



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

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

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DÁIL ÉIREANN

Dé Máirt, 17 Bealtaine 2016

Tuesday, 17 May 2016

Chuaigh an Ceann Comhairle i gceannas ar 2.30 p.m.

Paidir.

Prayer.

Business of Dáil

Minister of State at the Department of the Taoiseach (Deputy Regina Doherty): I propose, notwithstanding anything in Standing Orders, that No. 1, Oral Questions to the Taoiseach, shall not be taken either today or tomorrow, No. 2, that today's Questions to the Tánaiste and Minister for Justice and Equality shall be taken at 2.30 p.m. for an hour and, No. 3, that tomorrow's Leaders' Questions shall be followed immediately by the Order of Business.

An Ceann Comhairle: Is the proposal agreed to? Agreed.

Ceisteanna - Questions

Priority Questions

Gangland Crime

1. **Deputy Niall Collins** asked the Tánaiste and Minister for Justice and Equality the new measures she plans to introduce to target gangland crime; and if she will make a statement on the matter. [10512/16]

Tánaiste and Minister for Justice and Equality (Deputy Frances Fitzgerald): As the Deputy is aware, the Taoiseach and I recently met senior Garda management and were briefed on the significant progress being made in investigations into recent gang-related murders in the Dublin region. As these appalling crimes, which we all condemn, are the subject of ongoing Garda investigations, it would not be appropriate for me to make detailed comment on them. However, progress is being made. Every Deputy will agree that there are very real challenges in counteracting those who are determined to perpetuate a cycle of mindless violence and who are intent on a cycle of revenge and retaliation. However, we should not lose sight of the fact

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that An Garda Síochána has in the past successfully faced down criminal gangs, whether in Limerick or elsewhere, which believed they were above the law. The Government remains committed to providing An Garda Síochána with the resources it needs to deal effectively with the thugs who perpetrate this violence. I met inner-city community representatives yesterday to discuss the supports local communities need from An Garda Síochána and other agencies of the State. There is work to be done to support people who live in these areas and who must face and deal with this. They are worried and frightened by what has happened.

At the request of the Commissioner earlier this year, I announced a special allocation to support concentrated policing measures, including steps to establish a dedicated armed support unit, ASU, in the Dublin area. I am pleased to say that there was a huge number of applications from members of An Garda Síochána to join that armed response unit. It must be clearly understood that, pending the full establishment of the new unit, arrangements have been put in place so that the necessary armed support is being provided on an overtime basis.

Additional information not given on the floor of the House

I am being kept up to date on this work and can assure the Deputy that the establishment of the unit, including all of the necessary training and preparatory arrangements, is being progressed as a matter of priority. The Garda response includes highly visible policing, the use of armed checkpoints and targeted and intelligence-based operations to disrupt and prevent incidents as well as detecting and prosecuting those involved. Contrary to suggestions made in some quarters, there has been no diminution in these operations in recent weeks. The Garda authorities have assured me the opposite is, in fact, the case.

The Deputy will also be aware that under the new programme for Government, we are pressing forward with an accelerated programme of Garda recruitment with a view to achieving a force of 15,000 members. This is a central element of the Government's anti-crime strategy and we have already made provision for the recruitment of 1,150 new gardaí since we reopened the Garda College in Templemore in September 2014. The programme for Government also commits to ensuring that Garda specialist units, such as the armed units which respond to gang-related violence, are enabled to operate at full strength.

I remain in close contact with the Commissioner and will respond promptly if she feels there are further measures that can be taken to oppose and dismantle these criminal networks and the evil drugs trade which is at the heart of much of their activities.

Deputy Niall Collins: As the Minister knows, gangland crime is impacting hugely on the city. We discussed it last week in the Dáil. The budget the Minister announced in February was of the order of €5 million. Can the Minister give the House some indication of how much, if any, of that sum has been drawn down because there are conflicting reports in the media on that matter?

Has the Minister instructed any of the Department's officials to conduct a review of the Criminal Justice Act which, as we mentioned last week, was significantly ramped up by previous Ministers for justice to target the people involved in gangland activity? I have met the communities in question. The Minister stated she had met them recently. They want to know that the legislation in place is fit for purpose.

Will the Minister comment on the proposal contained in Fianna Fáil's election manifesto that a serious and organised crime unit be established? It would be an amalgamation of the

Garda national drugs unit and the organised crime unit? It would bring together the skill sets required to deal with the entire landscape of gangland criminality, not just drugs but also human trafficking and counterfeit goods and medicines.

Deputy Frances Fitzgerald: The money made available continues to be used. I have told the Garda Commissioner that, if further money is needed for overtime resources, it will be made available. The Taoiseach and I gave her that reassurance. A budget is available for that purpose.

Contrary to reports, there has been no cutting back of patrols in the Dublin area. The Garda Commissioner continues to make the operational decisions needed to try to prevent attacks in the first instance, to gather the intelligence that allows the Garda's work to be effective and to continue its investigations. Yesterday I met and discussed the matter with Garda senior management.

We have strong legislation in place to deal with gangland activities, including the Criminal Justice (Amendment) Act 2009. We also have the Special Criminal Court. As the Deputy knows, the second Special Criminal Court began its work approximately two weeks ago. All of the arrangements have been put in place. We will keep the legislation under review if further strengthening is required, but effective legislation was put in place in 2009.

Deputy Niall Collins: I suggest we review some of the powers available in foreign jurisdictions, for example, the concept of investigating magistrates in Italy where there are serious gangland issues.

On the armed response unit the Minister has announced and for which she has stated there has been a large number of applications, when will it be established? It seems to be on the never-never.

Deputy Frances Fitzgerald: No.

Deputy Niall Collins: It was announced in February during the general election. The Garda Commissioner was recently quoted as saying it would be up and running next month. When exactly will it be established and what will be its size? May we have information on the number of personnel and level of resourcing that will be available to it?

Deputy Frances Fitzgerald: Quite a lot has happened. It has been advertised within the Garda and there have been hundreds of applications. Interviews must take place and are beginning. It is hoped that, once the extensive interviews and assessments have been completed, the unit will comprise approximately 55 gardaí and three sergeants. I will send the Deputy the details. The unit will operate in the Dublin area as an armed response unit. I expect it to be in place in June or July.

Garda Reports

2. **Deputy Jonathan O'Brien** asked the Tánaiste and Minister for Justice and Equality her plans to implement the recommendations of the O'Higgins report. [10196/16]

Deputy Frances Fitzgerald: Last week I published the report of the O'Higgins commission into certain matters relevant to the Cavan-Monaghan division of An Garda Síochána. It is a report that deserves the most careful consideration in order that we can do everything pos-

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sible to avoid a repeat of the mistakes and issues outlined in it, particularly from the victims' perspective. I am sure most Deputies will agree with me that it is disheartening to read about the experiences of victims. We saw an account of Mary Lyons last night on RTE. We noted the horror that had been visited on her and other victims.

I said I believed the report was thoughtful and thorough; I believe it is. It does deal with events in 2007 and 2008. The Deputy's question is on the implementation plans for the recommendations. Obviously, the report will be forwarded to An Garda Síochána for an immediate response from management and also to the Policing Authority which will undoubtedly have a role in overseeing implementation of the recommendations. There has been a series of initiatives since the time in question and since I asked the Garda Inspectorate to examine the Guerin report. In report No. 10 on criminal investigations it made comments on the Guerin report, how it needed to be taken forward and how it linked in with the recommendations it had already made. Therefore, there has been a lot of action on some of the issues identified by the O'Higgins commission, including, in particular, the initiatives concerning how victims are dealt with by An Garda Síochána with the establishment of the new victim offices throughout the country.

With regard to training and supervision, we recently saw the appointment of well over 280 sergeants and inspectors who will have a very particular role in supervision. There is new training in Templemore, but that is not to say there is not a lot more work to be done on the issues raised within the report.

Deputy Jonathan O'Brien: When the Minister published the report, she said she would ask the Garda Commissioner to examine it and indicate what further measures might be taken to prevent this type of difficulty in the future. She said she would seek the Commissioner's proposals concerning the implementation of the recommendations made. Given the nature of reports in recent days, particularly in the *Irish Examiner*, on the documentation alleging the Garda Commissioner might have instructed her legal team to claim Sergeant McCabe had been motivated by malice when highlighting malpractice within the force, has the Minister spoken to the Commissioner about this? If not, is she planning to do so? Does she agree with the Garda Commissioner's analysis that she is precluded from clarifying the issue any further than she did last night?

Deputy Frances Fitzgerald: The first point I would make on the Deputy's question is one I made when publishing the report, namely, that we should not lose sight of the central fact that at its heart are the victims who were let down. That was a very key point for all of us to note. Our central focus should be on doing everything possible to make sure what is outlined in the investigations does not happen again.

There are severe constraints on what I can say about claims that have appeared in the media under the Commissions of Investigation Act 2004 which formed the legal basis for putting the commission in place. I have a duty to respect the law and that duty is not diminished by the fact that some media reports have appeared purporting to set out a small part of what might or might not have been said. I obviously refer to the statement by the Garda Commissioner, Ms Nóirín O'Sullivan, in which she comments on her response to the report, saying she accepts it in full. She states she has put as much information in the public domain as she can, adding that she is legally precluded, under section 11, from saying anything further. I will reiterate what she has said about Sergeant Maurice McCabe's contribution. She has said it is valued and that the service has changed for the better in response to the points raised and issues about which he complained.

Deputy Jonathan O'Brien: The statement of clarification last night actually clarifies nothing. There is an issue that needs to be clarified because there are media reports that state the media have seen documentation alleging the Garda Commissioner instructed her legal team to insinuate malice on the part of Sergeant McCabe. If that is the case, it calls into question her credibility. If she is saying one thing in public and another in private to her legal team, there is an issue.

The second scenario is that the documentation is not legitimate. If that is the case, someone, probably a person close to the commission of investigation, has knowingly passed on documentation that is not factual. One can only presume that somebody would do that to undermine the Garda Commissioner. Either way, the matter needs to be clarified because unfortunately it is distracting from the report and its recommendations. Clarity is required given that the Garda Commissioner will be the person responsible for implementing the recommendations.

Deputy Frances Fitzgerald: I stress that it would be highly unusual to ask one party to a legal proceeding to disclose to another party its dealings with its legal representatives. Imagine if such a demand were made of everybody who gave evidence to a commission of investigation. It is important that people have confidence in the commission of investigation structure. More than 97 witnesses were called to the commission of investigation and all of its hearings were held in private. There were no requests for public hearings and all witnesses were heard in private. In this regard, it is worth remembering that Mr. Justice O'Higgins, in his report, states that the confidentiality of the process was respected by everyone. He had unique access and was the only person who heard what everybody had to say on the issues. He did not have partial evidence or receive transcripts without context but heard all the evidence. We should read the report and its recommendations and take them forward.

Commissions of Investigation

3. **Deputy Brendan Howlin** asked the Tánaiste and Minister for Justice and Equality if she is satisfied with the handling of the allegations made by a person (details supplied), the investigation by a person (details supplied), the actions of her predecessor as Minister and the consequences that resulted for her predecessor and the former Garda Commissioner given the findings of the final report of the Commission of Investigation (Certain Matters Relative to the Cavan/Monaghan Division of An Garda Síochána). [10529/16]

Deputy Frances Fitzgerald: This question also relates to the commission of investigation carried out by Mr. Justice Kevin O'Higgins. I thank Mr Justice O'Higgins and his team for the manner in which they fulfilled their mandate. Mr. Seán Guerin, on presenting his report to Cabinet, recommended the establishment of a commission of investigation into all of the matters addressed in his report. The Cabinet accepted Mr. Guerin's recommendations in full and asked Mr. Justice O'Higgins to investigate, as definitively as possible, the facts surrounding the matters he was asked to examine.

Inevitably, Mr. Justice O'Higgins reaches a number of conclusions about the roles played by a number of persons in the events outlined in his report. As I stated at the launch of the report, I hope all those affected can accept, as I do fully, that Mr. Justice O'Higgins looked at the facts fairly and dispassionately and made every effort to do justice to the positions of all. As I have stated previously, the central issue is that the Garda takes steps to ensure the victims of crime and those who report crimes are dealt with properly.

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Some of the events investigated by Mr. Justice O’Higgins go back a decade. For my part, it is clear that the system in place until a couple of years ago for dealing with reports of wrongdoing within the Garda did not serve anyone particularly well. Deputy Howlin, in his previous role as Minister for Public Expenditure and Reform, introduced the Protected Disclosures Act 2014, which allowed gardaí making allegations of wrongdoing in the Garda to go directly to the Garda Síochána Ombudsman Commission and enjoy protection under the new legislation. Previously, such allegations had to be dealt with in the Garda but this approach did not work and protected disclosures may now be made to GSOC.

In the past two years, the Policing Authority has also been established and the powers of the Garda Síochána Ombudsman Commission have been strengthened. The Garda Commissioner will also announce a reform programme next week.

We should note what the O’Higgins report has to say about each of the individuals central to the establishment of the commission of investigation and the events it was tasked with investigating. I accept in full the findings of the report, as does the Government. We need to take measures not to repeat the failures that existed in the past.

Deputy Brendan Howlin: I begin by congratulating the Tánaiste on her appointment and wish her well. The Tánaiste mentioned the Protected Disclosures Act. She would be aware that one of the major findings of the process of enacting that legislation was not the challenge of enacting law but of bringing about cultural change, particularly for disciplined bodies whose reaction, not only in this country but elsewhere, is to close rank in the face of a whistleblower rather than investigate the merit or demerit of any allegation of wrongdoing. Is the Tánaiste satisfied that the cultural change we talked about in the enactment of that legislation has taken place in An Garda Síochána, specifically in regard to the treatment of the whistleblower, Garda Maurice McCabe?

Deputy Frances Fitzgerald: The Protected Disclosures Act was important legislation. Many organisations face challenges and need cultural change in order to deal and work effectively with whistleblowers. I believe the legislative framework we now have in place supports this and is helpful in terms of how whistleblowers within An Garda Síochána are dealt with. I have discussed this subject on a number of occasions with Garda management and it is operating fully in line with the legislation. There is no question but that it needs ongoing monitoring of the issue and to be vigilant to ensure that whistleblowers are dealt with properly.

In the case of Sergeant Maurice McCabe, the commission finding is that he did the State some service. He did An Garda Síochána a service by raising the issues he did, as the Garda Commissioner said yesterday in her statement. The Garda put in place a range of initiatives and supports to ensure Sergeant McCabe felt supported. I am satisfied there is an understanding currently within An Garda Síochána of the need to support whistleblowers and that in terms of welfare and support for whistleblowers in the context of investigation of issues, there is confidentiality in dealings with them.

It takes time to change a culture and I do not expect it will change overnight. However, I believe that at management level, there is an understanding of the need to comply fully with the legislation to achieve the kind of cultural change the Deputy mentioned.

Deputy Brendan Howlin: I asked the Tánaiste specifically about the case of Garda Sergeant McCabe and whether she is satisfied that how he has been, and is being, treated indicate that the

cultural change required has happened. Also, has she any concerns about the reputational harm or career damage done to former Minister, Alan Shatter, and former Garda Commissioner, Mr. Callinan? In her view, can the reputations and careers of what might be called “establishment figures” be adversely affected without let or hindrance while other people’s reputation, careers or well-being must be protected?

Deputy Frances Fitzgerald: On cultural change, I obviously rely on the answers given to questions I ask and the reports I get from An Garda Síochána. Looking back at the controversy in regard to penalty points, the Garda involved Sergeant McCabe in that process. Also, based on the information I have on the position in regard to Sergeant McCabe, I believe the cultural change Deputy Howlin mentioned is in place. I feel that every effort is being made by An Garda Síochána to ensure that cultural change is in place for Sergeant McCabe and other whistleblowers.

On the question of my predecessor, I was pleased to see in the report that my Department had acted properly at all times in handling the issues that came before it. It was precisely in order to establish those facts that the commission was set up. We had a preliminary report from Seán Guerin, which was a scoping report and not one in which there were findings of fact. If the recommendations from that report had not been acted upon as he envisaged we would not have the outcome we have now.

Deputy Brendan Howlin: What redress does the former Deputy, Alan Shatter, have?

An Ceann Comhairle: The Tánaiste must conclude as time is up.

Deputy Frances Fitzgerald: We now have the report, which shows very clearly that the former Minister, Alan Shatter, operated properly and that there is no question of any corruption relating to the Commissioner. There will be a debate in the House. The former Deputy has written to the Taoiseach and there will be a detailed response.

An Ceann Comhairle: We cannot get into these matters. The Tánaiste will have to conclude.

Garda Strength

4. **Deputy Niall Collins** asked the Tánaiste and Minister for Justice and Equality the measures she will take to ensure Garda Síochána numbers rise to 15,000 over five years; and when she will request the Policing Authority to oversee a review with regard to the dispersement of Garda Síochána stations in rural areas. [10513/16]

Deputy Frances Fitzgerald: Deputy Niall Collins asks about the visibility of police throughout the country. Key to achieving that goal is the commitment in the programme for partnership Government to continue the ongoing accelerated garda recruitment programme. Templemore had been closed but the last Government made a decision to open Templemore and begin a process of continuous and ongoing recruitment. There is agreement in the programme for Government on accelerating the recruitment programme to bring the numbers up to 15,000. A total of 700 garda recruits have already gone through Templemore and a further 440 have been planned for this year. We will need to accelerate that later in the year but this will depend on the capacity of Templemore and that is being examined with the authorities in the

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college. We would like to begin to increase the numbers as far as we can but this will depend on resources there.

We do not want to reduce the quality of training as that is very important. When large numbers were going through Templemore, as was captured in the O'Higgins report, the training of recruits and, particularly, the supervision of young gardaí leaving Templemore, were lacking so we want to ensure that when recruits leave Templemore they have access to supervision in the training stations around the country. An accelerated programme of recruitment of trainee gardaí is essential to ensure a visible policing presence. We have commitments to double the Garda Reserve, an issue which the Deputy has raised with me a number of times, so that they can act in a supportive local role as well.

Deputy Niall Collins: My party welcomes the fact that the Government has accepted that we need to bring the personnel of the Garda Síochána back up to 15,000, having said it could not be done. I have a concern that the target may not be reached. Some 700 trainees have gone through Templemore and a further 440 will do so this year but approximately 1,500 are eligible to retire and when one factors those numbers into the manpower level of the force at the moment, which is approximately 12,000, we will be a long time reaching the figure of 15,000. What detailed plans does the Minister have to increase recruitment and has she looked at stretching out the retirement age?

The second part of the question related to the review of Garda stations by the Policing Authority. Who will set the terms of reference for that? On page 98 of the programme for Government, it states, "As part of the review [of Garda stations by the independent Policing Authority] we will launch a pilot scheme to reopen six Garda stations". Can the Minister tell us which six Garda stations will be reopened and what criteria were used to make the decision? It was clearly a political decision within the programme for Government to reopen six stations. What were the criteria and who will set the terms of reference for the independent Policing Authority to review the rest of them?

3 o'clock

Deputy Frances Fitzgerald: With the numbers of trainee gardaí who are to be attested this year, the force will come to approximately 13,000. I agree with the Deputy that, in order to reach 15,000 in a timely way, we will need to accelerate the intake. Obviously, I will be having discussions with the Department of Public Expenditure and Reform in that regard. Perhaps by September we will be in a position to announce an increased intake and I hope that can continue in the course of next year. This will lead to the acceleration to which the Deputy is referring and which will be very helpful all round.

To reply to the second part of the question, we are committed to launching a pilot scheme to reopen six Garda stations, both urban and rural, to determine the possible positive effects such reopenings would have on the level of criminal activity, with special emphasis on burglaries, theft and public order offences. The scheme will be initiated within two months. I intend to consult the Garda Commissioner and the Policing Authority which has been charged with the responsibility of overseeing it to agree the process through which the Commissioner will identify the six stations to be reopened under the pilot scheme. My officials will shortly be in contact with a view to putting in place the arrangements for the review, although it will obviously be a decision of the Commissioner as it is an operational issue.

Deputy Niall Collins: There is a critical point. Being independent, the Policing Authority is being asked to undertake a review of the stations which were closed, with a view to some of them potentially being reopened. Nonetheless, we do not know what the process is going to be. It is important there be a clear and transparent process regarding which six stations will be opened initially and also, for example, whether local communities will be allowed to make a submission. The Minister might comment on this.

With regard to garda numbers, will the Minister comment on what is stated in the most recent report of the Garda Inspectorate that a couple of hundred gardaí are effectively engaged in clerical or administrative duties - desk work - when they should be available for front-line policing services? What progress has been made on that recommendation?

Deputy Frances Fitzgerald: I agree with the Deputy on the need for transparency in the criteria to be used in the reopening of stations and that certainly will be the case. It is an operational matter, but, clearly, I expect the Policing Authority to oversee this work and there to be discussions between the authority and the Garda Commissioner. Nonetheless, it is an operational decision that will depend on needs and crime trends within a particular area. It is not a political decision; it is a decision that will be taken by the Policing Authority and the Garda Commissioner based on the needs of different areas and the services available in a particular area at a particular time.

What was the Deputy's second question?

Deputy Niall Collins: It concerned taking gardaí from desk duties.

Deputy Frances Fitzgerald: That is part of the civilianisation project. The last Garda Inspectorate report suggested a large number of gardaí were undertaking duties that could be performed by civilians. Progress has been made in that regard, for example, at the airport and in a number of other areas. Nonetheless, I have to say the figure involved is questioned by Garda management; it is, therefore, a very important issue to be determined. I hope to see progress on it in the next couple of months through the freeing up of further gardaí.

National Drugs Strategy

5. **Deputy Jonathan O'Brien** asked the Tánaiste and Minister for Justice and Equality if taking a harm-reduction approach to drug law reform has a role in tackling organised crime. [10197/16]

Deputy Frances Fitzgerald: The problem of drug misuse remains one of the most complex social problems we face, causing a huge amount of harm to individuals, families and communities. The Government's response to the problem was set out in the national drugs strategy which ran from 2009 to 2016. As the Deputy is aware, the strategy is comprehensive and based on the five pillars of drug supply reduction, prevention, treatment, rehabilitation and research. The Department of Health has a lead role in co-ordinating and reporting on the implementation of the strategy and it also has responsibility for the primary legislation governing the control of substances, which is the Misuse of Drugs Act. We must work across all of these pillars to deal with the issue. The criminal justice agencies are an important part of the response but not the only part of it. I recognise the value of work across all of the different pillars, including the supply reduction target and the law enforcement targeting of those who seek to profit from

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drug-trafficking and the illegal trade in controlled substances. They have no regard for the damage they do.

Government policy emphasises the importance of providing opportunities for people to move on from illicit drug use through drug treatment and rehabilitation to a drug-free life, where it is achievable. I agree the provision of harm-reduction measures is very important. These include needle and syringe programmes, methadone maintenance treatment and reducing drug-related harm. All of these can facilitate recovery by providing a pathway into the services. To answer the question, it must be a multifaceted approach and we will work on a new drugs strategy from 2016 onwards. No doubt the experiences of local drug taskforces will be an important input into the new strategy.

Deputy Jonathan O'Brien: I agree we must have an holistic and multifaceted approach but the one constant which has remained for the past 30 or 40 years, as far back as the 1970s, is the criminalisation of the addicts themselves. This policy has completely failed. We now have a situation where more people are addicted to drugs and we have more drug-related deaths than ever before. This policy is counter-productive and is failing. The previous Minister of State with responsibility for drugs, Senator Aodhán Ó Riordáin, initiated legislation on supervised injection centres. I note the programme for Government states there will be a health-led rather than a criminal justice-led approach to harm reduction. Given the commitment in the programme for Government, where is the legislation on the supervised injection centres?

Deputy Frances Fitzgerald: Significant national and international debates are taking place on the question of decriminalisation and I have no doubt these will form part of preparing the new drugs strategy. The Taoiseach will shortly meet all of the Ministers to identify priorities in the legislative programme and the programme for Government and produce the lists. In the context of Dáil reform, this will be different from how it has been done until now because we are in a different situation. Legislation from throughout the House will form part of the priority work of the Dáil. At present, I do not have information on when the legislation will be brought forward but it is in the programme for Government. I can certainly liaise with the Deputy on the exact timescale when it is known. It will be presented to the House by the Taoiseach in the coming weeks.

Deputy Jonathan O'Brien: Does the Minister agree there needs to be a change in the legal status of drugs if the Government is to bring about medically supervised injection centres? If there is to be a health-led approach to harm reduction, it indicates the legal status of some drugs needs to be examined. The national drugs strategy is a five pillar strategy but some of these pillars are falling down. Rehabilitation in the State receives only a very small part of the resources. The city I represent does not have transition beds for people coming out of rehab who have been on heroin or prescription drugs for a long time and who may have lost vital social skills. We do not have this step-down facility in the second largest city in the State. If we are serious about harm reduction, then it is not just about rehabilitating people but ensuring services are there so when people come out, they can stay clean.

Deputy Frances Fitzgerald: I can only agree with the Deputy on the importance of rehabilitation facilities and their being available at the point at which the addict is ready to make use of them. It is very problematic when there are waiting lists in this regard. We need to continue to invest in drug rehabilitation services. Of that there is no doubt.

Regarding the Deputy's question about the legal approach to drug use, I am sure he is

familiar with the Oireachtas joint committee's report and what it stated about the position in Ireland. The committee considered the situation in Portugal and made some very interesting recommendations. No doubt they will be considered when the legislation on centres is brought before the House. The report did, however, recommend that in the future, while calling for the possession of drugs for personal use to continue to be considered prohibited behaviour, it be dealt with in an alternative manner by way of a civil-administrative response rather than being managed via the criminal justice route. I note the report which was both very comprehensive and very good and I know that it was being considered by the former Minister of State, Deputy Aodhán Ó Ríordáin. No doubt when the legislation is brought before the House, it will form part of the discussion.

Other Questions

Garda Data

6. **Deputy James Browne** asked the Tánaiste and Minister for Justice and Equality the number of Garda stations and the number of gardaí in each station in County Wexford on 31 March 2011 and 31 March 2016; and if she will make a statement on the matter. [9978/16]

Deputy Frances Fitzgerald: In the first instance, the Garda Commissioner is responsible for the distribution of personnel among the Garda regions, divisions and districts. It must be kept under continuous review. The Garda Inspectorate has made the point again and again that the allocation of gardaí around the country cannot be based on an historic situation but must be a response to current trends, population changes and so on. Crime trends and policing priorities must be taken into account to ensure the best possible use of resources. The reality is that during the economic crisis recruitment was at a standstill and there was very little investment. Thankfully, with the change in the economic situation, we have been able to invest again in the refurbishment of Garda stations and vehicles and, most importantly, the numbers of gardaí being recruited.

In answer to the Deputy's question, in summary, there were 24 stations on 31 March 2011, with 277 members assigned to the Wexford division. On 31 March 2016 there were 21 stations, with 258 gardaí assigned across the division.

The Deputy has asked for a lot of detailed information which I do not have the time to go over in answering his questions, but I will make the information available to him.

Deputy James Browne: As the Minister will be aware, there was a 10% drop in garda numbers in County Wexford between 2010 and 2015. In the past five years there has been a serious depletion of Garda resources in County Wexford and across the country which has led to an increase in fear in many rural communities. Older people and people living in rural areas, in particular, have been affected. It is now not unknown to see high gates around small houses in rural areas. As part of the Fianna Fáil confidence and supply arrangement, Fine Gael has agreed to increase garda numbers to 15,000 and support investment in CCTV systems. Additionally, the programme for Government pledges an increase of 2,000 in the number of gardaí, which would signify an increase of some 15%. Will the Minister guarantee that County Wexford, which has one of the lowest ratios of gardaí to population in the country, without taking into

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account the fact that in the summer period 60,000 mid-stay tourists come to the county, will see at least a 15% increase in the number of gardaí?

Deputy Frances Fitzgerald: That is purely an operational decision in which I do not have a role. I do not interfere in any way in operational decisions by An Garda Síochána; it is a decision for Garda management and the Commissioner. However, the best chance of having further gardaí assigned around the country is to deal with the issues Deputy Niall Collins has raised about civilianisation and recruitment because then gardaí could be allocated to the areas most in need.

I am informed by the Garda Commissioner that, recognising the needs of the area, 20 newly attested gardaí have been assigned to Wexford Garda division. Those decisions about where gardaí, who have been going through the college in the past two years, are allocated are based on the needs of different areas.

When one examines the crime trends around the country, one sees different trends in different areas. There are areas where crime and burglaries have decreased considerably. It is worth looking at the statistics regarding some of the areas we hear a lot about. Of course, any crime is one too many and there have been some horrific instances but the decision about where gardaí are located is one for the Garda.

Deputy James Browne: I agree it is important that the resources are allocated in the areas of most needs. North Wexford, in particular the Gorey area, has one of the highest rates of population growth. Only three Garda divisions outside of Dublin have the same rate of burglaries as Wexford. There was a 50% spike towards the end of last year - no doubt coinciding with the opening of the bypass which facilitates the access and egress of criminal gangs - and yet in the past few years, Gorey Garda station was downgraded and subsumed under Enniscorthy Garda station which, in turn, has stretched the resources of both Garda stations. Under the review of reopening of Garda stations, will the downgrading of Garda stations be considered and does the Minister agree that the spike in burglaries, in particular in north Wexford, augments the case to provide increased Garda resources for Wexford?

Deputy Frances Fitzgerald: Deputy Browne makes a case for Wexford. There are many other Deputies who will equally make a case for other parts of the country. The Garda Commissioner has to consider a wide variety of factors when she is making that decision.

The point Deputy Browne raises about the mobility of burglary gangs or others intent on criminal activity is an important one regarding the road network. That is why we have placed such a focus on investing in vehicles for the Garda in significant numbers at a cost of tens of millions of euro. There had not been the investment when the economy collapsed but that has now changed, and that will help. We need mobile patrols to deal with the kind of crime that Deputy Browne identifies as well as the response units we now have in place, the use of CCTV and the co-operation between business and local communities. I doubled the funding for organisations, such as Macra na Feirme and Crimestoppers, to help communities work effectively together and there are some good examples of that around the country.

Dáil Éireann
Gangland Crime

7. **Deputy Thomas P. Broughan** asked the Tánaiste and Minister for Justice and Equality the measures she is taking to ensure that An Garda Síochána has sufficient resources to stop gang-related murders and crime; and if she will make a statement on the matter. [10012/16]

Deputy Frances Fitzgerald: I made comments regarding this in reply to an earlier question.

The Programme for a Partnership Government prioritises a significant programme of investment in An Garda Síochána. I will not repeat all that I stated already but I will highlight again the recruitment and investment in resources, for instance, in ICT, that is now possible. At the end of last year, funding was made available, for example, to improve the PULSE so that it is more effective in terms of the management of criminal investigations, and a number of other initiatives were also taken in that area.

The 2016 budget for An Garda Síochána saw an increase to €1.6 billion. That involved €67 million in additional funding. As I stated earlier, we also moved decisively with increased funding to deal directly with gang-related crime, particularly in the Dublin area, and for the dedicated armed support unit as well. That involves concentrated policing measures in the area. A considerable effort is being made by the Garda to target and do the kind of work necessary to interrupt the cycle of violence that we have seen.

I mentioned the investment in the capital plan. There is also the airborne surveillance, and money has been made available to ensure we have technical support for the helicopter so it can be used at night. All these initiatives, with the determination of the men and women of the Garda Síochána who are out patrolling the streets, will, I hope, end this dreadful cycle. Although last year the gangland crime and murder figures decreased very considerably, we have had a new cycle with six murders by gangs which are intent on revenge. Every resource that is needed by the Garda Síochána will be made available to deal effectively with this gangland crime.

Deputy Thomas P. Broughan: The Minister and the Garda Commissioner recently met community leaders from the inner city. Tonight there is to be a peace procession in an area of our capital city which is traumatised by the series of assassinations during recent months and by a perceived failure on the part of the Minister's Department to give the Garda Síochána the requisite resources to stamp it out and bring it to a close. On an earlier question, the Minister mentioned the additional gardaí and capital resources. During the Administrations of the Minister and her predecessor, former Deputy Shatter, did units such as the national surveillance unit have adequate resources to keep tabs on the kind of gangland crime and organisation which led to the current desperate spate of murders? The Minister mentioned the armed support unit. Do the specialist units have the resources necessary?

Do we need further legislation? The Criminal Justice Act 2009 tried to target directors of crime and gangland mafia leaders. Does the Minister need to introduce more legislation, particularly regarding the proliferation of guns and gun-related crime?

Deputy Frances Fitzgerald: I reject the Deputy's analysis of resources. If anything, the previous Government has been keenly aware of the need to invest resources, as they became available, in the Garda Síochána. During the period of economic difficulty, investment in the

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Garda Síochána was stopped for a period and this has had an effect. The figures available on gangland crime suggest the Garda Síochána was effective. There is a feud between criminal gangs intent on retaliation and with the very best policing in the world it can be very difficult to interrupt such a cycle. However, the Garda Síochána interrupted it in Limerick, where 24 out of 25 murders were solved, with major effort by the Garda Síochána and the local community and support from the Government. The same motivation is there in me as Minister, the Government and the local community, as I saw yesterday, to do everything possible to support people who live in those communities and to interrupt the feud and bring people to justice. These people are not outside the law. The law is strong enough. The Criminal Assets Bureau will also continue its work to target the proceeds of crime.

Deputy Thomas P. Broughan: Our rural colleagues have been speaking about the extensive closures of Garda stations. Do some of the Dublin Garda stations need to reopen? The former Lord Mayor of Dublin, Councillor Christy Burke, made the point about Fitzgibbon Street Garda station and asked whether a 24-7 presence was necessary there. Regarding the direction of gangland crime from outside this jurisdiction, what steps has the Minister taken regarding liaising with the Spanish minister for justice and national police force under the European arrest warrant legislation? What kind of actions is she taking to strike at the alleged external directors of savagery on our streets?

Deputy Frances Fitzgerald: This type of crime has an international dimension. There is very detailed exchange of information with police colleagues in various countries, including Spain, the Netherlands and Belgium. A number of high-profile criminal trials have taken place in those countries. Prison sentences have been served by Irish criminals who have been charged in those jurisdictions. I assure the Deputy that this intensive level of co-operation is ongoing. There is no question about that. We need gardaí working at an intelligence level on investigations, patrolling the streets and providing as much safety as they possibly can in the face of the huge challenges that these gangs are presenting to ordinary law-abiding citizens. We saw gangs acting with impunity in the Regency Hotel. Every effort will be made in the weeks and months ahead on the prevention, investigation and prosecution levels.

Question No. 8 replied to with Written Answers.

Garda Station Closures

9. **Deputy Jackie Cahill** asked the Tánaiste and Minister for Justice and Equality to ask the Policing Authority to review the dispersal of Garda Síochána stations and to assess the impact of all station closures in County Tipperary since 2011; and if she will make a statement on the matter. [10009/16]

Deputy Frances Fitzgerald: The first point I would make in response to Deputy Cahill's question is that the programme for Government contains a commitment to community policing. I recognise the importance of seeing community policing as the embodiment of the work of An Garda Síochána. At its best, community policing recognises the different challenges in urban and rural areas and the responses that are needed. The programme for Government contains a commitment to visible, effective and responsive policing in every community. Of course that depends on resources. We want to arrive at a point where we have the minimal response times possible. As I said in response to the questions about the O'Higgins commission, we need to have a very good response to the victims of crime, who need to be kept informed about what is

happening.

The Policing Authority will undertake a review of the boundaries of Garda districts and the dispersal of Garda stations in rural areas and developing urban and suburban areas, with a view to ensuring we have the best geographical distribution of Garda stations. This is something about which I have already spoken. I have outlined the details of the pilot scheme. I remind the House that a former Garda Commissioner recommended the closure of Garda stations. The Garda authorities would say that the new arrangements have allowed front-line gardaí to be managed with greater flexibility and mobility and in a more focused fashion, particularly with regard to various targeted police operations. It is very clear from current crime trends that targeted policing operations like Operation Thor are needed to deal effectively with different types of crime. As I have said, we will be in touch with the Policing Authority shortly to implement the commitment in the programme for Government to which I have referred.

Deputy Jackie Cahill: I welcome the Minister's commitment to community policing. The reality in County Tipperary is that people in rural areas are living in fear. It is a sad fact that when one calls to a house now, a window rather than a door is opened. We have been given statistics suggesting that crime levels have decreased, but the reality is that people have absolutely no security in their homes. It is essential for us to increase the Garda presence in rural Ireland. There are no Garda stations along a 60 km stretch from Nenagh to Tipperary town. This huge expanse of countryside is without a Garda presence following the closure of four Garda stations. The motorway infrastructure in County Tipperary - two of this country's main motorways pass through the county - provide the criminal gangs that are operating with excellent opportunities for access and getaways. It is essential for us to increase the Garda presence in County Tipperary.

Deputy Frances Fitzgerald: I remind the Deputy of the success of Operation Thor. This targeted police operation dealt with burglary issues that had arisen in urban and rural areas. Having regard to its success, that is the direction in which we need to continue with a targeted operation with mobile patrols and liaison locally working with communities. We saw a very significant reduction in burglaries in the last quarter of last year. It was approximately 24% and there was a reduction in the number of burglaries in the year overall. While any one incident of the type the Deputy described is one too many, in terms of effective policing, having the targeted approach we put in place with Operation Thor, which is continuing, is clearly the way to go.

Deputy Jackie Cahill: I appreciate the Tánaiste's answers. Hopefully, the increased Garda numbers projected under the programme for Government will impact on the ground and remove the fear with which people are living in rural areas. I look forward to monitoring the situation.

Deputy Frances Fitzgerald: The operation that was put in place is the way to deal with these issues. Operation Thor is continuing. Increasing Garda resources with respect to recruitment and investment in Garda vehicles is essential. That is the way to deal with these issues. The very large budget which was in place was further increased by €67 million and I would hope that this would continue.

Written Answers follow Adjournment.

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Adjournment Debate Matters

An Ceann Comhairle: I wish to advise the House of the following matters in respect of which notice has been given under Standing Order 23(3) and the name of the Member in each case: (1) Deputy Louise O'Reilly - the need for the Minister for Health to immediately publish the capacity review of the HSE national ambulance service; (2) Deputy David Cullinane - to ask the Minister for Health to outline why University Hospital Waterford spent over €20 million on agency staff from 2011-15, if he recognises that this is a consequence of underfunding of our acute hospital network and to outline what plans he has to increase staff capacity in our public hospitals; (3) Deputy Brian Stanley - to raise with the Minister for Education and Skills the urgent need for a new school to accommodate St. Francis special school on the site that has been provided by the parish at Borris Road, Portlaoise; (4) Deputy Gerry Adams - the need to meet obligations on housing rights for Travellers, given breaches highlighted by the European Committee of Social Rights; (5) Deputy Thomas P. Broughan - the urgent need for the Minister for Health to provide full local day services for young school leavers on the autistic spectrum in Dublin Bay North and Fingal; (6) Deputies Barry Cowen and Carol Nolan - the provision of therapy services for children with disabilities in County Laois and in County Offaly; (7) Deputies Clare Daly and Mick Wallace - the O'Higgins commission and the position of the Commissioner of An Garda Síochána; (8) Deputy Thomas Pringle - the need to discuss the implications for fishermen of SI No. 125 of 2016, the European Union (Common Fisheries Policy) (Point System) Regulations 2016; (9) Deputy Jonathan O'Brien - the need to introduce supervised injecting facilities for persons with drug problems; (10) Deputies Ruth Coppinger and Mick Barry - the industrial dispute between Luas tram drivers and the operators of the Luas service, Transdev; and (11) Deputy Thomas Byrne - the need for the Minister for Education and Skills to explain the current position with the securing of a site for St. Peter's Church of Ireland primary school in Dunboyne, which has been waiting for a permanent home for many years and is one of very few schools to be established under Church of Ireland patronage since the foundation of the State.

The matters raised by Deputies Gerry Adams, Barry Cowen and Carol Nolan, Clare Daly and Mick Wallace, and Ruth Coppinger and Mick Barry have been selected for discussion.

Leaders' Questions

Deputy Micheál Martin: We have had the publication of the O'Higgins report into deficiencies, malpractice and a series of investigations at Bailieboro Garda station, the areas surrounding the station and its hinterland. We had much selective leaking and managed interpretations of the report in advance, which were disingenuous and led people down the wrong tracks. It needs to be put on the record that the O'Higgins report essentially vindicates, in the first instance, the central recommendation of the Guerin report, which was to establish a commission of investigation into the series of allegations at various levels of An Garda Síochána made by Sergeant Maurice McCabe on a number of occasions. They were contained in a dossier which he handed to me and which I, in turn, handed to the Taoiseach, Deputy Enda Kenny. On foot of that dossier he initiated the Guerin report, which is very clear about the veracity and credibility of Sergeant McCabe and the allegations he made. It recommended that a commission of investigation be established. It covers a whole series of investigations of incidents where serious crimes were committed, where victims were not dealt with properly and where they were

not served properly by the institutions of the State, particularly An Garda Síochána, on those occasions. The most noteworthy was the case of Jerry McGrath who went on to murder Sylvia Roche-Kelly, following earlier criminal acts including the abduction of a child in Tipperary while he was out on bail and the assault on others.

As we know, this has been a long saga but throughout all of it there has been a campaign to undermine Sergeant McCabe. There seemed to be a fundamental reluctance to accept the veracity and credibility of what he was about, to such an extent that it became necessary to establish a commission of investigation. I ask people to read chapter 11 of the O'Higgins report regarding Fr. Michael Molloy, the missing computer and, incredibly, ending up in Sergeant McCabe being brought before disciplinary hearings of which he was later exonerated-----

An Ceann Comhairle: We have strict time limits. I ask the Deputy please to adhere to them.

Deputy Micheál Martin: I am going to put the question. Sergeant McCabe was later exonerated. That has to be said. That is what makes the revelations in last week's *Irish Examiner* all the more disturbing. They allege that senior counsel, on the instruction of An Garda Síochána, put forward the view that Sergeant McCabe was acting with malice. The senior counsel were questioning his motivation and character right the way through, notwithstanding what the Guerin report or the McGinn and Byrne investigation said about the absence of malice. It is a very serious issue because it cuts to the heart of how whistleblowers are treated and the degree to which there is acceptance within the highest level of An Garda Síochána about the credibility of the individual concerned making the allegations, his reputation and the veracity of the claims he has made. That is why it is so serious. That is why it demands a comprehensive and transparent addressing of the issues.

An Ceann Comhairle: Does the Deputy have a question?

Deputy Micheál Martin: Has the Tánaiste spoken to the Garda Commissioner in this regard? Will she speak to the Garda Commissioner? Will she find a mechanism by which this issue can be comprehensively and transparently dealt with?

The Tánaiste (Deputy Frances Fitzgerald): I want to acknowledge the role that Deputy Martin himself played in highlighting the issues in relation to the victims whose cases were investigated in the O'Higgins report. I want to reiterate the point I made when publishing the report that we should not lose sight of the central fact that at the heart of this report are the victims who were let down. The Deputy made that point himself. I have already paid tribute to Mary Lynch, who spoke last night on "Claire Byrne Live" and illustrated very vividly what victims who were the subject of these investigations went through. I phoned her this morning and will be meeting her next week, now that I am in a position to do so.

Like Deputy Martin, I believe our focus now should be on taking all steps necessary to ensure that this does not happen again. I have said already in the House that there are constraints on what I can say under the Commission of Investigations Act 2004, which form the legal basis put in place by the Oireachtas, about the claims the Deputy has mentioned that have appeared in the media. In his report, Justice O'Higgins referred to the confidentiality of the proceedings, saying that he took all necessary steps to ensure confidentiality in the way he approached the commission. All 97 witnesses who were before the commission have rights and I, and others, have a duty to respect those rights. I also have a duty to respect the law. That duty is not dimin-

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ished by the fact that some media reports have appeared, as the Deputy has said, purporting to set out a small part of what may or may not have happened at the commission - they are private proceedings - notwithstanding any legal prohibitions in that regard.

I make the general point that partial disclosure of what happens in private at commissions of investigation is inherently unfair to those who participate in such commissions and properly feel bound by the laws which apply to them. It was a matter for Justice O'Higgins to reach conclusions based on the hearings and to report as he saw fit, which he has done. He has made the points in relation to Sergeant McCabe and the service and approach that Sergeant McCabe took when he took the actions that he did. The judge did not make findings or comment along the lines of some public comment lately. That is to be noted. We must remember that Justice O'Higgins is the person who heard all of the evidence and is uniquely in a position to lay out the conclusions, which he has done. The history of the unhappy events dealt with in the report shows the dangers of people proceeding on the basis of incomplete information. We have very comprehensive information now from the report.

An Ceann Comhairle: The Tánaiste ought to conclude.

The Tánaiste (Deputy Frances Fitzgerald): If I may, I would like to make one or two further points. Justice O'Higgins acknowledged the co-operation he received from all persons. They were not adversarial hearings. They were inquisitorial. He made the point that every legal team that responded did so in that way. They were generally followed. He did not make any adverse findings as to any aberrations by counsel when they attended on behalf of any particular party.

I wish to note the Garda Commissioner's comments last night on those issues which have been in the public domain. She repeated that she accepted fully the commission's findings and, of course, that includes accepting fully what the commission had to say about Sergeant Maurice McCabe.

Deputy Micheál Martin: Is the Minister satisfied from a legal perspective that the section of the Act concerned covers legal instructions and submissions because I have been advised that it does not cover legal instruction and submissions by senior counsel? My understanding is that it was not inquisitorial in respect of Sergeant McCabe but was, in fact, extremely adversarial and that almost every single thing was laid at his doorstep. That is why the issue needs comprehensive treatment and to be addressed in a transparent manner. There is a sense, rightly or wrongly, that the person making the allegations felt he was the person on trial throughout the process. While I accept that the report itself is very meticulous, in relation to chapter 11 and, indeed, to an earlier issue pertaining to a GSOC inquiry relating to the Mary Lynch case, Sergeant McCabe was again wrongly accused before being vindicated because, luckily, he had a tape recording. He was wronged completely in terms of Fr. Molloy and the missing computer. Clearly, he had a recording of the conversation with these two officers who apparently alleged in advance that he was motivated by malice. One wonders where he would be now in terms of the court of public opinion if he had not taken those protective measures.

There is an issue for all of us in the House when one looks at what transpired over the last three weeks when these issues were articulated via selective leaking, spinning and interpretation. Given the selective leaking, it is very easy to see how a person in Sergeant McCabe's position would have been extremely vulnerable if he had not taken the protective measures he did to protect his reputation and credibility. To be fair to Seán Guerin, who has been much vilified in

recent times as well, he went to the trouble of getting statements from all of the people in charge of Bailieborough from 2003 onwards and they were exemplary in terms of their commentary on Sergeant McCabe's character and conduct. That is an important point. One wonders if there was an attempt to undermine the Guerin report in its entirety. I do not know nor do I have all the answers to it but it needs to be comprehensively addressed.

The Tánaiste (Deputy Frances Fitzgerald): Obviously, we will have a debate in the House on the commission of investigation. It is important that we look at all the details. What Deputy Martin has said in relation to the commission of inquiry is not what Mr. Justice O'Higgins said about the hearings and the way they were conducted. He said that they were inquisitorial and not adversarial and that is from the judge himself. He went on to say that this non-adversarial method was generally followed by all legal teams. There were a few isolated aberrations from this approach but he did not attribute what he had referred to as "aberrations" to counsel for any particular party. That is worth noting. He is the person who heard all of the evidence.

We need to look at the report. I have met the Commissioner and she accepts fully the recommendations and the report and has made it clear what her attitude to Sergeant Maurice McCabe is at this point and was in the past. She has made that very clear in the statement. We have to accept that statement from the Commissioner.

In relation to the other points Deputy Martin made on legal privilege, suffice it to say we would be going down a very dangerous route for future commissions if we were to insist that all legal professional privilege between clients and lawyers should be in the public domain; not that we could. It is important that we keep confidence in the commission structure. Keeping that confidentiality is part of that.

Deputy Gerry Adams: Last Thursday, after almost two weeks of selective leaking, the O'Higgins report was finally published. The media management of the report is entirely unacceptable and if I may say so, so are the Minister's answers here today. Mr. Justice O'Higgins found that the internal Garda investigations of complaints in the Cavan-Monaghan division were deficient. He does not say who is to be held responsible for such malpractice but he says there was a corporate closing of Garda ranks which led to the allegations made by Sergeant McCabe being ignored. The Minister knows that the crimes involved were very serious. They include false imprisonment, assault, murder and sexual assault. It is the victims of these crimes, as the Minister has acknowledged, who have been let down most. The report is now mired in controversy because it has emerged that two senior Garda officers apparently claimed that Sergeant McCabe admitted to them that he was motivated by malice. The claim was also apparently made by a senior counsel acting for the Garda Commissioner. It appears that when it emerged that Sergeant McCabe held a recording of the meeting and his record disproved the allegation that he acted maliciously, the claim was not proceeded with. This episode is not mentioned anywhere in the O'Higgins report. The question for the Tánaiste is straightforward and she can answer it without divulging, notwithstanding that she is quite entitled to do so, the information on these issues. Has she spoken to the Garda Commissioner on these issues? Has she asked the Garda Commissioner if she instructed her legal team that Sergeant McCabe admitted he acted with malice? Has she asked if two officers claimed Sergeant McCabe admitted this to them? Has she, as Minister, asked for an explanation for this and will she give that explanation to the Dáil?

The Tánaiste (Deputy Frances Fitzgerald): I want it to be clear that in publishing the report, I followed through on the legal steps it was necessary to take once I had received it.

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First, the report had to be seen by the Attorney General and it then had to be sent to a number of bodies to ensure that no criminal prosecutions would be interfered with or compromised by its publication. The report had to go to GSOC, the Director of Public Prosecutions and An Garda Síochána. I then took it to Cabinet and published it immediately afterwards. Clearly, various people had copies of the report and I agree with Deputies Adams and Martin that it is extremely unfortunate that aspects and sections of it were leaked during that period. Of course, I had no responsibility for that but different people had different sections of the report and some chose to act illegally in relation to the information they had. It is illegal to publish the information in relation to a commission of inquiry such as we have seen.

To answer the Deputy's questions, neither I nor my Department had any involvement in the approach taken by the Garda at the commission of investigation. There is no question of that. The duties of confidentiality on the Commissioner imposed by the commission of investigation are not overridden by any duty of the Commissioner to account to me in relation to the commission. It would have been completely wrong to try to influence the approach of the Garda to the commission of investigation. In relation to the current situation, I have ongoing meetings with the Garda Commissioner and, in respect of my recent discussions with her, what is in her statement yesterday outlines her approach to the findings of the commission of investigation, which she accepts fully. She has outlined very clearly her response to the recent media reports that we have seen and has outlined that she recognises the value of what Sergeant Maurice McCabe did, accepts the findings of the commission in relation to him and accepts that the recommendations must be followed through.

Deputy Gerry Adams: I asked the Tánaiste a series of very direct questions, which she did not answer. We are supposed to be in a new political dispensation. The questions were very straightforward. Has the Tánaiste spoken to the Commissioner about the allegation that the latter instructed her legal team to the effect that Maurice McCabe had acted maliciously? I asked the Tánaiste that question and I am going to ask her again. I also asked her whether two officers had made the same allegation. She has not answered these questions at all.

I happen to believe that the Tánaiste is a good Minister, but I will remind her of what happened to Alan Shatter. He was appointed as Minister for Justice and Equality and she was appointed following his resignation. He was embroiled in a series of scandals when the two Garda whistleblowers, John Wilson and Maurice McCabe, raised concerns regarding practices within the upper echelons of An Garda Síochána. It is now a matter of fact that they were smeared and bullied. Teachtaí anseo were also smeared and measured, rational propositions from Sinn Féin and others were ridiculed by the Government, including An Taoiseach. Then, one day, the Attorney General told the Taoiseach about the taping of telephone calls into and out of Garda stations. There was no way that the Taoiseach would fob this issue off any longer. After telling us for months that there was nothing to see and we should move on, he acted in an entirely unorthodox and unacceptable way. I said this at the time.

An Ceann Comhairle: The Deputy needs to conclude.

Deputy Gerry Adams: I will. As I stated at the time, the Taoiseach was solely responsible for the events that followed and for the unprecedented series of resignations. Let us remember that the most important people are the victims of crimes that were not properly investigated.

I put my questions to the Tánaiste again. Will she ask the Taoiseach to make a full and comprehensive statement to the Dáil on the serious matters that he needs to address or will she

wait until he sends the Secretary General of her Department to talk to the Garda Commissioner?

The Tánaiste (Deputy Frances Fitzgerald): Obviously, the Taoiseach will make a statement when we have the debate in the House. That debate is being arranged by the Whips.

In this era of new politics, it is important that I respect the law and the duty that I have to it. That is what I have been doing in my responses to the Deputy on this question. The commission and Mr. Justice O'Higgins were in the best position to hear all of the facts and to reach conclusions on the very serious incidents that were investigated by the commission. In that regard, the commission's report is the best description that we could possibly have got of the various incidents.

I took the decision when I got the Guerin report to follow its recommendations in full, namely, to set up a commission of investigation with statutory powers. The 97 witnesses were heard and we have the report. We can do the best service to the victims whose cases were investigated there and provide the best response that they should be getting by dealing with the recommendations in the report. That is what the House should now be doing.

Deputy Pearse Doherty: Answer the question.

Deputy Mick Barry: The Tánaiste has been asked a question. Will she answer it?

An Ceann Comhairle: One speaker, please. Let the Deputy's leader speak.

A Deputy: That is not Deputy Mick Barry's leader.

An Ceann Comhairle: Well then, tóg go bog é.

A Deputy: The leader of the left.

Deputy Joan Burton: I congratulate the new Tánaiste and Minister for Justice and Equality and wish her well in her job.

It has been almost one year since the iconic Clerys store on our national main street was unceremoniously shut down and its hard working and loyal staff and many small businesses that operated therein were thrown out onto the streets. In one of the worst examples of corporate greed in our recent history, approximately 500 staff and dozens of small businesses were left with nothing and had to rely entirely on the State's insolvency schemes at significant cost to the State, PRSI contributors and taxpayers.

I support the Clerys workers in their fight for justice and their demand that the type of corporate behaviour and corporate greed that they fell victim to should not be visited on any other Irish worker or small business. Does the Government agree with Mr. Kevin Duffy and Ms Nessa Cahill, the authors of a recent report, on the need to change employment law to protect workers better who are caught in insolvencies like the one at Clerys, which left people out on the street with all of their entitlements gone? Will the Government support the Clerys workers in their search for justice and fair treatment? Will the simple and moderate changes in employment law that were recommended in the Duffy-Cahill report be put into law and implemented by the Government and when will that happen?

The Tánaiste (Deputy Frances Fitzgerald): As the Deputy is aware, a report was published two weeks ago relating to the issues that she has raised. The whole country saw what

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happened to the Clerys workers and was concerned about it. That report has identified changes that could be made to the law. It will be considered under the Government's legislative programme. The Minister for Jobs, Enterprise and Innovation is assessing the report to determine whether legislative change is necessary to deal with the issues that the Deputy outlined.

Deputy Joan Burton: Last week after the Labour Party left office, IBEC strongly refuted the need to change employment law. Does the Government agree with the position taken by the workers or IBEC? This is a simple question. On whose side does the Government stand? After five years of reform to employment and collective bargaining laws inspired by the Labour Party in office, I am horrified to see that the further enhancement of employment legislation in respect of workers barely gets a mention in the programme for Government. If there is a chapter or two or three pages that I have missed, could someone point them out to me? They are not there. As a society, we have problems around-----

Deputy Bríd Smith: The Labour Party was in government for the past five years.

Deputy Brendan Howlin: We always used collective bargaining.

An Ceann Comhairle: One speaker, please.

Deputy Brendan Howlin: Is Deputy Bríd Smith blind?

Deputy Aengus Ó Snodaigh: Tax reliefs and Ministers' pensions.

Deputy Joan Burton: -----protecting people in arranged insolvencies, such as that involving Clerys, that appear to be within the framework of common law but manage to turn workers and businesses out onto the street and offer them no protection. The programme for Government is silent on this important issue.

Deputy Timmy Dooley: It is a bit like what Labour is doing to Deputy Kelly.

Deputy David Cullinane: Who did nothing either.

Deputy Joan Burton: Could the Tánaiste tell us about it, please?

(Interruptions).

The Tánaiste (Deputy Frances Fitzgerald): This issue is currently being examined following the publication of the report that Deputy Burton cited. Clearly, if legislation is required to give the kinds of protection required by situations such as that at Clerys, it will be considered by the Government and will be-----

Deputy Joan Burton: It is not in the programme for Government.

The Tánaiste (Deputy Frances Fitzgerald): That does not exclude it from being considered. The report will be examined. If legislation is required, it can be introduced.

Appointment of Ministers and Ministers of State

Tánaiste and Minister for Justice and Equality (Deputy Frances Fitzgerald): I wish to announce for the information of the Dáil that the Taoiseach having informed the President that Dáil Éireann had approved his nomination of Deputies to be members of the Government, the President on 6 May 2016 appointed them accordingly. On the same day, the Taoiseach nominated me to be Tánaiste and assigned me to the Department of Justice and Equality. On the same date, he assigned the Department of Defence to himself and the other Departments of State to the other members of the Government as follows:

4 o'clock

Department of Finance to Deputy Michael Noonan.

Department of Education and Skills to Deputy Richard Bruton.

Department of the Environment, Community and Local Government to Deputy Simon Coveney.

Department of Social Protection to Deputy Leo Varadkar.

Department of Foreign Affairs and Trade to Deputy Charles Flanagan.

Department of Public Expenditure and Reform to Deputy Paschal Donohoe.

Department of Arts, Heritage and the Gaeltacht to Deputy Heather Humphreys.

Department of Health to Deputy Simon Harris.

Department of Agriculture, Food and the Marine to Deputy Michael Creed.

Department of Communications, Energy and Natural Resources to Deputy Denis Naughten.

Department of Transport, Tourism and Sport to Deputy Shane Ross.

Department of Jobs, Enterprise and Innovation to Deputy Mary Mitchell O'Connor.

Department of Children and Youth Affairs to Deputy Katherine Zappone.

These assignments have been made pending completion of the necessary processes for the establishment of the new Departments and for transfers of functions that the Taoiseach announced in the House on 6 May; on 6 May 2016, the President on the nomination of the Taoiseach, appointed Máire Whelan, SC, as Attorney General; and on the same date, the Government appointed Deputy Regina Doherty to be Minister of State at the Department of the Taoiseach with special responsibility as Government Chief Whip, Deputy Paul Kehoe to be Minister of State at the Department of the Taoiseach and at the Department of Defence with special responsibility for the Department of Defence and Deputy Finian McGrath to be Minister of State at the Department of Social Protection-----

Deputy Timmy Dooley: Tobacco.

(Interruptions).

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The Tánaiste (Deputy Frances Fitzgerald): -----the Department of Justice and Equality and the Department of Health with special responsibility for disability issues.

An Ceann Comhairle: Can we proceed to the Order of Business now?

Deputy Micheál Martin: For smoking cessation.

(Interruptions).

Deputy Micheál Martin: The smoking section of the Cabinet. Thank you, Finian.

Deputy Finian McGrath: I will be back.

Deputy Niall Collins: He will, I would say, and not before long. He did not last long the last time.

Order of Business

The Tánaiste (Deputy Frances Fitzgerald): It is proposed to take No. 2, Adoption (Amendment) Bill 2016 - Order for Second Stage and Second Stage. It is proposed, notwithstanding anything in Standing Orders, that the following arrangements shall apply in relation to No. 2: the opening speech of a Minister or Minister of State and of the main spokespersons for Fianna Fáil, Sinn Féin, the Labour Party, AAA-PBP, Independents4Change, the Social Democrats, the Green Party or a Member nominated in their stead, and a non-party Deputy shall not exceed 30 minutes in each case, and such Members may share their time; the speech of each other Member called upon shall not exceed 20 minutes in each case, and such Members may share their time; and a Minister or Minister of State shall be called upon to make a speech in reply which shall not exceed 15 minutes; and Private Members' business shall be No. 3, Central Bank (Variable Rate Mortgages) Bill 2016 - Order for Second Stage and Second Stage, and the proceedings on the Second Stage thereon shall, if not previously concluded, be brought to a conclusion at 8.30 p.m. on Wednesday, 18 May 2016, and the following time limits and sequence of speakers shall apply: proposer, 40 minutes; Government, 20 minutes; Sinn Féin, 20 minutes; non-group, 25 minutes; the Labour Party, ten minutes; proposer, 30 minutes; Government, 20 minutes; and proposer to reply, 15 minutes.

An Ceann Comhairle: There are two proposals to put to the House today. Is the proposal for dealing with No. 2 agreed to? Agreed. Is the proposal regarding the arrangements for dealing with Private Members' business this evening agreed to? Agreed.

Deputy Micheál Martin: In the context of the programme for Government and in various discussions prior to the formation of the Government, there was considerable discussion on the issue of the casualisation of the workforce and the downward momentum in pay levels generally, particularly in the private sector and some elements of the public sector for new entrants. The circumstances of Tesco workers are particularly worrying. Tesco is endeavouring to change, and is in the process of changing contracts for employees who have been working with it for more than 20 years. It is symptomatic of what is happening in many enterprises. There is a dumbing down, in many respects, of the quality of employment and terms and conditions for people who have given loyal and committed service. It is very unfair on the workers concerned.

At various times, various trade unions will endeavour to enter into negotiations to obtain lump sums, for example, but essentially the jobs themselves and their status are essentially being undermined. It is a worry in terms of the growing gulf in income levels in society. Will the Tánaiste indicate whether the Workplace Relations Commission is considering intervening in that dispute? More widely in terms of the programme for Government, when can we expect some concrete measures to deal with this issue and issues like it?

Second, with regard to the public sector pay commission, which is committed to in the programme for Government, will the Tánaiste indicate to the House when it will be established? Will there be consultation with the Dáil prior to its establishment? Will debate be facilitated with the relevant committee and with the House itself during plenary session? Will the membership of the commission be the subject of consultation and engagement?

Third, there is a commitment in the programme for Government to the development of a second cath laboratory in Waterford University Hospital subject to a favourable recommendation from an independent clinical review of the needs of the region to be carried out within six weeks. Will the Tánaiste confirm when this review is due to commence and who the members of the review team will be?

The Tánaiste (Deputy Frances Fitzgerald): I thank Deputy Micheál Martin. On the first issue raised, there was a report on zero-hours contracts and there is also the report I have mentioned in regard to Clerys. They will obviously be considered by the Minister in regard to the issue the Deputy raised.

I accept the point the Deputy made on casualisation but we have to put it into the context of the growth in the number of full-time jobs and of Ireland being the fastest growing economy in Europe, with GDP growth of 7.8% in 2015. That is the background. We saw 1,000 jobs being created every week in 2015 and 135,000 jobs were created since the Action Plan for Jobs was launched in 2012. There was a very welcome drop in unemployment, down to 8.4% from the peak of 15.2%.

Deputy Micheál Martin: The casualisation of the workforce.

The Tánaiste (Deputy Frances Fitzgerald): Nevertheless, the issues the Deputy raised in regard to Tesco ones to be considered. He mentioned the Workplace Relations Commission. The programme for Government contains reinforcement and support for the work of the commission.

With regard to the commission to be set up, I do not have the details yet but it is intended to establish it in the next couple of months. I can give the Deputy further details when the Taoiseach meets the Ministers, as he intends to do in the next two weeks, to work out the priority programme of legislation. Obviously, the House will then be in a position to examine the precise priorities. I have no doubt that the establishment of the commission will be one of those priorities. The timetable will be seen at that point.

With regard to the laboratory in Waterford University Hospital, it is stated in the programme for Government, as mentioned by the Deputy, that the review will be completed within six weeks. The decision was that there should be an outside expert in the area of the particular services that need to be developed.

Deputy Micheál Martin: Cardiac services.

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The Tánaiste (Deputy Frances Fitzgerald): Cardiac services. I assume it would be an expert clinician who would carry out the review but that is to be determined by the Minister for Health. No doubt, the details of that review will be announced in the coming days.

Deputy Gerry Adams: Tá dhá cheist agam, ceann amháin faoin equality-disability miscellaneous provisions Bill agus ceann eile faoin Lucht Siúil agus an gealltanas i gclár an Rialtais faoin national Traveller and Roma inclusion strategy. Leanfaidh mé ar aghaidh leis an gceist faoin Lucht Siúil ar dtús. The Government signed up in November 2000 to the European Social Charter, including Article 16, which covers the rights of the family to social, legal and economic protection. In the last programme for Government, there was a commitment to deliver on the principles of social inclusion for the Traveller community. The current programme for Government makes a similar commitment and that includes a commitment to publish a national Traveller and Roma inclusion strategy this year. The report of the European Committee of Social Rights and the treatment of Travellers in the Dundalk area of my constituency in January and again in the past week provide evidence of the failure of this commitment. When will the Government publish its Traveller and Roma inclusion strategy? Will the Tánaiste give a commitment that the strategy will take into account the landmark judgment against the State on these issues? Will she also give a clear date by which the distinct ethnicity of Travellers will be recognised by the State? Some 19 months ago the previous Government gave a commitment to do this within six months. Will the Tánaiste also urge the Minister for the Housing, Planning and Local Government, Deputy Simon Coveney, to use his authority to prevent further evictions of Traveller families?

On the Equality (Miscellaneous) Provisions Bill, the State signed up to the United Nations Convention on the Rights of Persons with Disabilities in 2007. Despite a commitment to ratify the convention in law in the previous programme for Government, ratification did not proceed. The new programme for Government contains much of the same rhetoric as its predecessor and commits to the introduction of enabling legislation. Five and a half years after this commitment was made, the relevant Bill has not been published and did not even make it to the most recent list of priority legislation. The new Minister of State with responsibility for disability services stated the UN convention would be ratified within six months and the programme for Government includes a commitment to bring draft legislation before the Oireachtas before the end of the year. When will the legislation be introduced and when will the UN convention be ratified? The new super junior Minister indicated it would be ratified within six months.

Deputy Finian McGrath: It will be done.

The Tánaiste (Deputy Frances Fitzgerald): To answer Deputy Gerry Adams's final question, I confirm that Ireland will be able to ratify the UN Convention on the Rights of Persons with Disabilities within the next six months on the basis that the capacity legislation was passed towards the end of last year. That was the final significant Bill that had to be passed before Ireland could fully implement the convention. Some further changes to a number of Acts will be necessary to fully comply with the convention. The heads of the amending Bills were brought to the Cabinet towards the end of last year. The relatively minor changes required are being drafted and once they have been implemented, we will be in a position to ratify the convention. Ratification is overdue and the Government has given a commitment to take this necessary step. I expect it to be done within the next six months.

The Deputy also raised the issue of Traveller and Roma inclusion. I confirm that a new revised national Traveller and Roma inclusion strategy aimed at improving the lives of mem-

bers of the Traveller and Roma communities will be in place by the end of the year. Work on the strategy is under way and a special working group will be established to audit the current delivery and implementation of local authorities' Traveller accommodation plans and consult stakeholders in key areas of concern. The working group should report on a plan for the delivery of safe, culturally appropriate accommodation.

I note that the Deputy referred to the report issued by the European Committee of Social Rights. It is important to read the report in full as it recognises much of the work done by previous Governments, including the most recent, on the issues it examined. Several complaints were examined by the committee and it is reassuring to note that it found that Ireland was meeting its international obligations in the context of the adequacy of the legislative framework in place and the delegation of statutory responsibility to local authorities to meet the accommodation needs of Travellers. It did not find any violation of Article 16 in that regard. It recognised the progress made in a number of areas, while identifying that further work needed to be done on the issue of Traveller accommodation.

Deputy Gerry Adams: The committee found against the Government.

The Tánaiste (Deputy Frances Fitzgerald): Its findings were mixed. It found in favour of the Government on a significant number of the issues it had addressed. It also found areas where there was no violation and some areas where there was. I am merely highlighting that the report's findings on how we are meeting our obligations in that area are mixed.

On Traveller ethnicity, this issue will form part of the discussions on developing a new Traveller and Roma inclusion strategy.

Deputy Joan Burton: Is the Tánaiste aware that, from September onwards, every employer is supposed to offer new fathers two weeks' paternity leave following the birth of a child and that the time to make legislative provision for this welcome and progressive measure is fast running out? When will the family leave Bill 2015 be brought before the House? As the Tánaiste is probably aware, the proposed scheme is insurance based and unless the legislation is passed in good time, it will be impossible to implement the measure by 1 September, as promised in budget 2016.

My second question is also linked with social protection. When will the Health (Miscellaneous) Provisions Bill 2016 which amends the Public Health (Standardised Packaging of Tobacco) Act 2015 be brought before the Oireachtas? I understand the failure to progress this legislation has delayed measures that would bring Ireland into compliance with the EU directive of 2014. We were promised that plain packaged cigarettes would be the legal norm from 1 January 2017. It appears, however, that the delays, including in the formation of the Government, and perhaps changes in the views held by members of the Government have caused the legislation to be put on the long finger. Ireland may amass fines as a consequence, but, more importantly, many more people will become attracted to smoking through its packaging, thereby running the risk of serious disability and death. While we all sympathise with people who have an addiction to nicotine, we do not want children, through seductive advertising on the packaging of cigarettes, to be brought into a web of addiction that would be extremely damaging to their health.

There are no costing figures attached to the programme for Government which includes a wide variety of aspirations and proposals. A number of specific local promises have also been made to various Independent Deputies who are members or supporters of the Government.

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When will a costed programme for Government be put before the House and when will the Dáil have an opportunity to debate it?

Deputy Micheál Martin: It is an awful pity the previous Government did not cost its programme for Government.

Deputy Brendan Howlin: We were saving the country.

Deputy Micheál Martin: The health costings would have been enormous.

The Tánaiste (Deputy Frances Fitzgerald): We went in the right direction.

Deputy Micheál Martin: The Labour Party is moving commendably fast.

Deputy Brendan Howlin: The Deputy's legacy amounted to €64 billion.

An Ceann Comhairle: We will have one speaker at a time. I ask Deputies to restrain themselves and allow the Tánaiste to reply.

The Tánaiste (Deputy Frances Fitzgerald): On the necessity to complete legislation on paternity leave in a timely manner, I am aware that Deputy Joan Burton was very committed to the Bill to which she referred, as is the Government, and I have no doubt that it will be passed in a timely manner. As the Deputy noted, an insurance based scheme must be in place if the payments are to be made later in the year.

On compliance with the EU directive, I do not have a timeframe for the introduction of legislation on tobacco packaging. Departments are currently familiarising themselves with their portfolios and the commitments in the programme for Government and a legislative programme outlining Government priorities will issue in the coming weeks.

We have made contact with Departments regarding the restoration to the Order Paper of Bills that lapsed with the dissolution of the Dáil and the Seanad and hope to have that information in full in the coming weeks. The costings for the programme are within the €6.75 billion envelope and the whole programme is within the fiscal rules.

An Ceann Comhairle: The clocks appear to have stopped operating, but I am sure that has nothing to do with the length of the contributions made by various Members.

Deputy Mick Barry: I wish to make a brief point on behalf of the AAA-PBP regarding the Order of Business. Our grouping has not been included in Leaders' Questions this week nor are we included for next week. I understand this is because the House is currently operating on the basis of what we would call the old Standing Orders. We have been offered the facility of a technical group as an opportunity to contribute under Leaders' Questions. However, we are here as AAA-PBP rather than as a technical group and that offer is not satisfactory. It has been explained to us that the new arrangements arising from the Sub-Committee on Dáil Reform will be in place the week after next and we welcome that. We feel that to be fair to all sides of the House this change is necessary and that provision for it must be in place by the end of next week so that we start fresh the week after next with our full rights and entitlements in the House.

The Tánaiste (Deputy Frances Fitzgerald): We are operating on Standing Orders dating from 2002, but I understand the issue the Deputy has raised will be addressed by the proposals and work done on Dáil reform. I am sure the Ceann Comhairle can confirm that work is ongo-

ing to deal with the points the Deputy has raised.

Deputy Michael Healy-Rae: I congratulate the Tánaiste on her reappointment as Minister and on her elevation to the role of Tánaiste and wish her good luck with that role.

She may be aware that the local authority tenant purchase scheme that has been introduced debars 82% of local authority tenants from applying to purchase their homes. The programme for Government tries to address this, but I am concerned by the seriousness of the situation that 82% of people living in a local authority home who wish to purchase that house are automatically debarred from doing so because of how the scheme has been set up. I call for somebody in government to look at this issue with a view to addressing it. The problem is serious and should be taken on board. We tried to ensure it would be included in the programme for Government, but it must be tackled by the relevant Minister urgently. Letters are being issued offering people the opportunity to purchase their homes, but people realise that they cannot actually do so. This is very serious.

The Tánaiste (Deputy Frances Fitzgerald): I will ask the Minister with responsibility for housing, Deputy Coveney, to liaise directly with the Deputy on this issue and on the current approach. I am aware of the issue, which is a long-standing one that has not been dealt with. There are a range of barriers against people who wish to purchase their accommodation. A significant proportion of people in local authority housing would like to purchase their homes but cannot do so currently.

Deputy Mattie McGrath: I too congratulate the Tánaiste and wish her well on her elevation to that office.

I want to ask about a matter relevant to the new Minister with responsibility for jobs, Deputy Mitchell O'Connor. Today, Suir Pharma Ireland in Clonmel closed without notice with the loss of 134 jobs. Will the Tánaiste ask her office to intervene in that situation to see if something can be done for these workers? I note the Minister for Health is present in the House. An important mental health institution in Tipperary town, run by the Friends of Mount Sion, is threatened with closure. This is a vital institution for rehabilitation and long-stay patients who suffer with mental health issues. We have had debates here on these pressing issues. Will the Tánaiste please urge the Minister for Health to look into that situation also?

An Ceann Comhairle: I am loth to interrupt Deputy Mattie McGrath or any other Deputy, but I wish to point out that we are dealing with promised legislation or the programme for Government.

Deputy Mattie McGrath: It is all in the programme. Tá sé ansin.

An Ceann Comhairle: Fair enough if it is in the programme for Government.

Deputy Brendan Howlin: Everything is covered in that document.

The Tánaiste (Deputy Frances Fitzgerald): It is comprehensive.

Deputy Brendan Howlin: Is Deputy Mattie McGrath in or out?

An Ceann Comhairle: Please do not respond to that provocation.

The Tánaiste (Deputy Frances Fitzgerald): I wish to reassure Deputy Mattie McGrath

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that the Minister has been briefed in regard to the job losses he mentioned and her Department is aware of the situation. I am sure she will take the appropriate action.

In regard to the facility the Deputy mentioned, I am sure the Minister for Health, Deputy Harris, will be in touch with the Deputy on the matter. I do not have the details on it.

Deputy Mattie McGrath: It is Anam Cara, Tipperary.

Deputy Pearse Doherty: I am looking forward to the debate on Thursday in regard to the changes to the Order. Perhaps we will need to look again at page 27, when we have sanctions for Ministers who refuse to answer questions, and provide that this will extend to Leaders' Questions, given the Tánaiste's refusal to answer simple questions on the Higgins report.

When is it anticipated joint committees will be formed, which will allow for legislation to be considered? We are discussing forthcoming legislation here, but it appears, judging by the number of moving parts, that it may be from four to five weeks before committees are established and can get down to dealing with committee work on legislation that will be resubmitted on the Order Paper and which is ready for Committee Stage. Can the Tánaiste give us an indication of the timeframe in that regard?

On the commitment in the programme for Government to bring forward legislation to suspend the application of water charges, will the Tánaiste outline to the Dáil when it is intended that legislation will be brought forward? A commitment was made to do it within six weeks, but will she elaborate on that commitment? When is it intended this legislation will have passed both Houses of the Oireachtas? Given the six weeks for bringing forward the legislation, this leaves only four weeks before the summer recess. It appears very ambitious that this legislation will be enacted before the summer recess. Therefore, this will allow another two full cycles of Irish Water billing to take place in the meantime. Will the Tánaiste inform the Dáil on these two issues?

The Tánaiste (Deputy Frances Fitzgerald): The establishment of the new committees is linked with the Dáil reform programme which contains proposals on the number and range of committees we need in place. The Whip assures me that work is ongoing on the establishment of the committees, but that will take a number of weeks.

On the legislation in regard to Irish Water which is expected shortly, I expect and it is the intention that it will go through the Dáil before the summer recess.

Deputy Pearse Doherty: And through the Seanad?

The Tánaiste (Deputy Frances Fitzgerald): Yes, that is the intention.

Deputy Patrick O'Donovan: Last week we had an enlightening debate in the House on the issue of crime. While Deputy English, as Minister of State, was in the front bench, I and a number of other Deputies raised an issue regarding the allocation of free legal aid. I asked then if time could be allocated for a debate in the House on what I and a number of Deputies see as abuses relating to the allocation of free legal aid. I refer specifically to the situation where free legal aid can be allocated to a Member of Dáil Éireann whose salary is in excess of €85,000 per year and it is perceived by the courts that the individual in question does not have means. People up and down the country are outraged by the abuse of a system originally designed to ensure people were allocated representation before our courts when they did not have means

and by the idea that people can siphon off part of their income to a political protest movement to avoid being captured by the means test process.

Are there proposals within the Department of Justice and Equality to bring forward amending legislation or other legislative measures to deal with this? Will the Whips agree on this? There was universal agreement in the House that there should be a debate on this and I raised it in the last Dáil in 2014. Some €50 million in taxpayers' money is being spent on free legal aid. If people on salaries of more than €85,000 per annum are going to be allocated aid by the Courts Service, there is an immediate need for amending legislation, some legislative measure such as regulations or policies to ensure this is not allowed.

The Tánaiste (Deputy Frances Fitzgerald): I will not comment on a particular judicial decision on the granting of free legal aid but my Department is looking at changes in the legislation on free legal aid. There are constitutional issues over access to free legal aid and these have to be respected but if it is possible to amend the legislation in some way to ensure a person who is in a position to make a contribution to the cost does so, that should happen. We are also looking at issues around the transfer of responsibility for legal aid. I would welcome a debate in the House and the chance to hear the views of Members. There have been changes in the UK recently and I would be happy to hear the views of Members of the House to see if improvements can be made to the scheme.

Central Bank (Supervision and Enforcement) (Amendment) Bill 2016: First Stage

Deputy Noel Rock: I move:

That leave be granted to introduce a Bill entitled an Act to amend sections 49 and 51 of the Central Bank (Supervision and Enforcement) Act 2013 to ensure the powers exercised by the Central Bank of Ireland to make regulations, conferred by the Central Bank (Supervision and Enforcement) Act 2013 are fit for purpose; and to provide for related matters.

An Ceann Comhairle: Is the Bill opposed?

Minister of State at the Department of the Taoiseach(Deputy Regina Doherty): No.

Question put and agreed to.

An Ceann Comhairle: Since this is a Private Members' Bill, Second Stage must, under Standing Orders, be taken in Private Members' time. I ask the Deputy to move and, if he wishes, to give a brief outline of his Bill.

Deputy Noel Rock: I move: "That the Bill be taken in Private Members' time."

The purpose of the Bill is to ensure that a better balance is struck between maintaining banking independence while ensuring regular and important input from elected legislators in the Oireachtas and in the relevant committees. This will ensure policy-makers set forth proposals which will be both useful to, and used by, the Central Bank while also ensuring that the Central Bank is fully apprised of the impact of any changes which it proposes on the citizenry.

I look forward to working with all Members to improve this Bill at a later stage. Amendments I have heard of to date include more extensive Oireachtas committee involvement than

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what I have envisaged in what I have put forward. The ultimate intention of this Bill is to ensure that solutions put forward are useful to the Central Bank and will be used by the Central Bank while also protecting its independence and ensuring the Oireachtas can engage more fruitfully with it and *vice versa*.

Question put and agreed to.

An Bille um an gCúigiú Leasú is Tríocha ar an mBunreacht (Uisce faoi Úinéireacht Phoiblí) 2016: An Chéad Chéim

**Thirty-fifth Amendment of the Constitution (Water in Public Ownership) Bill 2016:
First Stage**

Deputy Thomas Pringle: Tairgim:

Go gceadófar go dtabharfar isteach Bille dá ngairtear Acht chun an Bunreacht a leasú.

I move:

That leave be granted to introduce a Bill entitled an Act to amend the Constitution.

An Ceann Comhairle: Is the Bill opposed?

Minister of State at the Department of the Taoiseach(Deputy Regina Doherty): No.

Cuireadh agus aontaíodh an cheist.

Question put and agreed to.

An Ceann Comhairle: Since this is a Private Members' Bill, Second Stage must, under Standing Orders, be taken in Private Members' time. I ask the Deputy to move and, if he wishes, to give a brief outline of his Bill.

Deputy Thomas Pringle: Tairgim: "Go dtógfar an Bille in am Comhaltaí Príobháideacha."

I move: "That the Bill be taken in Private Members' time."

The purpose of this Bill is to enshrine in the Constitution the maintenance in public ownership of the water sources, treatment and distribution networks throughout the State to ensure water stays as a public good and in public ownership and cannot be privatised without the will of the people being ascertained beforehand.

Cuireadh agus aontaíodh an cheist.

Question put and agreed to.

An Bille um an gCúigiú Leasú is Tríocha ar an mBunreacht (Ceartha Eacnamaíochta, Sóisialacha agus Cultúir) 2016: An Chéad Chéim

**Thirty-fifth Amendment of the Constitution (Economic, Social and Cultural Rights) Bill
2016: First Stage**

Deputy Thomas Pringle: Tairgim:

Go gceadófar go dtabharfar isteach Bille dá ngairtear Acht chun an Bunreacht a leasú.

I move:

That leave be granted to introduce a Bill entitled an Act to amend the Constitution.

An Ceann Comhairle: Is the Bill opposed?

Minister of State at the Department of the Taoiseach(Deputy Regina Doherty): No.

Cuireadh agus aontaíodh an cheist.

Question put and agreed to.

An Ceann Comhairle: Since this is a Private Members' Bill, Second Stage must, under Standing Orders, be taken in Private Members' time. I ask the Deputy to move and, if he wishes, to give a brief outline of his Bill.

Deputy Thomas Pringle: Tairgim: "Go dtógtar an Bille in am Comhaltaí Príobháideacha."

I move: "That the Bill be taken in Private Members' time."

This Bill is to enshrine economic, social and cultural rights in the Constitution and to ensure that those vitally important rights are recognised throughout our Constitution, leading to a change in how Government does business within the State by ensuring it has to take cognisance of those rights in devising policy and legislation into the future.

Cuireadh agus aontaíodh an cheist.

Question put and agreed to.

Adoption (Amendment) Bill 2016: Order for Second Stage

Bill entitled an Act to amend and extend the law in relation to the adoption of children; and, for that purpose, to amend the Adoption Act 2010; to provide for the repeal of Part 11 of the Children and Family Relationships Act 2015; and to provide for related matters.

Minister for Children and Youth Affairs (Deputy Katherine Zappone): I move: "That Second Stage be taken now."

Question put and agreed to.

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Adoption (Amendment) Bill 2016: Second Stage

Minister for Children and Youth Affairs (Deputy Katherine Zappone): I move: “That the Bill be now read a Second Time.”

I am very pleased to bring forward the Adoption (Amendment) Bill 2016. The Bill was published earlier this month by my predecessor as Minister for Children and Youth Affairs, Dr. James Reilly, and I would like to acknowledge his important contribution in bringing the Bill to this Stage. The Bill contains a number of very important changes to adoption legislation arising from the children referendum which was held in 2012.

As an independent Member and a human rights advocate, I welcome the fact the first piece of legislation to be brought before the new Dáil relates to significant improvements to the rights of children. Most important, this Bill will give a voice to the child and we will finally put the best interests of the child at the centre of any decision regarding adoption. The views of the child will be given due weight, taking account of his or her age and maturity. We will probably require a learning curve in order to do this and we should let our children help us learn how to do it. Let them be our teachers and let us ensure we listen to the diverse voices of our children, especially as they grow to embrace who they are in their identity as they move from birth and background to who they imagine themselves to be in their heart, body, mind and soul.

Adoption was first legislated for in this country in the early 1950s. The regulatory framework has been strengthened over many years in an attempt to ensure that the best interests of children are protected at every step throughout the adoption process. The Adoption Act 1952 was the principal Act in force until the enactment of the Adoption Act 2010, which updated and restated the 1952 Act and all subsequent amending legislation into a single Adoption Act. The 2010 Act gave force of law to the Hague Convention on Protection of Children and Co-Operation in Respect of Intercountry Adoption.

The 2010 Act also provided for the establishment of the Adoption Authority of Ireland. The Adoption (Amendment) Bill 2016, which is on Second Stage today, will amend the 2010 Act to give effect to the children referendum of 2012 and will also set out new provisions for step-parents wishing to adopt a child.

Adoption is a hugely significant event in the life of a child. It has lifelong implications for the child concerned, for the parents who place that child for adoption and for the parents who adopt that child. As legislators, we have a responsibility to ensure that the legislation supports and safeguards the child and his or her parents or guardians throughout the process. Adoption is a way of providing a new family for a child who cannot be cared for by his or her parents. It is a legal procedure which transfers parental rights and duties from parents or guardians to adoptive parents. The decision of the people in the children referendum of November 2012 endorsed the proposition of the Government of the day to move the position of children on to a new plane as regards recognition of the unique qualities, as well as vulnerabilities, of childhood and adolescence. It gave effect to the opportunity for this generation to author an enduring positive message to future generations that we place the protection and welfare of children amongst the highest values of our society. It is a great credit to the Irish people that, through Article 42A of the Constitution, clear expression has been given to the imperative that children are to have the full rights and protections of all citizens under the law on the basis of equality, including as regards adoption.

The insertion of Article 42A into the Constitution gave children rights which have not, heretofore, been enunciated in the Constitution. For the first time, the Constitution contains an express statement of children's rights. The Bill I am bringing forward today gives legislative effect to the constitutional amendment as it relates to adoption, including providing that, in the resolution of any matter, application or proceedings under the 2010 Act, the Adoption Authority or the court, as the case may be, shall regard the best interests of the child as the paramount consideration.

Changes which arise from the children referendum are part of this Bill. To give effect to the constitutional amendment, the Bill provides for several changes, as follows: first, the right of any child to be adopted, irrespective of the marital status of his or her parents, where both parents consent to the placing of the child and to the making of an adoption order; second, the best interest of the child to be the paramount consideration in regard to any matter, application or proceedings under the Adoption Act 2010, and, in that regard, for the views of the child to be ascertained by the Adoption Authority or by the court and for those views to be given due weight, having regard to the age and maturity of the child; and, third, a change in the criteria under which the High Court may, in a case of parental failure, make an order authorising the adoption of a child without parental consent.

The Bill deals with an issue which has caused concern for some parents over the years, namely, the adoption of a child by a step-parent. Step-parent adoption was not specifically provided for in the Adoption Act 2010. Currently, a step-parent may apply to adopt the child jointly with the child's parent. In those circumstances, the child's parent is also required to adopt his or her own child, and both the step-parent and the parent both become adoptive parents. I do not consider this to be acceptable.

To address this, the Bill provides for the adoption of a child by his or her step-parent without the requirement for the child's other parent to adopt his or her own child, where that other parent is the spouse, civil partner or cohabitant of the proposed adopter. The step-parent will be the sole adopter and will have parental rights and duties in respect of that child as a result of the adoption being effected. Under this Bill, the parent will continue to be a parent and the step-parent will be an adoptive parent.

In addition, the Bill repeals Part 11 of the Children and Family Relationships Act 2015 which, I am sure Deputies will agree, is a substantial and progressive Act with wide-ranging implications for child and family law in this country. Part 11 of that Act amended the Adoption Act 2010 to provide for civil partners and cohabiting couples to be eligible to apply to adopt a child. Certain provisions of Part 11 require amendment in order to clarify that the 2010 Act adequately protects the rights of those persons whose consent to an adoption is required and generally to ensure a robust legislative basis for adoption. The repeal of Part 11 allows for the sections providing for the adoption of a child by civil partners and cohabiting couples to be inserted into the Adoption (Amendment) Bill. This will assist in achieving clarity and coherence in our adoption legislation, with the added benefit of providing for adoption law in adoption Acts.

I will now address the specific provisions of the Bill. The primary purpose of the Bill is to give legislative effect to the Thirty-first Amendment of the Constitution following on from the children referendum.

Section 1 provides that "Principal Act" means the Adoption Act 2010. Section 2 provides

for the repeal of sections 24 and 45 of the Adoption Act 2010 and for the repeal of Part 11 of the Children and Family Relationships Act 2015. The repeal of section 24 is consequential on the amendment of section 23 of the 2010 Act, which is provided for in section 12 of the Bill. The repeal of section 45 is to clarify that a previously adopted child is eligible for adoption in the same way as any other child. The repeal of Part 11 of the Children and Family Relationships Act 2015, and the bringing forward of relevant sections from that Act into the Adoption (Amendment) Bill, ensure that provisions allowing for the adoption of a child by civil partners or cohabiting couples are encompassed in primary adoption legislation.

Section 3 of the 2010 Act provides for definitions. Section 4 amends section 4 of the 2010 Act to provide that the term “birth parents” is replaced by “parents”. Section 5 provides for the inclusion of “mother” and “father” in the definition of “guardian” in section 12 of the 2010 Act.

Section 6 amends section 16 of the 2010 Act and replaces the term “father” with “relevant non-guardian” in order that each person who is included in the definition of “relevant non-guardian”, as set out in section 3 of the Bill, may give notice of his or her wish to be consulted in regard to an application for an adoption order by a mother, step-parent or relative of a child. Section 7 of the Bill replaces the term “father” with “relevant non-guardian” in section 17 of the 2010 Act in order that each person who is included in the definition of “relevant non-guardian”, as set out in section 3 of the Bill, is included in the category of persons with whom consultation is required prior to the placement of a child for adoption.

Section 8 of the Bill inserts a new section 18 into the 2010 Act to replace the term “father” with “relevant non-guardian”, as defined in section 3, in order that each person who is included in the definition of “relevant non-guardian” is included in this section. This section sets out the circumstances wherein the authority may, with the approval of the High Court, authorise the placing of a child for adoption and dispense with the requirement for consultation with the child’s “relevant non-guardian”.

Section 9 of the Bill amends section 19 of the 2010 Act by substituting a new section 19 to reflect Article 42A of the Constitution and to provide that in any matter, application or proceedings under the 2010 Act before the Adoption Authority or any court, the authority or the court, as the case may be, shall regard the best interest of the child as the paramount consideration in the resolution of such matter, application or proceedings. The section also provides that in the resolution of any matter, application or proceedings referred to in the section, the authority or court, as the case may be, shall, in respect of any child who is capable of forming his or her own views, ascertain the child’s views and such views shall be given due weight, having regard to the age and maturity of the child.

Section 10 of the Bill amends section 20 of the 2010 Act to enable the Adoption Authority to make an adoption order in respect of civil partners or a couple who have been cohabiting for over three years, if they have been assessed as eligible and suitable to adopt. It also provides for an intercountry adoption undertaken outside the State to be recognised where the adopting couple are civil partners or cohabitants who have cohabited together for over three years.

Section 11 amends section 21 of the 2010 Act by substituting a new subsection (2) to provide that the Child and Family Agency shall give notice of discontinuance of adoption proceedings to the authority, any adoption committee concerned, the mother or guardian and every relevant non-guardian of a child.

Section 12 amends section 23 of the 2010 Act to provide for eligibility for adoption of any child residing in the State who is under the age of 18 years and has been in the care of the applicants for the prescribed period, if any such period has been prescribed. The section also deletes the reference to eligibility for adoption of a child who is an orphan or born to parents not married to each other. The section also provides that a step-parent may adopt a child where that child has had a home with his or her parent and step-parent for a continuous period of not less than two years at the date of application for the adoption order.

Section 13 amends section 30 of the 2010 Act to replace the term “father” with “relevant non-guardian” in order that all persons included in the definition of “relevant non-guardian” are persons with whom consultation is required under the section.

Section 14 amends section 31 of the 2010 Act by substituting a new section 31 to provide that in circumstances where a child has been placed with prospective adopters and, where prior to the final adoption order being made, a person whose consent to the making of the adoption order is necessary fails or refuses to give consent or withdraws a consent already given, the applicant or applicants may apply to the High Court for an order giving custody of the child to the applicant or applicants for such period as the court may determine and authorising the authority to dispense with the consent to the making of an adoption order in favour of the applicants. In these circumstances the section provides that the High Court shall have regard to the relationship between the child and the applicants and the relationship between the child and his or her mother or guardian, the efforts made by any of these persons to develop or maintain such a relationship and any proposed arrangement of either the applicants and the mother or guardian for the future care of the child. The section also provides that the High Court shall, in so far as is practicable, give due weight to the views of the child, having regard to his or her age and maturity.

Section 15 amends section 32 of the 2010 Act to provide that the authority shall not make an adoption order in circumstances where the child, the applicant or applicants for an adoption order and every person whose consent to the adoption is required under section 26 of the 2010 Act are not all of the same religion, if of any religion, unless every person whose consent is required to the adoption knows, when so consenting, the religion, if any, of the applicant or applicants.

Section 16 amends section 33 of the 2010 Act to provide that a couple who are civil partners of each other, a cohabiting couple and a step-parent of a child are included in the categories of persons eligible to apply for an adoption order or the recognition of an adoption order effected outside the State.

Section 17 amends section 34 of the 2010 Act to bring forward the provisions of section 115 of the Children and Family Relationships Act 2015 into the Bill to provide that a couple who are civil partners of each other and a cohabiting couple are included in the categories of persons whose suitability for an adoption order or the recognition of an adoption order effected outside the State must be satisfactory to the Adoption Authority prior to the making by it of an adoption order or the recognition of an adoption order effected outside the State.

Section 18 amends section 37 of the 2010 Act to provide that a couple who are civil partners of each other, a cohabiting couple and a step-parent are included in the categories of persons who may apply to the Child and Family Agency for an assessment of eligibility and suitability and the issuance by the Adoption Authority of a declaration of eligibility and suitability in accordance with that assessment.

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Section 19 amends section 38 of the 2010 Act by providing that the Child and Family Agency shall give notice of the discontinuance of an application for assessment under section 37(1) to the Adoption Authority, the adoption committee concerned, the mother or guardian of the child and every relevant non-guardian of the child.

Section 20 amends section 40 of the 2010 Act by providing that a couple who are civil partners of each other and a cohabiting couple are included in the categories of persons in whose favour the Adoption Authority may issue a declaration of eligibility and suitability.

Section 21 brings forward the provisions of section 119 of the Children and Family Relationships Act 2015 into section 41 of the 2010 Act to provide that a couple who are civil partners of each other and a cohabiting couple are included in the categories of persons in whose favour the Adoption Authority may extend the time period of the declaration of eligibility and suitability and from whom the authority may hear on new information or a change in relevant circumstances in this regard.

Section 22 amends section 43 of the 2010 Act to provide that a “relevant non-guardian” is included in the category of persons entitled to be heard by the Adoption Authority on the application for an adoption order.

Section 23 amends section 54 of the 2010 Act to provide for revised criteria under which the High Court may authorise the making of an adoption order without parental consent where, unfortunately, a child’s parents have failed in their duty towards him or her. Under the revised criteria, the child must be in the custody of and have a home with the applicants for a continuous period of not less than 18 months and the High Court shall be satisfied that the parents of the child have failed in their duty towards him or her for a period of 36 months and that there is no reasonable prospect that the parents will be able to care for the child in a manner that will not prejudicially affect his or her safety or welfare.

Section 24 amends section 58 of the 2010 Act to provide that an adopted child shall be considered, with regard to the rights and duties of parents and children in relation to each other, as the child of the adopter or adopters and that the child’s mother, guardian or relevant non-guardian shall lose all parental rights and be freed from parental duties in respect of him or her.

Section 25 inserts a new section 58A into the 2010 Act to provide that a child’s mother or guardian shall not lose all parental rights in respect of his or her child when that child is adopted by a step-parent. The section provides that a child who is adopted by his or her step-parent shall, on the making of an adoption order, be regarded as the child of that step-parent and the step-parent’s spouse, civil partner or cohabitant shall retain all parental rights in respect of him or her.

Section 26 amends section 59 of the 2010 Act to replace the term “birth parents” with “parents” and to clarify that the reference to “parents” in section 59 is a reference to a child’s “birth parents” only.

Section 27 provides that for the purposes of section 60 of the 2010 Act, an adopted person is to be regarded as the child of his or her adopter, not the child of his or her pre-adoption parents. The section provides that references to adopters who are a couple also include adopters who were married to each other, civil partners of each other or a cohabiting couple at the time the adoption order concerned was made but who are no longer married to each other, civil partners of each other or living together as a cohabiting couple, as the case may be at the time of the

disposition of the property concerned.

Section 28 amends section 61 of the 2010 Act to provide that, subject to section 58A of the 2010 Act, for the purposes of stamp duty chargeable on conveyances or transfers of land, an adopted person is regarded as the child of his or her adopter or adopters, not the child of any other person.

Section 29 amends section 62 of the 2010 Act to provide that the term “birth parent” is replaced with “parent” in each place where it occurs.

Sections 30 to 33, inclusive, amend sections 68, 69, 78 and 79 of the 2010 Act to provide that the term “birth parent” is replaced with “person” to provide for circumstances where a person other than a “birth parent” may be required to consent to the making of an adoption order.

5 o'clock

Section 34 amends section 84 of the 2010 Act to provide that the entry of particulars in the adopted children register are appropriate particulars in respect of the type of adoption concerned. Section 35 amends section 85 of the 2010 Act to provide that in the case of a subsequent adoption any reference to a previous adoption will be excluded in a copy or extract of the entry. Section 36 amends section 97 of the 2010 Act to provide that the “father” is again replaced with “relevant non-guardian” in order that the Adoption Authority, when making rules regarding its procedures and governing the consultation required with a person, shall include each person who is included in the definition of “relevant non-guardian” as defined in section 2 of the Bill.

Section 37 amends section 125 of the Adoption Act 2010 to provide that a civil partner of a parent of a child and a cohabitant of a parent of a child, where the cohabitant and parent are a cohabiting couple, are included in the categories of persons who are not precluded from giving or receiving a child for adoption. Sections 38 and 39 amend sections 144 and 145 of the 2010 Act to clarify that the reference to a “guardian” in those sections is a reference to a “guardian” as defined in the Guardianship of Infants Act 1964.

Section 40 amends Schedule 3 of the Adoption Act 2010 to provide that the term “marital status” is replaced in the section with the term “civil status” and that the Schedule includes the required particulars for all adoptions. Section 41 is a standard provision setting out that the Bill shall come into operation on such day or days as the Minister for Children and Youth Affairs may appoint by order or orders, either generally or with reference to any particular purpose or provision, and different days may be appointed for different purposes or different provisions, and also provides for the repeal of Part 11 of the Children and Family Relationships Act 2015.

I look forward to hearing the views of Deputies on these important issues. I am also very grateful to Deputy Kathleen Funchion for attending a briefing with me and my officials yesterday. It is very important to me to consult with all political parties, independents and any others who wish to be briefed on Bills prior to coming to the Dáil. I express my genuine openness to Deputies' views to assist me in making this the best legislation for our children. I commend the Bill to the House.

Deputy Robert Troy: At the outset let me, on her first day as a Minister in the Dáil Chamber, congratulate Deputy Zappone on her appointment and wish her the very best of luck in her role. I have no doubt that she comes with a wealth of experience in this area and that she will bring very positive and meaningful contributions to her Department. I also thank her for her

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kind words to me last week at the Children's Rights Alliance AGM. I very much appreciate them. I apologise that, unfortunately, due to the short notice of the briefing yesterday-----

Deputy Katherine Zappone: I appreciate that.

Deputy Robert Troy: -----I had prior commitments in my constituency and could not be there. I agree with her that it is very welcome that this is one of the first pieces of legislation to be debated in this Dáil term. One of the most significant developments in child protection in recent years has been the constitutional change approved by the people of Ireland in November 2012.

Article 42A “affirms the natural and imprescriptible rights of all children” and places children's views and their best interests at the centre of court proceedings regarding care, adoption, guardianship, custody and access. Fianna Fáil welcomes and is fully supportive of this long-overdue adoption legislation, which gives legislative effect to this constitutional change, requiring that the views of the child shall be heard and given due weight in adoption cases.

We must begin by acknowledging that the Bill deals with a sensitive and extremely difficult area, namely, that of adoption proceedings, adoption orders and adoption eligibility. However, it is an area in which, if nothing else, we can all agree that the paramount concern must be the best interests of the child. The child has an inalienable, and now constitutionally enshrined right to ensure that his or her best interests are always the fundamental and sole concern in adoption cases. The Bill further provides that children's own wishes, desires and views regarding their best interests are valued and should, as far as practicable, have a significant bearing on court decisions made.

Few matters can be of such importance to a child's welfare and well-being as cases involving custody, guardianship and adoption. It is a sign of how much our society has developed that we recognise in our Constitution, and in legislation giving effect to these constitutional provisions, that in fundamental matters of importance, children have a right to form a view, have their view heard and that that view be given due weight in cases that affect them.

While the amendments in this Bill giving effect to both Article 42A.4.1°, that “the best interests of the child shall be the paramount consideration”, and Article 42A.4.2°, that “the views of the child shall be ascertained and given due weight”, are to be welcomed, I believe that further scrutiny may be required in this area to ensure that the views of the child are ascertained in all adoption cases. In particular, there is a strong argument to be made that guidelines or even further legislation may be required to give full effect to Article 42A, in particular the provisions that the best interests and the views of the child are heard and considered in adoption proceedings. I intend to return to this point in my concluding remarks.

I welcome the other elements of this Bill, which will bring greater clarity to adoption legislation in the context of non-married couples and civil partners. Adoption provides security to children and strengthens families, but our laws have unfortunately been out of step with the reality of modern life for a long time. These changes, which clear the way for non-married couples and civil partners to jointly adopt, are long overdue and welcome.

I also welcome the removal of the anomaly regarding step-parents. Step-parent adoption usually refers to the adoption of a child by a birth mother and her spouse, who is not the birth father of the child. At present, under current adoption legislation, there is a senseless legal anomaly whereby if only the birth parent's spouse adopts the child, the birth parent would lose

her rights and responsibilities regarding the child and would no longer be the child's guardian. The Coalition of Mother and Baby Home Survivors referred to this anomalous law as "ridiculous and woefully outdated". This Bill corrects this anomaly, introducing an amendment whereby the parent will continue to be the parent and the step-parent will be an adoptive parent.

This Bill also includes provisions that will give greater legislative clarity to adoption proceedings in the case of parental failure. The amended section provides for the High Court to authorise the Adoption Authority to make an adoption order on behalf of applicants, that is, foster parents or relatives, if the court is satisfied that such an authorisation would be in the best interests of the child and if it has been shown to the satisfaction of the High Court that the parents of the child have failed in their duty towards the child. It is important to point out that this amendment is not about removing children from their families, but rather about putting them into care. It is about ensuring that children who are in the care system are no longer left to drift and are given a second chance.

As I said at the outset, this Bill has been a long time overdue. The reason for this is that prior to the children's referendum, a decision was taken by the previous Government to produce material which was deemed to be impartial. In view of that and directly as a consequence of a decision taken by one of the Minister's predecessors or by someone at a very senior level in her Department, this legislation is almost four years overdue. Thankfully, both the High Court and the Supreme Court rejected the challenge to the vote and upheld the referendum result.

We must think of the number of children who have gone through the care system in the past four years and who have had to wait far too long for the outcome of the referendum to be given legislative effect. I expect somebody to take responsibility for that decision. Nobody ever has. In the previous Government, I questioned the Tánaiste, who was then Minister for Children and Youth Affairs, as to what happened and the answer given was always that we could not debate the issue because it was before the courts. It is no longer before the courts. Somebody needs to come out to take responsibility, but also to apologise to the thousands of children who are deprived their right of getting the opportunity to have their social families recognised as their legal families. Close on 2,000 children per year have gone through the care system in the past four years and have lost the benefit of these new legislative changes. I need not remind the House of the potentially harmful consequences this has on these children's sense of belonging, sense of home and sense of identity, as well as on their rights to succession and inheritance.

As I stated, up to 2,000 children could become eligible for adoption as a result of this change. However, the level of resources in place in the adoption system supports only a small number of children progressing through the system on an annual basis. In 2014, there were 112 domestic orders and 34 inter-country adoption orders. It is a real and worrying issue, one which I hope the Minister will acknowledge and respond to in her concluding remarks, that there does not seem to be a resourcing plan to accompany this legislation, given that there is a potential to dramatically increase the number of adoptions that will go through the Adoption Authority.

The previous Government imposed an agonising long delay on children in long-term foster care by not acting on this legislation. Unless resources are put in place in the adoption system, I worry that backlogs in the system will impose another painful delay on these families by preventing children in foster care from progressing swiftly through the adoption process. It is not enough to give these children the legal right to adoption. They also must be able to exercise this right to become legally part of their foster families. I would like to know what level of resources will the Minister be putting in place to ensure that these children will not have to wait

even longer to exercise this right to a family.

In the context of this Bill, it is equally worrying that there is no commitment in the programme for Government for the establishment of family courts. Considering the current long delays in family courts, it is deeply worrying to think of how these will be severely exacerbated as a result of possibly thousands of new adoption cases. I would point out that it being a commitment in the programme for Government does not necessarily mean that will happen. It was a commitment in the previous programme for Government, the previous Government lasted its full five-year term yet we still do not have a dedicated family courts system. That is something that is urgently needed. I am speaking about it in the context of this legislation because this will only add to the pressure on the family legal system. It is something that the Minister needs to address with her colleague, the Tánaiste and Minister for Justice and Equality. Without some reform in this area, there is little hope of alleviating the long delays in family law cases.

I believe it is incumbent on us all in this House, to ensure these children and families are given the opportunity which they are owed by the State, to deal with this Bill in as prompt and efficient a manner as possible. However, I am apprehensive about the Government's decision to bypass the pre-legislative scrutiny stage, which stage was promised by the previous Minister. I believe that pre-legislative scrutiny is not a time-consuming indulgence but provides an essential proofing stage for complex Bills such as this. I worry that the decision to skip this stage may hold back some of the later Stages if difficulties, whether technical or substantive, are uncovered. In her response, perhaps the Minister can outline why the pre-legislative stage was skipped.

There are a number of section 45 Adoption Act 2010 difficulties, which I can discern at this Stage and which I would like the Minister to respond to. One such concern is the complete repeal of section 45 of the 2010 Adoption Act. Section 45 limited the circumstances in which a child could be re-adopted. With complete removal of this section, it seems possible that a child could technically be adopted by two adoptive families. Surely the more prudent approach would have been to amend section 45 rather than completely remove it. My party intends bringing forward an amendment in line with international best practice on Committee Stage.

Another concern is that this legislation fails to deal with how the Adoption Authority will consult with birth fathers in cases of donor-assisted human reproduction. For example, does the Adoption Authority have to consult with sperm donors, as is required under section 18 of Adoption Act 2010 which requires the authority to consult with birth fathers? This is a difficult, complex question. Perhaps the Minister can respond in due course.

Another concern which has been expressed to me is the apparent incongruity in children's rights to information and tracing. It is an anomalous situation where in Parts 2 and 3 of the recently commenced Children and Family Relationships Act 2015, there are explicit rights to access to information and identity tracing for children who are conceived from donor-assisted human reproduction. Yet, adoptive children are still awaiting the information and tracing Bill to be published for a similar right in the context of adoption. This is not the Minister's fault, but I want to use the opportunity to remind the House that on the formation of the previous Government, both the then Minister for Justice and Equality, Mr. Shatter, and then Minister for Children and Youth Affairs, Deputy Fitzgerald, held a press conference stating that their first priority in terms of legislation was to give what every child is entitled to, that is, the right to identity.

In that context and in the context of the tens of thousands of children who, through either forced adoptions or illegal adoptions, do not know their true identity, there was a solemn promise made that such legislation would be top priority for that Government. Unfortunately, five years later, the legislation has yet to be published. It is something that the Minister needs to take on board. From meeting so many of the organisations prior to the establishment of the mother and baby home commission, as I did, I am sure the Minister heard, engaged and dealt with these same brave men and women who have come forward and shared the most deeply personal stories with us as public representatives in the hope that we can use our position within the Oireachtas to afford them their basic human right to an identity. At the time of the publication of the biography *Philomena*, everyone was outraged and acknowledged the bravery of that lady in terms of what she did to highlight the issue. I urge the Minister, as she starts in her position in this Department, to get the Department into gear and ensure that action is taken to bring forward the information and tracing Bill as soon as possible.

The most substantive provision in the Bill is to give legislative effect to the new Article 42A on the rights on the child. However, we must ensure, in practice, that during adoption proceedings children's views are heard and their best interests ascertained.

I will conclude by discussing potential reforms that are required to ensure Article 42A on the best interests and views of the child can be better upheld in courts and private legal proceedings. An important point to consider in this regard is that the new Article 42A.4.2° will extend the right to be heard in adoption proceedings to all children with the capacity to form views, not just those capable of expressing them. Ensuring adherence to the spirit of this new right may require some changes in approach to be applied by those tasked with assessing a child's decision-making ability during adoption, custody or guardianship proceedings. For example, the new article on the right of the child to be heard may require the provision of further supports for a child during adoption proceedings to enable him or her to form a view, for example, in the form of child-friendly information or a trusted representative who is capable of explaining matters to him or her.

One of the most worrying omissions from the Bill is the absence of a provision on the right to have a guardian *ad litem* appointed in adoption cases, even though there is such a provision in Northern Ireland. This omission is despite the fact that many experts in this area, chiefly Dr. Geoffrey Shannon, the Government's special rapporteur on child protection, has stated there is inadequate statutory regulation and a lack of guidance on how a guardian *ad litem* should be appointed. Legislative provisions do not specify the requisite qualifications an expert must possess in order to be qualified to carry out a report which seeks to express the views and capture the best interests of the child in these cases.

The appointment of a guardian *ad litem* is too fundamental a matter to be left unregulated and the guardian *ad litem* system should be placed on a statutory footing as a matter of priority. Although there have been repeated Government promises to reform the area, including measures to tackle the often excessive payments on legal and guardian *ad litem* fees, nothing has been done. In the last Dáil Fianna Fáil brought forward legislation to reform the guardian *ad litem* system, which we intend to reintroduce in the coming term. I urge the Minister to accept the forthcoming Bill which we will bring before the House shortly. I would welcome an opportunity to discuss it with her and her officials.

The primary method used to ascertain the wishes of a child is by allowing him or her to speak to the judge privately in his or her chambers. However, it has been suggested reform may

be required in this area. Guidelines on private meetings between children and judges should be issued to ensure best practice is followed when ascertaining the views of children in adoption cases. Dr. Shannon suggests guidelines are required in this area, including on the importance of observing the principle of a fair trial and preferably guaranteeing confidentiality to a child, unless the parents in the case object to this on reasonable grounds.

I fully support and commend the Bill, especially for its effect in alleviating the legal limbo which families and children in long-term foster care have been in for too long. It is deeply regrettable that the legislation could not have been implemented sooner after the children's rights referendum. However, I fear these and other families will have to wait even longer to exercise their constitutional right to become legal families, unless the Minister puts in place a coherent plan to properly resource the adoption system and clear the backlogs in the family court. I urge her to take seriously many of the concerns I have raised about the Bill, as well as the reforms I have suggested of the wider legal procedures for ascertaining the views of children and what is in their best interests in family cases in accordance with Article 42.

Deputy Donnchadh Ó Laoghaire: I congratulate the Minister on her elevation to the portfolio of Minister for Children and Youth Affairs and wish her the best of luck in her role.

Guím gach rath uirthi sa ról tábhachtach, suntasach seo. Tá níos mó aird tugtha le cúpla bliain anuas ar ghnóthaí a bhaineann le leanaí, cúram leanaí agus cúrsaí óige i measc páirtithe polaitiúla agus i measc na meáin. Is cóir é go bhfuil Roinn agus Aire faoi leith ag déileáil leis na hábhair sin. Tá súil agam go mbeidh torthaí dearfacha ar obair an Aire agus go mbainfidh leanaí, teaghlach agus daoine óga na tíre leas astu.

The Minister's track record and commitment to children's rights are well known and well regarded. While we have considerable reservations about the direction of the Government and the programme for Government which has already seen some controversy regarding the proposed measure on child benefit, we hope to work with the Minister in a constructive and progressive manner to ensure the best outcomes, with the best interests of children, young people and families at their centre. I thank the Minister for the briefing yesterday. Although I was unable to attend, a representative of my office attended and it was very useful to have a number of questions about the legislation answered. It was a very welcome move and I hope it will continue during the lifetime of this Dáil.

The legislation is welcome and we will support it, given that we deem it to be progressive, owing to the removal of some extremely restrictive and arbitrary barriers in adoption law for far too long. To some extent, it brings adoption law into the 21st century. It has been recognised for some time that there is a requirement for the remit of adoption system to be extended beyond traditional marriage. In his remarks on the Adoption Act 2010 my colleague Deputy Caoimhghín Ó Caoláin said, "Finally, I also note the Bill fails to recognise the widening reality of what constitutes a family in Ireland today."

A particularly notable measure in the Bill is the removal of barriers which require a birth parent to adopt alongside a step-parent who wants to adopt his or her spouse's child. Archaic laws such as this led to the unfair and bizarre situation where a birth parent had to follow a convoluted and unfair process whereby he or she adopted his or her own child. Adoption, with proper safeguards and adequate oversight, can ensure children are safeguarded and brought up in a loving family environment that results in their physical, intellectual, emotional and social needs being met in a way that allows them to develop.

We also welcome and support the change in criteria whereby the High Court may dispense with parental consent in situations where it is required and in the interests of the child. We welcome the extending of the grounds on which people can adopt. It opens up many avenues to loving families, in whatever shape or form they may take, to have the opportunity to display their ability to look after a child and raise him or her to become an adult with the high esteem and value he or she may not always have received and with his or her best interests kept at heart.

It is particularly good that the rights of cohabitees and civil partners which were advanced in the 2015 Act are being consolidated in this legislation. There is a degree of legislative tidying up and consolidation in the Bill, which is welcome.

The headline issue is that the Bill is a follow-up to the children's right referendum in 2012 on the thirty-first amendment of the Constitution, in which the rights of the child became part of the fabric of our society and the Constitution. The referendum and this legislation require that the best interests of the child be considered and paramount. Is cinnte gur reifreann tábhachtach a bhí ann, os rud é gur chuir sé é ar bhonn bunreachtúil go raibh gá tuairim an pháiste a thógáil san áireamh. It meant children were viewed with the respect they deserved rather than being treated as though they were somehow irrelevant in the proceedings. I refer, for example, to such simple things as being able to have a valued opinion on their own future and fate, with the age of maturity taken into consideration. I welcome sections 9 and 14 and the other provisions of this legislation that require the views of the child to be given due weight. This is appropriate and very proper.

The State's record of protecting vulnerable children has many blemishes. When Deputy Caoimhghín Ó Caoláin spoke on the Adoption Act 2010, he said, "In Ireland at present, there clearly is more inward adoption, if one can use that term, than outward adoption." It is possible that we may see a spike in "outward" applications and perhaps "outward" adoptions in the years to come because so many families in our society are seeking to regularise their situations. I echo the sentiments of Deputy Robert Troy in that regard. If there is to be an increase in applications, there is certainly a need for sufficient resources to be put in place. While I accept Deputy Caoimhghín Ó Caoláin's suggestion that there was "more inward adoption ... than outward adoption" in 2010, that was certainly not always the case. I doubt that many people need to be reminded of what happened at the mother and baby homes. Such scandals continue to trundle on today. Some outstanding matters remain unresolved, or have not been resolved in an adequate way. Babies were found in mass graves in Tuam and in similar facilities. The sad reality is that many young women had their children taken from them and placed with adoptive families against their will. Many families, including many marginalised mothers in difficult situations, had children taken out of their care even though this should not have happened. Many injustices were done. Is mór an scannal é. Caithfidimid i gcónaí bheith airdeallach i dtaobh an leatrom a déanadh ar na máithreacha agus na leanaí sin.

The Hague Convention is very important in this context. We must ensure no child who is adopted into Ireland has been separated from his or her mother in the same way that children were separated from Irish mothers over so many years. Strong human rights safeguards, backed up by legislation like this, are essential. The record of this State is worth remembering. I hope this Bill helps to ensure history does not repeat itself. We must make sure we have learned from our mistakes and failures. This country's ratification in 2010 of the 1993 Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption was seen as a very positive move at the time. It remains so. Although the provisions and aspirations of the convention represent a high ideal for which we continue to aim, I note that many families

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that wish to adopt, including many people who would be ideal candidates as adoptive parents, have found it difficult and expensive to complete adoptions in the post-Hague Convention environment. I understand that few children have been adopted with post-Hague declarations. It seems that the process remains difficult, slow and expensive. If steps can be taken to rectify this without undermining the crucial protections offered by the Hague Convention, they should be explored. I look forward to working with the Minister in that regard. It is of grave importance that we maintain high standards. This is why we signed up to the Hague Convention in the first place, just as it was the main reasoning behind the 2012 referendum. The paramount importance of the best interests of the child should always be at the front and at the centre when intercountry adoptions are being explored. The same rights and esteem should be applied to all children, regardless of their origin.

I would like to mention a policy option that needs to be considered but has not been dealt with in this Bill or in previous legislation. Adoption, like many other legal processes in Ireland, is a very costly procedure. It often costs families many thousands of euro - amounts of €10,000 or €15,000 or perhaps additional amounts - to adopt children. Many able people with the potential to be superb, loving parents would be immediately excluded from the possibility of adoption because of such costs. Once again, the best interests of the child need to be maintained at the heart of this process and as the first priority. Sílim gur chóir go mbeadh na deiseanna céanna i dtaobh uchtaithe ag daoine sna grúpaí ísealioncaim agus meánioncaim agus atá ag daoine sa ghrúpa ardioncaim. People should not be excluded from the adoption process in a way that is dictated purely by their socioeconomic status and their ability to pay substantial amounts of money. I am not sure this issue can necessarily be dealt with in the Bill before the House but if there is an opportunity to do so, I hope the Minister will take on board the point I have made and give it some time and consideration. I emphasise that this should not involve any diminution of the key safeguards involved in this Bill, in the Children and Family Relationships Act 2015 or the Adoption Act 2010.

I welcome the extension of the consultation process to those deemed by legislation to be “non-guardian adults”. I anticipate that this is an attempt to ensure those who have played the most significant and foremost role in the upbringing of a child are listened to. Even though a non-guardian might not be the legal guardian of the child in question - there are many such cases - he or she may have had a very prominent role in the life and general upbringing of the child. In some cases, he or she may have been the primary caregiver behind the scenes. This legislation opens the door to considerable possibilities in that regard. In theory, any child can now be adopted at one stage or another, depending on his or her circumstances. This is a welcome measure because it gives children a safety net that prevents them from falling through the cracks in so far as that is possible. We must endeavour to ensure no child falls through the cracks. This measure is also welcome because it allows for the adoption of children who may be in long-term foster placements. This will alleviate some of the pressure on our social work service, which is already over-burdened. I emphasise the need to ensure resources and strategies are in place to deal with any increase or spike in applications.

I look forward to the introduction of the adoption tracing Bill, which will give every child the right to identity. I understand following yesterday’s briefing that this important Bill will be brought to the House in the not so distant future. I hope this happens because every child should have this right. As others have already said, the Bill has been promised for quite some time. I hope progress is made with it as soon as possible. I look forward to seeing that happen. On the face of it, the adoption tracing Bill will further strengthen the strong and rigorous legislation

that is before the House today. I look forward to examining how this Bill might be improved on Committee Stage. I think the legislation proposed in this area will shore up many issues for people, including issues of identity and peace of mind.

This is a technical Bill in some respects because it seeks to amalgamate or consolidate certain sections of the Children and Family Relationships Act 2015 and the Adoption Acts in a sort of parent Act and to reform and give clarity to various sections of the Adoption Act 2010. We will be considering technical and policy-related amendments to this complex legislation to see how it can be strengthened. As I have said, this Bill has the full support of Sinn Féin as the best interests of the child are at its heart. I hope the progressive nature of this Bill sets down a marker for other Bills that will be presented to the House. We need legislation in this area that reflects a modern Ireland rather than leaves us trying to catch up to our European counterparts. For some time, this country's adoption legislation has left us seeking to catch up.

During the public debate of recent weeks, Sinn Féin has regularly emphasised its desire to see the Government taking positive and progressive action, in a general sense. We are keen to support the Government when it takes action and proposes legislation in a positive and progressive way. We are not interested in opposing legislation for the sake of it, although we will hold the Government to account when it makes mistakes and errors and pursues policies with which we disagree. We are happy to support good-quality legislation that improves the rights of children, advances Irish society and gives further support to Irish families. It is valuable and welcome that the first Bill to be introduced by the Government is one we are happy to support. I believe the people voted for a forward-thinking Parliament. Regardless of the composition of the Government that has been formed, the opportunity exists for us to work as the forward-thinking Parliament for which people voted. Nobody wants the politics of old. It will be interesting to see whether such a change takes place. Beidh sé sin le feiceáil. Táimid breá sásta tacú leis an bpíosa reachtaíochta seo agus cabhrú leis an Aire agus an Dáil ag obair chun feabhas a chur ar an mBille seo.

Deputy Kathleen Funchion: I congratulate the Minister on her appointment and wish her every success in her new role in the Department of Children and Youth Affairs. I look forward to working constructively with her. I thought yesterday's briefing was excellent. I was happy to attend it. It was very useful. I hope similar briefings will be organised in the future. I hope the appointment of the Minister, Deputy Katherine Zappone, will allow us to make advances in the areas of child care and youth affairs. Priority and respect need to be given to the voices of young people and children. Their opinions must be valued and carry weight.

I wholeheartedly welcome the Adoption (Amendment) Bill 2016, which puts the best interests of the child at the front and the centre. I hope the progressive nature of this Bill, which eradicates many of the barriers regarding the adoption of children at present, sets a precedent for future legislation that will be introduced by the Minister. Given that the referendum to enshrine children's rights in the Constitution was held in 2012, it is clear that this Bill is not before its time. However, I acknowledge this was through no fault of the Minister but rather that of her predecessors. I also commend the Minister on seizing the first opportunity to bring this legislation before the House. As my colleagues said, we will not be opposing the Bill or its overarching aims but we will bring forward some minor amendments on Committee Stage in an attempt to further strengthen it.

I want to refer to section 6 in particular and I welcome the introduction of such a measure. It is good that the opinions of non-guardians will be taken into account and that provides safe-

guards that the best interests of the child shall be met. Many children have an array of role models and guidance from those who are non-guardians of the child. This may be in the form of a grandmother, an uncle or a close family friend. Many of these non-guardians may have played a huge role in the child's life from a very early age, particularly where the birth parents may have found themselves in very challenging situations that limited their ability to bond and possibly care for the child on a full-time basis. The views of those non-guardians are therefore invaluable as a result and they offer an invaluable insight as to what may be in the best interests of the child in the longer term, an opinion which, in the past, has unfortunately gone unheard and was overlooked.

Adoption can be a very positive and welcome development for a child but it can also be very difficult for a family, particularly perhaps a grandmother who sees her son or daughter struggling with her grandchild and whose views may not have been taken into consideration in the past. If grandparents were not in a position to care full-time for their child but had strong views and played a positive role in that child's life, it is good that they will get an opportunity to be heard and have their views expressed, not only from their point of view because they have to come to terms with the adoption process, but from the point of view of promoting the child's positive mental health. That measure is particularly welcome.

I also welcome the removal of some of the red tape that has been in place for far too long. I refer to the provisions made in the Bill that allow for a step-parent to adopt a child without having to jump through multiple hoops in what was a long and arduous process. Although not the legal birth parent, many people who find themselves in this situation have fulfilled this role with the utmost diligence for many years of the respective child's life. They have picked up the role of mam or dad in an admirable way and I am glad that these step-parents will no longer be treated as second-class or sub-standard parents in future by way of lengthy application processes.

Furthermore, and in keeping with the theme of cutting the red tape, the extension of the adoption age from the age of seven to 18 and the removal of criteria that only allowed for adoption in exceptional circumstance are to be praised. This allows more children to be granted parents in the form of a legal title. This can only be a positive move as such cases will provide not only stability but a sense of fulfilled identity and the dispelling of any ambiguity that may have arisen before such time that their so-called foster parents were made parents by definition. We have heard much debate on promoting children's positive mental health in recent years and it is important that children have that sense of identity.

A welcome provision is the revised criteria where an application to adopt a child is made in respect of a child who is in the custody of and who has had a home with the applicants for a period of at least 18 months, and where that child's parents have failed in their parental duty towards that child for a continuous period of not less than 36 months. In such circumstances the High Court may dispense with parental consent and authorise the Adoption Authority to make an adoption order in respect of that child. The implementation of this measure could potentially result in a much larger number of transitions from foster care placements to a child being fully adopted. This would then free up social workers and guardian *ad litem*s whose caseloads are at a substantial number above the recommended number of cases that would be seen as beneficial to good practice. This is a welcome unintended consequence, particularly with the current deficiencies in the staffing of social workers and the under-resourcing of Tusla. We need to ensure that social workers and people working in Tusla are properly resourced and supported and this part of the Act is a welcome development for them.

With respect to the 2012 referendum on the rights of the child being of paramount importance, this Bill is in line with the constitutional amendment that was rightly voted for by the people. The voice of children has gone unheard for far too long. It was always a quiet voice in the background. We remember the old phrase that children should be seen and not heard. Unfortunately, we have had that culture in Irish society for far too long, a culture which previous generations grew up with and to which they became accustomed. This section of the Bill is the most progressive part of it, and that is the reason I am very happy to support it. If we reflect on the history of children in care in this State and the way they were treated, not too many years ago many children were sent to institutional care homes by court order of the State. Now, under this legislation at least their voices will be heard and their opinions will be taken on board.

This legislation definitely addresses that culture and knocks it on the head. It has given a right to a child that should have been there long before now and one which we all would take for granted as adults. With due consideration to the age and maturity of a child, a child knows what he or she wants. As a mother, I think children are very good at letting you know what they want. Similarly, and once again with due consideration, many children in this State are in a position to articulate who they would like to call their parents. It will always be the parents that show most love and compassion to that child, and that is why the child would be drawn to them. I understand that a certain amount of this was down to the legislation requiring the child to be under seven years of age, an age that one would have assumed a child may not have the cognitive ability to indicate what he or she feels is best for himself or herself, but this was never the reality, and this legislation goes a long way in attempting to rectify both the age limit of the child, and the say he or she has in the process.

I welcome this Bill and I am happy to support it but we will bring forward some amendments on Committee Stage. I echo the concerns raised by my colleague about resources and ensuring adequate resources are provided, and that this legislative measure will not be one that merely sounds good and that we have on paper but does not work in practice or that we are not able to implement. That is an important point to raise, but overall we welcome this Bill.

Acting Chairman (Deputy Bernard J. Durkan): The next timeslot will be shared by Deputies Joan Burton and Jan O'Sullivan.

Deputy Joan Burton: We would like to share time.

I wish the Minister well in her new responsibilities. I know she is somebody who has expressed views and has been involved in work in the area concerned with children and children's development. I wish her well.

I am deeply disappointed that another adoption Bill fails to address the right of adopted people to trace their origins. This is a major failure in this legislation and one that I believe the Dáil should remedy. Adoption in Ireland is regulated by the Adoption Acts of 1952 and 2010, which do not provide any statutory rights to information or records. Instead an *ad hoc* system exists whereby adopted people can make requests to their adoption agency or the Adoption Authority of Ireland. The process is slow and cumbersome with people often having to wait years to even meet a social worker to start the process. It is often extremely difficult to get any access to records unless a natural mother expressly consents, or is deceased, meaning that an adopted person has no rights to basic information about their origin.

Speaking as somebody who was adopted, it took me years of slow and painstaking work to

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find out simple information about where I came from and who my parents were. I could not have done so without the help of then Adopted People's Association but it should not have been so difficult. I do not know what is wrong with this country that we talk about rights for almost everybody except adopted people. We are talking about other countries with the same legal structure as Ireland which have had tracing rights and legislation in law for 50 years or more. The approach in Ireland seems to be linked to promises made by Catholic adoption agents to single women, to unmarried mothers as they were described long ago, that they would maintain their privacy. I have had members of religious orders and nuns and priests tell me when seeking information for other people that on the Bible and on the far side of the grave promises were made that no information would ever be divulged. This is done on behalf of mothers who had to give up their children, often in the most distressing of circumstances. We have enough testimony from people who gave up children that much of it was through coercion. However, it is rarely asked whether the mothers ever wanted such promises to be made or whether these promises should outweigh the rights of the adopted person. By contrast, in England and Wales an adopted person has a legal guarantee of access to his or her original birth certificate on reaching 18 years of age.

It is time to lift the veil of secrecy, another part of the hidden Ireland, that has been cast over this part of Irish history. The last Government, of which I was honoured to be a member, sought to shine a light into dark corners of other aspects of Irish history to do with the Magdalen laundries and people in institutions. The history of adoption is intimately linked with all of this, both for adopted children and their birth parents. The time has come for the same to happen to shine a light on the role of adoption in Irish history.

A right to know one's own origins has been recognised by the European Court of Human Rights and the Supreme Court. It may not be an absolute right, but it is for the Oireachtas - this House and the Seanad - to determine the balance required between it and any right to privacy a natural mother or father may wish to invoke. Other societies and legislatures have been able to deal with this. The recognition of a right to privacy for the natural mother should not act as an automatic veto on the right of an adopted person to information. The priority should always be to ensure an adopted person is able to obtain information on his or her origins, including access to the adoption files, where he or she wishes to do so, because not everybody who has been adopted wishes to trace.

As Tánaiste, I worked closely with the Attorney General and the previous Ministers for Children and Youth Affairs, Deputy Charles Flanagan and former Deputy James Reilly, to make progress on the publication of the general scheme of the Adoption (Information and Tracing) Bill 2015. It made progress in key areas, but it was not perfect. It was far from being so. In the last Dáil the Joint Committee on Health and Children heard testimony from experts in this area and made some important recommendations for changes to the legislation. Its report was published in November 2015. I really cannot understand why the changes to the draft legislation cannot be made at this point. I do not understand why we are in a position where new adoption legislation is being brought through the House and it does not deal with the issue of information and tracing. It is not good enough for the Minister to say the Bill deals with different issues and that another Bill which is going to arrive *mañana, mañana, mañana* will deal with it.

Deputy Robert Troy: The Deputy had five years in which to do it.

Deputy Joan Burton: Let us be honest about it - it is not satisfactory. There is no reason reforms of adoption law should be introduced that do not include the right to information and

to trace. The Bill arises from the passage of the children's rights referendum in 2012. However, there was the issue of the right to information and to trace long before the referendum was passed, but it now seems to be the plan to pass over it again. Who are the vested interests who are preventing us from having a modern regime that will allow people access to information? It seems there are rights for everybody in Ireland except for adopted persons. The issue is passed over again and again.

The piecemeal reform of adoption law should end now. The Bill should be expanded to also deal with the rights to information and to trace. Adopted persons have waited long enough. That is why the Labour Party will be moving amendments to the legislation on Committee Stage to introduce a right to information for all adopted persons, including those who were informally adopted and those whose births were not properly registered. This may be where the worry lies. We know from a huge number of individual stories that there were informal adoptions and changes in data. There are many people who will never be able to obtain their records because, unfortunately, the institutions involved, the organisations or nursing homes from which they were adopted do not seem to have maintained records. I hope the Minister will accept the amendments and not make adopted persons wait any longer for a very basic fundamental human right.

I welcome the Bill in its role in implementing the changes brought about by the children's rights referendum, which will ensure a child's best wishes will be central to each and every adoption case. The Minister's own statement speaks for itself.

The Bill also addresses the bizarre situation where, if a child's step-parent wishes to adopt him or her, the other parent - the birth parent - must also adopt. When this has happened up to now, it has been a source of bewilderment for the adults and the families involved and it has often been deeply upsetting to the children involved owing to the connotations it carries. I am glad to see that issue finally being addressed. It is welcome that it is now being remedied. With the passage of the Bill, the birth parent will continue to be the parent and the step-parent will become the adoptive parent.

Another welcome aspect of the new Bill will allow civil partners and cohabitees the opportunity to adopt should they wish to do so. I welcome the removal of the archaic ban in current law which prohibits married parents from placing a child for adoption. In the past this has created obstacles for many children whose parents are married but who are in long-term foster placements or institutional care.

There is a wide range of views on adoption and its appropriateness and there are discussions on what is a very intimate, personal matter. To me, it is almost always better if, in a good adoption system, a child who might otherwise spend his or her life in an institutional setting has the opportunity to be adopted by a loving family who will incorporate him or her into the family and, in many cases, give meaning to his or her life. That is preferable to leaving a child in an institution or successive foster placements. For many children a long-term foster care family is their family, but as we know, when children leave at 18 years of age, sometimes they have to start life again on their own.

There have been approximately 50,000 adoptions since the passage of the original adoption Act in the early 1950s. As I said, not everybody wishes to trace. That is a personal choice people make and I respect it. Prior to the 1950s, there were many long-term foster care and informal arrangements. I recall people like Maureen O'Carroll, the first female Labour Party

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Deputy, speaking eloquently in this House about adoption, the need for proper regulation and the introduction of the adoption Acts in the early 1950s. When one looks at the three parties in the adoption triangle - the person who has been adopted, the birth parents and their extended families and relations and the adoptive parents and their extended families and relations - one can easily see how at least 500,000 people in Ireland are in some way affected or have somebody in their family or wider family circle who have either given up a child, have themselves been adopted or adopted a child. As a society, we placed extraordinary numbers of people in institutions for adoption, as well as in mental health institutions.

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I do not know if it was the impact of the Great Irish Famine that made this such an extraordinary legacy feature of Irish life during the 20th century.

We need the denial of human rights in relation to adoption tracing to be addressed now. We need not put it on the long finger. As this is the first Bill the Minister has introduced, I point out to her that the legislative programme is very long. When she gets a Bill, it will be a long time before she gets another one because there is a queue ahead of her. Deputy Jan O'Sullivan and I are very familiar with this. It is why I ask the Minister and the House to agree that we sort out this issue within the confines of the Bill rather than look for separate legislation. Given the likely three-year lifespan of this Dáil, we are unlikely ever to see it.

Deputy Jan O'Sullivan: I join other Members in congratulating the Minister, Deputy Katherine Zappone, on her appointment. I very much look forward to working with her. I expect she will be a progressive influence on the Government, which needs one. Certainly, her record and the interest she has shown in a number of issues give me hope that will be the case.

I reiterate what has been said that all of us in opposition will be co-operative in regard to the Bill and in working with the Minister generally and will not oppose the content of the Bill. However, I support what Deputy Joan Burton said on the amendments we will table, particularly on information and tracing. I hope the Minister will give serious consideration to the point Deputy Joan Burton has just made. I know from experience that it can take a long time to find the space in the Dáil calendar to bring another Bill forward where some of the issues in an area have largely been dealt with. I urge the Minister to consider seriously the amendments we intend to table. There was discussion in the committee last year in advance of some of the issues that will be raised in our amendments and that represents groundwork for consideration of these issues, as does the work of Geoffrey Shannon, Barnardos, the Adopted and Fostered Person's Association of Ireland, to which Deputy Joan Burton referred, and the Adoption Rights Alliance. Many organisations have done considerable work in the area already and there is quite a lot of material which can be used. We also have the experience of people who have tried to trace. While there is assistance out there, it is not on a statutory basis and there is most definitely a need to address this issue. In the past, we have made slow and incremental progress in many of these areas. There are still many issues to be addressed and we should address them in the time we have available for the Bill. I welcome what is in the Bill, however.

Everyone has made the point that the basis of the Bill is in the Thirty-first Amendment of the Constitution Act 2012, which amends Article 42. I stress that the best interests of the child must be paramount in all of this. With that as the basis for everything we do with regard to children, we cannot go wrong in how we act and legislate. In particular, I welcome the proposal that married parents will be able to place children for adoption. There are many children,

some of whom I know, who have been in long-term, loving fostering situations. We know it is in the best interests of those children that they should be eligible for adoption. It is important to stress that the legislation provides that both parents must consent. Certainly, I know of situations where the parents of the child know it is in the best interests of that child to be eligible for adoption rather than to continue in a long-term fostering situation. This measure is very welcome because it addresses real situations of real children right now who will have a more secure future because of this legislation. I welcome this.

It is also welcome that civil partners and cohabiting couples will become eligible. There is no reason they should not be. The other measure that has been referred to by many addresses the quite bizarre situation where a person ends up adopting his or her own child because of the requirement in the current legislation where a step-parent wishes to adopt for the natural parent to adopt the child also. That is also very welcome. It has never made sense that a person must adopt his or her own child if his or her spouse or partner is adopting the child. That measure is also very welcome.

As well as the constitutional amendment, the further basis or background to the Bill includes the UN Convention on the Rights of the Child, which Ireland ratified a number of years ago, and the national policy framework for children and young people 2014-2020, which is the policy basis in an Irish context. The policy area also includes the concept of a family support model which aims to ensure, in the best interests of the child, that vulnerable families get the support they need. That is why I support what was said by previous speakers in relation to the suggestion which came out last week in the proposed programme for Government that child benefit could be taken from families where children are not attending school. That is absolutely wrong and I hope the Minister can assure us that it will not be part of the action of the Government. Certainly, we need assurance on that as it would go against the concept of the family support model and the best interests of the child. I hope the Minister will not support any such measure.

I was on the committee before 2011 which dealt with the Adoption Act 2010 and the Hague Convention in particular. While that legislation was limited, it was necessary at the time. There were some very concerning issues at the time around inter-country adoption which absolutely needed to be addressed on an international basis. As a member of the committee, I supported the then Government's introduction of the legislation. It made some incremental progress in terms of protecting children in the context of international adoptions. However, it was limited legislation and there is no doubt that it is important to progress matters in the way that is happening. The fact that the last Government created a senior Minister for Children and Youth Affairs has been really important in progressing the rights of children. It is welcome that the Department continues in the current Government.

I turn in the rest of the time available to me to what still needs to be done. Previous speakers referred to the briefing yesterday at which it was indicated that there would be legislation on information and tracing rights. I do not know if a timescale was suggested but perhaps the Minister could indicate it to us. I support my colleague, Deputy Joan Burton, in suggesting that information and tracing should be dealt with in this Bill. There is no reason it should not be. I say this because of the point that we have already made, namely, that it may take some time before one has the opportunity to introduce further legislation but also because there is a great deal of information and much work has been done on this matter already.

As Deputy Joan Burton stated, while in theory one has a right to know about one's origins under European and national law, that right is not in statute and has not been established in the

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way required of the House. When I entered the House in 1998, we were in the midst of trying to deal with the legacy of young children who were put in institutions. The State apologised and there was a series of amending legislative measures. I was involved in amending the Statute of Limitations. As equality spokesperson in opposition, I tabled legislation that was incorporated into Government legislation. That seems quite a long time ago now but it is not. Children were locked up with no concern for their rights. In many cases, it was about how people searched for their birth origins. It was also about how society frowned on certain issues. It was an Ireland that we are all glad to see the back of. There has been progress in many respects, including on the Magdalen laundries, residential institutions legislation and all that followed from the latter, but we have not dealt with everything yet. The children's referendum was a major and important step and we need to build on it. Deputy Robert Troy referred to a number of complex issues concerning sperm donation and I would like to address the guardian *ad litem* matter, but the Bill is progress overall, for which reason I welcome it. I urge the Minister to give serious consideration to the amendments that we will table on behalf of the Labour Party.

Acting Chairman (Deputy Bernard J. Durkan): I call Deputy Richard Boyd Barrett who has 30 minutes.

Deputy Richard Boyd Barrett: I may not use all of them which the Acting Chairman will probably be glad to know.

I congratulate the Minister, Deputy Katherine Zappone, on her new post. She is taking on an important portfolio, that of children and youth affairs. While I may have my doubts about the capacity of her allies to deliver for children and youth, I wish her the best of luck in trying to do so. I must apologise, as I will not be able to stay for the full duration of the debate. I must speak at a public meeting about James Connolly that I committed to a number of weeks ago.

Mentioning Connolly makes me think about one of the lines in the 1916 Proclamation that was almost certainly inputted by Connolly and his cohort in the movement that led the Rising, namely, the imperative that we cherish all of the children equally. Connolly would approve of the general thrust of this Bill in so far as it is trying to modernise the law to move us a little closer to equality on a number of fronts and towards placing the rights of children centre stage. That is to be welcomed, as it is long overdue, but we will still have a long way to go after passing the Bill if we are to vindicate the rights of children truly.

Without point scoring too much, we should say that the last Government failed pitifully to protect children. Children fared particularly badly even with the passing of the children's referendum, the most obvious example of that being the number of children who must now endure emergency homeless accommodation, which is an appalling indictment of the last Government and the entire political system. This point will be relevant to something that I want to say later in questioning aspects of the Bill.

I will start with the positives. It is undoubtedly a good move that married parents can place a child up for adoption as long as both consent. It is positive that civil partners and cohabiting couples will be treated equally and have the same rights to adopt as anyone else. This is a very progressive measure and is to be welcomed. Step-parents being able to adopt is important. The removal of the anomaly whereby the biological parent must give up the child for adoption in order for the step-parent to become a parent through adoption is a positive move. I welcome these steps.

Then we come to the passing of the Bill, the constitutional amendment on the rights of children and the right of the State to decide on whether to allow for the adoption of children without the consent of their parents. In any situation where children are being abused or neglected or where their parents are unable or unwilling to look after them properly, the rights of the child must take precedence. There is no question about that and the State has an obligation to protect children from abuse and neglect. The imperative alluded to in the legislation to listen to children in so far as they are able to articulate their views on these matters is important. The inalienable rights of the child as the constitutional amendment suggests are proper.

While all of this is to be welcomed, I wish to sound a few notes of concern. For whatever reason, parents may sometimes let their children down through neglect, abuse or whatever. In that situation, it is right that the State should step in but what if the State is guilty of neglect and abuse? What if the State is responsible for creating the conditions wherein parents end up neglecting their children? This is an anomaly in the objective that we are trying to achieve, namely, to protect the rights of children. Consider what is happening in Irish society and the issues that I have mentioned: homelessness, major housing problems and addiction problems that arise from deprivation, the State's neglect of particular areas, its failure to deal with poverty and inequality and its responsibility in many cases for exacerbating homelessness, poverty and deprivation to the point that they break people mentally, emotionally and physically. How often has this arisen because of the failure of the State or the political system to intervene, as it must, to prevent the emergence of the conditions that lead parents to fail? I suggest it has happened in many cases, although not all.

A colleague has already mentioned the suggestion made by the incoming Government that it would link child benefit with school attendance. This is a really shocking proposal and Deputy Bríd Smith was the first to mention it in the House. She did so in her opening speech on the day the Government was formed because it was the point that had jumped out at her when she read the programme for Government. It is an absolutely shocking proposal that shows a complete failure to understand the difficulties some families have in getting their kids to school. Difficulties arise not because they do not want to get them to school but because of all sorts of obstacle associated with poverty and deprivation and issues concerning homelessness. One should consider the psychological and emotional impact on the children living in emergency accommodation or whose parents are pushed from pillar to post and who, on being evicted from one unsuitable, private short-term unit of rental accommodation, must move into another. They experience squalid living conditions, as is the case in much private rental accommodation, and are then evicted, whereupon they must move into emergency homeless accommodation. There are people who have been on the housing list in Dún Laoghaire for 18 years and who have, therefore, never had a sense of permanence and security of residence. What effect does this have on children? It is absolutely disastrous. How can we expect children to respect any authority of the State or a school when they must live in such intolerable conditions? This is not to mention the same effects on the parents.

The overlap between mental breakdown and homelessness is huge. I know this from those who come to my clinic who are in desperate circumstances and on the point of breakdown in many cases. They are on the point of breakdown because of their housing circumstances. It is the most basic factor.

Acting Chairman (Deputy Bernard J. Durkan): I remind the Deputy that the debate is on the Adoption (Amendment) Bill. He may make a passing reference only.

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Deputy Richard Boyd Barrett: Absolutely, but I am making the point that it is precisely children like those whom I have mentioned in respect of whom the State might conclude, given the effects on parents-----

Acting Chairman (Deputy Bernard J. Durkan): That is fine, but I again remind the Deputy that the Adoption (Amendment) Bill is the subject matter before the House. There are various passing references that are acceptable, but the Deputy may not make a speech on housing.

Deputy Richard Boyd Barrett: That is a bizarre intervention by the Chair, but let me-----

Acting Chairman (Deputy Bernard J. Durkan): It is bizarre only on the basis of the perspective from which one views it.

Deputy Richard Boyd Barrett: Indeed, it is. It depends on whether one looks at it from a Fine Gael or an holistic perspective.

Acting Chairman (Deputy Bernard J. Durkan): Or from the perspective demanded by the legislation before the House.

Deputy Richard Boyd Barrett: I am making the point that legislation that empowers the State to take children from their parents without their consent and to have them adopted is very problematic if the reason the parents have failed their children is the State has failed to provide them with the basic things they need to look after their children such as a house. It is not very easy to look after one's children if one does not have a house. It is very easy-----

Acting Chairman (Deputy Bernard J. Durkan): I am sorry, but there is no use in going on with this nonsense any longer. I again remind the Deputy that we are dealing with the Adoption (Amendment) Bill.

Deputy Richard Boyd Barrett: I am going to protest formally.

Acting Chairman (Deputy Bernard J. Durkan): Just wait one second.

Deputy Richard Boyd Barrett: Hold on.

Acting Chairman (Deputy Bernard J. Durkan): No, the Deputy should hold on.

Deputy Richard Boyd Barrett: I am going to protest formally to the Ceann Comhairle tomorrow because of the Acting Chairman's intervention. There is no one in the House who believes that is unsuitable.

Acting Chairman (Deputy Bernard J. Durkan): If the Deputy wants to go off on a tangent, he may, by all means, make a passing reference to housing as a contributory factor which affects children, but he is not to-----

Deputy Richard Boyd Barrett: I will decide how much of a contributory factor I believe it is.

Acting Chairman (Deputy Bernard J. Durkan): No, the Deputy will not decide.

Deputy Richard Boyd Barrett: I certainly will. The Acting Chairman is not going to tell me what I think; I can absolutely assure him of that.

Acting Chairman (Deputy Bernard J. Durkan): The Deputy is an experienced Member

of the House and knows full well what the rules are.

Deputy Richard Boyd Barrett: That is why I believe the Acting Chairman's intervention is bizarre.

Acting Chairman (Deputy Bernard J. Durkan): It may well be bizarre, but the Deputy must continue on the Adoption (Amendment) Bill. He may make a passing reference to another matter, as he has already done. As someone who has himself been called to order on this subject on many occasions in the House-----

Deputy Richard Boyd Barrett: Has the Acting Chairman read the legislation?

Acting Chairman (Deputy Bernard J. Durkan): -----I want to tell the Deputy that he is moving outside the remit of the Bill.

Deputy Richard Boyd Barrett: Has the Acting Chairman read it?

Acting Chairman (Deputy Bernard J. Durkan): I have.

Deputy Richard Boyd Barrett: Have you?

Acting Chairman (Deputy Bernard J. Durkan): I want to tell the Deputy-----

Deputy Richard Boyd Barrett: About what section am I talking then?

Acting Chairman (Deputy Bernard J. Durkan): A passing reference is allowed.

Deputy Richard Boyd Barrett: I do not believe the Acting Chairman has read the legislation because, if he had, he could not possibly have intervened.

Acting Chairman (Deputy Bernard J. Durkan): If the Deputy wishes to challenge the Chair, he should take up the matter somewhere else.

Deputy Richard Boyd Barrett: I certainly will.

Acting Chairman (Deputy Bernard J. Durkan): By all means, the Deputy may do so.

Deputy Richard Boyd Barrett: I will. The point is that if the Acting Chairman examines the Bill, he will see that one of the most important things it does is give the State the right to take children from their parents and put them up for adoption if it considers that the parents have failed their children. That is a very serious point. Does the Acting Chairman understand how serious it is?

Acting Chairman (Deputy Bernard J. Durkan): That is quite in order.

Deputy Richard Boyd Barrett: Right. It is absolutely logical to go on to discuss, in the context of the Bill, the reasons parents might fail their children or the State might consider they have failed their children.

Acting Chairman (Deputy Bernard J. Durkan): I can tell the Deputy all about that. First, if that were the case, it would be included in the Bill, but it is not.

Deputy Richard Boyd Barrett: This is unbelievable. It is absolutely unbelievable what the Acting Chairman is now doing.

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Acting Chairman (Deputy Bernard J. Durkan): The Deputy may cover the issue of housing and many others in the context of the Bill by way of a passing reference, which is allowed. That has always been the tradition of the House. Otherwise, one comprehensive Bill to cover everything would be the order of the day, but it is not that way. Therefore, the Deputy should not continue with this nonsense.

Deputy Richard Boyd Barrett: I certainly will.

Acting Chairman (Deputy Bernard J. Durkan): Then the Deputy is out of order. I am sorry, but I do not want to rule him out of order because I would have to move on to the next speaker.

Deputy Richard Boyd Barrett: I am not out of order.

Acting Chairman (Deputy Bernard J. Durkan): If the Deputy persists, I will have to move on to the next speaker. His behaviour is not allowed. Everybody else is entitled to fair play also.

Deputy Richard Boyd Barrett: No. On a point of order, I am perfectly entitled to point out that provisions included in the Bill could be problematic and, therefore, must be considered, that amendments may be required and that the legislation should be passed only if there is also a commitment to deal with the other circumstances which affect children or any contributory factor that might lead parents to fail their children in so far as the State has responsibility for this. That is an absolutely valid and relevant point to make on this legislation. Frankly, the Acting Chairman is out of order for questioning me on it.

Acting Chairman (Deputy Bernard J. Durkan): I remind the Deputy that it is not in order to challenge the Chair; it never has been. Unless he changes Standing Orders – he may, by all means, do so, bearing in mind that they are being revised and considered – he is not in order to challenge the Chair. He may continue on the Adoption (Amendment) Bill if he wishes to speak to it.

Deputy Richard Boyd Barrett: I consider the issue to be far more important than the Acting Chairman's concerns about the rules of the Chair.

Acting Chairman (Deputy Bernard J. Durkan): The Deputy's consideration of the issue must still be within the scope of the Bill. He knows this as a long-standing Member of the House and I am sure he has learned all about it in the past five years or more. He should, please, refrain from straying outside the scope of the Bill. He has made his passing reference. The Deputy persistently zooms in on the housing issue, which would be fine but only on a housing Bill.

Deputy Richard Boyd Barrett: While the Acting Chairman must manage the House and prevent Deputies from speaking about irrelevant issues, I take very seriously the point I made which I consider to be very relevant. As such, his intervention is out of order.

Acting Chairman (Deputy Bernard J. Durkan): If the Deputy persists-----

Deputy Richard Boyd Barrett: What he has done is-----

Acting Chairman (Deputy Bernard J. Durkan): -----the matter will be referred to the Ceann Comhairle who will bring to his attention what is and is not in order. I have other things

to do and do not wish to sit here any longer than necessary. However, for as long as I am in the Chair, the Deputy will abide by the rules of the House.

Deputy Thomas P. Broughan: On a point of order-----

Acting Chairman (Deputy Bernard J. Durkan): No, I am sorry; if Deputy Richard Boyd Barrett remains in order, he may continue, but if he does not, he will not continue.

Deputy Thomas P. Broughan: I know that the Acting Chairman is the most experienced parliamentarian in the House, but Deputy Richard Boyd Barrett is speaking to section 14, which is such a powerful section that he-----

Acting Chairman (Deputy Bernard J. Durkan): Having read the Bill, I am aware of that. Deputy Richard Boyd Barrett has made references to section 14, but the entire debate is not about that section.

Deputy Richard Boyd Barrett: I can spend half an hour talking about it if I want.

Acting Chairman (Deputy Bernard J. Durkan): The entire debate is not about section 14.

Deputy Robert Troy: The Deputy can speak to one section for 30 minutes, if he so wishes.

Acting Chairman (Deputy Bernard J. Durkan): No, he cannot.

Deputy Richard Boyd Barrett: I can; this is Second Stage.

Deputy Robert Troy: The Acting Chairman is being unfair.

Acting Chairman (Deputy Bernard J. Durkan): On the Adoption (Amendment) Bill, does Deputy Richard Boyd Barrett wish to proceed?

Deputy Richard Boyd Barrett: I do.

Acting Chairman (Deputy Bernard J. Durkan): Does the Deputy wish to proceed on it?

Deputy Richard Boyd Barrett: Of course, I want to proceed.

Acting Chairman (Deputy Bernard J. Durkan): Then the Deputy should do so.

Deputy Richard Boyd Barrett: I also want to proceed without intervention by the Acting Chairman.

Acting Chairman (Deputy Bernard J. Durkan): The Deputy may proceed on the Bill, if he wishes do so. If not, I will call the next speaker.

Deputy Richard Boyd Barrett: On a point of order, is it a ruling of the Chair that I am not allowed to spend as long as I like discussing a particular section?

Acting Chairman (Deputy Bernard J. Durkan): This is Second Stage

Deputy Richard Boyd Barrett: Does that mean I am not allowed to discuss-----

Acting Chairman (Deputy Bernard J. Durkan): On Second Stage Deputies speak to the principle of a Bill. They may speak about what is or could be included in the Bill, but they cannot dwell all day on one section. We are not on Committee Stage.

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Deputy Robert Troy: The Acting Chairman is not being fair.

Acting Chairman (Deputy Bernard J. Durkan): Does Deputy Richard Boyd Barrett wish to speak-----

Deputy Robert Troy: On a point of order, the Acting Chairman is not being fair-----

Acting Chairman (Deputy Bernard J. Durkan): The Deputy is out of order.

Deputy Robert Troy: -----because the previous speaker spent 15 minutes discussing the adoption (information and tracing) Bill, which is not connected with the Bill before us, yet the Acting Chairman did not correct her once.

Acting Chairman (Deputy Bernard J. Durkan): The Deputy must resume his seat.

Deputy Robert Troy: I ask the Chair to show fairness to all Deputies.

Acting Chairman (Deputy Bernard J. Durkan): The Deputy must resume his seat. He is eroding Deputy Richard Boyd Barrett's time. I ask Deputy Richard Boyd Barrett to proceed on the Adoption (Amendment) Bill.

Deputy Richard Boyd Barrett: I will do so. I will also continue with the argument I was making, which is my main argument.

Acting Chairman (Deputy Bernard J. Durkan): If the Deputy persists in pursuing an argument with the Chair, there is only one conclusion to which I can come. If he wishes to proceed, he should do so and, if not, I will call the next speaker.

Deputy Catherine Connolly: The Acting Chairman should let the Deputy speak.

Acting Chairman (Deputy Bernard J. Durkan): He may do so, if he is in order.

Deputy Catherine Connolly: He is in order. He is speaking to section 23.

Acting Chairman (Deputy Bernard J. Durkan): I am sorry for repeating myself, but I have brought to the Deputy's attention the need to proceed in a particular direction. If he wishes to do otherwise, let it be on his own head.

Deputy Richard Boyd Barrett: I will continue my contribution and if the Acting Chairman continues to interrupt me, people can judge the matter for themselves.

Acting Chairman (Deputy Bernard J. Durkan): The Chair does not interrupt; the Chair intervenes.

Deputy Richard Boyd Barrett: Yes, intervene or interrupt.

Deputy Martin Ferris: He has been doing it all afternoon.

Deputy Richard Boyd Barrett: As Deputy Catherine Connolly pointed out, section 23 addresses the specifics of the issue. It provides a timeline of 36 months in which the State can make an adjudication that parents have neglected or failed their children. If I understand the Bill correctly, the child may have been fostered for 18 months of this 36 month period. Potentially, this means that he or she may have been with his or her parents for only 18 months and the State could decide, based on that period, that the parents had failed him or her. Let us

take the example of a person who has experienced a mental breakdown because he or she went through a particularly bad period such as being homeless. As Deputies are aware, homelessness can last for years and in many cases those affected have no idea where they will live. This can have serious psychological effects and impact in many ways on their capacity to look after their children. Are adequate safeguards in place to address such circumstances? This issue must be given serious consideration.

Mental health problems and homelessness are frequently not fixed. A person who goes through a bad period may come out the other side as a different person and may be in a position to look after his or her children. Perhaps the parent secured a home and his or her mental health improved as a result. A person with drug or other addiction problems who is housed will be in a better position to obtain treatment, achieve rehabilitation and so forth. However, an adoption may already have taken place. In such circumstances, the State, the judge who made the ruling and the foster parents who subsequently adopted the child may have been acting in good faith and trying to do the right thing by the child. However, the circumstances will have changed. We need to consider complexities such as these, particularly where the children are very young because adoption may appear to them to be the best possible option. For example, a young child who is homeless may believe the best possible option is to tell a judge that he or she wishes to go somewhere where he or she will have a roof over his or her head and a proposed adoption is, therefore, okay. However, the child may feel differently a few years later, at which point the legal relationship with the parents will have changed. We must take these factors seriously.

As the next issue I propose to raise genuinely goes beyond the scope of the Bill, I will make only a passing reference to it. In parallel with implementing this legislation, steps must be taken to fully implement the Children First guidelines to ensure the State will provide all necessary supports to prevent family breakdown in the first instance. The provisions of the Bill should then apply at the point where family breakdown, neglect or abuse means the position is irretrievable, nothing can be done and adoption is the best way forward.

Serious, difficult and sensitive issues arise. Deputy Joan Burton spoke about the adoption triangle and there is a complicated triangle at work. I am not sure if the Deputy has seen the Ken Loach film, "Ladybird Ladybird", which is about a poor and deprived young woman who is experiencing problems and has several children taken from her. It is an appalling case, but the film is certainly worth watching. It provides a particular take on these cases and highlights some of the points I have made, for example, the belief on the part of the State that it is acting in the best interests of the child when that is not necessarily the case. It also leaves open the question as to who is monitoring or overseeing the State to make sure it is not guilty of neglect and abuse. As Deputies are aware from our history, both recent and further back, the State failed miserably in many cases and cannot be trusted to be the best body or institution to protect the interests of children, unless considerable safeguards are first put in place.

I say all of this in the genuine belief the objectives of the Bill and most of the measures provided for in it are absolutely correct. However, we need to think carefully about the issues I have raised. I am not sure how one would amend the provisions, but one possible change the Minister should consider is to the timeline provided for in section 23. There is a legal quagmire in respect of what should be done once a legal adoption has occurred and an adopted child decides he or she does not want to be adopted and may wish to reverse it. What right does the child have to a legal relationship with his or her birth parents? He or she still has a right to trace his or her parents, but what if he or she wants a legal relationship with his or her parents because he or she now feels the position has changed? These are serious considerations.

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Acting Chairman (Deputy Bernard J. Durkan): Deputy Thomas P. Broughan is sharing his time with Deputy Clare Daly.

Deputy Thomas P. Broughan: As Deputy Clare Daly is not present, I will share my time with Deputy Catherine Connolly.

I am delighted to have the opportunity to make some brief remarks about this important Bill. First, I take the opportunity to wish the new Minister for Children and Youth Affairs the best in her role and urge her to work closely with her colleague, the new Minister for Housing, Planning and Local Government, Deputy Simon Coveney. I know that she will try to hit the ground running, but the Government has a huge task to try to end the practice whereby thousands of children are living in highly inappropriate hotel rooms, guesthouses and bed and breakfast accommodation. The Minister may remember that I brought the issue of the living conditions of these vulnerable homeless children to the attention of the Children's Ombudsman approximately one year ago and also to that of the Children's Rights Alliance. I hope speedy action will be taken on the issue by the Government.

I welcome the Adoption (Amendment) Bill 2016 which seeks to increase eligibility for adoption by updating the previous adoption laws. The Bill seeks to amend the Adoption Act 2010 by providing for the repeal of sections 24 and 25, as well as of Part 11 of the Children and Family Relationships Act 2015. Under this comprehensive Bill, married parents will be able to place a child for adoption and definitions will be inserted to encompass the broadened scope of families in Ireland, with civil partnerships and cohabiting couples being included. We have been working towards such a Bill for over 20 years, as the rights of the child have, thankfully, become paramount to policy design and development than in the earlier history of the State. The State belatedly began to make progress towards this Bill by ratifying the UN Convention on the Rights of the Child in 1992, which meant that children's views had to be taken into consideration in dealing with issues affecting them. Subsequently the Government developed a number of strategies for children. The establishment of the Department of Children and Youth Affairs in 2011 was a key turning point. We ratified the Hague Convention in 2010 to provide for standards for inter-country adoptions and in 2011 published Children First: National Guidance for the Protection and Welfare of Children, which was adopted through the Children First Act 2015. The referendum on children's rights at the end of 2012 resulted in the insertion of Article 42A into Bunreacht na hÉireann, which provides for "the rights and protection of all children". Regrettably, the turnout of voters in the referendum was very poor, given the litany of revelations about the abuse of children in State, religious and civic society institutions. The insertion of the article in the Constitution required legislation. This Bill seeks to address the provisions on adoption and provides for implementation of the referendum decision.

I welcome the amendments to the principal Act, whereby definitions will be updated to more accurately reflect the landscape of families in Ireland. Section 10 of the Bill provides for the amendment of section 20 of the principal Act, substituting the term "a married couple" with "a married couple, a couple who are civil partners of each other or a cohabiting couple". I particularly welcome section 12 which amends section 23 of the principal Act through the insertion of section 23(1)(a)(ii), increasing the maximum age at which a child can be adopted from seven years of age to 18. I also welcome the provisions on same sex couples to enable them to adopt. This further strengthens our acceptance and understanding of families headed by same-sex couples following that historic day, almost exactly one year ago, when the country overwhelmingly voted in favour of marriage equality.

Section 25 also rectifies the situation where, when a step-parent wants to adopt a child, the birth parent also has to adopt his or her own child, by amending section 58 of the principal Act. The previous section 58 created a ridiculous anomaly, where partners of step-parents who wished to adopt their child lost their parental rights and then had to adopt their own child to regain their parental rights.

I note that there does not seem to be any provision in the Bill to address the issue of “closed” adoption. Have we not learned from mistakes of the past that people need access to their identity and medical records? Without addressing the issue of “closed” adoption and replacing it with best practice “open” adoption, we are merely continuing the mistakes of the past which involved secrecy. This aspect of the Bill needs to be examined and clarified.

When Deputy Frances Fitzgerald was the first Minister in the Department, I questioned her many times about appropriate adoption information and tracing services in place for citizens who wished to seek to trace their relatives. She made several commitments to place adoption information and tracing provisions on a statutory footing. The adoption (information and tracing) Bill was on the clár in the last session of the 31st Dáil and the new Minister now has responsibility for bringing it forward and its implementation.

On a number of occasions the former Minister, Deputy Frances Fitzgerald, detailed for me the work of the National Adoption Contact Preference Register, NACPR, run by the Adoption Authority of Ireland. She informed me that large volumes of files on adoptions that had been transferred to the HSE had not been processed up to the end of 2013. This led to many adopted persons experiencing huge difficulties in obtaining any information on their natural relatives. I indicated my concern at the time at the low level of resources committed to the Adoption Information and Tracing Service. Perhaps this is something the new Minister might address in the context of this legislation.

I draw the Minister’s attention to some concerns my colleagues and I have about section 14 which provides that the “High Court may give custody of a child to prospective adopters and authorise dispensing with consent to adoption”. The section substitutes section 31 of the principal Act and relates to cases where consent for adoption has not been given or has been given and subsequently withdrawn. Under the Bill, should such circumstances arise, applicants for adoption could apply for an order to the High Court. I assume the section will be examined and, perhaps, amended on Committee Stage to strengthen the provisions to ensure social workers and other relevant professionals give their input, with, of course, that of the child. This relates to section 23 which amends section 54(2) of the principal Act which, again, relates to so-called “parental failure”. The previous speaker also referred to this section, whereby the State acts as guardian of the common good. These concerns will probably give rise to amendments from colleagues on Committee Stage.

I am sure the Minister is aware of the historic, valuable and positive research launched today in the Mansion House by the Preparing for Life programme of the Northside Partnership, in conjunction with the Geary Institute for Public Policy at UCD. The research shows dramatic improvements in children’s IQ, obesity levels and social skills resulting from the parent and family intervention programme carried out in Dublin 5 and 17 by the Preparing for Life programme under its manager Mr. Noel Kelly. This intervention programme follows many similar initiatives led by him and his Northside Partnership colleagues in the past 15 years. This proven intervention which was costed at a modest €2,000 per family per year to deliver could be a model for many other communities in both urban and rural Ireland.

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On my own behalf and that of my colleagues, I welcome the Bill.

Deputy Catherine Connolly: Gabhaim comhghairdeachas leis an Aire nua. Ní bheidh drogall ar bith orm obair léi agus as lámh a chéile ar son daoine óga agus gasúir na tíre seo.

I congratulate the Minister and assure her that I will have no reluctance in working with her if it is for the benefit of young people and children. I would like to say I am overwhelmed by the gender representation in the new Cabinet, but that would be stretching it, given that there is no difference in the numbers between this and the previous Government.

I welcome the Bill, the first piece of legislation before the House for me as a new Deputy. It is good that we are starting with such a positive Bill to improve adoption rights. I welcome the Bill because of the rights it gives to cohabitees, civil partners and married people who consent to give up their children for adoption. It is also welcome that it ends the bizarre situation where a birth father or birth mother had to adopt his or her own child to enable a step-parent to become an adoptive parent. I share the concerns expressed by Deputy Richard Boyd Barrett, despite the ruling of the Acting Chairman. The points he made were valid.

I thank the Minister for her detailed and comprehensive statement on the Bill. If she continues in this manner, she will have no problem with me when it comes to the provision of information under the new political regime. She referred to the children's rights referendum in 2012 and said it sent a message to future generations that the protection and welfare of children were among the highest values of our society. That is rhetoric. It is lovely rhetoric but rhetoric nonetheless. However, the position on the ground is far from the rhetoric. At the time of the children's rights referendum I had the greatest of concerns, notwithstanding the fact that I worked in the area of law and had previously worked as a psychologist. I was concerned about the agenda behind the referendum when I knew what the position on the ground was - it was that, as a nation, we were utterly failing to protect children. While in theory the referendum was good, like the other legislation referred to, in practice we are utterly failing children. As the number of children living in poverty has been quoted many times in this Chamber, I will not quote it again.

Specifically I wish to refer to sections 14 and 23 of the Bill which deal with where the High Court steps in. The Minister might look at section 23, in particular, and come back to me on it. I am concerned about the period of time given - 36 months. It must be shown that, for a period of not less than 36 months immediately preceding the making of the application to the court, the parents have failed in their duty to such an extent that the section applies. Section 23(1)(b) and (2A)(e)(ii) states the child must be in the custody of the prospective adoptive parents for 18 months. We are not looking at a test of 36 months where the natural parents have abandoned their children but a period of 18 months because the period of 36 months includes the 18 months spent with the prospective adoptive parents. Perhaps I am misreading the section, but 36 months is very short in the first instance in the context of the concerns raised by Deputy Richard Boyd Barrett, with which I agree. It is only an 18-month period for the birth parents because in the other 18-month period the children are not with their parents.

I will return to the subject of the children's rights referendum. My experience is that social workers apply for care orders on a much more frequent basis than for supervision orders. At the time of the children's rights referendum, I asked for figures for the numbers of supervision orders for which the various health boards had applied, but they were not available. That shocked and surprised me at the time and I still do not have them. My experience tells me that they are

not applied for because they are resource driven. If a health board does not have the resources, it will not apply for a supervision order because it involves somebody going into a house to do it. It seems to be the most practical way to support families and ensure parents receive help when they need it in various crises, but it is not happening. While we have very good legislation in place and had good legislation in place prior to the referendum with the rights of children enshrined in all children's legislation, the resources were and still are lacking on the ground to ensure the rhetoric is turned into reality. I will table a parliamentary question on supervision orders in the new set-up in the Dáil. If we had that information, we would be able to see if we are moving as a society to help families in trouble or whether it is the policy to move in and take a child when there is a better solution.

I look forward to working with the Minister to address my concerns. I may well table some amendments to the Bill.

Acting Chairman (Deputy Bernard J. Durkan): The next slot has been allocated to Social Democrats Members, but they are not present in the House. The Green Party Members are also not present. Next in line is an Independent Member. The Independent Members are also not present. I, therefore, call Deputy Denise Mitchell of Sinn Féin.

Deputy Denise Mitchell: I am happy to speak in support of the Adoption (Amendment) Bill. The legislation is very welcome as it is progressive in its extension of the grounds for adoption. Like any legislation dealing with children, it is important that the Bill have the child at its core.

A sign that legislation is needed and supported is that it has the backing of stakeholders. Therefore, it is important that the Bill has the backing of relevant stakeholders. While I agree with the stakeholders that this legislation is long overdue, it is great to see it finally begin its journey towards being passed into law. There are many children in long-term foster care who could not be adopted before the change to the Constitution following the children's rights referendum. It is great that the Bill will work towards removing these obstacles if adoption is in the best interests of a child. Thankfully, the legislation also removes some of the barriers when it comes to adopting a child. The rights of the child seem to be prioritised, with the best interests of children at heart, meaning that they will have the opportunity to be adopted and given a sense of long-term stability. As many people know, adoption provides security for children and families. For far too long, our laws have been out of step with the needs of the modern family. I hope the legislation will address this.

In the context of the history of how children were treated, the legislation is an important step, certainly one in the right direction in learning from past mistakes and the failings of the State. I do not want to overuse a phrase, but in this centenary year the legislation moves somewhat towards cherishing all children equally. The challenge for us, from here on, is to work even harder to address the other issues, of which there are many, that create inequality among children, as well as all other issues that give rise to inequality in our society.

Acting Chairman (Deputy Bernard J. Durkan): The next speaker is a Labour Party Member who will be followed by Deputy Shane Cassells of Fianna Fáil. As there is only one minute remaining before the commencement of Private Members' business, it might be best to suspend the sitting until then. Is that agreed? Agreed.

Debate adjourned.

Sitting suspended at 6.58 p.m. and resumed at 7 p.m.

Central Bank (Variable Rate Mortgages) Bill 2016: Second Stage [Private Members]

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

I wish to share time with Deputies Dara Calleary, Bobby Aylward, Thomas Byrne, John Lahart and Marc MacSharry.

Acting Chairman (Deputy Declan Breathnach): Is that agreed? Agreed.

Deputy Michael McGrath: I welcome the opportunity to debate once again the vital issue for family finances, that is, the standard variable mortgage interest rate applying to mortgage products in Ireland. This is an issue that Fianna Fáil has been focusing on for well over a year at this stage and, last year, we dedicated two of our Private Members’ slots to advancing the interests of individual mortgage holders and families affected by this issue.

I wish to acknowledge the dedication and expertise brought to the issue by campaign groups, such as The Fair Mortgage Rates Campaign led by Brendan Burgess, and the highlighting of the issue by commentators in the media, such as Charlie Weston of the *Irish Independent*, and others. We also welcome the support of other Opposition parties and Independent Deputies, who also used parliamentary time in the Thirty-first Dáil to advocate for variable rate mortgage holders.

This collective effort led the previous Government to meet the banks in May of last year and some rate reductions have been delivered. There has been a strong degree of consensus that the current situation is far from satisfactory. Ministers in the previous Government and a number of the Independent Deputies who are now part of or supporting the new Government have spoken of the need for action on this issue. While we are, I believe, broadly united in this House in our collective determination to achieve fair treatment for standard variable rate mortgage customers, there has been and remains disagreement on how best this can be achieved. There is nothing to fear from this. It is a sign of a healthy, functioning democracy that all aspects of this issue can be fully ventilated on the floor of Dáil Éireann.

As I noted last July, standard variable mortgage interest rates are a huge issue in many household budgets throughout the country. To put it in context, it is worth remembering there are up to 300,000 residential mortgage customers with variable rate mortgages in this country and, collectively, they owe €40 billion. A 0.5% cut in mortgage rates would give an average boost of over €650 per annum to these families while a 1% reduction would help them to the tune of nearly €1,300, so we can see the importance of this issue in financial terms for the households who are affected.

This debate is a significant chance for the Dáil to assert its greater freedom to act collectively in a spirit of co-operation and in the interests of the public. Fianna Fáil is moving this Bill against the backdrop of the terms of the framework agreement we entered in to with Fine Gael, which committed the parties to: “Take all necessary action to tackle high variable interest rates”. I also note the terms of the programme for Government, which states:

It is not ethically acceptable for Irish banks to charge excessive interest rates on standard variable rate customers. We will take all necessary action to tackle high variable interest rates. ... We will request the Competition and Consumer Protection Commission to work with the Central Bank to set out the options for the Government in terms of market structure, legislation and regulation to lower the cost of secured mortgage lending and improve the degree of competition and consumer protection.

Earlier today, the Minister for Finance, Deputy Noonan, raised potential constitutional difficulties with the Bill, citing the comments of an investment bank, Investec. This is most surprising as, when the legislation was originally debated in July of last year, the Minister and his representative on the Tuesday evening of that debate, the Minister of State, Deputy English, did not raise any such concerns. That debate was on the same Bill we are debating here, and I presume it went to the Attorney General for advice, yet no issues whatsoever around its constitutionality were raised at that stage. It is even more surprising when one considers the terms of the programme for Government, which noted the potential for legislation and regulation in the area of mortgage rates. Last May, the Minister himself held up the possibility of introducing this type of legislation or introducing a penal bank levy if the banks did not reduce mortgage costs. Unfortunately, the conclusion may be drawn by some that the question of constitutionality is an excuse that is reached for when a Government has run out of valid reasons not to support an Opposition Bill.

When this issue came to the fore last year, the initial strategy on the part of the banks was to deny to existence of a problem. Some banks have moved to reduce their standard variable rates, which I welcome. AIB has reduced its standard variable rate on four separate occasions in the past 18 months, and it now has a standard variable rate of 3.4%. I believe this should be extended to EBS and Haven customers, who have been excluded from the most recent cut, at least until now. Weekend media speculation pointed to a possible further cut, which would bring the rate closer to 3%. Let us hope this happens.

These reductions are very welcome. On a further positive note, there are now some signs of competition between banks in the mortgage switcher market. This should be supported by a statutory code of conduct on mortgage switching. I believe the Government and the Central Bank are now minded to implement such a code, which I welcome, given we have been calling for it for some time. It is also positive that Permanent TSB has introduced a new managed variable rate product. I am conscious that Permanent TSB has not yet returned to sustained profitability and any regulatory framework that is put in place has to be carefully balanced between the need for consumers to be protected and the requirement for the banks to be profitable, competitive and viable into the future. Indeed, the legislation we are putting forward today allows for a differentiation between different lenders considering a range of factors, including some of those mentioned.

While progress is being and has been made, in the past year in particular, we believe still more needs to be done. Some banks blatantly continue to offer better deals to new customers than to their existing standard variable rate customers. This should not be acceptable to anyone in this House and it should not be acceptable to the Central Bank, which, after all, has a key role in consumer protection. Customers with high loan-to-value mortgages, those in negative equity, those in arrears, those who have restructured their mortgage or those whose financial situation has taken a turn for the worse often find it impossible to switch in order to avail of the new, better rates. Those rates are not extended to them and they are essentially trapped, an issue which needs to be dealt with.

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Standard variable rates north of 4% are still far too common in the Irish market. Those banks that have steadfastly refused to reduce their standard variable rate cannot be allowed to hide behind improved fixed rate offers. In particular, Bank of Ireland has stuck rigidly to a completely unjustifiable variable rate of 4.5%. In a presentation accompanying its year-end results for 2015, the bank's cost of funds is quoted at 0.8%, so it is charging its standard variable rate customers over 5.5 times the bank's own cost of funds, which is an indefensible position. If the Central Bank is not going to vindicate the rights of those mortgage holders, then this House should move to do so.

Fixed rate mortgages are an entirely different product to a standard variable rate mortgage, as I have pointed out on numerous occasions. If a customer locks in to a fixed rate, they will lose out again if the variable rate falls below the fixed rate. They will also lose a lot of flexibility because, while a fixed rate is suitable for many mortgage holders, it may not be for others. In addition, if a new competitor enters the market offering a much lower variable rate, the customer will face substantial penalties if they seek to switch their mortgage.

The position of Danske Bank customers is even more precarious as they are paying a standard variable mortgage rate of 4.95%.

In 2013 Danske Bank announced that it was pulling out of the personal banking market in Ireland. While the majority of its mortgage loans are at tracker rates, a significant number of its variable rate customers pay the highest mainstream lender rate in the Irish market of just under 5%. There was a chink of light for its customers earlier in the year as a result of the Miller case. The original ruling by Mr. Justice Hogan who found that Danske Bank had acted incorrectly in raising its standard variable rate at a time when the ECB was actively cutting its lending rates had given hope to mortgage customers, but it was overturned on appeal. Essentially, the courts have found that the law, as it stands, cannot be invoked by a mortgage customer who believes a bank has hiked the standard variable rate payable to an excessive extent. As I stated, at one stage last year the Minister was of the view that legislation and-or a penal bank levy could be used as sticks to force the banks to reduce their rates. Now he seems to believe competition alone will solve the problem.

While customers are to be encouraged to shop around, the truth is that switching a mortgage from one lender to another can be difficult. Today the Minister said one would need a PhD in mortgage switching to switch from one lender from another. Most people do not have a PhD in mortgage switching and find it very difficult. That is why we need a code of conduct on mortgage switching. In particular, it is of no use to customers of Danske Bank who are in negative equity. The option of switching to a lower-cost lender is effectively closed to them and many others. I have been contacted by Danske Bank customers who are at their wits' end in trying to cope with their monthly mortgage repayments. It is of cold comfort to them when they hear the Minister speak about competition reducing rates. There is no realistic prospect of that institution cutting its variable rate, unless it is forced to do so because it is exiting this market. Therefore, moral persuasion will have no influence on it.

The Central Bank is sitting on or considering an application for a licence by The Frank Mortgage to enter the Irish market and extend cheaper mortgages to customers, I believe, at rates of less than 3%. The Central Bank should embrace new entrants, provided they meet the regulatory requirements and swiftly allow them to compete in the Irish market and apply further downward pressure on interest rates.

The situation facing approximately 46,000 mortgage holders whose mortgages are now owned by non-bank lenders must also be highlighted. Many of these mortgages are owned by so-called vulture funds which bought mortgages from the IBRC special liquidators and foreign-owned banks departing the Irish market. If these funds decide tomorrow morning that the mortgage rate should be increased to 6% or 8%, there is nothing customers can do about it. More worryingly, there is nothing the Central Bank can do about it based on its existing statutory powers. This is not tenable and exposes those mortgage holders, in particular, to an unacceptable risk. I would like to address the question of whether the Central Bank actually wants these powers to intervene in the market, as this is something that I imagine will come up regularly in the course of the debate.

Under the terms of the legislation, the Central Bank would be required to carry out an assessment of the state of the mortgage market, taking into account factors such as the banks' cost of funds, reasonable profit expectations, concentration within the market, the ease with which borrowers can switch mortgages between lenders and the extent to which they are switching. Should the Central Bank conclude that there is a market failure, the legislation would empower it with a range of tools to influence the standard variable rates charged in the market.

It is important to note that, ultimately, it is the Oireachtas that decides what powers are granted to the Central Bank. Having spent a year and a half listening to testimony, the banking inquiry highlighted for me that the Central Bank and the banking institutions in the State had not been challenged robustly enough in the period of the Celtic tiger. We, on this side of the House in Fianna Fáil, are not afraid to robustly challenge the Central Bank and the lenders.

In his statement earlier today the Minister stated provisions such as those in the Bill would mean that the European Central Bank would need to be consulted before legislation could be enacted. This is reflected in the amendment circulated by the Government. I have no difficulty with consultation. However, I remind the Minister that the whole point of the exercise in introducing the Bill is to give effect to the ECB's policy of making credit cheaper, in this instance for households. This is one of the main reasons the ECB is maintaining its base rate at the unprecedented level of 0%. The benefit of base rate reductions has only barely been felt by standard variable rate customers. It is also the case that countries such as France have relative interest rate caps in their national legislation.

Another important part of the legislation is a desire to end discrimination against existing bank customers. The reality underpinning the Bill is that the cost of funds for banks has fallen dramatically, their net interest margin is increasing all the time and the main banks in Ireland are strongly profitable again, which is welcome. Some of the rates which continue to be charged in the Irish market are utterly unjustifiable by any yardstick and need to be addressed. Fair treatment for customers should be a cornerstone of consumer protection provisions. We need a strong legislative framework to ensure this happens. The banks simply cannot be allowed to continue to rip off customers safe in the knowledge that they will not be subject to any sanction or intervention by the House or the Central Bank. By introducing the Bill, Fianna Fáil is setting out a path for how this could be done in a responsible way. It is now time for the Oireachtas to act in the interests of consumers.

Deputy Dara Calleary: This is the first Private Members' business in the new Dáil, but the more things change the more they remain the same. This is the third occasion on which Deputy Michael McGrath has tabled legislation similar to this - twice last year and now. This is the third occasion on which variable rate customers throughout the country who are being ripped

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off by their banks will be blocked from seeing some progress on how they are being treated. The reasons cited this evening are different from those cited on the two previous occasions. We now have a constitutional issue and the ECB needs to be consulted. Why were these issues not flagged or investigated in March or July 2015 in order that action could have been taken to deal with and get around them?

The lack of urgency in how this issue is being treated is evident in the note given to us by the team at the Oireachtas Library and Research Service which shows that in May 2015, at the time of Deputy Michael McGrath's first motion, the Central Bank published a paper on the influences on standard variable rate mortgage pricing in Ireland. Very little action was taken at the time. The Central Bank then commissioned a consultation paper in November 2015 on increased protection for variable rate mortgage holders. The closing date for the receipt of submissions was 12 February and the bank is currently assessing them. There is a lack of urgency for those who are at the pin of their collar in trying to pay what they are being charged for their mortgages. There is a lack of urgency for people who have a constitutional right to housing, but the same Constitution is being cited as a reason they should be denied proper rates and proper action. We now have a Government amendment which proposes to kick the can down the road for a further six months, while the latest excuses and reasons are examined. That is why, as a House, we cannot stand for this, while people are at the pin of their collar in trying to make repayments.

Deputy Michael McGrath deserves commendation for raising the issue consistently. It has added to public discussion and public discourse and brought media pressure. I join him in praising people such as Charlie Weston. The media have put pressure on some of the banks. Today I heard some commentators state that if the Bill was passed, there was the potential for an increase in the cost of funds to Irish banks. I cite Deputy Michael McGrath's figures from Bank of Ireland's annual report. It pays costs of 0.8% and charges 4.5%. At the same time, it is offering new mortgage customers the chance to get their first payment back to help with the cost of their fees. What about existing customers? Why should they pay for this incentive and offer to new customers? The commentary over the weekend on AIB's recent move was that it was getting ready to get back into the competition market. When one sees big billboards promising customers their first mortgage payment back or assistance with their legal fees, it brings one back ten years to 100% mortgages and that is not a space to which any of us want to go back in terms of a relaxing of the rules. What we want, however, is fairness. What we want is to give people a chance. What we want is that people who made the choices and purchased their houses ten years ago be given the same sort of treatment as people who do that today.

This Bill is particularly well drafted. It allows for differentiation between different lenders, recognising that each lender in the Irish market has different circumstances facing its particular balance sheet. It gives the power to the Central Bank to do that. The Minister will say the Central Bank does not want that power but consumers need someone to have that power. If the Central Bank does not want it, the Competition and Consumer Protection Commission should surely have it or use it to try to inject fairness and a bit of competition into the system. Another reason given for not accepting this legislation is it might frighten competition away. Anybody considering a market that charges 0.8% cost of funds and can charge 4.5% will think there is a lot of opportunity there. That is a fact and that is the one figure that stands out and it is probably applicable to many of the other banks.

The same applies to SMEs and farms. They are not getting the kinds of reductions in cost of funds that are being given to the banks by the ECB and others. SMEs are being faced with

a cut in banking services and massive increases in fees and their loans are being sold off to people with no protection for those loans, with the smallest possible reason being used to call in the loans.

The Minister is right: one needs a PhD to switch. Yet when one sees banks offering customers deals to switch but not making it any easier for them, one would want treatment from a medical doctor and for the price of switching, one would be able to buy a PhD.

Deputy Bobby Aylward: By introducing this legislation tonight, Fianna Fáil and our spokesman on finance, Deputy Michael McGrath, are offering the Government an opportunity to halt the scandalous practice of banks charging customers unfair and unjustified standard variable mortgage rates. In March 2015 Fianna Fáil put this issue firmly on the agenda with a motion on the subject of rip-off variable rates being charged. Last July I spoke on this matter during Private Members' time and it is unfortunate that almost a year later we are discussing the same issue and very little has changed.

Further progress is clearly needed to ensure fair treatment of standard variable rate mortgage holders. This is probably the most scandalous situation in recent times. However, we have banks which have been saved from extinction by the taxpayer. These same taxpayers and mortgage holders are now subject to these unjustified variable rates and scaremongering from bankers. We have referred to them as taxpayers and mortgage holders but these are real people with families. There are more than 300,000 householders on standard variable mortgages. At least they have benefitted from the current low interest rate environment in Europe and yet we have seen no meaningful action being taken by the Government or Department of Finance in nearly six years.

Imagine the sheer frustration and anger of struggling parents who look on as their personal rate is rising while those of others around them have fallen steadily. They are forced to sit back as the single biggest outgoing for their family becomes more and more expensive and difficult to keep up with, which can lead to financial and mental problems. We speak here tonight on the first day of the new Government of the Thirty-second Dáil. We have a golden opportunity to make a real change that will affect real people and significantly improve their standard of living and that of their children.

This legislation requires the Central Bank to assess the state of the mortgage market. This is reason enough to support the legislation. The assessment would consider banks' costs of funds, reasonable profit expectations, concentration within the market, the ease at which borrowers can switch mortgages between lenders and the extent to which they are switching. There is no reason to oppose this aspect of the legislation. This assessment is clearly needed and urgent.

The legislation empowers the Central Bank with a range of tools to influence the standard variable rates being charged should the Central Bank conclude that market failure exists. We are often asked if the Central Bank actually wants these powers. This is nonsense. It is firmly the responsibility of the Oireachtas to decide what powers are granted to the Central Bank. The time for passing the buck is finished. It has gone on for too long. It is time to change.

The banking inquiry has clearly highlighted the need for all institutions, including the Central Bank, to be challenged on the power they have and how it is exercised. The mortgage market in Ireland has failed. Intervention is needed immediately. This Bill provides for meaningful change in a way that separates such intervention from political interference. The banks denied

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the existence of this problem when it was placed firmly in the public interest last year. Some banks had belatedly reduced their SVRs but we must do more. These banks are point-blank refusing to make even this most modest of concessions on the standard variable rates and they require a rude awakening. They continue to hide behind fixed rate offers as their flashy advertising campaigns portray the false claim of putting the customer first.

This is a measured, moderate Bill aimed at simply bringing some equity to the mortgage market while improving the lives of more than 300,000 families struggling today. We should allow it to go to Committee Stage for a thorough examination that will allow all sides of the House to have their say and influence this legislation. If those on the Government benches are not willing to support our efforts to address this scandal, I implore them to introduce legislation of their own that would help the people trapped in this vicious cycle.

I am delighted to get this opportunity to get my voice on the record on this issue for the second time. I am asking the Minister to take note of what we are saying because many people out there are suffering badly under these extreme interest rates that are being charged by some banks.

Deputy John Lahart: I want to commend my colleague, Deputy Michael McGrath, for bringing this forward. He was, as my colleagues have said, associated with bringing exactly the same Bill before the Dáil almost a year ago.

All that this Bill requires is for the Central Bank to carry out an assessment of the variable mortgage rate market. As some of the previous speakers have said, a mortgage is the single biggest financial outgoing for families, couples and individuals and the fact is that tens of thousands of variable mortgage customers are paying exorbitant rates. Those points have been made.

My colleague, Deputy McGrath, also pointed out some of the quick-fix solutions or some of the solutions being proposed by some of the mortgage lenders are not adequate, such as reducing fixed rates. This is simply not adequate as a response to variable rate mortgage customers as it might not be suitable for a large number of customers. The legislation that Deputy McGrath and my party is proposing this evening is comprehensive and would apply to all entities providing, managing or administering mortgages. This is very important as it would include those mortgages which have also been sold to vulture funds, and I know Deputy McGrath made this point. It is needed because more than 300,000 households are on standard variable rate mortgages. As a mortgage holder who benefits from a tracker rate, I can see the huge benefit that those who are on trackers have secured over the last five or six years with the tracker rate matching the ECB rate, and it runs to thousands annually, depending, obviously, on the size of the mortgage.

Deputy McGrath - I support him on this - has outlined how the legislation proposed by Fian-na Fáil will deal with this issue comprehensively. The legislation we are proposing is balanced between the obvious needs for banks to be profitable - some of them clearly are, including AIB, which has reduced its variable mortgage rate and is still managing to make profits - and the rights of consumers to be treated fairly. The Central Bank would be given responsibility for monitoring the level of competition in the mortgage market and the fairness of rates charged. What we are proposing would also offer increased protection for mortgage holders whose loans are sold to vulture funds. At the moment those mortgage holders have absolutely no security or protection if their mortgage is sold on to a vulture fund and an increased variable rate is charged.

A Central Bank report in 2012 noted that high variable rates lead to higher arrears, which I am sure is something the Minister does not want to encourage or stand over. I note in the Fine Gael manifesto and in the programme for Government that the Minister is an advocate and supporter of the idea of switching mortgages. However, I want to support what Deputy Calleary said. Maybe we all in this House can look at some legislation some time. If I wanted to move my bank account from one bank to another, the amount of loopholes, paperwork and bureaucracy that would face me would be overwhelming. The idea of switching a mortgage from one lender to another may seem appealing. No matter how much a government may do in trying to encourage borrowers and setting up a code of conduct to facilitate them, and I applaud the Minister for that, it is not as easy as the Minister makes out or as is made out in the manifesto.

Deputy Michael McGrath has been in the vanguard of this issue for well over a year. This clear commitment regarding variable rate mortgage holders was one of the commitments in my party's manifesto towards a fairer Ireland, in which we referred to tackling mortgage arrears and tackling variable mortgage rates. One way of doing that is doing all we can to reduce variable mortgage interest rates.

There was no mention in the Fine Gael manifesto of the reduction of variable mortgage rates. As I stated, the Minister spoke about establishing a code of conduct for switching mortgages. The programme for Government states, "It is not ethically acceptable for Irish banks to charge excessive interest rates on standard variable rate customers." It goes on to state, "We will take all necessary action to tackle high variable interest rates", and talks about the code of conduct. The line, "We will take all necessary action to tackle high variable interest rates", is the one to which I want to draw the Minister's attention. My colleague, Deputy Michael McGrath, is offering this House an opportunity to do just that and it would be a shame to pass up that opportunity, particularly when the Minister has made that commitment in the programme for Government.

Deputy Michael Noonan: Legislation is not necessary. Deputy Michael McGrath knows my view since the Trinity talks.

Deputy Bobby Aylward: The Minister will have six months.

An Ceann Comhairle: We will come to the Minister in a minute. I thank Deputy Lahart. Deputy MacSharry is the last remaining listed speaker.

Deputy Marc MacSharry: I will share time with somebody, if somebody wishes to come in. I am glad to have the opportunity to make a few general points on this issue. Obviously, I support the legislation. The tragedy of the so-called recovery over recent years is the fact that we have not had the people central to our focus in terms of the measures we have sought to implement. Professor Sean Barrett, as a Member of the Seanad, frequently used to speak of the secret back stairs in the Department of Finance to which bankers seemed to have exclusive access, and it certainly seems like that when we see good legislation being put forward that puts first the people who have suffered and who have ultimately sacrificed in beginning that recovery which seems to be taking hold here in Dublin but not elsewhere throughout the country. We have to begin to embrace these issues.

The constitutional argument is nonsense. When I put forward the Family Home Bill in July 2011 in the Seanad to give protections to families against losing their family home, that same argument was put forward. Nobody would share the Attorney General's advice on that occa-

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sion and yet for five years we have had many families put to the pin of their collar, and many put out of their homes in that period, while we obsess about the profitability of the banks. As Deputy Michael McGrath has eloquently outlined, the level of profitability that AIB has managed to put together over recent years, looking after its cost of funds and a margin for itself and still reducing rates four times over the period, shows that it can be done. Therefore, it is time we put the people central to this and put the people's representatives in this House in command. If the Central Bank is not anxious to have these powers, frankly, it is not its call. That is a matter for this House to decide. We should face up to our responsibilities and equip the Central Bank with the tools the people demand it should have so as to give them the protections they need.

The balance is wrong between the profitability focus on the banks and looking after the people. As far as I am concerned, throughout the process the banks have engaged only superficially with people. There is all talk of split mortgages, warehousing, restructuring, etc. The reality is very different. If a person is a big boy on the back of the *Sunday Independent*, he or she will get a couple of hundred million euro wiped out, and those self-same businessmen are flying around in choppers and so on. However, what are we doing for the person in my constituency who texted me this morning telling me of receipt of a notice from Start Mortgages to surrender the house? What is in the State's interest in putting that family out of their home? These are the kinds of measures we have to look at and, I hope, in discussing with colleagues on this side of the House, that we will bring back the Family Home Bill 2011 to give those kinds of protections to families because they deserve it for the pain they have put up with. While those in the banks in their ivory towers once again enjoy the fruits of profitability, bonuses, etc., we owe it to the people, borrowers like that family which got the notice this morning from Start Mortgages to surrender their house, to ensure we are doing something for them.

As I stated, we have had superficial engagement. Why does the Minister not suggest to the banks that it is time we followed the continental example where there are intergenerational mortgages to help people? How many families does the Minister know who have been offered one of those? How many 45 year olds in arrears does the Minister know who were taken aside and told they are a good bet, they will get employment again, they will make money again and the lender will add 15 years to their term, push the loan out and warehouse half of it? That is not happening because the Minister is not interested in doing it. It is because the Minister blindly leaves here and goes to the Department where the advisers tell him what the practice is or the Attorney General says she does not know how this will go down in the Four Courts or whether it will be acceptable.

For once, let the House show the leadership the people want it to have. I very much hope this Bill will be accepted. Deputy Michael McGrath started, along with others of my party in the Seanad, with a package of measures dating back to June and July 2011 and, sadly, the Government of which the Minister was a member, which was in control, put the banks back into profitability but forgot the most important consideration, that is, the people. We all heard on many occasions about the systemic nature and value of the banks to society, but what about the systemic nature of the people?

This is the beginning in terms of the legislative proposals of Fianna Fáil in opposition. I hope that others in the House embrace what we are doing, vote it through and vote down the Government amendment which is nonsense, and that we will follow up with more proposals to try to put the people central to the focus of the work of these Houses.

Minister for Finance (Deputy Michael Noonan): I move amendment No. 1:

To delete all words after “That” and substitute the following:

“the Bill be read a second time this day six months to allow for scrutiny by an appropriate Select Committee to examine and address the following issues:

a) There are major constitutional issues which fall to be considered in relation to interference in vested property rights, the retrospective application of the proposals and the absence of an appeal mechanism.

b) Under the EU Treaties there is an obligation to seek an advisory opinion from the European Central Bank where domestic legislation is proposed which affects the workings of the Central Bank. This has not taken place. A failure to consult the European Central Bank is an infringement of Decision 98/415/EC and could lead to infringement proceedings against Ireland.

c) The Central Bank has not sought the proposed powers to regulate variable rate mortgages. The Central Bank is independent and the Bill provides only that it “may” issue directions in respect of interest rates. The Central Bank cannot be required to exercise the proposed powers. The Bill requires the Central Bank to assess whether market failure exists in the Principal Dwelling House mortgage market but assessment of competition issues comes within the remit of the Competition and Consumer Protection Commission.

d) Competition and the provision of choice for consumers is the best way to achieve a sustainable long term solution to the issue of high mortgage repayments and the proposed Bill is likely to restrict or limit competition in the mortgage market. Following meetings with the banks last year and ongoing pressure, the banks have made a number of reductions to their mortgage offers and some welcome competition is coming into the market.

e) Regulation of interest rates in the manner proposed in the Bill could have unintended consequences on the availability and cost of credit which would lead to consumer detriment in the longer term.

I will share time with Deputy Rock, with the agreement of the House.

I thank everybody who contributed so far for their interest in this important matter. As the House will be aware, I have tabled a proposed amendment to this Bill. The amendment is to delete all words after “That” and substitute that the Bill be read a Second Time this day six months to allow for scrutiny by an appropriate select committee to examine and address the important issues and key points, which are the major constitutional issues raised by the Bill, the obligation to consult the ECB on legislation of this nature, the Central Bank’s stated position on this issue, the importance of competition as a sustainable and long-term solution to this issue, and the possibility that this Bill may have unintended consequences.

I fully understand that the intention behind the Bill is to help people with their mortgage repayments. As banks are slowly beginning to return to profitability, customers rightly feel that their mortgage interest rates should be coming down, not least when there remains a low interest environment in Europe, and I wholeheartedly agree. However, I have some significant concerns with the proposed approach in the Bill.

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First, it is useful to consider how we have got to this position. This Bill comes against a backdrop where the interest rates charged on standard variable rate, SVR, mortgages in Ireland have diverged from the European Central Bank, ECB, rate in the past eight years. I was acutely aware of the difficulties this must be causing families and so discussed the issue at a meeting with the then Governor of the Central Bank, Professor Patrick Honohan, in early April of last year. At that meeting, I requested that the Central Bank conduct research into the factors impacting standard variable mortgage rates in Ireland, and this report was published shortly afterwards.

It is worth pointing out that this report found that interest rates on overall outstanding mortgages in Ireland are actually close to the European median, the Irish figure being influenced by the large number of low interest rate tracker loans, which represent over 50% of all loans outstanding. This should not be forgotten in a proper analysis of this issue. The Central Bank's report stated more specifically that the spread between the official ECB interest rates and the standard variable mortgage rates is relatively high in Ireland both by historical standards and compared to European peers. However, three factors are important determinants of this margin, namely, increased credit risk resulting from high levels of non-performing loans and lengthy and uncertain processes of collateral recovery; weak competition; and the constraints on bank profitability arising from legacy issues of the financial crisis, such as the increased regulatory requirements for capital.

The report also noted that policy steps to interfere with interest rates risked creating damaging side effects and stated that by discouraging entry, innovation and competition, such measures could result in higher spreads and higher Exchequer costs over the longer term. Owing to the difficulties faced by borrowers, I decided at that time to act in a concrete and effective way to try to resolve the issue. Last May, I met with the main banks and asked them to review their rates and products to provide options for borrowers to reduce their monthly mortgage repayments. Since then, lenders have announced a number of new initiatives which have resulted in reductions in mortgage interest rates for customers.

I am pleased to see reductions and competitive offerings continue to be announced. This is igniting the competition market between banks and will benefit customers in an immediate way. For example, last week AIB announced another reduction of 0.25% in its standard variable rate, SVR, and loan to value, LTV, rates for new and existing customers. It stated that this reduction on a €200,000 SVR mortgage could save a borrower up to €320 per annum, based on a 25 year term. This is an immediate and real saving for customers. KBC also announced rate reductions last week while on Friday the Central Bank published figures that showed principal dwelling house mortgages across all categories have declined over the 12-month period ending in the first quarter of 2016. The sharpest decline was observed for SVR or LTV variable rate mortgages, which fell by 49 basis points to 3.64% over the year ending in the first quarter of 2016. Permanent TSB and Bank of Ireland offer lower rates through managed variable rates and fixed-rate products, respectively. The banks are offering different products which contain lower interest rates. As I have often stated, I recommend customers shop around in order to avail of the best products in the market which suit their circumstances.

These changes show the actions I have taken continue to have an effect. In the programme for Government, we have committed to take action on the issue. We can all agree that we want to take action on the issue that is targeted, thought through and which can deliver the best possible results for borrowers now and in the long term. Legislation is a very significant step for anyone, in government or in opposition, to take. It is, therefore, not something we should

undertake lightly or without full consideration of its effects, intended or unintended. I will highlight some of the concerns I have with the proposed Bill.

Commentators have raised concerns about constitutional issues. Deputy Michael McGrath referenced Investec, which issued a note to clients approximately two weeks ago. These concerns must be addressed regarding compulsory interference with vested property rights. There are concerns around the retrospective application of the proposed legislation to private contractual arrangements entered into under the existing legal and regulatory structure in the absence of an appeal mechanism for the lenders and regulated financial service providers targeted in the legislation. Any such legislation would need to provide for fair procedures and be a proportionate response to the issue in the interest of the common good. It would also need to come within the permitted constitutional exceptions for interference with property rights.

Second, and more immediate, under EU treaties there is an obligation to seek an advisory opinion from the European Central Bank, ECB, where domestic legislation is proposed which affects the workings of the Central Bank. EU rules require member states to consult the ECB on draft legislative provisions falling within the ECB fields of competence and the member state must ensure the ECB is consulted at an appropriate stage, enabling the authority initiating the draft legislative provisions to take into consideration the ECB's opinion before taking its decision on substance. Consultation has not taken place regarding the Bill and a failure to consult with the ECB in this regard can result in infringement proceedings before the European Court of Justice taken by the European Commission against the member state. I do not know whether it is within the Ceann Comhairle's competence or it is a matter for the Government, if the Bill passes Second Stage, to inform the ECB, and I have asked the Attorney General to advise me on where the responsibility lies.

Third, the Bill gives powers to the Central Bank to regulate variable rate mortgages, although the Central Bank has never sought these powers. The Governor of the Central Bank, as well as the previous Governor, has made it clear that he does not consider the Central Bank should be given the power to regulate interest rates. The Central Bank is independent and the Bill provides only that it may issue directions in respect of interest rates. There must be some doubt about the efficacy of giving a power that it does not want to an institution which cannot be required to exercise it. This is the nub of the problem with the legislation.

Deputy Michael McGrath: We can make it stronger if the Minister wants.

Deputy Michael Noonan: The Bill requires the Central Bank to assess whether market failure exists in the principal dwelling house mortgage market. However, assessment of competition issues comes within the remit of the Competition and Consumer Protection Commission, CCPC, not the Central Bank. It would not be appropriate for the Central Bank to make this assessment. Previously, the Central Bank had a mandate in this area, but the Honohan report in 2010 found that this responsibility caused conflict with the other goals of the Central Bank. Competition represents the most favourable method of driving down interest rates, both competition between existing lenders and that introduced by new entrants. New entrants are looking to enter the Irish market. We must be careful that we do not deter new entrants from coming in, meaning that, ultimately, consumers have less choice and will end up paying a higher price or, worse, having no access to credit at any price. The introduction of the legislation may result in potential entrants deciding not to enter the Irish market.

Competition is a better solution to the issue, given that it benefits all banking customers.

If banks must respond to increased competition, it will benefit not just mortgage interest rates charged, but the costs and fees of other banking products and the types of products they offer to all customers. Over recent months, the main lenders have announced a number of new products and initiatives that have reduced the cost of borrowing. These rate reductions by lenders should narrow the margin between lending rates in Ireland compared to the European average, and the longer this competition is allowed to flourish, the better the rates being offered to consumers will be. These are all significant factors that should be considered before this Bill is read. That is why I suggest the Bill be reviewed before it advances further.

The programme for Government commits that all Bills will be subject to pre-legislative scrutiny. Given that the Bill has not been through this process, I strongly suggest that the scrutiny and analysis of an appropriate committee is needed here to ensure the significant concerns which the Bill raises are properly investigated. The committee could also examine the potential unintended consequences of the proposed legislation, which have not yet been discovered or considered. For example, a possible response of a lender faced with restricted flexibility on interest rate setting could be to seek to recover lost revenue through other means, such as up-front charges for other mortgage related services or higher prices for other products.

The regulation could also have unintended consequences on the availability and cost of credit, which could lead to consumer detriment in the longer term. Given that lenders would not be able to price for risk, rationing of credit to those presenting the lowest risk would be the likely outcome. High-risk borrowers would not get money from any bank due to the legislation. If a bank can charge only up to a particular regulated rate, the bank may be more likely to refuse credit to the higher-risk borrower, thus locking a cohort of potential borrowers out of the housing market, when we all want to make buying a home accessible and affordable to all.

I understood everybody in this House agreed several weeks ago, in the great rush to reform the Dáil and have new politics, that all legislation would be referred for pre-legislative scrutiny. I thought that was a common position, but Deputy Michael McGrath has decided, two weeks before the introduction of pre-legislative scrutiny, to reintroduce a Bill that was debated here previously. It looks like he is trying to beat the deadline for pre-legislative scrutiny. This flawed Bill badly needs pre-legislative scrutiny.

The Government has publicly stated its intentions when it comes to excessive or high variable rates. Deputy Michael McGrath has already quoted from the relevant section of the programme for Government:

It is not ethically acceptable for Irish banks to charge excessive interest rates on standard variable rate customers. We will take all necessary action to tackle high variable interest rates; including through establishing a new code of conduct for switching mortgage provider, administered by the Central Bank and the development of a new, easy-to-use standardised and dedicated switching form. We will also request the Competition and Consumer Protection Commission to work with the Central Bank to set out the options for the Government in terms of market structure, legislation and regulation to lower the cost of secured mortgage lending and improve the degree of competition and consumer protection.

This is a “Year 1 Action” to which we have committed. We intend to see it through. The Government is very conscious of the difficulties faced by borrowers. It supports the principle of reducing interest rates. However, it does not consider that regulating interest rates is in the long-term interest of the Irish economy. It is widely accepted that appropriate competition is

likely to be more effective and to provide consumers with a better outcome over the medium term and the long term. Furthermore, encouraging an environment in which borrowers switch between mortgage providers will force the banks to reduce rates and to become more competitive in attracting switching customers and retaining their own customer base. A Central Bank economic letter that was published last July suggested that 21% of existing private dwelling home variable-rate mortgage customers could save money by switching providers. In the present environment, in which we are seeing lenders reduce rates and introduce offers specifically targeted at the switcher market, I have encouraged borrowers to contact their banks to see what is available to them in their circumstances.

An Ceann Comhairle: Will the Minister give way to his colleague, Deputy Rock, who is due to speak for five minutes?

Deputy Michael Noonan: Yes, but I will make a further point before I conclude. This is a minority Government. As everybody knows, the Opposition collectively has more votes than the Government. That creates difficulties for the Government and puts an onus on the Opposition as well. Previously, when the Government was protected by the whipping system, the Opposition could have a go. Now there is a risk involved if the Opposition has a go. The day Deputy Michael McGrath republished his Bill, Irish bank shares went down by 10% across the line. The publication of the Bill dropped the total value of Irish taxpayers' holdings in the bank by 10%.

Deputy Michael McGrath: The Minister is making a direct correlation between two issues that are not related.

Deputy Michael Noonan: I am not saying it will not-----

Deputy Michael McGrath: The Minister knows well they are not related.

Deputy Michael Noonan: I am not saying-----

Deputy Michael McGrath: That is scaremongering. The Minister is scaremongering.

Deputy Michael Noonan: I am not.

Deputy Michael McGrath: The Minister is siding with the banks, as usual.

Deputy Michael Noonan: No.

Deputy Michael McGrath: That is what he is doing.

Deputy Michael Noonan: The Deputy does not like to hear this.

Deputy Michael McGrath: The Minister is talking rubbish.

Deputy Michael Noonan: If the Deputy goes back and checks the date of his-----

Deputy Michael McGrath: He needs to accept the new reality as well.

Deputy Michael Noonan: It is a valid-----

Deputy Michael McGrath: The Minister has to listen to others.

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

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Deputy Michael McGrath: The Minister no longer dictates everything.

An Ceann Comhairle: I ask the Minister to conclude and to give way to his party colleague.

Deputy Michael McGrath: That is the reality.

Deputy Michael Noonan: It is a valid point.

Deputy Michael McGrath: It is scaremongering.

Deputy Michael Noonan: If the Deputy checks the dates, he will see what happened.

An Ceann Comhairle: I ask the Minister to conclude.

Deputy Michael Noonan: I hope they will recover.

Deputy Michael McGrath: This scaremongering ill behoves the Minister.

Deputy Michael Noonan: I hope they will recover.

Deputy Michael McGrath: It is nonsense.

An Ceann Comhairle: I am afraid Deputy Rock has a little over three minutes.

Deputy Michael McGrath: The Minister has made a ridiculous contribution.

Deputy Noel Rock: I thank the Minister, Deputy Noonan, for agreeing to share his time with me. While I appreciate the position from which Deputy Michael McGrath approached this issue when he drew up this legislation, which seeks to confer powers on the Central Bank, we should ask whether those powers will be used. In this case, the answer has arrived long before the question has even been asked. These powers will not be used. The Bill before the House provides only that the Central Bank “may” issue directions in respect of interest rates. It does provide that it “will” do so. The Minister, Deputy Noonan, has outlined the measures he has taken in regard to interest rates. I believe that is the approach that should be followed.

While I agree with some of what Deputy McGrath has said, I would favour more consultation, collaboration and fruitful engagement between the Central Bank and legislators. Such an approach, as advocated in my Central Bank (Supervision and Enforcement) (Amendment) Bill 2016, would produce better outcomes and would actually be used. I suggest it would produce a stronger legislative framework in collaboration with the Central Bank, rather than a legislative solo run which seeks to confer powers of dubious constitutionality on the Central Bank. The bank itself has said that it will not use such powers. As the Minister, Deputy Noonan, has rightly pointed out, the prospect of such powers being legislated for has already had an effect on the markets.

A cap relative to the market average, as seemingly inferred in the Bill before the House, would be useless if all variable rates were equally high. If the average is uniformly high, a cap relative to the average is useless. The quarterly monitoring of competition by the Central Bank, as proposed in the Bill, could override the remit of the Competition and Consumer Protection Commission. I suggest it would be preferable if the Central Bank were to maintain its focus on the kind of regulatory oversight and market supervision that was badly needed in the aftermath of 2010. The Central Bank has become much better at such supervision following bitter experi-

ence. This measure seems to dull that focus. It would pass powers from the Competition and Consumer Protection Commission to the Central Bank. I would not agree with that.

Reference has been made to the risk that the measure being proposed in this Bill will politicise the Central Bank to some extent. We will set a dangerous precedent if we invite politicians to routinely and regularly call on the Central Bank to move prices unilaterally. While I understand the pressures being experienced by families and borrowers with variable rate mortgages, I believe a better mechanism can be found to discuss how to approach their difficulties. If an independent Central Bank is to work, the Dáil, regardless of the shape it is in - we can see what shape it is in now that we are in a minority position - cannot be leveraging a public body with tasks that will not solve the problems that people on all sides and in all parties are equally keen to see solved. I would like to ask a question on that basis. When Deputy McGrath and his Fianna Fáil colleagues proposed this Bill, had they engaged properly with the Central Bank on it? Was it consulted properly? I suspect it was not. If new politics is going to work, we need a responsible Government and an equally responsible Opposition.

The usefulness of a Bill like this and regulations like these depends entirely on the willingness of the Governor of the Central Bank to use such regulations. It seems crystal clear that the level of willingness in this instance would be zero. Naturally, I support the amendment that has been proposed by the Minister, which would provide ample time for scrutiny and fruitful engagement in this case.

Deputy Pearse Doherty: I would like to share five minutes of my time with Deputy Tóibín.

An Ceann Comhairle: Is that agreed? Agreed.

Deputy Pearse Doherty: I listened with interest to what the previous speakers had to say. I would like to focus particularly on what the Minister, Deputy Noonan, said. He was completely off the mark when he blamed the drop in the shares of Irish banks on the publication of this Bill or indeed, given that I do not think the Bill had been published when that decrease took place, on the media commentary on the likelihood that this Bill would be passed on Second Stage. The Minister will be aware that such a charge could equally be levelled against some of his own commitments in the programme for Government. The reality is that we need to stop the Irish banks fattening themselves off the backs of Irish customers. I refer particularly to standard variable rate customers, who have been ripped off over recent years. That is why I welcome Deputy Michael McGrath's Bill and pledge my party's support for it.

We live in an era of unprecedented low interest rates for states, banks and speculators. It seems that such rates apply to everybody except Irish home owners who have standard variable rate mortgages. The banks can try to confuse the issue by talking about their various sources of funding, but the truth is that standard variable rate mortgage holders can be gouged. Therefore, that is what is happening. The European Central Bank's current marginal lending rate is 0.25%, which marks a decrease from over 5% less than ten years ago. AIB's rate of 3.4% remains the lowest option for mortgage holders among the main lenders, with most of the options being well above that level, as we have heard. The previous Government failed spectacularly to address this issue, which is of huge importance for over 300,000 families. As it did with all issues involving the banks, in this case it chose to slink away from the fight and hid behind weasel words. The result is a huge and ongoing rip-off of Irish families and home owners, in many cases by the banks that were bailed out by the same home owners.

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The Government and the banks can spin this all they like, but the truth is that we are looking at market failure. The banks operating here are failing to provide a functioning market in which normal market rules apply. My party supports a role for the State in banking, but that is not even the issue here.

8 o'clock

The issue is that when the market so clearly fails, the State has a duty and a responsibility, in the interests of the people and the economy, to step in. We heard those arguments from a Fianna Fáil Government many years ago when there was a market failure, a banking failure, and it demanded that the State step in. However, this time it is in response to the needs of the people and not those of the bankers, the developers and the speculators. Let us do this and stop whistling in the wind. Let us put the Irish people first and foremost. This is an issue which symbolises the unfairness of people's interests playing second fiddle to the banks for years and years and of a Government that is happy with that situation. This is the legacy of the reign of Fine Gael and the Labour Party. Bankers are protected, banks are protected at all costs and struggling families are being ripped off.

Last May when I introduced my legislation, the first such legislation to be debated and voted on in this House and which empowered the Central Bank with more or less the powers contained in Deputy Michael McGrath's Bill, the Minister gave us every reason under the sun as to why it could not be enacted. The Minister said he was not ruling out bringing forward his own legislation and he echoed some of the words uttered by the Taoiseach, Deputy Enda Kenny, many years previously regarding bringing forward this type of legislation but he said that he wanted to talk to the banks first. Let us see where that got us and let us imagine how things could have been different if the previous Government had grasped the nettle and adopted the Bill I proposed last May, the Bill Deputy Michael McGrath proposed in July or the Bill Senator Feargal Quinn brought forward in May 2015, all with the same objective and all using different ways and different language but all empowering the Central Bank to deal with the issue of the huge standard variable rates that were being applied to the banks' customers.

There is no doubt that pressure has been brought on some of those banks by those Bills, by campaigns by the general public and by a number of media commentators who have taken up this issue and done sterling work on it. However, the changes made and pressure applied have been few and many of the banks have not moved. It is interesting to hear the former Tánaiste's party will support this legislation, which I welcome, but I remember in 2011 when I first raised this issue with the then Tánaiste, Eamon Gilmore, he told me the same story that this Government is telling me now. He said "Deputy Doherty need be in no doubt that this Government will act decisively, forcibly and effectively with the banks." Basically that is what the Minister is saying today, that there is no need for legislation, we have got the commitment in the programme for Government, it is unethical and we will do whatever needs to be done to deal with this issue but yet there is no meat on the bones. The Minister has been telling us that for a number of years and we have not seen any real changes for many customers.

How many Bills need to be presented in this House or in the Seanad before reality starts to sink in for Fine Gael? What has been achieved by waiting? Of the main banks, only AIB has budged at all on standard variable rates. Others have tinkered around the edges but with so many conditions and catches that few people have benefitted. The Minister spoke of one bank but the rate only reduces if one's loan to value rate is less than 80%. That rules out the vast majority of people. He spoke about switching providers, which is impossible for many people,

and it is not only a case of the banks frustrating the process, we have problems legislatively as well regarding securing assets, land registry delays and so on, which are issues for another day.

Earlier today the Government spin spoke about kicking this Bill into touch, back to pre-legislative scrutiny. Let me be clear - for my party that is not acceptable. If this Bill passes Second Stage, it must be brought to committee as soon as possible. We were told last year, when Sinn Féin introduced its Bill in May 2015, that we were premature. We were told we had to be patient and that the Minister was going into negotiations with the banks. I wonder if any group was more relieved when Deputy Noonan was reappointed as Minister for Finance than the bankers.

There are many new Deputies but I doubt any are naive enough to think that this Bill will automatically mean relief for home owners or an end to the rip off. We are all grown-ups; we all know the potential pitfalls with this type of legislation. This Bill passes the buck to the Central Bank but, ultimately, it will have the final say on whether to act or not. All indications to date suggest it is not inclined to do so. This is where we need to strengthen Deputy Michael McGrath's Bill in making that aspect a little stronger. There also needs to be stronger public scrutiny of the Central Bank's role and decision-making on this issue. This means, as my Bill suggested and which I have committed to reintroduce, that it would allow for a greater prompting role for the Minister and a greater responsibility on the Central Bank to explain why it has not acted if it has not used the powers in the legislation. I hope it will be possible to deal with these types of amendments on Committee Stage, if and when that is reached.

I had to laugh at the Minister's comments that this legislation could discourage new entrants into the market. He has overseen entrants leaving the market. His record of attracting new entrants is a complete failure. The idea that the reason new entrants are not entering the market is because of potentially this type of legislation is not on. He also threw out scaremongering comments about the share price and so on and about our facing Armageddon in terms of our shares in the banks. He mentioned the ECB and the potential that we could be fined millions of euro if this passes Second Stage and the dramatics about informing the Ceann Comhairle and that perhaps it is his responsibility. Let me inform the Minister about this. I am sure he knows the number of Stages in legislation. It starts with First Stage, which is the Stage this House passed my Bill in May 2015 and Deputy Michael McGrath's Bill in July 2015. Those Bills have already passed First Stage in the legislative process. There was no mention at that time - this House did not oppose the First Stage - that we could be fined by the ECB. That is bluster from the Minister and his colleagues.

I acknowledge that AIB has reduced its rate. I hope, as some commentators suggested, that it will reduce its rates further and thereby put pressure on other financial institutions to do likewise. We in this House should not have to discuss in 2016 the idea that we would give these powers to the Central Bank and urge it to use them. The financial institutions which are gouging their standard variable rate customers should reduce their rates appropriately. That is what should happen but, unfortunately, that has not happened. The time comes when the Minister has to stop talking, take up the mantle and take action.

The Minister keeps making the same mistakes; he never learns. He thinks that the banks can be trusted, that they can be cajoled into doing the right thing and that they have somehow accepted responsibility for past mistakes but he is wrong every time in his dealing with the banks. That is why we are here almost a year to the day since Fine Gael and the Labour Party rejected my Bill, four and half years since the then Labour Party leader told me that they would

deal with the banks.

Sinn Féin will support Deputy Michael McGrath's Bill and we hope all Deputies in this House will do so. I have some concerns about the Bill but those are issues that can be dealt with on Committee Stage. The Minister mentioned one of those issues, namely, that of fair procedures in terms of an appeal. A provision on that was included in my Bill but that could be easily dealt with on Committee Stage. It is not a reason to kick this legislation into touch or to put it back to pre-legislative scrutiny stage.

The issue of this being unconstitutional is a new one the Minister has raised. No Member of this House wants to waste our time or that of the customers, who are under pressure as a result of the rates being applied, by debating and passing legislation that will ultimately be deemed unconstitutional at a later stage or by the President when the legislation goes forward for his signature.

I appeal to the Minister to accept that there is a new reality, that he is part of a minority Government and that the Irish people have spoken and have elected Deputies who made a commitment in the run up to the general election to bring forward this type of legislation. They have supported the Fianna Fáil party and this legislation was part of its pledge. Sinn Féin committed to this legislation in its manifesto and other parties and Independents are supportive of it.

The Minister needs to get with it. He needs to start to strengthen the Bill where he believes it needs to be strengthened. He needs to accept that there is a new reality and that this Dáil is going to move this legislation from Second Stage to Committee Stage. His responsibility, as someone who no longer calls all the shots, is to work with the Opposition and impart to it the legal advice he has received from the Attorney General on the potential pitfalls of the Bill, as well as the advice he has received from the Central Bank on this legislation. He should do this in order that we, as legislators, in dealing with the Bill on the next Stage can make sure these issues are dealt with effectively in order that we will have the best legislation. We need legislation that will stand the test of time and deal with all of the issues it is intended to deal with without risking the consequences, to some of which the Minister has referred, of putting off those who want to enter the new market.

I hope the Minister will engage fully with this new process. I believe the Bill is going to move to Committee Stage. I welcome this. It is always good to have pre-legislative scrutiny, but that issue has not been decided by the Dáil and I do not know how it can deal with it in terms of a Private Members' Bill. If we are flexible enough on Committee Stage and if the Government does not stall it for the maximum period of ten weeks that it can, we will have enough time to deal with all of the issues. If the information the Minister has in his office is imparted to other Members of the House, we can all work together to make sure we have the best possible legislation.

I remind the Minister that he suggested time and again in this House that he would introduce such legislation himself to empower the Central Bank to deal with standard variable interest rates. Surely to God, between the first time the Taoiseach raised the issue - I believe in 2011 - and the last time the Minister raised it in 2015 the Attorney General told him that it was constitutional somewhere along the line. There is a lot of scaremongering. I understand this is probably the first Bill the Government does not want to have introduced that will move to Committee Stage. I appeal to the Minister to work with the rest of us who want this type of legislation on the Statute Book to try to strengthen and improve it where that needs to be done.

Deputy Peadar Tóibín: I wish to focus on those who are in mortgage distress, as this particular group are at the sharp end of the variable rate rip-off in the State. Mortgage distress is wreaking havoc on families. It has only been dwarfed by the humanitarian crisis of homelessness in the past few years, but, in reality, it is part of the same chaotic Government approach to housing throughout the State. What we have seen is a glacial private sector building industry, a social housing sector in reverse and a hyper-inflated rental market that is increasingly in the hands of vulture markets.

In my county and many others there are people who are migrating westward to try to find houses in their price bracket. They are being excluded from their own communities as a result of what is happening. About 30,000 families in mortgage distress will have spent the whole day struggling to keep their heads above water. Tonight these 30,000 families will go to bed and in the silence of their houses their minds will be wracked until dawn to see how they can stop the train hurtling down the tracks towards them, with the prospect of losing the roof over their heads. They are dealing day in, day out with super-profitable banks that have been pumped full of our tax money and paying rates that are way out of kilter with European comparisons. For many of them, the interest rates for this group of people are the difference between survival and being thrown into the chaos of homelessness.

The Minister talks about the role competition will play to solve this problem. Is he for real when he says this? He created two pillar banks, which now have 85% of the market. Anybody with a rudimentary understanding of economics will know that this is not competition; it is an oligopoly and the opposite to competition. These banks have the supplier power and call the shots every time when it comes to the customer. Stunningly, in the past five years the Government has made no efforts to introduce competition into the sector. It has not looked at the public banking system that we see in Germany. It has disempowered the credit union sector from properly entering the market. The ecosystem of credit the Government has created is being funnelled through these two pillar banks. What we have seen is an over-concentration of supplier power in these two banks. The Minister let the cat out of the bag at the end of his statement. What he is seeking to do is fatten the State banks in order that they can be sold. He is putting the rates and prices of the stocks of the banks above the needs of hundreds of thousands of families who are struggling.

I wish to highlight one sector of the mortgage distress class that the Government has created. It is pretty invisible, unfortunately, in most of the discourse we have had, but its suffering is real. Many separated mothers and some separated fathers are raising families in homes that they are teetering on the edge of losing owing to mortgage distress. Many of these parents have been doing their best to meet their mortgage repayments and keep their children in a home. Their former partners have reneged on all of their responsibilities in the repayment of mortgages. Some of these parents have been valiantly trying to keep the show on the road and actually brokered deals with the banks. However, in spite of this, owing the fact that their former partners are remaining unco-operative, it is likely that they will be thrown out onto the street. In other words, they are being held to ransom by parties to the contract they signed for the mortgage on their house and not being allowed to proceed with paying off the mortgage at a feasible rate. As a result, their families are going to lose out. It is all perfectly legal, but it is absolutely wrong that it should happen and it needs to change. I am not saying it can change in this Bill, but the Minister needs to focus on the issue.

I commend my colleague, Deputy Pearse Doherty, who has done much of the heavy lifting on this issue in the development of his own Bill, although I recognise the similar work done by

Deputy Micheal McGrath.

Acting Chairman (Deputy Declan Breathnach): Deputy Mick Barry is sharing his time with Deputy Catherine Martin.

Deputy Mick Barry: Variable mortgage interest rates in the State are 2% above the European average. In other words, there are states in Europe in which variable mortgage interest rates are more than 2% below the rates charged here. This equates to an extra €167 per month for a household per €100,000 owed on a mortgage. For someone with a €200,000 mortgage, we are talking about a difference of €330 per month. This means real hardship for working-class and middle-class people and a serious deflation of the economy. The Anti-Austerity Alliance-People Before Profit will broadly support the Bill. We will be offering our support for it on the grounds that it will put a certain amount of pressure on the banks to lower their rates. It will give certain increased powers to intervene against some of the actions of the banks. However, in reality, our support for it will be very critical as we believe it falls far short of the measures that need to be taken.

AIB is nearly 100% in State ownership. The stake of the State in Permanent TSB amounts to a clear majority. These banks, as well as others, should be run on the basis of a public service to meet the needs of the people rather than on a for-profit basis.

There is a privatisation agenda, driven by the Government, at work in regard to the banks. The banks are being fattened for the private operators to gain majority control and that is the root cause of a lot of the problems we have. The profit motive in banking is the root cause of many of the problems that are faced here but the Bill refuses to recognise that. Indeed it makes major concessions to that approach by conceding at its heart the idea that a reasonable profit for lenders should be part of the guidelines the Central Bank operates under. It refuses to recognise that the needs of ordinary people are in conflict with the profit motive behind the banks. That is the key weakness of the legislation.

While we will support the Bill, it will be a very critical support. What is needed now are interest rates that can be payable by ordinary people. What is needed are mortgages which are written down where debt is unpayable. What is not needed are court proceedings against huge numbers of mortgage holders. What is absolutely not needed are the repossessions and evictions we have seen across the State in recent times. In order to do that, there must be no privatisation of the banks and a rejection of the profit motive in the running of the banks, which should constitute a public service for the needs of people. That means the banks must be maintained in public ownership and if they are not in public ownership they should be taken back into it.

The boards of the banks must adopt a totally different agenda than the one at play. They must be democratically controlled. They must have democratic public ownership with an agenda of attempting to meet the needs of the people rather than to make the banks ever more profitable. That is what is needed. While we will vote in support of the Bill, it is a critical support and we reserve the right to put down amendments.

Deputy Catherine Martin: The banks are deliberately overcharging homeowners unlucky enough to be stuck with variable rate mortgages. The banks do this because they can. A family with an average mortgage in the State can now lose up to €400 per month or up to €100,000 over the lifetime of a mortgage. This is money unjustifiably taken from ordinary families and stolen from the real economy. The irony is that the real economy and its health are where our

economic salvation lies. Those who rob from the real economy rob us all of our futures. This is not backing brave, it is attacking brave. It is hard to credit that the banks which were saved by the taxpayer can now, in the teeth of that rescue, gouge homeowners in such a shocking way. It is shocking and it is immoral but, perhaps most awfully, it is treacherous. How can we explain this to those hundreds of thousands of families who daily strive to pay their home loans in the face of financial challenges? How can we explain to them tonight? They have suffered the extra taxes, reduced incomes and all the hardship required to bail out the banks and now those same banks steal from them. Something must be done and it is our duty in the House to act.

I commend the efforts of Deputy Michael McGrath who has been a constant voice in this area and I agree with him that banks will not act voluntarily and must be forced. Where I take issue, however, is with the Bill before the House. It is drafted with such infirmities that it could never in its current form hope to see the light of day. It would not pass the test of constitutionality and would inevitably be struck down. The banks know this, the civil servants know this and the Government knows this. Let us not give them all a told-you-so moment in the sun. While there is a process on Committee Stage whereby Bills can be amended, this Bill cannot be amended as it is inherently and fundamentally flawed. It would be much better and safer from the perspective of hard-pressed borrowers to start again. What is required is thorough consultation and endeavours to bring the Members of the Thirty-second Dáil together in an unprecedented collaborative approach, coming together as legislators from the get-go. This approach would safeguard against losing valuable time and avoid an imminent and most serious setback when this flawed legislation is inevitably deemed unconstitutional.

In fairness, it is not hard to get a sense of what the Bill seeks to achieve. It seeks to create some objective standard by which a regulator can measure whether banks are overcharging. This is a difficult process when private parties have signed up to private contracts allowing one party later to retrospectively change the rate charged. The genuine effort and the laudable purpose is not achieved by the Bill in the form presented. The Bill as drafted requires the Central Bank to form a conclusion on an assessment which is so broad and vague in its terms on the state of competition in the market that in its current form it makes very little sense. The conclusion the Central Bank must reach is whether a market failure exists. Market failure is defined as a situation in which a lender is charging a variable interest rate which is higher than the Central Bank considers to be reasonably justified. Where the Central Bank came to such a conclusion, it could direct a lender not to charge a variable rate exceeding a rate specified by the Central Bank. The direction could be in regard to loans generally or to categories of loans or even to a particular loan. For example, theoretically the regulator who made the direction could himself direct that his own lender reduce his own personal mortgage rate and the bank would be powerless to challenge such biased direction. He could direct that those who took out loans after 2005 be given a massive reduction while others could be forgotten. In short, he could do whatever he wanted unchecked by any supervisory or other power.

A direction under the Bill could be for an indefinite duration of time and could not be appealed by the lender to the High Court or to any other tribunal. As such, the Bill at its core gives the Central Bank the power to set variable interest rates for the banks. This is a huge power to vest in an organ of the State and would render the banks entirely dependent on the whim of the regulator. It would be unprecedented internationally as it could apply to a single loan and, therefore, to a single borrower just as much as to every loan. It is whatever the Central Bank wants. There is no appeal to the courts. The role of the courts is usurped or ousted and there is no chance to challenge a decision which might be crucial to the survival of an institution. I have

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further concerns that no mechanism is envisaged by which either side could be heard during an assessment. There is no right to be heard which appears to breach a fundamental principle of natural justice, especially when there is no right of appeal from a decision taken against one. This decision may be one that is crucial to a party.

As much as anyone, I am appalled at what the banks have done to this country and what they continue to do. However, this Bill will not help our cause. There is a duty on all of us in opposition and in government, especially in this era of new politics, to bring forward Bills in a manner which is not populist, rushed or sensationalist. This is particularly the case when considering the precarious voting arithmetic of the new Dáil and, especially, when dealing with emotive and hugely important issues. We have a duty to consider carefully the legislation so that if it were enacted it would not create more delay and mischief than it seeks to redress. The Bill for all its good intentions would if enacted set aside decades of carefully established rights to fair procedures. To the crowd and those suffering under the burden of excess rates, this may be an immediate issue, but as legislators, we must look further down the road and be cognisant of the unseen consequences.

Acting Chairman (Deputy Declan Breathnach): I ask the Deputy to move the adjournment of the debate.

Deputy Catherine Martin: It is crucial that we get this right from the start. We propose that the Bill in its current form be withdrawn and presented again as soon as possible. Not in six months' time as in the Minister's proposed amendment, as six months is too long and does not acknowledge the urgency of this matter, but as soon as possible once the Bill is capable of passing the basic tests of constitutionality.

Debate adjourned.

Adjournment Debate

Deputy Clare Daly: There has been an agreement that our matter will be taken first.

Acting Chairman (Deputy Declan Breathnach): Is that agreed? Agreed.

Garda Reports

Deputy Clare Daly: I listened to the Tánaiste during Leaders' Questions with a mixture of disbelief and awe. Does she really believe that the questions about the conduct of the Garda Commissioner are going to go away? Does she really believe that, by saying that the Commissioner made it clear that she supported Maurice McCabe, it is the end of the matter? What the Commissioner's statement actually said was that she had never regarded Maurice McCabe as malicious. Fair play to her, that is very nice, but it is not the issue at hand. The issue in front of the public is that the Garda Commissioner's legal team, allegedly on her instruction, attempted to mislead the commission deliberately by entering false information in order to challenge the motivation and credibility of Maurice McCabe. The fact that legal counsel has stated that the attempt to challenge his integrity was its idea and not the Commissioner's does not make any difference. It is reminiscent of the former Minister, Alan Shatter, throwing Oliver Connolly under the bus.

The commission was told that two senior gardaí would give direct evidence to the effect that Maurice McCabe was present at a meeting and stated that he operated under malice. It was only when irrefutable evidence was presented showing it to be false that the allegation was withdrawn. If the Tánaiste does not have a problem with this, we are in even bigger trouble than I believed. There is an immediate crisis of trust and confidence in the Commissioner. Public statements uttered by her in support of whistleblowers have been contradicted by her actions behind the scenes. The Tánaiste should not be surprised about that because we are not. Eighteen times since the Tánaiste became Minister, Deputy Wallace and I have tabled the issue of Commissioner O'Sullivan's treatment of the whistleblowers Mr. Keith Harrison and Mr. Nick Kehoe. The Tánaiste has done nothing. Will she launch a full investigation into the Commissioner's actions in accordance with the Garda Síochána (Policing Authority and Miscellaneous Provisions) Act, under which she can investigate and remove the Commissioner for actions that discredit her office? Will she commission the Garda Síochána Ombudsman Office, GSOC, to launch an investigation? If not, why not?

I am reminded of a memorable contribution by Deputy Wallace in the Dáil when he told the former Minister that it was time for the latter to go and to take the then Commissioner with him. It is obvious that it is time for the current Commissioner to go. Unless the Tánaiste acts, the Commissioner will take her with her.

Deputy Mick Wallace: If Maurice McCabe had not made a recording, the judge would have been compelled to believe the two officers and Maurice McCabe would have been destroyed. This development was not even mentioned in the O'Higgins report. Surely, that undermines the report's integrity.

We still do not know whether Ms Nóirín O'Sullivan's legal team, under her direction, handed documents to the commission that contained a false statement. That is supposedly a criminal offence. This is a serious matter. I find it difficult to believe that, when there is so much discussion about doing things differently in all aspects of politics, Fianna Fáil does not want to know about this situation. It just wants the issue to go away as well. This is shocking.

What the Commissioner says in public is different to what is happening on the ground. Mr. Keith Harrison and Mr. Nick Kehoe have been treated abysmally for two years. Both are out sick now. One gets less than €300 per week and the other gets nothing. Every effort has been made to hound them out of their jobs. It is two years since Mr. Harrison tried to get a proper hearing and he has only had one proper meeting with GSOC. GSOC requested Mr. Kehoe's file after a poor internal Garda investigation. The Garda was given 30 days to deliver it but still has not done so.

Ms Nóirín O'Sullivan asserts that dissent is not disloyalty, but that is not true. Now it is being claimed that the question of integrity was not raised and the senior counsel is being thrown under the bus or is taking one for the team. The Commissioner is not even rowing back on how she questioned Maurice McCabe's motivation. She has not rowed back on the fact that she was questioning his character. Who in God's name would be a whistleblower? She is not fit to be the Commissioner. Nothing has changed. It is as it was. We will not improve or change how we do policing in Ireland until we change the hierarchy and start from scratch.

Tánaiste and Minister for Justice and Equality (Deputy Frances Fitzgerald): As the Deputies are aware, I published the report of the O'Higgins commission of investigation into certain matters relevant to the Cavan-Monaghan division of the Garda Síochána on 11 May.

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The report deserves the most careful consideration so that we can do everything possible to avoid a repeat of the issues that gave rise to the commission in the first place. The Government accepts its findings fully.

Our focus now should be on ensuring that victims of crime receive the level of service from An Garda Síochána that they deserve. However, given the comments made by the Deputies, I want to deal with the matter of the alleged stance of the Garda Commissioner's legal team at the commission. I must preface my remarks by making it clear that there are severe constraints on what I can say in this regard. To do so, I must refer the House to section 11 of the Commissions of Investigation Act 2004. The Act contains a prohibition, with limited exceptions, to the disclosure of any evidence given, or the contents of any document produced, by a witness while giving evidence in private at such a commission. As the Deputies are aware from the earlier discussion, evidence was given in private to the commission by 97 witnesses over 34 days. Mr. Justice O'Higgins in his report referred to the confidentiality of its proceedings saying that, in accordance with the provisions of the Act, the commission took all necessary steps to ensure the confidentiality of its proceedings. All of the proceedings into the evidence were in private and there was no request from anyone to have them in public.

I will make the general point that partial disclosures of what happens in private at commissions of investigation are inherently unfair to those who participate in such commissions and properly feel bound by the laws that apply to them. All 97 witnesses before the commission have rights with regard to the confidentiality of the commission's proceedings and I have a duty to respect those rights. I suggest that all Deputies have those rights. Above all, I have a duty to respect the law. That duty is not diminished by the fact that some media reports purport to set out a small part of what may have happened at the commission's private proceedings, notwithstanding any legal prohibitions in that regard.

I am aware of suggestions that it would not be unlawful for the Commissioner to disclose the instructions that she gave to counsel, as this would not involve discussing evidence given at the commission. Leaving aside the legal position set out in the 2004 Act, it seems it would be a significant change to the generally accepted position that communications between a lawyer and a client should not have to be put in the public domain. To put it mildly, it would be very unusual to ask any party to a legal proceeding to disclose unilaterally its dealings with its legal representatives. In any event, this would actually involve a partial disclosure of what happened at the commission and could serve to undermine its work. It is hardly a demand that the Deputies would make of any other party to the commission.

For the reasons I have explained, I do not believe it is appropriate for me to comment on the specific reports that have appeared in the media, and further reports this evening on the 6 o'clock news, about what happened at the commission. I welcome the Garda Commissioner's clarification, which was issued last night. She repeated that she accepts fully the commission's findings. Of course, that includes accepting fully what the commission had to say about Sergeant Maurice McCabe.

There is no obligation on anyone to accept the findings of Mr. Justice O'Higgins. I said on the publication of the report that I hoped everyone affected would accept that Mr. Justice O'Higgins had fairly tried to do justice to the position of all. I believe that to be the case. However, it would be very unwise and unfair to attempt to rerun the commission's proceedings on the basis of allegations about what may or may not have happened at a part of the commission's proceedings. Suggestions that there should be some form of investigation, as we have heard

tonight, into what happened during the proceedings of the commission of investigation seem to fundamentally misunderstand the nature and purpose of commissions of investigation. As I indicated when publishing the O'Higgins report, we should not lose sight of the central fact that at the heart of this report are victims who were let down. Our focus should now be on taking all the steps necessary to ensure that does not happen again and that we have a policing service that serves all the citizens of this country to the highest standard. I have had preliminary discussions with the Garda Commissioner about taking forward the recommendations about policing contained in the report, and I have every confidence in her commitment to take these forward.

Traveller Accommodation

Deputy Gerry Adams: Táim buíoch as an deis a thug an Ceann Comhairle dom caint faoin ábhar an-tábhachtach seo maidir leis an Lucht Siúil. The publication yesterday of the judgment against the State by the European Committee of Social Rights in respect of housing for Travellers is a damning one and must be taken with the utmost seriousness. I welcome the committee's findings as they vindicate the position that Traveller advocacy groups, human rights bodies and some political parties have taken on the issue of Traveller housing or the lack thereof over the years. The committee concluded that the State violated Article 16 of the European Social Charter on the grounds of insufficient provision of accommodation for Travellers on three grounds. First, there was insufficient provision of that accommodation. It was found that of 1,000 transient beds identified as needed by a 1995 task force, only 54 are in place, and not all function as proper transient sites. Second, it was judged that many sites are in a poor state of repair or badly located, and a lack of water, poor rubbish collection and problems with damp, flooding and sewage are persistent. Safeguards for Travellers threatened with eviction are inadequate. The current legislative framework fails to provide for adequate consultation or notice, or a requirement to propose alternative accommodation.

For an illustration of all three issues, we need only consider the disgraceful and degrading treatment of Travellers in my constituency, Louth. Travellers in Dundalk have been evicted not once, but twice, in recent months. Seventeen families were displaced, including 22 children, some only days old. They were effectively put on the side of the road. The distress to the families as a result of the decision by Louth County Council, without consultation with elected members, to evict them from council-owned land has been entirely unreasonable and unnecessary. The common sense and most efficient resolution is to ensure urgently that the council provides a temporary emergency halting site while the State-wide review of Traveller accommodation is ongoing.

Councils are obliged to put in place Traveller accommodation but there is no transient site in Louth and the families have consequently no choice but to park their caravans wherever they can. That position is not tenable. Such issues are no surprise given the fact that, over the past decade, funding for Traveller accommodation has been cut by 93%, from €70 million in 2008 down to €4.3 million in 2015.

The Housing Act has also contributed to the crisis as it empowers gardaí to move families on demand without notice. The programme for Government contains some measures that are welcome, including a new integrated framework for social inclusion. I look forward to the publication of a revised national Traveller and Roma inclusion strategy by the end of 2016, as promised. The commitment to establish a working group to audit the current delivery and

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implementation of Traveller accommodation plans also sounds positive but there is a failure to provide a timeline for its completion, which, I hope, the Minister might clarify.

Sinn Féin has called for a range of measures to provide Traveller accommodation, including the front-loading of funding to councils with a good track record in drawing down funding to provide Traveller accommodation. We also believe the National Traveller Accommodation Consultative Committee should take charge of the provision of Traveller accommodation and be given an annual budget and target, and an all-Ireland programme for nomadism should be drawn up, allowing for co-operation between all local authorities across the Thirty-two Counties. Incorporating the provision of Traveller accommodation programmes into local development plans and objectives would also be a welcome move.

Traveller ethnicity is a key issue. We were told in late 2014 by the then Minister of State, Senator Aodhán Ó Ríordáin, that recognition of Traveller ethnicity would be a reality in six months. Nineteen months later, we have seen no movement on this. Travellers have such recognition in the North, England, Scotland and Wales. The formal recognition of ethnicity is not a magic wand or a formula that will address the challenges and discrimination faced by the Traveller community, but it would be a step in the right direction. I appeal to the Minister to ensure a temporary emergency halting site is put in place for the families in Dundalk. He should advance all other mechanisms for dealing with the issues raised in the judgment of the European Committee of Social Rights and ensure the Government commits to delivering Traveller ethnicity in the coming term.

Minister for the Environment, Community and Local Government (Deputy Simon Coveney): I apologise to the House for not being here for the start of Deputy Adams's speech. My understanding was that I would be up next rather than now because we swapped with the previous Minister. However, I picked up most of what the Deputy was saying.

Deputy Gerry Adams: I will give the Minister my script.

Deputy Simon Coveney: The Deputy will get my script, the official response, on a lot of issues. I believe we are meeting tomorrow to discuss housing generally but I am aware that the Deputy has asked to meet me on Traveller accommodation, in particular. We can have a detailed discussion on the Woodland Park issue in Dundalk, in which I know the Deputy has been involved. There are many complications associated with it, which I am sure he knows about. However, we are anxious to find a resolution to what is a very difficult set of circumstances.

On the points raised regarding the European Committee of Social Rights, it is important to put on record the context. In May 2013, a complaint against Ireland was submitted by the European Roma Rights Centre to the European Committee of Social Rights in accordance with the requirements of Article 5 of the Additional Protocol to the European Social Charter, which provides for a system of collective complaints, claiming that the Government of Ireland has not ensured the satisfactory application of articles 16 and 30 of this charter, particularly with respect to accommodation for Travellers in Ireland. Several complaints were examined by the committee in regard to potential breaches of Article 16, concerning the right of the family to social, legal and economic protection, Article 30, concerning the right to protection against poverty and social exclusion, Article 17, concerning the right of children and young persons to social, legal and economic protection, and Article E, stipulating rights are to be secured without discrimination on the ground of association with a national minority or ethnic background, of the charter. The committee completed its report and published its findings on 16 May. It is

important to note that the findings were mostly favourable. In particular, the committee found that Ireland is not in breach of Article E of the charter, which upholds the principle of non-discrimination, Article 17, the right of children and young persons to social, legal and economic protection, and Article 30, the right to protection against poverty and social exclusion.

It is also reassuring to note the committee's finding that Ireland is meeting its international obligations in the context of the adequacy of the legislative framework and the delegation of statutory responsibility to local authorities to meet the accommodation needs of Travellers, and has found no violation of Article 16 on this issue. The European Committee of Social Rights found that Ireland is in violation of Article 16 on the grounds that there is a shortfall in sufficient accommodation for Travellers, despite the progress made and the policies put in place by the Government. The committee's report also notes Ireland's commitment and ongoing efforts to provide appropriate and high quality, Traveller specific accommodation. The report states "that Ireland has overall made significant progress in the last decades in the provision of accommodation for Travellers, access to housing and the refurbishment of Traveller accommodation".

I will continue our efforts in the provision of quality, Traveller specific accommodation through the national and local consultation and collaborative structures in place under the Housing (Traveller Accommodation) Act 1998, while also recognising the importance of the role and responsibility of the Traveller community in progressing this objective in partnership with us. Deputy Adams is correct to note some of the challenges we face in the provision of social housing. However, the budget for Traveller specific accommodation increased by 22% between 2015 and 2016 and currently stands at €5.5 million. The figure cited by the Deputy refers to the budget for 2015. The significant increase in the allocation this year is a recognition of the need for more Traveller specific accommodation and the importance of working with local authorities to meet this need.

The social housing provision and homelessness challenges we face, and which I am facing on behalf of the Government, involve many travelling families. Almost 1,000 of the families accommodated in hotels are from the Travelling community. I am well aware of this issue and the programme for Government signals the need to prioritise this area. I look forward to having detailed conversations with Sinn Féin and other political parties on the response needed in this area.

Special Educational Needs Service Provision

Deputy Carol Nolan: Tá mé buíoch go bhfuil deis agam labhairt ar an rún seo. Ba mhaith liom gach dea-ghuí a thabhairt don Aire Stáit, an Teachta Finian McGrath, ina ról nua. Tá mé ag tnúth le bheith ag obair leis chomh maith.

Minister of State at the Department of Health (Deputy Finian McGrath): Go raibh maith agat.

Deputy Carol Nolan: I propose to raise a number of important issues that have been brought to my attention by the parents of children with disabilities who are encountering obstacle after obstacle as they seek to secure essential and basic services for their children. These services are not available in counties Laois and Offaly, which has resulted in Laois Offaly Families for Autism, LOFFA, staging ongoing protests to highlight the absence of basic services for their children. I refer to speech and occupational therapy services, which are essential to the devel-

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opment of all children, especially those with autism.

LOFFA has held a number of meetings on this issue with Health Service Executive management in the past year. However, little progress has been made and the services available are declining further in both counties. Almost 1,000 school age children are on a waiting list for occupational therapy, with waiting times currently standing at approximately 47 months. This is scandalous in this day and age, especially given that these services are crucial to the well-being and educational attainment of the children in question. Such waiting lists are at odds with the provisions of the Education Act 1998 which states that every child has the right to a high quality education. The children on waiting lists in Laois-Offaly cannot attain a high quality education when basic, essential services are not in place. I highlight this important issue because it has been ongoing for some years and must be resolved once and for all.

Last year, LOFFA published a report clearly outlining the decline in the services available for children with disabilities. It is hard to believe that, rather than improving, services for children for disabilities are deteriorating. Children are waiting for three years to access speech and language therapy services and a further three years to access a psychologist. The school age team has yet to be put in place, which means no worthwhile intervention is available for the children in question. Were it not for the work of LOFFA, which represents 400 families, the position would be much worse. I commend LOFFA on the work it is doing but the children in question should get more support.

Acting Chairman (Deputy Declan Breathnach): I ask the Deputy to conclude.

Deputy Carol Nolan: On the assessment of needs, the compliance rate in respect of the time limits set out in the Disability Act 2005 stands at 9% in counties Laois and Offaly. This means the failure rate stands at 91%, which is disgraceful. Will the Minister of State, Deputy Finian McGrath, advise as to when sufficient resources will be put in place to provide necessary and basic services for these vulnerable children? What funding will be provided for the provision of such services? What are the plans for recruitment of a school age team for the children in question? Will more effort be made to improve the low rate of compliance?

Acting Chairman (Deputy Declan Breathnach): I must call Deputy Barry Cowen as Deputy Nolan is eating into his time.

Deputy Barry Cowen: I commend and thank the Ceann Comhairle for allowing Deputy Carol Nolan and me to ask the Minister of State questions on this issue. I join Deputy Nolan in making representations on behalf of the Laois-Offaly Families for Autism, LOFFA, whose members number 400. Fifteen years ago when the organisation was founded, members of LOFFA did not expect to be pleading for the rights of their children, families and communities to be met 15 years later.

During the recent negotiations on the formation of a Government, the Fianna Fáil Party insisted on the reappointment of a Minister of State with responsibility for rural affairs. We expected that this Minister of State would have a handle on all Government legislation, across all Departments, that deals with the provision of services. The lack of this type of process in recent years is especially evident in the deficiency in services in the Laois-Offaly region. As Deputy Nolan indicated, the information collated by LOFFA in recent years proves that the provision of special educational facilities and services in the Laois-Offaly district of the Health Service Executive lags far behind comparable regions elsewhere in the country.

As a result of the efforts made by LOFFA and the consultations with public representatives, including me, in which it has engaged in recent years, the HSE and Department gave a commitment in May last year that four psychologists and 20 therapists would be appointed in the region and efforts would be made to dilute the substantial waiting list in the area and improve services and facilities for children with autistic tendencies or diagnoses. That is not to speak of the extensive waiting lists for early examinations and consultations and the services to be provided thereafter. However, no progress has been made since that commitment was given. It has been shown, for example, that in respect of the assessment of needs, the compliance rate with the statutory obligations set out in the Disability Act stands at 9%. This is shameful, unfortunate and inappropriate.

In our consultations on the formation of the Government, the Fianna Fáil Party insisted that many of the guiding principles would require the provision of early intervention, diagnosis and other appropriate services to assist people in this area.

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We also insisted that public services would outnumber taxation issues by two to one. We need to see concrete evidence of this and need an indication from the new Government that this will be addressed. I expect we will be given reasons as to why progress has not been made and as to why appointments have not been forthcoming. However, Ministers must learn from that and make sufficient changes to the methods by which people are sought and appointed in order for the service to be provided to those who need it most.

Minister of State at the Department of Health (Deputy Finian McGrath): I thank Deputies Barry Cowen and Carol Nolan for raising this issue and I welcome Deputy Carol Nolan to the Dáil as a first time Member of the Oireachtas.

I will begin by assuring the Deputies that this partnership Government is committed to the provision and development of services for children with special needs and to improving access for these children to therapy services. The current programme for Government commits the Government to improving services and increasing supports for people with disabilities, particularly early assessment and intervention for children with special needs. This is an issue I pushed for during talks regarding the programme for Government. While significant resources have been invested by the health sector in services for children with disabilities over the past number of years, I am acutely aware of the large body of work that needs to be done to improve the quality of life for people with disabilities and I am in agreement with the two Deputies on that.

As the Deputies will be aware, health-related therapy supports and interventions for children can be accessed through both the HSE's primary care services and its disability services, depending on the level of need. In 2013, additional funding of €20 million was allocated to strengthen primary care services and to support the recruitment of more than 260 prioritised front-line primary care posts. In terms of primary care services nationally, the HSE is currently finalising its proposals to improve access to primary care speech and language therapy services and to addressing the waiting lists for assessment and therapy treatment. Some €4 million has been provided in the HSE's service plan to address this issue and details of the proposals will be announced shortly.

The HSE has also recognised that early intervention services and services for school aged

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children with disabilities need to be standardised. To this end a major reconfiguration of therapy resources for children with disabilities aged up to 18 years is currently under way. The HSE's national programme on progressing disability services for children and young people from birth to 18 years aims to bring about equity of access to disability services and consistency of service delivery, with a clear pathway for children with disabilities and their families to services, regardless of where they live, what school the child attends or the nature of the individual child's difficulties.

There is also a greater emphasis than heretofore on the health and education sectors working more closely together in terms of supporting children with special needs to achieve their potential. Implementation of the programme is taking place on a phased basis in consultation with stakeholders, including service users and their families. It is a key priority for the executive's social care directorate for 2016. Since 2014, the roll-out of the progressing disability services for children and young people programme has entailed targeted investment of €14 million and the provision of 275 additional therapy staff to increase services for all children with disabilities. This level of investment underlines the Government's ongoing commitment to the development of therapy services, including early intervention services.

Reconfiguration of disability services in line with the programme is already under way in the HSE midlands, with Laois-Offaly receiving a total of 27 new therapy posts since 2014. It is acknowledged that waiting times to access required therapy interventions are unacceptably high in some areas, including Laois-Offaly. I accept the points made by the Deputies in regard to the major problems there. Access to these therapy services is not always equitable, with children in some areas facing longer waiting times than in other areas, where services are better resourced and more streamlined. However, the HSE midlands is committed to reducing waiting times for assessment and treatment.

I am confident and hopeful that the additional resources being invested into both primary and disability services will have a positive impact on the provision of clinical services to all children with disabilities, including autism, and to those who may currently be on waiting lists to access therapy inputs not just in Laois-Offaly but across the country.

Acting Chairman (Deputy Declan Breathnach): I call Deputy Mick Barry to raise his matter.

Deputy Barry Cowen: Do I not get the opportunity to respond?

Acting Chairman (Deputy Declan Breathnach): No, Standing Orders clearly allow for just five minutes for a statement and five for a reply.

Deputy Barry Cowen: I am inordinately disappointed the Minister of State did not respond accurately or effectively to the questions on the issues raised by me and Deputy Nolan. Previously, we would have been allowed make a second contribution.

Acting Chairman (Deputy Declan Breathnach): Standing Orders clearly state there are only ten minutes for each issue, five minutes for a statement and five for a reply.

Industrial Disputes

Deputy Mick Barry: What is the Luas dispute about? It is about whether the Luas drivers will get a real slice of the profits they have created for their company. In 2014, Luas drivers carried an extra 2 million passengers on the line. Transdev's profits from 2014 to 2015 increased from €24 million to €82 million and the profits for one of the two parent companies, Veolia, amounted to €352.7 million for the first six months of last year. Meanwhile, Luas drivers have been operating under a *de facto* pay freeze for the past five years. This situation is mirrored in hundreds and thousands of companies throughout the State, giving rise to the second question regarding this dispute, namely, will working people get a big slice of the economic recovery? So far, they have not done so.

The National and Economic and Research Institute, NERI, states that between 1995 and 2015 the share of gross domestic product going to wages declined from 55% to 44%. Of 37 countries with similar data available, in only one country - Romania - had the wage ratio declined by more. What is at stake in this dispute is whether the Luas workers can win and in doing so whether they can open the door through which other groups of workers can enter, submit and win pay claims. In that way, working people can win a real slice of the recovery.

The media say the Luas workers turned down an offer of 18%. This was not because Luas drivers are greedy. In part, it was because of the extra hours that were part of the package. Luas drivers are in a job where for health and safety reasons they need to be alert. However, first and foremost, the reason the package was turned down was because the package included a seriously reduced rate for starter staff. In other words, there would be a seriously reduced rate for young workers. The Luas drivers refused to go down the road the public sector was forced to go down and refused to open the door to a two-tier workforce. It is to the shame of the trade union leaders of public sector workers that they allowed a two-tier workforce establish a foot in the door and it is to the credit of the Luas drivers that they refused to allow that happen.

Transdev is operating like a cowboy. Veolia is the largest privatiser of public water in the world and Gerry Madden of Transdev earned his management spurs across the water at Royal Mail, where he brought in cuts, outsourcing and yellow pack rates. Look at how Transdev and its management team are handling industrial relations here. They have reduced pay rates by 10% unilaterally. They have taken away the sick pay scheme and are threatening to dock a full day's pay for every half day's strike - something which is of dubious legality - and they have threatened a lock-out. Does the Minister agree that these policies are Thatcherite policies? Does he agree that Transdev and its management team are acting like cowboys? Does he feel that such a company deserves to run the light rail system in our capital city?

The Minister will be aware of the clause in Transdev's contract that if it fails to deliver a service for 14 days or more in a year, the contract can be reviewed. I and the AAA-PBP are for democratic public ownership of light rail and all public transport. Does the Minister agree that if it goes over the 14 days, as it looks like it will, the review should be implemented and that he should give serious consideration to relieving Transdev of responsibility for running light rail in this city, given the disgraceful, Thatcherite way it has behaved and the cowboy tactics it has used in recent weeks and months?

Minister for Transport, Tourism and Sport (Deputy Shane Ross): I thank Deputy Barry for raising this topical issue. I share the pain of the hundreds of thousands of commuters who have been inconvenienced by the disruption caused to Luas services since the commencement

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of this industrial dispute. The fact that it looks like we will endure yet more disruption over the coming period is particularly disappointing considering that agreement was possible with the other three grades involved initially with this dispute. I hope that all in the House would share my view that the taxpayer cannot be expected to bear any financial burden in this dispute.

Any resolution reached cannot impact on the contract that is in place between Transdev and the National Transport Authority-Transport Infrastructure Ireland relating to the operation of the Luas. My focus is to protect the interests of the travelling public and to encourage the parties to work to resolve their differences. Any agreement must deliver sustainable wage rates that do not involve higher fares for the travelling public. Of course, I am aware that there are those who have sought to capitalise on this dispute to attack the very manner in which Luas services are operated. However, I think the success of the Luas speaks for itself.

Luas has been a fantastic addition to our public transport offering since its introduction in 2004. Its success is down to many things: the State's provision of the infrastructure, the private sector's provision of a quality service in a cost-effective manner, and of course the extremely hard work of the employees themselves. The Luas operating framework means we, as taxpayers, continue to own a fantastic piece of public infrastructure and allows the State to ensure value for money for the taxpayer in its operation through allowing companies tender for the right to operate it. In fact, it is a statutory requirement that there be competitive tendering before any award of any Luas contract.

As with other Members, I am of course aware that Transdev has now written to SIPTU regarding the activation of certain clauses in their collective agreement regarding the operation of the sick pay scheme. Similarly, I am aware of announcements by Transdev regarding the measures it may take if the dispute continues, as well as the fact it is now imposing financial penalties on employees engaged in strike action. These actions highlight the seriousness of the situation and underline the importance in securing agreement between both parties to resolve this dispute.

I believe that any intervention by me, or indeed by others without a legal function or role in this dispute, is not helpful. Some of these calls for intervention appear to believe that the taxpayer should be forced to take out the public chequebook or raid the State's ATM machine and underwrite the resolution of a dispute between a private company and its employees. That will not happen. Resolution of the dispute lies with the employer and the employees. If the two sides can narrow their differences, then I hope that the State's industrial relations institutions can assist in facilitating an acceptable and affordable settlement.

There have been other calls for the establishment of a specific task force to deal with the issue. I do not favour the establishment of such a task force given that we have industrial relations bodies in place which stand ready to assist the two parties in reaching an agreement. Agreement is possible. We know that from the agreement already reached with three of the four grades. Therefore the two parties need to get around a table, and if they require assistance, the State, through the Workplace Relations Commission and the Labour Court, is ready to help. I know that all of us in the House would encourage both sides in this dispute to agree a sustainable and affordable agreement which is beneficial to all sides and ends the disruption being inflicted upon the travelling public.

The Dáil adjourned at 9.15 p.m. until 10.30 a.m. on Wednesday, 18 May 2016.