. The human rights provisions are not strong enough, and an oversight mechanism will not deliver the necessary safeguards needed in that country.

Anti-trade union violence has directly led to the deaths of almost 3,000 trade union activists over the past 25 years. The murderers have 95% impunity due to the inadequate or complete failure to investigate those deaths. Two hundred trade unionists have been murdered since President Santos came to power; 20 were killed last year, and 26 were murdered in 2013. Colombia continues to be the most dangerous place in the world to be a trade unionist or a human rights activist. Colombia is a world leader in ignoring regulations regarding human rights that it has signed up to in international agreements.

The new, hardly dry foreign policy document the Minister for Foreign Affairs and Trade launched last week rightly places human rights at the core of Ireland’s foreign policy. Passing this agreement flies directly in the face of that policy provision. Supporters of this agreement point to a human rights provision in the agreement but no impact assessment around the implementation of the agreement on human rights has ever been done. A recent Senate report on the United States free trade agreement with Colombia states clearly that labour rights have actually deteriorated since the passing of that agreement and warns others in trade agreements to carefully consider how human rights can be enhanced and protected. It is clear that the EU has ignored that advice and failed to deliver on sufficient safeguards in this agreement.

For all the talk of human rights provisions being far-reaching, the agreement provides no means of compellability to parties in respect of those rights. We see the same pattern with the EU-Israel FTA which supposedly has human rights provisions and which at the time was also described as far-reaching, yet Israel flattened Gaza last summer and killed over 2,000 people in a couple of weeks, and the EU continues to be its largest trading partner. The Government refuses to back calls to suspend that agreement despite the calls of over 300 organisations, including some of Europe’s biggest trade unions, political parties and non-governmental organisations for that agreement to be suspended.

The backdrop to this agreement is happening at a crucial time in the peace process in Colombia. Collectively in this House, we wish all those who are taking part in those discussions all the best in the coming weeks and months.

Deputy Finian McGrath: Hear, hear.

Deputy Seán Crowe: Colombia must regulate and transform society in favour of its civilian population if it is to be able to bring about a peaceful resolution to the conflict that has bedevilled the people in that country. Approximately 6 million people have been displaced. The key to the conflict is land rights, but it is also about human rights. Anyone who has visited the courts in Colombia can articulate at first hand the pressure judges are under within the court system.

The Government could easily collapse the talks if it wanted to do so. This FTA is already signed and locked in with the EU. That is one of the concerns of those who are supportive of the process. Rather than supporting the process, some people are of the view that this will strengthen the hand of those who are opposed to peace, dialogue and change in Colombia.

The Dáil has a real chance today to stand up for human rights. This FTA must be passed by all national parliaments of the EU member states. If it is rejected by one, it will collapse. I appeal to all those present to reconsider on what we are voting. The Government should stand on the side of human rights, justice, equality and fairness and reject this FTA. The appeal we are making is for it to think again because it is not strong enough. It will not deliver for the people in Colombia and the lack of viable human rights safeguards and mechanisms within the agreement will not deliver what the Minister suggested in his contribution.

Acting Chairman (Deputy Bernard Durkan): I call Deputy Maureen O'Sullivan who proposes to share her ten minutes with Deputies Finian McGrath and Paul Murphy on the basis of four, three and three minutes, respectively.

Deputy Maureen O'Sullivan: In 2010, President Michael D. Higgins, then a Deputy, made a powerful intervention about the economic partnership agreements with African countries because they were threatening the lives of millions of African people, and we something similar here today with what is being proposed.

Over the past four to six years, individually and through the foreign affairs committee, I have met Colombian farmers, trade unionists and women community leaders, many linked to the Patriotic March. We met Judge Vargas, who is Vice President of the Constitutional Court of Colombia, and Dr. Lozano, and the concerns were all the same, namely, the forced displacement, the evictions, the imprisonment, the torture, the assassinations and the murder. This FTA will exacerbate that further.

We have the figures. We know that Colombia is the most dangerous place in the world to be a trade unionist. We know the numbers of trade unionists, farmers and community leaders who are in jail, including Huber Ballesteros. Their crime was speaking out on behalf of their communities for violations of the human rights of those communities. Those rights are the right to cultivate land, the right to look for better conditions, better money for their crops, and the right to meet and protest. We will have a pathetic one hour and 15 minute debate on this FTA, an agreement that should not be ratified because it is not protecting the workers, the poor and the rural Colombian and Peruvian communities.

I will give the House some examples. There has been massive expansion in the port of Buenaventura but tens of thousands of farmers were forced off their land outside the city to make way for the corporations. The port has been described as a place of misery and fear for mainly Afro-Colombian workers. There has been massive destruction of farmland for oil exploration

in Putumayo and the protesting farmers and trade unions have been abducted, tortured and shot. The farmer protests in Catatumbo claimed many lives. In the hamlets of San Luis Arriba and Corinto, the peasants mobilised against plans to build a new military base on their land. The farming community in Pitalito, which has fertile land and water, were displaced, brought back and displaced again, all with the support of the Colombian army. That was done because the land was needed by a few major farmers in the area to cultivate palm trees for biofuels. This continues in spite of the land restitution law and the victims law. Last September was called Black September in Colombia when there were over 150 death threats against human rights, farmers, journalists, etc.

When the Colombian women I met were forced off their land, they made the point that on the land they had the ability to grow food for themselves and their communities. They were forced off the land into shanties in the towns and cities where they had to try to get money to buy food, which they had been producing. We know that it is through land, particularly small-holder agriculture, that the best hope for the future lies in terms of reducing poverty within those communities. That has been pointed out by many people. This free trade agreement will further the process of land-grabbing by multinational companies. It will also destroy the environment through pollution. We know that Colombia has one of the world's most biologically diverse ecosystems. I accept that the peace process is very positive, but there should be no trade-off for concessions in the free trade agreement that benefit corporations and big businesses. More than 400 organisations and individuals in the US urged opposition to the ratification of the US-Colombia free trade agreement because it failed to recognise labour rights, human rights and the indigenous groups in Colombia. Since that agreement was enacted, Colombia's exports to the US have fallen by 15% and imports into Colombia from the US have increased by 15%. We know there is such depth and strength of opposition to this agreement on the part of farmers, women, workers, trade unionists, journalists and human rights defenders because it will increase poverty. How can Ireland ratify it? We know it is going to do so. If we were to slow or to delay the process, we would send a signal that we are serious about human rights positions. Ireland is a member of the UN Human Rights Council and has raised issues relating to Colombia at that forum. The Minister can ensure Irish companies working in Colombia are not guilty of human rights abuses of their workers.

Deputy Finian McGrath: I am pleased to have an opportunity to speak on this important motion, which relates to the free trade agreement with Colombia. I strongly oppose the motion on the basis of the facts on the ground and my visit to Colombia in 2006. I did not spend my time in Bogota smoking Havana cigars and chilling out in my hotel. I had a good look around the city. I met many people. I visited the prisons and met the prisoners. I visited the voluntary non-governmental organisations. I met the Coca-Cola workers. We met Ministers and we had a good look around. We saw the situation and had a very good and objective view. We learned a lot from that experience. It shaped my views on this agreement. That is why I am strongly opposed to it. I urge my colleagues in this House to stand up for human rights by voting against the ratification of the EU trade agreement with Colombia. I say that on the basis of what I heard on the ground and witnessed at first hand.

Approximately 5.5 million people have been internally displaced by the conflict in Colombia. This is the highest such number in the world. Seventy human rights defenders, including community, indigenous and Afrodescendant leaders, were killed in 2013. The conflict has claimed at least 220,000 since 1958, with more than four in every five victims being civilians. That is the reality on the ground. When I was in Colombia, I met many victims' families, in-

cluding the wives of lawyers who were gunned down and killed. An average of 54,410 women suffered sexual violence in Colombia each year between 2001 and 2009. That equates to 144 women a day, or six women an hour. Many of these acts of violence took place in the context of the conflict. That is a reality and a fact. Nearly 3,000 trade unionists have been murdered in Colombia in recent decades. I will never forget the fear in the eyes of the Coca-Cola workers the day I met them in Bogota at a secret meeting with a group of Irish politicians and lawyers and American and international human rights people. Some of their colleagues are among the 3,000 trade unionists who have been killed. This makes Colombia the most dangerous country for many trade unions. It is important that we get to know these facts. Many of the people I met in Colombia were very interested in what was going on in Ireland with regard to our peace process.

I urge all Deputies to reject this motion and to stand with the people, the trade unionists and the citizens of Colombia. Last week, the Irish Government disgracefully flew national flags at half mast even though the human rights situation in Saudi Arabia has been an absolute scandal in recent years. We have to stand up for human rights and stand against this agreement.

Deputy Paul Murphy: This is the second parliament in which I have debated this agreement. The European Parliament passed this free trade agreement more than two years ago against my opposition and - it should be noted - the opposition of all the Labour Party MEPs who voted against it. Those who voted in favour of it, particularly other Social Democrat MEPs, were influenced by the fig leaf that was on offer, in the form of a roadmap or action plan on human rights, and by the non-binding Article 2 of the agreement, which refers to human rights. They said that the situation would improve, that the free trade agreement would raise all boats, that the values of human rights, etc., would spread and that the agreement would benefit trade unionists and others in Colombia. There is no longer a need to speculate on whether these things will happen. We have the evidence because the time has passed. The evidence clearly says that these things have not happened. The human rights situation in Colombia has not improved. The free trade agreement, which is being provisionally implemented, has bolstered the Colombian Government as it continues to stand over human rights abuses. In August 2013, at least nine striking activists were murdered by the Colombian police and army during protests against free trade agreements with the United States and Canada. The UN denounced the unfounded accusations made by the Colombian Government to the effect that armed groups were behind these protests.

Colombia remains the most dangerous place on earth for trade unionists. More than 100 human rights defenders and trade unionists have been killed there since the implementation of the free trade agreement. Massive displacement of indigenous people, particularly by extractive industries, is continuing to take place. Justice is an extremely rare commodity in Colombia, with impunity rates remaining at more than 90% after a legacy of conflict. We can read the evidence given by a former police chief, Mr. Santoyo, in the courts in the US when he was convicted of assisting paramilitary organisations. He testified that he helped the Colombian death squads to identify victims to be killed and to escape without getting caught. He was the head of the police for President Uribe at the time this deal was negotiated with the European Commission. Every trade union confederation that has a connection to this issue, including the Central Union of Workers in Colombia, the International Trade Union Confederation, the European Trade Union Confederation and the Irish Congress of Trade Unions, has campaigned strongly against the agreement. We have a chance here. We are voting on it in this Parliament because it has been identified by the EU as a mixed agreement. If it was a regular international trade agreement, we

would not even have a vote. It is because we have a vote that this Parliament and every other parliament in the EU have the ability to stop it and thereby send a very powerful message. If the Labour Party were to take the same position here that it took in the European Parliament, it would come in here today and vote against this agreement. That would be a powerful signal. We have a choice between putting human rights and workers' rights first and putting the profits of big business first.

Acting Chairman (Deputy Bernard J. Durkan): The next three speakers are Deputies Eric Byrne, Brendan Smith and Joe Costello. They will have ten minutes each.

Deputy Eric Byrne: I am delighted this debate is being held in this Chamber. As far as I am aware, such a debate has never been held with the Joint Committee on European Union Affairs. One would think that logically, a European agreement would be debated at that committee. It was only after heavy pressure was put on the Joint Committee on Foreign Affairs and Trade that we managed to get a debate going at that level. Issues like foreign affairs, human rights, Irish aid and development aid come through that committee. In a sense, I am a something of an intruder into the committee functioning of the jobs committee.

I want to applaud the work that has been done throughout Colombia by our very respected and highly motivated non-governmental organisations that are active there. If they had not been telling politicians what they experience and see on the ground, this debate would have been a formality. In particular, I applaud the work of the trade unionists in Ireland and particularly in England who, in recognition the abuses of trade union activists by the Colombian authorities and the Colombian Government, have pooled resources to form a very important organisation that is based in England and operates in conjunction with the Irish Congress of Trade Unions.

When I had the pleasure of being a guest of the Justice for Colombia group, I visited some horrendous parts of that country. I saw the injustices that had been inflicted and visited grieving widows whose sons had been targeted by the military. I also saw that approximately one third of the country was under the control of a terrorist organisation, FARC, that a civil war was under way and that the former President, Mr. Álvaro Uribe, had been opposed to peace talks. For better or for worse, the people of Colombia voted for a new President, Mr. Juan Manuel Santos, who has thankfully been engaging with FARC in an attempt to create a peaceful Colombia.

With the backdrop of a terrible conflict between the Government of Colombia and FARC, one can immediately identify where human rights can be abused by terrorists and establishment forces. We are debating the best way forward for Colombia and how to protect the human rights of front-line defenders and trade unionists.

It is interesting to note that this motion relates to an agreement with Colombia and Peru. The problem with last night's debate on the agreements with Moldova, Ukraine and Georgia was that no one from Moldova was present, because it is a small, weak country. Similarly, it is only due to our NGOs' presence in Colombia that we are as aware of that country as we are, but what do we know about Peru? Is it worse or better than Colombia? I say this to highlight the power of the NGO movement in influencing and enlightening us.

I am not satisfied that we should reject this agreement. I will explain my reasons. Justice for Colombia is a powerful, professional NGO and I was amazed at its ability to open the doors of the most senior politicians, Departments and prison governors in Colombia. It was so empowered and had such access that it is my firm belief that Ireland, along with the 27 other

EU countries and the US, can collectively apply the pressure we believe is appropriate to the Colombian authorities to bring about democratic, military and police structures that are answerable to a proper body.

As a small country, I acknowledge the work that Ireland has done through its diplomatic corps and its ambassador, who is based in Mexico and has responsibility for Colombia. By applying pressure and engaging in dialogue, the ambassador has been able to gain the ear of the highest-ranking members of the Santos Government. I thank the Department for its briefing, which explained to and convinced me that Ireland and our colleagues in the EU formed a more powerful body of states than those who would stand outside the agreement and point fingers at Santos.

Two issues run in tandem. We must support the peace process as much as we can. If we do not and the talks fail, there will be a vicious backlash, because the former President, Mr. Uribe, is opposed to the peace process. As much as we have reservations about President Santos and his Government, we must recognise that the movement for peace is the premier goal of the EU and Colombia.

The US struck a deal on the human rights issue, but most people are disappointed that its labour clause has not been implemented. I applaud Irish foreign affairs officials for insisting in Europe on the inclusion of comprehensive human rights clauses. Regarding the agreement with Europe, the director of Justice for Colombia stated: “Whilst the inclusion of the human rights clause within the European agreement, namely ‘Article 2’ which includes obligations to reach standards on human rights, good governance and democracy, was a huge step forward, the unfortunate reality is that this clause is also not binding.” We have a wonderful clause that argues for responsible governance, but we do not as yet have the power to have it implemented. It is my firm belief that Ireland and the 27 other EU member states that have insisted on these clauses are in a powerful position and can tell President Santos to comply with them if he does not progress along the agreement’s lines.

In this light, perhaps the Joint Committee on Foreign Affairs and Trade should receive annual or six-monthly reports on how the agreements are being implemented. Agreements tend to be signed and forgotten. It is important that, if we as a nation state sign agreements, there be a feedback mechanism. I appeal to the Minister to recognise that the joint committee, given its obligation to discuss human rights issues throughout the world and how Ireland prides itself on the relevant clauses, should have a mechanism whereby it could be briefed by the embassy in Mexico on how the Colombian and Peruvian Governments are implementing the agreements into which we are entering.

I thank the Minister for Foreign Affairs and Trade, who, on behalf of the committee and Justice for Colombia, made a personal intervention in the case of Senator Iván Cepeda, an Opposition Senator whose security detail was being removed. The issue has been resolved.

President Santos is under legal pressure to listen to those of us who are signatories to the agreement and to implement it. If we do not sign the agreement, we might as well be throwing snowballs at him and his Government. He would simply respond by asking who we were and pointing out that we were not a part of any agreement.

Acting Chairman (Deputy Bernard J. Durkan): I remind Deputies that I must call the Minister at 11.55 a.m.

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Deputy Brendan Smith: Deputy Eric Byrne referred to yesterday's discussion in the House on the association agreements between the EU and Georgia, Moldova and Ukraine. During that debate, I stated that the EU served as a shining example of how increased co-operation in trade could result in a consolidated and lasting peace between neighbours. Membership of the EU has resulted in a previously unknown peace between neighbours which previously viewed one another as enemies. I also referred to the need for the EU to engage carefully and prudently in the Eastern Partnership and to make progress on agreements incrementally. Unfortunately, there has been terrible conflict and loss of life for a considerable length of time to the east of the EU. This is of concern to every Deputy.

Trade agreements have been the subject matter of Dáil discussions during the past week or so. Last week, other Deputies and I tabled questions to the Minister for Foreign Affairs and Trade regarding EU sanctions on Russia and Russian sanctions on Ireland. I referred to the fact that, in particular, the agrifood sector has suffered as a result of those sanctions, including the displacement of products that would otherwise go from central Europe eastwards. I subsequently read reports in a farming publication of individual EU member states being able to get certain products exempted from sanctions. I do not know how valid those reports were. It was not small member states that were mentioned, but the larger ones that were identified in the *Farmers' Journal* as having made some progress in having certain product lines exempted from the sanctions. Perhaps the Department can have that checked out for us. If there are exemptions we should be in there fighting our corner as well, while not taking away from the principled stand we have taken in supporting the EU's sanctions on Russia. We are dealing as strongly as we can with the aggression Russia has shown towards Ukraine over the past year or so.

Deputy Eric Byrne mentioned that at a recent meeting of the Committee on Foreign Affairs and Trade, non-governmental organisations made a telling presentation regarding their concerns about this proposed free trade agreement. NGOs such as Trócaire and Christian Aid, as well as the Irish Congress of Trade Unions, are all reputable bodies whose officials are working in those areas. They are a good source of intelligence for the State and for all of us. When they take a strong stand on issues, their arguments, contentions and concerns should be heeded in detail.

A group contacted me about this free trade agreement and I have met with its representatives. Subsequently, the chairperson of that group, the Irish Colombian Lawyers Caravana de Colombia, Mr. Seán O'Reilly, wrote to me. He wanted his group's views to be shared with other Members of the House and with the general public. Mr. O'Reilly wrote as follows:

I refer to the email from a group of civic and developmental organisations attached, who I understand have contacted you directly. We all share great concerns at the Dáil's proposed ratification of the said agreement without any proper human rights safeguards being discussed, much less implemented.

We hereby call upon you to vote against the Bill on Wednesday next and to urge your colleagues to do likewise. Having personally travelled to Colombia with The International Jurists Caravana de Colombia from 14 different countries in 2012, and having led the Irish group in 2014 - we were the second largest international group - our concerns were about attacks on and the real lack of protection for lawyers and other human rights workers, labour leaders, journalists and most especially those working for and from the indigenous and Afro-Colombian communities. Given the threats they face, we must call upon the Dáil to

reject this treaty. Ireland especially should ensure that any country attempting to emerge from a conflict or post-conflict situation must ensure proper protection from assassination and threats to all those who seek to uphold the proper rule of law and, most especially, those who work for the most marginalised in Colombian society.

I personally am the principal of a small firm of solicitors in Dundalk. I was a participant to the 2012 and leader of the 2014 Irish Colombia Caravana Lawyers group, on our bi-annual fact-finding missions. Every two years an international delegation of jurists has visited Colombia since 2008 to investigate, hear testimonies, collect information, file reports and monitor the situation.

By way of emphasising our concerns, during 2013 we learned of 15 lawyers who were killed. Our work continues in Ireland and the latest reports of our investigations, findings and recommendations are to be launched at the Law Society in May 2015, with a specific report written by judges who participated in the 2014 International Caravana to Colombia, as well as the general report written by the delegation of over 60 participants.

There have been over 160 lawyers who have visited Colombia with the Caravana and in 2014 around 60 delegates participated from over 16 jurisdictions. Once in Colombia, the delegation divided into small groups to visit different regions of the country in order to meet judges and lawyers in as many parts of the country as possible. The human rights defenders we met view this Bill in its current form as not in any way addressing their concerns or the concerns of those they seek to represent.

I received that letter from Mr. Seán O'Reilly, leader of the Irish delegation 2014, Caravana de Colombia. We must take note of the contents of that letter, which is from a group committed to dealing with human rights abuses in Colombia. We must express our concerns regarding all the issues Mr. O'Reilly has outlined in that correspondence. I met Mr. O'Reilly and some of his colleagues who provided me with instances of desperate human rights abuses they have come across. They also cited the great, committed work of so many international jurists and lawyers who go to Colombia annually or bi-annually to try to help in dealing with the situation there.

My colleague, Deputy Calleary, quoted earlier from the decision of the Joint Committee on Jobs, Enterprise and Innovation to recommend opposition to this free trade agreement. As Deputy Tóibín said, it is seldom that a committee decides - I presume unanimously - to oppose a Government proposal. In his concluding remarks, perhaps the Minister can let us know if this deal is being driven strongly by any countries within the EU. The Minister will know better than anyone else in this House that at times, depending on who holds the position of EU trade commissioner, there can be a huge push to get some agreements in place. I recall that one particular commissioner, along with the then president of the European Commission, was very strong in trying to get the Mercosur agreement put into effect. The latter deal affected sectors in Ireland and could pose serious problems for others sectors in our economy. Opinion was divided in the agrifood industry. The dairy and drinks industries were very much in favour of Mercosur, while the beef sector was opposed to it.

The Minister has seen parliamentary questions I have tabled to him raising concerns about the proposed EU-US trade deal as well. There are obviously potential benefits but there can also be major downsides for Ireland, including our indigenous food sector. I sincerely hope that if the proposal before us is progressed, the concerns of our own industrial sector will be dealt with effectively. Fianna Fáil will be opposing this proposal.

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Deputy Joe Costello: I am delighted to have an opportunity to discuss this motion. It is good to see an in-depth debate on issues related to business, trade and human rights. From Ireland's viewpoint, it is important for us to engage in such a discussion. In fact, I would like to have seen a longer period for this debate because there is huge interest in the issue.

I am very much in favour of good trade, political and diplomatic relations with all of the Latin American countries, including in this case Colombia and Peru. I acknowledge that certain progress has been made concerning the peace process under the Santos Government in Colombia. A recent report from the UN High Commissioner on Human Rights has indicated some progress in the area of human rights, but I also know that the situation remains dire. We have all received communications from the trade union movement, which has taken a strong interest in the matter, and from NGOs. Many Irish NGOs that are engaged in this area have briefed us on the progress made in recent years. People in the area, particularly those who are indigenous to it, have been discriminated against. As previous speakers indicated, it remains the most dangerous place in the world in which to be a trade unionist. It is a sad fact that this remains the case, even under the new Government. The fact that 26 Colombian trade unionists were murdered in 2013 - a total of 73 have been killed during the past three years - is outrageous. Colombia is also the most dangerous place in the world for human rights defenders, with 78 such individuals killed there in 2013. A further 30 human rights defenders were killed in Colombia in the first six months of last year. A total of 5.5 million people in the country have been displaced and literally hundreds of thousands have been killed during the conflict.

There is some hope, and we must examine the matter in that context. We must also consider it in the context of the European Union. What is the European Union and how was it founded? The answer is that it was brought into being in the aftermath of the worst atrocity ever committed in the history of mankind, namely, the Holocaust, which we are commemorating this week.

Deputy Peter Mathews: Which the Taoiseach refused to mark with one minute's silence yesterday.

Deputy Joe Costello: The Holocaust involved the total denial of all human rights and the murder of millions of people. The European Union first came into existence in order to ensure that such an event involving so-called civilised nations would never happen again. There is a strong argument to the effect that measures that will guarantee that prosperity and peace will be achieved on the basis of human rights should be put forward. That is the basis on which the European Union was established. It is important, therefore, that the Union should reach out to other countries in this regard. From that point of view, I will be voting for the motion.

Ireland has a very proud human rights record. Mary Robinson previously served as United Nations High Commissioner for Human Rights, and Ireland is currently a member of the United Nations Human Rights Council, which is based in Geneva. We won election to the council in the face of very strong opposition from across the globe and on the basis of our track record on human rights. We must be seen to uphold our proud tradition in this regard. I am particularly happy that the Department of Foreign Affairs and Trade has launched a consultation on human rights and business. This is particularly relevant to the motion currently under discussion and the agreement to which it relates. When I served as a Minister of State in the Department of Foreign Affairs and Trade, I was always concerned with regard to how we might manage to ensure, in the context of our trade, marketing and business relationships with our partner countries, that our commitment to human rights might be maintained. I am delighted that we will at last have a formal response in this regard in the context of the consultation process taking place

at present.

The Joint Committee on Jobs, Enterprise and Innovation made some very strong criticisms of the state of Colombia, and some members voiced deep concerns regarding Ireland's signing up to the agreement. If we assent to the motion before us, it will bring to 20 the number of member states of the European Union which have signed up to the agreement. This will mean that it will be well on the way to attracting unanimous support. I would like to establish whether, while indicating our assent, we might also make a stand. It is better to have people inside rather than outside the tent, particularly in the context of exerting influence over them. It is important that we bring to the attention of the European institutions the nature of the debate in this House and that which took place at the meeting of the joint committee. I would like the Minister to send details of both debates not just to the European Council - which is required by law in the context of ratification - but also to the Parliament and the Commission. Will he indicate whether he will take this course of action?

In light of the nature of this debate, the House should mark the anniversary of the ratification of the agreement - if such ratification comes to pass today - by holding a debate each year. That debate should take place at the joint committee, which could meet the stakeholders, officials from the Latin American and Caribbean unit and representatives of the trade union movement to discuss Latin America and Colombia in particular. The joint committee could bring forward a report each year and this could be laid before the House in order that Members might debate it. Such reports could be produced until we are satisfied that the monitoring mechanisms and the systems relating to the citizenry are sufficiently strong to reflect the intentions outlined in the agreements before us. I ask the Minister to accept my suggestion in this regard in order that we will not just leave matters as they stand, forget about the matter and be left to wring our hands at some point in the future.

Minister for Jobs, Enterprise and Innovation (Deputy Richard Bruton): I thank Deputies for their contributions. Many very genuine concerns were expressed and I understand the nature of those concerns. No one is saying that Colombia is free from abuses of human rights and everyone knows that it is a dangerous country. However, we do not pick and choose the governments we want to rule the different countries with which we trade. We have no say in respect of either the abuses or enforcement of laws in these countries but we can seek to exert influence in this regard. As Deputy Eric Byrne stated, the agreement before the House will give us the opportunity to seek to exert such influence. We can influence matters in many ways and I set these out earlier in the context of how provision is made for them in the agreement. I refer to the fact that meetings can take place with civil society groups, trade unions and NGOs in Colombia in respect of this agreement and its implementation. There is also an arbitration system and there will be open sessions at which citizens will be able to raise issues of concern. The EU Parliament will be represented on a monitoring committee, members of which will visit Colombia regularly. Parliamentarians such as ourselves are exchanging information on and examining the types of issue about which people have expressed concerns. Irish trade unions can be represented on a special committee on sustainable development, which can pursue issues of genuine concern.

We have two choices in respect of the agreement. We can either reject it - and that will be the end of the matter - or we can take up the challenge, difficult though it might well be, and seek to work its terms. I am of the view that this is what those who are saying that we should use the opportunity with which we have been presented are suggesting. There are people with concerns very similar to those that have already been expressed who are stating that we should

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use the agreement. We should not seek to withdraw from all those avenues of influence that I outlined earlier and that are offered under the agreement.

The concerns of Members of the House will be expressed. I have already submitted the concerns expressed by the joint committee directly to the Commission. However, I do not agree with those who have stated time and again that disengagement will bring about some form of improvement in the position relating to human rights abuses.

Deputy Seán Crowe: We did not say that. We are seeking the opportunity to revisit the matter.

Deputy Richard Bruton: The Deputy should read the transcript of the debate, because that is what was said. Sinn Féin's position in this regard is particularly strange. During the peace process here, there was active engagement and support on the part of the US and the EU. Their support for the process was not seen as in some way condoning the abuses or atrocities that occurred. Far from it. That support was seen as encouraging people-----

Deputy Peadar Tóibín: We are talking here about the elected government of another state.

Deputy Richard Bruton: -----along a road towards the delivery of a better outcome for all. What we are talking about here is a government that is seeking to take a democratic road and introduce a peace process, imperfect though it may be. We have an opportunity, via this agreement, to seek to protect human rights and have oversight in respect of their delivery.

Deputy Peadar Tóibín: The state in question is killing human rights defenders.

Deputy Richard Bruton: We will also have oversight of the labour standards which apply in these countries. I am of the view that we should seize the opportunity with which we have been presented.

One of the essential elements of the agreement is the respect for democratic principles and human rights. If this aspect is not honoured, the agreement can ultimately be terminated. I go along with those who have stated that we should proceed with the agreement. Deputy Smith, who does not support the agreement, stated that the European Union has a very proud record in promoting peace through trade.

Deputy Seán Crowe: Yes, in Israel.

Deputy Richard Bruton: We are being given an opportunity and we must use it as best we can. I would be happy to return to the House to brief Deputies on the reports that will emanate from the trade council regarding the progress made in respect of the agreement.

12 o'clock

Question put:

<i>The Dáil divided: Tá, 67; Níl, 46.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Barry, Tom.</i>	<i>Adams, Gerry.</i>
<i>Breen, Pat.</i>	<i>Boyd Barrett, Richard.</i>
<i>Bruton, Richard.</i>	<i>Broughan, Thomas P.</i>

<i>Burton, Joan.</i>	<i>Calleary, Dara.</i>
<i>Buttimer, Jerry.</i>	<i>Collins, Joan.</i>
<i>Byrne, Catherine.</i>	<i>Collins, Niall.</i>
<i>Byrne, Eric.</i>	<i>Colreavy, Michael.</i>
<i>Cannon, Ciarán.</i>	<i>Coppinger, Ruth.</i>
<i>Carey, Joe.</i>	<i>Cowen, Barry.</i>
<i>Collins, Áine.</i>	<i>Crowe, Seán.</i>
<i>Conaghan, Michael.</i>	<i>Daly, Clare.</i>
<i>Conlan, Seán.</i>	<i>Dooley, Timmy.</i>
<i>Connaughton, Paul J.</i>	<i>Ellis, Dessie.</i>
<i>Coonan, Noel.</i>	<i>Fitzmaurice, Michael.</i>
<i>Costello, Joe.</i>	<i>Flanagan, Terence.</i>
<i>Creed, Michael.</i>	<i>Fleming, Tom.</i>
<i>Daly, Jim.</i>	<i>Grealish, Noel.</i>
<i>Deenihan, Jimmy.</i>	<i>Healy, Seamus.</i>
<i>Deering, Pat.</i>	<i>Healy-Rae, Michael.</i>
<i>Doherty, Regina.</i>	<i>Keaveney, Colm.</i>
<i>Donohoe, Paschal.</i>	<i>Kelleher, Billy.</i>
<i>Dowds, Robert.</i>	<i>Mac Lochlainn, Pádraig.</i>
<i>Doyle, Andrew.</i>	<i>Martin, Micheál.</i>
<i>Durkan, Bernard J.</i>	<i>Mathews, Peter.</i>
<i>English, Damien.</i>	<i>McConalogue, Charlie.</i>
<i>Farrell, Alan.</i>	<i>McDonald, Mary Lou.</i>
<i>Feighan, Frank.</i>	<i>McGrath, Finian.</i>
<i>Ferris, Anne.</i>	<i>McGrath, Mattie.</i>
<i>Fitzgerald, Frances.</i>	<i>McGuinness, John.</i>
<i>Flanagan, Charles.</i>	<i>McLellan, Sandra.</i>
<i>Gilmore, Eamon.</i>	<i>Moynihan, Michael.</i>
<i>Griffin, Brendan.</i>	<i>Murphy, Catherine.</i>
<i>Hannigan, Dominic.</i>	<i>Murphy, Paul.</i>
<i>Harrington, Noel.</i>	<i>Naughten, Denis.</i>
<i>Harris, Simon.</i>	<i>Ó Caoláin, Caoimhghín.</i>
<i>Hayes, Tom.</i>	<i>Ó Fearghail, Seán.</i>
<i>Humphreys, Kevin.</i>	<i>Ó Snodaigh, Aengus.</i>
<i>Keating, Derek.</i>	<i>O'Brien, Jonathan.</i>
<i>Kehoe, Paul.</i>	<i>O'Dea, Willie.</i>
<i>Kenny, Enda.</i>	<i>O'Sullivan, Maureen.</i>
<i>Kenny, Seán.</i>	<i>Pringle, Thomas.</i>
<i>Kyne, Seán.</i>	<i>Ross, Shane.</i>
<i>Lawlor, Anthony.</i>	<i>Smith, Brendan.</i>
<i>Lynch, Kathleen.</i>	<i>Stanley, Brian.</i>
<i>Maloney, Eamonn.</i>	<i>Tóibín, Peadar.</i>
<i>McCarthy, Michael.</i>	<i>Wallace, Mick.</i>

<i>McEntee, Helen.</i>	
<i>McLoughlin, Tony.</i>	
<i>Mitchell O'Connor, Mary.</i>	
<i>Mulherin, Michelle.</i>	
<i>Neville, Dan.</i>	
<i>Nolan, Derek.</i>	
<i>Noonan, Michael.</i>	
<i>Ó Riordáin, Aodhán.</i>	
<i>O'Donovan, Patrick.</i>	
<i>O'Mahony, John.</i>	
<i>Penrose, Willie.</i>	
<i>Perry, John.</i>	
<i>Phelan, Ann.</i>	
<i>Rabbitte, Pat.</i>	
<i>Reilly, James.</i>	
<i>Ring, Michael.</i>	
<i>Ryan, Brendan.</i>	
<i>Sherlock, Sean.</i>	
<i>Stanton, David.</i>	
<i>Twomey, Liam.</i>	
<i>White, Alex.</i>	

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

Question declared carried.

Leaders' Questions

Deputy Micheál Martin: I want to raise a situation that is essentially a matter of life and death for a number of people in this country. In particular, I have been approached by Mr. John Duggan from Meath and people representing Ms Mary Gorman from Ballinakill, both of whom have been denied Soliris, a drug therapy which can have a dramatic impact on patients with a rare blood disorder.

The condition, that affects quite a small number of people globally, is paroxysmal nocturnal haemoglobinuria, PNH. It is a rare acquired blood disorder which is severely life-threatening. Some 35% of patients will die within five years of diagnosis and 70% of patients will end up with end-stage renal failure. It is a very serious issue for those concerned.

As for the clinicians involved, Dr. Philip Murphy, a consultant haematologist in Beaumont, has written to Mr. Duggan. He has consulted both Professor Peter Hillmen, the leading United Kingdom expert, and Professor Paul Browne, who state that this drug is essential for such patients and John should be in treatment with this drug therapy, Soliris.

In 2010, it was decided that ten patients with this condition would get the drug and ten patients, since 2010, are in treatment under the drug therapy, but over the past two years new patients coming onto the scene are being denied the drug by the authorities. As Dr. Philip Murphy

stated in his letter to John, there is a strong moral, ethical argument that the HSE should agree to fund the Soliris therapy.

Ms Mary Gorman had to go on “Today with Seán O’Rourke” to highlight her case because she has been left for two years with no treatment to control her disease even though medical experts want her to be treated appropriately. She has had to give up her job. She has been subject to fire-fighting interventions, such as frequent blood transfusions. She is now severely restricted.

The National Institute for Health and Care Excellence, known as NICE, in the United Kingdom has issued guidance on this drug, stating that its impact is a step-change in the treatment of this condition, that it offers patients the possibility of avoiding end-stage renal failure, dialysis and kidney transplantation as well as other organ damage, and that the analysis from all sides indicates that the substantial quality-of-life gains made are of a magnitude rarely seen for any new drug treatment.

By any yardstick, it is unacceptable that these individuals have been left without access to this drug. I acknowledge it is a very expensive drug, but it is not the Taoiseach’s role and the Government’s role to play God with people’s lives. I say that sincerely because if these cases were not raised in the public domain, we would not be having this debate.

I put it to the Taoiseach that the defence of the Minister last evening, that it is a matter for others and not the Minister, is not acceptable. Ten patients are already on this drug. The authorities have approved it for ten patients, but a decision has been made not to give it to Ms Gorman and Mr. Duggan, and I would like to know why. How can we in this society state some citizens are more equal than others?

Last night the Minister stated that the €1 million involved could do a lot of other things. The bottom line is it can do a lot of other things but in this instance, it can save two lives and dramatically transform their quality of life. I ask the Taoiseach to cut through the bureaucracy and get this issue sorted, and facilitate access to this life-saving drug therapy for those concerned, who need it and whose clinicians state it is essential that they get it.

The Taoiseach: I thank Deputy Martin for raising this sensitive and personal matter. I have no intention of attempting, as he stated, “to play God”. It is neither my function nor, obviously, within my authority. I can understand the situation here for the people who he mentions.

Deputy Martin stated that a decision has been made not to provide treatment by this drug for the patients involved here. A decision was made to have a pilot scheme of ten patients and ten patients were nominated, I assume, through medical or clinical channels for that.

I understand that the cost here is in excess of €200,000 per person. Obviously, it is a very expensive drug. It is not the first expensive drug. In proportion, we have had similar ones for cystic fibrosis, and there is the cure now for hepatitis C. These also are expensive drugs in proportion, with a significant backlog in many of those cases.

This matter was raised yesterday by Deputy Helen McEntee here in the House as a Topical Issue and was responded to by the Minister for Health. My understanding is that representatives of the company involved were here for a couple of days and have had discussions with the Health Service Executive. I am not privy to the outcome of those discussions. The opportunity exists to see what can be done in the cases of the two people mentioned by Deputy Martin, or

others who are in the same category. The Deputy will be aware that it is never the intention of the Minister, the Department or the HSE to attempt to deliberately rule anybody out for treatment that can affect their lives for the better or in some cases it is virtually a matter of being able to have a longer life than might be expected. As I understand it, those discussions have not concluded. In fairness, they do want to see the outcome of the pilot scheme that is currently under way with the drug involved at its current cost.

Deputy Mattie McGrath: It will be too late.

The Taoiseach: It is a matter of which the Minister is well aware. Yesterday, he responded on the matter to Deputy McEntee and for the information of the House. Arising from the Topical Issue that was raised, I would like to think the discussions that were under way between the HSE and the drugs company in question might be able to go a little further. I would like to think the people Deputy Martin mentioned and others who are caught in this particular problem could be facilitated. Unfortunately, there are so many other areas of equal priority in people's lives for access to drugs of proportionate cost who look for the same facility. I have no intention of attempting to say one person can have access to a drug and another person cannot.

Deputy Mattie McGrath: The Taoiseach is the boss.

Deputy Finian McGrath: The Taoiseach should do something about it. He has money for museums and roads.

The Taoiseach: There is only a certain allocation one can make. A pilot programme was introduced for ten people to see the effect of the drug treatment on the quality of their lives. I will bring the matter raised to the Minister's attention, as it was brought to his attention by Deputy McEntee yesterday evening.

Deputy Micheál Martin: That answer is simply not good enough. The Taoiseach is the boss.

Deputy Tom Hayes: Deputy Martin was the boss at one time also.

Deputy Micheál Martin: In 2010, Fine Gael Deputies rightly raised the issue of this drug therapy in the Dáil with the then Tánaiste and Minister, former Deputy Mary Harney. According to the letter from Dr. Philip Murphy, he said that initially the HSE agreed to fund ten patients with PNH but despite attempts by him to get the funding agreed in the past two to three years, he recently had correspondence from Shaun Flanagan, chief pharmacist of the HSE, to the effect that he is not in a position to fund eculizumab therapy for any more PNH patients at present. It is a funding issue.

Deputy Mattie McGrath: It is as simple as that.

Deputy Micheál Martin: It is not, as the Minister tried to indicate last night, to do with the efficacy of the drug. There is no issue with the efficacy of the drug according to the leading clinicians in this area around the world. What is happening is that the position has hardened in the past two to three years in the health area, and for innovative drug therapies. The consequence of that is that two citizens of whom I know, and there may be a third or fourth, are being denied drug therapy of which ten other citizens have been availing for the past three years. That is not acceptable on equality grounds. It is a life and death issue. There will be extra costs on the HSE when renal failure, thrombosis or the other side effects of this particular condition occur. Extra

costs will also result from the regular blood transfusions that will become more frequent as the condition deteriorates. In one case, a person has had to leave her job because of the failure to enable her to avail of this particular therapy.

This is a funding issue. I mentioned the National Institute for Health and Care Excellence, NICE, in the UK, which is not known to be flaithiúlach in its approval of new drug therapies, but the institute is clear that the drug therapy in question is a step change in treatment for this rare condition and disorder. It is about time the Minister took responsibility and stopped hiding behind other authorities such as the HSE when it is a matter of life and death. The matter is urgent because the longer it goes on, the higher the risks become in terms of something very serious happening to the people concerned.

The reason I raise the issue is because I want to see action arising from today.

Deputy Mattie McGrath: Hear, hear.

Deputy Micheál Martin: The story has changed in the past eight to nine days. Senator Thomas Byrne was told in the Seanad last week that the discussions with the drug company had ended and there was some drug company bashing. We do not need any of that. We need the Minister to take an approach that is hard-nosed, with his sleeves rolled up to ensure that patients can have access to a drug therapy that can transform their lives. Once they are on the drug therapy, their lifespan would be equal to any normal situation.

The Taoiseach: I would like to think we could live in a country whereby these situations would not have to arise in the first place. I would like to think that people who suffer from life threatening ailments, be they cancer, a heart condition or whatever else, could receive treatment, drug treatment and medical attention much more quickly.

In response to Deputy McEntee's question yesterday evening the Minister pointed out that, as the Dáil is well aware, the Health Service Executive has statutory responsibility for decisions on pricing and the reimbursement of medical products under the existing community drugs scheme. As Deputy Martin is well aware, the drug is for the treatment of people such as Mr. Duggan with PNH and it is considered to be one of the most expensive drugs in the world.

Deputy Mattie McGrath: What price is a life?

The Taoiseach: Alexion Pharma is the company responsible for the drug. It has been engaged for some time in trying to arrive at a price that would assist the HSE in its desire to fund this medicine for people who need it. The HSE has been very adamant about that. The company is not that easy to deal with. We would like to think that this measure could be accommodated within the resources available. That is the reason, given the responsibility the HSE has for drug pricing and reimbursement, it must engage properly with the company producing the drug. My understanding is that the price being offered at the moment would involve the medicine in question costing €420,000 per annum for each additional patient that is treated. It is one of the most expensive drugs in the world. One cannot put a price on a life but the Health Service Executive and the Department have a responsible position to engage with Alexion Pharma to get the best deal possible for taxpayers but more fundamentally for the patients who need such treatment. The discussions between Alexion Pharma and the HSE have concluded and the HSE is now considering the outcome of those discussions and of that engagement. It is regrettable----

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Deputy Mattie McGrath: It is always the same old answer.

The Taoiseach: -----that the company has not been able to provide the drug at a more sustainable price to the Health Service Executive to reflect the clinical evidence we know exists.

Deputy Mattie McGrath: Bash the drugs companies.

The Taoiseach: I would have thought such a company, given that we have a pilot programme for ten people-----

Deputy Micheál Martin: It is not a pilot programme. That is a misnomer. One either has a clinical trial or not.

An Leas-Cheann Comhairle: The Taoiseach should be allowed to conclude.

The Taoiseach: It is about ten lives as well and I cannot discriminate or make a decision-----

Deputy Micheál Martin: The Taoiseach is doing so. Ten people are on the drug and two are not. That is discrimination.

Deputy Mattie McGrath: It is naked discrimination.

Deputy Michael Healy-Rae: The Taoiseach is doing so.

The Taoiseach: I cannot make a decision between one life and another. As Deputy Martin said, I am not acting here-----

Deputy Micheál Martin: Two hundred people in the UK are on the drug therapy. What we are getting in response from the Taoiseach is not good enough.

The Taoiseach: Deputy Martin.

An Leas-Cheann Comhairle: I am sorry but we must conclude the matter.

The Taoiseach: If Deputy Martin wants to make political points about what he says is a matter of life and death, then he should continue to do so. The Health Service Executive, quite rightly, has engaged with Alexion Pharma, the company who produced this drug. It is a drug that has given great comfort, ease and extension of life to people-----

Deputy Mattie McGrath: Two people need it.

The Taoiseach: It costs €420,000 extra per annum, per patient. The Health Service Executive is right to engage with the drugs company because it is the body that must deal with drug pricing and reimbursement for drugs. The HSE has concluded those negotiations. In view of the fact that this matter was raised by Deputy McEntee, Alexion Pharma-----

Deputy Timmy Dooley: It was also raised by Senator Thomas Byrne in the Seanad.

The Taoiseach: -----should listen to the points that have been made in the House and perhaps it might arrive at a more acceptable price regime so this medicine could be available not just to the two people referred to by the Deputy nor solely to the ten people on the pilot programme, but to others who are in this category. I hope that Alexion Pharma listens to the voices raised in the Parliament today.

Deputy Mattie McGrath: So it is their fault.

An Leas-Cheann Comhairle: Order, please.

Deputy Gerry Adams: Caithfidh mé a rá go n-aontaím le ceannaire Fhianna Fáil ar an gceist deireanach sin agus le Teachta McEntee fosta. Mar a dúirt an Taoiseach, is ceist airgid é.

Given that the Taoiseach has explained that this question of medical aid to these two citizens is a question of money, I ask him again if he will support the proposal for a European debt conference. The Tánaiste has said that this initiative has merit. The Taoiseach may recall that yesterday I asked him to reflect overnight on the proposal. I understand the Government's current narrative which is all about the next election. I am sure all of the Front Bench will be making a super-duper effort to get on message and to avoid the serial debacles and controversies of last year. In the run-in to the election, Government-speak will be all about how the sacrifice of our people is now being rewarded, that recovery is under way, that it is fragile, that not everyone is feeling the benefits as yet, but that we should leave it to our two heroes, Enda and Joan, and it will be all right on the night.

Deputy Mattie McGrath: The A team.

Deputy Gerry Adams: There is a different narrative and it is that one third of our children are living in constant poverty, that inequality is rife, that half a million taxpayers have been forced to emigrate, that public money that should have been used to tackle the crisis in our hospitals, to rebuild public services, to house our citizens, to stimulate the economy and to create jobs, has been used instead to repay private bank debt. This unsustainable debt burden has been forced upon our people and is the single biggest cause of our economic misery.

It is not just an Irish problem; it is a European problem and it needs a European solution. There is nothing at all to lose if the Taoiseach endorses a European debt conference. In fact, it makes sense because there can only be gains. According to a Labour representative last night, the Tánaiste still believes that the proposal has merit. Will the Taoiseach raise this issue in his meetings next week with Presidents Tusk and Juncker?

The Taoiseach: Tá a fhios ag an Teachta cén freagra a thug mé ar an Teachta Ó Máirtín ní hamháin faoi chostas an leighis seo ach faoi na díospóireachtaí a bhí ar siúl idir Comhairle na nDochtúirí Leighis agus an comhlacht freisin. Tá súil agam go mbeidh siad in ann réiteach a chur ar fáil i dtreo is go mbeadh an leigheas le fáil ag na daoine atá i gceist.

Deputy Adams referred to the situation in Greece and the issue of a debt conference. I remind Deputy Adams and the House that after the first-----

Deputy Gerry Adams: I never mentioned Greece.

The Taoiseach: -----cabinet meeting of the new Government of Greece, the Prime Minister issued a statement saying that Greece would not default. That is not in keeping with Deputy Adams' philosophy, I understand. The Prime Minister indicated that Greece is prepared to negotiate and the forum for negotiation is the Eurogroup and the ECOFIN meeting. That is where the Minister, Deputy Noonan, over the past number of years and further at the European Council, has been able to negotiate and renegotiate €50 billion in respect of Ireland over the next ten years. That is the place where the question of debt is discussed and dealt with and where it can be changed. I remind Deputy Adams that in the case of Ireland, less than 10% of

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the interest we pay is in regard to bank debt and the remainder is in respect of moneys borrowed on the open market.

Deputy Peter Mathews: Bank losses, not debt.

The Taoiseach: I have written to the Greek Prime Minister and I wished him and his government well in the challenge they face. I am glad to hear him say that Greece will not default.

Deputy Gerry Adams: He always said that.

The Taoiseach: I am glad to hear him say that Greece is now prepared to negotiate.

(Interruptions).

The Taoiseach: For our part, for the past number of years we have a record of being able to prove that negotiation can work in the interests of the debt position in our country which was handed to us by the catastrophic situation a number of years ago.

Deputy Peter Mathews: Losses, not debt.

Deputy Dara Calleary: It was a game-changer.

Deputy Timmy Dooley: Retrospection and recapitalisation.

The Taoiseach: I have already said to the Greek Prime Minister that we will work with him and with his government. The President, Mr. Dijsselbloem, will go to Athens on Friday to begin engagement with the new Government of Greece. I hope it will be possible that through negotiations they will be able to arrive at a sustainable position for Greece for the future.

During the past three and a half years this country has moved to a point where we are on much safer ground than previously but our recovery is incomplete and fragile. Deputy Adams has pointed out his way of doing things. He does not want any money returned to the taxpayer from AIB nor does he want anything to do with Europe and he does not want anything to do with recapitalisation. Sinn Féin proposes to abolish USC, water contributions, development charges and everything else. Sinn Féin's economic programme is a land of fantasy in terms of the people of the country. With regard to the debt position and the debt conference, I am glad to hear the Greek Prime Minister speak out that his country will not default and that they are quite prepared to negotiate within the proper EU forums and institutions in order to achieve clarity and a future for their people. I support that policy.

Deputy Gerry Adams: I am still troubled that I was a bit naive when I came in here.

(Interruptions).

Deputy Gerry Adams: I put what I think is a reasoned question to the Taoiseach and not only does he not answer it, but he put words in my mouth that I never said. I will reiterate what Sinn Féin said about debt. Sovereign debt has to be paid but it should be separated from private banking debt; private banking debt should not be paid because it is not our debt.

(Interruptions).

Deputy Gerry Adams: The Taoiseach talked about negotiations. This debt conference is to provide a European-wide forum for negotiating to relieve the burden from citizens of the debt

that has been forced upon them.

How did the Taoiseach explain this debt when he went to Davos? He said that Paddy went mad. This was an intellectual statement, a précis of what happened here.

(Interruptions).

Deputy Gerry Adams: However, the Taoiseach knows that the economic and financial debt and the crisis-----

(Interruptions).

Deputy Gerry Adams: An féidir liom ord a fháil?

An Leas-Cheann Comhairle: I can manage that.

Deputy Gerry Adams: Go raibh maith agat.

An Leas-Cheann Comhairle: Excuse me, we should be able to hear each other in here. I call Deputy Adams.

A Deputy: There was a time when you never asked anybody else to get order. You are losing your touch, Deputy Adams.

Deputy Pádraig Mac Lochlainn: Typical-----

Deputy Gerry Adams: I want to return to my question-----

An Leas-Cheann Comhairle: Please, Members.

Deputy Gerry Adams: -----but I have been in correspondence with the Ceann Comhairle. I wish to draw to the attention of the Leas-Cheann Comhairle the remark made by the Deputy opposite whose name I forget, the lad with the glasses, and I would like the Leas-Cheann Comhairle to deal with it afterwards.

Deputy Patrick O'Donovan: I meant it in the context of a baseball bat.

An Leas-Cheann Comhairle: All right. Please put your question, Deputy Adams.

Deputy Gerry Adams: Rather than Paddy going mad and causing this problem, at the time of the crash the €62 billion in bank loans was in the hands of 190 people. Half of the Irish loan book at Anglo Irish Bank was held by just 20 individuals, a small elite in a golden circle, but the Taoiseach forced Paddy and Patricia to pay for these private bankers' greed. Our suggestions about burden sharing and separating private banking debt and sovereign debt were rejected, but they are now EU policy. Earlier, in response to the question from an Teachta Martin, agus dúirt sé arís é i nGaeilge, dúirt sé nár bhain sé le leigheas ach le hairgead. Why should Irish citizens have to suffer deprivation, inequality, forced emigration, poverty and the denial of their rights to pay for the greed of this small group in the golden circle?

The Taoiseach had the option, and we asked him to do it numerous times, to apply formally for retrospective recapitalisation of AIB and Bank of Ireland, but he has not done so. The people to whom I speak do not understand why the Taoiseach refuses to pursue options which would make our debt sustainable and fair. Will the Taoiseach outline to the Dáil for any citizens who may be listening to him any logical reason behind his rejection of the proposal for a Euro-

pean debt conference? Let us not talk about Greece. Let us talk about here and the debt being forced upon people here, and how a debt conference could be a forum for relieving this burden.

Deputy Finian McGrath: It could be held on the north side of Dublin.

The Taoiseach: Let us talk about here. One thing Deputy Adams is not is naive. All of the people listening know he is not naive. He should not understate his own experience. He states he wants a debt conference to have a forum to discuss debt.

Deputy Gerry Adams: To discuss the relief of the debt from the people.

Deputy Peter Mathews: Like the London one in 1953.

The Taoiseach: This is why we already have fora in existence. They are the Eurogroup, ECOFIN and the European Council. In the case of Ireland, since he was appointed, the Minister for Finance has been involved in negotiations within these groups on the question of debt relief and easing the burden on the Irish taxpayer. This is where Ireland's problems were raised, where they were discussed, negotiated-----

Deputy Mattie McGrath: And left.

The Taoiseach: -----confirmed and approved later by the European Council.

Deputy Gerry Adams: And not dealt with.

The Taoiseach: This is why the progress we have made allows us to be able to borrow on the international markets at a fraction of the cost it did when we were appointed, to a point where we can now buy out-----

Deputy Gerry Adams: To borrow to pay.

Deputy Peter Mathews: With new loans.

The Taoiseach: -----the loans from the IMF of €18 billion which over the coming ten years will save the Irish taxpayer €1.2 billion in interest charges.

Deputy Peter Mathews: And we still have €30 billion in debt.

An Leas-Cheann Comhairle: Deputy Mathews, this is Leaders' Questions.

The Taoiseach: The forum which exists is called the Eurogroup. This is where Ireland has negotiated €50 billion in respect of promissory notes, interest rate reductions and extensions of maturity dates. I am glad the newly elected Prime Minister of Greece is prepared to negotiate his country's debt relief situation-----

Deputy Gerry Adams: We would like the Taoiseach to do the same.

The Taoiseach: -----in this group and with these institutions.

As the Minister for Finance has pointed out on many occasions, over the period ahead we expect to get back every euro the Irish taxpayer has put into the banks since the Government was appointed. This is what negotiations and a growing economy are about. Deputy Adams does not want to do this because he wants AIB retained as a nationalised bank owned by the State. He does not want to get back for the taxpayer the moneys put into the restructuring of the

bank. He is not naive enough not to understand this. This is why we have a banking inquiry, so the truth can come out about all of the issues which happened in the lead-up to it.

Deputy Adams knows Northern Ireland very well and speaks all the time about the economic progress being made, which is right and proper. This year our deficit in the Republic will be below 3% because of the prudent and competent management of the Government in respect of the economy.

Deputy Gerry Adams: At what cost to ordinary punters?

The Taoiseach: The deficit in Northern Ireland is 33% at present-----

Deputy Joe Carey: Deputy Adams is not good at maths.

The Taoiseach: -----and Deputy Adams proclaims this to be something with which he can live. Economic ballyhoo from Deputy Adams, who is not naive but who does not recognise the truth when it is staring him in the face.

Deputy Mick Wallace: Much talk of police reform has not materialised. The Guerin report was published in May 2014, nine months ago, but only now is a commission of investigation being established. Its terms are too narrow and it will go through the Houses without debate. Will it even be completed before the next election? Will the Fennelly commission be completed before the next election or will it be kicked down the road? When will the report on the independent review mechanism be published? In July, the Minister stated the majority of cases would be reviewed within 12 weeks. That was a long time ago. The independent Garda authority was supposed to be up and running by the end of 2014. We have not even seen the first draft of legislation. The Garda Inspectorate's report into serious crime, published on 11 November, has not even been discussed here yet. Debate has been stifled on policing issues. Since 11 November we have tabled 16 Topical Issue matters on policing matters but none of them has been taken.

The latest penalty points fiasco has reinforced the fact that indiscipline is rampant in the senior ranks of the Garda. As Maurice McCabe stated at the weekend, the penalty points system is broken and the Government is putting sticking plasters on it. There is no law and order with regard to senior management. There are no sanctions when they break the rules. This is not just about penalty points. If this is how the law is applied to the penalty points system, how is it applied when it comes to charging someone, arresting someone, and taking someone's complaint seriously? The Garda Inspectorate's report went to great lengths to point out the Garda widely ignores its own policy. Indiscipline is rampant. What is the Government doing about it?

In light of all this indiscipline and given that investigations into allegations of very serious wrongdoing, including Garda involvement in the drug trade, are ongoing in a number of Garda divisions, will the Taoiseach give us an assurance that the promotions and movement of senior gardaí will not include gardaí from these districts before investigations are complete? Will the Taoiseach confirm or deny whether Inspector John McDonald, who is in charge of the fixed charge processing unit in Thurles and who has been responsible for multiple terminations at a huge cost to the State, has been placed on a promotions list?

Deputies: Out of order.

An Leas-Cheann Comhairle: Please, Deputy, do not name these people.

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Deputy Mick Wallace: I would like the Taoiseach to listen carefully to my next question. Will he tell the House when he personally was first made aware of very serious Garda malpractice in the Athlone area, and what action did he take?

Deputy Bernard J. Durkan: Out of order.

The Taoiseach: I cannot answer all of the questions Deputy Wallace has raised. Am I to understand he is naming people who have been recommended for promotion, whom he alleges have been involved in criminal activities?

Deputy Frances Fitzgerald: Is that what he is saying?

The Taoiseach: That is the import of what he is saying.

Deputy Mick Wallace: I am asking-----

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

The Taoiseach: If I understand what Deputy Wallace is saying, people involved in criminal activity are being nominated for promotion. Am I to understand that is what he is saying?

Deputy Mick Wallace: If the Taoiseach checks the record that is not what I said.

The Taoiseach: What did you say?

Deputy Mick Wallace: I asked whether the person responsible for the fixed charge notice system in Thurles, who has been responsible for multiple terminations, is on a promotions list.

Deputy Bernard J. Durkan: You named the person.

The Taoiseach: I do not have any information about who is or is not on a promotion list. I am glad the Deputy clarified the comment that he made.

Deputy Mick Wallace: The Taoiseach can check the record later.

The Taoiseach: The Deputy raised a number of issues. The Guerin report will follow the inquiry that the Government has agreed to set up. That will be set in place after today. The Fennelly inquiry is under way. The sole member wrote to me looking for an extension of time until the end of this year, and I have granted that. I support, if possible, the production by the inquiry of earlier reports in respect of a number of specific matters.

The review commission received 307 cases, some of which go back 30 years, and the vast majority of those have been examined by the panel of senior counsel and junior counsel appointed to review those cases. I assume that when they have completed their work they will bring that to the attention of the Minister for Justice and Equality very quickly.

I understand that the changes that have been made in respect of fixed penalty notice are significant and that there are now three senior personnel who are entitled and authorised to relieve penalty charges where they might be applied for whatever particular reasons. Yesterday the Government appointed a judge to oversee that practice, to give it further transparency and accountability.

Regarding the issues that I have missed in the Deputy's long list-----

Deputy Frances Fitzgerald: The Garda authority legislation.

The Taoiseach: When is that due to be ready?

Deputy Frances Fitzgerald: It is due shortly.

Deputy Micheál Martin: The Garda authority is due in here very shortly.

Deputy Mick Wallace: The abuse of the penalty points system was so endemic that independent bodies have had to be created to keep an eye on things. The Taoiseach is not accepting the fact that there is massive indiscipline in the senior ranks of the force. Can he explain why there has been so little opportunity to debate policing matters since last summer? Can he also explain why the Government has no appetite for depoliticising policing in Ireland, despite the recommendations of the likes of Professor Dermot Walsh? Anyone who read Conor Brady's book over Christmas would have noted that the politicisation of policing in Ireland has gone on since the 1950s at a really bad level, and that is part of the huge problem we are facing. Until the Government decides to depoliticise it and we have an independent police authority that acts as a buffer between the Government of the day and the police force, we will continue to have these problems. The former Minister, Deputy Shatter, would still be in power and would still have his job if there had not been such a flawed system, and the Government is not correcting it.

I remind the Taoiseach of my last question to him, which he did not answer. I asked if he could tell the House when he was first made personally aware of very serious Garda malpractice in the Athlone area and what action he took.

The Taoiseach: I am not clear on what the Deputy is talking about in respect of the Athlone area. He will have to give me further detail on that, and if he wishes to do so, he can give me it after the completion of the Order of Business.

Deputy Mattie McGrath: Somebody might have picked it up.

A Deputy: What about you, Mattie?

The Taoiseach: In respect of the independent policing authority, this is the most radical shake-up in the justice system since the foundation of the State. The appointment of the Garda Commissioner was subject to open competition and was a completely independent system for making that recommendation for appointment by Government. All promotions of senior personnel are done by a panel for which completely independent people apply. It is not a politicised system any more because the situation is completely independent, and there has been the most radical shake-up since the foundation of the State.

Out of 400,000 penalty points issued every year, about 2.9% are quashed, in accordance with the system that applies, where that is valid. There are only three people who can now quash penalty points. Since the new system was introduced, only seven cases have been referred for further analysis under this new system. In anybody's language there has been a serious shake-up, and it has been for the better in terms of accountancy, accountability and transparency in a system that is very important for people.

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Deaths of Former Members: Expressions of Sympathy

An Leas-Cheann Comhairle: In accordance with usual practice, the Taoiseach makes the proposal and the leader of the party of the deceased Member leads the expressions of sympathy.

The Taoiseach: I so propose.

Deputy Micheál Martin: Táimid bailithe anseo inniu chun ár n-ómós agus ár meas dár gcara dílis, John Carty, a chur in iúl. Fear lách, cineálta agus gnóthach ab ea John. D'oibrigh sé go dian dícheallach, Domhnach is dálach, ar son mhuintir Mhaigh Eo agus ar son mhuintir na tíre. Bhí muinín aige as a mhuintir. Bhí siad compórdach leis agus muinín acu as chomh maith. Bhí suim faoi leith aige i gcúrsaí talmhaíochta agus, gan amhras, i nithe a bhain le forbairt na tuaithe. Bhain sé taitneamh as a saol polaitíochta. Duine nádúrtha agus an-chairdiúil ab ea é.

Today is a bittersweet moment for the family of the late John Carty. It is a time to mark the passing of a beloved family man and to remember his life's work and legacy and, in particular, his contribution to parliamentary democracy. His family will have special, intimate memories of John to cherish. I hope that today we can show some sense of the deep affection in which he was held by the public and by the Members of this House.

On behalf of my party and on my own behalf, I acknowledge the presence of John's family and again express our sincere sympathies to his wife, Kathleen, his children, Lisa, Ciara, James, Cathal, John Henry, Eamonn, Caoimhín and Iarla, his brother, Michael, and sisters, Anne and Joan.

It is only right and proper that we take some time today, in the people's Chamber, to pay our respect to a man of the people. John Carty embodied the best of a local representative. He was steeped in his community. His warm personal approach stretched across his constituency. He always had time for a chat, a cup of tea and a kind word, and always had a listening ear for people's problems. He knew his home and its people intimately. He had a keen eye for family detail that reached back deep into local history. His approach to politics was one of empathy, understanding and patience. It was the mark of the man.

We cannot talk about John Carty without talking of his beloved home county. John was a true son of Mayo, loyal to a fault. He carried the torch for the Fianna Fáil Party in Mayo across all levels of the organisation in countless campaigns over the decades. He believed in public service and lived that out at grassroots level with the party with which he threw in his lot.

On these benches, we can take pride in the work and effort of decent men and women like John Carty who believed in politics as a way to better one's community and to make a fundamental difference to the quality of life of others. I am proud that he chose Fianna Fáil as the vehicle through which he could strive to improve his community, his county and his country.

When he topped the poll for election to Mayo County Council in 1999, his hard work on the ground and genuine warmth was rightly rewarded. With his warm personality he built up a strong reputation, and when called upon to contest the general election, he answered proudly. His endeavour on behalf of his local constituents in Mayo earned him a hard-won place as a Government representative for the county in 2002.

1 o'clock

Over five years, he fought the corner for his county. His background in agriculture helped to shape his work. As a younger man he crisscrossed the island as an agriculture officer and brought this wealth of experience to bear in the Oireachtas. He worked assiduously all the while for his electorate. Among his proudest achievements was the continued investment in Knock Airport. Following in the footsteps of his old friend, the late P.J. Morley, he defended and fought for the airport as the west's link to the world. In his own words, "The jewel in the crown in Mayo is Knock Airport." His work there will always be remembered with every flight to and from the fields of Barnacuiqe.

Here in this House he will be remembered with great affection. He had a quick wit and was a lively and enjoyable storyteller who always had a glint in his eye when we were talking about another colleague. He always had time for a chat and was a solid and welcome companion to all Members. He continued that tradition in the Upper House after 2007. His career encompassed countless cups of tea, and maybe something else now and again, endless conversations and long cumann meetings into the dark of night, all heartfelt and genuine.

His work and effort will endure. The empathy of the man, his deep grá for where he came from and a connection deep in his marrow are things we should never lose in Irish politics. He was a true gentleman who brought an abiding sense of humanity to our politics. Mayo has lost a loyal and faithful servant, and his family a beloved husband, brother and father. I trust they can take comfort in a life of service and commitment to something greater. Ar dheis Dé go raibh a anam.

The Taoiseach: As Taoiseach I would like to convey my sincere condolences and sympathy to the family of the late former Deputy and Senator, John Carty. He was a good friend of mine who passed away last January. He was a family man, and along with Kathleen, and despite the demands of political life he always made time for his priority which was his family, his eight children, James, Lisa, Cathal, John Henry, Eamonn, Caoimhín, Iarla and Ciara.

John was always a popular personality and public representative in his famous home of Knock, the larger town of Claremorris and across County Mayo. In public life as a councillor, Deputy and Senator he served the people of his county and his locality with conviction, commitment and dedication. He never turned anybody away from his door and always listened to the stories and cases brought before him, irrespective of from where they came. His brother Michael followed him into politics and served on Mayo County Council.

John Carty was a dedicated public servant. He had his priorities right. He got to know farmers and the farming community as an official of the Department of Agriculture for many years. He had a great passion for the agrisector. Through his work in Seanad Éireann, in particular, he made an enormous contribution to the agriculture panel. He liked to speak about a subject he knew so well. In that regard, he gained great respect from all in the agriculture sector.

I commiserate with Deputy Martin's party on the loss to Fianna Fáil. It has a proud tradition of public service, including that of John Carty. While we may not be of the same party, we recognise a common willingness to serve the public is at the core of all politics, and he exemplified that during his time here. On many occasions when I spoke to him in the environs of this House he commented, as Deputy Martin pointed out, on the circumstances which applied within the party, other personalities or aspiring personalities, and his view, in no uncertain language, on them.

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He was well known and well respected as the promoter and owner of a long-standing business in Knock. I was very glad and privileged that I had the opportunity to attend the removal in his house after his death. It is all too easy to use an old cliché, but John Carty was one of nature's gentlemen. He is missed by all those who knew him. I can see his face and hear his voice. I remember his ways of making the case for something that was of interest to him. We all miss him.

I can quite truthfully say to Kathleen and his family that he was a man who had his priorities right, namely, family first and everybody else after that. Aontaím leis an Teachta. Ar dheis Dé go raibh a anam dílis. Cara mór dom féin a bhí ann le blianta fada.

Deputy Gerry Adams: Ba mhaith liom mo chomhbhrón a ghabháil le clann John Carty atá anseo linn inniu. Ba mhaith liom mo chomhbhrón a ghabháil le Fianna Fáil fosta agus le muinntir Mhaigh Eo. Ní raibh aithne agam ar John, ach bhí aithne maith ag an Teachta Caoimhghín Ó Caoláin air. Dúirt seisean liomsa gur fear ciúin a bhí ann, fear a raibh meas aige ar dhaoine agus grá mór aige do mhuintir agus do Chontae Mhaigh Eo.

I did not know John personally, but Deputy Caoimhghín Ó Caoláin did and tells me that he was a quiet, unassuming and good-natured Member of the Oireachtas and was very respectful to everyone else in the Oireachtas. I listened very intently to what the leader of Fianna Fáil said. His family should be very proud to hear such a ringing endorsement of John's service to the people and the Fianna Fáil Party. Many times the families of people in public life have to take a back seat. He served Mayo as a councillor, Deputy and Senator on the agriculture panel. The Taoiseach has elaborated on how he dealt with farming issues and was an advocate for people in rural Ireland.

Mayo is a wonderful county and is so much part of what we are as a people. It has suffered grievously over a long time. John's connection with Knock Airport will be a major tribute to the work he did on behalf of the people of Mayo. He was only 63 years of age. I remember when all of us thought that was old, but it is relatively young. Of all the people who in here, in Fianna Fáil, Claremorris or Mayo who miss him, those who will miss him most are his family. There is a hole in their lives they will have to work around.

They should be very proud of their father and husband. Go ndéana Dia trócaire ar a anam dílis.

Deputy Finian McGrath: I wish to share time with Deputy Mattie McGrath.

An Leas-Cheann Comhairle: Is that agreed? Agreed.

Deputy Finian McGrath: On behalf of the Dáil Technical Group and Independent Deputies, let me say that the death of Mr. John Carty was a terrible loss, particularly to his family but also around the Dáil, and to his friends and his constituents in Mayo. For his wife, Kathleen, his daughters, Lisa and Ciara, his sons James, Cathal, John Henry, Eamonn, Caoimhín and Iarla, and siblings, Michael, Joan and Anne, it was such a sad blow to lose such a wonderful and loving husband, father and brother. Although John was involved in public life, his family have to come first. That sense of loss and sadness is very difficult for all of them. It is worth knowing that we are, across the political spectrum in the Dáil, thinking of them because we all liked John. That is a constant message that his family will hear today.

Deputy Martin said at the time of Mr. Carty's death that he was one of life's true gentlemen,

and that is the way everybody in this House felt about John Carty. He was one of life's true gentlemen. I totally agree with the sentiment as he was admired, loved and respected around this House. It is important for his family to know that, as he would have been so busy running around the constituency and this Dáil. He was liked, loved and respected by all colleagues in this House. John was a man of great compassion who fought hard for his Mayo community. He was a diligent public representative. He died so young, as he had a lot more to give in this life.

Mr. Carty served on Mayo County Council between 1999 and 2002, and I was a member of Dublin City Council in 1999. He was elected to the Dáil in 2002, when I was first elected to this House. He later served in the Seanad. Around this House, I liked John's warmth, his sense of humour and his great generosity. He was particularly loyal to agriculture and small business communities, especially in Mayo and the west. He was their voice in the Dáil but he was always open to other issues as well that were pushed by other Deputies in the House. He was great fun and he used to have great craic winding up many Independent Deputies. We would get a great laugh from that. We loved it and John enjoyed it as well.

He will be missed deeply. To Kathleen and the Carty family, on behalf of Independent Deputies in the Dáil Technical Group I convey our sincerest sympathy and best wishes. I hope they will learn to deal with the terrible and sad loss of John.

Deputy Mattie McGrath: I am delighted to welcome the Carty family here today. I was a friend of John's and I knew him from working here, especially on the agriculture committee. As has been noted by many, he had a sharp wit, keen intellect and interest in and enthusiasm for agricultural matters and the committee. I could recount some very joyous occasions we had when we went to Agriculture House to meet the then Tánaiste and Minister responsible for agriculture, former Deputy Mary Coughlan, as well as a later Minister, Deputy Brendan Smith. When there were serious issues on the table, John always provided a sharp jibe and entertained us all, although the occasions might have been fraught because we were anxious about issues in our constituencies.

John was a true Irishman, dedicated to his family and his constituency. I took a further interest as both John's daughter, Ciara, and my own daughter met at a football game. John got a pairing arrangement so he could attend it in the midlands but I failed to do so. He came back the following day with a glint in his eye as his daughter's team also got the trophy. Well done to them. He was a family man with an interest in all his family members and how they progressed. He is a major loss to the family, in the first instance, and to his constituents. Ar dheis Dé go raibh a anam dilis.

Deputy Dara Calleary: The last occasion I remember John being present in this House was in June 2013, when we paid tribute to his great friend, confidant and neighbour, P.J. Morley. It is still hard to believe, nearly a year to the day from his death, that John has left us. Today we welcome Kathleen, Lisa, Ciara, James, Cathal, John Henry, Eamonn, Caoimhín and Iarla, as well as the extended Carty, Regan and Byrne families. We also have some of his colleagues, as I see former Deputies John Ellis, Johnny Brady and Eamon Scanlon, as well as many of his friends.

John had many traits, including decency, integrity and public service. He was very republican-minded and independent. He learned those traits right across this country as an agricultural officer and brought them to the halls of this building both as a Deputy and a Senator. He had a fantastic sense of humour and a sense of unbelievable mischief. There was no better man

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to hop a ball and leave while the ball left disruption after it. Above all, he had 100% commitment to every job and task he took on. From his election to Mayo County Council in 1999 to his retirement from Seanad Éireann in 2011, he has left an impressive record of delivery across the county. There are dozens of schools, community and sporting facilities, water and road schemes that owe their existence to John Carty and his work. They were all delivered without fanfare or fuss. There are thousands of families across the county who sought John's intervention on personal matters and got that in a quiet, determined and focused fashion.

John was one of the first of Monsignor James Horan's airport disciples and he was there at the beginning of that dream. He travelled the highways and byways of this country seeking support for that dream and it is especially fitting that through John Carty's perseverance, hard work and commitment, he was able to secure €26 million for the airport, meaning it can be on the footing it has today.

Politics was not everything for John, which should be a lesson for all of us. He had a rich and varied life outside this House and a lifelong interest in history, especially family history. He could tell anybody about his relations going back through generations. His expertise in the area was captured on the morning of his funeral by Fr. Richard Gibbons, the parish priest at Knock, who mused at Mass that morning that John was probably at that time telling our Lord that his people were not originally from Nazareth but went behind that.

He was most proud of his family. We revelled in the tales he shared of his family's various and varied adventures and he was proud of each and every family member. He always said that Kathleen was the rock on which he was able to serve politics in anything he did and on which his fantastic family was built. He was happiest when he was in Carrowmore with all his family and friends around him. We miss him as a colleague and friend and we cannot begin to imagine how his family misses him. One never left him without feeling better. He occasionally would burst into song and one of his favourite lines was from "Oklahoma!" and he would say "there's a bright golden haze on the meadow". Wherever John Carty is today, there is a very bright golden haze. Ar dheis Dé go raibh a anam.

Deputy Michael Ring: I welcome the Carty family. It is a sad day and a proud day. It is a sad day for the family because they have lost a husband and a father, somebody who was very loyal to the family. As Deputy Calleary has said, the family were also very loyal to him. He loved his family, county and Fianna Fáil.

I served with John on Mayo County Council for many years and I also served with him here in the Dáil. If I could describe him in a few words, it would be as a thorough gentleman. He was a good colleague and friend, and he was somebody with a bit of decency in him. One could depend on him and if somebody entered an agreement with John Carty, that agreement was held. He would not go behind anybody's back. I enjoyed his company and, as previous speakers have noted, he loved the county and Knock, particularly the airport. I am sure that today he and Monsignor Horan are up there. John would have a family tree and I would tell him to put it away as he would find more Fianna Fáil people to vote for him. He was just great.

John never got annoyed or really got aggravated. He could work with the Ministers and Government of the day. He certainly delivered for County Mayo. Sometimes the media might forget the love which a family has for a father who may be a national politician who is working hard and doing the best he can for his family, county and country. As politicians we get abuse, and we are lucky to have families. John Carty was lucky with Kathleen and the beautiful family

he had and to have the loyalty of his brother and sisters. He was a great colleague, a great friend and will be sadly missed. He will be missed by Fianna Fáil but, in particular, by his family whom I welcome to the House.

Deputy John O'Mahony: I would like to be associated with the expressions of sympathy for John Carty and I welcome Kathleen and all the Carty family here. I share with them the deep sense of loss they have experienced, following the death of a husband, a father and a brother. I knew John Carty as a community worker and an activist long before either of us got involved in representative politics. I knew of his community work for the people of Knock and beyond. I met him on many occasions at Aghamore GAA club when he was supporting his family members playing for his club. He may have been quiet and unassuming in terms of his involvement in his community but that never took away from the diligent way he worked for, and on behalf, of his community. He was from, and worked for, his people. We may have been political rivals when both of us were elected over recent years but the one thing I would say - maybe it is a lesson to politicians on all sides of the House – is that John Carty was always willing to engage in an issue. He wanted issues solved for Mayo and the region. He did that in an inoffensive way. He wanted to find a solution rather than insult anybody on the way to getting that solution. We are with all the family in their deep sense of loss.

Deputy Michelle Mulherin: I am pleased to add to the tributes to John Carty and to express my sympathy to the Carty and Regan families on the passing of John. I knew John but did not serve on the county council at the same time as him, nor was I a Member of the Dáil at the same time as him. However, I knew him from the radio and from meeting him around the county, whether at a funeral, a public meeting or some event. He was a very affable man and he was a really hard worker. He was persistent and had a style about him which was to persist. It was never about insulting anybody, which made him very well liked across the board, whether one was from Fianna Fáil or from whatever political persuasion. He worked very hard in the Knock and Claremorris areas and, in particular, in east Mayo. He left his mark, in particular in regard to his expertise in the field of agriculture which he brought to bear on his work for the people of Mayo. I express my appreciation as a Deputy and as someone from the county for the work he did.

The Carty house in Knock is an open house, whether that was through the children or John and Kathleen. They are at the heart of the community and John was well known throughout the whole county on a personal level. He was a great friend of P.J. Morley, who has sadly passed away also.

As I said, we were not political adversaries, as Deputy O'Mahony described it, other than on one occasion when we were both on the 2007 general election ballot paper. However, I served with his brother Michael, who is here today, on Mayo County Council. John bore his illness with great courage, as did his family. He is a great loss to them, to his friends and to his former colleagues, both within Fianna Fáil and outside it. May his soul rest in peace.

Deputy Dominic Hannigan: On behalf of the Labour Party, I would like to express our condolences to the late John Carty's family. Many colleagues spoke of John's time on Mayo County Council or in the Dáil but I knew him from his time in Seanad Éireann. I served in the previous Seanad and, like Deputy McCarthy, we have very fond memories of John. John spoke often and very affectionately about his family. He was a gentleman in all of his dealings and I do not think there was a person in these Houses who was not sad to hear of the passing of John. He left here with a very high reputation and was held in an extremely high esteem. Our

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thoughts go out to his family. May his soul rest in peace.

An Leas-Cheann Comhairle: I would like to add my words of sympathy to the family. John was a good friend and a very fine public representative. Ar dheis Dé go raibh a anam dílis.

Members rose.

Order of Business

The Taoiseach: It is proposed to take No. 25a, motion re proposed approval by Dáil Éireann of draft Commission of Investigation (Certain Matters relative to the Cavan-Monaghan Division of the Garda Síochána) Order 2014; No. 50, Irish Collective Asset-management Vehicles Bill 2014 - Order for Report, Report and Final Stages; No. 8, Redress for Women Resident in Certain Institutions Bill 2014 - Order for Second Stage and Second Stage; and No. 51, motion re proposed approval by Dáil Éireann of the draft Commission of Investigation (Mother and Baby Homes and Certain Related Matters) Order 2015 (resumed).

It is proposed, notwithstanding anything in Standing Orders, that: (1) in the event a division is in progress at the time fixed for taking Private Members' business, the Dáil shall sit later than 9 p.m. and Private Members' business, which shall be No. 189 – motion re housing affordability (resumed), shall, if not previously concluded, be brought to a conclusion after 90 minutes; (2) No. 25a shall be decided without debate; and (3) the resumed proceedings on No. 51 shall be taken at 5.30 p.m. and shall, if not previously concluded, be brought to a conclusion at 7.30 p.m. Tomorrow's business after Oral Questions shall be No. 8 - Redress for Women Resident in Certain Institutions Bill 2014 - Second Stage (resumed).

An Leas-Cheann Comhairle: There are three 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 No. 25a agreed to?

Deputy Gerry Adams: It is not agreed.

Deputy Micheál Martin: I find it extraordinary and almost unprecedented that the House is being asked to set up a very serious commission of investigation into matters of grave concern in regard to the administration of justice in this country, issues that have led to the resignations of a confidential recipient to a Minister, a Garda Commissioner and a Minister for Justice who, in a letter to the Taoiseach, said he was resigning because he wanted to spare the Government embarrassment in advance of the local and European elections. The Guerin report outlined in considerable detail the senior counsel's assessment of issues that had been raised by whistleblower Maurice McCabe. The Taoiseach asked Mr. Guerin to consider those assertions and allegations, and the outcome of that was a recommendation by Mr. Guerin to establish a commission of inquiry and now we are being told that this House cannot debate, comment on or contribute in any shape or form to the terms of reference or to the establishment of that inquiry. I find it extraordinary.

I am told that the Ceann Comhairle has issued this, and the Taoiseach confirmed that with me last evening. It has been confirmed to us that he invoked Standing Order 57(2) in regard to this issue. I would appreciate it, a Leas-Cheann Comhairle, if our side of the House and our party could be given a written statement outlining the rationale for the invocation of this particular Standing Order. Did the Ceann Comhairle receive correspondence from any Member or from any individual asking that this debate would not proceed? I would like that confirmed;

I do not know. I have read Standing Order 57(2) and it states that a matter may not be raised where it relates to a case where notice has been served and which is to be heard before a jury or is then being heard before a jury. I am not aware of any case that is being heard before a jury. I believe there is a case via sworn affidavit or a High Court referral as well in terms of juridical review, but I am not aware of any case before a jury so we need an explanation as to the rationale behind the Ceann Comhairle's decision to invoke Standing Order 57(2), which essentially muzzles this House. This is more than just the debate itself. It is about the status of this Parliament. It seems extraordinary that the Parliament is going to proceed with establishing an inquiry into issues of the most fundamental concern about the administration of justice and there will be no debate. It is incredible.

I ask myself the question: how was the banking inquiry established? I am glad it is established but it is my understanding that there are criminal cases due to come in regard to matters pertaining to banking, for example, which perhaps will go before a jury and there was no invocation of Standing Order 57(2), nor would I want it to be invoked because I want that inquiry to proceed, but it appears there is an inconsistency in the application of Standing Order 57(2) in this particular case given other matters.

I accept that the Taoiseach or the Government has not been involved in this and I would be of the view that the Minister would welcome a debate on the establishment of this commission of investigation. We have tabled an amendment, and I know Deputy Wallace and others have tabled an amendment but, extraordinarily, we will not be able to speak to those amendments. It is bizarre and unacceptable.

I ask the Taoiseach to withdraw the motion until next week and until all parties in the House can engage with the Ceann Comhairle's office to determine the basis for the invocation of Standing Order 57(2) and if we can bring about a situation next week where the motion can be put to the House but subject to a proper debate. I accept I only wrote to the Taoiseach prior to our coming into the House. He would not have received the letter formally asking him to withdraw this motion to allow for proper consideration by the House because it goes to the heart of what a Parliament is about.

We must remember that these issues originated in this Parliament, in the Dáil. They were debated at great length by various Deputies from different strands of opinion on these issues for 12 to 18 months. The culmination of all of that is the establishment of the inquiry and it seems incredible that the Dáil will not have an opportunity to debate the terms of reference of that inquiry, the reasons behind the establishment of the inquiry and what people would like to see emerge from it.

Deputy Gerry Adams: I want to say that we are not taking issue with the Ceann Comhairle. The Ceann Comhairle has a responsibility to bring a matter to the attention of the Government but I object strongly to the decision to scrap today's proposed debate into the inquiry into incidents in the Cavan-Monaghan Garda division. We got an e-mail from the Taoiseach's Department, so our issue is with the Taoiseach. It states:

We have been advised that the Ceann Comhairle has indicated that, while the draft Commission of Investigation ... can be moved tomorrow, there can be no Debate re same, as it would be in conflict with Standing Orders 57, as the matter is currently sub judice.

The Government had a number of options it could have employed in response to that letter.

It is a hugely important matter. The claims of Garda whistleblowers and the handling of their allegations of wrongdoing by some members of An Garda Síochána and particularly by some Ministers, including the Minister for Justice and Equality, were and remain to be matters of huge public concern. There has been no real explanation for why we are told we cannot debate these issues, and that is not good enough.

My understanding of “*sub judice*” is that it applies in cases involving juries, and there is none in this case. It is also understood that *sub judice* does not apply in cases that are heard before judges, and especially High Court or Supreme Court judges.

There were no similar concerns raised about *sub judice* when, for example, the Fianna Fáil leader named Padraic Wilson, a private citizen, in this Chamber despite the fact that Mr. Wilson’s solicitor was writing to the Ceann Comhairle, the Taoiseach and the Fianna Fáil leader and despite the fact that he was subject at that time to a judicial inquiry. It appears, therefore, that the *sub judice* rule is not being equally or appropriately applied.

Was Teachta Shatter or anyone acting on his behalf in touch with the Ceann Comhairle, the Taoiseach or anyone else in the Oireachtas? Did the Taoiseach seek an opinion from the Attorney General? Had the High Court judge or judges in question requested that no debate or statements take place? I ask the Taoiseach to reverse this decision and ensure that this debate is put back onto the Order Paper and rearranged as quickly as possible.

The Taoiseach: This is a matter of considerable importance. The Government decided, following the receipt of the Guerin report into matters relevant to the Cavan-Monaghan Garda district, that there should be a commission of investigation. The Government considered this and accepted the terms of reference as put forward by Mr. Guerin, and they are all included in the terms of reference setting up this commission.

The Government was happy to have a debate on the terms of reference. However, the Deputies have to understand that the Ceann Comhairle, in his independence, rules in respect of the Standing Orders of the House. The Ceann Comhairle wrote to the Minister for Justice and Equality on 27 January pointing out a number of relevant matters. The Ceann Comhairle pointed out to the Minister that the overall purpose of Standing Order 57 is to facilitate matters of public importance, even where court proceedings have been initiated. He pointed out in his letter that they are subject to five conditions which are relevant to Standing Order 57. He further pointed out that in pursuance of that Standing Order, he as Ceann Comhairle has the power to allow or disallow a debate on a matter that is *sub judice*. The Ceann Comhairle considered the matter very carefully. He considered the text of the motion tabled by the Minister for Justice and Equality, as set out. He formed the view that the motion fell within the scope of Standing Order 57, specifically Standing Order 57(3), of which Deputies will be aware.

Deputy Micheál Martin: Does the Taoiseach mean Standing Order 57(2)?

Deputy Frances Fitzgerald: No, it is Standing Order 57(3).

The Taoiseach: The Ceann Comhairle pointed out to the Minister that he had come to the conclusion that the motion was not in order for debate and that he would intend to rule accordingly if the arrangement for debating the motion was to be persisted with. He went on to say he was quite prepared to allow the motion to be moved without debate as this would obviate any risk of encroachment by Dáil Éireann on the functions of the court, which is the relevant issue under Standing Order 57(3). He went on to point out the necessity to respect the separation

of powers established in Article 6 of the Constitution and to suggest that the Minister should understand the basis for his decision.

I received the letter from Deputy Martin at 12.38 p.m. today. That is just a while ago. Deputy Martin pointed out that he was respectfully requesting that the motion be withdrawn until a debate on its contents could take place. The point is that the Ceann Comhairle, in his independence, has ruled here in respect of Standing Orders that he considers that a debate on the terms of reference cannot take place. For that reason, it is not a case of withdrawing the motion tabled by the Minister for Justice and Equality to set up the Guerin inquiry. The Ceann Comhairle has ruled independently that a debate cannot take place. That is his interpretation of Standing Order 57(3).

Deputy Adams made the point that he is not taking issue with the Ceann Comhairle. Neither am I. The Ceann Comhairle is completely independent in his rulings on the Standing Orders of the House. The Government set out to set up the Guerin inquiry and to have debates on the terms of reference. They are there for everybody. There is no point in withdrawing the motion as the Ceann Comhairle has ruled that no debate can take place because of Standing Order 57(3), which he considers to be infringed on by the terms of reference. As Deputies are aware, it is not a case of an argument here about the Government not wanting this to happen, or not wishing not to have a commission of investigation.

The Ceann Comhairle has ruled here. He is the sole interpreter, in his independence, of the Standing Orders of the House. I regret from that point of view that it is not possible to have a debate on this. Therefore, I wish to set up the Guerin inquiry, in accordance with the terms of reference that have been set out, so that it can set about its work in dealing with the matters brought to light by the sergeant involved in the Garda district involved.

Deputy Micheál Martin: This is very serious, a Leas-Cheann Comhairle.

An Leas-Cheann Comhairle: I have allowed a brief discussion with the party leaders.

Deputy Micheál Martin: The Taoiseach indicated to me last night that it is of relevance that this matter is not before a jury. The situation is somewhat difficult to comprehend. Standing Order 57(2) relates to juries, whereas Standing Order 57(3)-----

Deputy Frances Fitzgerald: It was Standing Order 57.

Deputy Micheál Martin: The implication yesterday was that this related to Standing Order 57(2). We have received no correspondence from the Ceann Comhairle's office. I just want to raise that point. I am saying to the Leas-Cheann Comhairle, as the person in the Chair, that I do not think it is good enough, on a matter of such substance, that no one saw the letter that was written to the Minister before it was read out now.

Deputy Frances Fitzgerald: I got it today.

Deputy Micheál Martin: Sorry. We have not got it. I am just saying I think it is not good enough, in terms of the Parliament. All the issues pertaining to this have been going on for a year and a half. A ruling was made but it was not communicated to the Members of the House. I understand there is a tradition of the Ceann Comhairle communicating to the Government Whip, who in turn communicates to the other Whips. There has been no substantive communication of that kind to the Opposition Whips or indeed the Opposition Members. It makes a

complete farce of how Parliament works and how the Dáil is meant to work. I think there is every reason to withdraw the motion this week, to allow discussions with the Ceann Comhairle on this and to get some understanding of his rationale. I would like to hear why. The point that has been made in this instance beggars belief in the context of the banking inquiry. There is no logical consistency between that decision and this decision.

Deputy Willie O’Dea: One is exactly the same as the other.

Deputy Micheál Martin: In the case of the banking inquiry, there is a potential for criminal cases which would involve juries down the line. The Taoiseach is well aware of that. No such potential exists in this case. There is a suggestion that Guerin may have caused the resignation of a Minister. That is not correct because the former Minister said he resigned because he did not want to embarrass the Government parties at the time. Standing Order 57(3) provides that “a matter shall not be raised in such an overt manner so that it appears to be an attempt by the Dáil to encroach on the functions of the Courts or a Judicial Tribunal”. That is general.

Deputy Willie O’Dea: It is very vague.

Deputy Micheál Martin: The very framing and tabling of the motion could equally be considered to be doing just that.

Deputy Willie O’Dea: Exactly.

Deputy Micheál Martin: It is not logical to allow someone to table a motion and then prevent them from speaking to the motion. There is no logic to that. If the Government thought the establishment of this inquiry encroached upon the courts, it would not have brought forward this motion. Of course that would have been unacceptable. My humble opinion is that there is no logic here. Perhaps what we were told yesterday was based on a brief communication that had been received by the Whip. It is very unsatisfactory. In light of the manner in which the Dáil is being treated, I ask the Taoiseach to withdraw formally the motion. I am asking for a week to be provided, until next Tuesday, so that the courtesy of proper communication with the House would at least be entered into.

No one had any warning of this. As late as the middle of last week, this matter was tabled for yesterday. When it was pulled yesterday, rumours went around that this had been done because of some issues with the invocation of Standing Orders. There has been absolutely no communication with any Member of the House on this side about why there could be no debate. Now the Government is asking us to accept a farcical situation in which we vote through the terms of reference with no debate, before voting on amendments with no debate either. I think it does a great disservice to the House. It is not the intention of this House to encroach on the courts. I believe democracy and parliamentary democracy demand that this House be in a position to debate these grave issues, which go to the heart of the administration of justice.

Deputy Willie O’Dea: It is very important.

An Leas-Cheann Comhairle: I have to call Deputy Adams.

Deputy Micheál Martin: We have debated them for the last year and a half.

Deputy Gerry Adams: We were alerted to this issue when Deputy Wallace raised it yesterday. I just picked this up as I was sitting here. It was clear to me that it was a serious matter. This is another case of the Government not handling an issue properly. I am sure the Minister

wants the debate to go ahead. I am sure that is the case, but it strikes me that the stopping of the debate is denying us the right to say whatever we want about these matters.

I would like to examine the logic of what we are being told. In my remarks earlier, I said that “the claims of Garda whistleblowers and the handling of their allegations of wrongdoing by some members of An Garda Síochána” were appallingly handled by some Ministers, including the then Minister for Justice and Equality, Deputy Shatter. It could be argued that the judgment I made on the former Minister’s handling of this issue was *sub judice*. I do not want to repeat what I said previously. I want to make the case that a different rule was applied in another case in which legal advice had been given on behalf of a private citizen. When the proceedings in question proceeded here, that citizen - Padraic Wilson - was named here.

I also asked the Taoiseach whether Deputy Shatter or anyone acting on his behalf had been in touch with the Oireachtas and the Ceann Comhairle or whether the High Court or Supreme Court judges in question had requested that no debate or statements take place.

According to the letter from the Taoiseach’s Department on behalf of the Chief Whip, it had been advised that the Ceann Comhairle had “indicated”. The Taoiseach stated that the Ceann Comhairle had ruled. The simple solution would have been to postpone this debate until next week so that it might be held as quickly as possible. This is the wrong way to handle the issue.

As to having the letter read to us now because we have raised it, what about transparency and changing the way politics works? If we had not raised this issue, we would not have had the letter read to us and we would not have been given the reasons, regardless of whether we agree with them, cited by the Ceann Comhairle. Once again, the Government needs to get its act together in terms of how it orders the business of the Oireachtas. That is the Government’s job, not the Ceann Comhairle’s. The Ceann Comhairle’s job is to ensure that the place is run properly according to the rules. Will the Taoiseach withdraw the motion, re-order it or do whatever he needs to do to ensure that we have a debate on this very important issue?

The Taoiseach: First of all, Deputy Adams, the e-mail that was circulated would have come from the Whip’s office and not from the Taoiseach’s office.

Deputy Gerry Adams: With respect, it comes from @taoiseach.gov.ie. I do not want to mention the person’s name.

The Taoiseach: That is the Department’s e-mail address.

Deputy Gerry Adams: It is from the Taoiseach’s Department.

Deputy Paul Kehoe: It is like an Oireachtas e-mail address.

Deputy Gerry Adams: It is the Taoiseach’s address.

The Taoiseach: The letter to the Minister for Justice and Equality is a letter from the Ceann Comhairle to the Minister for Justice and Equality. It obviously was not a letter that was circulated to everybody. The Minister got the letter yesterday.

Deputy Frances Fitzgerald: This morning.

The Taoiseach: Yesterday morning.

Deputy Micheál Martin: Yesterday?

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Deputy Frances Fitzgerald: No, this morning.

The Taoiseach: This morning. I am sorry.

Deputy Mattie McGrath: It took 14 days to show it.

The Taoiseach: This Wednesday morning. Deputy Shatter wrote to the Ceann Comhairle back on 25 November.

Deputy Clare Daly: Now we get it.

Deputy Mattie McGrath: That man again.

An Leas-Cheann Comhairle: Deputies, please.

Deputy Micheál Martin: I asked the Taoiseach about that five or ten minutes ago. I did not know that.

Deputy Gerry Adams: I asked it, too.

Deputy Mick Wallace: I asked yesterday-----

Deputy Clare Daly: We asked yesterday.

Deputy Mick Wallace: ----but the Taoiseach would not answer.

Deputy Mattie McGrath: He has not gone away.

Deputy Micheál Martin: Is Deputy Shatter almost muzzling the Oireachtas? The ultimate-----

An Leas-Cheann Comhairle: Please, Deputies.

Deputy Mattie McGrath: He muzzled it long enough as Minister.

The Taoiseach: The firm of solicitors of which Deputy Shatter is a member wrote to the private secretary in the Department of the Taoiseach on 8 December.

Deputy Micheál Martin: Who did?

Deputy Gerry Adams: To the private Department of the Taoiseach?

The Taoiseach: The firm of solicitors.

Deputy Frances Fitzgerald: His firm.

Deputy Micheál Martin: Read it out.

Deputy Gerry Adams: I am sorry, a Leas-Cheann Comhairle, but could I hear that again, please?

The Taoiseach: The legal firm, Gallagher Shatter Solicitors.

Deputy Micheál Martin: Does the Taoiseach want to read it out for us?

The Taoiseach: The private secretary to the Taoiseach responded to acknowledge the letter

from Gallagher Shatter Solicitors on 21 November.

Deputy Micheál Martin: What does it say?

The Taoiseach: The position is that the Ceann Comhairle interprets the Standing Orders of the Dáil. The Ceann Comhairle is utterly independent in that position. The Government, following the Guerin report, decided and made a decision to set up a commission of investigation. The Government took legal advice on that and the Government made a decision to set up that investigation. The Ceann Comhairle, in interpreting the Standing Orders as I said to the Dáil here without reading the letter formally, made his ruling under Standing Order 57(3). He uses his authority, in that, under the Standing Order, he has the power either to allow or disallow debate on a matter that he considers to be *sub judice*. He refers specifically to Standing Order 57(3) for the purpose of his interpretation. So the Ceann Comhairle has ruled on this. To withdraw the motion is of no assistance to anybody because his ruling has already been made clear.

Deputy Willie O’Dea: Surely we can engage with him to question his interpretation.

The Taoiseach: It is very important, Deputy O’Dea, that this commission be set up in accordance with the Guerin report-----

Deputy Mattie McGrath: Blindfolded.

The Taoiseach: -----and the decision of the Government following that. The Ceann Comhairle has ruled under Standing Order 57(3) that he will not allow a debate on the terms of reference. It is important that the Guerin report be followed through with the setting up of the commission of investigation. That is the purpose of placing this on the Order Paper. It was never listed for yesterday. If it was referred to yesterday, it would have to be listed for today, Wednesday, for consideration. That is the position, Deputies. The Ceann Comhairle is completely and utterly independent and I am not questioning his authority to make such a ruling in any way. He has interpreted Standing Order 57(3) on the basis that there can be no debate on the terms of reference. The Government is anxious to move through this so that the commission of investigation can be set up and get on with its work-----

Deputy Mattie McGrath: To keep the House silent.

Deputy Clare Daly: Without the input of this House.

The Taoiseach: -----which is very important in the interests of the Garda division, the Garda personnel involved-----

Deputy Mattie McGrath: The secrecy Act.

The Taoiseach: -----the Minister for Justice and Equality and the Department of Justice and Equality in the way this was all handled.

Deputy Willie O’Dea: No debate.

Deputy Clare Daly: How can a commission be set up with these manoeuvrings in the background?

The Taoiseach: If I were to accede to Deputy Martin’s request, first of all it would not change the situation or that the Ceann Comhairle has ruled. I do not intend to go against his ruling in his independence.

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Deputy Willie O’Dea: We could discuss it with him, surely.

The Taoiseach: I am anxious that the commission of investigation would be set up-----

Deputy Mattie McGrath: See all of the correspondence.

The Taoiseach: -----and be let get on with its business. I think everybody can understand the importance of that.

Deputy Caoimhghín Ó Caoláin: The Ceann Comhairle could be asked to reconsider.

Deputy Gerry Adams: I did not hear what the Taoiseach said.

An Leas-Cheann Comhairle: Is the proposal agreed?

Deputy Micheál Martin: Hold on one second.

An Leas-Cheann Comhairle: I am sorry, but is the proposal agreed?

Deputy Micheál Martin: On a point of order-----

(Interruptions).

Deputy Caoimhghín Ó Caoláin: Not agreed.

Deputy Micheál Martin: Please, this is a serious matter. We have had a reasonable debate. I ask the Leas-Cheann Comhairle for his tolerance because we have just-----

An Leas-Cheann Comhairle: Deputy, I have been very reasonable.

Deputy Micheál Martin: I said that.

An Leas-Cheann Comhairle: I have let him and Deputy Adams contribute twice. This period is only for leaders.

Deputy Micheál Martin: We have just learned in the last minute that a Member of this House, a former Minister, initiated all of this by writing to the Ceann Comhairle, as per the Taoiseach if I heard him correctly-----

Deputy Mattie McGrath: A legal letter.

Deputy Micheál Martin: -----and also by writing to the Taoiseach’s office. Things were going on behind the scenes for quite some time since November, but we are only learning about them right now as a motion is being tabled without debate.

Deputy Mattie McGrath: Outrageous.

Deputy Micheál Martin: I will not make any pejorative remark. One could accuse Deputy Shatter of, as Minister, having tried to silence whistleblowers for long enough, but it is not acceptable that a Member of the House should try to muzzle the House itself-----

Deputy Mattie McGrath: He is special.

Deputy Micheál Martin: -----through this type of legal manoeuvring.

Deputy Mattie McGrath: This is an important matter.

Deputy Micheál Martin: It is unacceptable. I will put my request to the Taoiseach to the Leas-Cheann Comhairle as well, as he is now in the position of the Ceann Comhairle, who unfortunately cannot be with us today. It is a reasonable request to put to the Chair and on which to get the agreement of the Taoiseach, who has the obligation to lay motions before the House, namely, to withdraw the motion so that we can have, at the very minimum, full transparency regarding this entire episode.

Deputies: Hear, hear.

Deputy Micheál Martin: For example, making available to Members of the House all of the correspondence to the Ceann Comhairle and the Taoiseach from Deputy Shatter's solicitors and legal firm as well as the Ceann Comhairle's letter-----

Deputy Mattie McGrath: At the very least.

Deputy Micheál Martin: -----to the Minister outlining his interpretation of Standing Order 57(3) would be a minimal and reasonable request. With due respect for what Opposition Deputies are saying, I ask the Leas-Cheann Comhairle not to proceed with this matter today pending my request and a reconsideration by the Ceann Comhairle. The Taoiseach's withdrawal of the motion would in no shape or form be him going against the Ceann Comhairle's ruling. This was on yesterday's Order Paper and was pulled. There is no reason not to remove it from today's Order Paper and to move it to next week. In the interim, we could have full transparency and engagement on the issue of why the Dáil was about to establish an inquiry when not a single Deputy could comment on the merits, demerits or otherwise of the establishment of that inquiry.

Deputy Mattie McGrath: Four more days.

Deputy Micheál Martin: I have never witnessed this before in the House.

Deputy Gerry Adams: I asked the Taoiseach whether Deputy Shatter or anyone acting on his behalf had been in touch with the Taoiseach's Department, the Ceann Comhairle or anyone else in the Oireachtas, but he did not answer.

2 o'clock

I had to ask the question again before he conceded and he has not told us the content of the letter. This is the stuff that the Government is not good at. This is where they make a mess of it and they have consistently made a mess of it.

It should have been a simple, straightforward matter for the Government to order business in a way which took on board the Ceann Comhairle's views, if that was in the Taoiseach's mind, but allowed Members to have our say on these matters. Instead, however, we had to drag it out of him. That has consistently been the record of this Government - not coming forward and empowering people here with information on which we can make sound judgments.

Deputy Mattie McGrath: It is Deputy Shatter's legacy.

Deputy Gerry Adams: I also asked if the Taoiseach had consulted or sought an opinion from the Attorney General. Do we have the legal advice that the Ceann Comhairle was given? I am appealing for it again. The Taoiseach can go ahead with this vote, lining up all the back-

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benchers to fill the lobbies and it will go through without a doubt, but he should not do that. He should reorder it for tomorrow or next week, as opposed to doing what he has been doing since he came into office.

Deputy Mick Wallace: On a point of order, I asked a question yesterday on whether the Taoiseach had a letter from the former Minister, Deputy Shatter. Both the Taoiseach and the Minister for Justice and Equality shook their heads. They did not say anything, they just shook their heads.

An Leas-Cheann Comhairle: That is not a point of order, Deputy.

Deputy Mick Wallace: I want that corrected. The Taoiseach should check the record. I asked the question and they shook their heads when I asked if there was a letter from Deputy Alan Shatter.

An Leas-Cheann Comhairle: I call on the Taoiseach to conclude on this.

The Taoiseach: As I said, the situation is very clear.

Deputy Timmy Dooley: Where is it clear?

The Taoiseach: The letter that was received-----

(Interruptions).

The Taoiseach: There is a court case listed on this matter now. The letter was sent to the Ceann Comhairle on 25 November 2014 by Deputy Shatter in respect of the Guerin report and the proposed terms of reference for a commission of investigation. That was written to the Ceann Comhairle on 25 November. My private secretary received a letter on 8 December 2014 enclosing a copy of that letter. That was a covering letter from the legal firm of solicitors.

Deputy Gerry Adams: Acting on whose behalf?

The Taoiseach: A copy of the letter that Deputy Shatter sent to the Ceann Comhairle-----

Deputy Peter Mathews: Was he writing as a Dáil Deputy?

The Taoiseach: Deputy Shatter wrote to the Ceann Comhairle on 25 November. My office received a copy of that letter on 8 December with a covering letter from the legal firm of solicitors, Gallagher Shatter. In that letter they requested that the reference in the terms of reference to the Minister for Justice and Equality would be withdrawn. The private secretary had previously written to the firm of solicitors indicating that when the terms of reference would be approved by the Government, the legal firm would be notified. He indicated that at its meeting on 19 November the Government proceeded to approve a draft order to establish a commission of investigation under the Commissions of Investigation Act 2004. That was the correspondence that came through there.

Deputy Clare Daly: On a point of order, subsequent to that the Government, on the last day before Christmas when this House had finished, decided to publish the terms of reference of the commission and ignored a request of Deputy Shatter's solicitors, so why would it be an issue now?

Deputy Frances Fitzgerald: The Ceann Comhairle has decided that.

The Taoiseach: At its meeting of 19 November the Government approved the terms of reference. The letter that came to me was not about this debate, it was about a request to remove the reference to the Minister for Justice and Equality from the terms of reference.

Deputy Clare Daly: And he did not. He published the reference without it.

The Taoiseach: Obviously, the terms of reference speak for themselves where that reference is still included. The Ceann Comhairle has ruled on that basis, under section 57(3), that a debate cannot be held on the terms of reference. The Government is very clear on the terms of reference and the Ceann Comhairle has so ruled.

Deputy Micheál Martin: We need copies of that correspondence.

Deputy Gerry Adams: We need a new Order Paper.

Deputy Frances Fitzgerald: There is a court case.

Deputy Micheál Martin: This is very important, a Leas-Cheann Comhairle. Let me give some sense of how serious this is. It goes to the heart of what this Dáil is about. We do not want to participate in a sham.

Deputy Mattie McGrath: We will stay at home.

Deputy Micheál Martin: At the very least the Dáil should adjourn or we should wait until the Ceann Comhairle comes back to give a proper, rational explanation as to what is going on here. We should have full transparency in terms of the interaction between Deputy Shatter, or his legal representatives, and the Ceann Comhairle's office. We were not told about any of this until this very minute - the last moment, the eleventh hour. I have never before witnessed an inquiry being established thus. Will the inquiry itself encroach upon the courts, as per the Ceann Comhairle's ruling? There is no rational logic to this, so I ask that the Dáil be adjourned. The Taoiseach is refusing to withdraw the motion but I think he should do so. Pending that, the Dáil should be adjourned. I want some substantive answer from the Ceann Comhairle's office as to what is going on here and why this has happened. The Leas-Cheann Comhairle can make a ruling to adjourn on this specific issue. What is going on is unacceptable.

Deputy Caoimhghín Ó Caoláin: On a point of order, I am asking if the Taoiseach would accept-----

An Leas-Cheann Comhairle: I am sorry, Deputy. The Taoiseach is on his feet.

The Taoiseach: Yesterday, the Government Chief Whip informed the other parties' Whips of the Ceann Comhairle's decision and they were quite free at that stage to take the matter up with the Ceann Comhairle's office.

Deputy Micheál Martin: No, we were not informed.

An Leas-Cheann Comhairle: Deputy Ó Caoláin was the first to indicate. He has the floor.

Deputy Caoimhghín Ó Caoláin: Will the Taoiseach explain how a decision of the House now not to proceed with this matter and deferring it for a number of days would in any way be in conflict with the Ceann Comhairle's view? It would not be but it would certainly allow for an opportunity for proper engagement, proper explanation and then with the full information we could re-examine the matter. To proceed now would be absolutely outrageous. I appeal to

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the Taoiseach not to set the addressing of these matters off on this poor beginning. That would be a sham. We need to have full clarity but that is not available to us.

Deputy John McGuinness: On a point of order, we have been asking for copies of the correspondence and any legal advice or the whole narrative in relation to the lead-up to this, yet the Taoiseach has not answered. Will the correspondence that the Taoiseach and the Ceann Comhairle have been released to Members? While we are waiting for that to happen, is it not fair to ask that this matter would not be dealt with by this House? If necessary, the House should be adjourned. Members on this side might wish to seek legal advice.

An Leas-Cheann Comhairle: We have gone away from the Leaders now.

Deputy John McGuinness: I have asked the Taoiseach a question.

An Leas-Cheann Comhairle: I am sorry but we are following the Order of Business.

Deputy John McGuinness: It is a point of order and the Taoiseach has not responded.

An Leas-Cheann Comhairle: I will ask the Taoiseach if this matter can be deferred until the Ceann Comhairle comes back.

The Taoiseach: The Cabinet made a clear decision to set up a commission of investigation. It did so in the context of the advice of the Attorney General who does not advise the Ceann Comhairle. The Attorney General advises the Government. The Government made its decision and the terms of reference are there dealing with the outcome of the investigation into certain matters in the Cavan-Monaghan area, arising from the Guerin report. The notification was sent yesterday by e-mail from the Whip's Office to all of the other Whips and they chose not to follow that through.

Deputy Micheál Martin: How do you know, Taoiseach? What did we not follow through?

The Taoiseach: The Minister for Justice and Equality received her letter this morning. The Whip followed through with the Committee on Procedure and Privileges, but the ruling of a Ceann Comhairle is not reversible. The Ceann Comhairle has made his ruling.

Deputy Micheál Martin: He has reversed them before.

The Taoiseach: He has found that under section 57(3) a debate is not allowable on the terms of reference of this commission of investigation in the manner in which he has interpreted those rulings. The Government set out to have the commission of investigation established and its terms of reference debated. The Ceann Comhairle, in his utter independence, has made his ruling-----

Deputy Mattie McGrath: Is he being intimidated?

Deputy Caoimhghín Ó Caoláin: It is not the Ceann Comhairle who is insisting on proceeding.

The Taoiseach: -----to the effect that a debate is not allowed.

Deputy Mattie McGrath: Is he being intimidated?

The Taoiseach: As I already indicated to Deputy Adams, the correspondence I received

last year was from the legal firm and it included a copy of the letter to the Ceann Comhairle requesting that the reference to the Minister for Justice and Equality would not be part of the terms of reference.

Deputy Gerry Adams: The Taoiseach should not stop the debate. Rather, he should postpone it.

Deputy Micheál Martin: It should be deferred.

The Taoiseach: As the Deputy knows, the Government left it in as part of that. What we need to do now is proceed with setting up the commission of investigation, which is very important.

Deputy Mick Wallace: You misled the House yesterday.

Deputy Caoimhghín Ó Caoláin: What the Taoiseach says is completely wrong.

The Taoiseach: I ask the Leas-Cheann Comhairle to put the matter to a vote.

(Interruptions).

Deputy Micheál Martin: There have been many tribunals of inquiry-----

Deputy Timmy Dooley: On a point of order-----

An Leas-Cheann Comhairle: I will put the question.

(Interruptions).

Deputy Timmy Dooley: I want to invoke my right as a Member of this House to raise a point of order and I expect the Leas-Cheann Comhairle to listen to what I have to say.

An Leas-Cheann Comhairle: I must put the question.

Deputy Timmy Dooley: The Leas-Cheann Comhairle cannot do that. He saw my hand raised and I have called a point of order. I ask that I be heard.

Question put: "That No. 25a be decided without debate."

An Leas-Cheann Comhairle: As those who called the division have not nominated tellers, I am required, in accordance with Standing Order 70, to declare the termination of the vote in favour of the other side. The question is, therefore, carried and the proposal is agreed.

Question declared carried.

An Leas-Cheann Comhairle: Is the proposal for dealing with No. 51, motion re approval of the draft Commission of Investigation (Mother and Baby Homes and Certain Related Matters) Order 2015 (resumed), agreed to? Agreed.

Deputy Tom Hayes: Can we agree the budget?

An Leas-Cheann Comhairle: As Deputy Griffin is not present for No. a18, we will proceed to the next item, No. 25a.

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Draft Commission of Investigation (Certain Matters relative to the Cavan/Monaghan Division of the Garda Síochána) Order 2014: Motion

Minister for Justice and Equality(Deputy Frances Fitzgerald): I move:

That Dáil Éireann approve the following Order in draft:

Commission of Investigation (Certain Matters relative to the Cavan/Monaghan Division of the Garda Síochána) Order 2014,

copies of which Order in draft were laid before Dáil Éireann on 19 December 2014.

Question put and agreed to.

Sitting suspended at 2.25 p.m. and resumed at 3.25 p.m.

Topical Issue Matters

Acting Chairman (Deputy Frank Feighan): I wish to advise the House of the following matters in respect of which notice has been given under Standing Order 27A and the name of the Member in each case: (1) Deputy Brendan Smith - the need to engage immediately with the senior management of BOSE Corporation to reverse the company's decision to close its manufacturing facility in Carrickmacross, County Monaghan; (2) Deputy Pat Rabbitte - the options open to residents living with anti-social behaviour; (3) Deputy Terence Flanagan - the need for a fresh inquiry into the Stardust fire; (4) Deputy Seán Conlan - that need to ensure the communities affected by the North-South inter-connector are consulted by EirGrid about specific underground route options before the Minister for Communications, Energy and Natural Resources allows it make any fresh application to An Bord Pleanála; (5) Deputy Charlie McConalogue - the concerns regarding the primary online database; (6) Deputy Mick Wallace - the latest revelations of widespread breaches of the penalty points system; (7) Deputy Áine Collins - the need to persuade the Irish Sports Council to recognise the Trout Anglers Federation of Ireland as a national governing body, NGB; (8) Deputy Clare Daly - the IAG takeover bid for Aer Lingus; (9) Deputy Billy Timmins - the implications following the recent Supreme Court judgment with respect to the Mahon-Flood tribunal; (10) Deputy Niall Collins - the Garda professional standards unit report on penalty points; (11) Deputy Michael Moynihan - the shortage of kidney transplant surgeons; (12) Deputy Finian McGrath - the sale of Aer Lingus; (13) Deputy Patrick O'Donovan - in light of the announcement from the Central Bank yesterday regarding the revised rules on mortgage lending for first-time buyers, the need to amend the Building Control (Amendment) Regulations 2014 regarding one-off houses; (14) Deputy Eamonn Maloney - the need for regulations to administer mortgages in distress; (15) Deputy Timmy Dooley - the protection of Irish airports' access to London Heathrow and the IAG bid for ownership of Aer Lingus; (16) Deputy Mattie McGrath - the urgent need to clarify the status of enhanced redundancy claims for former workers of the Tipperary hostel project; (17) Deputy Bernard J. Durkan - the difficulties experienced by parents seeking to enrol their children at Scoil Uí Riada, Kilcock, County Kildare; (18) Deputy Paul Murphy - the offer by IAG to purchase the Government's share in Aer Lingus; (19) Deputy Kieran O'Donnell - the takeover bid by the IAG group for Aer Lingus and the need to maintain the Heathrow slots; (20) Deputy Billy Kelleher - the reports that the parents of a four-year-old cancer patient who was turned down for a medical card are being pursued by a hospital debt collector for almost €1,000 in care-related bills; (21) Deputy

Colm Keaveney - the need to address Ireland's fall in a European health ranking survey, with specific regard to waiting lists; (22) Deputy Ruth Coppinger - the offer by IAG to purchase the Government's share in Aer Lingus; and (23) Deputy Richard Boyd Barrett - the need to address the plight of deferred pensioners in the Irish airlines superannuation scheme, IASS.

The matters raised by Deputies Pat Rabbitte, Charlie McConalogue, Bernard J. Durkan and Billy Timmins have been selected for discussion.

Topical Issue Debate

Anti-Social Behaviour

Deputy Pat Rabbitte: Anti-social behaviour is eating away at the heart of some of our communities and causing misery for families trapped in certain neighbourhoods. I am thankful to the Minister for Justice and Equality for being here.

This is not an issue that the actions of a single Minister can combat sufficiently. There are a number of different dimensions to this problem. Certainly, policing is one of them, but there are also responsibilities with the housing authority. There is responsibility in terms of estates management and there is responsibility in the matter of drug abuse in some of those communities.

It is not widely understood how bad the phenomenon is in some estates in my constituency, in the Minister's constituency, in many parts of west Dublin and in many urban areas. It is corroding the fabric of community in those areas.

It is a difficult issue for policing. It is a difficult issue in which to mount effective prosecutions. I am afraid that long-term law-abiding residents in those areas think that those gangs of youths can maraud and rampage with impunity and that the State's agencies and institutions are not capable of dealing with it.

The housing authority has a comprehensive code of conduct in respect of anti-social behaviour but it does not enforce it. There is no conviction among residents that the housing authority or local authority will enforce its own code of behaviour. As a result, the thugs target people who are vulnerable - people living alone, older people, women and sometimes immigrants. In my constituency recently on four consecutive occasions they have broken into a primary school. Their takings over the four break-ins were €8 but the damage done to the school was of an immensely greater value. They have broken into the community enterprise centre and done serious damage to some of the social enterprise units there. They have attacked the private property of some people attending meetings in the area.

It is not a very good example for those youths, who in some cases are out of control, that they can see on YouTube or on television today the reprehensible attack by thugs on the President, which is something I have never seen in my 30-plus years in politics. I have little time for the weasel words of those who send out the travelling shock troops on such occasions and then seek to hide behind their reprehensible behaviour.

We must come up with more effective ways of combatting this phenomenon. Community policing is a very important aspect of it. A careful tenancing policy is another very important factor. The local authority must be seen to act against some families. If there were evictions the word would go around, but the local authority does not push it as far as evictions, for not very

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good reasons. I accept that the issue is complex. The local authority says it would be stuck with a particular family and would have to find somewhere to rehouse them. The fact of the matter is that one cannot make people's lives a misery in the fashion that is happening. If it is only one youth in a particular family then the law ought to facilitate an exclusion order such that he can be removed from enjoyment of the house. It is a very serious issue in parts of Dublin city and parts of urban Ireland. I am very pleased that the Minister for Justice and Equality, Deputy Frances Fitzgerald, is present.

Minister for Justice and Equality (Deputy Frances Fitzgerald): I thank Deputy Rabbitte for raising this very important issue. It is critical that the matter be addressed, for the well-being of communities but also of individuals and families. The intimidation that happens has the result of causing upset to residents who are living their lives as best they can, and their lives are interrupted by such behaviour. It can also be very frightening for individual residents. Those concerns are very prominent in my work as Minister. From my role as a public representative I am aware that the issue raised by Deputy Rabbitte is one that demands ongoing attention and intervention.

In so far as the specific local circumstances to which Deputy Rabbitte referred are concerned, I will raise them with the Garda Commissioner and will revert to the Deputy when I have a detailed assessment of the particular instances he has highlighted. I would be very happy to meet with him to discuss the issues and to see what further action could be taken. I have been in contact with the Commissioner about the type of issue raised by Deputy Rabbitte. It is a key priority for the Garda to tackle anti-social behaviour and such public disorder as has been outlined, as will be evident in the policing plan for the year, which will be published shortly. I join with Deputy Rabbitte in what he said about the reprehensible attack on the President last week by anti-social elements who thought it was appropriate to do so.

I wish to mention some of the measures in place to tackle anti-social behaviour. Recruitment to the Garda Síochána has started for the first time since 2008. A further 100 recruits will begin training next week. That will give the Garda the opportunity to deploy extra staff and to examine where gardaí are posted. That is clearly a matter for the Commissioner, but I hope some of the 300 new recruits will be available to tackle such behaviour in a range of communities. The increased funding provided for Garda vehicles and for the justice budget generally is a significant background support to the police presence and to police work. I make that point in a general way.

I wish to refer to the wide range of powers that are available to the Garda at present. Deputy Rabbitte made the point that certain powers exist but he asked whether they are sufficiently used. We must ensure they are used. The Criminal Justice Act 2006 contains provisions for civil proceedings to be taken against adults or children for anti-social behaviour. The range of powers include juvenile and adult cautions, fixed charge penalty notices and the bringing of prosecutions. I will discuss again with the Commissioner whether she feels the legislation could be strengthened in any way to give the Garda more powers.

The young people whom Deputy Rabbitte described are a subset of young people. Many young people behave extremely well. Particular groups of young people are involved in anti-social behaviour. Garda youth diversion projects have been extremely successful and we will invest in them further this year. The Tallaght Youth Service operates a youth diversion programme in the Tallaght area. A total of €11 million has been invested in the programme and a further €2 million will be allocated this year, which will allow for a variety of extra places

in areas that are identified as being in most need of such a programme. I have seen such programmes operate effectively, as I am sure has Deputy Rabbitte.

I would like to go into more detail on local policing and some of the action that has been taken, for example, by South Dublin County Council. New by-laws introduced in 2011 allow the Garda to remove scrambler bikes, quads and other vehicles from parks and open spaces. That is an important initiative. The joint policing committees are important in terms of the collaboration that is needed, as outlined by Deputy Rabbitte, in certain areas. From discussion with the Garda Síochána it appears that a very targeted approach is needed in particular areas where anti-social behaviour is prevalent. It is a question of ensuring that happens.

The Deputy referred to inter-agency collaboration and he also referred to housing. The Housing (Miscellaneous Provisions) Act 2014 has been enacted. In the first quarter of this year the Minister for the Environment, Community and Local Government will commence Part 2 of the Act. That will strengthen the powers of housing authorities to obtain court orders to exclude persons engaged in anti-social behaviour from local authority accommodation and estates. I agree with Deputy Rabbitte that such an initiative is needed in certain circumstances. A clear message must be given to families who persist in anti-social behaviour on an ongoing basis. The new housing legislation strengthens the power of local authorities to remove such families. It is the responsibility of everyone involved in local communities - the Garda, local authorities and those involved in community development - to bring instances of anti-social behaviour to the attention of housing authorities if removal is deemed to be the solution in certain circumstances. In the first quarter of this year the law will be strengthened to ensure housing authorities have greater power to do that.

Deputy Pat Rabbitte: I thank the Minister for her reply. She is correct in stating that we are talking about small gangs of out-of-control youths. I look forward to the commencement of the legislation to which she referred, but it is very important that the Minister for the Environment, Community and Local Government send a signal to local authorities that they are expected to enforce their own code. There is no point in having a considered code to deal with the phenomenon of anti-social behaviour unless it is enforced. In my experience, local authorities are not enforcing the current regulations and as a result those young gangs believe they can do what they are doing with impunity.

I have seen very sad cases. There are some people who cannot peacefully enjoy their own homes. I know of cases where people are afraid to go out at night and where women living alone feel vulnerable and exposed. I know of circumstances where, over Christmas, a single man's residence was broken into and the few bob in savings he had in the world were stolen while he was at work at night as a night watchman. They know his movements because they had tracked them. They were ready for it, they broke in and did damage. Sometimes they engage in wanton destruction just for the sake of it.

I thank the Minister. It would be important that the Government jointly would send out the signals that she has sent out. Community policing generally works very well but where policemen or policewomen are dragged off to do other tasks, there is a gap and it always needs support and backup.

This is the first Government since the mid-1990s that has not had a Minister with responsibility for a drugs programme. I respectfully say, as someone who supports the Government, that it would be a very good idea if a Minister of State were given explicit responsibility for the

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drugs programme. The national drugs strategy needs the kind of political focus that a Cabinet Minister responsible for the Department of Health cannot possibly give to what is a significant issue in parts of urban Ireland. Such an appointment should be considered.

Deputy Frances Fitzgerald: I thank Deputy Rabbitte. I will work with the Minister for the Environment, Community and Local Government and I will send him a note on the specific issues raised by the Deputy, that the local authorities be informed of the commencement of Part 2. I will ensure that the Garda Commissioner is made aware of it because it may well have an impact on the work of local policing. If the Deputy has any particular issues that he wishes to bring to my attention, I am sure that if the information is available and if evidence can be found, there will be criminal investigation into some of the cases to which he referred.

School Enrolments Data

Deputy Charlie McConalogue: I thank the Ceann Comhairle for selecting this matter which is generating a lot of interest. I thank the Minister of State, Deputy Damien English, for taking this matter.

I will outline and confirm my support for the development of a centralised information system for primary schools. However, serious concerns have been raised about the Minister's heavy-handed implementation of the primary schools online database or POD system. She has done little thus far to allay the concerns of parents over the security of sensitive information relating to their children. Some serious issues have been raised by parents and the wider public that their data protection rights and legal protections are being ignored by the Minister.

Is it the Minister's intention to threaten to decrease the capitation grant for schools or increase the pupil-teacher ratio for schools where parents have made the decision not to allow their children's details to be included in the primary online database system? For example, if a small primary school has 20 students and the parents of two students did not allow the information to be provided, would that school lose a teacher as a result?

Serious issues have been raised with regard to the level of security of the database. The Minister has tried to allay any data security concerns by stating that data collected by POD will be encrypted on a central system, with access restricted to approved officials in the Department of Education and Skills. However, the Minister has not addressed issues over the security of individual schools' own computer systems. Since schools will have to collect the data and transfer it to the POD system in the Department, children's details may be kept on unsecured and unencrypted computers in schools. Can the Minister give a guarantee as to who will have access to this highly sensitive data on our children?

We are told that the collection process is secure due to a step-by-step system of transferring the data from schools' computers to the Department. How realistic is the proposed system? The Department expects school staff to transfer this highly sensitive data to the Department of Education using a 17-step process so complex that it has been dubbed by principals as near unusable.

It is questionable whether the POD system is in compliance with the Data Protection Act and unclear whether the Data Protection Commissioner has approved the system. We are told that the Department intends to gather sensitive, private data on all primary school students in

the country, to include their racial profile, psychological assessments, special needs, religion, and PPS number and that this information will be stored until the children concerned are at least 30 years of age. I question why that needs to be the case.

The Minister has stated that the Data Protection Commissioner has agreed to the data retention policy. I refer to recent remarks by the commissioner: “[I]t seems to be the case that there’s an inadequate explanation of why they need it and why they need to hold it for as long as they are holding it.” Has the decision on the retention of this data been made in consultation with the Data Protection Commissioner? Has the commissioner given express approval for the retention of all the details being collected? Is he aware of the Department’s circular on this matter?

Minister of State at the Department of Education and Skills (Deputy Damien English): I thank the Deputy for raising this issue and for giving us the opportunity to discuss it and to deal with some of his concerns. I agree that parents are concerned. There is misinformation and exaggeration associated with this issue.

It has long been recognised that there is a need for individualised pupil information to be collected at primary level to fulfil our requirements as a Department to ensure that every child of compulsory school age in the State is in receipt of an education and to allow us to monitor the progress of pupils through the system in order that we can develop an evidence-based educational policy. Such a system has been called for from sources as varied as schools, the National Parents’ Council, school management bodies and unions, the Comptroller and Auditor General, the National Economic and Social Forum, the Central Statistics Office, and groups and charities working for children. The current system of record-keeping and data collection means that information provided to the Department from primary schools is quite often out of date by the time it is eventually processed and passed to areas that need it such as the inspectorate, school governance, forward planning and various grant payment and teacher allocations.

The proposed primary online database will allow the Department to have access to timely and relevant information about the stocks and flows of pupils in our primary schools. This will aid us tremendously in carrying out our functions and providing the best possible service to schools and pupils. Moving to an electronic system will also help to streamline administration at school level and to reduce form filling, red tape, and the duplication of information requests, thus allowing school staff to focus more on their primary objectives of educating our children. Individualised student databases are now commonplace across the Irish education system, as well as in other countries. Individualised data coverage is already in place at pre-primary, post-primary and third level education and a system is currently being developed to cover the further education sector.

I understand that people have concerns about the confidentiality of their children’s data. From the point of view of data security, this data will be accessible only by a small number of people in the Department and it is stored securely on a server protected by Government firewalls.

The Deputy has raised genuine issues relating to the secure storage of the data in schools. I will revert to the Deputy with further information to allay any fears. The current retention policy for the primary online database, POD, data is for records to be maintained up to a pupil’s 30th birthday. In future, schools will no longer be required to keep the official pupil registration book in paper format. Therefore, POD will be the official register of pupils in schools and the data will be retained to allow pupils to obtain their official enrolment records in the future,

should they require them for any reason. The Department will continue to review its retention policy for pupil data in consultation with the Office of the Data Protection Commissioner. Discussions are continuing with the Data Protection Commissioner. The Deputy asked if the Data Protection Commissioner is aware of this policy and I believe he is. There is ongoing engagement with his office on the implementation of this policy.

The Department's retention policy is for audit and accounting purposes as pupils' data will be used in the allocation of teaching posts and funding to schools. The policy also serves to trace retention trends in the education system and is important for longitudinal research and policy formation as well as being an important statistical indicator nationally and internationally. Aggregate and not individual data is used for the majority of these purposes.

The Department takes confidentiality very seriously and the pupil data are stored securely in the Department's Oracle database. This database is hosted on the Department servers, which are located in the Revenue Commissioners' data centre on St. John's Road. Access to the server is protected by Revenue and Government firewalls. Staff of the Revenue Commissioners do not have access to the data on the database. The primary online database, POD, application roles developed limit school staff to viewing and maintaining their own pupil records. Access within the Department to POD data is limited to the POD team, which numbers fewer than 15 people. No agency or other Department will have direct access to the primary online database.

It is important that people realise the information is to be of use to plan services. I listened to much of the debate about the restoration of PPS numbers and the debacle with Irish Water. Every Deputy knows that every day of the week we use PPS numbers in our offices. The first thing people who come to our offices do is give us their PPS number to help us do our work. As practitioners we use PPS numbers every day of the week, but some people in the House use every occasion to stir up people's emotions about the use of PPS numbers. Go into any Deputy's office and I guarantee that the first thing one will be asked for is one's PPS number. It is like one's address in some ways. It is one's identification number for access to information which people use in all Departments. We must be secure, and data protection issues are very important, but the hysteria generated about the use of PPS numbers is hard to take from some Deputies who use the information themselves every day. I have no problem with other issues of concern, and Deputy McConalogue is raising genuine concerns which need to be dealt with and explained. I wanted to address the PPS number issue because it is exaggerated by people in the House who know well how they are used.

Deputy Charlie McConalogue: I thank the Minister of State for his reply. I am supportive of a database being developed for the primary school system, similar to what is already in place for the secondary school system. However, genuine concerns have been expressed to me by parents and teachers, in particular school principals who are responsible for overseeing the collection of this data at primary level. This is why I have asked the questions today seeking reassurance. There has not been clarity from the Department on the development of the database or in the information being provided to schools and parents on the information being sought. I do not find in the answers which have been provided today the full reassurance I was hoping would come from having asked the question. The Minister of State has undertaken to come back to me on how this information would be retained in schools internally on their own computer systems. This is very important and I ask that the Minister of State does come back to me with further information on this. I also asked the Minister of State why this information will have to be kept until the student is 30 years of age. I did not receive a response today on why this is necessary. I do not see it myself, which is why I am asking for an explanation. We deserve this.

I am being asked whether schools will be penalised if they are not in a position to provide the information requested for the database because parents refuse to give it. As I outlined earlier, the information involved is quite sensitive. The Minister of State mentioned PPS numbers. There is also information on students' special needs, psychological assessments of students and students' racial profile, background and religion. People are increasingly concerned about how their data are kept. I would like answers on why the data must be kept for so long. Principals have been asking me what happens when a family refuses to give the information. Will the school be penalised with regard to capitation or the inclusion of the pupil in the calculation of the pupil-teacher ratio?

With regard to the financial support given to schools for this very onerous administration task being asked of them, I understand that €1.50 per pupil is allocated. This simply does not match the level of work and effort which already overstretched and financially burdened schools must undertake to collect this information. Will the Minister of State confirm the level of subsidy being given to a school? Is it €1.50? If so, how on earth was this calculation made and will the Minister of State revisit it?

Deputy Damien English: The Deputy has raised several issues and I have undertaken to come back to him with information on those which I cannot answer at present. The information on religion, ethnicity and culture is collected on an optional consent basis. I am not sure whether the Deputy is aware of this. Information on religion is collected solely for statistical purposes, and the data collected on ethnicity and cultural background will allow us to determine the effect of targeted education interventions on Traveller education or education for non-Irish who need more support. It is for genuine use in planning resources and directing additional capitation grant funds to schools which need them. The Deputy is sensible enough to know there is a reason for collecting information, which is to be able to plan and put in place resources. One can see the benefits of using proper data in school planning in recent years. This was not done in the past and schools popped up at the whim of certain Deputies or Ministers, which is not the proper way to run the system. Our education system has suffered in the past from a lack of proper planning. One needs to collect data to be able to plan and that is what this is about.

The reason the information will be kept until people are aged 30 is because it will be part of their personal history which people will want to use. We often go to schools for information from past roll books with regard to who was there. I believe it is causing concern and we probably need to bring more clarity to it.

With regard to capitation grants, with the best will in the world the old system often had duplication. We hope this will not happen in the new system and we will be able to have greater and clearer allocation of resources.

I will come back to the Deputy on the other issues he raised.

Acting Chairman (Deputy Frank Feighan): Before we move on to the next Topical Issue matter, I am concerned we have overrun the time allocated and I ask the Deputies and Ministers of State to try to keep within the time.

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School Enrolments

Deputy Bernard J. Durkan: The Acting Chairman's intervention on the time issue was timely. I will deal with the issue as quickly as I can. The Minister of State is aware of the particular situation which has emerged in Kilcock, County Kildare, which relates to the difficulty parents have in enrolling their children in Scoil Uí Riada, which moved to a new building in 2008. It has been very successful and caters for a wider catchment area than most people would expect. It provides educational facilities in the town of Kilcock along with two other schools, Scoil Chóca Naofa and St. Joseph's. All of the schools are of an excellent quality and give an excellent service, but it just so happens, as has occurred in many other schools in areas with population expansion, that a difficulty has arisen in the current year. Many parents, some of whom are enrolling a first child, thought they had enrolled their child last year but now find they cannot obtain a place in the next school year.

I am aware this is a local issue, but it is one which can be resolved. I thank the Ceann Comhairle and the Minister of State for affording me the facility of raising the matter, which I am doing on the basis it might be possible to arrange a meeting, under the auspices of the Minister for Education and Skills, involving the patron, the school authorities and, perhaps, representation from the two other schools in the area, with a view to achieving a satisfactory and amicable solution. A great deal can be done on a subject of this nature at local level with encouragement from the statutory authorities such as the Department of Education and Skills, hence my request that if at all possible, at the earliest possible date, the Minister might arrange a meeting between all of the parties concerned to make a special effort to resolve the difficulty at this stage.

4 o'clock

It should fall within the realms of easy resolution if we deal with it in time.

Deputy Damien English: I thank the Deputy for raising this issue. He is right in saying it is an important issue, one of which the Department is aware, and it needs resolving. I am taking this matter on behalf of my colleague, the Minister, Deputy Jan O'Sullivan, who cannot be here today as she is attending some meetings down the country.

I thank the Deputy for raising this matter as it gives me the opportunity to remind the House of the significant challenges facing us in terms of meeting increasing demand for pupil places throughout the country in the coming years as well as clarifying the position in regard to the provision of school places in Kilcock, County Kildare. We had a debate on foot of other parliamentary questions in recent days regarding the additional funding that has been won for education which has nearly all been swallowed up by the increasing numbers with the change in demographics, and extra places are needed across all the levels of education.

The Deputy will be aware of the demographic challenge facing the education system in the coming years. Nationwide, the Department expects that it will be required to provide some 152,000 extra primary and post-primary school places in the coming years. It is vital therefore that there is sufficient school accommodation available to cope with these pupil enrolments to ensure that every child will have access to a physical school place. To meet the needs of our growing population of school-going children, the Department must establish new schools as well as extend or replace a number of existing schools in areas where demographic growth has been identified. The delivery of these new schools, together with extension projects to meet future demand, will be the main focus of the Department's budget for the coming years.

While the Department would be seeking to provide additional accommodation to meet demographic growth, it would also aim to ensure maximum use of existing school accommodation. A priority therefore for the Department is to ensure that schools in an area can, between them, cater for all pupils seeking places and that there is sufficient overall capacity. This may result in some pupils not obtaining a place in the school of their first choice.

The Department has recently completed a nationwide demographic review to determine where additional primary school places might be needed from 2015 onwards. On foot of this review, it has been determined that there is no additional primary educational infrastructural needs in Kilcock beyond that recently delivered or already planned and in train to meet the area's needs. The Department is not in a position to duplicate provision in any area when it has a requirement to provide some 152,000 extra school places nationwide over the coming years.

Gaelscoil Uí Riada, which was constructed by the Department at a cost of €4.2 million, is recognised by the Department as a two-stream national school. Its annual intake comprises two junior infant classes and grows incrementally each year to sixth class. As a once-off arrangement, the patron approved an intake of a third junior infant class for the 2014-15 school year only. This once-off arrangement was pending the outcome of the patron's proposal that the boys' and girls' schools in Kilcock, St. Joseph's and Clochar na Naofa, would offer co-education. The proposal originated from parental demand for co-education in Kilcock and followed consultation with all of the relevant stakeholders locally, including parents and school staff. The co-educational arrangement will commence next September and the Department understands that St. Joseph's and Clochar na Naofa have initiated the enrolment process for September 2015. All these schools in Kilcock will therefore offer co-education from 2015 onwards.

I also wish to advise the Deputy that the Department is in contact with the patron of the three schools in Kilcock in regard to enrolments for the forthcoming school year. The Department understands that the patron is consulting directly with the schools concerned relating to the enrolment matters raised. The Department will continue to liaise with the patron, which has ultimate responsibility for the governance and management of the schools concerned.

The Deputy has asked for a specific meeting. I can discuss that with the Minister and see if the Department considers there is the need for that to happen. There was a sense with the engagement with the patrons and across the board that matters were beginning to move. However, I will convey the Deputy's recommendation to the Minister and see if that needs to be arranged.

Deputy Bernard J. Durkan: I thank the Minister of State for the content of his reply and I hope that the meeting sought can be arranged as quickly as possible. It could do an awful lot at this stage to resolve and explain the issues from both perspectives and that could be done in an amicable fashion. The longer issues of this nature are allowed to drag on, the more they exacerbate the situation. I welcome the Minister of State's indication of being willing, along with his ministerial colleague, to facilitate such an event.

As the Minister of State will be aware, there is an ongoing debate for the provision of a Gaelcholáiste in the general area as well. I emphasise that the demand is growing rapidly and much more rapidly than I thought. From the age profile of the people I saw at a recent public meeting in the town, there is a huge demand arising and it is coming much faster than was anticipated. I must say to the Minister of State that I fear for the Meath footballers in time to come because Kildare is ready and waiting to produce a new population to deal with that. On a more serious note, I ask that the Minister encourages all the parties concerned under the aegis of the

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Department of Education and Skills to come together in the fashion I suggested.

Deputy Damien English: I am shaking in my boots at the prospect of Kildare coming at us. The Deputy should start threatening the Dubs first after last week. Likewise, the population of Meath is growing as well, so there might be increased competition between Kildare and Meath in the years ahead, but neither of us have much to boast about at the moment, so we will have to work on that.

On the issues raised by the Deputy, he is right. The idea is that the Department is trying to get everyone talking and I believe the patrons are doing that at the moment. I hope that will give the result the Deputy requires, and if it does not, we will have to examine other ways of doing that. The Deputy suggested a meeting. I will convey that message to my colleague and we will see what can be done in that respect.

The issue is the future demographics, to which the Deputy referred. In fairness, the forward planning unit of the Department of Education and Skills has been very successful in recent years in planning ahead and making sure that areas under serious pressure in terms of demographics are getting their schools built in time and the school places available in time, which did not happen in the past. However, under this Government that has changed and there is now proper forward planning. We have the school five-year plan that will end next year and we have another five-year plan due to come out following that, which will specifically target resources in areas suffering from demographic changes where the populations are either moving to areas or they are developing naturally. Either way, the schools are needed and that demand is being met at great cost to the Department of Education and Skills, but the key point is that the planning unit is on top of the game, which was not always the case. They were not always allowed to locate the schools in the right place but now the right decisions are being made.

I hope Kilcock has been assessed properly. I would say it has but this issue needs to be sorted out for this term and this enrolment year and we have to work on that. I thank the Deputy for raising this matter.

Deputy Bernard J. Durkan: The Acting Chairman will note that we were good timewise in that we completed the issue ahead of the time allocated.

Acting Chairman (Deputy Frank Feighan): I thank the Deputy for that and I appreciate it.

Tribunals of Inquiry Recommendations

Deputy Billy Timmins: I thank the Ceann Comhairle's office for selecting this topic. Sometimes something so surreal or bizarre happens that it seems to pass us by and this is one of those topics. The Flood-Mahon tribunal was established in late 1997, initially chaired by Mr. Justice Fergus Flood until 2003 and then chaired by Mr. Justice Alan Mahon who completed its hearings and produced a final report in 2012. Mr. Justice Mahon was assisted by Judge Keys and Ms Justice Flaherty. It is difficult to comprehend that the tribunal ran for almost 17 years and after a cost of around €159 million, we are unsure as to what the outcome has been. The point has been made that the inquiry led to Revenue investigations that gained large sums of money for the Exchequer in tax settlement payments. The planning and development (No. 2) Bill based on the recommendations of the Mahon tribunal is due before the House in the near

future. Some planning measures have been brought forward in the past as a result of recommendations from the Flood-Mahon tribunal.

The nightly evidence re-enactments on radio were akin to “Scrap Saturday” and the public saw a side of political life that only a handful knew existed. It certainly exposed an underbelly. Rules governing political funding and ethical standards have been developed and strengthened as a result of this tribunal. However, years later we find that some findings of the tribunal have been set aside. There is uncertainty as to what the findings were and the whole process appears to have been brought into disrepute. Owen O’Callaghan won a case against the tribunal regarding access to original documents held by the inquiry due to non-disclosure of full information. This was followed by the challenge by Joseph Murphy Jnr. and, most recently, the challenge by Mr. George Redmond. Former conclusions and adverse findings have been removed. Some findings of corruption have been removed and some witnesses who were deemed to have obstructed the tribunal will now have their costs paid.

The responsibility for this tribunal comes under the remit of the Minister for the Environment, Community and Local Government. It has cost the State dearly. It is now in a shambles. Who is responsible for this? There are lessons to be learned. The interim and earlier reports are now clearly at variance with what will, ultimately, be the final report. It is important that the Minister shed some light on this debacle.

Minister of State at the Department of the Environment, Community and Local Government (Deputy Ann Phelan): The Deputy has raised an important matter. It gives me the opportunity to remind the House that the Tribunal of Inquiry into Certain Planning Matters and Payments, known as the Mahon tribunal, was, as the Deputy said, established in November 1997 to investigate allegations of corrupt payments to politicians in respect of planning permissions and land zonings in the Dublin area in the 1990s.

The public hearings relating to the tribunal investigations, which involved 589 days of public hearings and evidence from 427 witnesses, continued until 2008, as the Deputy said, with the final report being published in March 2012. The stark reality is that the tribunal opened our eyes to occurrences in the planning system which are indefensible and which will, it is to be hoped, not be encountered again.

During the course of its deliberations, the tribunal published four interim reports, with the first published in 2002, before, as indicated, the publication of its final report in 2012. Court challenges relating to the withholding or redacting of certain information in witness statements, as well as against certain findings in the interim reports relating to hindrance and obstruction by certain individuals, were initiated by certain parties at various times during this period. Subsequent Supreme Court judgments found against the practice of redacting witness statements, and also against the non-co-operation and hindrance findings against specific individuals in some instances.

This has now resulted in certain corruption findings against certain parties being withdrawn from the second and third interim reports. These judgments have also resulted in specific parties now being entitled to legal costs which had previously been refused, with the vast majority of the concerned parties now being awarded their full costs. Contrary to recent media reports, it is not the case that the second and third interim reports have been withdrawn in their entirety; certain adverse findings remain in place. It should also be noted that no findings in the tribunal’s final report and recommendations are affected by these Supreme Court decisions.

The tribunal estimated in 2014 that the total costs of its deliberations would amount to approximately €159 million. This figure was calculated on the basis that all parties would receive all of their costs. The recent findings of the Supreme Court regarding George Redmond will not, therefore, have any effect on this estimate.

Deputy Billy Timmins: To reiterate, the tribunal involved 17 years, 428 witnesses and, as outlined by the Minister, €159 million. It destroyed many reputations, rightly or wrongly. It brought down a Taoiseach. Yet, we do not know its outcome. Where does accountability lie in this squalid affair? It is as if it operated in a parallel universe for which we in the House had no responsibility.

It is important that some time is set aside for a debate on this over the next few weeks, and that the Minister for the Environment, Community and Local Government comes before the House to give a full account of where mistakes were made, what lessons have to be learned and what changes to legislation are required. He should also outline the current status of the tribunal. I understand - I may be incorrect - that a number of staff are working with the tribunal registrar; perhaps they are senior counsel or legal people. Are the costings and payments for those people included in the €159 million cost? When will the tribunal cease operation?

As far as the public is concerned, the findings do not amount to much because people do not have confidence in what the outcome or implications may be. I do not know if Mr. Justice Mahon is still chairman. Some documentation has been published on the website but it is unsatisfactory. This House established the tribunal and the Minister for the Environment, Community and Local Government should come before it to outline the situation. I thank the Minister of State for her reply but there are no lessons to be learned from it and it contained minimal factual information on what happened. Where lies accountability in this affair? Nobody seems to be accountable for wrongdoing.

Deputy Ann Phelan: It is expected that day-to-day operations of the tribunal will be finally concluded during 2015, and as I indicated earlier my Department was advised by the tribunal in May 2014 that the estimated final cost of the tribunal would be approximately €159 million, once all of the costs have been agreed and paid. This estimate was prepared in accordance with standard accounting practice and the agreed protocol on legal fees, on the assumption that all parties involved with the tribunal and who were entitled to apply for their costs would receive all of them.

On outstanding third party costs, the tribunal yesterday issued a clarification statement specifically countering recent media reports that the tribunal's estimate of its total costs, that is €159 million, is no longer accurate as a consequence of the outcome of the most recent Supreme Court judgment relating to Mr. Redmond. It is also worth noting that the work of the tribunal has resulted in significant settlements with the Revenue Commissioners by certain parties, which are expected to defray much of the costs associated with the operation of the tribunal.

The tribunal has been instrumental in highlighting certain deficiencies in the planning system, which are now being addressed in the forthcoming planning legislation with a view to ensuring that the mistakes of the past in this regard are not repeated in the future. The Deputy said there is uncertainty regarding the outcomes. The tribunal shone a light on the difficulties in our planning system, and we are now legislating to ensure those systems cannot be encroached upon again.

We are always open to people trying to get around certain rules and regulations, and perhaps that will always be the case. Our planning system is far more robust because of the tribunal.

Irish Collective Asset-management Vehicles Bill 2014: Order for Report Stage

Minister of State at the Department of Finance (Deputy Simon Harris): I move: “That Report Stage be taken now.”

Question put and agreed to.

Irish Collective Asset-management Vehicles Bill 2014: Report and Final Stages

Minister of State at the Department of Finance (Deputy Simon Harris): I move amendment No. 1:

In page 11, between lines 19 and 20, to insert the following:

“(3) In relation to times before the coming into operation of the Companies Act 2014 references in this Act to any provision of that Act have effect as references to the corresponding provisions of any enactment to be repealed by that Act.”.

I thank Deputies for their assistance in getting the Bill to this Stage. We had a very good and detailed policy discussion on Committee Stage, during which I outlined that a lot of what Report Stage would involve would be technical in nature. It is based largely on the Companies Act and how the Bill will interact with it. I would like to explain at the outset that in the Bill, as passed by the Dáil on Committee Stage, it is proposed to cross-apply a number of provisions that apply to companies under the Companies Act to this Bill.

This arises in the following sections: section 82, regarding restricting or disqualifying directors; section 148, regarding the application of provisions relating to receivers; section 149, regarding the application of provisions relating to winding up; and section 173, regarding provisions relating to enforcement. During the course of exchanges on Committee Stage, I also mentioned that the provisions relating to compliance and enforcement needed to be examined to determine to what extent they would likewise need to be cross-applied.

While all of this was considered and prepared in the context of the provisions of the existing Companies Act, we were very conscious of the very advanced stage of the consideration of the Companies Bill 2012. As Deputies will be aware, the Companies Bill was enacted and signed into law by the President on 23 December 2014. This development has now allowed us to focus on the cross-application of the provisions contained in the latest consolidated Companies Act. However, given that the current understanding is that the Companies Act 2014 will be commenced with effect from 1 June 2015, and as I am anxious to have the current Irish Collective Asset-management Vehicle, ICAV, Bill enacted and commenced without delay, it is necessary to specify what cross-applied provisions will apply in the interim. That is the purpose of amendment No. 1.

In examining the cross-applied provisions, a more detailed exercise was undertaken to more expressly and explicitly spell out how the cross-applied provisions will apply in practice, and in some instances it was considered more appropriate to copy in detail some specific provisions

for applications in an ICAV context. That is the reason some of these Report Stage amendments are as detailed as they are. Arising from our exchanges on Committee Stage, I circulated - as I undertook to do - a brief summary of the amendments to Deputies in advance of Report Stage and I trust this has assisted them in comprehending quite technical amendments. I look forward to the debate.

Before concluding today's proceedings, I would be obliged if, in accordance with Standing Order 140, the Ceann Comhairle would direct the Clerk to make the following minor drafting correct to the text of the Bill: "on page 81, line 22, to insert the word "if" after "even"". This is being inserted in the interests of textual clarity and does not have any effect in a substantive way.

Deputy Michael McGrath: I thank the Minister of State for his remarks and we in Fianna Fáil will be supporting the passage of the Bill. It would be better if we did not have so many amendments on Committee and Report Stages. There are 40 amendments on Report Stage and we had approximately 68 amendments on Committee Stage, a total of over 100 amendments. It can be difficult to cross-reference these with the original Bill and the explanatory memorandum. It is important legislation and we will be constructive in our approach. We look forward to what we hope will be a quick passage of the Bill.

Deputy Pearse Doherty: Sinn Féin will also approach this constructively and support the passage of the Bill. I have raised the issue time and again regarding the explanatory notes on amendments. It is a new departure and the Minister said he would ensure that this would happen. It has happened and it has made it a bit easier to navigate what can sometimes be technical amendments such as those before us today. That being said, there is an issue arising from so much change to legislation, and this is not the only piece of financial legislation we have had. We have discussed the heads of Bills, for example, and even at that stage we might be told that there is to be a radical change. Sometimes this is unavoidable but where possible, it should be avoided. I hope the explanatory notes for Government amendments will be continued for all legislation.

Deputy Simon Harris: The comments of both Deputies are constructive and fair. As I tried to outline in my opening remarks, there are timing issues with this Bill, with the new Companies Act and the need to cross our t's and dot our i's to ensure cross-application takes place where necessary and a "copy and paste" takes place where it would be better. Consultation with the Attorney General on that has led to a significant number of amendments. However, I stress - as I did in my opening remarks - that these amendments, in the main, do not alter policy but rather spell out how this Bill will interact with the consolidated companies legislation. I thank both Deputies for their remarks in this regard.

I believe in the merits of the explanatory notes on amendments, as they lead to a more constructive debate. I will continue to advocate their use.

Amendment agreed to.

An Leas-Cheann Comhairle: Amendments Nos. 2 and 3 are related and may be discussed together.

Deputy Simon Harris: I move amendment No. 2:

In page 12, line 11, to delete "within the meaning of the Companies Act 1963;" and

substitute the following:

“formed and registered under the Companies Act 2014 or an existing company within the meaning of that Act;”.

These are technical amendments. Amendment No. 2 is a technical amendment to the definition of “company” so that it refers to the definition provided by the Companies Act 2014 rather than the old definition. Amendment No. 3 is a technical amendment to the definition of “investment company” so that is the same as the definition provided by the Companies Act 2014, which is detailed at length in section 1386 of the Companies Act.

Amendment agreed to.

Deputy Simon Harris: I move amendment No. 3:

In page 12, to delete lines 26 and 27 and substitute the following:

“ “investment company” has the same meaning as in Part 24 of the Companies Act 2014;”.

Amendment agreed to.

Deputy Simon Harris: I move amendment No. 4:

In page 13, between lines 12 and 13, to insert the following:

“ “special resolution”, in relation to an ICAV, means a resolution passed by not less than 75 per cent of the votes cast by the members of the ICAV as, being entitled to do so, vote in person or by proxy at a general meeting of the ICAV;”.

This inserts the definition of “special resolution” to define it as referred to in section 86(7) and section 144(1)(c) of the ICAV Bill 2014.

Amendment agreed to.

Deputy Simon Harris: I move amendment No. 5:

In page 15, line 7, after “office” to insert “or head office”.

This is a technical correction to reflect that the Central Bank needs to be notified of any change in the head office of an ICAV as well as of a registered office, which need not always be the same thing.

Amendment agreed to.

Deputy Simon Harris: I move amendment No. 6:

In page 24, line 32, after “*subsection (1)*” to insert “or (4)”.

This corrects an error in section 27(5), which fails to take account of the fact that the Central Bank can impose conditions under both subsections (1) and (4).

Amendment agreed to.

Deputy Simon Harris: I move amendment No. 7:

In page 25, to delete lines 16 to 26 and substitute the following:

“Alteration in instrument of incorporation

31. (1) No alteration in the instrument of incorporation of an ICAV shall be made unless—

(a) the alteration has been approved—

(i) by ordinary resolution, or

(ii) if the instrument of incorporation so requires, by a resolution passed by such majority as is specified in the instrument of incorporation of the votes cast by the members of the ICAV who, being entitled to do so, vote in person or by proxy at a general meeting of the ICAV,

or

(b) the depository of the ICAV has certified in writing that the alteration—

(i) does not prejudice the interests of the members of the ICAV, and

(ii) does not relate to any such matter as may be specified by the Bank as one in the case of which an alteration may be made only if approved by members of an ICAV.

(2) No alteration in the instrument of incorporation of an ICAV shall be made without the approval of the Bank.

(3) Any person who makes an alteration in the instrument of incorporation of an ICAV otherwise than in accordance with *subsections (1) and (2)* commits a category 3 offence.

(4) Within 21 days after the date of the making of an alteration in the instrument of incorporation of an ICAV, the ICAV shall deposit with the Bank a copy of the instrument of incorporation as so altered or containing the alterations.

(5) If an ICAV fails to comply with *subsection (4)*, it commits a category 2 offence.

(6) In this section “alteration in the instrument of incorporation” does not include a change in the name of the ICAV.”.

This amendment to section 31 prohibits a change in the instrument of incorporation of an ICAV without Central Bank approval and without the approval of its members except where a depository has certified that the alteration does not prejudice the interests of the members of the ICAV. The ICAV Bill 2014 as amended on Committee Stage prohibited a change to the instrument of incorporation of an ICAV solely without Central Bank approval. The amendment to subsection (1) sets out a better practice approach of also requiring the approval of members of the ICAV for an amendment to the instrument of incorporation. This subsection allows for the requirement of member approval to be dispensed with where a depository of the ICAV has certified that such an alteration does not prejudice the interest of the members of the ICAV.

Amendment agreed to.

An Leas-Cheann Comhairle: Amendments Nos. 8 and 9 are related and may be discussed together.

Deputy Simon Harris: I move amendment No. 8:

8. In page 51, between lines 6 and 7, to insert the following:

“Fiduciary duties of directors of ICAVs

78. (1) Without prejudice to the provisions of any enactment (including this Act), a director of an ICAV shall owe the duties set out in *section 79* (“the relevant duties”) to the ICAV (and the ICAV alone).

(2) The breach by a director of the relevant duties shall not of itself affect—

(a) the validity of any contract or other transaction, or

(b) the enforceability, otherwise than by the director in breach of that duty, of any contract or other transaction by any person, but nothing in this subsection affects the principles of liability of a third party where he or she has been an accessory to a breach of duty or has knowingly received a benefit from it.

(3) The relevant duties (other than those set out in *section 79(1)(b)* and *(h)* are based on certain common law rules and equitable principles as they apply in relation to the directors of bodies corporate and shall have effect in place of those rules and principles as regards the duties owed to an ICAV by a director.

(4) The relevant duties (other than those set out in *section 79(1)(b)* and *(h)* shall be interpreted, and the provisions concerned of *section 79* shall be applied, in the same way as common law rules or equitable principles and regard shall be had to the corresponding common law rules and equitable principles in interpreting those duties and applying those provisions.”.

This inserts an introductory provision to amendment No. 9 that seeks to insert a provision which enumerates the fiduciary duties owned by directors of ICAVs. Amendment No. 8 mirrors section 228 of the Companies Act 2014, which introduces significant change to Irish company legislation, as it is the first occasion that the Legislature has sought to codify the fiduciary duties of directors of companies. The concept of fiduciary duties is derived from general principles of common law and equity that have been interpreted and applied by the courts to directors of companies.

Amendment No. 9 inserts a provision which enumerates a non-exhaustive list of the fiduciary duties owned by the directors of the ICAV. This mirrors section 229 of the Companies Act 2014, which introduces significant change to Irish company legislation, as it is the first occasion that the Legislature has sought to enumerate the fiduciary duties of directors of companies.

Amendment agreed to.

Deputy Simon Harris: I move amendment No. 9:

In page 51, between lines 6 and 7, to insert the following:

“Statement of principal fiduciary duties of directors of ICAVs

79. (1) A director of an ICAV shall—

(a) act in good faith in what the director considers to be the interests of the ICAV,

(b) act honestly and responsibly in relation to the conduct of the affairs of the ICAV,

(c) act in accordance with the instrument of incorporation of the ICAV and exercise his or her powers only for the purposes allowed by law,

(d) not use the ICAV's property, information or opportunities for his or her own or anyone else's benefit unless—

(i) that is expressly permitted by the ICAV's instrument of incorporation, or

(ii) the use has been approved by a resolution of the ICAV in general meeting,

(e) not agree to restrict the director's power to exercise an independent judgement unless—

(i) that is expressly permitted by the ICAV's instrument of incorporation,

(ii) the case concerned falls within *subsection (2)*, or

(iii) the director's agreeing to such has been approved by a resolution of the ICAV in general meeting,

(f) avoid any conflict between the director's duties to the ICAV and the director's other (including personal) interests unless the director is released from his or her duty to the ICAV in relation to the matter concerned, whether in accordance with provisions of the ICAV's instrument of incorporation in that behalf or by a resolution of it in general meeting,

(g) exercise the care, skill and diligence which would be exercised in the same circumstances by a reasonable person having both—

(i) the knowledge and experience that may reasonably be expected of a person in the same position as the director, and

(ii) the knowledge and experience which the director has,

and

(h) in addition to the duty under *section 78*, have regard to the interests of its members.

(2) If a director of an ICAV considers in good faith that it is in the interests of the ICAV for a transaction or engagement to be entered into and carried into effect, a director may restrict the director's power to exercise an independent judgement in the future by agreeing to act in a particular way to achieve this.”.

Amendment agreed to.

An Leas-Cheann Comhairle: Amendments Nos. 10 and 11 are related and may be dis-

cussed together.

Bill recommitted in respect of amendment No. 10.

Deputy Simon Harris: I move amendment No. 10:

In page 54, to delete lines 36 to 40, and in page 55, to delete lines 1 and 2 and substitute the following:

“Restrictions on directors of insolvent ICAVs

82. (1) The provisions of Chapter 3 of Part 14 of the Companies Act 2014, and the other provisions of that Act relating to restrictions on directors of an insolvent company (within the meaning of section 818), have effect in accordance with *subsection (2)*.

(2) Those provisions have effect as if—

(a) the following references:

(i) the reference to a company referred to in section 819(6) in the definition of “company” in section 818(1);

(ii) the references to a company in section 818(3);

(iii) the final 3 references to a company in section 819(1);

(iv) the references to an investment company in section 819(5);

(v) the references to a company in sections 821(1)(a) and (b), 825(1) and (2) and 836;

(vi) the references to a company in the definition of “restriction” in section 849;

(vii) the references to a company in sections 853(5), 855(1), 858 and 859, included an ICAV, and

(b) the reference in section 828(2) to the constitution of a company included the instrument of incorporation of an ICAV.

(3) The provisions of the Companies Act 2014 mentioned in *subsection (1)* apply, subject to necessary modifications and to the specific modifications specified in *subsection (4)*, in relation to directors of an insolvent ICAV as if they were directors of an insolvent investment company.

(4) The modifications are that—

(a) references to a company in the definitions of “director of an insolvent company” and “insolvent company” in subsection (1) of section 818 and subsection (2) of that section are to an ICAV,

(b) references to the Registrar are to the Bank,

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(c) the reference to prescribed particulars in sections 819(7) and 823(2), and to the prescribed form and manner in section 819(7), are to particulars, and to the form and manner, specified by the Bank, and

(d) the reference in section 823(5) to section 894 is to *section 14* of this Act.”.

This deletes the previous section 82 and inserts a new section to cross-apply to ICAVs the provisions of the Companies Act 2014 relating to the restrictions on directors of insolvent companies which are found in chapter 3, part 14 of the Companies Act 2014. Pursuant to the Companies Act 2014, the court may make a declaration restricting a director upon application from the Director of Corporate Enforcement, the liquidator of the insolvent company or a receiver of any property of the company. The restriction is for a period of five years and the restricted person may not be appointed to act in any way, directly or indirectly, as a director or secretary, or to be involved in the formation or promotion of a company unless that company meets certain capitalisation requirements. This provision will, in effect, restrict directors of insolvent companies from involvement with a company or an ICAV and restrict directors of insolvent ICAVs from involvement with a company or ICAV. Restricting future directorships of dishonest or irresponsible directors of insolvent ICAVs or companies is an effective way of punishing such behaviour and protecting the public and investors from any future wrong-doing.

Amendment No. 11 introduces a new section 83. This cross-applies to ICAVs the provisions of the Companies Act 2014, relating to the disqualifications on directors of insolvent companies which are found at sections 837 to 848 of the Companies Act 2014.

Amendment agreed to.

Bill reported with amendment.

Deputy Simon Harris: I move amendment No. 11:

In page 55, between lines 2 and 3, to insert the following:

“Disqualification of directors etc

83. (1) The provisions of Chapter 4 of Part 14 of the Companies Act 2014, and the other provisions of that Act relating to the disqualification of a person from being appointed or acting as a director or other officer, statutory auditor, receiver or liquidator, or being in any way (whether directly or indirectly) concerned or taking part in the promotion, formation or management of a company, have effect in accordance with *subsection (2)*.

(2) Those provisions have effect as if—

(a) in the definition of “company” in section 837 after “Act” there were inserted “(including an Irish Collective Asset-management Vehicle)”,

(b) in the definition of “relevant requirement” in that section the reference to that Act included this Act and the reference to the Registrar included the Bank,

(c) the references to a company within the meaning of section 819(6) in sections 838, 848, 849 and 851 included an ICAV,

(d) the reference to that Act in section 839(1)(a) included this Act,

(e) in section 840—

- (i) the references to section 149(8) included *section 65(6)* of this Act,
- (ii) the references to section 150(1) included *section 66(1)* of this Act,
- (iii) the reference to section 150(3) included *section 66(3)* of this Act, and
- (iv) the references to the Registrar included the Bank,

(f) in section 841—

- (i) the references to section 150(2) included *section 66(2)* of this Act, and
- (ii) the reference to section 149(8) included *section 65(6)* of this Act,

(g) in section 842—

- (i) the reference to section 286 included *section 109* of this Act,
- (ii) the reference to section 727 included *section 152* of this Act,
- (iii) the reference to Chapter 1 of Part 12 included *Chapter 1 of Part 11* of this Act, and
- (iv) the reference to section 733 included *section 158* of this Act,

(h) in section 844(3) the reference to the Registrar included the Bank,

(i) in section 846 the reference to the Director of Corporate Enforcement included the Bank,

(j) in section 851(3) the references to the Registrar included the Bank,

(k) the references in sections 855(1), 858, 859 and 862 to a company included an ICAV,

(l) in section 863(2), the reference to the Registrar were, in a case of an offence in relation to an ICAV, a reference to the Bank, and

(m) in section 864 the references to the Registrar included the Bank.”.

Amendment agreed to.

Deputy Simon Harris: I move amendment No. 12:

In page 55, to delete lines 37 and 38, and in page 56, to delete lines 1 to 3 and substitute the following:

“(6) But where an election under *subsection (4)* has effect for a year—

(a) one or more members of the ICAV holding, or together holding, not less than 10 per cent of the voting rights in the ICAV, or

(b) the auditor of the ICAV,

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may require the ICAV to hold an annual general meeting in that year by giving notice in writing to the ICAV in the previous year or at least one month before the end of that year and the ICAV shall hold the required meeting.”.

This is to be inserted into section 84 of the ICAV Bill. Section 84(4) provides that the directors of an ICAV may elect to dispense with the need to hold an annual general meeting, AGM, upon notice to all shareholders of the ICAV. Where the directors of an ICAV seek to dispense with the holding of an AGM, either one or more members of the ICAV holding 10% of the voting rights in the ICAV or the auditor of the ICAV may require the ICAV to hold an AGM. This amendment provides an adequate safeguard against any potential abuse by directors of this unique characteristic of the ICAV, which is more appropriate to the operation of investment fund vehicles. This arose from the suggestions made by Deputies opposite on Committee Stage with regard to ensuring the voice of an auditor can be heard. It is prudent to include this.

Deputy Michael McGrath: In regard to amendment No. 12, is there a provision whereby the AGM can be dispensed with for a maximum number of occasions successively or can it be postponed indefinitely, with an AGM not required under the law? Will the Minister of State clarify that?

Deputy Simon Harris: There is no provision in regard to that but the safeguards we have put in place address the issues in respect of protecting the investors. Also, giving the auditor a voice was something those on the opposite side of the House felt was silent and with which I agreed. This is beefing it up. The legislation does not contain a provision in regard to that.

Deputy Michael McGrath: From the point of view of governance of the ICAV, is there any merit in requiring an AGM to be held within a certain timeframe? If not, that is fine.

Deputy Simon Harris: I will bring this Bill to the Seanad and I am happy to look at that. I will revert to Deputy McGrath on that.

Deputy Pearse Doherty: I welcome the fact the role of the auditor has been included in this amendment. We debated this on Committee Stage and I acknowledge that it is not like other companies in regard to how AGMs take place and so on. Have any submissions been made to the Department or has there been any contact in regard to concern about this provision in the legislation and in terms of the 10% shareholding?

Deputy Simon Harris: I am informed by my officials that they have not received any submissions. I certainly have not.

Amendment agreed to.

Deputy Simon Harris: I move amendment No. 13:

In page 59, to delete lines 34 to 40, and in page 60, to delete lines 1 to 33 and substitute the following:

“91. (1) For the purposes of this section—

(a) “relevant rule of law” means any applicable rule of law that governs the priority of charges created by a body corporate, and for the avoidance of doubt, any enactment governing the priority of such charges is not encompassed by that expression;

(b) the reference in subsection (2) to any priority that one charge, by virtue of a person's not having notice of a matter, enjoys over another charge or charges shall be deemed to include a reference to any priority that an advance made on foot of a charge, by virtue of a person's not having notice of a matter, enjoys over a subsequent charge or charges.

(2) Any relevant rule of law shall stand modified in the manner specified in *subsection (3)*, but not so as to displace any priority that one charge, by virtue of a person's not having notice of a matter, enjoys over another charge or charges.

(3) That modification is that, for the part of the rule that operates by reference to the time of creation of the 2 or more charges concerned, there shall be substituted a part that operates by reference to—

(a) the dates of receipt by the Bank of the specified particulars of the 2 or more charges concerned, or

(b) if the date of receipt by the Bank of the specified particulars of the 2 or more charges is the same, the respective times, on the date concerned, of receipt by the Bank of those particulars.

(4) References in *subsection (3)* to the date, or time, of receipt of particulars are references to—

(a) if the procedure under *subsection (3)* of *section 88* is complied with in relation to a particular charge, the date, or time, of receipt by the Bank of the specified particulars, in the specified form, of the charge, or

(b) if the procedure under *subsection (4)* of *section 88* is complied with in relation to a particular charge, the date, or time, of receipt by the Bank of the notice, in the specified form and containing the specified particulars, in relation to the charge under *paragraph (a)* of that *subsection (4)*.

(5) *Subsections (2)* and *(3)* shall not affect any agreement between persons in whose favour charges have been created in relation to the priority that those charges shall, as between them, have.

(6) In relation to particulars of a charge received by the Bank pursuant to *section 88(3)* or *(4)*, the following provisions apply so far as those particulars consist of particulars of a negative pledge, any events that crystallise a floating charge or any restrictions on the use of any charged asset (and particulars of any such matter are referred to subsequently in this subsection as “extraneous material”):

(a) the Bank shall not enter in the register under *section 88* particulars of the extraneous material pursuant to that section;

(b) the fact that the Bank has received the particulars of the extraneous material shall have no legal effect;

but nothing in the foregoing affects the validity of the receipt by the Bank of the other particulars of the charge.

(7) In this section “negative pledge” means any agreement entered into by the ICAV

concerned and any other person or persons that—

(a) provides that the ICAV shall not, or shall not otherwise than in specified circumstances—

(i) borrow moneys or otherwise obtain credit from any person other than that person or those persons,

(ii) create or permit to subsist any charge, lien or other encumbrance or any pledge over the whole or any part of the property of the ICAV, or

(iii) alienate or otherwise dispose of in any manner any of the property of the ICAV,

or

(b) contains a prohibition, either generally or in specified circumstances, on the doing by the ICAV of one or more things referred to in one, or more than one, provision of *paragraph (a)*.

(8) The registration of an investment company as an ICAV by continuation under *Part 8* does not affect the priority of charges created by the investment company.”.

The new section 91 added by amendment No. 13 provides for the priority of charges of an ICAV and again mirrors the text of section 412 of the Companies Bill 2012, as amended in the Seanad. Pursuant to this section, the operative date for priority of charges is specifically provided for as the date of registration as opposed to the date of creation for instances that have not been provided for elsewhere by statute. Again, this mirrors the text of section 412 of the Companies Bill and it is a technical amendment in that sense.

Amendment agreed to.

Bill recommitted in respect of amendment No. 14.

An Leas-Cheann Comhairle: Amendments Nos. 14, 28 and 39 form a composite proposal and will be discussed together.

Deputy Simon Harris: I move amendment No. 14:

In page 66, line 2, to delete “*section 173*” and substitute “*section 168*”.

Amendment No. 14 corrects a minor cross-reference error. Amendment No. 28 provides for further detail on the cross-application of the investigation provisions. It inserts a new section 168 into the Bill and provides that the provisions of the Companies Act 2014, Part 13, relating to investigation of companies apply in relation to ICAVs as if the ICAVs were investment companies. This cross-application is subject to necessary modifications as well as the specific modifications which are specified in subsection (2) of this section.

It was always the intention that the investigation and enforcement regime that applies to the current investment companies continues for ICAVs and in this regard, I also reference section 132 of the Bill, as published. The following amendments spell out and elaborate on these powers for the avoidance of any doubt.

Similarly, amendments Nos. 29 to 36, inclusive, provide for further detail on the cross-

application or the copy-out of enforcement and compliance provisions from companies legislation. Amendment No. 39 is consequential to the amendments to the revised section 168 above relating to investigations. The old section 173 of the Bill is, therefore, deleted.

Amendment agreed to.

Bill reported with amendment.

Deputy Simon Harris: I move amendment No. 15:

In page 69, line 30, to delete “*subsection (5)*” and substitute “*subsection (5)*”.

This is a technical amendment to correct an error in numbering which arose on Committee Stage. Without this amendment, it would technically be necessary to renumber this reference, resulting in an error on the face of the Bill.

Amendment agreed to.

Deputy Simon Harris: I move amendment No. 16:

In page 70, between lines 19 and 20, to insert the following:

“(11) In this section “international financial reporting standards” means the international financial reporting standards, within the meaning of Regulation (EC) No. 1606/2002 of the European Parliament and of the Council of 19 July 2002 adopted from time to time by the Commission of the European Union in accordance with that Regulation.”.

Amendment No. 16 defines the references to international financial reporting standards at section 111(4) of the ICAV Bill, as passed by the Dáil on Committee Stage, which requires the annual accounts of an ICAV to be prepared in accordance with one of the following generally accepted accounting practices in the State, international financial reporting standards or an alternative body of accounting standards. This is defined in section 111(6) of the Act. It seeks to clarify the standard to be applied to annual accounts of an ICAV that are prepared in accordance with international financial reporting standards, as adopted from time to time by the EU, which Deputies felt lacked clarity on Committee Stage.

Amendment agreed to.

Bill recommitted in respect of amendment No. 17.

An Leas-Cheann Comhairle: Amendments Nos. 17, 31 and 38 form a composite proposal. Amendments Nos. 31 to 33, inclusive, and 35 are related.

Deputy Simon Harris: I move amendment No. 17:

In page 76, line 4, to delete “*section 172*” and substitute “*section 171*”.

Amendment No. 17 corrects a minor cross-reference error. Amendment No. 31 provides a restated list of which agency, the Central Bank or the Office of the Director of Corporate Enforcement is to prosecute which of the offences created in the Bill. The section is being replaced as a number of the offences have been assigned solely as the jurisdiction of the Central Bank rather than the joint jurisdiction of the Central Bank and the Office of the Director of Corporate Enforcement. In addition, the Report Stage amendments give rise to a number of new

offences which fall to be included in the revised section 171. Offences in relation to sections that cross-apply the Companies Act 2014, such as restrictions and disqualifications, receivers or winding up, do not need to be mentioned here explicitly as the offences are already covered in the Companies Act itself.

Amendment No. 32 inserts a new section into the Bill. It is based on section 866 of the Companies Act 2014. This section makes provision for the District Court area within which summary proceedings against an ICAV or an officer therefore may be brought, heard and determined.

Amendment No. 33 inserts a new section into the Bill. This section cross-applies further provisions of the Companies Act 2014. Amendment No. 35 inserts a new section 175 which cross-applies section 876(1) and (3), 877 and 878 of the Companies Act.

Amendment No. 38 is consequential on amendments to the revised section 171 above relating to the agency with responsibility for enforcement. The old section is, therefore, deleted. This was to bring clarity as to who must do what and where the responsibility lies.

Amendment agreed to.

Bill reported with amendment.

Deputy Simon Harris: I move amendment No. 18:

In page 77, line 9, to delete “*subsection (4)*” and substitute “this section”.

Amendment No. 18 is a correction to section 120 of the Bill which provides that the Central Bank may appoint an auditor to an ICAV in any circumstance where the ICAV has failed to appoint an auditor. Previously, the ICAV Bill 2014, as passed by the Dáil on Committee Stage, had only permitted the Central Bank to appoint an auditor to an ICAV where the ICAV had failed to appoint an auditor upon dispensing with an AGM, as required under section 84(4) of the ICAV Bill 2014. This amendment is aimed at ensuring the maintenance of appropriate accounting and auditing processes at all times within the ICAV.

Amendment agreed to.

Deputy Simon Harris: I move amendment No. 19:

In page 83, line 5, to delete “a UCITS” and substitute “an UCITS”.

This amendment rectifies a slight drafting error.

Amendment agreed to.

An Leas-Cheann Comhairle: Amendments Nos. 20 and 21 are related and will be discussed together.

Deputy Simon Harris: I move amendment No. 20:

In page 85, to delete lines 11 to 14 and substitute the following:

“(2) The company shall then make an application to the Registrar in the form prescribed by the Minister for Jobs, Enterprise and Innovation to be de-registered as a company.

(3) On receipt of an application under subsection (2) the Registrar shall issue a certificate of de-registration of the company, shall enter in the register of companies that the company is de-registered and shall forthwith publish notice in the Companies Registration Office Gazette of the following matters:

(a) the date of the registration of the company as an ICAV under this section;

(b) the previous name of the company if different from the name under which it is registered as an ICAV.

(4) From the date of the registration of the company as an ICAV, the company shall become an ICAV, and shall cease to be a company, for all purposes but this section”.

Amendment No. 20 is a technical amendment to section 137(2) of the ICAV Bill which provides greater detail on the procedure involved in deregistering as a company and becoming an ICAV. Pursuant to the ICAV Bill, an investment company or UCIT may convert to an ICAV. In order to do so, the company seeking to become an ICAV must apply to the Central Bank to register as an ICAV.

Subsection (2) provides that the company must apply to the registrar of the company to deregister as a company. Subsection (3) provides that on foot of an application for deregistration, the registrar of a company must publish a notice in the Companies Registration Office gazette detailing the date of registration of the company as an ICAV and the previous name of the company, if different. Subsection (4) provides that a company will cease to exist upon the date of registration as an ICAV. It is a technical amendment to spell out in greater detail the intention.

Amendment agreed to.

Deputy Simon Harris: I move amendment No. 21:

In page 85, to delete lines 34 and 35 and substitute the following:

“(5) On the registration of an investment company as an ICAV, the Bank shall immediately authorise it to carry on business.

(6) On the registration of an UCITS as an ICAV, the UCITS shall continue to be authorised under the UCITS Regulations.

(7) Section 889 of the Companies Act 2014 has effect as if this section were a provision of that Act.”.

Amendment agreed to.

An Leas-Cheann Comhairle: Amendments Nos. 22 and 23 are cognate and will be discussed together.

Deputy Simon Harris: I move amendment No. 22:

In page 86, line 6, to delete “letter” and substitute “giving of notice”.

Amendments Nos. 22 and 23 are corrections to errors which arose on Committee Stage. The ICAV Bill 2014, as passed by the Dáil on Committee Stage, provides for varying forms

of notice, not simply notice by way of letter but two references to the bank giving notice by registered letter were overlooked. The use of new forms of communication to communicate with ICAV managers on various matters is a commonsense change from company law generally given the highly sophisticated nature of the collective asset management industry. We made this change in the previous Bill but there are two places in the Bill where we did not include the new forms of communication.

Amendment agreed to.

Deputy Simon Harris: I move amendment No. 23:

In page 90, line 7, to delete “letter” and substitute “giving of notice”.

Amendment agreed to.

An Leas-Cheann Comhairle: Amendments Nos. 24 and 25 are related and will be discussed together.

Deputy Simon Harris: I move amendment No. 24:

In page 95, to delete lines 13 to 18 and substitute the following:

“148. (1) The provisions of Part 8 of the Companies Act 2014, and the other provisions of that Act relating to receivers, apply, subject to the necessary modifications and to the specific modifications specified in *subsection (2)*, in relation to an ICAV as if it were an investment company.

(2) The modifications are the following:

(a) references to the Registrar are to the Bank;

(b) references to the prescribed form are to such form as may be specified by the Bank;

(c) references in section 431(1)(e) to such further or other information as may be prescribed are to such further or other information as may be specified by the Bank;

(d) in section 439(4) the reference to section 220 is to *section 77* of this Act and paragraphs (b) and (c) are omitted;

(e) the references in section 447 to the Director of Corporate Enforcement include the Bank.”.

Amendment No. 24 sets out some further detail on the cross-application to the ICAVs of the provisions of the Companies Act 2014 relating to the receivers of investment companies which are found at Part 8 of the Companies Act 2014. Amendment No. 25 sets out some further detail on the cross-application to ICAVs of the provisions of the Companies Act 2014 relating to the winding up of investment companies which are found in Part 11 of the Companies Act 2014. Companies may be wound up by three different methods – members voluntary liquidation, creditors voluntary liquidation and court ordered or compulsory liquidation.

Companies may be wound up by three different methods: members’ voluntary liquidation, creditors’ voluntary liquidation and court ordered or compulsory liquidation. The liquidator is the person appointed to supervise and implement the company’s winding up, and this is a fur-

ther detailed cross-application.

Amendment agreed to.

Deputy Simon Harris: I move amendment No. 25:

In page 95, to delete lines 22 to 27 and substitute the following:

“149. (1) The provisions of Part 11 of the Companies Act 2014, and the other provisions of that Act relating to the winding up of Companies (including, in particular, provisions about summary approval procedure) apply, subject to the necessary modifications and the specific modifications specified in *subsection (2)*, in relation to an ICAV as if it were an investment company.

(2) The modifications are the following:

(a) references to the Registrar are to the Bank;

(b) references to the constitution of a company are to the instrument of incorporation of an ICAV;

(c) in the definition of “connected person” in section 559(1) and in 629(5) the reference to section 220 is to *section 77* of this Act and paragraph (b) is omitted;

(d) in the table to section 567—

(i) the reference to section 286(3) is to *section 109(1)* of this Act;

(ii) the reference to section 609 is to *section 110* of this Act;

(e) the references in sections 569(2) and 571(3) to section 212 are to *section 55* of this Act;

(f) the reference in section 595(5) to that Act is to this Act;

(g) the words “into his or her custody or” in section 596 and paragraph 9 of the Table to section 627 are omitted;

(h) section 609 is omitted;

(i) section 636 has effect as if—

(i) the reference in subsection (3) to Part 4 were to *section 86* of this Act,

(ii) for subsection (5) there is substituted a requirement that notice of a meeting given by a member, liquidator or contributory under subsection (3) comply with any requirements specified in the ICAV’s instrument of incorporation, and

(iii) the reference in subsection (6) to the Companies Act 2014 is omitted;

(j) the reference in section 656(2) to section 173 is to *section 52* of this Act;

(k) in section 673—

(i) in subsection (1), for “hands of the liquidator” there is substituted “hands

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of the depository or trustee within the meaning of the UCITS Regulations, to be under the control of the liquidator,” and

(ii) in subsection (3), for “to the liquidator” there is substituted “to the depository or trustee within the meaning of the UCITS regulations, to be under the control of the liquidator,”.”.

Amendment agreed to.

An Leas-Cheann Comhairle: Amendments Nos. 26 and 27 are cognate and may be discussed together.

Deputy Simon Harris: I move amendment No. 26:

In page 97, line 35, to delete “a director” and substitute “at least 2 directors”.

Amendments Nos. 26 and 27 are required because section 56 of the Irish Collective Asset-management Vehicles, ICAV, Bill stipulates that an ICAV needs to have at least two directors so the reference at section 154D to the appointment of one director only is incorrect.

Amendment agreed to.

Deputy Simon Harris: I move amendment No. 27:

In page 103, line 28, to delete “a director” and substitute “at least 2 directors”.

Amendment agreed to.

Deputy Simon Harris: I move amendment No. 28:

In page 104, between lines 23 and 24, to insert the following:

“PART 12

INVESTIGATIONS, COMPLIANCE AND ENFORCEMENT

Investigations

168. (1) The provisions of Part 13 of the Companies Act 2014, and the other provisions of that Act relating to investigations of companies, apply, subject to necessary modifications and the specific modifications specified in *subsection (2)*, in relation to an ICAV as if it were an investment company.

(2) The modifications are the following:

(a) references to a body corporate include a company;

(b) the references in sections 752 to 757 to agents include depositories and trustees within the meaning of the UCITS Regulations;

(c) in section 755(2)(a) for the words after agreement there is substituted a reference to a transaction within *section 75(1)* of this Act and in section 755(4) for the reference to section 220 there is substituted a reference to *section 77* of this Act;

(d) the duty in section 759(1) to provide a copy of a directors’ report to the Direc-

tor of Corporate Enforcement includes a duty to forward a copy to the Bank (so that section 759(2)(b)(vi) does not apply);

(e) the reference in section 763(1) to Chapter 5 of Part 5 is to *section 80* of this Act;

(f) the references to the Registrar in sections 765(4) and 770 are to the Bank;

(g) the reference to section 785(4) to section 286 is to *section 109* of this Act.”.

Amendment agreed to.

An Leas-Cheann Comhairle: Recommittal is necessary in respect of amendment No. 29.

Bill recommitted in respect of amendment No. 29.

Deputy Simon Harris: I move amendment No. 29:

In page 104, between lines 23 and 24, to insert the following:

“Compliance orders

169. (1) This section applies if an ICAV or an officer of an ICAV—

(a) has failed to comply with a provision of this Act, and

(b) the ICAV or officer has failed to remedy the default within 14 days (or such longer period as may be specified in the notice) after the date of service by any person referred to in *subsection (3)* on the ICAV or officer of a notice requiring the ICAV or officer to remedy the default.

(2) In any case to which this section applies, the High Court, on the application of a person specified in *subsection (3)*, may order the ICAV or officer in default to remedy the default within such time as the High Court specifies.

(3) The High Court may make the order only on the application of one of the following:

(a) any member of the ICAV;

(b) any creditor of the ICAV;

(c) the Director of Corporate Enforcement.

(4) In making an order under *subsection (2)*, the High Court may order that the ICAV or the officer responsible for the default pay all costs of and incidental to the application.

(5) Subject to *subsection (6)*, no order may be made under this section in relation to a default that, in the opinion of the High Court, constitutes a wrong done to the ICAV an action in respect of which, under the general law, is maintainable by the ICAV alone, as distinct from another by derivative proceedings.

(6) *Subsection (5)* does not apply if the facts constituting the default in question

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amount, in the opinion of the High Court, to the Commission of an offence.

(7) Nothing in this section shall be taken to prejudice the operation of any enactment imposing penalties (including restriction or disqualification) on an ICAV or its officers in respect of the default in question.

(8) In this section “officer” means director, shadow director, promoter, receiver, liquidator, auditor or secretary.”.

Amendment agreed to.

Bill reported with amendment.

Bill recommitted in respect of amendment No. 30:

Deputy Simon Harris: I move amendment No. 30:

In page 104, between lines 23 and 24, to insert the following:

“Restraining directors and others from removing assets

170. (1) The High Court may make an order restraining a director or other officer of an ICAV, or an ICAV, from—

(a) removing his or her or the ICAV’s assets from the State, or

(b) reducing his or her or the ICAV’s assets within or outside the State below an amount specified in the order.

(2) The High Court may make the order if it is satisfied that—

(a) the applicant has a qualifying claim, and

(b) there are grounds for believing that the director or officer, or the ICAV, may remove or dispose of his or her assets or the assets of the ICAV with a view to evading his or her obligations or those of the ICAV and frustrating an order of the High Court.

(3) The High Court may make the order only on the application of—

(a) the ICAV,

(b) a director, member, liquidator, receiver or creditor of the ICAV, or

(c) the Director of Corporate Enforcement.

(4) In *subsection (2)(a)* “qualifying claim” means a claim that—

(a) is a substantive civil cause of action or right to seek a declaration of personal liability or to claim damages against the director, officer or ICAV, and

(b) arises—

(i) under this Act,

- (ii) under the instrument of incorporation of the ICAV, or
- (iii) from the holding of an office of the ICAV.”.

Amendment agreed to.

Bill reported with amendment.

Deputy Simon Harris: I move amendment No. 31:

In page 104, between lines 23 and 24, to insert the following:

“Agency with responsibility for enforcement of offences

171. (1) The Bank may instigate summary proceedings for offences under *sections 6(5), 7(3) and (4), 8(3), 10(6), 18(6), 21(5), 22(4), 28(3), 30(2), 31(3) and (5), 33(3), 36(2), 39(4), 42(3), 43(4), 46(4), 49(4), 50(5), 55(7), 66(4) and (5), 75(4), 90(3), 95(5), 97(4), 109(1) and (2), 111(10), 112(9), 113(7), 115(4), 123(2), 130(5), 133(9), 136(5), 147(5) and 160(5).*

(2) The Director of Corporate Enforcement may instigate summary proceedings for offences under *sections 63(1), 64(4), 68(3), 70(3), 71(3), 79(11) and (12), 80(3), 81(10) and (11), 83(5) and 84(8).*

(3) Either the Bank or the Director of Corporate Enforcement may instigate summary proceedings for offences under *sections 117(6) and 119(2).*”.

Amendment agreed to.

Deputy Simon Harris: I move amendment No. 32:

In page 104, between lines 23 and 24, to insert the following:

“District court district within which summary proceedings may be brought

172. (1) Summary proceedings against an ICAV or an officer of an ICAV acting in his or her capacity as such (or a person purporting to so act) for an offence under this Act may be brought, heard and determined—

(a) before and by a judge of the District Court as provided for under section 79 or 79A of the Courts of Justice Act 1924, or

(b) before and by a judge of the District Court for the time being assigned to the district court district in which the registered office of the ICAV is situated immediately prior to the commencement of the proceedings.

(2) In this section “officer of an ICAV” includes a director, shadow director, promoter, auditor, receiver, liquidator or secretary of an ICAV.

(3) For the purposes of this section, the place for the time being recorded by the Bank as the situation of the registered office of the ICAV shall be deemed to be the registered office of the ICAV notwithstanding that the situation of its registered office may have changed.”.

Amendment agreed to.

Deputy Simon Harris: I move amendment No. 33:

In page 104, between lines 23 and 24, to insert the following:

“Application of other provisions relating to offences

173. (1) Sections 867 and 870 of the Companies Act 2014 shall apply in relation to offences under this Act as in relation to offences under that Act.

(2) Section 868 of that Act shall apply in relation to an ICAV as in relation to a company.

(3) Section 872 of that Act shall apply as if references to that Act included this Act.

(4) Section 873 of that Act shall apply as if the reference to a category 3 or 4 offence within the meaning of that Act included a category 3 offence under this Act.”.

Amendment agreed to.

Bill recommitted in respect of amendment No. 34.

Deputy Simon Harris: I move amendment No. 34:

In page 104, between lines 23 and 24, to insert the following:

“Special provisions applying where default in delivery of documents to Bank

174. (1) The Bank may deliver a notice that complies with *subsection (2)* to a person if the Bank has reasonable grounds for believing that the person is in default in the production or delivery to, or filing with, the Bank of a document required under this Act (being a default that constitutes a category 3 offence).

(2) The notice referred to in *subsection (1)* is a notice that—

(a) is in the form specified by the Bank,

(b) states that the person has failed to produce or deliver to, or file with, the Bank a document required under a specified provision of this Act,

(c) states that the person to whom the notice is delivered may during a period of 21 days beginning after the date of the notice, or such greater period as may be specified in the notice—

(i) remedy the default, and

(ii) pay to the Bank an amount specified by the Bank which shall be accompanied by the notice,

and

(d) states that a prosecution of the person to whom the notice is delivered—

(i) will not be instituted during the period referred to in *paragraph (c)*, and

(ii) will not be instituted in any event if, within the period referred to in *paragraph (c)*, the default is remedied and payment is made in accordance with the notice.

(3) Where a notice is delivered under *subsection (1)*—

(a) a person to whom it is delivered may, during the period specified in the notice, make to the Bank payment of the amount specified in the notice, accompanied by the notice,

(b) the Bank may receive the payment and issue a receipt for it and no payment so received shall in any circumstances be recoverable by the person who made it,

and

(c) a prosecution in respect of the alleged offence shall not be instituted in the period specified in the notice and if the default is remedied to the satisfaction of the Bank and payment of the amount specified in the notice is made during that period, no prosecution in respect of the alleged offence shall be instituted in any event.

(4) In a prosecution for an offence to which this section applies, the defendant shall bear the onus of showing that a payment pursuant to a notice under this section has been made.

(5) All payments made to the Bank in pursuance of this section shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Public Expenditure and Reform may direct.

(6) If the person mentioned in *subsection (1)* is an ICAV, then that subsection authorises the delivery of the notice mentioned in it to an officer of the ICAV but, where the notice is delivered to that officer, the second reference in that subsection to person, and each reference in *subsections (2) and (3)* to the person to whom the notice is delivered or otherwise to person, is to be read as a reference to the ICAV.”.

Amendment agreed to.

Bill reported with amendment.

Deputy Simon Harris: I move amendment No. 35:

In page 104, between lines 23 and 24, to insert the following:

“General offences

175. Sections 876(1) and (3), 877 and 878 of the Companies Act 2014 have effect as if the references to a company included an ICAV and the references to that Act included this Act.”.

Amendment agreed to.

Bill recommitted in respect of amendment No. 36:

Deputy Simon Harris: I move amendment No. 36:

In page 104, between lines 23 and 24, to insert the following:

“Evidential matters

176. (1) Sections 879 to 886 of the Companies Act 2014 have effect as if references to that Act (or Parts 1 to 15 of that Act) included this Act.

(2) In the application of section 886(6) in relation to a declaration that purports to be made in pursuance of or for the purposes of—

(a) this Act, or

(b) a provision of that Act in its application by virtue of this Act, the references to the Registrar are to the Bank.”.

Amendment agreed to.

Bill reported with amendment.

Deputy Simon Harris: I move amendment No. 37:

In page 104, to delete lines 26 to 29 and substitute the following:

“Mergers involving ICAV

168. (1) An ICAV authorised under the UCITS Regulations may, in accordance with the provisions of the UCITS Regulations, merge with any other UCITS.

(2) An ICAV authorised under UCITS Regulations which is the merging UCITS in relation to a merger for the purposes of the UCITS Regulations which involves the transfer of all its assets and liabilities to another UCITS (or a sub-fund of another UCITS) in the course of the merger shall, in accordance with the provisions of the UCITS Regulations, be dissolved without winding up on the coming into effect of the merger.

(3) An ICAV authorised under *section 19* may merge with any other form of collective investment vehicle in accordance with any conditions imposed by the Bank.

(4) An ICAV authorised under *section 19* which transfers all of its assets and liabilities to another collective investment vehicle (or a sub-fund of another collective investment vehicle) in accordance with conditions imposed by the Bank shall be dissolved without winding up on the coming into effect of the merger.”.

Merger provisions were cross-supplied in the Bill as published and passed by the committee. Amendment No. 37 inserts a new section that sets out the merger provisions explicitly. An ICAV that is a USIT may merge with any other USIT. This other USIT can have any legal form. The merging USIT-ICAV, which transfers all of its assets and liabilities to the other USITs, will be dissolved without winding up when the merger comes into effect. We included this on Committee Stage but I am setting it out in more detail.

Amendment agreed.

Deputy Simon Harris: I move amendment No. 38:

In page 105, to delete lines 22 to 31.

Amendment agreed to.

Deputy Simon Harris: I move amendment No. 39:

In page 105, to delete lines 32 to 34.

Amendment agreed to.

Deputy Simon Harris: I move amendment No. 40:

In page 106, after line 38, to insert the following:

“Director of Corporate Enforcement

178. Sections 953, 956 and 957 of the Companies Act 2014 have effect as if references to that Act included this Act.”

Amendment No. 40 inserts a new section 178, which cross-supplies sections 953, 956 and 957 of the Companies Act 2014. Section 953 concerns liability of a director or officer for acts and omissions. It is based on section 15 of the Company Law Enforcement Act 2001. Section 956 concerns confidentiality of information. It requires the Director of Corporate Enforcement or a former director of corporate enforcement or an officer of the director to keep confidential any information received from them in the performance of their work with the Office of the Director of Corporate Enforcement.

Section 957 concerns disclosure of information to the director. It facilitates the reporting to the Director of Corporate Enforcement of information relating to offences under this Bill, which is being gathered by the Competition Authority, members of An Garda Síochána, officers of the Revenue Commissioners, the Insolvency Service of Ireland, the Irish Takeover Panel and such other authority or person as may be prescribed. This derives from section 18 of the Company Law Enforcement Act 2001.

Amendment agreed to.

Bill reported with amendments and received for final consideration.

Question proposed: “That the Bill do now pass.”

Minister of State at the Department of Finance (Deputy Simon Harris): I thank Deputies, particularly Deputy Michael McGrath and Deputy Doherty, for their constructive engagement on this Bill. I thank my officials also who put a great deal of work into what is as we discussed on many occasions a largely technical but very important piece of legislation. It is important in terms of this country’s competitiveness and trying to attract international financial investment to this country that we continue to make sure we have a good offering. This Bill offers a good new product that many of our competitors have previously offered but it does so in a responsible fashion and in a way that is cognisant of the Companies Act and cognisant of transposing, where appropriate, elements of the Companies Act, and recognising where an

ICAV is different from a company.

I thank everybody for a very constructive engagement. I take on board the points made by Deputy McGrath and Deputy Doherty. I like to think I have taken on board suggestions they made during the debate on this legislation, particularly with regard to the inclusion of the provision regarding an auditor. I look forward to this legislation going to the Seanad and, following the Seanad's consideration, being signed by the President as quickly as possible. It is an important Bill.

Deputy Michael McGrath: I thank the Minister and his officials for their work on this legislation. It is good to see the Government paying due attention to the financial services sector and, within that, the Irish funds industry is an important part. As we know, investment in this area is highly mobile. Many of our competitor countries have been ahead of us in respect of this specific area and hopefully this will be a very useful tool in the armoury of the State as we seek to attract more investment in the area of funds and the wider financial services sector. Hopefully, it will ultimately boost employment and investment in the country.

Deputy Pearse Doherty: I thank the Minister and his officials. It seems we have been dealing with this legislation for quite a while, particularly on Committee Stage where we had a good discussion on the intentions of the Bill. I outlined concerns on Second Stage about what we are trying to chase here, although it is disputed by the Minister in terms of chasing other countries and so on. Obviously, we hope things work out to the betterment but the key point in all this legislation is that we need to keep it under review. I am critical of legislation that we pass and then decide to come back to when it is outdated, not fit for purpose or has a consequence that was not intended at the time of its passage. While the Bill has not yet been enacted that is something that must be built into the legislation in terms of regular review.

I was hoping the Minister might give us a heads up as to when we can expect the mortgage legislation to come before the House. Does he have any indication? We understand it will be in the coming days. If he could impart his wisdom to the House, it would be welcome at this point in time to help myself and Deputy McGrath as we are bogged down with the banking inquiry and other matters. It would help our own agendas.

Deputy Simon Harris: I genuinely cannot assist the Deputy in that but I will endeavour to find out and revert to him.

Question put and agreed to.

Redress for Women Resident in Certain Institutions Bill 2014: Order for Second Stage

Bill entitled an Act to make provision for the making available without charge of certain health services to certain women who were admitted to and worked in certain institutions; to provide that those women shall not be required to pay charges for acute in-patient services and, for those purposes, to amend the Health Act 1970; to amend the Nursing Homes Support Scheme Act 2009; and to provide for related matters.

Minister for Justice and Equality (Deputy Frances Fitzgerald): I move: "That Second Stage be taken now."

Question put and agreed to.

Redress for Women Resident in Certain Institutions Bill 2014: Second Stage

Minister for Justice and Equality (Deputy Frances Fitzgerald): I move: “That the Bill be now read a Second Time.”

I am pleased to present the Redress for Women Resident in Certain Institutions Bill 2014, the purpose of which is to provide for health services to be made available without charge to women who were resident in Magdalen laundries and similar institutions. The Bill provides that these women will not be required to pay the statutory charge for public acute hospital inpatient services and that the *ex gratia* payments being made, including top-up pension payments, will not be included in the financial assessment of means under the Nursing Homes Support Scheme Act 2009. As Deputies will be aware, this Bill is one part of a wider package of supports for these women.

Before I go into detail about this legislation, I will briefly give the background to it and to the other supports the Government is providing to the women concerned. Deputies will be very familiar with the details of this background, including the establishment in June 2011 of an inquiry to establish the facts of the State’s involvement with the Magdalen laundries. The inquiry in question, which was chaired by the then Senator Martin McAleese, published a 1,000-page report in 2013. This clear, detailed and objective exposition of the facts regarding the ten Magdalen laundries found that just over 10,000 women had spent time in Magdalen laundries since the founding of the State. The way that women found themselves in these laundries varied considerably. Many referrals were made by the women themselves. Other referrals were made by families, priests or clergy. Some referrals were also made by the Society of St. Vincent de Paul, the Red Cross and the Samaritans. Approximately 27% of referrals were made by or facilitated by the State.

The McAleese report makes the point that in today’s world, it is difficult to understand the circumstances which in the past led to daughters, sisters and mothers being placed in these laundries. It may be equally difficult to understand the apparent acceptance by families of instructions from people in positions of authority, such as the clergy, in relation to family matters. The report goes on to say it would be unfair to judge these cases or the people concerned by applying today’s standards and societal norms. The report points out that because of the general life expectancy in society at the time, it was common for one or both parents of the girls or women in question to be deceased. It needs to be emphasised that many girls or women ended up in these institutions because they did not have anyone in a position to look after them. In many cases, referrals to Magdalen laundries were used as temporary measures in the absence of more appropriate services which simply did not exist at the time. The Magdalen laundries were described by the McAleese report as often the only door open to these women. Many women and girls worked in the laundries for long periods. Approximately half of the women were in the laundries for periods of more than three years.

The referrals from State agencies came about in a variety of ways: from industrial and reform schools; from the health and social services, including the then existing county homes; and from psychiatric hospitals. There were also referrals from the criminal justice system includ-

ing referrals of people on remand, referrals as a condition of probation, other less formalised referrals facilitated by the courts, referrals from prison and referrals by An Garda Síochána. As a result of the lack of more appropriate services, many case studies clearly demonstrate widespread acceptance of practices that would be repugnant to us today. The McAleese report makes it clear that “many of these case-studies and patterns are accordingly of their own times and [unfortunately] demonstrate some of the prevailing attitudes in Ireland across the years since 1922”. Of course the new commission will take up many of the issues in relation to the experience of women in vulnerable circumstances in Ireland in the period from 1922 to a later time. The case studies illustrate that alternative social care arrangements for these women were often not available at the time.

The report refers to the mistaken public perception that the women who were referred to these institutions were predominately unmarried mothers, or lone parents as we would call them today. This perception does not reflect the reality in most cases. The report found that placements of girls or women in Magdalen laundries were made for a wide variety of reasons. It is hard to credit nowadays that in some cases, referrals were seen as a means of disciplining young girls. In other cases, referrals were made to provide for girls or women with physical disabilities or with mental or psychiatric illnesses. Some of them had intellectual disabilities and special needs, while others were referred because of advanced age. In other cases, girls or women were placed in Magdalen laundries by their families following family disputes, or as a result of abuse or neglect in the home. Only in a minority of cases did referrals relate to girls or women rejected by their families for having a child outside marriage. Everybody here will agree that the case studies are sad and harrowing accounts of a traumatic time in the lives of these girls and women. At the most vulnerable time in their lives, these women experienced a very traumatic removal from their homes and communities, often followed by a prolonged and extreme level of societal exclusion and ostracisation.

I thank Martin McAleese for the work he did. As a result of his report, the Government decided that a non-adversarial scheme for women who worked in Magdalen laundries or similar institutions should be introduced. Mr. Justice Quirke was asked by the Government to make recommendations. He reported in May 2013. All of his recommendations were accepted in principle by the Government in June of that year. My Department started work immediately on setting up a scheme and publicised the scheme widely in this country and abroad.

5 o'clock

When I met the advocacy group some months ago, it suggested that we use our embassies and particular magazines to advertise the scheme's continued existence. I have since taken up that suggestion so as to ensure that more women know about the scheme.

The primary support that we have given comprises *ex gratia* payments to women who were in these institutions. Under the scheme, applicants do not need to prove that they suffered any abuse or damage. The manner of their referral - I have outlined the various ways - is also not considered relevant. All that has to be established is that a woman was admitted to and worked in a relevant institution. For this reason, it should be recognised that the scheme represents an appropriate and caring provision by the State to the women in respect of what was inevitably a traumatic experience in their lives.

Under the scheme, a woman is eligible for a payment of between €11,500 and €100,000, depending on the length of stay. As recommended by Mr. Justice Quirke, the balance of lump

sums in excess of €50,000 is being paid by weekly instalments in order to provide an income spread over a longer period. To date, my Department has made decisions on 86% of the 776 applications received so far, and a total of €18 million has been paid out to the women. Many members of the public will be pleased to see that, even at this point when many of the women in question are older, this money has been paid to them in recompense for the trauma they underwent. The remaining applications are at various stages of the process. Some have only been received recently and some require further information, further investigation or verification. We are progressing work on all of these cases as quickly as possible.

One of the points the advocacy group made to me concerned the positive feedback it had received from the women regarding how they were dealt with by the staff of the Department of Justice and Equality. The team working on their cases has been extremely proactive and responsive when engaging on the issues that have been raised. The scheme remains open and I anticipate that a small number of further applications will be received.

The processing of all applications starts on the premise that the testimony of the applicant is correct and the officers processing the application then seek to verify it by checking appropriate records. Where the records of an institution are incomplete, as they are in a small number of cases, we have agreed to set up an interview process with the applicant and are making every effort to corroborate the women's information with other documentation or information held by other elements of the State - for example, the Department of Social Protection, work records, etc.

The Quirke report also recommended that the *ex gratia* payments should include top-up pension payments of up to €100 for women under the age of 66 years and up to €230.30 for those aged 66 years or over. These payments are being made by the Department of Social Protection. I thank the Tánaiste and Minister for Social Protection for her assistance in that regard.

Mr. Justice Quirke recommended that legislation be introduced to give effect to his recommendation on the provision of health services. Before outlining that, it is worth noting that Mr. Justice Quirke reported that 91% of the women surveyed during the course of his work already held a medical or general practitioner visit card. In his report, he was of the opinion that Magdalen women should be provided with access to a comprehensive suite of health services. He specified GP services; prescribed drugs; medicines; aids and appliances; dental, ophthalmic and aural services; home support; home nursing; counselling; and chiropody and physiotherapy services. He also advised that this entitlement should operate in a statutory manner. His recommendation that the women receive medical services equivalent to those provided to the holder of a Health (Amendment) Act 1996, HAA, card is being given effect in this Bill. As set out in his report, he also advised that not all of the services described in the hepatitis C guide might be directly relevant to the Magdalen women, and any comparable guide for the Magdalen women would require suitable adaptation.

I thank the Minister for Health, with whose Department we have had significant engagement, for his assistance in regard to the provision of medical services. The health services set out in section 2 of the Bill provide entitlements to benefits that are comprehensive and greater than those of a straightforward medical card. Deputies will note that the range of health services being made available without charge are those services listed in section 2 of the Health (Amendment) Act 1996, which provides for persons affected by hepatitis C. This comprehensive list of services includes all of the health services identified by Mr. Justice Quirke: GP, medical and surgical services; drugs, medicines and surgical appliances; nursing services; home

help services; dental, ophthalmic and aural services; counselling services; chiropody services; and physiotherapy services. The Bill will exempt the women from charges for acute inpatient services. It will also provide that *ex gratia* payments made to these women under the scheme will not be included in any financial assessment of means under the Nursing Homes Support Scheme Act 2009. Some NGOs have incorrectly stated that the Bill will not provide for these services. The only service that is not included in the Bill relates to “alternative therapies”. Deputies will be aware of recent investigations into spending on alternative therapies by the support group for hepatitis C, which has been the subject of comment in recent times. The Bill does not make any provision for the therapies of homoeopathy, angel healing and aromatherapy, as they have no proven medical benefits.

The focus is firmly on the health needs of the women, and some of the services provided will be accessible through referral by a doctor or nurse. Referral will ensure that the health care provided will be co-ordinated will be the most appropriate for each participant. Importantly, there is no means test to access these services and they will be provided without charge to relevant participants in the *ex gratia* scheme.

All health systems around the world vary in arrangements, and each system is unique. Therefore, the Minister for Health has agreed that, given the wide variation in the organisation of countries’ health systems, access to equivalent health services for participants living abroad is best dealt with on an administrative basis by the HSE. The HSE will deal with a woman residing overseas as appropriate to her specific circumstances and the health system of her country of residence. I will take this opportunity to reassure those living abroad that they will be able to access equivalent services as though they were resident in the State. Recently, I visited women in the UK. They were benefitting from the support they were receiving from the relevant organisation there and the range of services that were available to them. I am aware that the procedure for accessing services in other countries will be different. Those women living abroad will be supported in sourcing and paying for services and securing refunds to the extent that they would be entitled to under the scheme if resident in the State. There will be circumstances in which a service similar to or aligned with what they would receive in the State may not be available. The HSE will have a variety of different arrangements with such participants. A specific contact will be established in the HSE with whom the overseas participants can liaise in terms of arranging access to services and recouping costs. This dedicated point of contact will provide clarity on what exactly the participant is entitled to in line with what is available in her country of residence.

I understand there has been some comment about the lack of explicit reference in the Bill to a so-called enhanced card. I will take the opportunity to explain. It is important to clarify that neither the standard medical card nor any new card is explicitly set out in the legislation of the Health Act 1970 or this Bill. This is normal legislative practice.

It will be a matter for the HSE to decide on the practical arrangements, such as a type of card, to be put in place in order to ensure that the women can easily demonstrate their eligibility for services under this legislation. I want to make it easy for women to do so. One operational possibility, for example, is that an RWRCI card, based on the name of the legislation, would be issued to the qualifying women. It is not practice to name the type of card in the legislation. We will make provision for an enhanced card and on an administrative basis the HSE will issue the card. The type of card is clearly spelled out in the legislation but the practical details - what it looks like and what name will be on it - are for the HSE to decide.

There has been some comment suggesting that no provision is being made for women entitled to these supports who do not have the capacity to make the necessary applications or arrangements. This is simply incorrect. The women are already covered by section 21 - concerning the appointment of a care representative - under the Nursing Homes Support Scheme Act 2009. Separate legislation, which I have already brought before the Dáil, will cater for cases in which the applicant is found to lack capacity but has not been made a ward of court or where there is no enduring power of attorney. The Assisted Decision Making (Capacity) Bill 2013 provides for the appointment of a person by a court to act on behalf of the applicant in regard to his or her financial affairs, and this will include applications for *ex gratia* payments under the scheme. The Bill is already awaiting Committee Stage in the Dáil and I expect it to be enacted in the first half of this year.

I do understand the role of advocacy groups. I have met those working with the women who were resident in the Magdalen laundries and I want to recognise their work. I have laid out clearly today, however, how in fact the Government is meeting Mr. Justice Quirke's recommendations in full. I hope this is now clear and that no further misunderstandings will be created on this important issue for the women concerned.

There is broad support in this House for all the measures that the Government has decided to put in place for these women. In drafting the Bill the Government has been fully aware of points made by Deputies, both in their representations to me - I have met with Deputy McDonald and others - and in parliamentary questions tabled in this House.

I commend the Bill to the House. I will very much welcome the discussion with Deputies in regard to the Bill as we progress it through the House. I hope the points I have made about the card will be clearly understood, including the practical administrative arrangements for women resident in this country, and the arrangements agreed with the Department of Health for women living overseas. The latter group's entitlements will be equivalent to those of women resident here.

Deputy Niall Collins: Fianna Fáil supports this Bill, which will provide certain health services to women who were resident in the Magdalen laundries and in similar laundries operated at St. Mary's training centre, Stanhope Street, Dublin 7, and the House of Mercy training school, Summerhill, Wexford. We welcome the fact that the Bill also provides that such women will not be required to pay the statutory charge for public acute hospital inpatient services, and that the *ex gratia* payments will not be included in the financial assessment of means under the Nursing Homes Support Scheme Act 2009. However, Fianna Fáil is greatly concerned that the Magdalen laundries have been excluded from the commission of investigation into mother and baby homes which the Government is establishing this week.

It has been stated, and I tend to agree, that the mother and baby homes and Magdalen laundries were both a part of Ireland's architecture of containment of so-called problem women and girls and, as such, should be investigated under the same commission of investigation. Similarly, the proposals as outlined do not fully reflect the recommendations outlined by Mr. Justice Quirke, whose proposals included full pension rights for those affected and the granting of a medical card similar to that given to State-infected hepatitis C survivors under the HAA card scheme. This is a shame, in our opinion, and, indeed, a lost opportunity. Let us not forget why this Bill is before the House today. The inhumane conditions of work, the *de facto* slave labour status of women, and the gross unfairness of their indefinite incarceration in the laundries mark a grave breach of the human rights and dignity of the women involved.

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Evidence already in the public domain definitely reveals that the Irish State colluded in the operation of the laundries, as the justice system sent women into them and State agencies, such as hospitals, employed the laundries. The courts, too, sent women to the laundries, with some 26% of entries via the State system, while gardaí returned runaways from the institutions. The system was evidently not a voluntary mechanism. The State failed the women involved by failing to implement effective supervision of the laundries, uphold its own health and safety standards, or provide for their education and social welfare rights.

We in Fianna Fáil have already acknowledged the failures of all who participated in public life and did not act to intervene. Earlier consideration should have been given to this issue and there is no doubt that the women of the Magdalen laundries deserved earlier intervention. We have already stated that steps should have been taken earlier to give an apology such as that made by the Taoiseach.

The process outlined by the Taoiseach at the time of his apology gave great hope to the women who survived the Magdalen laundries. The publication of the report by Mr. Justice Quirke and the Government's acceptance in full of all the recommendations contained in it was greatly welcomed by survivors' groups and all parties in this House. The Government proposed that the specific proposals be discussed with the survivors and that a comprehensive package be agreed to and passed in legislation. The current legislation we are debating arises out of this process, but it is said that the legislation does not go as far as Mr. Justice Quirke recommended. The reaction to the publication of this legislation has not been an overly positive one. The Justice for Magdalenes Research, JFMR, the National Women's Council of Ireland, the Irish Council for Civil Liberties, and Amnesty International (Ireland) have already called on the Government to honour the promise it made to Magdalen survivors in June 2013 and implement all of Mr. Justice Quirke's recommendations for a Magdalen restorative justice scheme. A spokesperson for JFMR criticised this legislation, saying:

The draft legislation does not meet Judge Quirke's recommendation on healthcare for Magdalene women. It is an obvious and unacceptable paring back of what the Government promised as part of the women's redress package.

When we look at the recommendations of the Quirke report, it is clear to see that this legislation does fall short of what has been promised.

The first recommendation of the Quirke report stated:

Magdalen women should have access to the full range of services currently enjoyed by holders of the Health (Amendment) Act 1996 Card ("the HAA card").

As an integral part of the *ex gratia* Scheme a card entitling its holder to health services equivalent to those provided to the holder of a HAA card should be given to each of the women who were admitted to and worked in a designated Magdalen laundry.

Instead of this, however, we see that the Bill promises the equivalent of a regular medical card. This is welcome, of course, but as I am sure the Minister is aware, most of the women already have medical cards. In this sense, the legislation does not meet Mr. Justice Quirke's recommendation on health care for Magdalen women. The Minister must outline why this is the case. It is unacceptable for the Government to say one thing on the publication of a report which shocked the country and then, when time has passed, water down the recommendations.

Those representing the survivors have stated that the Government has ignored Mr. Justice Quirke's recommendation to extend the Nursing Homes Support Scheme Act 2009 to Magdalen women who lack full capacity. An important element of the proposals was that applications to the scheme should be allowed to be made on those individuals' behalf and that their assets could be managed by a court-appointed representative in their best interests. It is our belief that those individuals need to be catered for and that this legislation should allow for the protection of women in institutionalised settings, provide independent advocates and ensure their interests are protected.

I ask that the Minister clarify this point further.

The Quirke report also recommended that each Magdalen woman of State pensionable age should receive a weekly amount from the State equivalent to the State contributory pension but taking into account any other State payments already being made; that each Magdalen woman under State pensionable age should receive a minimum weekly amount of €100 per week from the State but taking into account any other State payments already being made; and that all monetary payments should be exempt from income and other taxes and any form of means testing. I accept that payments have been made. However, as has been outlined by the groups representing these women, those who have received their lump sum compensation and pensions have promised not to sue the State in exchange for the full redress package recommended in the Quirke report. One of the most prominent campaigners on behalf of those women who suffered in the Magdalen laundries has stated:

The women who have received their lump sum compensation and pensions have promised not to sue the State in exchange for the full redress package recommended by Judge Quirke. However, this legislation is in clear breach of the women's legitimate expectations and puts those waivers on shaky ground.

It is a matter of concern that the survivors may seek to re-evaluate the agreement with the Government in light of the legislation before the House. I am sure this is an issue about which the Minister is also concerned. It is most worrying that the National Women's Council of Ireland has indicated that:

The Bill as currently proposed is a further denial of the rights of women survivors of the Magdalene Laundries. It undermines the Scheme as proposed by Judge Quirke, which provided only minimal recognition for the abuse women suffered. A particular area of concern is the denial of full pension entitlements for the women. Judge Quirke clearly recommended that the women should be treated as if they had made full pension contributions and yet the Government are refusing to back-date the pension entitlements for women. The women urgently require this compensation so as to provide a decent standard of living in their older years.

The Minister must outline how she will address the concerns that have been raised. We cannot allow another opportunity to be lost in the context of how these women are treated. If we are going to pass the legislation before us in order to address and amend the great wrong inflicted on these women, then it is important that we get it right. I implore the Minister to listen to the concerns of the survivors and do all she can to address them. We cannot allow another hurt to develop and be added to the many already visited on these women heretofore.

Deputy Mary Lou McDonald: The Minister prefaced her description of the legislation by

providing an account of how, in her eyes, the issue of the Magdalen laundries has been dealt with by the State and how it and the Government treated the victims and survivors. I take this opportunity to acknowledge that those survivors enjoyed a level of public recognition in respect of the experiences that they underwent, many of them as young girls. The Minister is correct to state that the pathways into the laundries were many and varied. It can also be stated that the experience behind the high walls with which the laundries were bounded was deeply traumatic and involved psychological and physical violence being visited upon the women and girls in question. Any attempt to discount their experience as something that happened in the dim and distant past or that was merely a consequence of the way things were at the time would be very wrong. Equally, any attempt to suggest that society at large did not know what was going on would also be wrong.

We now know that the State actively colluded with these institutions in terms of the committal and incarceration of women and girls. In many instances in which individuals made valiant efforts to escape, the State connived in returning them to the institutions in question. The Minister and I share a common analysis with regard to what happened. It is only fair that, on a personal level, I acknowledge her commitment in respect of the issues under discussion. Where she and I part company is in the context of her assertion to the effect that the McAleese report represented a comprehensive and full, fair and frank assessment of the facts relating to the laundries. The report did no such thing. I say that not by way of criticism of the former Senator McAleese but more by way of criticism of the Government that established the process by means of which he produced his report. The process in question was deliberately narrow and restrictive. In the view of victims and survivors, it led to the production of an report which was deeply flawed and which sought - deliberately or otherwise - to almost play down the scale and significance of their experiences. The criticisms levelled at the report have been echoed at the United Nations. The latter does not regard either the McAleese process or the report to which it gave rise as representing an adequate response on the part of the State to the cruel and degrading treatment meted out to these women and girls, who were arbitrarily detained and used as unpaid slave labour.

We find ourselves in something of a bizarre situation. We are dealing with legislation entitled Redress for Women Resident in Certain Institutions Bill, against the backdrop of a continuing degree of denial regarding the scale of what happened in such institutions. The assertion in the McAleese report to the effect that no sexual abuse occurred in these institutions has been the cause of deep unease and anger on the part of some survivors. Those who survive tell a different tale and indicate that examples of such abuse were not isolated or random but were, rather, consistent in nature. We are talking about redress in circumstances where the State and the Government have not yet fully recognised or measured exactly what happened within the institutions in question. Lest there be any misunderstanding, I re-emphasise the fact that neither the Minister nor the Government of which she is a member were responsible for these occurrences. I am not for one moment attempting to have a go at her or anybody else; I am merely setting out the facts as they present themselves.

Any discussion on redress, or the development of any legislation relating thereto, must begin with the firm aim of establishing the full facts. We have not yet reached that point.

Debate adjourned.

Mother and Baby Homes Commission of Investigation: Motion (Resumed)

The following motion was moved by the Minister for Children and Youth Affairs, Deputy James Reilly, on Wednesday, 21 January 2015:

That Dáil Éireann:

- having regard to the motion passed by Dáil Éireann on 11th June 2014 which recognised the need to establish the facts regarding the deaths of children at the Bon Secours Mother and Baby Home in Tuam, County Galway between 1925 and 1961, including arrangements for the burial of these children, and which further acknowledged the considerable public anxiety as to the conditions generally in mother and baby homes operational in the State in that era;

- noting that it is the opinion of the Government that these matters of significant public concern require, in the public interest, examination by the establishment of a Commission of Investigation;

- noting that the Minister for Children and Youth Affairs has led the Government's consideration of these sensitive matters;

- noting the factual information compiled and the specific matters identified for further consideration in the Report of the Inter-Departmental Group on Mother and Baby Homes which was laid before Dáil Éireann on 16th July 2014 and which has assisted to inform Government considerations on the scope, format and terms of reference for a Commission of Investigation;

- and further noting that a draft Order proposed to be made by the Government under the Commissions of Investigation Act 2004 (No. 23 of 2004) has been duly laid before Dáil Éireann on 16th January 2015 in respect of the foregoing matters referred to, together with a statement of reasons for establishing a Commission under that Act;

approves the draft Commission of Investigation (Mother and Baby Homes and Certain Related Matters) Order, 2015 and the statement of reasons for establishing a commission of investigation.

Debate resumed on amendment No. 2:

To delete all words after "establishing a Commission under that Act;" and substitute the following:

- calls for Schedule (11) (B) of the draft Commission of Investigation (Mother and Baby Homes and Certain Related Matters) Order, 2015 to be amended by inserting after 'their children', 'with particular regard to the practices employed in obtaining the consent of mothers who had recently given birth to their treatment';

- calls for Appendix 1(1) of the draft Commission of Investigation (Mother and Baby Homes and Certain Related Matters) Order, 2015 to be amended so as to include the following homes:

Braemar House, Cork.

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Ovoca (or Avoca) House, Co. Wicklow.

Regina Coeli Hostel, Athlone, Co. Westmeath.

Saint Gerard's, 39 Mountjoy Square, Dublin 1.

Saint Joseph's Centre (aka Saint Clare's Centre), Stamullen, Co. Meath.

Saint Patrick's Infant Hospital, Temple Hill, Blackrock, Co. Dublin.

Saint Philomena's Centre Lakelands, Stillorgan, Co. Dublin.

Saint Rita's Nursing Home, 68 Sandford Road, Ranelagh, Dublin 4.

The Nurseries, Fermoy, Co. Cork

Westbank Home, Greystones, Co. Wicklow; and

- calls for Appendix 1(2) of the draft Commission of Investigation (Mother and Baby-Homes and Certain Related Matters) Order, 2015 to be amended by inserting after 'these mothers and children.', 'Any former resident of any County Home will be entitled to be heard by the Commission of Investigation.

-(Deputy Robert Troy).

An Leas-Cheann Comhairle: Deputy Buttimer is the next speaker and he is sharing his time with Deputy Bannon.

Deputy Jerry Buttimer: I wish to echo the words of the former Minister for Children and Youth Affairs, Deputy Charlie Flanagan, who spoke about this issue in June 2014. He referred to the shame that society made women and children in mother and baby homes feel. His was an important speech. For many of the women, the sense of shame has lasted a lifetime. Some of the women are friends of mine, and some are constituents who have come to my office to share their stories with me. It has been a revelation to hear their accounts. Having been in the institutions prevented many of the women from reaching their full potential, and it prevented some from leading the kind of life they really wanted to lead.

Now that we have uncovered how the women and children were treated by society, it is our turn to feel a sense of shame. It is the turn of society to take on the burden, to be remorseful for the way it treated these people, who are citizens of our country, and to regret that it took so long to reveal the truth of what happened and shine a light on the desperate injustice done to those concerned. I hope that through official recognition by the State, through the actions and words of the current Government, we can bring solace, comfort and help to the women and children. In many cases, this is so much desired and needed. I hope this recognition and the establishment of the commission of investigation will help to lessen the burden the women have carried for too many years.

As I stated, since June I have been contacted by friends and constituents who have shared their difficult experiences with me. From what I have learned from this engagement, the process of the State investigating the so-called homes brings relief. It comes at a time in which we must help the affected individuals to heal the emotional scars that have been left by time. As a result of the practices of the past and putting the women into the institutions, there are generations of people who are left asking many questions. Adults who were children in the homes ask

continually why they were abandoned. That question is a perfectly understandable response to their separation from their mothers. Unfortunately, some of the women and their children can never let this go and cannot resolve the issue. For some, it is a significant cause of anger and resentment. As a society, we owe it to the women and children to be fully honest. We owe it to them to investigate fully and lay bare the facts regarding what happened.

Last year, the horrific events in Tuam were uncovered. Thanks to the investigative work of Catherine Corless, we found out some of the story from that particular home. However, institutions such as that in Tuam were many in number and located across the country. They were places where mothers and their babies were kept sheltered from the full view of society. They were behind a wall, living a parallel life that was seldom spoken about or recognised. In Cork, my city, there were numerous homes, particularly the one in Bessborough. I hope the commission of investigation can unveil the long-overdue truth of what happened in the homes.

Just today in preparing for this speech I came across an e-mail from a lady living my constituency. She states that, since Thursday, she has felt the lifting of the burden of shame. She states she and others have had their shame, pain and hurt officially recognised, and that with the relief after all the years of carrying the burden in silence, healing can now begin.

I am glad to see the commission established. I am particularly glad the Minister, Deputy Reilly, referred to amendments in his speech yesterday and that we can bring hope to and encourage the women. I encourage the women to participate in the inquiry under the confidential arrangement or through the public forum. I hope the women will avail themselves of the arrangement and that we can make it accessible, as with other commissions. I hope the women's privacy will be protected and that the advertising of the commission will be straightforward. It is important that we make it easy for the women and their children to approach it and tell their stories. The women who want to participate believe the process should be advertised and that we must help other women who are in the closet to come out and participate in the inquiry. I commend the Minister. It is important that we start this process so we can bring healing to the many women who require it today.

Deputy James Bannon: I am pleased to offer my thoughts on the commission of investigation into mother and baby homes. I thank the Minister, Deputy Reilly, for all his work and being present for this motion.

Deputy Buttimer mentioned homes in Tuam, Cork and other parts of the country. One of the country's largest mother and baby homes was in County Westmeath. In 1934, the Cork-based order Sisters of the Sacred Heart of Jesus and Mary bought the Pollard manor house and estate in Castlepollard. They built a hospital and a church and started a mother and child home, which lasted until 1971. Young pregnant women used to arrive in Castlepollard having travelled from all parts of the midlands, and some arrived on the bus from Dublin. There were up to 120 girls in the home at any one time, and many of them had been sent there by their families for the supposed sin of falling pregnant out of wedlock.

What I find most shocking about the home in Castlepollard, something I learned from speaking to a person who was there, were the great lengths to which the staff went to ensure the girls were hidden away from public view and the eye of the local community. On admission to the home, the girls were given a different first name. Contact between the people of Castlepollard and the home was kept to an absolute minimum and neither the girls nor the staff ventured outside the complex gates. Perhaps even more astonishing was that when two girls came from the

same area, every effort was made to keep them apart by locating them in different parts of the home. Several accounts have been provided about the harshness of the regime.

Last summer, the *Westmeath Examiner* noted the concerns once raised by a councillor, James Fagan. In January 1945, he claimed that “inmates” at the institution were being compelled to do manual work in the fields. He said the girls had to cut timber and wield heavy sledges in all kinds of weather, clad in overalls. He described the conditions as uncivilised.

According to Adoption Rights Now, there may be as many as 500 babies buried in the surrounds at Castlepollard but, as with most of these institutions, there is a lack of concrete evidence as to how many are buried and their location. However, it is not the “little angels” plot that gets the most attention from visitors; rather, it is the high wall and walled garden directly opposite. Anyone who has visited this wall will have been greeted by an eerie sight. Along it, about ten to 18 inches apart, there are a countless number of iron nails bulging from the wall. They are of varying lengths and heights off the ground, and are placed at irregular intervals. Any local historian or member of the community will tell visitors that these nails are headstones and are all that is left to remind us that a human life once existed and is now interred there.

The mother and baby home in Castlepollard is only one of the homes that this commission will investigate. Hundreds of children were born in this home, many of whom now live in the United States, the United Kingdom or across Europe, and may not even know their original birthplace. I received at least four letters from persons who are now in their 50s and 60s seeking information. I was not able to help, but I tried my best.

I hope this commission will play a part in healing the scars that many of these women and their young children, now adults, have had to carry throughout their lives. I commend the Minister on all of his work on this important issue. Given the age profile of the mothers, I hope the commission carries out its investigation in a timely manner and I look forward to a favourable outcome.

Deputy Denis Naughten: I acknowledge the presence of the Minister in the House.

This proposed commission of inquiry is yet another investigation into a dark era of abuse of children in Ireland, an investigation into the destroyed lives of both mothers and their babies, and, of course, an investigation into lives cut short, some having spent only a short time on this earth.

There are many aspects to this. There are two that I want to focus on, and provision is made in the terms of reference before us for both of those. The first relates to county homes. I am glad to see provision for county homes is included. The terms of reference state that in some county homes mother and baby services seem to have been a considerable focus of the operation. I also want to draw the Minister’s attention to some of the other county homes which were never designated as mother and baby homes but acted as such. Roscommon county home was one of those. For example, to give an idea of the figures involved, on 31 March 1941 Roscommon county home had 18 unmarried mothers, which would be proportionate on a population basis to the other much larger homes across the State. These homes were obliged to admit anyone who would otherwise be homeless, and because of the stigma attached to unmarried mothers, many of their parents committed them to county homes. I understand that in 1962 there were approximately a dozen young women residing in Roscommon county home. They worked unpaid in the laundry and in the kitchen, and their children, if of school age, attended the local

primary schools. While all of the children in that particular home left in the early 1960s, their mothers remained as virtual prisoners, rarely leaving the premises, because they had become institutionalised. The regime in that home, as in every other home across the country, was harsh. In one story that is told locally, a young woman pleaded desperately with the caretaker of the county home to let her out, and after he acceded to her request and let her out at night, he lost his job. We must publicly acknowledge that these homes acted effectively as mother and baby homes, and while they may not have such formal designation, they provided similar services to those provided in the other official mother and baby homes. Sadly, we must acknowledge that some of the mothers and some of the babies never left those homes throughout their lives, whether long or short, after their admission. That should be included in the consideration by this commission.

The other issue I want to raise, referenced in Article (1)V of the terms of reference of the commission, is that of vaccine trials, or, in plain English, the use of residents in these facilities as human guinea pigs. A series of separate trials were carried out on children in these homes. Previously, I raised in this House the issue of the trials that took place between 1960 and 1961, and two others that took place in the early 1970s, which continued up to 1976. According to recent research, it seems that there were earlier trials in the 1930s and there may have been later trials than the ones of which we are aware to date. These children were seen as an accessible group for whom consent was not an issue. Some were used in more than one trial. For example, it is reported that Ms Mari Steed, who is now based in the United States and who was born at Bessborough in 1960, was used in four separate vaccine trials. These children were treated as if they were little more than laboratory rats, and that is unacceptable. The trials were performed with the knowledge, if not the approval, of official Ireland, including the medical and scientific community, because a report on the 1960-61 trial, which involved 58 infants in institutions dotted around the State, was published in the *British Medical Journal* in 1962.

The background to the subsequent clinical trials that took place in the late 1960s and early 1970s was the great upsurge at the time in the number of severe adverse reactions in children who received the three-in-one DPT vaccine manufactured by Wellcome. The 1973 vaccine trial involved an institution and a comparative control group outside that institution. A total of 116 children were involved, comprising 59 from the community and 57 from two children's homes in the Dublin area. The children in the community were given the normal commercial vaccine and those who were used as guinea pigs were given the new trial vaccine that was being studied at the time. As the Minister will be aware, these children were used to test out vaccines because during the late 1960s and 1970s there was a significant increase in the number of adverse reactions to the whooping cough vaccine. A former Minister for Health admitted while in office that the side effects generally recognised as occurring occasionally following the administration of the whooping cough vaccine included mental retardation and paralysis. These trials, which took place in 1973, were approved by the National Drugs Advisory Board and a licence was issued to Wellcome for a two-year period, yet these trials were still ongoing in 1976.

The trials raise a number of questions which remain unanswered. How many vaccine trials in total were conducted? What concoction did these children receive? Why was it always the case that the children in the institutions received the experimental vaccine while the children in the community received the control vaccine? Were children in care used in the trials and what consent was given for this? What, if any, are the long-term medical effects of the trials on the children who participated? Why has the State refused to investigate the contents of the files that were handed over to the Laffoy commission by the religious orders, State agencies and Well-

come? Why were those files handed back to those organisations rather than retained to ensure such information was controlled by the State? As the Minister will be aware, this particular issue was to be investigated by the Laffoy commission but, because of a court challenge, that did not happen and that module never progressed. The documents were handed back to the original owners in 2012. Could the Minister assure the House that the records that were handed back in 2012 can be sourced again, collated and made available to the inquiry in order that we can, once and for all, get answers to questions that should have been answered a long time ago? The children, now adults, should have had access to the records a long time ago.

I wish to highlight a story told to me by a constituent who approached me last week and asked me whether I would be contributing to the debate. She went to the mother and baby home in Bessborough in Cork. Her three month old daughter became seriously ill in Bessborough and was transferred to hospital. Soon after that she was sent home with no information as to where her daughter was. On her return home she tried to get information from the home on the whereabouts of her daughter but she got no assistance. Eventually she made contact with St. Finbarr's Hospital in Cork and was told that the baby had been transferred to Crumlin hospital. When she got through to Crumlin hospital she was told that her baby had a very serious heart condition, that it had passed away and had been buried in a plot in Glasnevin Cemetery. It took her years to trace the burial plot in Glasnevin Cemetery but she regularly visits the grave. In her case she has a particular plot to go to.

The story clearly shows that even when the babies were not adopted and there was a clear answer as to what happened to the baby, the information was not disclosed to the mothers. They did not have an opportunity to grieve. Information and the truth are vitally important to those mothers and to all of the children.

Deputy Paul J. Connaughton: I am grateful for the opportunity to speak to the motion. As the centenary of the issuing of the 1916 Proclamation approaches and the stated aim of the Proclamation being a new Irish Republic "cherishing all the children of the nation equally", there are few more stark examples of how the reality of life in the Republic failed to live up to the ideals of the signatories of the Proclamation than the treatment of single mothers and their babies.

In reviewing the first century of the Republic's existence, rather than self-congratulatory commemorations, it is perhaps more fitting that we examine the conditions and regime that pertained in the mother and baby home in Tuam and other such homes with a view to gaining a full understanding of how the country's most vulnerable children were treated, both in life and in death.

The work of local historian Catherine Corless in identifying the burial site of children who died in the Bon Secours mother and baby home in Tuam between 1925 and 1961 has raised serious questions about the operation of the home, but has raised wider questions about the treatment of the women who went to the home and other such homes to have their babies, the care they received and the care, or lack of care, that the children born there received.

The emergence of this story has once again called into question society's unquestioning attitude about what went on behind the various high-walled institutions throughout the country. However, this story has also raised many painful memories for mothers whose babies were born in the home and children born there and who spent part of their childhood in that setting. I have met many mothers whose babies were born in the home. Many yearn for closure and welcome

the current commission and have confidence in those appointed to investigate this matter. For others, it has reignited a period in their lives that they had buried and they are fearful that old wounds will be reopened. I have spoken to mothers who had children in that home as teenagers and whose other children are unaware of their elder sibling. I have also spoken to people born in the home who have no idea who their parents are.

The people who spent time in the institution in Tuam and those born there need as much information as possible and the report of the commission will be an important marker in terms of answers. I welcome the fact that Judge Yvonne Murphy has agreed to chair the commission and I also welcome the appointment of an international legal expert on child protection and adoption, Dr. William Duncan, and historian, Professor Mary Daly. The range of expertise will be necessary and welcome in dealing with the many cases that will emerge and the many stories and testimonies that will be heard in the coming months.

The report of the commission will tell us much about Ireland in the 20th century and underline the fact that we must strive for greater equality in 21st century Ireland. I welcome also the fact that Ireland is now prepared to examine dark areas of its past. Recent years have seen much work in that respect, for example, the treatment of inmates of industrial schools and Magdalen laundries. That spirit of questioning about what went on behind those high walls is hugely important, and the most important testimonies are those of the people who were inside the high walls, which in turn raise important questions for wider society about its acceptance of such conditions and society's willingness to go along with the invisibility of those incarcerated behind the high walls, both during and after their incarceration.

The year 2016 will be important for commemorations and perhaps we should also remember that it is the 44th anniversary of this process of questioning what went on behind those high walls. It was 1971 when Hanna Greally's book *Bird's Nest Soup* was published. A 19 year old Hanna went into St. Loman's in Mullingar for "a rest" and was to remain there, detained against her will for 20 years. Her courage in telling her story foreshadowed much of the testimony we heard in recent years from survivors of industrial schools and laundries and that thread will continue with the appointment of the commission, which will help establish the facts surrounding deaths in the mother and baby home in Tuam and the condition generally in other mother and baby homes in the State in that era.

I was contacted by a graveyard committee in Tuam that would like an opportunity to meet the Minister, Deputy Reilly, or the commission when it is set up. The group has worked for many years with Catherine Corless. It has gathered much information before the commission even begins its work. A number of weeks ago a media outlet ran a story about a baby it said was born in the mother and baby home in Tuam but that was not the case. The report also said the mother was unmarried, which was also untrue. The story has already caused great distress for the people involved and the media airing further added to that. It is important that anyone who has information should be invited to attend the commission at the start in order that it can garner a more comprehensive understanding of what is going on and to allow them to express their concerns.

I thank local historian, Catherine Corless, for her work in raising this issue. I also thank the many women I have met in recent months who shared the stories of their experience in the home and the men and women who were born there who also shared their stories. The work of the commission is particularly important for survivors, but it will also inform wider society on what it was like for many to live in 1940s or 1950s Ireland and will go some way towards tell-

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ing the stories of many hundreds of children who never had the opportunity to live in that era, the children who were certainly not cherished by the Irish Republic and a society which did not see them as equals.

Deputy John Paul Phelan: I wish to comment on the establishment of the commission of investigation into mother and baby homes and to commend the Minister, Deputy Reilly, on his swift action on the issue. Mother and baby homes are just another chapter in what has been a series of revelations in the past 20 years in this country about the treatment of certain groups in society since the establishment of the State, as the previous speaker outlined. I use the word “state” in the widest sense because the state is made up of people and there was an attitude among the public as well as its representatives in State authorities that women who became pregnant before they were married had to be hidden. That was something that was often most apparent and obvious within families. Some of the most difficult stories I have heard from constituents about mother and baby homes are reflective of a wider approach that existed in society for far too long. The fact that we are to have a commission of investigation chaired by Judge Murphy is very much to be welcomed. I commend the Minister on that.

Like previous speakers, I have been contacted by a number of women who have in some cases pretty horrific stories about the treatment they received in the homes and also at the hands of their own families and communities. That will be part of the commission’s investigation.

Rather surprisingly, I was also contacted by a constituent who wished to express her gratitude for the treatment she received in a mother and baby home. I do not wish to give away any personal details but she said that at such a difficult juncture in her life she felt it was the only place to which she could go.

6 o’clock

I did not expect to hear such a story and I am sure that in the course of the commission’s investigations there may be other similar stories. However, with regard to the number of people who have contacted me, the overwhelming number have been people who have very tragic stories of maltreatment in those homes. I commend the Minister on establishing the commission and I wish Judge Murphy and her team success in their endeavours to unearth what is a very difficult and painful chapter in the history of our country.

Deputy Michael P. Kitt: I welcome the opportunity to contribute to this debate on the commission of investigation. I welcome the draft Commission of Investigation (Mother and Baby Homes and Certain Related Matters) Order 2015, and the statement of reasons for the establishment of a commission of investigation. The manner in which single women and their children were treated in mother and baby homes was appalling. We need to investigate how they came to be there in the first place and the circumstances of their departure from the homes.

As a public representative for Galway East, I was shocked last May at reports in the media that a mass grave had been discovered in the mother and baby home in Tuam, County Galway. Like my colleagues, I wish to apologise to all the people who suffered in these homes and to their families. I was born in the Bon Secours hospital in Tuam and received my second level education in St. Jarlath’s College, Tuam. At the time I was in college there and afterwards I certainly did not know about what happened in the mother and baby home. I know that many of the people involved continued to look for information about their identities. It all became very clear to me when I heard that people’s birth certificates did not correspond with the period

of time they attended school because the information on the birth certificates was completely wrong.

I refer to the motion passed by Dáil Éireann last June on the need to establish the facts regarding the deaths of the children in the mother and baby home in Tuam. The Minister has met many people and groups on these issues which arose as a result of the discoveries in Tuam. Much of the information was provided by the local historian, Catherine Corless. There are many issues relating to the mother and baby homes generally and their role in Ireland over a long period.

I echo what my colleagues said about the Minister meeting the committee known as the Children's Home Graveyard Tuam. This committee also has concerns about the terms of reference for the commission of investigation. Other speakers have referred to the information about children buried in Tuam or maybe not buried in Tuam and whether the mother of the child was married or not. However, there are many more issues to be dealt with. The committee referred to the need for the commission of investigation to investigate the cross-referencing of all the names of children in the Tuam project and to establish for certain that they are buried in the children's graveyard in Tuam only. It is only then that these children will be recorded for the Tuam project.

Another issue raised was the fact that no reference had been made to the committee in the document. I understand that the committee was mentioned in the report of the interdepartmental group. In my view the committee should be recognised for the work it is doing and for its past work. It brought this issue to the public and to the media and the committee must be recognised and included in all the works and documents relating to the Tuam project. The committee wishes to meet the commission and to be represented.

This committee has done great work, as have many people in Tuam. Clarification is needed on when the group can move forward with other works such as a garden and plaques of remembrance, the question of the road entrance and mapping of the area. The committee is of the view that the site and the children's graveyard at the Dublin Road, Tuam, should not be excavated as it is a major concern for the people of Tuam.

This site has been well minded for more than 40 years by the community and the residents. They will continue to do so and they are on standby to finish the work they started. I refer to various media reports about the site being much bigger than the one actually discovered. These genuine questions need to be answered. I know that people have tended those plots over the years and there was annoyance that the media talked about the dumping of bodies and the use of septic tanks as graves. That kind of language does not show the true reality that between 1925 and 1961, almost every fortnight children were buried in this plot at the back of the home. This fact is shocking and horrible but it should be reported like that and not in the manner and language in which it was reported. The sad reality is that in the decades of the 1930s, 1940s and 1950s, child mortality rates were very high. Children in their early years succumbed to a variety of what we now call minor illnesses.

I refer to a proposal in the Seanad to introduce new legislation to give adoptees a right to their birth certificates. I mention this in reference to my earlier remarks about people being very disappointed and saddened that their birth certificates do not seem to relate to the age at which they received their education. Senator Averil Power, along with Senator Jillian van Turnhout and Senator Fidelma Healy Eames, sponsored a Private Members' Bill in the Seanad which is

very good legislation. Senator Power stated:

[F]or too long adopted people have been robbed of our identities, denied basic information about ourselves and our parents that others take for granted ...Thousands of Irish adoptees do not know their original names, who their parents are or even if there is a serious illness that runs in their family. Not knowing is a source of great pain and anxiety. Our Bill is designed to change this.

I hope that legislation will be adopted by the Government and that it will become law. Women who gave birth in the 1950s and the 1960s have spoken about their children being taken from them by force. This situation is very relevant with regard to the mother and baby homes. We do not have enough information about what happened with regard to adoption.

I refer to another Galway man, Fr. Edward Flanagan, an internationally acclaimed hero of “Boys Town”, who was born in Ballymoe on the Galway-Roscommon border. He visited the land of his birth in the 1940s and he talked about the treatment of children in church and State care as being “a scandal, unChrist-like and wrong”. Fr. Flanagan is often described as a reluctant celebrity because he was the central character in the film, “Boys Town”, starring Spencer Tracy. He was very interested in education and he provided shelter and education for poor and neglected boys in Omaha, Nebraska. His philosophy was very simple and powerful: “There is no such thing as a bad boy.” When he visited Ireland, Fr. Flanagan commented: “You are the people who permit your children and the children of your communities to go into these institutions of punishment. You can do something about it.” He called Ireland’s institutions “a disgrace to the nation” and said: “I do not believe that a child can be reformed by lock and key and bars, or that fear can ever develop a child’s character.” His words were very true.

I will finish with a comment by the late John Cunningham, who was former editor of *The Connacht Tribune* and who spent his early years in the Tuam home, as his mother died in his infancy. He spoke of the women there stating: “They nursed the child and looked after it for a year and then they went one way and the child stayed to be adopted, or to be boarded-out a few years later. I don’t know if many of them ever recovered from the heart-breaking parting ... It was heart-rending.”

Deputy Anne Ferris: A few months ago I was invited to an artistic event in a building next door to the Clarence Hotel on Wellington Quay. Let me tell the House there could not possibly be two more contrasting perspectives on Irish life than the interior of those two adjoining city centre buildings. The art installation beside U2’s hotel was called Forsaken and was inspired by the lives of tens of thousands of women and children abandoned behind the walls of Ireland’s church and State-run institutions, babies and mothers who were buried secretly and meaninglessly in unmarked graves, adopted children whose identities were stolen and lost for their entire lifetimes, and vulnerable people who were offered no protection against great injustices. The message in the art is that each and every one of these people deserves recognition of their person and recognition of the wrongs done to them. I share this viewpoint.

While other countries manage to confront and address their terrible histories, we in Ireland continue to hide from the full extent of the darker parts of our past. Germany is taking every opportunity to shine bright lights into the darker corners of its Nazi past and Australia has faced up to the wrongs inflicted on that nation’s stolen Aboriginal children. I am saddened that our modern and otherwise progressive Irish State has not reached the level of self-awareness necessary to confront the past as it should be confronted.

Appendix 1 of the terms of reference defines just 14 named institutions and a representative sample of county homes to be afforded the full scope of inquiry. There is no guarantee that a former child resident of an orphanage or a mother who worked in a laundry under threat of hunger and violence and without pay will get the opportunity to tell their story to anyone. This is not only deeply wrong, it is short-sighted. How did some so-called mother and baby homes make the favoured list and others did not? There seems to be a fundamental problem of consistency in the selection criteria used. We have been told that only those institutions having a certain self-professed ethos have been listed. Am I the only one to spot a difficulty with selecting institutions for investigation based on their own self-professed ethos? At least one institution on the privileged list of 14 does not seem to meet the stated requirements of the Minister's selection criteria if its own website material is to be believed. Based on the facts in my knowledge I can see little difference between the operation of Miss Carr's institution, which is on the list, and the Westbank home, which is not. Both institutions accepted a small proportion of mothers, no more than eight at a time, into what historically had been an orphanage. The lack of objectivity in the selection of institutions undermines this inquiry from the get go.

When faced yesterday with the constitutional implication of prioritising single women over married women, the Minister correctly withdrew support for the indefensible. This was a small win and I am glad I pushed for it. Will it have much effect? It probably will not. In my own case I can have very little evidence to offer on my short few days as an infant in one of these homes and my mother and adoptive parents are now dead. The simple fact is that for the most part of the duration of the scandal there are few or no remaining adult witnesses in the categories of institutions prioritised by these narrow terms of reference.

The inquiry as structured may well result in recommendations for more inquiries down the line, but this would be too late to properly involve many of the very elderly former residents who could add real value to a real process now. Just before I left the Forsaken exhibition, one of the artists very kindly asked me to put my first-born daughter's name to one of the hundreds of tiny hand-sewn baby dresses that formed part of the display. It was a beautiful idea, but even after all these years I could not bring myself to share the baby name of the little girl who was taken from me. Instead I put my own name on the dress.

This inquiry process requires great sensitivity, an open door and a listening ear for all the witnesses to this dark corner of Ireland's past, regardless of the title above the door of the institution where they once lived. The sorrow and cruelty was equally real to all involved. As legislators we cannot and should not discriminate, and sadly I cannot put my name to this proposal.

Deputy Mary Lou McDonald: I acknowledge all of those women, children and men who are survivors, advocates and campaigners, some of whom are with us in the Visitors Gallery, most of whom are not. They have brought us to this point and at long last the Government has finally agreed to establish an independent commission of investigation into mother and baby homes. It is welcome that the commission will have the remit to receive testimony directly from victims and survivors in private or in public, the necessary powers to compel witnesses and documents and to recommend prosecutions in the event of obstruction, and the freedom to produce a report including such recommendations as it sees fit. These are all welcome, but it is not enough to do the right thing on a superficial level. The right thing must also be done in the right way.

It is not for the Opposition or for me to congratulate the Government on its late conversion to the need for this commission of investigation. That it can and has done itself. Rather, it is

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for us to represent the concerns of citizens who are not present on the floor of the Chamber, the victims and survivors of serious and widespread human rights violations for which the State bears at least partial and, in any event, ultimate responsibility. Other Deputies have focused on the positive aspects of what the Government has brought forward. I will, therefore, use my time to focus on the many outstanding concerns.

The political backdrop to this debate is decades of official denial and the stubborn refusal of successive administrations to take this issue seriously despite available evidence. This has been due to the inexcusable lack of determination and even outright refusal by a series of Ministers, including some former Ministers who have served in this very Administration, to do the right thing in the right way despite the repeated pleas of victims and survivors.

The legal backdrop to this debate, and to considering the adequacy of the proposed provisions under the terms of reference contained in the ministerial order which we seek to amend, is the recent strong criticism of Ireland at the United Nations last year. This commission must be established and conducted in accordance with accepted international standards and Ireland's obligations under international human rights law. It must not bear any resemblance to previous wholly inadequate and tokenistic processes, such as the widely discredited McAleese committee, which helped bring Ireland's human rights record into disrepute.

It most emphatically cannot end with a craven secret indemnity deal such as that brokered previously with the religious orders by an outgoing Fianna Fáil Minister actively seeking to shelter them from the full extent of their liability for institutional abuse of children.

However, most important is the real human backdrop to this debate, that is, the life experiences of tens of thousands of our fellow citizens, both living and dead, some of whose deaths we now know were unforgivable, untimely, preventable, in many cases due to official neglect, and in an as yet unknown number of cases were compounded by deprivation of even the dignity of a decent burial. Some of these life experiences are so harrowing they are barely imaginable to those of us who have not lived them. They include the perverse and malicious cruelty of deliberately depriving a child of his or her mother's care, against her will, by forcing the mother to give up her baby as a punishment for her unmarried status. These women and children were systematically stripped of their very identities as unique and valued individuals, and as human persons with equal rights. The women were reduced to house names and numbers. Their babies' original identities were stolen and hidden behind new names and case numbers, with some only discovering their real birth names as adults in their 50s and 60s. In addition to their varying individual experiences of malnourishment, medical neglect, psychological and verbal abuse, physical abuse, sexual abuse, forced labour, medical experimentation, human trafficking and undignified burial, all of these victims in common were deliberately deprived of the right to family life with their biological children or with their biological mothers, siblings and extended families. Moreover, all who went through this system of interlocking institutions deliberately designed to subjugate them were callously stripped of their self-esteem and self-worth, and forced to endure a lifetime of stigma that these institutions imposed on them by virtue of their status as an unmarried mother, or as a child born outside wedlock.

My welcome for this commission is strongly qualified. I consider it to be, in crucial ways, a missed opportunity to finally make things right for all these fellow citizens, our equals. It was a chance for this House to make an honest collective pledge that no victim would be left behind by this process. It was a chance to take a rights-based approach by directing the inclusion of all victims and survivors through proactive notification, by guaranteeing the right to public hear-

ings in the public interest, and the right to representation. It was a chance to commit wholeheartedly to the State taking responsibility and ensuring effective remedy for the wrongs these fellow citizens experienced when the State either failed to protect them from harm or actively colluded in their harm. We had the chance to commit to finally holding accountable under law those who may be either criminally or civilly responsible, and to ensure those responsible make adequate and appropriate reparations where necessary in the service of justice. This was a chance to heal these victims and the nation as a whole by way of this, and by way of official recognition, apology and memorial.

Unfortunately, as demonstrated by the detail of the proposed Sinn Féin amendment to the Government motion outlined by Deputy Caoimhghín Ó Caoláin and also most eloquently by our colleague, Deputy Anne Ferris, we are not satisfied with the terms of reference for the commission, not least because it will surely and by design exclude from its remit and consideration literally thousands of victims of serious human rights violations.

There is no guarantee here for the Magdalen women, previously and wrongly deprived of the right to a full commission of investigation into their particular institutional experiences. There is no guarantee for the illegally adopted or fostered or boarded out children, whose very worst experiences may well fall outside the express terms of the commission's remit. If all these victims and survivors represent an experience of second class citizenship, then those who the Minister chooses to exclude are now doubly hurt as second class victims. This is the main reason some of the advocacy concerned have described the terms of reference as "flawed", as a "deep disappointment" and as ultimately "failing the standard for such inquiries".

We all understand that public resources are finite, but this commission must not be about exclusion for the sake of expediency. If that is the result, it will come back to haunt us. The abdication of full responsibility means that future Administrations will be forced into dealing with separate successive sets of victims, that is, if any are left alive to vindicate by that time. Repeating this whole fraught process with various victims will not ultimately save the State or the taxpayer money. Moreover, what money it may save is at disproportionate and unacceptable human expense.

While I welcome the confirmation that there will be an investigation into those institutions expressly included in Appendix 1, I cannot accept, and none of us should accept, that any institution or any victim will be left behind. I appeal to the Minister in that respect. I know he has made some move towards amending a provision by way of definition within the order. I appeal to him to go the extra steps, to accept our amendment and to ensure that this commission is what it can and should be, and that it ensures that no victim, no survivor, is left behind.

Deputy Robert Dowds: After listening to Deputy Anne Ferris, I feel inadequate in terms of addressing this issue but there are certain things that I want to say. It is very important that this investigation takes place and I welcome the fact that this commission will be established. It will look at the underbelly of a very repressive society which existed in this country and which was not in keeping with the Christian principles that it so vociferously promulgated. We can see that in some of the statistics which are appalling, particularly when we put faces on them. For example, in 1940, some 26% of so-called illegitimate children died as opposed to an equivalent figure for the previous year for England and Wales of 8%. That points to huge neglect, pain and hardship. It is very important that this story be told and be allowed to be told and for that reason I welcome the establishment of this commission.

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Not having direct experience of this in my family situation, I was struck by an incident that happened recently where one of my constituents, an elderly man, approached me. He had no birth certificate and knew very little about his origins and he was seeking guidance as to how he might find something out about where he came into the world and so on. This was something he had lived with for many years. I have known him for some 20 years and this only came to my attention recently because he wants to try to get to the bottom of the situation before he dies. In that individual story one can see the story of many people. It is important that the inquiry goes ahead.

When I read some of the documentation, I found it staggering to realise how many people were involved. A number of Members of the House have, in one way or another, experience of the situation we are discussing.

In regard to the examination that will take place, it is very important that the stories of people in institutions which may not be listed are told. I ask the Minister, in his reply to the debate, to explain whether it is possible for contributions to be made in that way. I have been asked by former residents of some Protestant institutions whether their stories can be told. I welcome the fact that the Bethany Home is listed, but it is important that the stories of people in other homes are told, no less than the stories of those who lived in many Catholic institutions which are not listed in the appendix.

Deputy Seán Kenny: I welcome the publication on 9 January of the terms of reference for the commission of investigation into mother and baby homes and related matters, which will be constituted under the Commission of Investigation Act 2004. This is another step by the Government to deal with the failures of the past. The past was a period when Ireland was ruled politically, for the most part, by Fianna Fáil leader Eamon de Valera as Taoiseach and later as President. This period is often referred to as “De Valera’s Ireland”. In his book, *John Charles McQuaid: Ruler of Catholic Ireland*, the writer and journalist John Cooney describes very well what a dark place Ireland could be at this time. It was repressive, autocratic, overbearing and heartless.

The treatment of women and children in these institutions and society at large is a dark chapter in our history, but it is something we must all now face up to no matter how difficult. A transparent and effective investigation by the commission into the manner in which women and their babies were treated in these homes is essential in coming to terms with the past. It is important that what happened to these women and children after their time in the homes is investigated and documented, and that justice is seen to be done. The experience of survivors of these institutions and their families deserves our recognition, although unfortunately many of the survivors have passed on and will not have an opportunity to see the State recognising their situation.

I would like to read into the record of the House the story of Terry Harrison, who has already spoken to the media about her experiences. She gave birth to her son Niall at St. Patrick’s home on the Navan Road in Dublin in 1973, having run away from Bessborough House in Cork. Both places are to be investigated by the commission. Her son was adopted through a private adoption society run by the Catholic Church after being taken from his cot in the Dublin home. She said: “My son is now in his 42nd year and I live with it every single day. You think it’d get easier. It gets harder because the further the days go by against me ever, ever being able to hold my son again and give him one hug.” She has also said that she has spoken to many women who went through the same ordeal as she did: “Many of them are terrified of showing their

faces. In 2015, they still hold the scars, the chains of abuse. We were treated like criminals. No court, no law.”

I understand it is proposed to examine 14 mother and baby homes and related institutions, which I welcome. However, I must note that the terms of reference are not perfect and, ideally, all institutions should be investigated.

I welcome the Minister’s nomination of Judge Yvonne Murphy as chair of the commission and the experts, Dr. William Duncan and Professor Mary E. Daly. Their expertise, experiences and sensitivity will be essential in achieving a comprehensive assessment of the traumatic and terribly sad stories that will be uncovered and discussed.

This is an important step in delivering on this Government’s commitment to establish an effective statutory investigation which can provide a full account of what happened in and around mother and baby homes. I hope there will be enough flexibility and latitude within the terms of reference of the commission to investigate these experiences completely. I wish the commission well in its task.

Deputy Mick Wallace: I wish to share time with Deputies Boyd Barrett and Halligan.

An Leas-Cheann Comhairle: Is that agreed? Agreed.

Deputy Mick Wallace: I welcome the discussion on the terms of reference presented by the Minister. Ireland has a deplorable record on women’s rights, which has, correctly, received severe criticism from international bodies such as the UN committee on human rights, the UN committee against torture, the Council of Europe, the Commissioner for Human Rights and the UN committee on the elimination of discrimination against women. The widespread abuse of vulnerable women in State institutions such as mother and baby homes, the horrors of symphyotomomy and the anti-women legislation on abortion rights in this country are just some of the horrific examples of this. It is high time that the Government took active steps towards righting a serious wrong in order to finally bring justice and accountability to the victims of mother and baby homes.

This commission of investigation is well structured and has potential through the allocation of a dedicated budget, the recruitment of qualified staff, in particular Professor Daly and Dr. Durkan, and, crucially, the engagement and dialogue with interested parties in advance of setting the terms of reference. I would like to draw a comparison in this regard to the structure of the Guerin commission of investigation, which is still completely lacking in clarity in each of these areas and has correctly been hailed as parochial for its narrow focus which glosses over the profound systemic issues in An Garda Síochána which so urgently need reform. In contrast, the Minister, Deputy Reilly, is displaying a genuine appetite for justice.

As I have argued before, in order for the survivors of mother and baby homes to get justice for the abuse suffered, this investigation must be as wide-ranging as possible; otherwise, it could be yet another missed opportunity. In this regard, I reiterate the disappointment of Justice for Magdalenes by the omission of Magdalen laundries from the terms of reference, particularly given that previous reports into the abuse carried out were completely inadequate. Survivor testimony was not included and the current draft legislation to assist survivors of the laundries represents a considerable paring back of the recommendations of Mr. Justice Quirke in his proposed restorative justice scheme.

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I note article 13 of the terms of reference presented today allows for the commission to exercise discretion in regard to the scope and intensity of the investigation. This is a welcome provision and I hope the commission will exercise it if necessary. In any case, an independent inquiry should be carried out into the Magdalen laundries. It is not sufficient to investigate them solely in the context of being exit pathways for women leaving mother and baby homes.

Another concern I have relates to the length of time, three years, allocated to the investigation, particularly in light of the age profile of the survivors. The fact that there is no mention in the terms of reference to a redress scheme for the victims means that justice could still take a long time and may come too late for some survivors. Securing justice and providing an effective remedy for these women must remain at the heart of this investigation. This commission will never be able to attempt to make up for the State-sponsored abuse of these women, the illegal adoptions and the vaccine trials carried out on their children, but it is a very important step. I sincerely hope it will live up to the task with which it has been entrusted.

Deputy Richard Boyd Barrett: I commend the various organisations representing the survivors of the vast array of institutions that formed this architecture of oppression, abuse and persecution which ruined the lives of tens of thousands of women and children. It abused them, robbed them of their identities and histories and inflicted a crime on tens of thousands of vulnerable people and children. The damage that was done can never be fully undone. All those groups, organisations and individuals deserve credit for finally forcing these issues to the forefront, getting the State and political system to acknowledge that a crime against them has been committed and that as much as possible must be done to detail the full scale of the crime and provide redress and support to the victims of survivors of that great crime. These groups are the Adoption Rights Alliance, the Irish First Mothers group, Justice for the Magdalenes, the survivors of the Bethany Home and Westbank orphanage and other such institutions. Many individuals have not survived and will never see justice on this matter. All of those deserve great tribute for bringing events to this point, where finally the Government and the State has acknowledged the need for some sort of redress.

It is still hard to get one's head around the scale of what was done. Most of the history of this State was one where this great crime was being committed and the most powerful people in church and State were overseeing this horrendous treatment of tens of thousands of women and children on the basis of the extraordinary notion of legitimacy and illegitimacy. It was an incredible thing for a State and church to have in mind when the founding document of that State, which we will celebrate next year, details the cherishing of all children equally, and a church would outline principles of humanity, decency and the ten commandments, etc. At the same time these people would hold in their heads this notion that some people were legitimate and some were illegitimate. On the basis of that notion, they could then stigmatise, abuse, imprison and incarcerate those people, treating them as sub-humans. All the normal rights and dignities that would have been accorded to legitimate people would have been simply denied to them and they were treated like animals. It is just extraordinary that such a position could persist for so long. Even when I was a young person growing up, the notion was still around of stigmatising single mothers and it persisted until the 1980s and 1990s. It was an extraordinary, barbaric and uncivilised perspective on life that justified horrendous crimes.

I was adopted through St. Patrick's Guild and my mother was forced to go to England and give birth to me in a mother and baby home. Many of the mothers who were in a similar position will not be included in this because the birth and adoption took place in England. They will be outside the terms of reference for this commission. I was relatively lucky because I was

adopted by a good family and, although my birth mother faced very considerable resistance for many years from the institutions that had facilitated these adoptions, she fought through that resistance, was persistent and was finally able to make contact with me. Therefore, I was lucky in a way that thousands of other people have not been. They will never get to see their children or biological parents and they may never fully recover their history or identities because of the unbelievable architecture of oppression and abuse that existed. There was political cowardice in the failure of successive Governments to address this issue and give redress to the people who were victims of this system.

As a result of pressure and persistence from the survivors of this, we have got to this point so could we please not fall at the last hurdle and deny people the full justice and redress that they are asking for? There is an idea that we can partially deal with this matter, decide that we will look at particular institutions or shine a light on specific parts rather than the entire architecture. All these institutions, including the State, the church and various other bodies, were part of an integrated whole. They were a system of oppression that led to a denial of rights. We need to shine a light on all these so that full justice and redress can be given to all those who seek it. This must come without partiality, restrictions or limitations. As we have got this far, can we not go the entire way and ensure nobody is left outside? We must get all the truth, redress and justice for all the victims in those institutions. None should be excluded from this belated process of justice and acknowledgement of a great crime.

Deputy Jack Wall: I am grateful for the opportunity to speak on this important issue as the publication of the terms of reference for the commission of investigation into mother and baby homes is a step - but only a step - on the path of coming to terms with Ireland's tragic past. It is a step in delivering on this Government's commitment to establish an effective statutory investigation which can provide a full account of what happened in and around mother and baby homes and other relevant issues.

At this stage I thank the Minister for a reply to a question I put down to him regarding people I have sought to represent over a period. I asked the Minister for a definition in the submission I made. It asked in regard to the terms of reference for a commission of investigation for mother and baby homes and certain related matters ordered for 2015, whether the commission will investigate children admitted to institutions without parental presence in the institutions, such as convents, and where such children had to work in laundries, and if they would be permitted to make a submission. I have tried every channel to get information from a Department for these people without success. I have used freedom of information requests and written to various organisations seeking records. I usually have the cheque returned with a note indicating there is no information or the request is not applicable to the Department, etc.

I ask the Minister to ensure there can be a possibility that these people will not be denied once more. They have been denied too often and they now want ways and means of telling their story, as they are entitled to do. In many instances, these people were put in such institutions because of difficulty at home or because of a status as a single parent. They were brought to convents by gardaí, nuns or parents. These people were placed in homes in Dublin to work as cleaners or assistants without any agreement with parents or link to family. These people must be given an opportunity to contribute. In the reply the Minister gave me, I certainly saw hope that this can happen and I thank him for that. The mother and baby homes commission of investigation shows the commitment of this Government dealing with the problems of our State's history. We have already seen that progress is being made on many of the recommendations arising from the Ryan report on the commission of inquiry into child abuse in institutions in this

State. New child protection guidelines and the Children First Bill 2014 all form part of that. We also had the much-needed public apology by the Taoiseach. This recognition starts the ball rolling. We must look into all the aspects of these homes and many other aspects as well where children were so badly treated.

I always remember a story told on “The Late Late Show” one night by a young man who had come back from America and who had done well for himself. He came out of one of those homes and was sent to a farm. To ensure he stayed there night and day, he was tied to a chair. When he reached the age at which he could get away, he emigrated to America and did well for himself and was able to come back and tell the story. There are thousands of cases like that where unfortunates were sent to private homes, farms, etc., which are not part and parcel of this. We will not be doing the right thing unless we give those people the opportunity to tell their stories. That is how tragic Ireland’s history is. We must now look forward but the only way we can do that is to look at the tragic past we allowed to happen, whether through Departments, the church and the law, which saw it happening but did nothing about it. It is unbelievable to think that the church is now in such a state but when one reads the history of what happened, one knows why that is case.

I remember being told a story by my mother who is 96 years of age of the people who cared. There were people who kept the child at home but they had to walk through the fields at night if they wanted to visit grandparents, brothers or sisters so that the prying neighbours would not see them. Those people were supposed to be neighbours but they were far from what is a true, realistic, honest and becoming neighbour. They put those people through such an ordeal that they had to walk through the fields in the dark to get to their loved ones or to ensure the child could be cared for while they went to work. We must ensure their stories can be told because that is what this is about. It is about being honest with ourselves but if we cannot be honest with ourselves, then the next generation will have to deal with the same story. This is an opportunity we should not miss. We should use every opportunity to address what we can.

I listened to the Opposition name homes at which we are not looking. It is not fair to do that. All the cases mentioned in the House should be looked at and if there is a mechanism to investigate them, it should happen. A man from County Down wrote to me to see if the home in County Wicklow would be investigated. As a survivor of the Westbank home, he wanted his history to be told. Why should he be denied that if this is a transparent investigation? Why should anybody be denied the right to tell his or her story because many people just want to tell their stories? There will be no financial gain for these people. They want to put the record straight on how they suffered, how their families suffered and so on. That story needs to be told. If this investigation is to be right and final, all those stories told will make the difference and we can move forward with pride so that the next generation of Deputies and Senators will not say we were negligent in our duties but will say that the Minister for Children and Youth Affairs moved forward with all the information to ensure that this investigation would finally deal with all the situations which I and others have mentioned.

Deputy Billy Kelleher: I welcome the opportunity to speak on this issue. Listening to Deputies on all sides of the House welcome the fact that we have eventually, as a Parliament and as a people, faced this very difficult historic issue that affects many people today is something I welcome. We must acknowledge that society itself, along with the institutions, facilitated the abuse of many people. The fact that women who were pregnant outside of marriage were seen in an appalling way not only by the institutions, but by broader society and encouraged by churches, has left a terrible stain on Irish society and, more importantly, on the people directly

affected.

In the context of the establishment of the mother and baby homes commission of investigation, we should not put barriers in place, preventing people from coming forward to tell their stories of how they were victimised by the State, institutions, mother and baby homes and society itself. When we shed light on the dark past, we should acknowledge and deal with it in a very sensitive manner.

I have met some of the victims of mother and baby homes who were treated in an appalling fashion, very often by their families as well by the institution in which they were placed and by broader society when they left that institution. That is something we have to acknowledge in a non-partisan and a non-political way but as a mature society and deal with it accordingly. That is why we must put no roadblocks in front of any individual who believes his or her story must be heard. I hope people avail of the facilities in place to bring forward their opinions and tell their stories of what happened to them or their siblings in the context of mother and baby homes and other institutions.

Coupled with that, there is another stark issue with which we, as a society, must deal, namely, the issue of forced adoptions, private adoptions and child trafficking. It happened on an industrial scale in this country for many years. This is an opportunity for us to allow the light to shine on this very disturbing part of history, namely, adoptions and how families were torn apart at the behest of institutions, with the encouragement of churches and at the behest of, with the encouragement of and maybe with a blind eye being turned by society at large. That is an area with which we must deal in a very sensitive and sympathetic manner to ensure that people who were trafficked, adopted or taken from their mother without her consent have an opportunity to have their views and opinions and their stories listened to. We must facilitate that.

The Minister has been very positive in listening to the views of Deputies on all sides of the House in terms of bringing forward a commission of investigation into mother and baby homes in a non-partisan way and in a way that reflects how we as a mature society must deal with the stains of the past. I hope that continues in a consensual way. I hope the views of Deputies on all sides of the House, of broader society and the many lobby groups and individuals who have had their lives torn apart in the context of living through and surviving mother and baby homes and who were torn from their mother without her consent and not knowing where they came from many years, are heard. We cannot deny them that opportunity.

7 o'clock

I read the first edition by Paul Redmond of the standard reference guide and timeline of mother and baby homes adoption and the treatment of single mothers and their children from 1739 to 2015. It was harrowing to read how society dealt with families, how they viewed single motherhood and the way many people were forced to leave this country to hide what would be seen as a stain on a family or on a community. That is something we have to ensure is unearthed and dealt with.

There is a broader issue in that when people tell their stories, we have to react to them in a meaningful way. It is fine to shed light on them but we must allow that light to highlight the fact that many of these people were wronged by the State, wronged by institutions and wronged by society, and we will owe them something. As a society, we will have to look at the entire area of medical care and assistance as a result of which many people might have been

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traumatised. To put it bluntly, we must put our money where our mouths are by making sure people are adequately looked after in terms of medical care, for example, in some cases where people may need it. Some people have asked me to raise the specific issue of people who were traumatised by that experience and victimised and abused in the context of how they were dealt with in mother and baby homes, and who as a result had psychological conditions, psychiatric conditions and physical conditions. We should look sympathetically at them and not give them something just because it would make us feel better, but because they deserve it, and they need it in many cases.

For all those reasons this commission is a start. The end will be a journey not only for this country, but also for many individuals who were dealt with in an appalling manner by society and by the institutions, and we will have to address the fallout that will come from that.

I referred to adoptions earlier. Outside the institutions named in the debate tonight, there were many private hospitals and other institutions that are not named that facilitated forced adoptions and private adoptions. Whatever way we want to dress it up, it was child trafficking of some form or another and that is an area we have to unearth with great sensitivity. Some people have come to me and expressed the view that they want a light to be shed on this area as well. They want to be able to tell their story but equally to have their anonymity preserved if they so wish. That is something we have to take on board because in years to come we cannot decide that we did not deal with this matter when it was brought to our attention in a sympathetic, timely manner because time runs out for everybody. People move on in life, and we should do this as a matter of urgency to ensure that they can come forward, tell their story, have it listened to and acted upon if they so wish. As previous speakers said, that area is critically important.

Fianna Fáil welcomes the publication of the terms of reference of the independent investigation into mother and baby homes. We will try to encourage the Government to ensure that it moves in a direction that opens up this debate to facilitate all those who feel aggrieved and who have been aggrieved and hurt by the neglect of the State and by society's views at that time. While we cannot change what happened in the past, we can acknowledge it and try to provide redress to the people who have been victimised and damaged because of it.

We have had previous discussion in this Chamber over many years about the State's failings in other areas, such as child abuse in institutions. Some dark passages in our history have only come to light, and very often there is still resistance not necessarily by a political party or Government, but always a wall of resistance at times to people who have been victimised or damaged in the past. As a Republic that should cherish all its citizens, we should lead from the front in terms of facilitating a broad, open debate on many of the dark chapters in our history. The Minister has been very much to the fore in that regard. I have been deservedly critical of him in other areas but in this area he has been open and forthright in trying to ensure that we facilitate this debate and encourage as many people as possible to come forward.

I commend the motion. I hope that people can engage but, more importantly, that they will be facilitated to engage in a meaningful way so that we can once and for all shed light on this dark past.

Tánaiste and Minister for Social Protection (Deputy Joan Burton): Today is another step in a process of blowing away the locked doors to the hidden Ireland, the locked doors behind which lay decades of neglect, abuse and lives devastated, if not destroyed. Women were

subjugated and shamed for so-called sins. For the longest time, society's answer was simply to lock their stories behind a door and throw away the key. Efforts were made to ensure that the keys would never be found, but no matter because we are blowing away the doors. This commission's purpose is to ensure that what was hidden and covered up will be exposed and brought into the light.

Two years ago, the Government acted decisively to address the issue of State involvement in the Magdalen laundries, rightly apologising on behalf of the State and setting up a redress fund. I said at the time that the laundries were one of the last - not the last - unresolved issues of the hidden Ireland. The State should not rest until every such last issue is brought to light.

I greatly welcome and support this motion to establish a commission of investigation into mother and baby homes and certain related matters. We already have a deeply traumatic picture of what happened in these homes because of the testimony of many brave women who had been sent to the homes, because of the testimony of those born in the homes and because of the advocacy of those campaigning on their behalf - women like my own party colleague, Deputy Anne Ferris, who tonight in this Chamber spoke so movingly of her own story and who expressed her difficulty with the draft order because she does not believe it goes far enough. We see this issue slightly differently because while some institutions may not specifically be included in the terms of reference - such as Westbank - I have sought advice and I am confident that there will still be scope for stories from those institutions to be heard. The institution I was in myself is not mentioned and I have told Deputy Ferris that I know people who were in that institution, co-graduates so to speak, of Temple Hill, and I know many people will go forward to the commission to tell their stories.

In addition to the main investigation methods of the commission, a confidential committee will allow former residents to provide accounts of their experience in private. The chair of the commission has confirmed that cases from institutions such as Westbank will not be excluded from the confidential committee and that anybody with anything of relevance to contribute can do so. While Deputy Ferris and I see this issue slightly differently, I fully respect her views and greatly admire her as a trusted colleague and a brilliant advocate for the women and children - like her mother, herself, and her sister - who went through these homes.

I think tonight of women like Sally Mulready, also born into a mother and baby home, who has stood with and fought for the women and children of the homes so passionately. I also think of women like the late Mary Raftery, who worked so hard as a journalist to bring the scandal of the industrial schools, the laundries, the homes, and similar institutions to light, and Susan Lohan and all the people in the Adoption Rights Alliance and similar organisations who have campaigned so strongly for those affected by the secret adoption system that was another feature of the hidden Ireland. I think of June Goulding, who in her memoir of her brief time working as a midwife in Bessborough, revealed in heartbreaking detail the trauma inflicted on women there. She told of how one nun running the labour ward forbade moaning or screaming when women were giving birth. When she asked what painkillers were available for the women, she was told that "nobody gets any here, nurse, they just have to suffer". I honestly do not know what there is to say in response to that. Dostoyevsky once wrote that "compassion is the chief law of human existence", but it seems the only law in these homes at times was an inhuman one, where compassion was scorned just as much the women and children were. Compassion was also lacking outside the homes. The interdepartmental group report on mother and baby homes came about after historian Catherine Corless raised deeply troubling questions about the deaths and burials of almost 800 children in Tuam. The report set out the context for the establishment

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of the mother and baby homes and the stigma that surrounded so-called illegitimate births in post-independence Ireland. It gives a picture of what was known about the homes and when.

In 1939, Alice Litster, an inspector in the then Department of Local Government and Public Health, compiled a report on unmarried mothers in Ireland. She wrote in relation to mother and baby homes:

In theory, the advantage should lie on the side of the child institutionally born [because of] pre-natal care, proper diet, fresh air cleanliness [and] medical attention... Yet any infant born in any other circumstances [including a slum] appears to have a better chance of life. I have grave doubts of the wisdom of continuing to urge Boards of Health and Public Assistance to send patients to the special homes so long as no attempt is made to explore the causes of the abnormally high death rate.

Sally Mulready once said “comfortable Ireland for me should be quite ashamed about never asking questions”. Today is an important step towards finally asking those questions and getting the answers.

It would be trite of me to suggest that this will be part of a healing process because for many of the women and children involved, it is coming too late. The children who needlessly died in infancy had no chance at life at all. There was no formal acknowledgement of the suffering of others who left the homes and died before the State embarked on this process. Nonetheless, I hope the commission will serve to belatedly put their truth on the record in a way that honours their memory. I hope the commission will represent welcome progress for the many women and children who are still alive to see this investigation announced. I hope that progress will ensure their voices are heard and their truth is told.

I thank everyone who contributed to the terms of reference. I hope they will engage further with the commission of investigation when it is established. Separately and in tandem with the establishment of the commission, work is continuing on the adoption (information and tracing) Bill to provide greater access to information for those affected by adoption who want to know their own stories. This is a complex process. To be frank, the Government is not there yet. There are differing views. We have more work to do. It is important to get it right. I am determined that we will do so.

It is important to remember that having been in a mother and baby home does not define a person. It is an aspect of that person’s life. It is part of their story and their journey, but it does not and should not limit them or others’ views of them. Such people should not feel limited by the manner in which their lives started. My journey involved spending my earliest years in Temple Hill and in foster care before being adopted by my family, the Burtons. I know quite a few other members of these Houses over the years who had similar experiences and for whom this was part of their story.

There are many adopted people in Ireland. They have birth mothers, fathers and families. Their adoptive parents, for the most part, have given all their love, care and attention throughout their lives to the children they adopted. Hundreds of thousands of people are affected by adoption. It is part of every extended family’s story. There is an adopted child, someone who went away to have a baby and then gave that baby up or someone who adopted a child in every family. It is now time to shine a light on all of those stories.

I would like to particularly remember the former Deputy Maureen O’Carroll - the mother of

all the O'Carrolls, including Brendan O'Carroll - tonight. If Deputies have a chance, I advise them to read the Official Report of the debates on the adoption law that was brought into Ireland in 1952. In the 1930s, adoption was opposed by many different forces. Even in those debates, there were conservatives who worried that the stranger child coming into the family could be after the farm or the house. The contribution made by Deputy Maureen O'Carroll, who was the first woman Labour Deputy, on this issue was full of the care and compassion that has absolutely been expressed in the contributions to this debate made by Deputies from the Labour Party and, in fairness, all the different parties in the House.

When I came into this House in 1992, adoption was not a subject that was easily spoken about. In fact, I never spoke about it publicly until 2007. Anybody who knew me knew about the story. The whole population where I lived knew about the story because people swapped stories about adoption. It was well known where I lived in Oxmantown Road. We have come a long way. I have to say I always focused on institutional redress. There was a Magdalen laundry in the school I attended. There was an orphanage there as well. I believe this commission will set about doing very important work. It is important that we get the work started, get the stories and shine the light.

Minister for Children and Youth Affairs (Deputy James Reilly): I thank Deputies for their contributions to the debate on this motion. I acknowledge the constructive input of Deputies on all sides in assisting the Government's consideration of these sensitive issues. I am sure the commission of investigation will be keen to get all the information that has been gathered by the local committee in Tuam, which was mentioned by Deputy Connaughton. I will be very happy to meet the members of that committee. I would like to state my personal appreciation of those who have shared deeply personal accounts of their experiences with me. I hope they continue to find the resilience and courage to assist the commission in establishing the truth of what happened.

The valuable work that has been carried out by a number of historians and advocacy groups has informed public debate on this issue. In particular, I commend the research undertaken by Ms Catherine Corless, which brought these matters to public attention. I share her desire to have the dignity of deceased children who lived their often short lives in these homes respected and recognised.

The motion before the House deals with the arrangements agreed by the Government on 8 January 2015 in respect of the establishment of a commission of investigation into mother and baby homes and certain related matters. This debate is about much more than the arrangements for an investigation. It is an opportunity for us, as a society, to start to acknowledge and address the often harrowing manner in which women and their children were treated in mother and baby homes, how they came to be there in the first place and the circumstances of their and their children's departure from these homes.

I would like to deal with one matter before I respond to the issues and amendments raised by Deputies in the course of this debate. The draft order defines "single women" as pregnant girls or women and mothers who were not married, as the phenomenon of mother and baby homes was to address the needs of unmarried women who became pregnant. I am aware that a small number of women who were widowed, or who were married but no longer living with their husbands, may have spent time in these homes in order to receive sheltered and supervised antenatal and postnatal care. There is no suggestion that the treatment experienced by these women differed in any material way from that of women who had not married. I am satisfied

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that the terms of reference allow the commission to fully investigate these experiences and to make any findings and recommendations it feels warranted in relation to this group of women. However, for the avoidance of doubt and as I outlined in the Seanad yesterday, I will make a small amendment to the definition of “single women” to include widows and married women living separately from their husbands explicitly.

I am disappointed that Deputy Anne Ferris feels she cannot put her name to the motion approving the terms of reference. In the wake of their publication, the Deputy expressed certain concerns. We met to discuss those concerns a few days ago and painstakingly worked through each to provide reassurance. Yesterday, the Government deemed it appropriate to make a technical amendment in response to one of those concerns. Accordingly, we will make a change to a definition to ensure that it is explicit that the investigation of mother and baby homes will take account of women who were unmarried, widows or married but separated.

The Oireachtas was clear that the focus of this commission of investigation was on the treatment of women and children in mother and baby homes. The commission will investigate such homes, covering an 80-year period. It is an enormous amount of work. This focused investigation is likely to produce information and evidence of profound value. The Government is satisfied that to characterise institutions such as orphanages as mother and baby homes would dissipate the commission’s focus in a manner that would make an already mammoth task so dilute that the very answers we seek for those at the centre of this work - mothers and babies - would be unattainable. I recognise that Deputy Anne Ferris is disappointed that the Westbank orphanage is not included, but the decision supporting this position has been considered at length and has the Government’s support. Nonetheless, Article 6 will allow the commission to hear the stories of those who were in those orphanages and to make a further determination as to what recommendations to make to me. The commission is due to make a recommendation after 18 months on the social history module, but it is open to it to make recommendations at any time. It is also open to the Minister for Children and Youth Affairs to request an interim report at any time.

Deputy Anne Ferris mentioned the Miss Carr’s home. There was a number of Miss Carr’s facilities. The one included in this investigation comprises the flatlets at 16 Northbrook Road. Others were not included. We are satisfied that this home should be included because it shared similar functions with the others listed in the appendix. I know that it is very difficult for the Deputy, but my sincere hope is that she will afford the commission the opportunity to do its work and thereby perhaps see that some of her concerns are not founded.

Deputy Naughten raised issues concerning vaccine trial records and wondered whether the commission would have the power to compel them to be made available. The commission has all powers to compel vaccine companies and others to appear before it as well as to compel the production of documents.

Deputy Boyd Barrett mentioned a number of issues. They can be included in the social history module, which is different from any other, in that it is backed up by the commission’s powers to compel people to produce evidence. The module will be a key focus of the commission’s work.

This debate has demonstrated the complexity of these issues and the degree to which society turned a blind eye. I have listened to the contributions of Deputies and the issues raised emphasise the challenge of seeking to define the wide range of public concerns in this investiga-

tion. I am satisfied that this independent commission has sufficient scope to examine many of these concerns, to make a determination on their relevance to the central issues in question and, where appropriate, to make any recommendation to me that it deems necessary. In this regard, I draw Deputies' attention to the provisions of Article 6, which allows the commission to make recommendations on any matter that it considers may warrant further investigation in the public interest. It may do so at any time in any of its reports. In particular, on completion of the social history module, the commission is required to report to the Minister on any matter not included in the existing scope that it feels warrants further investigation as part of its work. I hope that this provision will reassure those who feel that the process to date has not fully uncovered information relevant to their specific circumstances.

A number of Deputies have tabled amendments seeking additional matters, particularly additional institutions not listed in the appendix of mother and baby homes, to be included in the text. I do not propose to accept the amendments sought, but I will comment briefly on some of the issues raised.

The draft order before the House reflects a clear and deliberate emphasis on mother and baby homes. I want to ensure that the critical focus of this investigation is on the experiences of women and children who spent time in these homes. The State has never before brought such investigative power to the issue. The women and children affected deserve such a focused approach.

The Government has identified the 14 institutions on the list on the basis of the application of clear criteria. That is not to deny the harsh conditions experienced by many, particularly vulnerable women and children, in other settings over the course of our history. At least one of the institutions listed in the amendments is already prescribed in the appendix. It is important to reiterate that religious ethos or private status did not feature as a criterion in the examination of relevant institutions.

An Leas-Cheann Comhairle: I thank the Minister.

Deputy James Reilly: I am sorry, but I feel I must finish, given that this matter is of such importance and there are three minutes remaining.

An Leas-Cheann Comhairle: Is it agreed to allow the Minister to continue? Agreed.

Deputy James Reilly: The amendments tabled also request me to consider listing particular children's homes and orphanages alongside mother and baby homes. I am satisfied that the terminology being used, together with associated definitions, provides the commission with the opportunity to examine all relevant entities, whether they be care settings, agencies, societies or individuals who engaged with mother and baby homes for the purposes of placement or adoption of children from same. We know this will involve a wide range and number of different types of entities. Prescribing a list from the outset could risk limiting the extent of this strand of the investigation. Furthermore, and in the interests of maintaining the required focus on mother and baby homes, it must be recognised that other inquiries have examined related concerns, including allegations of abuse in a wide range of children's care settings and State involvement in the Magdalen laundries. I acknowledge that some may have wished to include an even more diverse range of matters within the terms of reference, but we must be clear and realistic in our approach and expectations.

Given that the matters within the scope of this investigation have not been central to any

previous inquiry, it would be premature at this point to consider redress in respect of any matter within the scope of this investigation. This is part of the rationale for a commission of investigation. In the absence of relevant information, it would be difficult to make determinations on issues as potentially complex as the question of redress. Although not explicitly tasked with considering that question, the commission has the authority to make recommendations in respect of the matter in any of its reports.

This motion is another tangible step in delivering on the Government's commitment to establish a statutory investigation, with all of the necessary powers, to provide a full account in a timely manner of what happened to vulnerable women and children in mother and baby homes. I will echo Deputy Buttimer's comments. We as a society judged these women and children when what they most needed was support and help. He was right - it is our shame as a society, not theirs as individual citizens. What happened was presided over by us, no one else. This commission will be of critical help to us in understanding ourselves. I commend the motion to the House.

Amendment put:

<i>The Dáil divided: Tá, 48; Níl, 75.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Adams, Gerry.</i>	<i>Bannon, James.</i>
<i>Boyd Barrett, Richard.</i>	<i>Bruton, Richard.</i>
<i>Broughan, Thomas P.</i>	<i>Burton, Joan.</i>
<i>Calleary, Dara.</i>	<i>Butler, Ray.</i>
<i>Collins, Joan.</i>	<i>Buttimer, Jerry.</i>
<i>Collins, Niall.</i>	<i>Byrne, Catherine.</i>
<i>Colreavy, Michael.</i>	<i>Byrne, Eric.</i>
<i>Coppinger, Ruth.</i>	<i>Cannon, Ciarán.</i>
<i>Cowen, Barry.</i>	<i>Carey, Joe.</i>
<i>Creighton, Lucinda.</i>	<i>Coffey, Paudie.</i>
<i>Daly, Clare.</i>	<i>Collins, Áine.</i>
<i>Doherty, Pearse.</i>	<i>Conaghan, Michael.</i>
<i>Donnelly, Stephen S.</i>	<i>Conlan, Seán.</i>
<i>Ellis, Dessie.</i>	<i>Connaughton, Paul J.</i>
<i>Ferris, Martin.</i>	<i>Conway, Ciara.</i>
<i>Fitzmaurice, Michael.</i>	<i>Coonan, Noel.</i>
<i>Flanagan, Terence.</i>	<i>Corcoran Kennedy, Marcella.</i>
<i>Fleming, Sean.</i>	<i>Costello, Joe.</i>
<i>Fleming, Tom.</i>	<i>Creed, Michael.</i>
<i>Healy, Seamus.</i>	<i>Daly, Jim.</i>
<i>Higgins, Joe.</i>	<i>Deasy, John.</i>
<i>Kelleher, Billy.</i>	<i>Deering, Pat.</i>
<i>Kirk, Seamus.</i>	<i>Doherty, Regina.</i>
<i>Mac Lochlainn, Pádraig.</i>	<i>Donohoe, Paschal.</i>
<i>Martin, Micheál.</i>	<i>Dowds, Robert.</i>
<i>Mathews, Peter.</i>	<i>Durkan, Bernard J.</i>

<i>McConalogue, Charlie.</i>	<i>English, Damien.</i>
<i>McDonald, Mary Lou.</i>	<i>Farrell, Alan.</i>
<i>McGrath, Finian.</i>	<i>Feighan, Frank.</i>
<i>McGrath, Mattie.</i>	<i>Fitzpatrick, Peter.</i>
<i>McGrath, Michael.</i>	<i>Gilmore, Eamon.</i>
<i>McGuinness, John.</i>	<i>Griffin, Brendan.</i>
<i>McLellan, Sandra.</i>	<i>Hannigan, Dominic.</i>
<i>Murphy, Catherine.</i>	<i>Harrington, Noel.</i>
<i>Ó Caoláin, Caoimhghín.</i>	<i>Harris, Simon.</i>
<i>Ó Cuív, Éamon.</i>	<i>Hayes, Tom.</i>
<i>Ó Feargháil, Seán.</i>	<i>Heydon, Martin.</i>
<i>Ó Snodaigh, Aengus.</i>	<i>Humphreys, Heather.</i>
<i>O'Brien, Jonathan.</i>	<i>Humphreys, Kevin.</i>
<i>O'Sullivan, Maureen.</i>	<i>Keating, Derek.</i>
<i>Pringle, Thomas.</i>	<i>Kelly, Alan.</i>
<i>Ross, Shane.</i>	<i>Kenny, Enda.</i>
<i>Shortall, Róisín.</i>	<i>Kenny, Seán.</i>
<i>Smith, Brendan.</i>	<i>Kyne, Seán.</i>
<i>Stanley, Brian.</i>	<i>Lawlor, Anthony.</i>
<i>Tóibín, Peadar.</i>	<i>Lynch, Ciarán.</i>
<i>Troy, Robert.</i>	<i>Lynch, Kathleen.</i>
<i>Wallace, Mick.</i>	<i>Maloney, Eamonn.</i>
	<i>McCarthy, Michael.</i>
	<i>McEntee, Helen.</i>
	<i>McFadden, Gabrielle.</i>
	<i>McLoughlin, Tony.</i>
	<i>Murphy, Dara.</i>
	<i>Neville, Dan.</i>
	<i>Nolan, Derek.</i>
	<i>Ó Ríordáin, Aodhán.</i>
	<i>O'Donnell, Kieran.</i>
	<i>O'Donovan, Patrick.</i>
	<i>O'Dowd, Fergus.</i>
	<i>O'Mahony, John.</i>
	<i>O'Sullivan, Jan.</i>
	<i>Penrose, Willie.</i>
	<i>Perry, John.</i>
	<i>Phelan, Ann.</i>
	<i>Phelan, John Paul.</i>
	<i>Rabbitte, Pat.</i>
	<i>Reilly, James.</i>
	<i>Ring, Michael.</i>
	<i>Ryan, Brendan.</i>

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	<i>Stagg, Emmet.</i>
	<i>Stanton, David.</i>
	<i>Tuffy, Joanna.</i>
	<i>Twomey, Liam.</i>
	<i>Varadkar, Leo.</i>
	<i>Wall, Jack.</i>

Tellers: Tá, Deputies Seán Ó Feargháil and Niall Collins; Níl, Deputies Joe Carey and Emmet Stagg.

Amendment declared lost.

Deputy Caoimhghín Ó Caoláin: I move amendment No. 1:

To delete all words after “Dáil Éireann:” and substitute the following:

“having regard to the motion passed by Dáil Éireann on the 11th June, 2014 which recognised the need to establish the facts regarding the deaths of children at the Bon Secours Mother and Baby Home in Tuam, Co. Galway between 1925 and 1961, including arrangements for the burial of these children, and which further acknowledged the considerable public anxiety as to the conditions generally in mother and baby homes and related institutions and agencies operational in the State in that era;

noting that it is the opinion of the Government that these matters of significant public concern require, in the public interest, examination by the establishment of a Commission of Investigation;

noting that the Minister for Children and Youth Affairs has led the Government’s consideration of these sensitive matters;

noting the factual information compiled, and the specific matters identified for further consideration, in the Report of the Inter-Departmental Group on Mother and Baby Homes, which was laid before Dáil Éireann on the 16th July, 2014, and which has assisted to inform Government considerations on the scope, format and terms of reference for a Commission of Investigation;

noting that a draft Order proposed to be made by the Government under the Commissions of Investigation Act 2004 (No. 23 of 2004) has been duly laid before Dáil Éireann on 16th January, 2015 in respect of the forgoing matters referred to, together with a statement of reasons for establishing a Commission under that Act; and

noting the deficiencies of the Schedule to the draft Order (Terms of Reference for Commission of Investigation (Mother and Baby Homes and Certain Related Matters) Order 2015), establishing the Commission, as follows:

- in Article (1), the absence of express reference to ‘related institutions and agencies’ after the reference to ‘Mother and Baby Homes’, and the consequent exclusion of a list

of such institutions in Appendix 1;

- in Article (1)(I), the absence of an express reference specifying inclusion of inter-institutional transfer across the island of Ireland, north and south, and elsewhere, after the words ‘and the exit pathways on their leaving these institutions’;

- in all instances in Article (1)(III), the absence of the words ‘and morbidity’ after the word ‘mortality’;

- in Article (1)(IV), the absence of an express provision directing the Commission, where evidence of mass or otherwise unmarked graves are found, to endeavour to identify the remains, notify relatives where possible, establish cause of death including by use of scientific methods, and otherwise enable arrangements to be made for more appropriate reburial;

- in Article (1)(VIII), the absence of the words ‘including marital status, socio-economic status,’ before the words ‘religion, race, traveller identity or disability’;

- in Article (2), the setting of the timeframe as ‘1922 to 1998’ rather than ‘1922 to present’ and the absence of the words ‘or increase’ after the words ‘may reduce’; and

- the absence of the following provision, which should appear after Article (2):

- ‘The Commission shall take proactive measures to alert individuals affected by its inquiry, in person where known, or through advertising and by means of public statements, in both jurisdictions on the island of Ireland, in Britain, in the United States, and in such other jurisdictions where those affected may reasonably be thought likely to reside, to ensure that they understand their rights to testify in private or in public.’;

- the absence of the following provision, which should appear before Article (3):

- ‘Pursuant to the provisions at section 11 of the Act, the Commission shall provide for public hearing of testimony by persons who were formally resident or who worked in, or who were otherwise affected by, the institutions listed in Schedule 1 during the relevant period, as of right, if such persons so request, or if the Commission is satisfied that it is otherwise desirable in the interests of both the investigation and fair procedures to hear in public all or part of the evidence of a witness that the Commission has called. In this regard, the Commission shall make recommendations to the Minister as to necessary arrangements regarding the right to legal advice and/or other advocacy of those testifying before the Commission.’;

- the absence of the following provision, which should appear after Article (7):

- ‘The Commission shall, in making its interim and final reports, make recommendations as to ensuring effective remedy to the victims and survivors of the institutions and practices identified in its report. As one component part of its consideration of the question of effective remedy, the Commission shall make recommendations as to official acknowledgment, apology and memorial. In making its recommendations as to all aspects of effective remedy in its reports, the Commission shall also consider the question of timing of remedies, taking into account the advanced age and infirmity of many of the identified survivors, ensuring justice is not denied them

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as a consequence of unnecessary delay.’;

- in Appendix I, the absence of a provision for ‘Related institutions as follows’, which should appear after the list of ‘Mother and Baby Homes as follows’ at (1) of Appendix I, and which should read:

- ‘(1) Avoca House, Co. Wicklow;
- (2) Braemar House, Co. Cork;
- (3) Saint Gerard’s, Herbert Avenue, Dublin 4;
- (4) Saint Philomena’s, Leeson Street, Dublin 2/Northbrook Road, Dublin 6;
- (5) St Joseph’s Babies Home, Stamullen, Co. Meath;
- (6) St Kevin’s Institution, James Street, Dublin 8;
- (7) St Patrick’s Infant Dietetic Hospital, Temple Hill, Blackrock, Co. Dublin;
- (8) St Rita’s Nursing Home, Sandyford Road, Dublin 4;
- (9) The Nursery Rescue Society, Fermoy, Cork;
- (10) Westbank (Mayil) Orphanage, Co. Wicklow;

(11) and any others as the Commission may identify during the course of its investigation.’; and

- in Appendix I, the absence of the following provisions after paragraph (2), which should read:

- ‘(3) Magdalene Laundries

The Magdalene Laundries constituted a significant “exit pathway” referred to in Article 1(I), as part of the institutional architecture of containment of “problem” women and girls together with the Mother and Baby Homes listed at (1) above, the Related Institutions listed at (1.1) above, and the County Homes referred to at (2) above. As there has not been a previous Commission of Investigation or other statutory inquiry regarding these institutions, and as the McAleese Report was limited to the question of State involvement, it is therefore specified that the Commission should also have specific regard to the experiences of the women who resided and worked in these institutions, and shall exercise its discretion to extend the scope and intensity of the investigation as provided for in Article (13) to include the Magdalene Laundries in its inquiries.

(4) Registered Adoption Agencies and Related Institutions

Registered adoption agencies constituted a significant “exit pathway” referred to in Article 1(I), as part of the institutional architecture for dealing with children born to unmarried women and girls, together with the Mother and Baby Homes listed at (1) above, the Related Institutions listed at (1.1) above, and the County Homes referred to at (2) above. It is therefore specified that the Commission should also have specific regard to the agencies, hospitals and other institutions,

and related professionals alleged to have been involved in facilitating illegal or forced adoptions and/or illegal birth registrations, and shall exercise its discretion to extend the scope and intensity of the investigation as provided for in Article (13) to include registered adoption agencies and related institutions in its inquiries.’; and

noting the deficiency in the second paragraph of the Statement of Reasons, whereby the words ‘a comprehensive account of these institutions’ should instead read ‘a comprehensive account of these and related institutions and agencies’; and

approves the draft Commission of Investigation (Mother and Baby Homes and Certain Related Matters) Order, 2015, but strongly urges that the Government amend the terms of reference of, and the statement of reasons for establishing, the Commission of Investigation at the earliest opportunity, in the manner outlined above.”

Amendment put:

<i>The Dáil divided: Tá, 48; Níl, 74.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Adams, Gerry.</i>	<i>Bannon, James.</i>
<i>Boyd Barrett, Richard.</i>	<i>Barry, Tom.</i>
<i>Broughan, Thomas P.</i>	<i>Bruton, Richard.</i>
<i>Calleary, Dara.</i>	<i>Burton, Joan.</i>
<i>Collins, Joan.</i>	<i>Butler, Ray.</i>
<i>Collins, Niall.</i>	<i>Buttimer, Jerry.</i>
<i>Colreavy, Michael.</i>	<i>Byrne, Catherine.</i>
<i>Coppinger, Ruth.</i>	<i>Byrne, Eric.</i>
<i>Cowen, Barry.</i>	<i>Cannon, Ciarán.</i>
<i>Creighton, Lucinda.</i>	<i>Carey, Joe.</i>
<i>Daly, Clare.</i>	<i>Coffey, Paudie.</i>
<i>Doherty, Pearse.</i>	<i>Collins, Áine.</i>
<i>Donnelly, Stephen S.</i>	<i>Conaghan, Michael.</i>
<i>Ellis, Dessie.</i>	<i>Conlan, Seán.</i>
<i>Ferris, Martin.</i>	<i>Connaughton, Paul J.</i>
<i>Fitzmaurice, Michael.</i>	<i>Conway, Ciara.</i>
<i>Flanagan, Terence.</i>	<i>Coonan, Noel.</i>
<i>Fleming, Sean.</i>	<i>Corcoran Kennedy, Marcella.</i>
<i>Fleming, Tom.</i>	<i>Costello, Joe.</i>
<i>Healy, Seamus.</i>	<i>Creed, Michael.</i>
<i>Higgins, Joe.</i>	<i>Daly, Jim.</i>
<i>Kelleher, Billy.</i>	<i>Deasy, John.</i>
<i>Kirk, Seamus.</i>	<i>Deering, Pat.</i>
<i>Mac Lochlainn, Pádraig.</i>	<i>Doherty, Regina.</i>
<i>McConalogue, Charlie.</i>	<i>Donohoe, Paschal.</i>
<i>McDonald, Mary Lou.</i>	<i>Dowds, Robert.</i>
<i>McGrath, Finian.</i>	<i>Durkan, Bernard J.</i>

<i>McGrath, Mattie.</i>	<i>English, Damien.</i>
<i>McGrath, Michael.</i>	<i>Farrell, Alan.</i>
<i>McGuinness, John.</i>	<i>Feighan, Frank.</i>
<i>McLellan, Sandra.</i>	<i>Fitzpatrick, Peter.</i>
<i>Martin, Micheál.</i>	<i>Gilmore, Eamon.</i>
<i>Mathews, Peter.</i>	<i>Griffin, Brendan.</i>
<i>Murphy, Catherine.</i>	<i>Hannigan, Dominic.</i>
<i>Ó Caoláin, Caoimhghín.</i>	<i>Harrington, Noel.</i>
<i>Ó Cuív, Éamon.</i>	<i>Harris, Simon.</i>
<i>Ó Fearghail, Seán.</i>	<i>Hayes, Tom.</i>
<i>Ó Snodaigh, Aengus.</i>	<i>Heydon, Martin.</i>
<i>O'Brien, Jonathan.</i>	<i>Humphreys, Heather.</i>
<i>O'Sullivan, Maureen.</i>	<i>Humphreys, Kevin.</i>
<i>Pringle, Thomas.</i>	<i>Keating, Derek.</i>
<i>Ross, Shane.</i>	<i>Kelly, Alan.</i>
<i>Shortall, Róisín.</i>	<i>Kenny, Enda.</i>
<i>Smith, Brendan.</i>	<i>Kenny, Seán.</i>
<i>Stanley, Brian.</i>	<i>Kyne, Seán.</i>
<i>Tóibín, Peadar.</i>	<i>Lawlor, Anthony.</i>
<i>Troy, Robert.</i>	<i>Lynch, Ciarán.</i>
<i>Wallace, Mick.</i>	<i>Lynch, Kathleen.</i>
	<i>McCarthy, Michael.</i>
	<i>McEntee, Helen.</i>
	<i>McFadden, Gabrielle.</i>
	<i>McLoughlin, Tony.</i>
	<i>Maloney, Eamonn.</i>
	<i>Murphy, Dara.</i>
	<i>Neville, Dan.</i>
	<i>Nolan, Derek.</i>
	<i>Ó Ríordáin, Aodhán.</i>
	<i>O'Donnell, Kieran.</i>
	<i>O'Donovan, Patrick.</i>
	<i>O'Dowd, Fergus.</i>
	<i>O'Mahony, John.</i>
	<i>O'Sullivan, Jan.</i>
	<i>Penrose, Willie.</i>
	<i>Phelan, Ann.</i>
	<i>Phelan, John Paul.</i>
	<i>Rabbitte, Pat.</i>
	<i>Reilly, James.</i>
	<i>Ring, Michael.</i>
	<i>Ryan, Brendan.</i>
	<i>Stagg, Emmet.</i>

	<i>Stanton, David.</i>
	<i>Tuffy, Joanna.</i>
	<i>Varadkar, Leo.</i>
	<i>Wall, Jack.</i>

Tellers: Tá, Deputies Aengus Ó Snodaigh and Sandra McLellan; Níl, Deputies Emmet Stagg and Joe Carey.

Amendment declared lost.

Question, “That the motion be agreed to”, put and declared carried.

Message from Select Committee

An Leas-Cheann Comhairle: The Select Committee on Justice, Defence and Equality has completed its consideration of the Garda Síochána (Amendment) (No. 3) Bill 2014 without amendment.

Estimates for Public Services 2015: Messages from Select Committees

An Leas-Cheann Comhairle: The Select Committee on Justice, Defence and Equality has completed its consideration of the following Revised Estimates for public services for the service of the year ending on 31 December 2015: Votes 35 and 36; and the Select Committee on Foreign Affairs and Trade has completed its consideration of the following Revised Estimates for public services for the service of the year ending on 31 December 2015: Votes 27 and 28.

Housing Affordability: Motion (Resumed) [Private Members]

The following motion was moved by Deputy Michael McGrath on Tuesday, 27 January 2015:

That Dáil Éireann:

notes:

- the significant fall in home ownership rates in Ireland;
- the legitimate aspiration of families to own their own home;
- that the lack of housing supply is causing distortions in the property market;
- that the dramatic increase in rents and the failure to increase rent supplement supports

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have put many individuals and families at serious risk of homelessness; and

- that 90,000 persons are currently on the social housing waiting lists around the country;

and

agrees that:

- action is required to improve housing affordability, particularly in respect of mortgage interest rates;

- the level of savings required should not be prohibitive thereby preventing people from buying their first properties or progressing to a second home;

- a coordinated initiative by Government and local authorities is needed to improve the supply of new housing; and

- the rent supplement scheme be urgently reviewed to take account of current rents in the market place.

Debate resumed on amendment No. 1:

To delete all words after “Dáil Éireann” and substitute the following:

“acknowledges that:

- the construction sector and the housing market were very heavily affected by the economic downturn and the bursting of the property bubble; and

- a poorly regulated banking sector, with lax lending standards combined with pro-cyclical and inappropriate fiscal policies adopted by the previous Government, led to a property bubble, the consequences of which are still evident throughout the country;

recognises the importance of ensuring a strong and sustainable construction sector and housing market that meets the needs of the economy and society;

notes that:

- in 2014 a total of 11,016 homes were completed in comparison to 93,019 units completed at the peak of the housing bubble; and

- at the peak of the housing bubble in 2007 over 270,000 persons were directly employed in the sector and that by 2012 this figure was below 100,000;

further acknowledges that new housing supply - both social and private housing - is a key issue that needs to be, and is being, addressed;

notes:

- in this context, that the Government’s Construction 2020 Strategy for a Renewed Construction Sector is focused on addressing constraints that are inhibiting new housing supply, including as regards planning, mortgage and development finance, infrastructure and public investment, standards and regulation and education and skills;

- in addition, the recent announcement of the Government's Social Housing Strategy 2020 and the Government's commitment therein to deliver 35,000 new social housing units over the period to 2020;

- the additional €2.2 billion in funding announced for social housing in budget 2015 and the publication of the Social Housing Strategy 2020 in November 2014, which builds on the provisions contained in budget 2015 and sets out clear, measurable actions and targets to increase the supply of social housing, reform delivery arrangements and meet the housing needs of all households on the housing list;

- that the Central Bank has recently issued macro-prudential proposals in relation to residential mortgage lending and will shortly make decisions in relation to these in accordance with its independent mandate in such matters; and

- the encouraging signs of a recovery in the construction sector and the housing market;

and

agrees that a whole-of-Government approach to the implementation of Construction 2020 and the Social Housing Strategy 2020 will deliver a sustainable housing market that meets the needs of our society.”

- (Minister of State at the Department of Taoiseach, Deputy Dara Murphy)

Deputy Michael Fitzmaurice: I commend Fianna Fáil on its motion. This issue needs to be talked about. It is sad to note this evening the number of Ministers and Deputies on the other side who have walked out on one of the most important issues we could talk about in the country. Some 57,000 people face eviction over the next 18 months. They will basically be thrown out of their houses. There will probably be 57,000 more on rent allowances. People are being thrown out of their homes because the rent allowance did not even cover the rent they must pay each week.

We, as a nation, can keep burying our heads in the sand over this. We can remain in denial but, sooner or later, we must face up to the mortgage crisis. For the past four or five years, there was silence in respect of it but, over the next year however, it will become rampant. The House needs to get together constructively to sort out the problems we face in the next year to 18 months.

There are problems right around the country. I would like the Minister of State, Deputy Ann Phelan, to listen to me very carefully. A director of services in a certain county can buy houses for 50% of the price that the Department of the Environment, Community and Local Government is stating they should be got for. Sadly, however, that director of services is being told he must go to a greenfield site, have new sewerage and water services installed and, above all, get consultants to resolve the problem. The country loves consultants. This is frustrating various councils around the country and I ask the Government to examine this. If two houses can be got for the price of one, I would class it as good value for money. We must resolve this problem. If we do not do so, it will become even worse and cost the country even more. As a Dáil, we should sit down and resolve the mortgage crisis once and for all.

Deputy Mick Wallace: As the Minister of State well knows without my telling her, hous-

ing provision is a very big problem in Ireland and it is likely to remain very challenging. The latest rulings concerning the Central Bank will present significant challenges for the State. I am not saying the Central Bank is mad but the idea of encouraging people to buy homes they cannot afford to pay for is not a good one. This is how sub-prime mortgages arose. This trend began in America. The Government must get in tune with what the Central Bank is saying and doing. Many people who bought apartments in Dublin in the past ten years did not buy them to keep them forever because many of them want to start families. The truth of the matter is that we did not build apartments that were suited to families; we built them for single people and couples. The apartments are not designed for family use and many people in apartments who wish to start a family will have to get a house. They will not be buying one because they will not be able to afford one. They will not be able to put up the deposit. They will be pushed into the private rental market and private rents will increase.

Companies such as Kennedy Wilson have bought many distressed properties in the State, in addition to distressed sites. It is now seeking permission to build houses and apartments on sites and it has no intention of selling them. These boys are in the rental market. The company is already a serious player in the market in Ireland and will become even more serious. Rent is a matter that the Government will have to address. It will have to get real over the fact that since many people are not able to buy homes, there will have to be a far greater range of social housing options available for them.

Deputy Catherine Murphy: I support the motion. I welcome the opportunity to contribute on it although it falls way short given the wide range of measures that are required. One reason there is such a desire to own a home is because there is little choice. The choice is between going on the housing waiting list and trying to buy a house. One has security of tenure with a purchase unless one is in negative equity. Essentially, we need to get to a point where we have security of tenure and affordable rents that are in proportion to people's incomes. The problem is that the rental sector in Ireland is vastly different from that in many other countries, where people can make a rental property a home rather than a temporary solution until a more permanent one is found. We need to change our attitudes.

There is a significant hidden homelessness problem in Ireland. It has been largely supported by rent assistance but it also includes people who are at work and struggling to pay a very large proportion of their income in rent. This affects not only single people but also families with children. We will pay a price for allowing circumstances in which families must move every 18 months or so. There is a lack of security and certainty, even with regard to the schools children will go to. Therefore, this is a much more complex issue than it is perceived to be. We need a national housing strategy that examines landlords' and tenants' rights and responsibilities and a variety of other matters, such as where we can source funding. A source could be the European Investment Bank. We are only scratching the surface with this motion but it is important that it is on the agenda nonetheless.

8 o'clock

Deputy Tom Fleming: There are approximately 90,000 families on the social housing list. A large contributory factor to the situation was the change in Government policies in the 1980s when there was a dramatic decline in the traditional provision of Government funding to local authorities to build and provide social housing.

Instead of building social houses during the boom years, the Government started buying

houses. For example, the Affordable Housing Partnership splashed out tens of millions of euro buying 500 homes at the top of the market at that time, just before the market collapsed.

Under Part V of the Planning and Development Act 2000, 20% of developments were set aside for social and affordable housing. However, by the provision of amendments and loopholes, the developers in many cases bought out the 20% and there was nil return to the local authorities in several of those developments. Between 2002 and 2011, only 3,757 new units became local authority housing and approximately 1,900 became the property of approved housing bodies or trusts. This means a pitiful figure of only 4% of all homes built during this period were social housing. That is the legacy in the current situation.

With the glut of houses from that era also, those with second and third houses were what one would term “small landlords”. The main emphasis was on all types of rent schemes to pay these landlords. In fact, over €0.5 billion has been expended on these. That is a lot of dead money that has been paid out in various types of rent benefits.

The ghost estates should not be knocked. It is shameful to knock these. There is a need to upgrade them and put tenants into them. Also, the ban on bedsits approximately six years ago was a dreadful mistake. That is why we have many homeless at present.

Deputy Richard Boyd Barrett: What I find utterly depressing about this place, this Chamber and even media coverage is that one might, if one bangs one’s head off the wall for a couple of years, raise issues relentlessly, as some of us have raised this issue for the past four years, and at one point there might be a few headlines and a grandiose statement from the Government of its intent to solve a problem. For example, in response to one parliamentary question I asked in 2012, the Minister for Social Protection assured me, “There will be no incidence of homelessness due to these changes.” Of course, the homelessness crisis spiralled out of control for the next two years, but I am sure there was a headline and an RTE soundbite that the Government was getting on top of the housing crisis. That is the way it works. Every now and again, we get a flash where there is an acknowledgement of the crisis, we get a grandiose announcement and the crisis only gets worse. That is what has happened. All the way along, the Government has been warned, screamed at, pleaded with and urged to deal with this, occasionally it acknowledges there is a crisis, and every now and again there is some initiative and the situation only gets worse.

In the past year the housing list in my area has gone from 4,000 to 5,200, with 100 more applicants per month going onto the list. Homelessness levels have gone through the roof. That, proportionately, for the size of the county, is a bigger increase in the housing list than anywhere else, including Dublin city, because rents are unaffordable and the caps are a joke. Does the Minister know how many council houses - not fictional houses in the HAP scheme, fictional council houses in RAS or leasing schemes, but actual council houses - Dún Laoghaire-Rathdown will build next year? They will build approximately 13 next year.

Deputy Tom Hayes: How many boarded up houses are there?

Deputy Richard Boyd Barrett: There are approximately 40. Even if they sorted those 40 houses out, that would be 50 off a list of 5,200.

Acting Chairman (Deputy Joanna Tuffy): Deputy Boyd Barrett’s time is up.

Deputy Richard Boyd Barrett: It would not even keep track with the number of applicants

who will join the list in one month, never mind what is happening in the country. Will the Government take some of the €4 billion NAMA has and use it to start an emergency council house programme? Nothing else will even begin to touch this problem.

Acting Chairman (Deputy Joanna Tuffy): The next speaker is Deputy Neville who I understand is sharing time with Deputies Maloney, Cannon, Regina Doherty, Seán Kenny, Catherine Byrne, Nolan and McEntee.

Deputy Dan Neville: I welcome the opportunity to contribute to this important debate.

It is important that the Government prioritises the housing area. In our constituency offices, we can judge how real is the issue of social housing. It always was an issue, but it is an increasing issue and the figures bear this out. If one compares the figures from 2005 and 2013, they show the extent of this problem.

The previous housing model was unsustainable and its legacy is ghost estates. There are repossessions and an increase in homelessness because of it. There are people who have really been destroyed due to the levels of borrowing they were able to obtain and not support.

The waiting list increased from 43,000 in 2005 to 98,000 in 2011, and then dropped down to 90,000 in 2013. It is still almost twice the level of need in 2005.

The rent supplement should be examined. There has been a large increase in the number benefiting from rent supplement, which is another indication of the difficulty being experienced by so many. It has increased from 60,000 in 2005 to 97,000 in 2013.

There is also an issue with the rent supplement among those who are on very low incomes and who are ineligible for rent supplement. The circumstances of some of those are as bad as, or worse than, the circumstances of social welfare recipients who are eligible for rent supplement. It is important that would be looked at and that there would be some flexibility in relation to the rent supplement for those who are on very low incomes.

On the construction of houses, the area of planning is still slowing up the bringing of housing proposals to construction. The Minister, Deputy Jan O'Sullivan, will provide considerable funding. She is doing a lot of work in this area and she has brought forward proposals and is operating them. It is so important that we raise this issue and use this opportunity. It takes months, sometimes years, to bring a proposal from where it is accepted to construct social housing to the letting of those houses.

The other issue is that there are thousands of houses in this country which the tenants have left for whatever reason, and these are boarded up. Sometimes two or three years afterwards these houses are not re-let. One of the excuses is that the housing authority needs funding to undertake repairs to these houses, but that is a cheap way of ensuring that houses are made available. Only for maintenance, these are waiting to be let. Some of them I have seen have required only a small amount of maintenance: often a significant level of maintenance is not required.

Deputy Eamonn Maloney: The topic for debate is one of the great social issues following on from the collapse of the boom of the infamous Celtic tiger. Various reports were done on housing construction, rents and affordability. One of the best reports is the one prepared for the Housing Agency by the Private Residential Tenancies Board. Members, however, might not agree with all of it. I do not agree with some of its conclusions but it is one of the most up-to-

date pieces of work and it provides great insights into what happened that led us to the point where we are having this discussion this evening.

The introduction to the report provides a most concise explanation for how we got to where we are. It refers to the costly lessons of a housing policy which promoted and almost enticed people into home ownership for more than a decade until 2007. We would all agree that is an exact description. Someone said to me that during the Celtic tiger era if one was not building or buying a house, one was nobody. That was the general atmosphere.

I was a member of the second largest local authority in the country, South Dublin County Council, and during part of that period I was mayor. It was unbelievable the way the housing list was affected. People just stopped applying for social housing. It was almost like pulling a plug. We all know why that happened. It was because everybody and anybody could get a loan from a bank to either build or buy a house. That was the most irresponsible activity for a Government to allow. That is part of what has been referred to as the legacy. The situation got out of control. When the crash came, people were living in houses on which they could not afford to pay the mortgages.

In addition, I can recall as a member of a local authority in 2007 and 2008 that a letter was read out from the Department of the Environment, Community and Local Government to the effect that local authorities would not get money to build social housing. That was it. Social housing came to a full stop. In the following year the same message was sent by the Department.

Reference was made to rent control, which I support. In spite of all the criticism that has been levelled at the Government, it has announced a very good programme to deal with social housing. In the intervening period, when there are so few social houses and when landlords are running away with the type of rents we all know about, emergency legislation is required to freeze rents. We cannot allow them to rise further. It will take 18 months to two years to build houses and we should not allow people to exploit the difficult situations in which families find themselves. We have all heard of cases where rents have increased to €1,400 a month for a three-bedroom house in Dublin. We cannot allow that to continue because not alone is it pushing people onto local authority housing lists but back to live with their families. The first point that is mentioned when anyone refers to rent control, freezing rents or emergency legislation is the Constitution. The Constitution is no use to a family that does not have a home. If we have to change the Constitution we should change it.

Deputy Ciarán Cannon: Our country is slowly beginning to recover from a catastrophic housing bubble and the after effects of it. Thankfully, some activity is beginning to return to the sector and there is a consequent increase in employment in the sector also.

While I question why anyone should be subjected to the opinion of Fianna Fáil on housing policy, I acknowledge that the motion gives us an opportunity to reflect on national housing policy and to determine how best in the future-----

Deputy Niall Collins: What about the PDs?

Deputy Ciarán Cannon: -----we support citizens in providing housing for their families.

Deputy Tom Hayes: I knew Deputy Cannon would not hear that comment.

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Deputy Ciarán Cannon: The motion is timely in that it coincides with the publication by the Central Bank of its new home lending regulations. Key to the objectives is to increase the resilience of the banking and household sectors to the property market and to reduce the risk of the bank credit and housing price spiral which we experienced in the past. I welcome the prudent and balanced regulations. In the longer term they should work to moderate price increases and to halt the creation of yet another catastrophic housing bubble.

It is important to be clear that the 20% limit for first-time buyers proposed by the Central Bank kicks in only on the value of a home higher than €220,000. In practical terms it means that, for example, on a property valued at €300,000 the borrower would have to make a down payment of €38,000. I do not believe that is a very serious imposition or that it is unfair or somehow unduly burdensome. I recall that in the late 1980s and early 1990s such a stringent imposition was placed upon my peer group as we set out on the road to home ownership. I recall people having to scrimp, save and work hard to amass the kind of money they needed to get a deposit for their first home. There has been a slow diminution of the requirement over many years, to the point where recently people were securing 100% mortgages. There is no question but that was a major contributory factor in the creation of the housing bubble.

The Government has a sustainable social housing policy with a dedicated budget and a clear and unambiguous programme for delivery. The Social Housing Strategy 2020 will see an investment of at least €3.8 billion leading to the provision of more than 35,000 new homes in the next five years.

It seems strange that Fianna Fáil would question the capacity of the Government to deliver on the strategy when in government at the height of the economic boom, with bountiful resources available to it, it was still leaving 45,000 families on the waiting list for social housing. We have an appalling track record in inflating one of the world's most damaging housing bubbles, no track record in delivering social housing to those who needed it at a time of plentiful resources. That is the Fianna Fáil legacy and one which none of us should forget anytime soon.

Deputy Tom Hayes: That is the inside track.

Deputy Regina Doherty: Like the previous speaker, given the boom and bust cycle of the past decade, it is essential that we learn from the mistakes of the past with a view to protecting families across the country and safeguarding the financial rebound that is currently taking place. The stagnation we saw in the housing market and construction sector is irrefutably the result of years of maladministration by Fianna Fáil. Poorly regulated banks loaned copious amounts of money to families and businesses who simply could not afford to repay them and financial institutions and the governance authorities of the day turned a blind eye.

In addition, the fiscal policies of consecutive Fianna Fáil Governments added fuel to the fire and a housing construction bubble ensued. When the bubble burst – boy did it burst – the waiting lists for social housing and the number of families on rent supplement inflated due to overwhelming demand and insufficient supply.

I assure the House that the Government is fully committed to making progressive changes to the housing market, to rectifying the wrongs and ensuring the mistakes made in the past will not happen again.

In many parts of the country we are again experiencing imbalances in supply and demand in the property market. As a Government we have a responsibility to bring equilibrium to the

ever-changing demand and the volatile pricing relationship while meeting the needs of Irish families and couples who need houses.

We must boost supply to meet property demands and that must remain a Government strategy. It is part of the strategy for a renewed construction sector, Construction 2020. However, we must think outside of the box because the norms of the housing assistance payment, HAP, and the rental accommodation scheme, RAS, are simply not enough to meet our social housing requirement. I welcome the Government's housing strategy that will see 35,000 new social houses built by 2020, and in particular the reforms to housing supports, which are badly needed, and that need to be distributed regionally on a progressive basis as opposed to the way it is done at the moment. We need to look at supports for the private rental sector.

The increased supply must be accompanied by regulation of residential mortgage lending and parameters must be set out to avoid another financial crisis. Those parameters include the two primary control measures set out by the Central Bank today, which are property values and the income of the borrower. The private rental market requires close attention to detail in the context of regulatory measures. Steep and sporadic increases in rental prices across Ireland, and in particular in Dublin and its commuter belt, are making financial sustainability increasingly difficult for the 20% of households currently renting their homes in the private sector. This desperately needs to be addressed. The regulation of the rental sector can be seen somewhat in the Residential Tenancies Bill but other parameters must facilitate families currently renting to save their earnings with a view to exiting the rental market and purchasing their own homes.

The implementation of this Government's 2020 construction and social housing strategies will give a foundation of stability for the Irish property market and it will neutralise disproportionate supply and demand, fulfilling the needs for Irish families and citizens to be able to live where they want at an affordable price.

Deputy Seán Kenny: The recent RTE drama series, "Charlie", among other things, highlighted the links between Fianna Fáil and the builders such as the Gallagher Group, during the CJ Haughey period. Watching the drama - I must confess I watched all the series - it made me recall that when I purchased my Gallagher-built home in Raheny in 1969, I received a letter from the then Minister, CJ Haughey, shortly after I moved in, welcoming me into his constituency and assuring me that if I needed his assistance I should contact him. As I was not even on the electoral register at the time, CJ could only have obtained my name from the builder - there was no Data Protection Act in those days.

The Flood and Mahon tribunal highlighted the rezoning scandals in north Dublin in the 1990s-----

Deputy Niall Collins: Deputy Kenny must be a detective.

Deputy Seán Kenny: It now appears that many of those found by the tribunal to have acted corruptly may go scot free and some of them may even have their legal costs paid for by the taxpayer. I welcome the statement by the Mahon tribunal reported in today's *The Irish Times* that some of the tribunal's corruption findings will not be erased.

As a Dublin councillor for over 30 years, I witnessed many of the events that were revealed in the tribunals. The planning light-touch era, presided over by Fianna Fáil, led to Priory Hall and to pyrite.

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It has been all too obvious that the construction sector and the housing market were heavily affected by the economic downturn and the bursting of the property bubble. It has been all too obvious that a poorly regulated banking sector, with lax lending standards, combined with inappropriate fiscal policies adopted by the then Government, led to a property bubble the consequences of which are still evident throughout the country.

This Government recognises the importance of ensuring a strong but sustainable construction sector and housing market that meets the needs of the economy and of society. The Government's Construction 2020 strategy for a renewed construction sector is focused on addressing constraints that are inhibiting new housing supply, such as planning, mortgage and development finance, infrastructure, public investment and regulation.

The publication of the social housing strategy 2020 in November 2014, which builds on the provisions contained in budget 2015, sets out clear measurable actions and targets to increase the supply of social housing, to reform delivery arrangements and to meet the needs of all the households on the housing lists.

The social housing strategy 2020 will provide 35,000 new social housing units over a six-year period to meet the additional social housing supply requirement, as determined by the housing agency. It will support up to 75,000 households through an enhanced private rental sector. It will reform social housing supports to create a more flexible and more responsive system.

I support the approach taken by this Government and I commend the Minister, Deputy Alan Kelly, for his work on this policy. It is infinitely better than what the Opposition could arrive at, especially given its record. After 14 disastrous years, it is time for a change.

Deputy Catherine Byrne: There is nothing so sad as a young couple with young children coming to one's clinic to say that they have been given one month to move out of their home when the girl has lost her job and they cannot afford to pay the mortgage. We need to sit up and listen and learn from what has happened in the past.

Other speakers, including the Minister, have spoken about building social housing for the future but the need is here and now. We need to reach the target as soon as possible. I welcome the fact that €3.5 billion has been set aside for building new social housing under the social housing strategy for 2020.

When I was growing up in my area I witnessed the first sod being turned on the new St. Michael's estate. There was great excitement because there were large numbers of people on the housing list at the time. St. Michael's estate and Ballymun were the new way to live. Sadly, later on, they had to be knocked for a number of reasons but at one time they had accommodated large numbers of people.

If the Government is to succeed in building social housing we cannot go back to building hundreds of social housing units in vast land blocks which the local authorities cannot manage properly. This is one of my concerns. Smaller sites should be made available throughout the city and the country to build small groups of houses. This system worked very well for voluntary housing groups which provide housing for people on small sites which are properly maintained.

In the past the council employed a large force of maintenance workers but now there is

hardly a plumber or a carpenter available in any of the areas around the city. This is one of the reasons so many social housing units were left unoccupied and could not be re-allocated in a timely manner.

In one housing estate in my constituency, at one time 100% of the houses were owned by the local authority but now fewer than 25% of those properties are owned by the city council. This creates difficulties because there are fewer social housing units being re-allocated in the system. However, it has given an opportunity to 75% of the people to buy their homes. Sadly it is the case today that many social housing tenants are living in flats complexes where they have lived almost all their lives, for 50 years in some cases, and they have not had the opportunity to buy their own homes.

I thank Fianna Fáil for bringing this important issue to the floor of the House. It has been discussed here on many occasions. There is a huge mountain to climb in this regard but I believe that we have made a good start. The Minister, Deputy Alan Kelly, and the Minister of State, Deputy Paudie Coffey, will do their best. In a time when we had plenty of money we should have been building proper social housing which was properly managed and properly maintained but that did not happen.

Deputy Derek Nolan: Housing affects everyone in the country because everyone has to stay somewhere at night and they will have grown up somewhere. Housing impacts on every family, every individual and every couple in the country. When talking about housing and affordability, one cannot just pick out one element and say that is the part that matters because the whole market is completely interlinked between homeowners, prospective buyers, those in the private rental market, those in social housing and those who provide the houses - the construction companies and developers of land banks - in which people live. The final element is comprised of the banks and the credit they provide to people to allow them to put the purchase price together. Each one of those plays a vital part in the housing market and a problem with one of them creates a problem with all of them.

I refer to what happened when the economy collapsed and the recession kicked in and almost 250,000 people lost their jobs. Every single one of those elements was impacted. People living in their homes were finding it difficult to pay their mortgages; prospective buyers could no longer get any kind of credit; and because of the economic circumstance, production of houses and development of houses stopped. People lost their jobs and as a result, the number of people needing rent supplement and social assistance increased. Everything that could have possibly gone wrong with our housing market went wrong in 2008 because it was based on a false premise of a free market provision where 90,000 houses were being provided yet the costs kept escalating. People were terrified of not buying a house because if they did not buy at that stage it would have been €10,000 more expensive three months later and a year later it would have been €50,000 more expensive. They were terrified of being left behind and taken out of the property market altogether. This led to an obscene situation whereby it was socially acceptable for a recently married young couple to mortgage themselves to the hilt for 35 years, so they would be under incredible financial pressure for the rest of their lives to own a three-bed semi-detached house where they could start a family and raise their children. This is the obscenity from which we came. This is what happened when we said it had nothing to do with us, and that it should be left to the market with the Government having no say. This was the extremely dangerous thing we did, because we handed over the market to a group of speculators, developers and bankers who used it for their own gain. Many millionaires were made on the backs of families and people who are still paying those mortgages to this day.

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In Galway city approximately 4,000 households are on the city council housing waiting list. In the past two years, rents in the private rental sector have gone from approximately €800 for a semi-detached house to €1,100 or €1,200. The price of buying a semi-detached house has gone from between approximately €175,000 and €180,000 to €240,000, which is a €50,000 increase. We are making the same mistakes. We are leaving it to the market to provide.

Where we are finally starting to get some action now, which is very important, is an increase in the supply of social housing, which will have an impact because it will take pressure off the private rented sector and give people alternative options. As a society we need once and for all to come to the decision that it is affordability which matters and not the market. We should ask how much do we anticipate or think a family, which gets up every day, goes to work and brings their children to school, should pay for a house and should they be priced out of it. Unless we make this decision we will be in a difficult position and we will never get it right. Once we have done this, we can tell those who cannot afford to do so because of their circumstances, means or ability differences that we will step in and help them with social housing.

Our Constitution does many things, but perversely it protects the right to private property over the ability of the State to regulate land prices and rent controls. This is not what our Constitution should do. A debate is taking place throughout the country on economic, social and cultural rights and their place in our legal system. If we were to amend our Constitution to include the right to housing we could balance out the right to private property, which would make a big difference and have a big impact on our housing market.

Deputy Helen McEntee: I very much welcome the opportunity to speak on this Private Members' motion. It is very topical considering last night's announcement by the Central Bank on mortgage lending. It is an issue which I have followed very closely and something in which I have a very keen interest. County Meath has expanded dramatically in recent years. We have a growing and very young population. The people there are getting into the workforce, continuing to work or getting back to work and they are eager to buy their own home for the first time. I made submissions to the Central Bank on mortgage lending on their behalf and I am very happy the Central Bank listened and recognised the financial pressures faced by young house hunters by not proceeding with what would have been a very prohibitive 20% mortgage deposit proposal for first-time buyers. It is an extremely important statement and sends out a message to this cohort of people that we are listening and trying to help.

We must acknowledge the housing market was severely affected by the downturn in the economy. This happened mainly due to a poorly regulated banking sector, inappropriate fiscal policies and beyond lackadaisical lending standards. People paid through the roof for properties which were worth half of what was paid. Having seen the property bubble burst we have been left to pick up the pieces. As my colleague mentioned, the principle is to ensure people can only buy what they can afford, so there will be no more 100% or 120% mortgage lending. We must ensure those days are over. The new arrangement will give space to my generation, who were in their twenties when the economy collapsed. They do not have Celtic tiger debts, are possibly working and have some savings, and can afford to buy a home with a 10% mortgage deposit. The new arrangements, whereby second-time buyers will have to produce 20% deposits, will in some way address the position of landlordism. Some people might wonder what I mean by this. Recently a television programme, which focused on London, essentially stated we were going back in time to when we had landlords and tenants in a very unequal society. None of us wants to go back there.

The people who are not helped by this arrangement are the most unfortunate victims of the previous Government's economic policies. They are those in negative equity who bought an apartment or a house at a price which was through the roof and which they have outgrown. It will be extremely difficult for them to gather 20% of the cost of a new home. It was deeply ironic that I should listen to my local radio station this morning to hear a member of Fianna Fáil speaking of dissatisfaction with the new regulations and speaking up about the problems of this generation which it alone caused. I received an e-mail from a gentleman to this effect, outlining his situation. In 2012, the Government introduced an interest relief scheme for first-time buyers who took out mortgages between 2004 and 2008. This has helped thousands of people, but we need to do more and we need to work with the Central Bank to identify a solution for those people who have not been helped. Unfortunately it is much harder to regulate in retrospect.

We have come a long way in a few short years. Just a few years ago people could not even apply for mortgages and the banks were closed for business. The recent announcement shows the fact we are regulating this again and we have come a long way.

Acting Chairman (Deputy Joanna Tuffy): Deputy Niall Collins is sharing time with Deputies Troy, Kirk and Fleming. Is that agreed? Agreed.

Deputy Niall Collins: In debates such as this we get an interesting insight into some of the completely shallow and ill-informed analysis we receive from Government backbenchers, and we have had such a contribution served up to us again this evening. They should go away and read and research a little more and look into their own hearts and the contribution they made to the situation we are debating. If we are to discuss the housing bubble, we should mention we had reckless lending, reckless borrowing, poor regulation, poor political oversight and a political auction from all of the political parties to narrow the tax base. Deputy Rabbitte wanted to introduce an 18% lower rate of tax during the 2007 general election. We had this race to the bottom, in which the Government parties were happy to partake. They avoided political debate on it at the time.

One point which is always conveniently forgotten by the Government parties, but which was put right by the people last May in the local elections, is that for the previous ten or 15 years, until last May, Fine Gael and the Labour Party dominated and controlled most of the local authorities throughout Ireland.

Deputy Regina Doherty: It is a pity Fianna Fáil starved them of funding.

Deputy Niall Collins: They zoned land and created the supply of over-zoned land on floodplains throughout the country. Fine Gael and the Labour Party controlled the local authorities throughout the country. When it came to the provision of social and affordable housing, it was Fine Gael and the Labour Party which controlled the local authorities that accepted cash buy-outs from the developers. I remember going into Limerick County Council meetings and watching Fine Gael local authority members with the developers negotiating buy-outs from the Part V obligations. The Government parties should accept the part they played in the creation of the property bubble. They should take a small bit of time to step back and consider this.

The Government introduced personal insolvency legislation which gave the bankers a veto. I can tell the Deputies in the House that when the county registrar sat in Limerick in November he dealt with more than 200 cases of home repossessions because of the approach by the banks, by virtue of the personal insolvency legislation which gives them a veto and which has strength-

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ened their position in negotiations with distressed borrowers. The Deputies need to take on board what they have done in government in terms of strengthening the banks and weakening the position of the vulnerable person who is being put out of his or her house.

With regard to local authority housing, which is being debated this evening, we do not have a tenant purchase scheme at present. There is demand for one and the Minister of State will acknowledge this. All of us have people in our clinics every day-----

Deputy Paudie Coffey: They will have one shortly.

Deputy Niall Collins: That is good to hear. With regard to the number of void and vacant housing and the turnaround time, a simple scheme should be considered, whereby if people who are allocated a house are willing to put their own money into making it habitable it should be offset against the rent. Limerick has 4,500 people on the housing waiting list. It is just not good enough. It is not sustainable that 4,500 people are on the waiting list in Limerick when the Government is refusing to review the situation with regard to rent caps. These people find they have to rent in the private sector where they face the prospect of eviction, a further knock-on effect of which could result in them facing homelessness which pertains across the country and which needs to be addressed. It is not unique to only locations outside Limerick.

I want a more proactive approach to be taken by the local authorities, with a lead from Government, in dealing with provision for people who are separating. When a man or a woman going through a separation process seeks to get on to the local authority housing list, which would then entitle him or her to receive rent supplement, he or she tends to get strung out for too long. There is a provision in the housing (miscellaneous provisions) legislation but it is being applied by local authorities in a draconian manner. The local authorities need to take a more common sense approach. As the Minister of State will know, in many cases the process of obtaining a court separation agreement can take years. We need to have a more hands on, common sense approach to such allocation.

Regarding the Central Bank announcements, the relaxing of the loan to value ratio back to 90% is a welcome move because it will go a long way towards people achieving the aspiration of home ownership. The issue of the non-first-time buyers needs to be addressed, especially given the fact that it is 50-50 split between first-time buyers and non-first-time buyers. Non-first-time buyers are being asked to come up with a 20% deposit and that could be difficult to secure particularly, if due to family circumstances and the size of their family, they have to trade up to a bigger house. That certainly needs to be examined.

Deputy Robert Troy: I welcome the opportunity to contribute to this debate, which is quite timely. It is important that all sides of the House get an opportunity to contribute to Government policy. For the purposes of this debate, I will focus my contribution on three areas. One area is the issue of mortgage arrears. We cannot have a debate in the House without focusing on that issue. We need to examine the sustainability issue into the future and to ensure there are adequate supports in place to keep families in their homes. That must be the main consideration. Families need to be kept in their own homes.

I also wish to focus on the provision of social housing. Every family and citizen in mortgage arrears that we fail to protect will ultimately end up on our social housing list. I also wish to deal with the recent regulations announced by the Central Bank. I am conscious that we need to learn from the mistakes of the past and ensure that we avoid those mistakes in the future, but

it is also important that the right balance is struck to ensure that we avoid a situation where a generation such as mine would be locked out from ever owning their own home.

On the issue of mortgage arrears, I raised that issue in the Dáil by way of a Topical Issue before the Christmas recess. I said at that time that I could see an avalanche of repossessions happening but I was accused of scaremongering. I said it because there are more than 30,000 people in arrears of in excess of two years. These people are coming before the courts. In my constituency of Westmeath, a new monthly repossession court sits one day every month and I am sure that is replicated throughout the country. Since November, 150 cases have been dealt with and the recent edition of the *Westmeath Topic* ran a story covering the court which pointed to the desperation, confusion and utter sadness of families who presented before the court. There are separated mothers trying to stay in their family homes to rear their families, begging the registrar for help and support. I will give one example. A woman, now divorced, was paying KBC Bank €1,450 per month in mortgage repayments as well as supporting her children. She was a social worker, so she had a good job, and she was living in Mullingar. She fell behind in her repayments as her wages were halved during the past five years. She wants to stay in the home and help put her children through college. The maximum she can pay is €500 per month. She said it is not enough for KBC which wants more.

If we recall what the Government has done in this instance, it talks about the mortgage to rent scheme. That scheme should help that woman but I have been trying to help her get on it and she does not qualify for it. It talks about the personal insolvency legislation. When that legislation was before the Dáil, the then Minister for Justice and Equality said it would deal with in excess of 21,000 cases in the full first year. We know that since it has come through approximately 500 cases have been dealt with. What has the legislation done? It has left the power firmly and squarely in the hands of the financial institutions. It is because of this Government's policy that this lady, who is trying to provide a roof over the heads of her children and support them to go to college so that they can get a better standard of living, was left before Christmas at the mercy of the registrar, begging for the court case to be adjourned to see if she could come up with some proposal to maintain her family home.

On the issue of social housing, I welcome the belated acknowledgement by the Government that this is a real issue. We now have 90,000 people on the housing list, up one third since 2009. The Government is talking about Construction 2020. The extra money that is being put into the provision of social housing is to be welcomed but what supports are being put in now to deal with rapidly rising rents and the reduction in the rent allowance? My colleague spoke about Fine Gael Party and Labour Party members being in power in the local authorities and someone interjected and said they were starved of cash. I will give an example of Westmeath County Council in my constituency. In 2008, the then Fianna Fáil Government made €13.5 million available for the provision of social housing. In 2013, when Fine Gael and the Labour Party were in power, €1.5 million was made available for the provision of social housing. The figure went from €13.5 million to €1.5 million. It is no wonder there are more than 2,900 people on the housing list now in Westmeath County Council.

The Minister should look at what he promised to do. I refer to the transfer of NAMA housing properties for social housing. The Government should look at using the National Pensions Reserve Fund to give a meaningful social contribution back to this society by investing it in the provision of social housing. The Government thought it was good enough to invest €0.5 billion in the provision of water meters, meters that will not be read for six or seven years, but that money should have been invested in social housing. As my colleague, Deputy Niall Collins

said, we need to consider the reintroduction of the tenant purchase scheme. I welcome the fact that the Minister said that is something that will come on board but that has been promised by this Government for the past 18 months. That scheme has been suspended for in excess of 18 months. There are people who want to buy out their local authority house and that money could be used to reinvest and provide further housing. We need to enable voluntary housing bodies to build new houses but also to purchase houses that banks are seeking to repossess and to leave the people in their homes. Aside from being good economic policy, it is good social policy to leave people in their homes.

Regarding the new regulations that were announced in recent days, it is important that we have a proper structure in place and that the mistakes of the past are not repeated. It is also important that the banks are not allowed to do what they did in the past when they loaned too much to people who could not afford to repay their loans. I acknowledge the independence of the Central Bank and its Governor. I welcome the fact that he opened the original proposals to public consultation. I also welcome the fact that he has had to row back. It was too much of an endurance to ask first-time buyers to come up with 20%. It is welcome that has been reduced to 10%. I am concerned about people of my generation who are living in Dublin city. How will they be able to afford to buy? The 10% rule applies on sums up to €220,000. The average three-bedroom semi-detached house in Dublin costs €320,000. How will people be able to save the required deposit? They will simply not be able to do it at a time when they have to pay high rents and houses in Dublin are the most expensive in the country. By virtue of that fact, property taxes are the most expensive in the country.

When somebody asked a member of the commission about Dublin, he said they considered it, but they had to separate Dublin from the rest of the country. One cannot decide to leave a particular geographic area to the wind and decide that whatever happens will be good enough. Perhaps the Minister, in consultation with the Governor of the Central Bank, should consider introducing an insurance policy. We all have to take out life assurance policies when we draw down a mortgage to ensure that if, God forbid, we died before the loan was repaid, it would be covered. We can take out critical illness cover if we happen to sustain a critical illness before a loan is repaid. Perhaps consultation could take place with the insurance industry to see whether people could pay some sort of insurance bond to help address the major gap. The Minister of State is not much older than me. My generation should be supported in the purchase of homes if they choose to live in Dublin.

Deputy Seamus Kirk: I am glad to have a brief opportunity to contribute to this important debate. Over Christmas, when Members were enjoying themselves, RTE broadcast a programme which featured particular difficulties with housing conditions in a county in the midlands. There were two or three houses featured on the programme, which was presented by a former Member of the House, the late Ted Nealon. The year featured was 1964. One saw a graphic picture of the state of the accommodation in which people lived. Single people were living alone in a rural setting. One man had vacated a house and was living in a mobile home adjoining the same site. I mention it because it was a snapshot in time of the housing position. I am sure all of those featured were on the social housing list of whatever county it was. When one fasts forward to today, one finds there are 90,000 people on the social housing lists. That graphically illustrates the changes that have taken place in terms of housing need in the intervening period.

The local medical officer featured in the programme placed particular emphasis on the health issues caused by the dilapidated accommodation in which people lived at the time. To-

day, dampness and the suitability of housing for family units can determine the health and well-being of individuals living in accommodation at a particular time.

On the one hand there is the obvious need for additional houses to be built for social housing, while on the other is the need for private housing. Let us examine the current challenges. Most speakers have mentioned the problem of distressed mortgages. Is our system adequate for dealing with that problem? Will we allow a drift? Will the matter be left to the banks and the mortgage companies to bring it to an unsatisfactory conclusion?

There are many bankrupt builders in the country. While many of them did not take good decisions during the boom period for building, none the less there is a skill base and know-how as far as the industry is concerned. If building is to be kick-started, their skills and know-how will have to be brought back into business. I know of many people - I am sure it is the same throughout the country - who ran very successful small and medium enterprises, speculated on the housing market and, as a consequence, ran into financial trouble.

Demographics in Ireland show that there is one area where public policy needs to be developed and refined, namely, adequate sheltered accommodation for elderly people. From my experience, I know many elderly people are languishing in high-cost nursing homes when they could live in suitable sheltered accommodation in their local town or village if an adequate supply of such housing was available. It is one area on which the housing section of the Department of the Environment, Community and Local Government could develop a clear and transparent policy initiative very quickly. Savings may well accrue to the fair deal scheme. The demand for support to keep people in nursing homes could in many instances be minimised.

We discuss social houses or private sector houses. If one considers the different stages, such as land to build on, houses and stamp duty, it is a significant burden in terms of the overall cost of providing houses. Let us not forget that the mortgages couples or individuals have to negotiate with their mortgage companies must be enough to embrace all of those costs. The person who purchases the house will be paying for all of that.

There are 90,000 people on the social housing list. Most Members will accept that there is a clear opportunity to stimulate the economy and create worthwhile, well-paid employment given the range of skills involved in building if we can stimulate the industry in a sensible, prudent and advisable way. There is no reason that cannot be done. Let us get on with it, stimulate the economy and reduce the social housing list as quickly as possible.

Deputy Sean Fleming: I welcome the opportunity to speak on this Private Members' motion and thank Deputies Michael McGrath and Cowen for putting it on the agenda. The first line of the motion is highly significant and has been lost by a lot of people. It refers to the significant fall in home ownership rates in Ireland, which is a real issue as far as I am concerned. Home ownership rates have been declining faster in Ireland than in the UK, the US, Spain and many other European countries.

Evidence shows that home ownership leads to better outcomes for families and children and more stable environments, communities and locations for people to raise families. When there are many people in the short-term rental market, the commitment to an area cannot be as strong because they are not home owners. Home ownership is deep in the core and DNA of the Irish people. They want to own land and many have a history of not being able to do so over generations. It is something deep in our culture for people to want to own the roof over their

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heads, not just for themselves but for their families. That is the essence of this motion. The Government is doing everything it can to destroy the basic philosophy of many Irish people, which is to own their own homes.

The response of the Government to this motion is like something out of never-never land or Disneyland. I do not know what fairy tale it is telling. It referred to the Government's Construction 2020 strategy. In six years time all of us or some of us or 30,000 people will have a house.

9 o'clock

The recent Government social housing strategy announced in the budget set a target of 2020, and the Minister for the Environment, Community and Local Government spoke of an even longer period. The idea is that some people may have a house in six or seven years. People will not have houses in the short term but they must live in the meantime. The promise of houses at some undetermined date down the road is not cutting it with the people, and that is if we could believe the promises, which we cannot.

The essence of the Government's response in the social housing strategy document is that much of it will occur off-balance sheet. That is another Irish Water job, as the new housing agency could be set up as a semi-State company where money can be borrowed off-balance sheet. It is the Government's answer to everything. It wants to do much by way of public private partnership, with multinational pension funds facilitating the purchase of hundreds of houses in different locations and taking in people as tenants with no fixity of tenure. That issue must be addressed. The Government's strategy is to have a never-never period and somebody else will do the work off-balance sheet. The Government will argue it has a strategy, a plan and, above all, a public relations document and a press conference to announce it. That is as far as Government policy goes in these areas.

A simple issue has been mentioned by a number of my colleagues, which is the reintroduction of the tenant purchase scheme by local authority tenants, many of whom have been in their houses for a long time. The Government has abolished that scheme despite people crying out to be allowed to purchase their houses. The local authority could use that fund which would be obtained from people using the local authority to purchase or construct new social housing in an area. It would be sustainable and renewable development but that seems to be beyond the grasp of the Government.

The rental market which people are being forced into is getting ever more difficult because of increasing rents arising from a lack of supply. There has been an increase in the country's population over the years, as the census has indicated. There has been an increase in the school-going population and people need more houses, but the market is not there. As a result, people cannot afford rents and those on rent supplement cannot even meet what is required to make up the balance of payment. Many landlords do not want to take rent supplement as there are better pickings, as they might call it, in the private rental market.

I will highlight one aspect of the rent supplement, which is the ability of the Department of Social Protection and specifically community welfare officers to determine different rates for the supplement in different counties, depending on the local market, rent conditions and the price of housing. It is remarkable that the new regulations announced by the Governor of the Central Bank, Professor Honohan, failed in their entirety to grasp that concept. Ireland is not

just one market and there are different prices for houses in Dublin city centre, the west coast, the midlands, Cork or other regions. The Central Bank regulations are seriously flawed as they do not recognise the differences in the market between different parts of the country. Perhaps the Central Bank believes one size will fit all. Life is not so simple. As a result, the regulations introduced by the Central Bank are anti-Dublin and go against family home ownership. They are designed to assist the banks in making sure there is a big rental market, and the Central Bank is making it more difficult for families to own their own homes. It is making it twice as difficult for families in Dublin to own their own homes. The Governor of the Central Bank, along with the deputy governors, in making those statements yesterday did not recognise the basic idea that people want to own their own homes, even in Dublin. The Central Bank has not been able to take that into account.

Yesterday's statement from the Central Bank seemed to be a major criticism of the lending banks. In the opening paragraph of the statement, Professor Honohan indicated these regulations were to "reduce the risk of bank credit and house price spirals". As the regulator of the banks, the Governor of the Central Bank is essentially saying that he still does not trust the banks when it comes to lending for housing and the property market. He is afraid the banks will cause a lending spiral and he wants not just to deal with them by way of regulation but by way of legislation. He is saying that he has no control over the banks he is meant to control and that he does not trust them.

In the next paragraph, Professor Honohan refers to loan-to-value aspects in lending. It is a valid but unsatisfactory point of view. Everybody knows the most important element to consider when taking out a loan or mortgage is the ability to repay, which is based on income and risk analysis of a person's employment, specifically the likelihood of it continuing. There would also be some insurance policy on a mortgage by way of mortgage protection. The old-fashioned approach of linking a mortgage to house value is an implicit assumption that if a person cannot pay a mortgage, the property will be worth more than the loan and it can be repossessed. That process is designed to help financial institutions repossess houses but it should be based on people's ability to pay, on risk with regard to income and on consideration of insurance policies or mortgage protection. To link a mortgage to house value is to connect it unnecessarily to asset value, which is not related to ability to pay. Professor Honohan takes that into account but there is too much emphasis on a house value and not enough on ability to pay.

The Governor of the Central Bank also argues that banks should lend responsibly and regulations should not be required. If he needs legislation to deal with this issue, what is he saying about how he is doing his job of regulating the Irish banks? He should not need legislation. If the Central Bank did its job thoroughly, banks would be kept in check but he is essentially saying that he needs help as he cannot control the banks.

The proposals are particularly harsh on people who are not first-time buyers. Such people may have bought a small one-bedroom starter home, house or apartment and have never missed a repayment but they cannot trade up because of the deposit requirements. They may be in negative equity or there may be little equity left in the house. The most important failure of the regulations announced by the Central Bank is that the process utterly ignores the payment record of people renting over years. How can somebody who pays rent month after month and year after year be expected to put aside up to a 20% deposit for a house? If ability to repay a loan could be proved and there is evidence of rent being paid, it should be considered. In many cases, the cost of taking on a mortgage would be less than rental costs but the Central Bank has not considered that either.

There are developers sitting on sites and unfinished housing estates because they are waiting for the market to rise in order that they can make more profit in two years rather than releasing housing stock to the market. The Government has singularly failed to deal with that matter. Within a few months, houses could be brought to the market but they will be left for two years in order that prices can rise. The Government should be able to move on the issue now but it has failed to do so. That is part of the reason we have moved this motion.

Minister of State at the Department of the Environment, Community and Local Government (Deputy Paudie Coffey): I thank the Members for their contributions on this very important topic. I assure them that I share the passion that many of them have exhibited over the past two nights about the provision of adequate and affordable housing. My colleagues and I are determined to work to improve the position for everybody in need of housing, be it private or social. We must be honest and the current position is a consequence of the property bubble and bust, so it is another legacy to be dealt with. It is very obvious that the construction sector has been underperforming for a number of years, because in any normalised sector it should contribute approximately 12% of GDP and has only contributed 6% recently. We must address that. There are positive indicators that the sector is recovering and we need to see it return to more sustainable levels.

There has been a perfect storm with housing and we can examine the reasons for that. We have not allowed local authorities to build social housing in direct build schemes for many years in this country. The housing model implemented and adopted for the past couple of decades depended on the Part V dividend from private housing estates but then the crash came. With no houses being built, there was no Part V dividend so we were left with a severe shortage and deficit in the provision of social housing. Also, in regard to the private housing sector, as Deputies said, many builders went bust, banking institutions struggled and credit and access to finance has been a problem. There are consequences in regard to mortgage arrears and repossessions. It leaves us with a perfect storm which needs to be addressed and the Government now has a plan and a strategy to address it. We will be doing all in our power to ensure that we develop these strategies as quickly as possible.

My Department's housing land availability survey estimates that there is in excess of 25,000 ha of undeveloped residential zoned land nationally, which equates to a capacity for more than 500,000 new homes in the country. In Dublin, for example, the housing supply and co-ordination task force found that 12,785 houses and 7,900 apartments currently have planning permission. That equates to a three year supply, with permissions infrastructurally unconstrained. The infrastructure and the services are there and there is planning permission on the sites but they have not started. Overall, the capacity of land available is considered to be sufficient to meet the housing requirements nationally for in excess of the next ten years.

The issue now at hand is how we get to build on these sites. The challenge for the Government is to translate this latent capacity into supply in order to meet the demands of home-seekers and to make construction viable once again. Most of the difficulties currently being encountered can be addressed by increasing the supply of properties available to buy, to rent and to be provided by local authorities and the approved housing bodies. The Government recognises that the whole of government approach, working in close co-operation with all of the key stakeholders, such as local authorities, approved housing bodies, the financial institutions and, indeed, the developers, is the way to tackle the challenge of increasing the supply of houses.

The implementation of Construction 2020 forms the basis for a properly functioning and

sustainable construction sector. It provides for a strategic approach to the provision of housing based on a real and measured demand and addresses the full range of relevant issues, including the planning process, financing, access to mortgage finance and developing the construction workforce, as some Deputies outlined. The Government is committed to removing any barriers from the system in order to support increased supply of housing of all types. This will, in turn, reduce the pressure on house price growth and will help home-buyers to acquire a family home in their community of choice and at a reasonable cost.

Measures to increase supply will also impact positively on the private rented sector. Historically, the private rented sector has been characterised by small-scale landlords, often accidental landlords, and attracting large-scale investment in professionally managed residential property - for example, using the real estate investment trusts, REITs, and other options for long-term investment - has an important role to play in helping to deliver a more professional and high-quality sustainable sector.

We also need to get back to the direct building of social housing and this is an absolute priority for the Government, as evidenced by the additional €2.2 billion in funding announced for social housing in budget 2015 and the publication of the recent social housing strategy 2020 in November 2014. Deputy Sean Fleming and others tried to give the impression that the delivery of houses will not happen until 2020 but the news for Deputy Fleming and others is that there is movement and we will start to see delivery on this in the next few weeks and months.

Importantly, the strategy restores the State to a central role in the provision of social housing after many years where this obligation had essentially been parked. The strategy builds on the provisions contained in budget 2015 and sets out clear and measurable actions and targets to increase the supply of social housing, reform delivery arrangements and meet the housing needs of all households on the housing list.

One approach alone will not resolve this; it must be a multifaceted approach. We need to see an earlier and more efficient turnaround of voids to be brought back into beneficial use by local authorities. As I said, we will see more direct building by local authorities. We want to see an enhanced role for the approved housing bodies, in partnership with local authorities and with private investment funds. To clarify, the Government is currently considering a new tenant purchase scheme and I hope to announce a positive outcome in that regard.

The key objective of the strategy is to deal comprehensively with the housing list. Improving the supply of social housing will ease the pressure on the private market, both rented and new build. The total targeted provision of more than 110,000 social housing units, through the delivery of 35,000 new social housing units and 75,000 social housing solutions through the housing assistance payment and rental accommodation scheme, will meet the needs of the 90,000 households on the housing waiting list in full by 2020, with flexibility to meet potential future demand.

I have much more to say and there will be further engagement on this important issue. However, we will see positive progress in regard to the social housing strategy in the coming weeks and months, which Deputies will welcome.

Deputy Timmy Dooley: I welcome the opportunity to contribute to this very important debate. I hoped we would have had an opportunity over the two nights to deal with what is a very serious crisis but, unfortunately, the only engagement we got, in particular from the Gov-

ernment backbenchers, was an effort to try to undermine people on this side, in particular in my party, and to try to draw out how we got to the situation in which we find ourselves. We all recognise problems existed in the past. We have a good understanding as to how that happened. I could get into the blame game and suggest policies we pursued were supported and, in fact, there was demand that we would do more in terms of tax reductions and increases in spending and less by way of regulation of the banks. That would have been cheer-led by many on the other side of the House but I do not want to go down that road. We all have a mandate in this House and it is incumbent on us to try to find a solution to the crisis we face. The Minister of State is a man who is prepared to listen to views expressed, regardless of where they come from, and if there is a good idea, I would hope he would give due regard to it.

There are a couple of serious issues and my colleagues have covered most of the main points. I have great belief in the mortgage to rent scheme but, unfortunately, it is relatively limited in terms of to the extent to which it applies. The first difficulty is that a house, which is subject to the potential for mortgage to rent, must be adequate for the needs of the family concerned – in other words, there is no point putting a mother and one child into five, six or seven bedroom house. However, many families find themselves meeting the accommodation criteria but fall down on the negative equity component. Many of these families are prepared to say to the voluntary housing association that they have a bit of equity in the house and that they are prepared to hand it to the voluntary housing association and the State if they continue to maintain them in the house. They are prepared to sign legal waivers to allow that to happen but the criteria state that if the house is in negative equity, it does not comply. For example, in a house where there is a debt, together with failure to meet various payments, of about €120,000 and the house is worth €150,000 or €160,000 or maybe €170,000 on a good day, the husband has gone and the wife and three children are still in the house, she would be more than happy to allow the voluntary housing association to purchase that house at the value on the bank's balance sheet and then to rent it back. The voluntary association would receive an asset much greater than what it had to pay for it. The people are prepared to give a gift to the State because otherwise they will be out on the street and will be coming to the Minister of State or myself looking to be put into a council house. The bank will sell the asset. I appeal to the Minister of State to look at the issue as it relates to mortgage to rent to see if something can be done in that particular instance where the family is prepared to sign over the asset.

I would like to deal briefly with the new mortgage rules from the Central Bank. I listened to Professor Honohan, for whom I have a fair amount of regard, but at times I am concerned that he is, to some extent, out of touch. He is looking at the capital adequacy of the banks and protecting the banks and he is right to do so. We want him to regulate in a careful way and I really respect him in that regard. However, I have a problem with how these rules might impact on the housing market in general. The decision to differentiate between first-time buyers and other buyers will change the nature of the way people seek to purchase a home. I think he has effectively done away with the notion of a starter home. Many people started off in an apartment. Some of them married and settled down and some of them had children in the full knowledge that they would be able to purchase another home. If a couple move into an apartment and have a child or two children, it may not meet their needs and they may want a family home. A couple each earning a wage of €50,000 who under the loan-to-income limit would be able to borrow €350,000 somehow have to come up with €70,000 while paying the mortgage on the apartment in which they currently reside. The Minister and I know full well that that is not possible on that income. They are expected to pay their mortgage - or even pay rent, for those who are renting - and somehow come up with €70,000. That is ludicrous.

The first-time buyer will now be deciding before they even enter the market that under the new rules, if they give away their first-time status they will not be able to buy a second home. There will be a much greater focus on what might be a secondary home. Nobody will be looking at the apartment market other than investors for the rental market because the rental system is strong, and that will force the price of houses up further. We will now have first-time buyers and some people who have access to a considerable amount of cash chasing properties in that market.

The Minister knows there is a limit to the supply here in the city of Dublin. That will result in an upward pressure on house prices and will change the characteristic in terms of the way people stepped their way through life going for what met their basic needs. We may have a slump in apartment prices, which will impact on the banks also, because many of them have just seen a recovery in that market because of the way in which the rental sector is working. That is why I question Professor Honohan's analysis of the entire market. He has looked at the banks and the loan-to-value ratio and ensured that that is right, but there is failure to examine the transition, so to speak, by citizens of this State through the housing market. I hope that when the legislation comes forward some rethinking can be done on this particular issue and that we will see a better joined-up approach whereby people will still be able to have starter homes and work through, as their needs change, to a more permanent residence.

Deputy Barry Cowen: In summing up this debate I pay tribute to and thank those who have contributed, in the main, to it. The role of all of us here, based on the mandate we have been given by the electorate, is to produce and enact legislation which can address the difficulties and the issues pertaining to those we represent in various areas across society. As Opposition Members our job is to hold the Government to account, offer constructive criticism, offer alternative policies and mechanisms by which the Government may do its job more effectively, and initiate debate in order for that to be the case, and a collective informed decision is made by the House thereafter for the betterment of those we represent. In this instance, the issue relates to the affordability and supply of housing and the immediacy of the difficulties that exist for those in the rental sector, and our combined responsibility then is to initiate legislation which can address the issues that exist.

Some members of the Government immediately revert to type and tribalism and seek to enter into the blame game, as Deputy Dooley has said. He did not wish to go into it in any great detail, nor do I. I was not in this House in 2007, but every time we seek to speak on behalf of those we have been given the privilege to represent I am mindful of the defensive attitude, particularly of Fine Gael Members, during the course of this debate. Deputy Ellis from Sinn Féin also seemed to pick up a stick to beat Fianna Fáil back into our chairs and say that, based on the policy we pursued we have no right, despite our mandate achieved in 2011, to stand up in this House and offer solutions.

It was with that in mind that I have been familiarising myself over many months with the 2007 Fine Gael manifesto. Anybody who wishes to check it now on the website will be somewhat disappointed, because it states: "Page Not Found". That is convenient for those who wish to check out the situation. Thankfully, over recent months-----

Deputy Regina Doherty: I remind the Deputy, lest he forget, that his party was in power.

Deputy Niall Collins: They are hypocrites.

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Deputy Barry Cowen: -----there were headline issues that jumped out of the page, which I will read into the record again.

Deputy Michael McGrath: Deputy Regina Doherty should listen. She might-----

Deputy Barry Cowen: First, there was a €3.4 billion tax package contained in it-----

Deputy Michael McGrath: In 2007.

Deputy Barry Cowen: -----in the spring of 2007.

Deputy Timmy Dooley: A race to the bottom.

Deputy Barry Cowen: Second, there was a €500 million stamp duty package to abolish stamp duty for first-time buyers.

Deputy Michael McGrath: At the height of the boom.

Deputy Barry Cowen: At the height of the boom is right.

Deputy Niall Collins: Added to all the land they zoned.

Deputy Barry Cowen: There was not a mention of banks or regulation. This was from the party which tells us now it had all the answers back in 2007 but nobody would listen to it. As soon as we stand up and offer solutions to the problems that exist for those we represent-----

(Interruptions).

Deputy Barry Cowen: The Deputy's manifesto in 2007-----

Deputy Niall Collins: Never mentioned it.

Deputy Barry Cowen: For all the knowledge they have now and all the benefit of hindsight they have gathered in the meantime, when they checked their own manifesto and realised they had not mentioned regulation or banks, they said it was time to get that off the web page.

Deputy Niall Collins: Press delete.

Deputy Barry Cowen: What they were doing was piling fuel on the bubble in the hope that it would blow under our stewardship so that they could give the impression that what they were saying all along was right and proper. Facts are facts, Deputy.

Deputy Regina Doherty: No. The Fianna Fáil Members were the ones in charge.

Deputy Barry Cowen: If she wants to look at them, she should check it out.

Acting Chairman (Deputy Joanna Tuffy): One speaker.

Deputy Barry Cowen: They are the facts.

Acting Chairman (Deputy Joanna Tuffy): Deputy, we will have one speaker at a time.

Deputy Regina Doherty: The Deputy is a disgrace.

Deputy Barry Cowen: If I am a disgrace, what were Deputy Regina Doherty and the likes

of her in her party-----

Acting Chairman (Deputy Joanna Tuffy): Deputy Cowen, will you finish your contribution?

Deputy Barry Cowen: -----when they stood before the electorate in 2007? They are now telling us they knew it all. They proposed a tax package of €3.4 billion and expenditure of €500 million on abolishing stamp duty for first-time buyers. There is no mention of the banks-----

Deputy Regina Doherty: Lest the Deputy forget, his brother was in charge.

Acting Chairman (Deputy Joanna Tuffy): Deputy Regina Doherty, one speaker, please.

Deputy Barry Cowen: -----and no mention of regulation. They say they had all the answers and that it would never have happened under them.

Deputy Regina Doherty: Deputy Cowen would be better off if he looked at his party's own record.

Deputy Barry Cowen: What am I missing?

(Interruptions).

Acting Chairman (Deputy Joanna Tuffy): Deputies, let Deputy Cowen speak.

Deputy Barry Cowen: Where has it all gone wrong?

Acting Chairman (Deputy Joanna Tuffy): Deputy Cowen, just make your contribution.

Deputy Barry Cowen: As I said, I recognise and acknowledge what should be the role of the Opposition.

Deputy Regina Doherty: The Deputy's party did not recognise it when it was in government.

Deputy Barry Cowen: It is to hold the Government to account, provide constructive criticism, offer alternatives and initiate debate in order for the public to get better legislation. When I and my colleague, Deputy Michael McGrath, initiated this debate by putting forward this motion, there was a rush from the Fine Gael backbenches to tell us how it all went wrong, and they dare not check their own manifesto from 2007, which had a lot more fuel for the fire-----

(Interruptions).

Acting Chairman (Deputy Joanna Tuffy): Deputy, allow Deputy Cowen to finish.

Deputy Barry Cowen: Exactly.

Deputy Niall Collins: The truth is hurting her. She is not able to take it.

Deputy Timmy Dooley: She can give it but she cannot take it.

Deputy Regina Doherty: I can take it.

Deputy Barry Cowen: I join with other speakers who spoke about the affordability package introduced by the Governor of the Central Bank this week. Like many others, we made

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a submission on that. We would like to acknowledge the climb-down on the 20% deposit requirement for first-time buyers but we were very disappointed that those who find themselves in a first home which has met their needs in the short term but would not suit their needs in the medium to long term have no mechanism available for them to avail of the same qualifying rules as that of a first-time buyer, when we believe, in terms of the family home and improving their situation, that that should have been catered for.

I heard the Governor say on a radio programme this morning that they had looked at many measures to try to address this issue, but it seemed that the numbers contained therein were not sufficient for him to make specific recommendations in that regard. Many people have contacted us in the meantime who find themselves in that very hole and do not see any mechanism by which they may be able to climb out of it.

I hope the regulator will commit, in the first instance, to a review of his proposals and their effectiveness for the Minister for Finance, who in turn could lay any such review on an annual basis before the House in order for recommendations to be made to improve the position, if improvements are necessary. We acknowledge the issues with regard to first-time buyers. We acknowledge the buy-to-let proposals, and we acknowledge the proposed loan-to-income ratio of three and a half times the household income, which is welcome.

The second issue is that of housing supply. I will address it briefly because the Minister of State, Deputy Coffey, has responsibility for the provision of social housing. While I acknowledge the commitment expressed by the Government before Christmas to the plan it has initiated, it is unfortunate that it came almost four years into the Government's term. No effort was made to address the situation meaningfully before then, unfortunately. We note the various headlines within these proposals. We acknowledge the aspirations that underpin these policies and we look forward to their delivery. However, we have not yet received any specific proposals. Local authorities do not have at their disposal the exact mechanisms by which they could make the sort of inroads that we would like into the various housing lists. I know from speaking to representatives in my county in recent days that they have been informed by the Department that it is expected that approximately 420 units will be provided there between now and 2020. That is against the background of a waiting list of between 1,200 and 1,300 in the county in question. I expect that this list will increase annually, unfortunately. This level of provision does not represent the sort of inroads we would like to see.

I remind Deputy Regina Doherty that we have made proposals in this area. We have a responsibility to initiate proposals and put them to the Government for it to investigate, assimilate and digest. We hope it will respond to them. We have said for the past two years that a strategic investment fund should be used to launch a new round of home-building. We have said that voluntary housing associations should be developed to a scale at which they can access credit and start to build. We have asked the Government to introduce legislation to initiate a tenant purchase scheme for those in voluntary housing associations. Unfortunately, we have not seen such a scheme to date. We have said that the tenant purchase scheme and the fund derived from it should be retained by local authorities to be invested in addressing the deficiencies that exist in individual pockets. Many regions are not as well financed as others. That is particularly obvious now by virtue of the property tax.

I would like to speak about the problems with housing adaptation grants in my county of Offaly. As I have said previously, as far I am aware 70 people have been told by the local authority that they will have to wait for between three and five years for their applications to

be processed because of the lack of funding being provided to it, in the first instance, and by association to the Department in funding it thereafter. On the basis of an average cost of approximately €15,000 a head, I suggest that if €1 million were provided, it would clear that list. In the absence of that being done, the State is obliged to maintain the fair deal scheme and provide hospital accommodation. As the State is not in a position to honour the commitment to provide community care facilities for such people, there is a variance of many multiples of the €1 million that would clear this list. We would like innovations of this nature to be attached to any policy that is coming forward. Local authorities should be given incentives and allowed to create incentives to ensure the funding they collect can be reused within their own areas. The inadequacies or gaps that exist in various regions have not been addressed in anything that has been proposed up to now.

I wish to add my voice to those of other speakers from my party who have looked at the immediacy of the rent cap problems. When we spoke about this issue towards the back end of last year, we said that a short-term measure was needed to alleviate the huge problems that exist for many families and people on waiting lists who, unfortunately, are not in a position to take advantage of the properties that are becoming available because of the rent cap that exists. In the years to come, the State, having incurred the expense of such a measure in the short term, would reap the rewards of the mechanisms initiated in the policy document and pursued by the Government. The expense of the planning and everything else that has to go with making housing units available would also be reimbursed as the benefit to society starts to accrue.

I commend the motion to the House. I ask all Members to support its contents and the thrust of it. If the Government fails to respond positively at this stage, perhaps it will at least address the whole housing area on a more regular basis. This matter should be considered at regular intervals to give the Government an opportunity to prove to the House how its ways and means in this regard are making inroads into these difficulties and highlight the progress that is being made.

Amendment put:

<i>The Dáil divided: Tá, 70; Níl, 46.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Bannon, James.</i>	<i>Adams, Gerry.</i>
<i>Barry, Tom.</i>	<i>Boyd Barrett, Richard.</i>
<i>Bruton, Richard.</i>	<i>Broughan, Thomas P.</i>
<i>Burton, Joan.</i>	<i>Calleary, Dara.</i>
<i>Butler, Ray.</i>	<i>Collins, Joan.</i>
<i>Buttimer, Jerry.</i>	<i>Collins, Niall.</i>
<i>Byrne, Catherine.</i>	<i>Colreavy, Michael.</i>
<i>Byrne, Eric.</i>	<i>Coppinger, Ruth.</i>
<i>Cannon, Ciarán.</i>	<i>Cowen, Barry.</i>
<i>Carey, Joe.</i>	<i>Crowe, Seán.</i>
<i>Coffey, Paudie.</i>	<i>Daly, Clare.</i>
<i>Collins, Áine.</i>	<i>Doherty, Pearse.</i>
<i>Conaghan, Michael.</i>	<i>Dooley, Timmy.</i>
<i>Conlan, Seán.</i>	<i>Ellis, Dessie.</i>

<i>Connaughton, Paul J.</i>	<i>Ferris, Martin.</i>
<i>Conway, Ciara.</i>	<i>Fitzmaurice, Michael.</i>
<i>Coonan, Noel.</i>	<i>Fleming, Sean.</i>
<i>Costello, Joe.</i>	<i>Fleming, Tom.</i>
<i>Creed, Michael.</i>	<i>Healy, Seamus.</i>
<i>Daly, Jim.</i>	<i>Higgins, Joe.</i>
<i>Deasy, John.</i>	<i>Kelleher, Billy.</i>
<i>Deenihan, Jimmy.</i>	<i>Kirk, Seamus.</i>
<i>Deering, Pat.</i>	<i>Mac Lochlainn, Pádraig.</i>
<i>Doherty, Regina.</i>	<i>McConalogue, Charlie.</i>
<i>Dowds, Robert.</i>	<i>McGrath, Finian.</i>
<i>Doyle, Andrew.</i>	<i>McGrath, Mattie.</i>
<i>Durkan, Bernard J.</i>	<i>McGrath, Michael.</i>
<i>English, Damien.</i>	<i>McGuinness, John.</i>
<i>Farrell, Alan.</i>	<i>McLellan, Sandra.</i>
<i>Feighan, Frank.</i>	<i>Martin, Micheál.</i>
<i>Fitzpatrick, Peter.</i>	<i>Murphy, Catherine.</i>
<i>Gilmore, Eamon.</i>	<i>Murphy, Paul.</i>
<i>Griffin, Brendan.</i>	<i>Ó Caoláin, Caoimhghín.</i>
<i>Hannigan, Dominic.</i>	<i>Ó Cuív, Éamon.</i>
<i>Harrington, Noel.</i>	<i>Ó Fearghail, Seán.</i>
<i>Harris, Simon.</i>	<i>Ó Snodaigh, Aengus.</i>
<i>Hayes, Tom.</i>	<i>O'Brien, Jonathan.</i>
<i>Heydon, Martin.</i>	<i>O'Sullivan, Maureen.</i>
<i>Humphreys, Heather.</i>	<i>Pringle, Thomas.</i>
<i>Humphreys, Kevin.</i>	<i>Ross, Shane.</i>
<i>Keating, Derek.</i>	<i>Shortall, Róisín.</i>
<i>Kenny, Seán.</i>	<i>Smith, Brendan.</i>
<i>Kyne, Seán.</i>	<i>Stanley, Brian.</i>
<i>Lawlor, Anthony.</i>	<i>Tóibín, Peadar.</i>
<i>Lynch, Ciarán.</i>	<i>Troy, Robert.</i>
<i>Lynch, Kathleen.</i>	<i>Wallace, Mick.</i>
<i>Lyons, John.</i>	
<i>McCarthy, Michael.</i>	
<i>McFadden, Gabrielle.</i>	
<i>McLoughlin, Tony.</i>	
<i>Maloney, Eamonn.</i>	
<i>Murphy, Dara.</i>	
<i>Neville, Dan.</i>	
<i>Nolan, Derek.</i>	
<i>Ó Ríordáin, Aodhán.</i>	
<i>O'Donnell, Kieran.</i>	
<i>O'Donovan, Patrick.</i>	

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<i>O'Dowd, Fergus.</i>	
<i>O'Mahony, John.</i>	
<i>O'Sullivan, Jan.</i>	
<i>Perry, John.</i>	
<i>Phelan, Ann.</i>	
<i>Phelan, John Paul.</i>	
<i>Rabbitte, Pat.</i>	
<i>Ring, Michael.</i>	
<i>Ryan, Brendan.</i>	
<i>Stagg, Emmet.</i>	
<i>Stanton, David.</i>	
<i>Tuffy, Joanna.</i>	
<i>Wall, Jack.</i>	

Tellers: Tá, Deputies Emmet Stagg and Joe Carey; Níl, Deputies Niall Collins and Seán Ó Fearghaíl.

Amendment declared carried.

Question put: "That the motion, as amended, be agreed to."

<i>The Dáil divided: Tá, 72; Níl, 45.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Bannon, James.</i>	<i>Adams, Gerry.</i>
<i>Barry, Tom.</i>	<i>Boyd Barrett, Richard.</i>
<i>Bruton, Richard.</i>	<i>Broughan, Thomas P.</i>
<i>Burton, Joan.</i>	<i>Calleary, Dara.</i>
<i>Butler, Ray.</i>	<i>Collins, Joan.</i>
<i>Buttimer, Jerry.</i>	<i>Collins, Niall.</i>
<i>Byrne, Catherine.</i>	<i>Colreavy, Michael.</i>
<i>Byrne, Eric.</i>	<i>Coppinger, Ruth.</i>
<i>Cannon, Ciarán.</i>	<i>Cowen, Barry.</i>
<i>Carey, Joe.</i>	<i>Crowe, Seán.</i>
<i>Coffey, Paudie.</i>	<i>Daly, Clare.</i>
<i>Collins, Áine.</i>	<i>Doherty, Pearse.</i>
<i>Conaghan, Michael.</i>	<i>Ellis, Dessie.</i>
<i>Conlan, Seán.</i>	<i>Ferris, Martin.</i>
<i>Connaughton, Paul J.</i>	<i>Fitzmaurice, Michael.</i>
<i>Conway, Ciara.</i>	<i>Fleming, Sean.</i>
<i>Coonan, Noel.</i>	<i>Fleming, Tom.</i>
<i>Corcoran Kennedy, Marcella.</i>	<i>Healy, Seamus.</i>
<i>Costello, Joe.</i>	<i>Higgins, Joe.</i>

<i>Creed, Michael.</i>	<i>Kelleher, Billy.</i>
<i>Daly, Jim.</i>	<i>Kirk, Seamus.</i>
<i>Deasy, John.</i>	<i>Mac Lochlainn, Pádraig.</i>
<i>Deenihan, Jimmy.</i>	<i>McConalogue, Charlie.</i>
<i>Deering, Pat.</i>	<i>McGrath, Finian.</i>
<i>Doherty, Regina.</i>	<i>McGrath, Mattie.</i>
<i>Dowds, Robert.</i>	<i>McGrath, Michael.</i>
<i>Doyle, Andrew.</i>	<i>McGuinness, John.</i>
<i>Durkan, Bernard J.</i>	<i>McLellan, Sandra.</i>
<i>English, Damien.</i>	<i>Martin, Micheál.</i>
<i>Farrell, Alan.</i>	<i>Murphy, Catherine.</i>
<i>Feighan, Frank.</i>	<i>Murphy, Paul.</i>
<i>Fitzpatrick, Peter.</i>	<i>Ó Caoláin, Caoimhghín.</i>
<i>Gilmore, Eamon.</i>	<i>Ó Cuív, Éamon.</i>
<i>Griffin, Brendan.</i>	<i>Ó Fearghail, Seán.</i>
<i>Hannigan, Dominic.</i>	<i>Ó Snodaigh, Aengus.</i>
<i>Harrington, Noel.</i>	<i>O'Brien, Jonathan.</i>
<i>Harris, Simon.</i>	<i>O'Sullivan, Maureen.</i>
<i>Hayes, Tom.</i>	<i>Pringle, Thomas.</i>
<i>Heydon, Martin.</i>	<i>Ross, Shane.</i>
<i>Humphreys, Heather.</i>	<i>Shortall, Róisín.</i>
<i>Humphreys, Kevin.</i>	<i>Smith, Brendan.</i>
<i>Keating, Derek.</i>	<i>Stanley, Brian.</i>
<i>Kenny, Seán.</i>	<i>Tóibín, Peadar.</i>
<i>Kyne, Seán.</i>	<i>Troy, Robert.</i>
<i>Lawlor, Anthony.</i>	<i>Wallace, Mick.</i>
<i>Lynch, Ciarán.</i>	
<i>Lynch, Kathleen.</i>	
<i>Lyons, John.</i>	
<i>McCarthy, Michael.</i>	
<i>McFadden, Gabrielle.</i>	
<i>McHugh, Joe.</i>	
<i>McLoughlin, Tony.</i>	
<i>Maloney, Eamonn.</i>	
<i>Murphy, Dara.</i>	
<i>Neville, Dan.</i>	
<i>Nolan, Derek.</i>	
<i>Ó Ríordáin, Aodhán.</i>	
<i>O'Donnell, Kieran.</i>	
<i>O'Donovan, Patrick.</i>	
<i>O'Dowd, Fergus.</i>	
<i>O'Mahony, John.</i>	
<i>O'Sullivan, Jan.</i>	

Dáil Éireann

<i>Perry, John.</i>	
<i>Phelan, Ann.</i>	
<i>Phelan, John Paul.</i>	
<i>Rabbitte, Pat.</i>	
<i>Ring, Michael.</i>	
<i>Ryan, Brendan.</i>	
<i>Stagg, Emmet.</i>	
<i>Stanton, David.</i>	
<i>Tuffy, Joanna.</i>	
<i>Wall, Jack.</i>	

Tellers: Tá, Deputies Joe Carey and Emmet Stagg; Níl, Deputies Seán Ó Fearghaíl and Niall Collins.

Question declared carried.

The Dáil adjourned at 9.55 p.m. until 9.30 a.m. on Thursday, 29 January 2015.