



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

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

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DÁIL ÉIREANN

Dé Máirt, 16 Bealtaine 2017

Tuesday, 16 May 2017

Chuaigh an Ceann Comhairle i gceannas ar 2 p.m.

Paidir.
Prayer.

Leaders' Questions

Deputy Micheál Martin: We hear much talk about rural Ireland and about the need to bring employment to, and create opportunities in, rural Ireland but invariably Government and State interventions are becoming more negative and damaging by the day. The sharpest illustration of this in the past week or so has been the announcement by Bord na Móna to close the Littleton peat briquette factory. Politicians often wonder why people become disillusioned with the State and the political system. The manner in which this closure is being brought about would give those politicians some answers. I refer to the shabby manner in which the workers have been treated, the lack of dignity shown to them, the false promises and the fact there was no plan, agreement or deep consultation.

Bord na Móna was primarily founded to give employment to people in the midlands, to this part of Tipperary and to other counties, and to create economic development. Now the State is turning its back. I mentioned people's cynicism and disillusionment because two years ago at a meeting of the workers, the then Minister, Deputy Alan Kelly, announced to them that there would be a combined investment in a new combined heat and power plant at Littleton.

Deputy Mattie McGrath: Yes, he did.

Deputy Micheál Martin: He announced it. Word has it he picked it up from the chief executive officer on the way down and said he would announce it that night.

Deputy Mattie McGrath: That happened more than once.

Deputy Micheál Martin: To be fair to Deputy Lowry at the time, he suggested the announcement was premature but that was very robustly refuted by the then Minister, Deputy Kelly. The workers thought things were going to be sound for the next ten years. To be fair, the chief executive at the time did not suggest there were any prospects of the factory closing. At an Oireachtas joint committee meeting of May 2015, the chief executive officer spoke of an investment of approximately €10 million to convert both plants - those in Tipperary and Offaly

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- to 50% peat and 50% biomass, and that this would be a long-term project. No wonder people become cynical and disillusioned when they are treated in such a way. The workers should be treated with respect and dignity. We are talking about third and fourth generation families now involved with these plants.

Deputies met the Minister, Deputy Naughten, recently and the workers want the closure date extended to a minimum of 2020. The redundancy package is unacceptable as this is compulsory redundancy rather than voluntary redundancy. The longer one worked in the plant, the more one is punished by the redundancy package. There should be significant retraining opportunities provided to the workers. The carbon tax has been doubled and the exemption for peat was removed by the last Government; this money should be put into a fund for enterprise and employment opportunities in these regions that have been so badly affected by this announcement.

The Taoiseach: I can agree with Deputy Martin when he says workers should be treated with dignity and respect, as they should be. This decision, however, was made by a commercial semi-State body and it is not the subject of direct instruction from the Government. If I am correct, my understanding is a very substantial amount of briquettes are unsold because of the change in the nature of the way things are now. This decision has been pondered for some time.

The Deputy states the redundancy package is not acceptable and I do not have the details of what that means. In respect of workers being treated properly with dignity and respect, I share the Deputy's view completely. Deputy Martin will appreciate that Bord na Móna is phasing out the manufacturing of peat briquettes over the next number of years. There was the closure of the Bellacorick station quite a number of years ago, as well as a number of others in the midlands, as a result either of the bogs being cut away or very little being left, leading to a change of use either for hospitality or tourism purposes. Other issues have also been introduced. The facts and figures with respect to these two plants led to the board decision to close one; this was made on the basis of projections and so on. That does not mean the workers should not be treated with dignity and respect, as they should be. I hope they will be. If the issue is they are not being treated appropriately, it is a matter for the board. I hope it hears this message.

With respect to what the former Minister, Deputy Alan Kelly, committed to with a combined heat and power process at Littleton, I do not speak for promises made by him. Maybe in a moment of being overly enthusiastic as to what might be-----

Deputy Richard Boyd Barrett: There have been a few of those.

Deputy Mattie McGrath: AK47.

The Taoiseach: In any event, it has not come true. I share the Deputy's view about dignity and respect. A substantial amount of product has not been sold, which is a clear issue. It is determined in part by the change in the nature of the way fossil fuels are treated and the new methods of energy use for domestic houses and commercial premises.

Deputy Micheál Martin: The then Minister, Deputy Alan Kelly, was a member of the Taoiseach's Government.

The Taoiseach: I know.

Deputy Micheál Martin: The point is serious promises were made that there would be €25

million in investment for a combined heat and power plant.

An article on *tippfm.com* on 5 June 2015 stated:

Funding and a fuel supply will have to be sourced before the combined heat and power plant can go to planning. [It had not even gone for planning permission or anything like it]. Because of this Deputy Lowry says Minister Kelly's announcement was premature. The Environment Minister was quick to refute Deputy Lowry's comments. However they did both agree that the investment was ultimately good news for Littleton and Tipperary.

We wonder why people are so cynical about the political system and so on, but it seems, two years on, that there was never going to be a combined heat and power plant.

Deputy Mattie McGrath: Never.

Deputy Micheál Martin: We need answers. The workers were as a consequence led down a false path.

Deputy Mattie McGrath: Fantasy land.

Deputy Micheál Martin: I met them last night. They thought their jobs were secure as they had been given commitments. Bord na Móna is a Government agency. It was always an agent of the State to make sure there would be economic development in the regions, particularly those which did not enjoy significant foreign direct investment or other forms of economic development. Lisheen mines were closed. There has been a series of job losses in the Tipperary region, including, for example, at Procter and Gamble and this is a further body blow. There is a need for the Taoiseach, the Government and Bord na Móna to engage properly with the workers to extend the closure date and secure a proper redundancy package and proper economic opportunities in the region for them because they have been let down badly.

The Taoiseach: Derrinlough was chosen as the sole location for future peat briquette production and the new biomass briquette plant. The review of peat operations was prompted by the very significant decline in sales in the past few years. If the product is being produced but not sold and there is no capacity to sell it, it just sits there. That is not the way it should be. Increased competition, consumer trends, lower oil prices, carbon tax and other factors have all resulted in a serious drop in sales in the past four years. There has been no date determined for closure. There is to be an orderly wind down and the opportunity to engage in new training and acquire new skills or other options for the staff who work in Littleton. When the review was concluded, it was stated that in order to sustain the business in the future the Derrinlough plant, at which 61 people are employed, would be the optimum location for future investment to secure the future of the fuels business. The head of Bord na Móna fuels said:

This has been a very difficult decision following a period of uncertainty for employees. We took a great deal of care with this review to ensure that a wide range of factors were taken into account. Briquette sales have declined significantly in the past few years as we have encountered unprecedented market, financial and regulatory challenges. Ultimately we had to make a decision.

I take the Deputy's point. Bord na Móna is engaging with the employees. I hope it will take on board the view of this House that all of the workers should be treated with respect and dignity and that all options for them should be explored thoroughly, as I would expect Bord na

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Móna to do in the time ahead. I will not comment any further on the commitment entered into by the former Minister.

Deputy Danny Healy-Rae: The Taoiseach has not done that.

Deputy Brendan Howlin: He has tabled it as a Topical Issue for discussion later today.

The Taoiseach: Perhaps in a moment of exuberance-----

Deputy Micheál Martin: Did the Taoiseach say the date had not been determined?

The Taoiseach: A date has not been determined. It wants an orderly wind down in order that it can engage with the employees on other options, training, new skills, etc.

Deputy Gerry Adams: I note the comments of the Minister for Social Protection, Deputy Leo Varadkar, in County Donegal at the weekend that there should be no economic border between the North and the South. He also said we should advocate that the North should stay in the customs union and the Single Market and that any customs checks should be at ports and airports, not at land borders. He added that most people in the North had voted to Remain, as had most Members of the new Legislative Assembly, MLAs. At the risk of undermining the Minister's chance of becoming leader of Fine Gael whenever the Taoiseach finally brings his long last lonesome goodbye to a conclusion, I welcome these remarks.

The Taoiseach: When is the Deputy going to join me?

Deputy Micheál Martin: That will be even longer.

Deputy Gerry Adams: Not for a while. I look to the Minister for Housing, Planning, Community and Local Government, Deputy Simon Coveney, to outline his position on this issue. For over four months, the Taoiseach has denied there will be customs checks along the Border. In fact, he denied that the Government was looking for locations for such checks even though that was patently untrue and was verified by the Minister for Finance who confirmed that Revenue was looking for such locations. The position of the Taoiseach was also contradicted by Michel Barnier in his address to the Oireachtas last week, when he said, "Customs controls are part of the EU border management. They protect the Single Market. They protect our food safety and our standards".

The economic implications of customs checks for the two economies on this island, especially Border communities, are enormous. Currently, island-wide trade generates over €3 billion annually. Around 60% of exports in the North are to the Irish State. Over 30,000 people travel across the Border every day for work, study and recreation. Everybody knows that if Brexit leads to tariffs and customs checks the effect will be devastating, in particular beyond the Pale in rural Ireland. Jim Woulf, chief executive of Dairygold, said, "You'll have decimation in rural Ireland with the beef, and the dairy and the mushrooms, you have the drink industry".

The Taoiseach is bound to know this. Why continue with the fiction that there will be no customs checks? As far as I can establish, this is based on the wholly meaningless statement from the British Primer Minister that there will be no return to the borders of the past. As I said, Mr. Barnier said customs controls are part of EU border management, which the Taoiseach now knows.

Clearly, negotiations are going on as we speak before their adoption at the General Affairs

Council on 22 May. There is time to press for the EU to take on board the proposition for designated special status for the North within the European Union. Would it not be better to do that instead of pedalling the pretence that there will be no customs checks when the Government is looking for such locations?

The Taoiseach: Maybe Deputy Adams and I could form an unprecedented unique partnership when he leaves. He might advise me.

In respect of the Single Market, Mr. Barnier spoke here last week and outlined his views on the outcome of the European Council, the paper from the European Commission and the recommendations from the European Parliament. Wales, Scotland and Northern Ireland want access to the Single Market, and the Republic of Ireland is in the Single Market and will remain so.

As we are speaking today, we do not what know the outcome of the trading negotiations that will apply will be. If, for instance, there are no tariffs between Ireland and Britain, Northern Ireland and the Republic or the UK and the European Union, there are still two different jurisdictions and some arrangement to deal with that will have to be made. The point of agreement by the British Government is that there will not be a return to customs posts as we all knew them many years ago along the Border. The agreement politically is that whatever the outcome on the trading relationship, a different way of dealing with this would have to be found.

It is not impossible to have a situation like that to which Deputy Adams referred. The phrases “unique circumstance”, “particular and specific circumstances” and “special cases” have been repeated in respect of Northern Ireland. That is why we have the peace process, peace funds and agreement on a range of areas about what should happen with Northern Ireland.

We do not yet have a Northern Executive, and I hope that after the British general election the parties will sit down and put an Executive together before the end of June. That will not sort out this problem, but at least we might have common ground that Northern Ireland, the Northern Ireland Executive and the parties do not want a return to the border of the past with hard customs posts. Nor does the Republic, and we are not going to have that. However, we do not know the answer to the question of whether there will be tariffs and, if so, to what extent. Even if there are no tariffs, there will still be two jurisdictions, namely, the European Union and the United Kingdom. As the Deputy is well aware, the Six Counties belong to the United Kingdom and will remain so under the Good Friday Agreement until the people decide by their vote, consent and democratic means to change it. If it becomes a reality, it will be accepted by both Governments and recognised by the European Union. Until such time as the divorce proceedings deal with borders, modalities, potential liabilities, citizens’ rights and reciprocal rights, we will not get into the detail and complexity of what will arise.

Deputy Gerry Adams: In fact, the Six Counties do not belong to the United Kingdom under the Good Friday Agreement. The Agreement removed that claim. It is a temporary little device until the people decide they want a united Ireland.

Deputy Micheál Martin: It is not a temporary device but the constitutional position.

Deputy Gerry Adams: The Taoiseach says we will not have a hard border, but he does not tell us how he will prevent it from coming about. The Minister for Social Protection, Deputy Leo Varadkar, has rightly pointed out that there should be no economic border at all between the North and the South. Can the Taoiseach not say that? The Minister said we should advocate for the North to stay in the customs union and the Single Market and that any customs

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checks should be at ports and airports, not at land borders. He pointed out that most people in the North had voted to remain, as did most of the MLAs elected to the new Assembly. Can the Taoiseach not say that? He knows that Sinn Féin's resolve is to get the institutions back in place as quickly and as soon as possible. If the Border becomes a land border between the European Union and the non-European Union, there will be tariffs and customs checks along the Border and divisions on the island will deepen. However, the Taoiseach has yet to say this should not happen and point out why. He has yet to make it a negotiating priority. I invite him to do so now. Having heard the Minister, Deputy Leo Varadkar's position, does he happen to know what the position of the Minister for Housing, Planning, Community and Local Government, Deputy Simon Coveney, is?

The Taoiseach: I happen to know what the position is. An agreement has been reached with the European Council that Ireland will be recognised as having particular and unique circumstances which apply to it. The European Council has also recognised that it has no intention of returning to a hard border. Deputy Gerry Adams says there will be no tariffs, but he is not in a position to do so, given that negotiations on the issue have not yet commenced. I am telling the Deputy that even if there were no tariffs, we would still have two jurisdictions, namely, the European Union and the United Kingdom. There might be customs checks at Pembroke or Holyhead. If one looks at eastern European countries where border checks applied in the recent past, there were eight and ten hour delays. That is not what we want as it leads to inefficiencies, inordinate delays, paperwork, jobs issues and all the rest. We do not want that. We have a situation where freight and machinery can move throughout Europe on the basis of the invoices alone. That is the Single Market.

The British Government is stating it wants to have as close as possible a relationship with the European Union, albeit that is what we now have. The British Government made the decision that it wanted out of the Single Market and a changed status in respect of a customs union. These are matters which have not even been talked about in the detail that will lead to negotiations. The first issue to be addressed, as Mr. Barnier pointed out here, consists of liabilities and modalities, what that means and whether there is a figure. The second issue is citizens' rights and reciprocal rights, while the third is the Border. We have all of these things while Wales, Scotland and Northern Ireland want to be part of the Single Market. However, there is an aggregate vote, as a result of which the United Kingdom decided to leave and which is causing all kinds of trouble. In the next two and a half to three years an inordinate amount of political time will be taken up in dealing with something we did not wish for in the first place. However, we have to respect it and deal with the consequences.

Deputy Joan Collins: Last summer, the Minister with responsibility for housing, Deputy Simon Coveney, made a commitment that by 1 July this year no homeless families would be left in hotels. More than 800 families are still in this situation with six weeks to go. Maybe when the Minister made this commitment he was hoping that by 1 July he would have moved on to better things and some other Minister would have to take the flak. This target will not be reached despite the Minister's most recent assurances. Even with the development of so-called hubs, and I believe there is a plan to establish up to ten of these in Dublin, they will certainly not be ready for use by July. These hubs are in themselves a form of temporary emergency accommodation. Admittedly they are better than hotels or bed and breakfasts, but moving families from one form of emergency accommodation to another, often miles away from the schools their children attend, is not a solution and Niamh Randall from Simon Communities stressed this point this morning on "Morning Ireland".

The other key question about the hubs is how long will families be there before they are properly housed. We now know the rapid build modular houses, proposed originally as temporary homes, are to become permanent homes. Will the hubs become a permanent feature of this Government's dysfunctional housing policy? Given the absence of public housing these families will only get housing in the private rental sector, but this morning the Simon Communities announced on the basis of a survey it did that nine out of ten rental properties are beyond the reach of those availing of housing assistance payment, HAP, and other rent supports. On the other side of this, increasing numbers of families are finding themselves homeless month by month. On top of this, a number of families are living in overcrowded accommodation elsewhere.

I know the Taoiseach will come back at me with a load of figures and projections for house building, but they are not real. Next to nothing is happening, which is why we now have the incredible plan from the Minister to gift to private developers 800 sites on 20,000 ha of land, owned by local authorities in the main, on which 50,000 housing units could be built. This has been described as the sale of the century. I would describe it as the sell-out of the century, on a par with the rip-off of our oil and gas resources, the bank bailout and the bonanza for vulture funds represented by NAMA. Is it not time to end this madness, stop, take stock and commit to a programme of public housing, starting with the construction of 50,000 units on these State lands?

The Taoiseach: The Deputy's solution is facile to say the least. She could have said 50,000, 70,000 or 100,000 because she seems to imagine housing can be conjured up just like that. She stated these things are not real. What is real is population growth of 3.8% which is greater than the growth in housing stock, which is 0.4%. The average household size has increased for the first time since 1966. Overall housing stock increased by a net 9,000 units. Respondents reported 33,436 units built, admittedly since 2011. I understand 23,000 families and individuals are on HAP schemes. That is a real figure but they are also real people, families and individuals assisted through HAP and living in their homes. The unusual thing is I never hear of anybody being interviewed who has been moved into a house with which they are happy with their families. It is as if they never existed. They have been moved out of hotels and out of homelessness and into sustainable long-term housing conditions. It is as if they are just figures who moved off into the darkness.

Deputy Richard Boyd Barrett: They are even being evicted from HAPs.

The Taoiseach: Planning permission has been granted for 16,375 new homes. That is a real figure. Unlike Deputy Collins, we have to build the houses. This means when we have the planning permission we have to have somebody with the blocks, concrete and facilities to be able to build the houses. This is why rapid build housing has been part and parcel of the five pillars for housing we have here. Am I to understand when the Deputy says this that George's Place in Dún Laoghaire, which is of interest to Deputy Boyd Barrett-----

Deputy Richard Boyd Barrett: They have been talking about that for years and nothing has happened. They are-----

The Taoiseach: There are to be 12 homes provided there. In St. Aidan's in Brookfield in Tallaght, 71 homes-----

Deputy Richard Boyd Barrett: -----tied up in the procurement process.

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The Taoiseach: In Poppintree in Ballymun there are 22 homes, all of which are occupied. If Deputy Collins and I went there I wonder if we would see those houses. Would we meet the families who are there? Would she tell me that they are not real, that they are a mirage-----

Deputy Richard Boyd Barrett: The ones in Dún Laoghaire are definitely a mirage.

The Taoiseach: -----or that there is something there that is not real? There will be 24 homes built in Cherry Orchard, 30 in Mourne Road in Drimnagh, 39 in St. Helena's in Finglas, and so on. These are real sites, real opportunities and places where construction is under way to provide rapid build homes for people who need them. I admit there are challenges facing the Minister, Deputy Coveney, in addressing the question of not resorting to the use of hotels by the end of June. I think the Deputy referred to 800 families. My information from yesterday's Cabinet sub-committee meeting is that the figure is about 600 and my information from the housing department is that she will see a very substantial drop in that number by the end of June. It is always a very difficult challenge to meet because it is exceptionally ambitious but they are really focused on moving this along.

As well as that, there are 28,000 vacant homes in the suburbs of Dublin. These are real dwellings but sometimes when one goes to look at them the figures might not be as accurate. There are 750 in the Finglas area but sometimes these are not habitable and have to be brought back to a good shape, and there are incentives and opportunities to do that, whether they be public or private houses.

Deputy Róisín Shortall: There are not.

Deputy Joan Collins: The Taoiseach called my proposal facile. I call his policy a failure. As I expected, he has come back with figures, projections and plans, none of which add up. They are a fantasy. It is a fantasy to believe that the private sector, which was responsible for the problem in the first place, will now be the solution. I am talking about local authority homes.

I refer the Taoiseach and the Minister to proposals put forward recently by the Nevin Economic Research Institute, a body funded by the trade unions. It proposed the creation of a national housing company which could borrow off the books at low rates to build 10,000 public housing units a year to be rented on the basis of the European cost recovery model and at a level to recover the initial investment but below the market rates. That would provide one third of new housing units needed per year and take pressure off the private rented sector and it would also create a mixed tenure, which the Minister has described as desirable. I remind the Taoiseach also that it is in the programme for Government.

I attended a public meeting in Inchicore last night. It was a very well attended meeting and judging by the mood and the determination of the people present, who are absolutely opposed to public land being sold or leased to private developers, they intend to develop a campaign against this policy, The Better Way campaign, and build a significant opposition to selling off our public lands. I ask the Taoiseach again to please come forward with a proper proposal to deal with the thousands of people on the housing waiting lists and those who are waiting to leave hotels and bed and breakfast accommodation.

The Taoiseach: Yes, and that is part of the five pillars set out by the Minister, Deputy Coveney, in his programme. The State land mapping process has concluded that there are over 700 local authority and Housing Agency owned sites-----

Deputy Richard Boyd Barrett: Blocked off for your developer friends.

The Taoiseach: -----totalling about 1,700 ha, which is a substantial amount of land. There is the potential to build, as Deputy Collins said, 50,000 homes.

Deputy Joan Collins: By private developers.

The Taoiseach: The position is that local authorities are now tasked with preparing strategic plans to get on with that business. Twenty five or 30 years ago, local authorities always built more than enough houses and then they got out of that business entirely.

Deputy Richard Boyd Barrett: Thanks to you lot.

The Taoiseach: This Government has given money, facilities and incentives to local authorities to do their job. For instance, we are now making rental a more attractive proposition for investors. The Department of Finance has set up a working group on the tax and fiscal treatment of landlords, which includes officials from the Department of Housing, Planning, Community and Local Government. We are taking action to bring vacant properties back into use. The repair and lease scheme, under which local authorities will refurbish vacant properties and lease them from their owners, was rolled out in February. That is real. That will deliver 3,500 properties by 2021. It will cost €150 million. They are making money available through the Housing Finance Agency to higher education institutes. They can now borrow money to build student accommodation, which will free up those houses where students are currently located. We support the build-to-rent development through pathfinder sites. In February, the Minister for Housing, Planning, Community and Local Government, Deputy Simon Coveney, launched major infrastructural works at the Cherrywood site in Dublin, costing €35 million. We have requested the local authorities in rent pressure zones to use publicly owned sites to kickstart supply. In that regard, Dublin City Council brought forward a land initiative covering the three sites, at O'Devaney Gardens, Oscar Traynor Road and St. Michael's in Inchicore. They are seeking partners to deliver a mix of social, affordable and private housing. These are all real aspects of the progress being made in terms of housing.

Deputy Róisín Shortall: Real plans but not real houses.

In respect of An Garda Síochána, in recent weeks the public has been informed of the rampant financial mismanagement in Templemore, the potential bugging of the political opponent of a Minister, highly unusual leasing arrangements between the OPW and a Garda-owned golf club, and the widespread distribution of a video of a young woman in a distressed state by a serving garda, apparently for amusement. These are only a fraction of the scandals that have enveloped the force under the current Government, Commissioner and Minister. The scale of the maladministration, incompetence and potential corruption that have come to light is staggering. It is obvious why public confidence in the force is in tatters but it is shocking that those in authority seem completely oblivious to this. Instead, the Taoiseach and his Government colleagues attack anyone who attempts to bring these failures to light.

Regardless of whether the Commissioner was informed of the issues in Templemore in a two-hour briefing or a quick chat over tea, her responsibility under the Garda Síochána Act is abundantly clear. It beggars belief to claim that informing the Minister of these issues was a matter of judgment. The Commissioner's failure to notify the Minister for 15 months was a complete dereliction of statutory responsibility to keep the Minister fully informed of any significant developments that might reasonably be expected to adversely affect public confidence

in the Garda Síochána, as stated in the Act. The fact that the Tánaiste appears to believe this is a political attack on her and that raising these issues is to increase the pressure on her as Minister, as she said, is the height of arrogance. It speaks to a Minister well aware that the removal of the previous Garda Commissioner set in motion the chain of events that led to the end of her predecessor's time in ministerial office. It is looking very much as if history is going to repeat itself.

This, however, is not about one justice Minister or one Commissioner; it is about systemic dysfunctionality deeply rooted in one of the most vital organs of the State. No one here is looking for a head on a plate for the sake of it; what we want is real reform. It needs to happen now, however, and not after a commission of inquiry or another review.

There was a time, at the time of the setting up of the Charleton inquiry, when it would have been sufficient for the Commissioner to step aside without prejudice. That time is gone, however. What is desperately needed now is a change in culture that can come about only if the Commissioner and the senior management team are changed. That is what is required. Can the Taoiseach explain why he will not join all Members on this side of the House who have come to the conclusion that we cannot continue under the present regime with a Commissioner and a senior management team who do not understand the principles involved in accountability and being answerable to the public?

The Taoiseach: The Deputy raised questions about potential corruption, bugging and accountability, and she raised the most distressing issue of all, which was the video of a young woman who is no longer with us. We share the grief of her family over the tragedy. That matter is being investigated as a matter of urgency by the Garda. I understand from reports that the footage was taken on a mobile phone. The Deputy made her point about that. She also made a point about bugging, an issue of particular importance and on which I have read the newspaper reports. As the Deputy will be well aware, there is a designated judge who deals with the question of listening to particular individuals. The Deputy does not comment on any of these cases because they are small in number. I have the last report from 10 November last year by Mr. Justice Paul McDermott in front of me. He states:

2. On 27th October, 2016 I attended at the Office of the Department of Justice and Equality ... and met with officials who made available to me documents and records relating to the operation of the Acts, as requested. I examined the files and records furnished and spoke to the officials responsible for the operation of the Acts and liaison with other authorities in respect of same. All documents requested by me were furnished and all questions posed by me in relation to the files and records produced were answered to my satisfaction.

3. On 27th October, 2016 I attended at the headquarters of An Garda Síochána ... I met with officers and personnel responsible for the operation of the above Acts. I examined computer records and hard copy files relating to the operation of the above Acts which were made available for my inspection and all documents and records which I requested were furnished and examined. All questions posed by me in relation to the operation of the Acts and the documents and records produced were answered to my satisfaction.

He concludes: "I am satisfied having examined the records and documents produced to me and from the information conveyed to me at these meetings that the relevant State authorities are in compliance with the provisions of the above Acts as of the date of this report".

What the Deputy referred to in respect of allegations of bugging goes back quite a number

of years. I do not have the date, but obviously there was a situation where there were different Ministers for Justice for quite a long time. In respect of bugging, this is a very serious matter and the Minister for Justice and Equality of the day is not in a position to order that an individual be eavesdropped upon using telecommunications without having an official of the Department verify in the first instance that it would comply with the Act and that it would be overseen by the High Court judge with responsibility for this matter. There is a lot of stuff in the ether about which I would like to know the facts. As I understand it, the case the Deputy mentioned went before the courts not for bugging or eavesdropping but for personal injuries. It was a different matter and this was an element of the case. Be that as it may, it is a very serious allegation. I am giving the Deputy the result of the judge's most recent report on compliance with the Act in so far as the Department of Justice and Equality and An Garda Síochána are concerned. All of the evidence, files and computers were made available and all of the questions were answered to the satisfaction of the judge.

The Commissioner of An Garda Síochána is the Accounting Officer for the Garda Vote. She is responsible to the Committee of Public Accounts for dealing with the Vote. The matter is being investigated by the committee and it is not for me or the Deputy to interfere with its work. In law, the Commissioner is responsible to the Committee of Public Accounts as Accounting Officer for the Garda Vote and we should let the committee do its work.

An Ceann Comhairle: We are way over time.

The Taoiseach: On the Deputy's comment on dysfunctionality, this morning the Government approved the commission on the future of policing in Ireland with detailed terms of reference and a list of people who have great experience in the law, policing and other elements of society. The commission's report is not being asked for in 15 months. There will be a rolling report whereby the commission can make recommendations, on which the Government will act, on a regular basis. In other words, as recommendations come through in respect of policing, they can be dealt with by the Government, instead of waiting a full 15 or 18 months for a final report. The terms of reference are good, detailed and exact and the commission will give a different impetus to the way the culture in the Garda evolves.

The independent Policing Authority recently made an appointment as a new assistant commissioner of a policeman whom I happen to know from his work in the north inner city. He is the kind of person the Deputy would be proud to have appointed by an independent body. He has done his work in difficult circumstances in the past few years. The Deputy shakes her head. Maybe she does not agree. The fact of the matter is that no senior appointment to the gardaí in future will be made by anything to do with any Commissioner or anything to do with any Government, but by an independent Policing Authority, which is the way that it should be.

Deputy Róisín Shortall: That simply is not good enough. The Taoiseach is hiding behind the Committee of Public Accounts. No official investigation is going on within the Committee of Public Accounts. It is looking at this issue; there is no official investigation. It does not prevent the Taoiseach from acting and doing what he should be doing if he takes his political responsibility seriously. Rather than going off on a tangent, the Taoiseach might respond to the very fundamental issues that I have raised about political responsibility on the Taoiseach's part and on the part of the Tánaiste and Minister for Justice and Equality.

We cannot wait for the results of yet another investigation, another review or another commission of inquiry while the Garda force continues to implode before our very eyes. It is clear

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the upper echelons of the gardaí are too embedded in the current unhealthy and unaccountable culture to do their job properly. The only way we will address the core failings of the gardaí is to appoint a new team. We cannot continue with the regime where it seems the objective is to obfuscate and defend the indefensible, while discipline in the gardaí is neglected, where morale continues to fall and where public confidence in the rule of law is at an all time low. We must have action from either the Taoiseach or the Tánaiste and Minister for Justice and Equality. They need to do what needs to be done and to stop obfuscating.

The Taoiseach: The Deputy makes a comment and does not say what she wants. She said before that-----

Deputy Róisín Shortall: It is very clear that I want the Taoiseach to remove the Commissioner and the senior management.

The Taoiseach: -----she was not looking for anybody's head and talked about dysfunctionality. Then she said to me to do what I am supposed to do.

Deputy Róisín Shortall: Yes.

The Taoiseach: The fact of the matter is that the Tánaiste accepts political responsibility for her actions here.

Deputy Róisín Shortall: It does not address the issue.

The Taoiseach: All the recommendations of the interim report on Templemore have been implemented by this Commissioner. This is the Commissioner who has referred this to the Committee of Public Accounts to whom she is responsible as Accounting Officer.

Deputy Róisín Shortall: She did not.

The Taoiseach: She is accountable as Accounting Officer for the Vote to An Garda Síochána. While the Deputy says it is not being investigated-----

Deputy Róisín Shortall: The Taoiseach is hiding behind the Committee of Public Accounts again.

The Taoiseach: The Committee of Public Accounts considered this the other day and whether it should expedite its analysis of all the reports it has received.

Deputy Róisín Shortall: Deputy Kenny is the Taoiseach.

The Taoiseach: The changes that have been made are fundamental and it takes some time for a change of culture to evolve in an organisation like An Garda Síochána and Deputy Shortall will find that, over a period of time, as the independent Policing Authority makes its senior appointments, both civilian and from or to the force-----

Deputy Frances Fitzgerald: Public hearings.

The Taoiseach: -----there will be an increase in the public's confidence and trust because of the way the nature and culture of the gardaí will change. Of course there have been difficulties - so many - and not just now. The Deputy talked about bugging earlier and about a time back in the early 2000s. I do not have evidence of that. I am giving the Deputy the changed-----

Deputy Róisín Shortall: It happened under the Taoiseach's watch.

The Taoiseach: -----nature of what has happened here from the report I received from Mr. Justice Paul Anthony McDermott about bugging-----

Deputy Frances Fitzgerald: Independent appointments and a Policing Authority.

The Taoiseach: -----following comments the Deputy made earlier.

An Ceann Comhairle: That concludes Leaders' Questions, which, incidentally, has over-run by 16 minutes today.

Order of Business

Deputy Michael Moynihan: Tuesday's business shall be No. 5, motions re EU regulation in justice area and in insolvency proceedings - referral to committee; No. 6, Financial Resolutions for Minerals Development Bill 2015 [Seanad]; No. 7, motion re ministerial rota for parliamentary questions; No. 7a, motion to instruct committee on Minerals Development Bill 2015; and No. 16, Civil Liability (Amendment) Bill 2017 - Second Stage (resumed). Private Members' business shall be No. 28, Equal Participation in Schools Bill 2016 - Second Stage, selected by Solidarity-PBP.

Wednesday's business shall be No. 17, Planning and Development Bill (Amendment) Bill 2016 - Order for Report, Report and Final Stages; and No. 18, Criminal Justice Bill 2016 - changed from Bail (Amendment) Bill 2016 - Order for Report, Report and Final Stages. Private Members' business shall be No. 108, motion re consumer impact of increased insurance costs, selected by Fianna Fáil.

Thursday's business shall be No. 18, Criminal Justice (Offences Relating to Information Systems) Bill 2016 - amendments from the Seanad; No. 2, Asian Infrastructure Investment Bank Bill 2017 - Order for Second Stage and Second Stage. Second Stage of No. 31, Residential Tenancies (Housing Emergency Measures in the Public Interest) (Amendment) Bill 2016 will be debated in Thursday's evening slot.

With regard to the announcement of proposed arrangements for this week's business, I refer to the first revised report of the Business Committee dated 15 May 2017. In relation to Tuesday's business, it is proposed that:

(1) motions regarding EU Regulation in justice area and in insolvency proceedings - referral to committee, Financial Resolutions for the Minerals Development Bill 2015 [*Seanad*], which shall be moved together and decided by a single question, and motion regarding ministerial rota for Parliamentary Questions will be taken without debate and any division demanded thereon shall be taken immediately;

(2) the motion to instruct the committee shall conclude within 60 minutes and the speeches shall be confined to a Minister or Minister of State and the main spokespersons, or a member

nominated in their stead, and shall not exceed 7.5 minutes each and any division demanded thereon shall be taken immediately; and

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(3) Second Stage of the Equal Participation in Schools Bill 2016 shall be brought to a conclusion, if not previously concluded, at 10.00 p.m.

In relation to Thursday's business, it is proposed that the amendments from the Seanad on the Criminal Justice (Offences Relating to Information Systems) Bill 2016 shall be taken after Questions on Promised Legislation and the weekly divisions will take place on the conclusion of the amendments from the Seanad.

An Ceann Comhairle: There are two proposals to put to the House today. Is the proposal for dealing with Tuesday's business agreed to?

Deputy Aengus Ó Snodaigh: Not agreed.

An Ceann Comhairle: It is not agreed to. I call Deputy Ó Snodaigh.

Deputy Aengus Ó Snodaigh: Loath as I am to object to the Order of Business, there was a protocol put in place for Whips and Deputies in case of events of national importance that need to be addressed in this House breaking over the weekend after the Business Committee has decided the Order of Business. I submitted such a request on Saturday. I believe it is one of the most important issues that should be tackled in this House. It relates to illegal telephone bugging by members of An Garda Síochána. I also submitted a Topical Issue request and a private notice request to try to see whether we as Whips could come up with some mechanisms to allow the Taoiseach, as the person who receives the report on phone-tapping from the judge each year, and the Tánaiste to come before the House to explain the background to this and maybe answer questions. Thus far, all we are getting is what has been in one newspaper. That is scandalous enough in itself. There are disturbing revelations. It is important that we know the full extent of this, who was affected and whether the officers themselves-----

An Ceann Comhairle: I ask for a brief statement, Deputy.

Deputy Aengus Ó Snodaigh: That is all I was going to say. It is important that we have that debate. I believe this is the place to have it, rather than it being in the media only and this House always playing catch-up. I went through the normal process. I know the judgment lies with the Ceann Comhairle. However, in this instance in particular, this issue is of national importance.

An Ceann Comhairle: I know that Deputy Boyd Barrett is offering. Just to help Members, five Deputies tabled Topical Issues on this issue today. I was of the belief, correctly as it transpired, that the matter would be raised on Leaders' Questions. I was of the view that if it was raised on Leaders' Questions and dealt with to everybody's satisfaction, there would be no need for a Topical Issue matter.

Deputy Mattie McGrath: Hear, hear.

An Ceann Comhairle: If Members are not satisfied, it is open for them to submit again tomorrow.

Deputy Richard Boyd Barrett: I was one of those who submitted a Topical Issue matter request. I note that over the weekend, the Minister for Housing, Planning, Community and Local Government, Deputy Coveney, also said that legislation is being drafted to deal particularly with the misuse of power in office. The allegation that was made over the weekend is of a shocking order, suggesting the possibility that influence was exercised by a Minister to tap the

phone of a constituency team member of a sitting Teachta Dála for political reasons.

An Ceann Comhairle: We all appreciate the political import of it but we cannot have a debate on it now.

Deputy Richard Boyd Barrett: That is a shocking further revelation. Given we have not succeeded in getting a Topical Issue debate on this, we cannot allow this week to pass without the issue being discussed, particularly now the Minister, Deputy Coveney, has said legislation is being drafted on it and the Government is serious about it. It is a shocking allegation-----

An Ceann Comhairle: Thank you, Deputy.

Deputy Richard Boyd Barrett: -----that has to be addressed and it was not addressed in the Taoiseach's response.

An Ceann Comhairle: Deputy Howlin wants to come in on the same matter.

Deputy Brendan Howlin: I share the Deputy's concerns about what is an allegation at this stage. The Taoiseach will recall I raised it with him last week in Leaders' Questions. It fits into wider concerns Members of the House have about An Garda Síochána, as Deputy Shortall has rightly laid out. I understood the Taoiseach agreed last week the Tánaiste would make herself available to answer questions on the broader concerns that everybody on both sides of the House has. Will that happen in the course of this week?

The Taoiseach: Deputy Boyd Barrett raised an important point but I do not want anybody to be under any illusions, presumption or perception that this allegation is relevant to the current period. It is important Deputy Boyd Barrett understands that.

Deputy Richard Boyd Barrett: It refers to a sitting Deputy.

The Taoiseach: My understanding is-----

Deputy Richard Boyd Barrett: That is what the report says.

The Taoiseach: My understanding-----

Deputy Richard Boyd Barrett: I do not know why the Deputies are shaking their heads.

The Taoiseach: Let us be clear. My understanding is this allegation refers to a period back in the early 2000s. There was a judge in place at that time. I will not make any further comment on it.

Deputy Aengus Ó Snodaigh: He was paid off only last month.

The Taoiseach: It is not correct for the Deputy to stand up and leave a perception that this carry-on, which is very serious, is of the current time. The second thing I want to say to Deputy Howlin-----

Deputy Richard Boyd Barrett: When will it be dealt with?

The Taoiseach: -----is the Tánaiste and Minister for Justice and Equality has come before the House on a regular basis where there are provisions to call any Minister before the House either by way of Topical Issue debate or priority question. The Tánaiste also answers questions on Thursday mornings in the vast majority of cases.

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An Ceann Comhairle: If Topical Issue matters are submitted again tomorrow on this matter and Members continue to be dissatisfied, they will be considered. Is the proposal for dealing with Tuesday's business agreed to? Agreed. Is the proposal for dealing with Thursday's business agreed to? Agreed. On proposed legislation, I call Deputy Martin.

Deputy Micheál Martin: There has been some concern about the lack of legislative proposals before the Dáil, particularly Bills emanating from the Government. There has been a lack of engagement on a number of Bills. The one I want to raise is the Public Health (Alcohol) Bill 2015, which was before the Seanad prior to Christmas. It is a wide-ranging Bill and has been the subject matter of numerous all-party Oireachtas committees. It was withdrawn from the Seanad before Christmas. It is now the month of May, six months on. It is generally accepted and regarded as a matter of urgent public health concern yet as I understand it no progress is being made with it. There is no indication it is coming before the House before the summer recess. The Irish Cancer Society is adamant it should, as are many other public health bodies. There may be issues around certain aspects but it does not mean it cannot be debated here and dealt with and that there cannot be engagement on it. There are a number of other Bills like this that are in the system but are not being progressed.

3 o'clock

An Ceann Comhairle: The Deputy's time is up.

Deputy Micheál Martin: When can we expect the Public Health (Alcohol) Bill to be brought back in?

The Taoiseach: The Government considered the legislative programme this morning. I will ask the Whip, Deputy Doherty, to deal with the question.

An Ceann Comhairle: The Whip will answer the question.

Minister of State at the Department of the Taoiseach (Deputy Regina Doherty): There are eight Bills in the programme for Government that have already been published in this session. There are ten to come in the next number of weeks and there are six we are working on and hope to publish by the end of July before the House rises for the summer.

The Bill the Deputy refers to is not stuck anywhere. It will be taken by the Minister of State, Deputy Marcella Corcoran Kennedy, in the Seanad in the coming weeks. The reason for the delay was to address the concerns raised by parties inside and outside of the House so that when it comes to the Seanad it can pass successfully with everybody's support.

Deputy Gerry Adams: The programme for Government commits to transparency and accountability. The Taoiseach coined the phrase, "Paddy needs to know". Paddy wants to know. The issue of phone tapping has been raised by many Deputies following news reports that the phone of a PA of a sitting Deputy was tapped. As I understand it, it was someone who was in the Opposition and in the same constituency as a Minister.

The Taoiseach read the judge's reports on phone taps, but they were phone taps which had been properly cleared. However, these allegations involve phone taps which had not been properly cleared.

An Ceann Comhairle: That is not relevant in the context of promised legislation.

Deputy Michael Healy-Rae: It was also 20 years ago.

An Ceann Comhairle: We have had this mentioned and it is not relevant in the context of promised legislation.

Deputy Richard Boyd Barrett: Actually the Minister for Housing, Planning, Community and Local Government, Deputy Simon Coveney, has promised legislation in this area.

(Interruptions).

Deputy Martin Kenny: The interception legislation needs to be amended.

Deputy Gerry Adams: I raise this issue in the context of interception legislation. The allegations involve phone taps which had not been properly cleared and, therefore, could not have been part of the judge's reports. As the Taoiseach went on to say it had happened in the early 2000s, he knows exactly what happened. As he has the reports, why can we not be told? Why can he not tell us what happened, who was involved and so on?

The Taoiseach: I do not have the details of what happened back then.

Deputy Gerry Adams: Why not?

Deputy Brendan Howlin: We know the details.

The Taoiseach: What I read for the Deputy and the nation was the last report received from the justice dealing with the issue.

Deputy Aengus Ó Snodaigh: It is inaccurate.

The Taoiseach: He had asked questions of An Garda Síochána and the Department of Justice and Equality. He had asked for records, computer records and other information.

Deputy Richard Boyd Barrett: He needs to talk to a whistleblower.

The Taoiseach: In both cases, that is, in respect of An Garda Síochána and the Department, all of the questions had been answered to his satisfaction. His conclusion which is lodged in the Oireachtas Library was that-----

Deputy Aengus Ó Snodaigh: Somebody lied to him.

The Taoiseach: -----An Garda Síochána and the Department were fully in compliance with the Acts.

Deputy Richard Boyd Barrett: He needs to speak to the whistleblower.

The Taoiseach: It is not only about a small number of cases in which the law was complied with because he asked questions about a range of issues, as a justice would, in that regard-----

Deputy Aengus Ó Snodaigh: He got the wrong answers.

The Taoiseach: That was his report. I do not have the report from the early 2000s and do not know for what period it was or who the Minister for Justice was at the time.

Deputy Aengus Ó Snodaigh: The Taoiseach should find out.

Deputy Brendan Howlin: Yesterday we heard that the Minister for Education and Skills

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intended to legislate to ban cheating services at third level. While legislation to strengthen Quality and Qualifications Ireland, QQI, is welcome, it is hardly the most pressing matter in the education system. A year after his appointment we still have not seen the Minister's response to the Labour Party's Equal Status (Admission to Schools) Bill which was passed in this House and is due to formally pass Second Stage on 28 June. I am interested in a range of other Bills in the education sphere, but I wish to ask about one in particular. Will the Taoiseach provide an update on the Technological Universities Bill which has been stuck on Committee Stage since before the last election? The Bill is absolutely essential for the amalgamation of the institutes of technology and the creation of new technological universities, for which enormous efforts have been made. Originally there seemed to be a blockage because of a dispute with a trade union, but it cannot be the case that this is an impediment to an essential part of the third level education strategy. When will the Bill be advanced?

The Taoiseach: I will ask the Minister for Education and Skills to deal with that question.

Minister for Education and Skills (Deputy Richard Bruton): The Deputy has referred to three Bills-----

Deputy Brendan Howlin: As I am only allowed to refer to one, I thought I would reference the other two.

Deputy Richard Bruton: First, regarding the QQI Bill, it is important that we have a robust system in place to ensure standards and the reputation of the education system. The Bill is important in that context. As the Deputy knows, we have the ambition to earn €2.1 billion from international students. That would represent a 33% increase in the number of such students and we need to underpin it with legislation. Regarding the Labour Party Bill, we have had consultations on the changes to which the Deputy referred. The Dáil and the Oireachtas committee were given a 12-month period in which to look at this issue. As the Deputy said, that 12-month period will come to an end in June. In the meantime very considerable work has been done on the Bill.

Regarding the Technological Universities Bill, I am pleased to report that we have made significant progress with the Teachers Union of Ireland, TUI. The issues raised by it would have a profound impact on the progress of the Bill which we all want to see, particularly in respect of the institutes in the south east. I am pleased that the TUI will be putting the issues to a ballot. That will represent very significant progress on the Bill-----

Deputy Brendan Howlin: When will the Bill progress?

Deputy Richard Bruton: The Bills must be introduced in such a manner as to ensure their passage through the Dáil.

Deputy Brendan Howlin: I have never heard of legislation being held up pending the outcome of a trade union ballot.

Deputy Richard Bruton: If there are outstanding issues on which the House will not agree, we need to find a way to resolve them before bringing the legislation back before the House. That is what I am seeking to do.

Deputy Micheál Martin: The Minister needs to engage with the House. There has been no engagement whatsoever.

Deputy Richard Boyd Barrett: Curiously, the Minister for Housing, Planning, Community and Local Government, Deputy Simon Coveney, seems to be promising a lot of legislation.

Deputy Brendan Howlin: He is very busy.

Deputy Richard Boyd Barrett: The most recent promise or suggestion of new legislation from the Minister, Deputy Coveney, came this morning in response to a piece in the media about the Robin Hill apartments, which I raised last week. He responded this morning to the huge gaps and loopholes in the residential tenancies legislation, which are allowing vulture funds to evict people, ratchet up rents through back doors and get around the Tyrellstown amendment, by saying that a review of the legislation in this area will occur. When will that happen? It is a matter of absolute urgency because vulture funds are putting huge holes in the Minister's legislation by driving a coach and four through it. We need urgent legislative action to close those loopholes.

The Taoiseach: I will have to come back to the Deputy. I know the case he is referring to. I did not hear the Minister's comments but I will come back to the Deputy this evening.

Deputy Catherine Murphy: It has been suggested that the draft heads of a new data protection Bill are on the way on foot of an EU regulation. Essentially, this relates to the Office of the Data Protection Commissioner. It has been reported that the new law proposes to exempt public sector bodies from huge administrative fines, except when they are competing against commercial interests. The State wants to exempt itself. Is this legislation coming forward? Has it been withdrawn? If it is coming forward, will there be pre-legislative scrutiny? The law of unintended consequences could deliver some very significant problems if this legislation does not receive proper scrutiny at an early stage.

The Taoiseach: This legislation is very important. Ireland is well ahead in dealing with data protection, which is being handled by the Minister of State, Deputy Eoghan Murphy. The heads of this Bill were approved by the Cabinet last week. The issues mentioned by the Deputy can be raised, dealt with and teased out when the Bill goes for pre-legislative scrutiny. In light of the nature and scale of investment in this country by multinational companies that have extensive assets in digitised material, we need to be fully compliant in respect of this issue so that we will be ready for the new directive from the European Commission, which will kick in during January of next year. That means we will have to enhance the Office of the Data Protection Commissioner, which we have changed and funded and to which we have provided experienced personnel. Further enhancement of that office might be needed, given the nature of the cases that might arise. The heads of this important Bill were approved last week. It will go for pre-legislative scrutiny. I am quite sure the Deputy's comments will be treated with proper respect in that context.

Deputy Catherine Connolly: I asked about the Residential Institutions Statutory Fund Act 2012 last week, but I did not get an answer. I am raising it again now. This legislation provides for oversight over the board, which is no longer there, and over the CEO, who is now functioning without the oversight of a board. It seems to have been decided to use the dwindling fund to go into private property at a huge cost. Has the Minister for Education and Skills given Caranua permission under section 7(7) of the 2012 Act to spend the survivors' fund on astronomical rent? I asked that question last week and I am asking it again this week. I will ask it every week until I get an answer. What other permissions for contracts have been given by the Minister as he has to do under the Act?

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The Taoiseach: Níl an t-eolas cruinn agam. Tá súil agam go mbeidh mé in ann freagra a thabhairt don Teachta tráthnóna inniu nó amárach.

Deputy Catherine Connolly: Go raibh míle maith agat, a Thaoisigh.

Deputy Mattie McGrath: The programme for Government commits to “review the Agriculture Appeals Act 2001 to ensure the independence and efficiency of the office in dealing with appeals from farmers”. I know of a farmer in County Tipperary who is waiting for €12,500 so he can pay his bills. This money will be a lifeline to him. He had a penalty of €2,000 because he was ill, which was unfortunate enough. He accepts that, but he is still waiting for the other €10,500. Small farmers are not in a position to have the State owing them money. They have bills to pay to contractors and co-ops. They owe people rent and everything else. They like to pay their bills and they do so. This is totally unfair. We have been told that there are computer glitches and backlogs. It is just not acceptable that farmers are being treated like this. It would not happen to a State organisation. If it was the other way around and the Revenue Commissioners were owed the money, considerable interest and penalties would be applied. It is not acceptable that this is continuing to happen. A commitment was given in the programme for Government that this would be reviewed.

An Ceann Comhairle: Deputies Breathnach and Aindrias Moynihan wish to comment on the same matter, and I ask them to be brief.

Deputy Declan Breathnach: With respect to payments due to the agricultural sector, it is totally unacceptable that where some slight misinformation appears on a application for a farm payment the computers in the Department spit out the form into a corner, such files are being left there and nobody is handling them on a manual basis. I have been informed by senior officials in the Department that this is what is happening. It is unacceptable that is happening where a small error exists. I will give brief example of a case. A person got a €50 reduction when they were paying their bill and because that discrepancy of €50 arose with respect to their €50,000 cheque, their file is not being dealt with. That is one of numerous examples of cases across the country.

An Ceann Comhairle: Thank you, Deputy.

Deputy Declan Breathnach: We have a Charter for the Rights for Farmers and it is unfair that the grants that people are due are going towards paying bank interest. That is unacceptable and we need to get to the bottom of it.

Deputy Aindrias Moynihan: There is a commitment in the programme for Government to review the appeals mechanism and a scoping exercise was conducted prior to last Christmas but the review does not seem to have progressed from that point. This is very important for people who are caught up in this system. A number of examples have been given and I will cite the example of a case in my area where a farmer who had one digit wrong in the nine-digit parcel number has his 2014 payment held up until this February. That is ridiculous. It is pure black magic with respect to the way that an applicant puts in their details and it takes such a long time to find out if anything is going to come through the appeals system. More information needs to be given to farmers and there also needs to be a follow through on the commitment to improve the appeals process.

An Ceann Comhairle: Deputy Danny Healy Rae also wishes to comment on the same matter.

Deputy Danny Healy-Rae: Many farmers are being blackguarded when it comes to the current system. We asked the Government to review it. Where farmers' payments are being held up due to small misdemeanours, why can they not be paid 75% of what they are owed and the matter at issue dealt with after that? That is what we are asking to be done. These people have to live, they have to put food on the table and they have to send their children, and they are entitled to their payments. The Department is holding up everything. That is very wrong.

An Ceann Comhairle: Thank you, Deputy.

Deputy Danny Healy-Rae: It was promised that the appeals system would be reviewed and that something would be done about it but nothing has been done.

The Taoiseach: I accept that everybody who is due a payment or grant should be able to receive it on time. This, however, is not a legislative question. I am sure that a written Dáil question giving the details would result in an answer being given. I take the point about the scoping exercise that was being carried out and I will arrange for the Minister, Deputy Creed, to follow through on that. The process and the system are in place and if farmers were being paid 75% of what they are owed, the Deputy would be asking me in this House why were they were not paid the remaining 25%.

Deputy Danny Healy-Rae: No, I would not-----

The Taoiseach: The fact of the matter is that the person will get 100% payment if they get it right in the beginning.

An Ceann Comhairle: The Deputies should table a Topical Issue on the matter. I call Deputy Durkan.

Deputy Bernard J. Durkan: The level of low morale in An Garda Síochána has often been a topic in this House. What is particularly attributable to that is the degree to which the bail laws of this country are abused by criminal elements. To what extent are our proposals to restrict bail likely to be successful in dealing with this very important issue with particular reference to recidivism? Is it intended to introduce further legislation which might curtail the activities of the criminal classes?

The Taoiseach: Deputy Durkan has raised this issue many times over the years. He is aware of the sequencing of consecutive sentences and that bail can be refused. The Criminal Justice Bill 2016, which is the new bail Bill, will be dealt with in the House tomorrow.

Deputy Bernard J. Durkan: Tomorrow.

The Taoiseach: Yes.

Deputy Bernard J. Durkan: Thank you, Taoiseach.

Deputy Michael Healy-Rae: With regard to the routine orthodontic waiting list within the Kerry and Cork community health care organisation, in an effort to reduce the waiting times a national list initiative commenced in 2016 whereby treatment was offered to clients placed on the routine orthodontic waiting list up to December 2012, that is, those who have been waiting four years or more. I was informed by the HSE last Friday that there is no money left to fund this initiative, which was working very well and had served 235 people in Cork and Kerry areas, and there are still people waiting to be called for the past four years. When will that initia-

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tive get further funding as it is now stalled waiting for money to be allocated to it?

The Taoiseach: With respect to Deputy Healy-Rae, it is an important issue but it is not a legislative question.

Deputy Michael Healy-Rae: There is a commitment in the programme for Government-----

The Taoiseach: It is a matter of allocation within the Vote for a very important issue and the HSE manager should be able to advise the Deputy as to the opportunities that exist to transfer other moneys into that Vote to ensure these orthodontic procedures can be carried out for people who need them in Cork and Kerry. That is not an issue of legislation, as Deputy Healy-Rae knows.

Deputy Michael Healy-Rae: There is a commitment in the programme for Government on this-----

The Taoiseach: There is but-----

Deputy Michael Healy-Rae: -----and the Taoiseach cannot walk away from this. He made promises and gave commitments. He cannot stand up in this House and say that I am wrong to raise that matter. I am within my rights because it is in the programme for Government. I am sorry. I am correct.

An Ceann Comhairle: I call Deputy Eamon Ryan.

The Taoiseach: I said it was not a legislative matter. It is a matter of adjusting moneys within the Vote. Deputy Healy-Rae is perfectly entitled to raise it. I was just answering the Deputy's question.

Deputy Eamon Ryan: As we speak, the Minister for Planning, Community and Local Government, Deputy Simon Coveney, is meeting councillors from Dublin City Council on the issue of the Poolbeg strategic development zone, SDZ, which is a huge site that is very important to the development of housing in this city.

Deputy Brendan Howlin: And related matters.

Deputy Eamon Ryan: The city manager said last week that it is clear there could not be anything more than 10% social housing on the site because that was the legislative limit set. Is it considering or how would the Government introduce a raising of that legislative limit for other sites also but particularly for this SDZ site on which it is vital we have social housing in an area where the likes of Google, Facebook and other companies are buying up all the housing, making it impossible for local people to get a house? What provisions does the Taoiseach have to change the legislation to allow for a higher social housing limit in the Poolbeg SDZ?

The Taoiseach: I am sure this is a matter for discussion between the local authority and the Minister for Housing, Planning, Community and Local Government. The question the Deputy has raised has not come before the Government for a decision because I assume the local authority, in the first instance, has its responsibilities and may decide to engage with the Minister with responsibility for housing in respect of the SDZ and what that limit is. I will have the fact of that matter checked for Deputy Ryan and revert to him on it.

Deputy David Cullinane: The Taoiseach will know that the programme for Government

committed to the establishment of an independent review of cardiac services in the south east. Dr. Niall Herity was appointed to do that work. He did that work and reported on it. Astonishingly, he recommended that all emergency cardiac services in the south east would cease. The Minister for Health has said he will not implement that recommendation subject to a national review. I have put down several parliamentary questions to him. I have contacted the Minister several times. He is still not in a position to tell us when the national review will take place, who will do it, whether it will be independent, if it will be a departmental review and what will be its terms of reference. The Taoiseach knows it is a very difficult, emotional issue for people in the south east, which is the only region that does not have full 24-7 cardiology services. Can the Taoiseach tell me when the review will take place, who will carry it out and when its work will be completed?

The Taoiseach: No, I cannot tell the Deputy but I will find out for him.

Deputy Lisa Chambers: In A Programme for a Partnership Government there are various commitments to funding across many sectors. In that context, I am sure the Taoiseach will agree that the sale of any State asset should realise full and proper value for the people. We all read this morning that the *LE Aisling* was sold by the Department of Defence for €110,000 and is now on the market in Holland for an estimated €683,000. We have all heard the expression that one has to speculate to accumulate but this seems to be remarkable mark-up and the public is wondering why the taxpayer did not get a better price. Can the Taoiseach comment on the reason a reserve value was not set for that auction? Why was an independent valuation not sought for the *LE Aisling*?

The Taoiseach: The *LE Aisling* was decommissioned. It was 37 years old. It was sold by way of public auction in Cork on 23 March this year. It was decommissioned as it had far exceeded its life expectancy of 20 to 25 years. The sale was handled by Mr. Daly, a Cork-based agent and an expert in the field, who also handled the sale by auction of the decommissioned *LE Emer* in 2013 to a Nigerian registered company for €320,000, and the sale of the former *LE Deirdre* in 2001 to a UK company for €190,000. The same approach was followed in respect of the *LE Aisling*. I am advised that Mr. Daly is a ships sales broker with almost 40 years' experience and very strong international connections. The auction was advertised by the ship's auctioneer in the international publications, *TradeWinds*, which is a global shipping and maritime news publication, *Lloyd's List*, and the *Afloat* magazine. I am also advised that following her withdrawal from service, the retention of *LE Aisling* at the naval base at Haulbowline was creating considerable pressure on Naval Service resources, including berthage space. It is estimated the retention of the vessel since its decommissioning from June last year to April this year cost approximately €370,000 for the assignment of a skeleton crew and approximately €10,000 on tug hire costs. While a crew was posted to *LE Aisling*, the personnel could not be deployed to other operational units where they were needed.

Harassment, Harmful Communications and Related Offences Bill 2017: First Stage

Deputy Brendan Howlin: I move:

That leave be granted to introduce a Bill entitled an Act to consolidate and reform the criminal law concerning harassment and harmful communications, to repeal certain provisions of the Post Office (Amendment) Act 1951 and the Non-Fatal Offences Against the Person Act 1997, and to provide for related matters.

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I will set out briefly what the Bill aims to do, but first I will reject the criticism that we are trying to police the Internet which it is stated should be an area free from any State intervention. I simply do not agree with that. The Internet is a public space and, like any other public space, should be free and safe. People, particularly young and vulnerable persons, are entitled to the protection of the State when in it. Free speech should remain just that, but harassment, stalking and aggravated bullying online are not expressions of freedom but rather attacks on it.

There is a history to the Bill. In 2013 former Deputy Pat Rabbitte, as Minister with responsibility for communications, set out an independent expert Internet content governance advisory council which reported on a range of issues related to online content following growth in public concern about cyberbullying and related matters. The report made a series of structural, legislative and administrative recommendations. For example, it suggested the existing offence of sending messages that were grossly offensive, indecent, obscene or menacing should be updated to include new forms of electronic communications. As the law stands, amazingly, the offence covers only phone and text messages. That the law in this area has not changed since the invention of the text message is surely enough reason for the House to re-engage with this important area.

Last year the Law Reform Commission published its report on harmful communications and a digital strategy. It confirmed that the criminal law applied to some harmful communications but that there were gaps, particularly relating to newer forms of communication. It proposed that the existing law, together with new measures to tackle new forms of harmful communications, should be consolidated in a new single piece of legislation. That is the core purpose of the Bill being presented today in my name and that of the other Labour Party Deputies. It is about consolidating and reforming the criminal law on harmful communications. This involves replacing certain provisions of the Post Office (Amendment) Act 1951 relating to electronic communications and the Non-Fatal Offences Against the Person Act 1997 relating to harassment.

We produced a draft of the Bill some months ago and it was circulated to key stakeholders. I am grateful to the numerous non-governmental organisations and experts who provided comments and suggestions for us to perfect the draft of the Bill. The Bill sets out an updated offence of harassment, allowing for stalking to count as an aggravating factor in sentencing. It makes special provision in cases where the defendant and the victim were in an intimate relationship and the defendant has made use of personal information on or electronic surveillance or recording devices to monitor the victim. The Bill also creates a new offence of distributing an intimate image without consent, which is now commonly referred to as “revenge porn”. It deals with threatening, false, indecent or obscene messages. The Bill makes it clear that it is not to be interpreted as altering the law so as to prohibit or unduly restrict the exercise of the rights of peaceable assembly or picketing or any constitutional right.

The Law Reform Commission had two parts in its report, the second of which proposed a system of oversight and regulation under one new regulator, to be called the digital safety commissioner. However, creating a new statutory agency, as the Ceann Comhairle knows, is outside the remit of a Private Members’ Bill. The Bill implements the thrust of the commission’s proposals for criminal law. Last weekend we heard that the Tánaiste and Minister for Justice and Equality also proposed to act, which I, of course, support, but it concerns me that the account given in *The Irish Times* of what she proposes in her Bill is confined entirely to the Law Reform Commission’s criminal law reform agenda and discounts the second part of the commission’s report dealing with civil online regulation. It may be that the newspaper reports had an abridged version of the proposals and I certainly hope that is the case. I also hope the

Tánaiste will act on the totality of the report, including the establishment of a digital safety commissioner, but I will await her full proposals. In the meantime it is urgent that we advance the proposals before the Dáil.

Deputy Denis Naughten: There was an interesting article in the *Sunday Independent* about this issue.

Deputy Brendan Howlin: That goes to my point. It would only be half a Bill.

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: As this is a Private Members' Bill, Second Stage must, under Standing Orders, be taken in Private Members' time.

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

Question put and agreed to.

EU Regulations: Referral to Joint Committee

Minister of State at the Department of the Taoiseach (Deputy Regina Doherty): I move:

That the proposal that Dáil Éireann approves the exercise by the State of the option or discretion under Protocol No. 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union,

(i) to accept the following measure:

Regulation (EU) 2017/353 of the European Parliament and of the Council of 15 February 2017 replacing Annexes A and B to Regulation (EU) 2015/848 on insolvency proceedings, a copy of which was laid before Dáil Éireann on 13th April 2017, and

(ii) to take part in the adoption and application of the following proposed measure:

Proposal for a Regulation of the European Parliament and of the Council adapting a number of legal acts in the area of Justice providing for the use of the regulatory procedure with scrutiny to Article 290 of the Treaty on the Functioning of the European Union, a copy of which was laid before Dáil Éireann on 12th January 2017,

be referred to the Joint Committee on Justice and Equality, in accordance with Standing Order 84A(4)(k), which, not later than 30th May 2017, shall send a message to the Dáil in the manner prescribed in Standing Order 90, and Standing Order 89(2) shall accordingly apply.

Question put and agreed to.

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Minerals Development Bill 2015 [Seanad]: Financial Resolutions

Minister for Communications, Climate Action and Environment (Deputy Denis Naughten): I move:

THAT provision be made in the Act giving effect to this Resolution for the charging in accordance with the Act of application fees for a mining licence.

and

THAT provision be made in the Act giving effect to this Resolution for the charging in accordance with the Act of fees for holding, and working minerals under, a mining licence.

Question put and agreed to.

Ministerial Rota for Parliamentary Questions: Motion

Minister of State at the Department of the Taoiseach (Deputy Regina Doherty): I move:

That, notwithstanding anything in the Order of the Dáil of 6th May 2016, setting out the rota in which questions to members of the Government are to be asked, questions for oral answer, following those next set down to the Minister for Housing, Planning, Community and Local Government, shall be set down to Ministers in the following temporary sequence:

Minister for Foreign Affairs and Trade

Minister for Social Protection

whereupon the sequence established by the Order of 6th May 2016 shall continue with questions to the Minister for Public Expenditure and Reform.

Question put and agreed to.

Ceisteanna - Questions

Taoiseach's Meetings and Engagements

1. **Deputy Brendan Howlin** asked the Taoiseach if he will report on his summit meeting with the Dutch and Danish Prime Ministers; and the agreements and proposals made for future engagements. [21873/17]

2. **Deputy Gerry Adams** asked the Taoiseach if he will report on his engagement with the Prime Ministers of the Netherlands and Denmark on 21 April 2017. [21876/17]

3. **Deputy Gerry Adams** asked the Taoiseach if he has had any engagement with the President of the French Republic, Mr. Emmanuel Macron, since his recent election. [22965/17]

4. **Deputy Micheál Martin** asked the Taoiseach if he has spoken to President Emmanuel

Macron since his election. [23331/17]

The Taoiseach: I propose to take Questions Nos. 1 to 4, inclusive, together.

I travelled to The Hague on 21 April 2017 for a meeting with the Dutch Prime Minister, Mr. Mark Rutte, and the Danish Prime Minister, Mr. Lars Løkke Rasmussen. Our discussions were largely focused on Brexit, but we also touched briefly on EU-US relations. The meeting took place in the context of the Government's ongoing programme of strategic engagement on Brexit and was the latest in a series of meetings with my EU counterparts. I also met recently my counterparts in Germany, Belgium, Poland and Spain and the Presidents of the EU institutions and the head of the Brexit task force who was in Dublin last week. I have written to congratulate Mr. Emmanuel Macron on his election as President of the Republic of France.

The meeting in The Hague provided an opportunity to share our views on the issues arising from Brexit ahead of the adoption of the European Union's negotiating guidelines by the European Council on 9 April. Ireland has much in common with the Netherlands and Denmark, not just in terms of geographic proximity and strong trade and export relations with the United Kingdom but also in terms of shared perspectives on the importance of a liberal EU trade policy. Although Ireland, the Netherlands and Denmark are more likely than other partners to be negatively affected by the United Kingdom's decision to leave the European Union, we agreed on the importance of maintaining the EU27 unity that has marked our approach until now. I also took the opportunity at the meeting, as I do in all my bilateral engagements, to explain in some detail our unique concerns arising from Brexit, including protecting the peace process, avoiding a hard border and maintaining the common travel area with the United Kingdom. I outlined the particular implications for Ireland, North and South, and also described recent political developments in Northern Ireland. I am pleased that Ireland's unique concerns have been fully reflected in the guidelines that outline the European Union's approach to the withdrawal negotiations. In this context, I am very grateful for the understanding and support of my Dutch and Danish counterparts, and all of my EU counterparts, as we progress work on these important and sensitive issues. It will be important to continue working with like-minded partners such as The Netherlands and Denmark and in the future to proactively defend our shared perspectives in the face of new voting majorities in the European Union. In the months and years ahead we are determined to protect and advance our interests, both within and through the European Union on the wider global stage.

Deputy Brendan Howlin: We touched on this issue during statements on Brexit last week and the week before. It is clear to all of us in this House that with Britain leaving the European Union we need to forge deeper and new alliances, particularly with the small member states that share our view of the European Union. I warmly welcome the Taoiseach's contacts with the Dutch, the Danes, the Croatians and others and hope they will continue. In respect of his communication with Mr. Macron, subsequent to his election, which forms part of these questions and given Ireland's view of the next phase of EU developments, what is or will be the Taoiseach's view when he meets or speaks to him of his proposal that within the eurozone there should be a eurozone parliament, budget and finance Minister? This is the proposal he presented to the Chancellor, Dr. Merkel, in Berlin yesterday. Mr. Macron seems to be embarking on a two-tier Europe that would move the Eurozone closer towards federated states, with other member states being in a secondary position. He would have allies in holding that view.

The Taoiseach: I thank the Deputy for his comment on continuing connections with small states which is very important. The Minister of State at the Department of Foreign Affairs and

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Trade with responsibility for European Affairs, Deputy Dara Murphy, has on several occasions been to all member states, particularly the small member states because of the implications of Brexit. As Deputy Brendan Howlin is aware, most of the economic reports indicate that the countries most adversely affected would be Ireland, The Netherlands and Denmark. I have already had a meeting with Prime Minister Michel of Belgium and we want to keep these contacts alive. I wrote to President Macron following his election and said we would be most affected by a hard Brexit and that we would appreciate and count on France's continued support in addressing the unique challenges we faced. I made the point that Ireland and France had always had a very warm relationship. France is a big buyer of food, services and so on from Ireland and we want to maintain that position. I do not favour having a federal Europe. Given how near the European Union has been to collapse in the recent period, the electorates in The Netherlands and France and in Austria with the election of its President appear to be refocusing on Europe. I see the same happening in the latest results in Germany which is moving towards a pro-European party. The Germans will make their choice in federal elections in September and I expect the Chancellor, Dr. Merkel, to be returned again. Given that there will more than likely be a very strong alliance between Germany and France and, as Deputy Brendan Howlin is aware, that the real reason for setting up the European Economic Community was to prevent the historic difficulties between France and Germany, it is important from the European Union point of view that there be strong countries which work with small countries for everybody's benefit.

Deputy Brendan Howlin: What is the Taoiseach's view of the Macron doctrine?

The Taoiseach: He made his comments in Germany. The Chancellor said some of these things could be considered, but we have always taken the view, as the Deputy did when he was President of the Council, that whatever views are put forward, Ireland is quite prepared to consider and talk about these things. However, we have very clear lines that we do not cross. On his first visit to Berlin as the new President, Mr. Macron set out several issues. We should wait and see how they are presented in more detail and then talk about them. We saw this happen before with the common consolidated corporate tax base and transaction taxes. Ireland has always had the capacity to say let us see what is on the line and talk about it. We then find out that other countries have similar views, for or against. That is how it works. I have never favoured having a federal Union.

Deputy Gerry Adams: In the course of giving his report on his engagement with the Prime Ministers of The Netherlands and Denmark the Taoiseach said he had told them that all of Ireland's concerns were contained in the negotiating guidelines. That brings us to the essential flaw in the Government's position. The Dáil supports special status for the North within the European Union, but that is not within the negotiating guidelines. A majority of Members of the Legislative Assembly, MLAs, in the North support that position, but that is not within the guidelines. The people of the North voted to remain within the European Union, but that is not within the guidelines. I believe - the Taoiseach may agree - that one of the big concerns for us all is the likely impact of Brexit on the Good Friday Agreement. The British Government continues to make it clear that it will cut all ties with the European Court and the European Convention on Human Rights which are essential to the Good Friday Agreement. Last Friday the former British Prime Minister, Mr. Tony Blair, warned of the dire consequences of Brexit and acknowledged that the best way to deal with the North was to treat it as a special case. He also said, however, or is reported to have said that he thought the Good Friday Agreement would have to be amended. I suspect he may have misspoken. I certainly hope he did. Opening that

Pandora's box would risk undermining the entire Agreement. Will the Taoiseach agree with me that there should be no tinkering with the Good Friday Agreement?

The Taoiseach: I do actually. The Good Friday Agreement predates the decision on Brexit by 19 years and we have been very much at pains to point out that the Brexit referendum result does not influence, tinker with, or change the Good Friday Agreement in any way. As the two Governments are co-guarantors of the Agreement, we want it to be implemented in full. Protecting the gains of the peace process in Northern Ireland is one of the Government's front-line priorities in dealing with the impact of Brexit. That hard won peace which was founded on the Good Friday Agreement cannot be compromised. The Government will continue to ensure the EU-UK negotiations will take full account of the all-island issues and Northern Ireland, including ensuring the Good Friday Agreement is fully respected and upheld and that an open border is maintained. That is our position. I agree that the Good Friday Agreement is an internationally binding agreement which was brought together after many years of troubles. Those who put it together were visionary in the way they set it out. It was not written to be influenced by Brexit and the Brexit referendum result does not impact on it. We have maintained that separation very clearly in our discussions at European level.

Deputy Micheál Martin: While Ireland is the member state most affected by Brexit, others have very real concerns. I know from my own discussions with the leaders of the Alliance of Liberals and Democrats for Europe, ALDE, in The Netherlands and Denmark that they are supportive of Ireland's position and remain so, but they also expect us to understand their concerns. They are supportive of Ireland's situation and remain so. They also expect, of course, that we would understand their particular concerns. It was a very worthwhile engagement by the Taoiseach with the Prime Ministers of both countries.

I do not know whether the Taoiseach is aware of today's ruling from the European Court of Justice in regard to the free trade deal with Singapore. It is quite interesting because it essentially means that any proper trade deal with the United Kingdom will have to be ratified by the parliaments of every member state, and maybe the regional parliaments as well, because the free trade agreement with Singapore cannot be agreed by the EU as an entity in itself. Rather, it must go back to the parliaments in member states. That relates to the jurisdiction of the investor class or the resolution of disputes, as well as non-directive foreign investment. It means we will have to get to specifics sooner rather than later and move away from the generalities on which we have been focused thus far.

I do not know whether the Taoiseach read Sunday's interview with Secretary David Davis. He raised a lot of red flags. First, he said the status of an EU citizen in the UK should be left until later in the process. He raised the possibility that such citizens would not have their current rights protected, which almost guarantees a veto at Council level. Second, he said that discussions on the Irish Border would have to wait until the new trade agreement is defined. This poses an enormous problem for us and dramatically increases the uncertainty.

Given all of this, can the Taoiseach outline very specifically the timetable and the process by which Ireland will table its proposals for how cross-Border relations will be handled? We know Ireland is a priority, but what does this mean in practice and how does it reconcile with what Secretary Davis has said?

The Taoiseach: I did not hear the remarks of Secretary Davis. I note the judgment of the European Court of Justice today in respect of Singapore. That means that the EU-Singapore

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free trade agreement is a mixed agreement and there are elements which are of national competence and require national ratification. The same applies to the CETA agreement with Canada, which is a mixed agreement and will require national ratification in due course. In that case, we favour provisional ratification in order to ensure the deal works which is the best way of demonstrating the practical benefits for consumers and SMEs.

Deputy Martin is correct when he said we have to have the details sooner. It means that all parliaments will have to have international trade committees so that they are not left without adequate information as negotiations on trade deals proceed. This matter has been raised in the House. Deputies have said they do not know what is in an agreement, despite the fact that the information might be on a website or have been published in book form. Such agreements can be very complicated, as the Deputy knows. If there has to be ratification by all of the parliaments, that will probably delay the process but may have a benefit in that parliaments would be informed on a rolling basis of what is being discussed so that their international free trade committees or whatever else would be very well-informed about the process.

We have dealt in considerable detail with our counterparts in London and Belfast in respect of the Border issues. Deputy Martin is aware that the three issues are the Border, modalities and liabilities about whatever contractual obligations the United Kingdom has from joining the European Union and rights and reciprocal rights for people who live in European countries. Since 1922, we have dealt on a bilateral basis with Britain via the common travel area, which does not involve just travel but also residency, the right to work and social protection and benefits. The British Government has agreed with what we have said, namely that there is no return to the Border of the past.

We still do not know what the future structure of trade will be or what is being proposed by the United Kingdom with the European Union. That is where the complexities will lie. We will not get to that issue until there is substantial progress on the first three priorities I outlined. We have a political *imprimatur* in respect of the Border. It is how we make that work after that which is the issue. There must be no return to what was there before. How can we do that when we still do not know whether there will be tariffs or a collapse at the end of 2019, which I hope there will not be, when the first phase of the withdrawal has finished?

Taoiseach's Meetings and Engagements

5. **Deputy Gerry Adams** asked the Taoiseach if he will report on his conversation with the British Prime Minister, Ms Theresa May, on 18 April 2017 following her announcement of a general election. [21952/17]

6. **Deputy Brendan Howlin** asked the Taoiseach if he will report on his recent engagements with the leaders of political parties in Northern Ireland on the formation of a new power sharing Executive. [22091/17]

7. **Deputy Micheál Martin** asked the Taoiseach when he last spoke to Prime Minister May and the issues that were discussed; and if the Assembly formation in Northern Ireland was discussed. [22097/17]

8. **Deputy Joan Burton** asked the Taoiseach when he last spoke to Prime Minister May; the issues that were discussed; and if the Assembly formation in Northern Ireland was discussed.

[23020/17]

The Taoiseach: I propose to take Questions Nos. 5 to 8, inclusive, together. I spoke to Prime Minister May by phone on 18 April following the announcement of her plans to hold a general election in the UK. We discussed the upcoming Brexit negotiations and I reiterated our commitment to ensuring the best possible outcome for Ireland while negotiating as an integral part of the EU 27 team. We also discussed the need to recognise the close trading links between our intertwined economies and re-affirmed our commitment to an open Border and the retention of the common travel area.

We discussed the political situation in Northern Ireland and noted that the election would have a direct impact on the timing of the ongoing talks process. I expressed the hope that the talks could continue to a successful conclusion and I emphasised to the Prime Minister that a return to direct rule in Northern Ireland could not be contemplated.

The Minister for Foreign Affairs and Trade, Deputy Charles Flanagan, had a range of contacts with the Secretary of State for Northern Ireland and the political parties regarding the merits of continuing structured talks in the context of an election campaign. There was a widespread view that, given the demands and constraints of the election campaign, the best course was to pause the current talks until after the general election takes place on 8 June.

The new legislative deadline for forming the Executive is 29 June. There will, therefore, be sufficient opportunity after 8 June for talks to resume and for the parties, with the appropriate support and involvement of the two Governments, to re-engage on the urgent task of forming a new Executive and taking forward the implementation of outstanding commitments from previous agreements.

It is critically important to see devolved government restored and working effectively in the interests of the people of Northern Ireland, in particular in the context of Brexit. As a co-guarantor of the Good Friday Agreement, the Government is determined to uphold its principles and protect its institutions. We will continue to work to this end with the British Government to support and facilitate the parties in their efforts to reach agreement.

An Ceann Comhairle: If Members are amenable, we will take Deputies Adams and Howlin, followed by Deputies Martin and Burton. That might speed up the process.

Deputy Gerry Adams: I welcome the Taoiseach's assertion to the British Prime Minister that there should be no return to British direct rule in the North. He is very conscious of the reason why the political institutions fell. They fell on the back of the RHI scandal, an issue that, at the very least, is one of misgovernance. All of the other issues which have not been resolved have become part of the very necessary process of getting the institutions back in place. I look to the Government to assert its authority in this regard, in particular with the British Prime Minister.

The Taoiseach will also be aware that the families of 11 civilians killed by the British army in Ballymurphy 36 years ago had a significant breakthrough when they were told they would have a date for a full inquest in September. This brings us to the core of one of the issues that needs to be sorted out in terms of the institutions being put back in place. The Taoiseach has met these families and knows their stories. He has met victims of the IRA and loyalists acting in collusion with British state forces.

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He knows that the commitments on legacy issues in the Stormont House and Fresh Start agreements are still not in place because the British Government refuses to act on its commitments. Tomorrow, we will have a reminder of this for the families of the 33 civilians and one unborn child who were killed in the Dublin-Monaghan bombings who will gather in Talbot Street to remember the victims.

Has this issue been raised by the Taoiseach? It is a matter between the two Governments. I have discussed this and our team has met the British 17 times about this issue, but the British Government refuses to act on its obligations. Can the Taoiseach give us assurances that he will do so and that those who have become victims or who were injured in the conflict will have whatever they want out of all of that in terms of justice and truth?

Deputy Brendan Howlin: I am sure it is a disappointment to the Taoiseach that he is likely, which word I underscore, to leave office with a political vacuum in Northern Ireland on foot of the post-election failure to form an Executive. Efforts to form an Executive are now in abeyance until after the UK general election and a new deadline of 29 June, the fourth such deadline, has now been set. The Taoiseach has asserted that a return to direct rule cannot be contemplated, which sounds like the strong rhetoric that there cannot be a Border. That is well and good, but what does the Taoiseach see happening in the event that no Executive is formed on the expiration of the three-week gap following the conclusion of the UK general election and the reaching of the fourth and, we are told, final deadline for the formation of such an Executive? What is the position? Given the Taoiseach's assertion that direct rule cannot be contemplated, what, then, is contemplated?

The Taoiseach: In reply to Deputy Adams's opening question, I note that the date for the inquest in respect of the ten civilians killed in Ballymurphy is September of next year. I commend everyone who was so committed through their tragedy to seeing that a date would be fixed for the commencement of an inquest. The Dáil adopted an all-party motion in 2015 in support of the Ballymurphy families who continue to seek an effective inquiry into the incident in which those 11 people died. It is one of the 56 legacy inquest cases from the Troubles which are still waiting to proceed in Northern Ireland and the Minister for Foreign Affairs and Trade, Deputy Charles Flanagan, continues to raise the matter. I hope that in the new situation here and given the fact that we had Fresh Start in Stormont, I genuinely believe that contains the opportunity in its own way to deal with these legacy issues, sensitive and raw though they may be and will be when these things come to light. The timely holding of inquests is an effective part of the right to life as set out in Article 2 of the European Convention on Human Rights. At least, a commencement date has been fixed and is known, which is an important element.

In reply to Deputy Howlin, he knows what the options are. Either there is an election-----

Deputy Brendan Howlin: Another election.

The Taoiseach: -----direct rule, or an Executive is formed. I hope the parties will now focus on the fact that they will be sitting down again a day or two after the result of a British general election in which it is estimated the Prime Minister will receive a very much enhanced majority over the one delivered in the last election. For that to happen, the parties have to want it to happen. That means, in particular, that the DUP and Sinn Féin must have a belief that they can put an Executive together. Of course, there are different political opinions and differences of emphasis in a whole range of areas, but that is no reason the parties cannot create an Executive to look at the question of distribution of finances for people to get on about their business.

There is the whole issue of Brexit here, as well as those of the agrisector, trade unions and businesses. The people from Northern Ireland who voiced their opinions at the all-island civic forum on two occasions must be represented. They need an Executive to add to the voice of Government here in dealing with the outcome of Brexit when the negotiations start. I hope the two main parties will decide, irrespective of the differences they have, that it is imperative to put an Executive in place. I hope, and I have to believe, that will happen before the end of June.

Deputy Micheál Martin: In the past, Dublin and London have had a very close relationship and consulted actively with each other. Over time, personal relations have remained strong but the evidence of London consulting with Dublin has declined. The evidence of active engagement on Northern Ireland between the British Prime Minister and the Taoiseach has all but disappeared. Incredibly, it is nearly five months since the Executive collapsed, yet the Taoiseach and Prime Minister have failed to hold a single consultation with the parties. At a critical moment in the Brexit process, Northern Ireland has been without a voice at the table and has been pushed into an ongoing cycle of electioneering. The Taoiseach knows my view that the Executive was collapsed deliberately and that it should not have been. Brexit is far too serious an issue and it demanded a coherent voice from Northern Ireland, which it is not now getting.

As we heard last week, the European Union wants to listen, but Northern Ireland is saying nothing because the anti-Brexit majority in the assembly is not at work. Two months ago, the House was told that the re-establishment of the institutions was an urgent priority for the Taoiseach and the Prime Minister. Is a phone call of a couple of minutes duration real proof of that priority? Can the Taoiseach explain what is intended to ensure that this kind of drift ends quickly after the British general election? What efforts does the Taoiseach see being made to re-establish the Executive and, indeed, the assembly?

Deputy Joan Burton: Will provision be made for bilateral meetings between the UK and Ireland on those issues of greatest concern and greatest experience to both countries in the context of Brexit? I suspect Brexit will have a very significant influence on whether an Executive is put together in the North. As a result of the dangers the North faces in relation to it, it is difficult to imagine the parties will stand aside and refuse to be involved in an Executive.

I congratulate the Taoiseach on his involvement on organising Mr. Barnier's very welcome visit here last week. Notwithstanding his Gallic charm and the pains he took to point out that he will do the best he can, his best did not include any certainty on customs arrangements. Has the Taoiseach seen the recent publication by chartered accountants which referred to the preservation of the common transit area to enable goods to be shipped from Ireland to mainland Europe via the UK without customs penalties? There is a lot of detail on VAT. If we have to revert to free trade rules, the tariffs imposed could range from 2% up to 50%.

In terms of the North and various proposals on a separate strand that we in the Labour Party and others have made for the island of Ireland, where is it going to be at? Notwithstanding the fact that we are part of the EU 26, how is this going to happen without bilateral talks between the British and Irish, who actually understand this stuff in great detail?

The Taoiseach: Deputy Martin raised a very important point about the very good relations, with a few notable exceptions, between Ireland and Downing Street. Those have been very strong in the last number of years. I must note, also, that there is regular engagement at the very highest official level between here and Downing Street on all of these issues. I am sorry the Executive was collapsed and that a replacement was not created. Irrespective of how good or

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strong it was, it is better to have one than not. The only other options for the Secretary of State are to have more elections or to have direct rule.

The Executive is the best option of those. As I said to Deputy Howlin, if the DUP and Sinn Féin do not want to have an Executive then it cannot be formed. They have got to accept their political responsibility. They are elected to an Assembly, the purpose of which under the Good Friday Agreement is to have an Executive to direct affairs for Northern Ireland. As the Deputy knows, this means the North-South Ministerial Council, all of the different councils that can come from it, the issues that will arise because of cross-Border organisations and the administration that entails. Look at Brexit now. We will have to deal with the road to Derry and other cross-Border activities. The Government has opened a European Investment Bank office with a view to having major infrastructural projects which have streams of income to pay off those loans. That will involve, if we want to operate on a cross-Border basis, consultation with somebody. I would prefer to have an Executive of whatever shape or form that at least we could engage with properly and formally.

Deputy Martin raises a central issue here. The Executive is gone. It was collapsed and has not been restored. I hope in the two or three days after the British election that Deputy Adams will instruct his leader in the North, Ms O'Neill, and the DUP to get together, as these two parties are in a position to form an Executive in the interests of the peoples of Northern Ireland.

The answer to Deputy Burton's question is "Yes". We must have opportunities for engagement, as Deputy Martin pointed out, at official level but also at bilateral level. There will be issues that will have to be teased out, as the Deputy well knows from long experience. Ireland will be with the EU 26 in the formal negotiations being conducted by Michelle Barnier. In the course of the discussions there will, of course, be issues that arise that are best understood by the British and Irish because we have been dealing with them for very many years, and we will have to have the opportunity to engage bilaterally. Mr. Barnier will understand this as a complement or as a supplement to the formal negotiations he will lead on behalf of the European Union. The Deputy is right when she says there will be issues that will arise that may be specific and complicated and that will need to be teased out to arrive at a compromise between the Irish and English, so the answer to the question is "Yes".

EU Meetings

9. **Deputy Micheál Martin** asked the Taoiseach if he has made particular suggestions to the EU Council on the way the Government views the manner in which the EU should reform in the short, medium and long term. [21844/17]

10. **Deputy Brendan Howlin** asked the Taoiseach if he will report on the EU 27 Council meeting on 29 April 2017. [21871/17]

11. **Deputy Gerry Adams** asked the Taoiseach if he will report on the meeting of European Union Heads of State and Government held on 29 April 2017. [21877/17]

12. **Deputy Seán Haughey** asked the Taoiseach when the next EU Council meeting will take place. [23278/17]

The Taoiseach: I propose to take Questions Nos. 9 to 12, inclusive, together.

As I outlined last week in my statement to the House, I attended the meeting of the European Council on 29 April. This was the first meeting since Prime Minister May formally notified the European Union of the UK's intention to leave, thereby triggering Article 50 of the Treaty on European Union, and it was, therefore, a meeting of the 27 remaining member states.

We adopted the EU negotiating guidelines, and had a broad-ranging discussion about the process ahead. Presidents Tusk and Juncker also outlined the process and timelines around the relocation of the two EU agencies currently located in the UK.

I was pleased with the outcome of the meeting, including the overall EU approach to the withdrawal negotiations, and the acknowledgement of the need to address Ireland's unique concerns, as set out in the guidelines. I was also very pleased with the declaration which was agreed by the European Council, which provides reassurance that no provision of the Good Friday Agreement, including the provision relating to unity, will be undermined by the UK departure from the EU.

It was by no means a given that Ireland's position would be seen as a priority for the negotiations but, thanks to our strategic, persistent and patient work, and the understanding and support of our European partners, Ireland's specific concerns were fully acknowledged in the guidelines. Supporting and protecting the achievements, benefits and commitments of the peace process; avoiding a hard border; and protecting the common travel area will now be addressed as priorities in the exit negotiations.

There was no discussion about the future of the EU at this April meeting of the European Council, but it has been considered and discussed at a number of meetings, including informal meetings of the European Council in Bratislava, in Brussels, in Malta and in Rome. In my discussions at these meetings, in my bilateral engagements with EU counterparts, and here in the House, I have consistently emphasised the need for the EU to focus on delivering for its citizens in areas where it can add real value. I have cautioned against pursuing deeper integration at this time and have instead recommended that we focus on where the EU is most effective, for example, in relation to the Single Market, the digital single market, jobs, growth and investment.

I did not have any bilateral meetings at the European Council on 29 April, although I did of course engage with my counterparts at the meeting and informally on the margins.

An Leas-Cheann Comhairle: We have only seven minutes left. Is it agreed that Deputies ask questions and give the Taoiseach an opportunity to answer? Agreed.

Deputy Micheál Martin: That is because some of the replies have been very lengthy. This is part of the problem today I have noticed.

What the Taoiseach has said essentially is he does not have any proposal for reform of the European Union. He has not tabled any and he does not believe essentially there is any need for reform, other than to make the existing treaties work. The substantial majority of the Irish people would have welcomed the election of President Macron. One part of this is that he defeated the anti-European Union and nationalist agendas of the extreme left and the extreme right. He was unapologetically pro-European Union, which is a lesson to be learned, and it worked. His election is an opportunity for moving ahead with some reforms of the European Union, and Deputy Howlin mentioned some of this earlier. It may have to be done in parallel with the Brexit negotiations. Essentially Europe has to be made more relevant to the citizen, but that will require some reforms.

President Macron and Chancellor Merkel yesterday seemed to indicate the possibility of future treaty changes in the years ahead. This is very important for Ireland because, in our view, there is no realistic way to achieve special status for Northern Ireland and the Border region without some form of treaty change. In the Government document on Brexit, the point about our national interest in a strong European Union is repeated, but it is accompanied by no new ideas for strengthening the European Union, and that is required because the lesson from Brexit and other elections is a significant proportion of people are becoming disconnected from the European Union. Has the Taoiseach made any proposals, and I take it from his reply that he has not, concerning treaty changes? Has he conducted any analysis of what the current treaties allow and what they exclude in terms of a final Brexit deal? I have been pursuing this for some time. Will the Taoiseach explain why so far, nothing has been published on the constraints which may be imposed by limiting a deal to the current EU legal order and legislation? The deal has to be limited to the current EU legal order and legislation. What does this mean in constraint terms?

Deputy Brendan Howlin: Whatever the attitudes of Ireland to treaty change, and I will be interested to hear the Taoiseach's view on it, I presume he has not offered any proposals that would lead to the requirement for another EU referendum in this jurisdiction. It is clear the new French President has gone to Germany to reform a Franco-German axis to bring about fundamental change in the structure of the European Union but most especially in the eurozone. I am concerned, because the Franco-German axis has always been the driver for real change, that there would be an agenda now for a two-tier Europe and that there would be new eurozone parliament, finance minister and bespoke budget, and other, non-eurozone, member states would be in a secondary position. We need to have detailed proposals and plans on all this because one of the things in the past that has concerned Irish citizens is that matters have been foisted upon them at the end and they have said "No" to that sort of suggestion. My judgment is what it is needed now is a refocusing on a social Europe, which identifies the needs of citizens, and on European solidarity, rather than any fundamental political restructuring of the Union.

Deputy Gerry Adams: I am sure the Taoiseach has been briefed on the remarks at the weekend by David Davis, MP, the British Minister with responsibility for negotiating Brexit. He said that Britain would not accept any rulings of the European Court of Justice. He dismissed the Irish Government role in the EU Council's negotiating sequence as laid out in the Brexit guidelines and by Michel Barnier last week in the Oireachtas. He made it clear that he does not accept that the first items to be resolved are the Border and the divorce Bill for Britain. He described the sequencing for the negotiations as "wholly illogical and wrong", and he predicted the row of the summer if the EU persisted with addressing the Border and the divorce Bill first. He was especially disparaging towards any suggestion that a deal on the Border could be agreed before the issue of the Single Market, the customs union and a future free trade deal between the EU and Britain. The Taoiseach often says in response to questions that it is difficult to know how things will work out, that we do not know what the British will do and so on. This is their chief negotiating Minister. He has set out his position. It is not a new position. Will the Taoiseach set out the Government's response to these remarks?

Deputy Seán Haughey: All of us who share European values welcome the election of Emmanuel Macron as President of the French Republic. He is a voice for tolerance in these difficult times. President Macron met with the German Chancellor, Angela Merkel, yesterday. The Franco-German relationship is very much back on track and at the centre of Europe in the context of the discussion we are having now about the future of Europe. As Deputy Howlin said,

there is talk by President Macron of reform of the eurozone. Following that summit yesterday I heard words such as “further integration”, “federalism” and so on. That would be of concern to Irish citizens in particular who see the European Union as a partnership of member states. There is a possibility again of a multi-speed, in or out or first or second class citizens Europe. I asked the Taoiseach about that previously and he said that we have a multi-speed Europe currently, with some countries opting in and others opting out on various provisions, the eurozone and so forth but we need to be very cautious about this development. There is a new dynamic at the centre of the European Union now and Ireland needs to know where it stands in that regard.

There is also a discussion on treaty change. Any treaty change needs to be clearly thought out and debated with the Irish people because it will involve a referendum. However, if it comes to that would the Taoiseach agree that the Irish situation in regard to Brexit can be discussed in the context of treaty change if that is what transpires in due course?

An Leas-Cheann Comhairle: The Taoiseach is almost out of time so I will allow him two minutes.

The Taoiseach: We have been consistent on that. The European agenda should not stop with Brexit. It has to go beyond that and the completion of the digital Single Market, capital markets and the EMU, is the agenda for the creation of millions of jobs both in Europe and beyond. That agenda is in place and has been followed, although not to completion because it contains a number of challenges that need to be dealt with. We participate very strongly on that and as the Deputy knows, the last Eurobarometer poll showed that 88% of Irish people supported the concept of European membership and Ireland continuing to be a member of the European Union. That is where we stay.

I was glad to see the election of a French President who is clearly very much in favour of the continuation of the European Union because if that election had gone wrong and Marine Le Pen had been elected as President, withdrawing from the euro and from the European Union and dealing with the closing of borders would have created a fundamental collapse of the European Union itself.

There is a retrenchment here in terms of what the European Union actually means now and I have to say that for the first time since I began to attend European Council meetings, and the first meeting was in Malta, people began to realise just what was at stake. Do they want to hold on to a European Union and a Single Market or do they not? The point made by Mr. Barnier last week was that it comes to a point where people begin to say, “You have got 400 million or 500 million in a Single Market, freedom of movement of people, capital, services and all of that and do you want to throw it away for the sake of hundreds of thousands of jobs in small businesses?” Obviously, that is not the case.

We are very strongly in favour of the European Union and no other country, with respect to them, has the same solidarity as we have here because as the Leas Cheann-Comhairle will recall, in the middle of the recession we had to have a referendum on the fiscal stability treaty, which Deputy Howlin raised last week in terms of the fiscal rules. The people here could have given the Government a real kicking at the time but they decided that their place was with the euro, the eurozone and the European Union and they voted 60-40 in favour of that. Nobody here is in favour of treaties but sometimes if sovereignty is transferred in part to the European Union the Attorney General of the day makes a recommendation on whether a referendum is required.

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Mr. Barnier pointed out last week that if we have a situation where Britain withdraws from the Union and there is a €12 billion hole in the budget every year, the countries that are paying do not want to pay any more while the countries that are receiving do not want to receive any less, so what do we do? Do we force countries to pay more or do we force countries to cut programmes? We can imagine what could happen in a country like Ireland with the CAP and all the different schemes available for farmers, from the uplands down to the lowlands and the tillage schemes.

I agree with Deputy Howlin because I believe there will be more emphasis on social Europe in the time ahead but we cannot have these ghettos or *banlieues* in Paris and other places where people are left for 20 years without engagement from Government or Government listening to them. We cannot expect model citizens to come out of these areas at all times. That is where the difference of opinion, be it religious, political or whatever, arises. It is where people get driven right and left because of fear, frustration and vexation. I believe Governments will start to listen now to all the voices, discordant and otherwise, and deal with these issues.

Deputy Haughey raised the Franco-German relationship. I believe that will be very strong. Clearly, two big countries with big economies will get their way in the vast majority of cases and therefore relationships between small countries and the likes of France and Germany will be of particular importance. It was always my view that the European Union thrived when big countries worked with small countries in the interests of everybody. If we are all equal as citizens in the European Union and if everybody is to have the same opportunity, small countries need that opportunity. Deputy Haughey is right that there will be a cementing of that relationship and in that sense we will have to face change, but we should face it with courage. It does not always mean that there will be treaties but we should never be afraid to talk about the issues on the table because we might find we have many allies in small countries who would say this would not be in anybody's interest.

Topical Issue Matters

An Leas-Cheann Comhairle: Before we move on to Priority Questions, I wish to advise the House of the following matters in respect of which notice has been given under Standing Order 29A and the name of the Member in each case: (1) Deputies Michael Moynihan, Niall Collins and Kevin O'Keeffe - construction of the M20 motorway from Cork to Limerick; (2) Deputy Thomas Byrne - delays in provision of occupational therapy for children in Meath; (3) Deputy Margaret Murphy O'Mahony - the deadline imposed on applications to the knowledge transfer group scheme; (4) Deputy Fergus O'Dowd - to ask the Minister if he will introduce as a matter of urgency legislation to give city status to Drogheda, the fastest growing town in Ireland with a population now in excess of 41,000 and if the Minister will make a statement on the matter; (5) Deputy Declan Breathnach - delays in processing Passport Express system applications; (6) Deputy Bobby Aylward - accommodation for pupils and staff at Scoil Phádraig, Ballyhale, County Kilkenny; (7) Deputy Sean Fleming - changes in the allocation of resources from 2016 to 2017 under the special education teaching resource model; (8) Deputy Alan Kelly - supports for the workers of Littleton Bord na Móna plant; (9) Deputies Aengus Ó Snodaigh, Jonathan O'Brien and Richard Boyd Barrett - allegations of phone tapping by An Garda Síochána; (10) Deputy David Cullinane - development on the north quays in Waterford; (11) Deputy Michael Healy-Rae - modernisation of the Presentation secondary school, Listowel, County Kerry; (12) Deputy Jackie Cahill - if the Minister for Agriculture, Food and the Marine will comment on the

banks using the agri cash flow loan support scheme for stocking loans to farmers in 2017; (13) Deputy Frank O'Rourke - the need for the HSE to introduce improved or additional systems for monitoring-reviewing the provision of the home care package in order to improve the quality and integrity of the service, as there appear to be large gaps between HSE services allocation and what is being delivered by the approved service provider; (14) Deputy Louise O'Reilly - the need for primary school places in Swords, particularly at the Holy Family national school; (15) Deputy Brian Stanley - to discuss what funding is available for the completion of the Portlaoise orbital route; (16) Deputy Gino Kenny - ME diagnostic criteria; (17) Deputy Martin Ferris - delays in agriculture payments; (18) Deputy Pat Buckley - to discuss the recent cluster of suicides in the Cork area and the need for greater focused resources to counteract this and offer support to those affected; (19) Deputy Pat Casey - the need for the Minister for Housing, Planning, Community and Local Government to address whether he believes there is an error in section 28(2) of the Planning and Development and Residential Tenancies Act 2016 which could mean that planning permission for large housing developments currently under construction cannot be extended under section 42.1(A) of the Principal Act as initially understood; (20) Deputy Billy Kelleher - the need for the Minister for Health to make a statement on the impact of the cyber attack on the HSE; (21) Deputy Lisa Chambers - the need for the Minister for Defence to make a statement on the sale of the *LE Aisling*; (22) Deputy Noel Rock - the Primary Care Centre in Finglas; (23) Deputy Donnchadh Ó Laoghaire - the need to discuss the need to provide temporary accommodation for Educate Together secondary school, Cork; and (24) Deputy Charlie McConalogue - to need for the Minister for Agriculture, Food and the Marine to discuss market access resources to open new markets for Irish agri produce.

The matters raised by Deputies Thomas Byrne, Alan Kelly, Louise O'Reilly and Declan Breathnach have been selected for discussion.

Ceisteanna - Questions (Resumed)

Priority Questions

An Leas-Cheann Comhairle: As Deputy Niall Collins is not present, I will take Question No. 49 first.

Departmental Funding

49. **Deputy Maurice Quinlivan** asked the Minister for Jobs, Enterprise and Innovation if her attention has been drawn to the fact that InterTrade Ireland is chronically underfunded; and the reason she is not providing it with substantially more funding and resources to cope with Brexit (details supplied). [23050/17]

Deputy Maurice Quinlivan: This question is about funding for InterTrade Ireland. According to a briefing note on a meeting the Minister had with EU Commissioner Bienkowska in September, released under a freedom of information request from me, she specifically stated that InterTrade Ireland already operated on a very tight budget given the cuts imposed and is just about able to carry out its legislative remit. If the Minister is aware that InterTrade Ireland

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is chronically under-funded, why is she not providing it with substantially more funding to cope with Brexit?

Minister for Jobs, Enterprise and Innovation (Deputy Mary Mitchell O'Connor): Funding of InterTradeIreland, ITI, is provided on a 2:1 basis by my Department and its counterpart in Northern Ireland, respectively. Discussions between both Departments to finalise the body's budget for 2017 have not yet been concluded, largely because the level of funding cannot be formally agreed until an Executive is in place in Northern Ireland. Those discussions, once completed, will determine the overall budget for the remainder of this year, and we are focused on reaching the outcome that equips the body with the financial resources it requires.

Having visited ITI's offices recently and met its management team in March, I am very much aware of the important role it has in helping SMEs address the commercial challenges associated with Brexit. That is why I have made additional financial resources available to ITI to supplement its main annual budgetary allocation. This will bring its total allocation from my Department in 2017 to €7.9 million. Last year, for example, my Department funded a study, which will be published shortly, examining some of the tariff-related impacts Brexit may have on cross-Border trade. Further financial support, of €250,000, was allocated to allow it to undertake a series of new practical Brexit-related initiatives. We will keep the financial requirements of ITI under review throughout 2017.

Deputy Maurice Quinlivan: I am glad the Minister has acted on this issue. I highlighted it for her last week. I appreciate her initiative with ITI. I appreciate the work she has done to date and I do not want to criticise that; I am just concerned that businesses North and South have yet to realise the potential impact of Brexit. We need to make sure ITI is fully resourced to provide SMEs with the awareness and assistance they will need.

Recent ITI figures released yesterday in a press release by the Minister show that 98% of businesses surveyed in the North and South have no plan in place to deal with the consequences of Brexit. Therefore, the area clearly needs additional resources. In the Oireachtas last week, Mr. Michel Barnier said:

Customs controls are part of EU border management. They protect the Single Market, as well as our food safety and standards.

That implies a Border. How hard the Border will be remains to be seen.

Deputy Mary Mitchell O'Connor: I understand how important it is that ITI have a sound and strong financial footing. It is especially the case given the important role it will play in helping SMEs address the challenges that Brexit will present. That is why I have made additional funding available. I will keep its requirements under review. We must remember, however, that North-South bodies are funded on a joint basis by the authorities in both jurisdictions. Two thirds of the costs are supplied by this Government, and the remaining third is set by Northern Ireland. We are, therefore, precluded from simply increasing the main budgetary allocation unless corresponding additional financial resources are provided by the authorities in the North. That is the case for all North-South bodies, not just ITI. We have made it clear to the authorities in the North how much we value the work ITI undertakes. We are working with them on an ongoing basis to ensure the body will have the capacity and resources it needs to help businesses on both sides of the Border.

Deputy Maurice Quinlivan: I do not necessarily agree with the Minister when she says we

cannot increase expenditure down here without waiting for the North on certain issues. I am glad, however, she is taking such an interest in cross-Border trade. I hope the research project undertaken by the ESRI and ITI will be published shortly to allow for a detailed examination of trade across the island and the impact Brexit could have. If we do not achieve special status designation for the North, we will face a very difficult set of circumstances. Can the Minister give us any update on the progress of the study and state when she hopes it will be published?

Deputy Mary Mitchell O'Connor: This study will be published very soon. As the Deputy knows, it is a study on the consequences of the application of tariffs on trade over and back across the Border. We will be publishing it very soon.

An Leas-Cheann Comhairle: We will move back to Question No. 48, in the name of Deputy Niall Collins.

Brexit Issues

48. **Deputy Niall Collins** asked the Minister for Jobs, Enterprise and Innovation the contingencies and supports in place to safeguard Irish jobs and exports in a hard Brexit scenario; the number of EU competitiveness council ministers' meetings at which she made the case for the need of a revision of state aid rules to protect Irish enterprises and related jobs; and if she will make a statement on the matter. [22987/17]

Deputy Niall Collins: I thank the Leas-Cheann Comhairle for letting me in with this question. It is to ask the Minister the contingencies and supports in place to safeguard Irish jobs and exports in a hard Brexit scenario, and the number of EU competitiveness council ministers' meetings at which she has made the case to revise the state aid rules.

Deputy Mary Mitchell O'Connor: In advance of the referendum, my Department conducted a contingency risk assessment of the potential impacts of Brexit across policy areas of the Department. We are continuing to refine our analysis after the referendum and we have been working with the enterprise agencies and across government to put in place additional resources and actions to mitigate risks and maximise opportunities. I have also initiated new structures, consultation fora and research to inform our decision-making.

Budget 2017 and the Action Plan for Jobs 2017 include important initiatives to enhance the capacity of the enterprise agencies to assist companies in the context of Brexit.

In all my engagements with EU Commissioners and Ministers from other member states since the UK decision, Brexit has been a central part of the discussions. At each meeting, I have stressed both the immediate and potential impact of Brexit on the most exposed sectors of the Irish economy and the need to consider mitigating actions. Officials of my Department have also had discussions with senior officials from the Directorate-General for Competition and other relevant directorates-general to sensitise them to the potential difficulties for Irish businesses arising from the Brexit referendum result. These discussions are ongoing and will continue to address all relevant issues and challenges and will explore all possible options.

While I have attended three out of three meetings of the EU Competitiveness Council, the issue of revisions of state aid rules on foot of Brexit has not formed part of the Council's formal agenda. Of course, as the Deputy will appreciate, the UK continues to participate fully at the

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Council, and it is more appropriate, therefore, for our interests to be pursued bilaterally with the Commission and other member states.

Deputy Niall Collins: I have no doubt that, following a number of business surveys that have been cited recently, there is a sentiment among businesses indicating both a lack of preparedness for Brexit and a hard Brexit. The message is coming from businesses that they feel insufficiently prepared. The Minister and her Department have to share some of the culpability over the lack of preparedness among businesses. It is concerning when one compares the size of the Brexit unit in the Minister's Department, which has up to four staff, with that in the United Kingdom, where there is a Brexit Department with a staff of 335 officials.

Will the Minister seriously consider creating an enterprise stabilisation fund? This was done in 2008 when the crisis hit this country and it helped business. Will the Minister consider seriously and consult her Cabinet colleagues on resourcing an enterprise stabilisation fund?

With regard to the state aid rules, the Minister indicated to me previously by way of replies to parliamentary questions that she attended a number of meetings of the EU Competitiveness Council. She now states she has attended three out of three meetings and that the matter did not come up on the agenda. We really need to be pushing it. I have raised this previously. If the matter is not on the agenda, why can it not be put on it? I presume there is an "any other business" item on the agenda, just as there is in any normal meetings across the world. Could it not be raised under that heading if it is not on the formal agenda? Our current position on state aid rules is a serious issue and an impediment to dealing with Brexit.

Deputy Mary Mitchell O'Connor: The Deputy mentioned the number of staff we have in the Department. We have different committees right across government. While the United Kingdom may have a Brexit department, I assure the Deputy that we have committees right across all Departments, including mine, meeting the various sectoral interests and enterprises. We are covering off that really well. Even yesterday, we launched the Enterprise Ireland eurozone strategy under which we will encourage and help businesses to break into markets outside the UK and to get involved not only in the eurozone market but also the US, Asia-Pacific and other emerging markets. The Deputy will have heard the recent announcements of companies setting up in Ireland and the jobs that will be created. Our unemployment rate has reduced to 6.2%. We are working hard and everybody in my Department is focused on Brexit during much of their day's work.

The Deputy also asked about an enterprise stabilisation fund. We are conducting analysis on this and we have actively listened to the needs of business.

Deputy Niall Collins: I would like the Minister to address the issue of state aid rules. Why has there been no action by her, her Department or the Government on revising the €200,000 cap? Could she give some insight on where she is going on that, if anywhere?

Second, I heard an interview with Ms Julie Sinnamon, head of Enterprise Ireland, yesterday about the increase in exports to the UK coming to a shuddering halt over the past number of months. That feeds into the sentiment and fear about Brexit. This reinforces the case I am making for an enterprise stabilisation fund and the review of state aid rules.

Finally, will the Minister comment-----

Deputy Mary Mitchell O'Connor: That is three questions.

Deputy Niall Collins: ----on the review of Enterprise 2025, which we have been calling for? That is a policy document of her Department and it has not been reviewed in light of the Brexit referendum result. It is a shocking indictment that we have not had a signal from the Minister or her Department that the document will be reviewed and updated, and that the various targets and outputs in it have not been reviewed in light of Brexit.

Deputy Mary Mitchell O'Connor: I told the Deputy previously that we are reviewing Enterprise 2025 and I will have a first review document on that in June with another report to follow later in the year.

Ms Sinnamon said yesterday that exports to the UK had only increased by 2% when we were hoping for a 12% increase. The eurozone strategy launch yesterday was about encouraging companies to grow their business in Europe.

We are working with the Departments of Finance and of Agriculture, Food and the Marine, Enterprise Ireland and SBCI to develop supports to respond to the needs of businesses impacted by Brexit. First, there will be a Brexit working capital guarantee scheme, which is a loan guarantee for SMEs that need additional liquidity to cope with working capital challenges brought about by Brexit. Second, there will be a longer term business development scheme. We are considering the need for such a scheme to support SMEs to reposition for the post-Brexit environment. The state aid implications are currently being worked through. A great deal can be done within the existing state aid framework. We are confident that the measures in development will be state aid-compliant. However, should issues arise that require an approach that does not fit within the existing rules, we will discuss that with the EU Commission.

Employment Rights

50. **Deputy Niall Collins** asked the Minister for Jobs, Enterprise and Innovation when in 2017 the heads of a Bill regarding protections for workers on insecure, low-hour contracts will be published; and if she will make a statement on the matter. [22988/17]

Deputy Niall Collins: When in 2017 will the heads of a bill regarding protections for workers on insecure or low-hour contracts be published? The Department issues a statement outlining five areas it intends to address. I would like more detail on this.

Minister of State at the Department of Jobs, Enterprise and Innovation (Deputy Pat Breen): On 2 May, the Government approved draft legislative proposals as a response to the programme for Government commitment to address the problems caused by the increased casualisation of work and to strengthen the regulation of precarious work. The draft legislation was referred to the Office of the Attorney General on 4 May for priority drafting.

The proposals aim to address a number of key issues which have been identified as being areas where current employment rights legislation can be strengthened. They will benefit employees, particularly low-paid and more vulnerable employees, without imposing unnecessarily onerous burdens on employers and businesses.

The proposals are the result of extensive consultations. These include a public consultation by my Department following the University of Limerick, UL, study on zero-hour and low-hour contracts, as well as a detailed dialogue process with ICTU and IBEC over several months.

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I am referring the draft legislation to the Oireachtas Joint Committee on Jobs, Enterprise and Innovation for it to consider and determine if it wishes to engage in pre-legislative scrutiny of it. The Deputy is a member of the committee. As the Bill has been referred for priority drafting, I envisage that it will be published at an early date once the drafting process is finished.

Deputy Niall Collins: The House will be united in seeking to pass legislation that will deal with the issue of low-hour contracts and precarious work practices because this issue affects many vulnerable workers. We have engaged in a series of hearings at the joint committee over the past number of months. This issue is also in the confidence and supply agreement between Fianna Fáil and Fine Gael to underpin the minority Government. It is almost 12 months later and the legislation to be offered by the Government is only being drafted now having been referred to the Attorney General on 4 May. The sense from the Government is that there is not a degree of urgency about this. The Minister of State said the legislation will be published as a matter of priority. Could he be more definitive regarding a date? We are dealing with the issue before the committee now and it would be a sensible and constructive use of parliamentary time to make the legislation available to the committee while it is conducting this exercise and not having to extend the time that will have to be invested in the issue. It is dragging on. The Government has the benefit of the Attorney General and the entire Civil Service apparatus to draft the legislation while we work with the various stakeholders. Could the Minister of State be clearer about when we will see the legislation?

Deputy Pat Breen: This is a complex issue and it is not straightforward. This all originated from the UL study commissioned by the previous Government. This was an independent study which was not part of Government policy. It was, however, an important study because we based our talks on it. There was a consultation period during which we received 48 submissions. They were useful and we then had discussions with ICTU and IBEC between September and March. Each was representing its own people. The talks were complex and challenging but we eventually came up with legislation and an agreement. I think the Deputy is aware of what is in the legislation as well.

I cannot give the Deputy an exact date but as I said to him here and in an earlier submission, this is being treated as a priority. I hope at some stage to go before the Joint Committee on Jobs, Enterprise and Innovation to look at our legislation, because the previous legislation that was agreed here by the Oireachtas will be coming up in July as well. It will be treated as a priority. I will let Deputy Collins know as soon as I have a date.

Deputy Niall Collins: We need to have it as soon as possible. That is what I am trying to impress upon the Minister of State. It would be helpful if he could give us a definitive date, but he may not be able to do it now. Could the Minister of State circulate the heads of Bill? I asked this through the Joint Committee on Jobs, Enterprise and Innovation as well. Could the Minister of State circulate the heads of Bill, if available, to each of the members of the committee? He has correctly said that it is a complex piece of legislation to get right. It is and a balance has to be struck, but there are always vulnerable workers who are effectively being exploited, and they cannot plan a normal life because of the precarious working situations in which they find themselves.

Deputy Quinlivan and other members of the committee have heard the input from big business representatives. We heard the response from representatives of big business when the Government's proposals were published. They are capable of taking care of themselves. As well as the priority of looking after the vulnerable worker, we have to strike the correct balance

for the small businessperson or employer. Many of these precarious practices are going on under the larger employers, who are able to take care of themselves. We want to get that balance right, but the sooner we have everything on the table the better it will be and the more helpful for us all.

Deputy Pat Breen: There was a broad welcome for the proposals that were agreed. As the Deputy rightly pointed out, this is very complex. One is dealing with ICTU and Ibec, and this is where we had to draw a balance in the middle. We wanted to ensure that we protected low-paid workers. This is what the legislation was all about. It was not about anybody else. It was about vulnerable workers and low-paid workers. At the same time, we need to be conscious of the employers and the jobs which they are providing. This is why a delicate balance had to be struck. I believe that the legislation we are proposing now strikes the right balance that will ensure that low-paid workers will be protected and that we eliminate zero-hour contracts. We know that there were not too many zero-hour contracts in the country but nevertheless we are providing for this in the legislation. There is other important legislation, particularly on employees getting information when they start employment with a company.

We are proposing four legislative measures. I will try to get the Deputy the heads of Bill when they are proposed. It is important that we all work together on this to ensure that low-paid workers are protected, and at the same time we will strike the right balance so we are not putting employers under pressure as well.

Arms Trade

51. **Deputy Clare Daly** asked the Minister for Jobs, Enterprise and Innovation her views on the recently published report under the Control of Exports Act 2008 covering the period 1 January 2015 to 31 December 2015; if the volume of arms exports permitted by her Department to countries with poor human rights records and which form part of the Saudi Arabian alliance engaged in the bombardment of Yemen is of concern in view of the EU common position on arms exports; and if she will make a statement on the matter. [22989/17]

Deputy Clare Daly: It is clear, despite that it has not been publicly acknowledged by Government, that Ireland voted for Saudi Arabia to be part of the UN Commission on the Status of Women. The question beggared belief with many people, given Saudi Arabia's record on women's rights and human rights. Maybe the answer lies in the question in front of the Minister about the massive spike in the licences issued - documented in the report published by the Department of Jobs, Enterprise and Innovation about arms exports - in 2015 and the first six months of 2016 to the Saudi Arabian alliance, which has been involved in the bombardment of Yemen. What is going on in a neutral country, particularly when all of the weapons involved are in category ML5? It includes very serious activities, such as bombing computers, gun-laying equipment, weapon control systems and so on.

Deputy Mary Mitchell O'Connor: The EU has a range of sanctions in place in respect of countries engaged in conflicts. All licence applications are considered having regard to these measures. Sanctions can include arms embargoes and various restrictive measures including prohibitions on the provision of targeted goods and services. My Department observes all arms embargoes and trade sanctions when considering export licence applications. There are no EU sanctions in place in respect of Saudi Arabia.

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All export licence applications, whether for dual-use or military goods, are subject to rigorous scrutiny, and are considered in the light of the spirit and objectives of the 2008 EU Common Position on Arms Exports. My officials are in regular contact with the Department of Foreign Affairs and Trade on export licensing issues. They consult with that Department in respect of all military export licence applications. My officials seek observations on any foreign policy concerns that may arise in respect of a proposed export. Such factors are subject to review in the light of developments in a given region. Any observations which may arise from this examination are considered in the final assessment of any licence application. My Department may refuse an export licence, following consultation with the Department of Foreign Affairs and Trade and other EU and non-EU export licensing authorities, as appropriate. As indicated in the annual report, my Department issued one military export licence with Saudi Arabia as the ultimate end-user. This was in 2015 in respect of category ML5 military products, which includes electronic control devices and components.

Deputy Clare Daly: There has been no movement since I asked the Minister the question last time, except for the 1,200 dead Yemeni children, the tens of thousands injured and the 4 million suffering from acute malnutrition. I asked the Minister about the EU Common Position on Arms Exports, which prevents sale of arms to a country if there is a clear risk that the military technology or equipment to be exported might be used in the commission of serious violations of international humanitarian law. We know that the British Parliament, on a cross-party basis, has recommended the suspension of arms exports to Saudi Arabia, until a UN-led investigation into violations of human rights is concluded. The UK is not even a neutral country. We are.

We should be leading on these matters, particularly when it is also the case that we should be careful about selling arms to countries with links to terrorism. We know from Ms Hillary Clinton's emails, no less, that Saudi Arabia arms ISIS. It is ridiculous that we continue to issue arms export licences to this country which is involved in war crimes. It is not good enough. I did not ask the Minister about an arms embargo and do not want to hear about it. Why, against that backdrop, would we not institute a presumption of denial policy, which could be brought in overnight and put us to the forefront on these very important human rights issues?

Deputy Mary Mitchell O'Connor: The Deputy mentioned export licences. I said one military export licence was issued. We do not export arms. The key consideration in dealing with military export licence applications is to establish if there are concerns with the end-user or proposed end-use. This process may include consultation, as I outlined earlier. My Department consults with the Department of Foreign Affairs and Trade. In addition, end-user certificates are always required as a further control measure. End-user certificates provide information on the proposed transaction. They certify that the company will be the final recipient of the goods being exported and include an undertaking that the goods will not be used in connection with weapons of mass destruction. Individual licences are valid for the export of a specific quantity of goods to a specific end-user within a 12-month period. A new application must be made for any exports above that provided for on the original export licence. All new and repeat licence applications are subject to the full export licensing scrutiny process. All licence applications are considered in the spirit and objectives of the 2008 EU Common Position on Arms Exports.

Deputy Clare Daly: Does the Minister presume that it is a coincidence that we have gone from zero arms sales to Qatar and declining arms sales to the UAE to a significant uptake in both of those figures in 2015? All of the arms exports to Saudi Arabia were in the category of ML5. That category includes weapon sites, bombing computers, gun-laying equipment and weapon control systems. These are not incidental bits of hardware. The issue of the destination

and final end use actually makes no difference to our obligations under the EU common position, which states that if there is a risk of this military technology or equipment being used in the violation of human rights, then they should not be exported. That is the question that is being asked. It does not really matter if the weapon components stop off in another country on their way to Qatar. Our obligations in that instance are the same. I ask the Minister to look at the issue of a presumption of denial within the Department whereby, even as an interim measure, we could take a step and institute overnight that if anybody from these countries applies for a licence to export arms to Saudi Arabia, they can be refused. The Government has not dealt with that. I must ask the Minister about it. We are talking about lives, war crimes and a violation of human rights.

Deputy Mary Mitchell O'Connor: The information I have in front of me outlines that there was one military export with Saudi Arabia as its final end user destination. These were not for the production of arms. Sometimes they are components for helicopters and Jeeps. I do not think the Deputy can jump to the conclusion that we are exporting arms or components for arms. I do not think that the Deputy can do that at all-----

Deputy Clare Daly: That classification is there.

Deputy Mary Mitchell O'Connor: -----because our Department and the Department of Foreign Affairs and Trade take an extreme view and make sure that the applicants are denied if there are any questions to be asked in that instance.

Other Questions

Employment Rights

An Leas-Cheann Comhairle: Question No. 52 is in the name of Deputy Bríd Smith. Permission has been given to Deputy Gino Kenny to take the question in the House.

52. **Deputy Bríd Smith** asked the Minister for Jobs, Enterprise and Innovation if she will consider supporting the Banded Hours Contract Bill 2016 currently undergoing scrutiny on Committee Stage rather than introducing a draft proposal of her own that seems to deal with the same issues of low hours and precarious hours contracts; and if she will make a statement on the matter. [23045/17]

Deputy Gino Kenny: Will the Minister consider supporting the Banded Hours Contract Bill 2016 currently undergoing scrutiny on Committee Stage rather than introducing a draft proposal of her own?

Minister for Jobs, Enterprise and Innovation (Deputy Pat Breen): I am not in a position to support the Banded Hours Contract Bill 2016 for the reasons my colleague, the Minister, Deputy Mitchell O'Connor, and myself explained during the Second Stage debate on that Bill last summer. In summary, the Bill as drafted is flawed, lacks balance and does not achieve its stated aim. Moreover, it would have very significant adverse consequences for employers' rights across the economy, including job losses.

In contrast, the draft legislative proposals approved recently by Government for priority

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drafting are balanced and focused in particular on low-paid and more vulnerable workers. They are in response to a specific commitment in the programme for Government. The proposals address a number of key issues which have been identified as being areas in which current employment rights legislation can be strengthened to benefit the employees without imposing unnecessarily onerous burdens on employers and businesses. These are not comprehended by the Private Member's Bill.

The Government's proposals are the result of extensive consultations, including the public consultation by my Department following the University of Limerick study on zero-hour contracts and low-hour contracts. They also encompass a detailed dialogue process with ICTU and IBEC over a period of several months.

I am referring the draft legislation to the Oireachtas Committee on Jobs, Enterprise and Innovation for the committee to consider and determine if it wishes to engage in pre-legislative scrutiny of the proposed Bill.

Deputy Gino Kenny: I am slightly puzzled as to why Fine Gael opposes the Sinn Féin Banded Hours Contract Bill 2016. What the Minister has said is that a similar proposal is being drafted currently. In the era of new politics - much is made of that around here - this is old politics. It is actually quite cynical. I understand that the Bill is going through pre-legislative scrutiny currently. However, it is being grounded by the vested interests of the employers' groups. Where I am from, there are a lot of people on low pay and doing very insecure work. It is imperative that a Bill copperfastens workers' rights, particularly in the low-pay sector. It is up to the Minister of State to support Deputy Cullinane's Bill. It is quite a good Bill, though in some ways it does not go far enough. It is imperative that the Government works with parties that it normally disagrees with in the age of new politics.

Deputy Pat Breen: The Bill does not focus on low-paid vulnerable workers. Instead, it requires that all workers in every sector of the economy are given additional hours on request unless the employer can prove severe financial difficulties.

Deputy Maurice Quinlivan: It does not.

Deputy Pat Breen: The Bill itself entirely misses the point of banded hours. I will tell the Deputy about what it does not do and what the Government's Bill does. Our Bill ensures that workers are better informed about their core terms of employment at a very early stage. That is important for any employee taking on a job. It strengthens the existing minimum compensation provisions for low-paid workers who are called to work and are not provided with the work itself. The six-month reference period in the Sinn Féin Bill is far too short to take into account the normal peaks of businesses, including seasonal businesses as well. The six-month period would certainly produce a skewed result. The Bill requires that every employer in the country displays notices in their workplaces indicating the number of hours being allocated to workers. The Bill, in our view, does not deal with the range of issues that we have encompassed in our Bill. We are also prohibiting zero-hour contracts in most circumstances, which is not included in the Sinn Féin Bill. We are ensuring that workers on low-hour contracts who consistently work more hours each week than are provided for in their contracts are designated those hours. We have seen many examples in the past where workers are on 15-hour contracts but are working 40 hours or so per week. This will strengthen the employees.

An Leas-Cheann Comhairle: Thank you.

Deputy Pat Breen: I ask Deputy Gino Kenny to study our Bill when it is put together-----

An Leas-Cheann Comhairle: The Minister of State has exceeded his time by one minute.

Deputy Pat Breen: I think he will be satisfied enough that we are going to ensure that workers are protected.

Deputy Gino Kenny: I will study the Bill when it comes out. I ask the Minister of State not to take offence to this, but Fine Gael does not have a great track record on workers' rights in this country - far from it.

Deputy Mary Mitchell O'Connor: We create jobs.

Deputy Gino Kenny: The Minister of State should acknowledge that there are a lot of workers in this country who are extremely exploited and a lot of companies that are making vast profits from workers' labour. They are very vulnerable at the moment. Anything that cop-fastens workers' rights will be welcomed. In the era of new politics, I believe Deputy Cullinane's Bill should be supported and not ground down.

Deputy Maurice Quinlivan: I wish to express my disappointment with the Minister of State's response to Deputy Gino Kenny's contribution. I am involved in the jobs committee. We have been scrutinising Deputy Cullinane's Bill. We had a lot of representation from business organisations. The one thing that united them all is that they came in with no solution as to the problem we have. Deputy Kenny said it there as well. There are a lot of people in this country affected by this. It is not just the zero-hour contract but also the banded hours contract. I think the Minister of State misunderstood what banded hours means. The Bill is not asking
5 o'clock for extra hours, it is asking for people to get the hours they actually work and for the hours to be defined. That would allow people to go to their local credit union and get a loan or probably even a mortgage because they would know exactly what hours they were working. I am very disappointed that the Government is not supporting that amendment.

Workers need to be protected. We have a huge problem in this country with people on low pay and precarious hours. People do not know what days they are working from one week to the next and cannot organise child care or get loans when they need them. The Bill has been scrutinised very strongly. We have been doing that for a number of months. We have had a balanced view in the last couple of weeks with the trade unions and USI having come before the committee. I believe the Bill is well-crafted and deserves to come back to the Dáil.

Deputy Pat Breen: I ask both Deputies to hold back until they see the proposals in our Bill. I think they have seen most of them already. This is a carefully crafted Bill. It is good legislation.

It is a response to the UL study. It took a lot of time, in consultation with the unions and IBEC, to put it together. Sinn Féin's Bill is flawed and we will not put flawed legislation through the House. Employment legislation takes time to prepare. It is very hard to change legislation once it is in place. It is much easier to put a bit of work into and consult on it. There were 48 submissions after the UL study. This is good legislation and the response we have received from all sides has been very positive. We have heard very few concerns from employers about the banded hours we are proposing because the banded hours Bill will reflect the amount of time an employee has worked over an 18-month rather than a six-month period. It is more

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real and in the interests of the employee. We want to protect low-paid workers. That is the idea behind the legislation. It is to protect low-paid and vulnerable workers who have been abused in recent years. I ask Deputies to support our Bill when it is brought before the House.

Comprehensive Economic and Trade Agreement

53. **Deputy Maurice Quinlivan** asked the Minister for Jobs, Enterprise and Innovation her plans to facilitate a Dáil Éireann debate on the CETA before the summer recess; the reason a debate has not been held to date; and her views on whether the investment court system is compliant with Bunreacht na hÉireann. [23033/17]

55. **Deputy Thomas P. Broughan** asked the Minister for Jobs, Enterprise and Innovation the status of the EU-Canada comprehensive economic and trade agreement; the status of the transatlantic trade and investment partnership negotiations; and if she will make a statement on the matter. [22956/17]

56. **Deputy Maureen O’Sullivan** asked the Minister for Jobs, Enterprise and Innovation if she will provide the source of her information from the European Union on which chapters of the CETA will be provisionally applied and which will not, which she described to Dáil Éireann on 23 March 2017; the dates these provisional applications in each chapter are expected to take place; and if she will report on the area of transport which was not mentioned. [22662/17]

64. **Deputy Mick Wallace** asked the Minister for Jobs, Enterprise and Innovation the way in which the regulatory co-operation forum set up by the CETA agreement will function; and if she will make a statement on the matter. [23040/17]

Deputy Maurice Quinlivan: Deputies Thomas P. Broughan, Maureen O’Sullivan and Mick Wallace will also be speaking. I have asked the Minister the question before. Will she facilitate a Dáil debate on the CETA before the summer recess? Why has a debate not been held to date? Does she believe the investment court system is compliant with the Constitution? Does she believe we will have to have a referendum on the issue?

Deputy Mary Mitchell O’Connor: I propose to take Questions Nos. 53, 55, 56 and 64 together.

On 30 October 2016 the EU-Canada comprehensive economic and trade agreement, CETA, was signed by representatives from Canada, the European Union and its member states. On 15 February 2017 the European Parliament voted in support of the provisional application of the CETA. As I have said many times before in the House, the provisions relating to investment protection, investment dispute settlement and the investment court system are excluded from the provisional application. The main provisions offering new opportunities for Irish industry and business will come into force once Canada has completed its own procedures.

The process of ratification can now commence in the member states according to their constitutional requirements. In Ireland’s case, the Dáil will be part of the final decision to ratify the agreement. Canada is finalising its internal implementation procedures to allow for its ratification of the agreement. It is expected that the CETA will provisionally apply from summer 2017. The Council’s decision on provisional application of the CETA is available on the public register of documents on the Council’s website. The document reference number is 10974/16.

The decision provides that the majority of the provisions of the agreement will be provisionally applied.

Deputy Maureen O'Sullivan has asked which chapters will and will not be provisionally applied. The position is that only Articles 8.1 to 8.8, inclusive, Article 8.13, Article 8.15, with the exception of paragraph 3, and Article 8.16 will be provisionally applied in chapter 8 and only in so far as foreign direct investment is concerned. Paragraphs 3 and 4 of Article 13.2, Article 13.3 and Article 13.4, Article 13.9 and Article 13.21 of chapter 13 shall not be provisionally applied in so far as they concern portfolio investment, protection of investment or the resolution of investment disputes between investors and states. Article 20.12, Article 27.3 and Article 27.4 and paragraph 7 of Article 28.7 shall not be provisionally applied. The provisional application of chapters 22 to 24, inclusive, of the agreement shall respect the allocation of competences between the European Union and the member states.

On Deputy Mick Wallace's question, the CETA will establish a regulatory co-operation forum to discuss regulatory issues of mutual interest and develop bilateral co-operation activities. The forum is expected to enhance information sharing between Canadian and EU regulators, facilitate the development of more compatible regulatory measures, resulting in fewer barriers to trade and making it easier for the European Union to do business in Canada. The forum will be co-chaired by a senior representative of the Government of Canada and a senior representative of the European Commission and relevant officials from the European Union and Canada. The forum cannot change existing legislation or develop new legislation on its own and will not have any decision-making powers. It can only make recommendations to regulators and legislators. Any initiative entailing a change in EU regulations can only be introduced and pursued outside the CETA framework in compliance with the ordinary legislative procedure of the European Union.

I fully support provisional application of the agreement. I am of the view that there should be no impediment to Irish companies immediately taking advantage of the provisions of the CETA, including eliminating tariffs on almost all key exports, access to the Canadian procurement market, easing regulatory barriers and ensuring more transparent rules for market access such as a single website for public procurement.

To answer Deputy Maurice Quinlivan's question, it is important to wait to see the benefits of the CETA come into being before the CETA is put before the Dáil for ratification. We can then have a fully informed, evidence-based debate on the value of the agreement to Ireland.

To address Deputy Thomas P. Broughan's question on the EU-US transatlantic trade and investment partnership, TTIP, following the US presidential election, the negotiations are effectively on hold.

Deputy Maurice Quinlivan: I have previously made my position crystal clear. I have asked the Minister if she thinks we need to hold a referendum, but she has not answered that question. It is vitally important that elected representatives in Ireland have the opportunity to scrutinise this trade deal and debate in the Dáil the pros and cons. On numerous occasions I have called for a debate to be held on the CETA, yet the Government continues to ignore the issue. Sinn Féin has serious concerns about aspects of the deal and believes parts of it will have a negative impact on Irish SMEs and the farming community, in particular. Legal advice obtained by my colleague, Matt Carthy, MEP, has indicated that the investment court system contained in the CETA is not compliant with the Constitution. The approach of implementing

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first and debating later is a drastic departure from normal democratic principles. The only conclusion to which I can come as to why the Government will not facilitate a debate on this topic is that the deficiencies in the agreement will be highlighted by Opposition parties, including us. The Minister has not answered my questions. I again ask her to outline a date for when the agreement will be debated in the Dáil.

An Leas-Cheann Comhairle: With the permission of the Members, I will take the four supplementary questions together.

Deputy Thomas P. Broughan: It is extraordinary for the Minister to say we will provisionally apply many sections of the CETA agreement without having a debate in the House and without seeking its approval. It seems to be an extraordinary way to proceed, given, in particular, the decision of the European Court of Justice on the Singapore Agreement that the approval of national parliaments was required when there was an investor state dispute settlement mechanism. On the positive side of the CETA, will it involve the Department's agencies such as IDA Ireland and Enterprise Ireland liaising with provincial governments in Canada and the Atlantic provinces, Quebec and Ontario? It has been asserted that 99% of tariffs have been removed. In terms of the 1% of tariffs that remain, to what areas or goods do they apply?

I went to the reading room in the Department to get some information on the Transatlantic Trade and Investment Partnership, TTIP. I examined some of the grave concerns that were expressed about that agreement. The Minister has said that TTIP is now totally on ice because of President Trump's attitude to the Trans-Pacific Partnership, TPP, and to the North American Free Trade Agreement, NAFTA, which involves Canada. Is the Department still working on the basis that there is a possibility that the TTIP negotiations will resume at some point in the future?

Deputy Maureen O'Sullivan: I hope the information provided by the Minister in her response will clarify what chapters and what sections of chapters are provisionally included. I have been told by people who have been trawling through the EU documents that there is a lack of real, reliable and specific information in the public domain on the provisional application. There was an EU press release which said that the investment court system, ICS, that is supposed to reform the investor-state dispute settlement, ISDS, within CETA has no basis in fact or law. It is not mentioned at all in the CETA legal text. It is vital, therefore, that we await the judgment of the European Court of Justice. A ruling was made on the EU-Singapore agreement that trade agreements with ISDS are mixed agreements and will require the unanimous agreement of the European Council of Ministers and ratification at EU, national and regional levels.

When will the provisional application begin? There are real fears that this could be a race to the bottom and that we will be looking at very poor quality jobs that will not provide a decent income.

Deputy Mick Wallace: I asked the Minister to outline the way in which the regulatory co-operation forum set up under the CETA agreement will function. In response, the Minister told me that it will mean fewer barriers and will make it easier for EU countries to do business. She also said that the forum will only be able to make recommendations. It will have no effect on how regulations are formulated. The Minister is telling us that the forum is just a talking shop with no power. It is just another smoke screen and will not serve any real purpose.

The Minister said that the forum will make it easier for EU countries to do business. This

Government regularly boasts that this is a great little country in which to do business and it is - for big business. If one has a small business or a family business, this is not an easy country in which to do business. It is a great place if one is running a multinational corporation or a large foreign direct investment company but trying to run a small business in Ireland today is not easy.

CETA will make the playing field even less level and more unfair and I cannot see how it will benefit the people of Ireland.

Deputy Mary Mitchell O'Connor: Deputy Wallace made reference to small businesses. There are approximately 285,000 small business owners in this country employing approximately 700,000 people. I assure Deputy Wallace that my focus, as well as that of my Department and the Ministers of State, is to make sure that jobs are coming through. Believe it or not, we are embarking on a trade mission to Canada next week and more than 25 Irish companies will be taking part. The only reason they are going there is to sell their products and when they do, that will create jobs and that is what is important to us. It is vitally important that we go out and find markets because of Brexit. As Minister, I am fully in favour of going to Canada and finding whatever business we can.

I love listening to the Deputies talking about poor jobs, small jobs and badly paid jobs but these companies are paying well. There are Canadian companies in Ireland employing approximately 2,800 people. Those companies have invested almost €11 billion in Ireland. It is also interesting to look at Irish companies trading with Canadian companies. In 2015, foreign direct investment stocks in Canada from Ireland amounted to over €4 billion. There are over 400 Enterprise Ireland client companies doing business in Canada and please God, as a result of our trade mission next week, there will be more companies doing business with that country. There are 50 Irish companies with a local presence in Canada employing an estimated 6,000 people. These are Enterprise Ireland clients and they include Kingspan, Leading Edge, Keyword Studios and the Kerry Group. In 2015, Enterprise Ireland client companies exported more than €280 million worth of goods and services to the Canadian market. When I hear that, I know that it equals jobs. Export growth to Canada among Enterprise Ireland clients was greater than 7% in 2015 and was 14% in 2014.

An Leas-Cheann Comhairle: I now invite the Deputies to ask a short supplementary question.

Deputy Maurice Quinlivan: The Minister mentioned that she will be visiting Canada on a trade mission at the end of the month, during which she will discuss CETA and other issues. It would be beneficial to have a debate in the Dáil before then to ensure that the Minister and the Government are made aware of the very real concerns of various sectors about this agreement. The decision of the European Court of Justice this morning outlines that EU trade deals that include investor protection must be ratified by all 38 national and regional parliaments. This is a very welcome decision which ensures that member states will retain control over major trade decisions into the future. What is the Minister's response to the European Court of Justice's decision this morning? Will the Irish Parliament debate and vote on CETA?

Deputy Thomas P. Broughan: The figures the Minister read out are quite impressive and I hope she will pursue that area vigorously. I read recently that Toronto has four very strong GAA clubs. There is a large network of young Irish men and women emigrants across the Canadian provinces, which provides great connections for us. That said, all our citizens would

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like us to debate the agreement. Why are we embarking on the provisional implementation of the treaty when so many, not least those in our agricultural sector, still have grave concerns about the agreement?

Deputy Maureen O’Sullivan: I have a specific concern regarding transport too. As an insight into the post-CETA world and ISDS, Canada has already sued the EU in attempt to get it to lower its standards on endocrine disrupters, potentially cancerous pesticides and plastics and wires, including those found in children’s toys. That kind of action will increase and there is a likelihood of further pressure from Canada on the EU to drop some of its protections.

Next Tuesday I am holding a meeting in the audiovisual room on CETA. It would be great if the Minister could attend-----

Deputy Mary Mitchell O’Connor: I will be in Canada.

Deputy Maureen O’Sullivan: -----or an official from her Department. I hope we can thrash out some of the issues that are coming up with regard to CETA and that we can debunk some of the myths around the agreement.

Deputy Mick Wallace: I am pretty fond of going to Canada too. Indeed, I worked there for a couple of years. I am all in favour of us exporting to Canada but that does mean that I should be in favour of the fact that CETA will challenge some regulations. There is no doubt that there will be a drop in certain standards to meet the interests of big business and the public will be poorly served by that. If there is a reduction in regulations that will have an impact on workers’ rights and on the environment. We are all in favour of exporting to other countries and creating jobs but not for the price of downgraded working conditions and reduced environmental standards.

Deputy Mary Mitchell O’Connor: On the question of Dáil ratification, it is important that we wait to see the benefits of CETA coming into being before putting the agreement to the Dáil. Then we can have a fully informed, evidence based debate on the value of the agreement to Ireland. Reference was made to meat and worries about meat production. I would like to refer to a letter sent from Meat Industry Ireland, which is under the stewardship of IBEC. While it urges “strict caution on the EU’s approach to tariff-reduced or tariff-free meat import access as part of trade agreements”, it supports “the ratification of the trade agreement between the EU and Canada”. I remind the House that 14% of the Irish diaspora live in Canada. We have sought to ensure we can open trade with Canada as a response to Brexit, which is coming down the tracks. The Ministers of State, Deputies Eoghan Murphy and Pat Breen, and the Taoiseach have been to Canada. As I have said, I am leading a trade mission with really good Enterprise Ireland businesses and companies with the hope of winning more trade, more investment into Ireland and more jobs. I am not going to apologise. I think we are on the right route. I think this is the way to go.

IDA Supports

54. **Deputy Shane Cassells** asked the Minister for Jobs, Enterprise and Innovation if she will liaise with IDA Ireland and Meath County Council to help to facilitate and expedite the provision of a football pitch on IDA Ireland-owned lands in the Johnstown area of Navan, County Meath for the purpose of providing facilities for this residential area of Navan; and if

she will make a statement on the matter. [23016/17]

59. **Deputy Shane Cassells** asked the Minister for Jobs, Enterprise and Innovation to outline the progress that has been made in securing additional investment in the IDA Ireland business park in the Johnstown area of Navan, County Meath. [23017/17]

Deputy Shane Cassells: I am delighted to raise the IDA Ireland business park in Navan with the Minister. I know that having worked in nearby Rathfeigh some time ago, she has a good appreciation and knowledge of this part of Navan and County Meath. I want to raise two questions with her. First, what progress is being made in securing additional investment in the IDA Ireland business park in the Johnstown area of Navan? My second question involves a social issue relating to land in the Johnstown area. Will the Minister liaise with IDA Ireland and Meath County Council to help to facilitate and expedite the provision of football pitches and sporting facilities on lands in Johnstown that are owned by IDA Ireland? Such facilities are needed by those living in the residential area that adjoins the IDA Ireland business park in the town.

Deputy Mary Mitchell O'Connor: I propose to take Questions Nos. 54 and 59 together.

I know the area referred to by Deputy Cassells very well. I was privileged to be able to rear my children in County Meath. I sent them to school in Skryne and reared them in the Seneschalstown-Hayestown area. We used to use the Johnstown road regularly.

My priority as Minister for Jobs, Enterprise and Innovation is to drive creation of high-quality and sustainable employment across Ireland, including in County Meath. We are making significant progress towards achieving our regional development targets, which include an increase of between 30% and 40% in foreign direct investment in the mid-east region, which incorporates counties Meath, Kildare and Wicklow. There are 56 multinational companies based in this region, 17 of which are located in Meath and employ 1,496 staff. IDA Ireland is committed to increasing investment in County Meath by ensuring there is an adequate supply of modern property solutions and supporting the development of the county's foreign direct investment base. The agency is encouraging its client base in the county to undertake further investment projects. IDA Ireland will continue to work with local authorities and other relevant agencies to support the development of further quality infrastructure in County Meath. The Deputy will appreciate that my focus and that of the IDA must remain on how best to attract investment and jobs to the county. The IDA Ireland property in Navan is potentially attractive to investors. The agency continues to promote the site to its clients. Nevertheless, I have brought the Deputy's request to the attention of the agency.

Deputy Shane Cassells: The area in question has grown exponentially since the era when the Minister lived nearby. Approximately 10,000 people are now living in 3,000 homes in this pocket of Navan. As a growing town, Navan needs substantial attention when it comes to jobs, especially considering that one of the main employers in the area, Tara Mines, is in a precarious position because it is involved in the extraction of zinc, which is a finite resource. There were no IDA Ireland site visits to County Meath in the first quarter of this year. There were just eight such visits in all of last year. This pales into insignificance by comparison with our neighbours in County Westmeath, where there were 36 such visits, and in County Louth, where there were 24 such visits. The Minister spoke about investment in County Meath. The strategy in the county must stretch beyond securing back-office facilities for Facebook in Clonee. We need to see investment in the heart of our county. We need to ensure there are quality jobs in the areas

where people are being housed under the national planning framework strategy.

One of these questions relates to social facilities. I have asked the Minister to ensure her Department liaises with Meath County Council in this regard. I do not want to confuse the two issues. Two questions I tabled separately have been grouped. There is scope within the IDA Ireland business park in Johnstown for the release of some of the land that adjoins a residential area in which there are 3,000 homes. This would facilitate the development of football fields and social amenities. My colleague on Meath County Council, Councillor Tommy Reilly, has raised this issue and has been working diligently with the council's enterprise section and with IDA Ireland. I ask the Minister to work with her Department and IDA Ireland to help Johnstown Football Club, which was founded in 2004, to extend its facilities. The only open lands that are available in this part of Navan are the excess lands in the IDA Ireland park. I ask the Minister to help those involved with the football club to realise their dream of providing additional facilities for young people in the locality.

Deputy Mary Mitchell O'Connor: I am aware that there are 3,000 homes in this part of Navan. I was in Johnstown shopping centre on bank holiday Monday. The Deputy has quoted statistics for IDA Ireland site visits. I remind him that companies which are already here in Ireland like to expand. It would be very difficult for me to hand this valuable land over for the development of a football field. Having worked as a school principal in Skryne, which is football country, I understand exactly how important land is for those involved in football. As I mentioned, I have brought this request to the attention of the agency and I will follow it up. However, I must inform the Deputy that as of now, we would like to make sure the land to which he refers is kept for investment.

Deputy Shane Cassells: I am disappointed to hear that. I appeal again to the Minister to work on this issue with Meath County Council and my colleague in Navan, Councillor Tommy Reilly. The successes at the IDA Ireland park in the town include Generali PanEurope, Timoney Technology, Welch Allyn and Lir Chocolates. Last Christmas, the Meath County Council's director of economic services, Kevin Stewart, submitted a planning application on behalf of Meath Enterprise Board, on which I formerly sat. This application would allow for the construction of an advanced technology building of 2,500 sq. m on the land in question. It has been specifically pitched to provide for the development of a purpose-built facility for new startups and companies that are looking at the potential of Navan. I would like to discuss the Navan economic plan with the Minister so that we can consider where Navan is going. I ask her to place a renewed focus on the proactive measures that are being proposed by the council's economics section, particularly the lodging of a planning application for a building of 2,500 sq. m to supplement what is already happening in companies like Generali PanEurope and Welch Allyn. I am also calling on her not to rule out what I have suggested on the social amenity side. There are 3,000 people living in this part of Navan. The Minister said she was there on bank holiday Monday. Johnstown Football Club needs a pocket of IDA Ireland's extensive and expansive landbank. I ask the Minister to work proactively with IDA Ireland in this respect so that the football club can develop.

Deputy Mary Mitchell O'Connor: I agree with the Deputy. The local enterprise office in Navan supported 927 jobs in 2016. Hardly anybody talks about what Enterprise Ireland does in counties like Meath. It supports 7,007 jobs in County Meath. As I said earlier, IDA Ireland supports 1,496 jobs in the county. I will take the Deputy up on his invitation to meet him in County Meath very soon to talk about the plans for the county.

Deputy Shane Cassells: I appreciate that.

Deputy Mary Mitchell O'Connor: I look forward to it. The other Deputies from County Meath are also invited.

Deputy Shane Cassells: I thank the Minister.

Questions Nos. 55 and 56 answered with Question No. 53.

Zero-hour Contracts

57. **Deputy Thomas P. Broughan** asked the Minister for Jobs, Enterprise and Innovation to set out how she intends to tackle the prevalence of zero-hour contracts; her policies in relation to pay and conditions in if-and-when other uncertain contracts; and if she will make a statement on the matter. [22955/17]

Deputy Thomas P. Broughan: In 2015, the University of Limerick produced a paper on the prevalence of zero-hour contracts. I made a submission in that respect at the end of 2015. We discussed precarious work and banded contracts earlier. The Minister announced a couple of weeks ago that she intends to introduce legislation on this matter. Will she legislate to ban zero-hour contracts and, especially, if-and-when contracts, where there is no contractual obligation to provide work at all?

Deputy Pat Breen: I thank the Deputy for raising this issue. We have already dealt with it but it is important we discuss it again because, as the Deputy rightly pointed out, this is important legislation.

On 2 May the Government approved draft legislative proposals as a response to the programme for Government commitment to address the problems caused by the increased casualisation of work and to strengthen the regulation of precarious work. The draft legislation was referred to the Office of the Attorney General on 4 May for priority drafting of a Bill.

Regarding zero-hour contracts, the intention of the proposals is to avoid the contagion of an increase in these practices in this jurisdiction. The proposals provide that an employer will no longer be able to engage an employee on a contract within the meaning of section 18 (1)(a) or 18(1)(c) of the Organisation of Working Time Act where the stated contracted hours are zero unless it is genuinely casual, emergency cover or short-term relief work.

Other employees, including those with uncertain hours and those on if-and-when contracts, will benefit from the following proposals: ensuring that employees are better informed about their employment arrangements and especially their core terms shortly after commencing work; strengthening the provisions around minimum payments to low-paid workers who may be called into work for a period but not provided with that work; providing that workers on low-hour contracts, who consistently work more hours each week than provided for in their contracts of employment, are entitled to be placed in a band of hours that reflects the reality of the hours they have worked over a reference period; and reinforcing the anti-victimisation provisions for employees who try to invoke a right under these proposals.

Deputy Thomas P. Broughan: The formulation of the Government's approach to the ending of zero-hour contracts will be very important. Clearly, across a wide range of sectors of

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our economy, especially in the retail, hospitality and caring sectors, we have seen what the Mandate trade union has called the gross exploitation of workers. In the next period in which the legislation is being drafted, it is critical the Minister of State is prepared to stand up to organisations such as IBEC which have spoken out against the imposing of what they call onerous restrictions. We would be counting on Ministers, including the Ministers of State, Deputies Halligan and Finian McGrath, to stiffen their resolve in that regard. The Citizens Information Board reported that 7% of its 1 million queries annually relate to employment and specifically to zero-hour and if-and-when contracts, which are contracts without any contractual obligations to give hours. I look forward to the legislation but I hope that the Government will move to act on this issue.

A debate on the gig economy in UK is taking place in the lead up to the general election there. It relates to what people are prepared to do about companies such as Uber in the gig economy. Is our Government thinking along the lines of the Labour Party in the UK in terms of taking drastic action to address the gross maltreatment of workers?

Deputy Pat Breen: I am aware of the Uber case in the UK. We have been closely monitoring it. An appeal will be lodged, therefore, I would prefer not to comment on it.

Considerable time and effort went into the preparation of this legislation. We also engaged in consultation. We received 48 submissions following the completion of the University of Limerick study, which were very useful. We engaged in consultation with IBEC and the unions over a lengthy period. The Deputy can appreciate the degree of bargaining that took place with people raising their own cases during those discussions, which took place from September last year to March of this year.

The key issue is that we have good legislation. The four areas that will be covered in the legislation are the four the Deputy outlined. They include that an employee would be entitled to information at the start of his or her job, to know exactly who he or she is working for, the name and address of the employer, the hours he or she will work and how much he or she will be paid. There are 15 items listed but the employer does not have to provide those details until two months after the employment has commenced. It will not be onerous on an employer to provide information on the main areas that will be covered. An employee is entitled to know that information. We hope that the legislation we will put in place will be balanced. It will help low-paid workers, and I know the Deputy represents low-paid workers. There are three other areas and I might cover those when I reply to the Deputy later.

Deputy Thomas P. Broughan: I thank the Minister for that information. I, and perhaps other Deputies, have received some complaints about job search websites. Constituents are concerned that some of the jobs advertised on those websites do not exist and that they are being used as a means for recruiters to access data on jobseekers. Sometimes misleading positions seem to be advertised where there is a mismatch between the salary versus the experience required and when applicants make contact they are told that the positions have been filled and then they are told about alternative positions, zero-hour and if-and-when contract positions. Could the Department examine the role of recruitment websites and recruiters generally to ensure they are not acting as a funnel to put vulnerable young people starting out on their work careers into precarious employment?

Deputy Pat Breen: The idea behind this legislation is to eliminate precarious employment and that is something we have done in the proposed legislation. It has been referred to the At-

torney General's office for priority drafting and it is important that we would get it back as soon as possible to put it in place to protect low-paid workers.

I will follow up on the issue the Deputy raised about job advertisements, if he wishes, and revert to him on it. If he has more information on it, I will discuss it with my Department officials to see if we can deal with that type of activity that is happening with respect to jobs that are being advertised.

The future of work is a major issue and the Deputy mentioned the gig economy. There will be a change in the way we will be working in ten years' time. We should not forget the rights of our employees, regardless of what changes occur in the digital economy in the next five to ten years. There is good legislation in place and it has been proven to protect the interests of employees. We should bear that in mind in moving forward with any legislation, regardless of the massive changes that will arise with the development of the digital economy in the next five to ten years, but we must be mindful that people come first.

Brexit Issues

58. **Deputy Thomas P. Broughan** asked the Minister for Jobs, Enterprise and Innovation if the grave uncertainty regarding Brexit is impacting negatively on the motor industry and car sales sectors; the steps she will take to address these impacts; and if she will make a statement on the matter. [22954/17]

Deputy Thomas P. Broughan: We had an opportunity to discuss Brexit with the visit of Mr. Michael Barnier to this House last week. I commend the Ceann Comhairle on his role in allowing the Dáil to have that discussion, which was very valuable. A concern is that the impact of Brexit is beginning to be felt in our country. One area that has felt the impact, which has been made known to me, is the motor trade. We have seen a huge increase in the imports of used cars in the first quarter of 2017 compared to 2016. Has that been brought to the Minister's attention as it is a matter of concern?

Deputy Mary Mitchell O'Connor: This Government, through the Action Plan for Jobs, has taken decisive action to support all sectors of the economy recover from the deepest recession we have experienced in recent decades. This sustained focus on job creation has resulted in the creation of over 209,000 additional jobs since 2012. The unemployment rate has declined from over 15.1% in 2012 to 6.2% in April this year.

The motor industry was impacted during the recession in the same way as all other sectors. The sector has recovered substantially over the last five years. New vehicle registrations reached their highest level since 2009 last year. While the data for the first four months of 2017 indicates a decline of over 9% compared with the same period last year, registrations remain above the levels in 2015 and immediately preceding years. Data from the Central Statistics Office, CSO, also indicates an increase in imported vehicles being registered, in part reflecting the weakening of sterling and consumers seeking value for money.

The outlook for consumer spend remains positive. According to data provided by the Department of Finance, personal consumption expenditure is growing and consumer sentiment in March was higher than it was in February. Headline retail sales are up and the total number of private cars has increased over the year. Overall, consumer spending, employment trends and

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taxation receipts confirm that Ireland's economic fundamentals remain solid. This positive outlook should continue to benefit the motor sector in its recovery to a sustainable level. Additionally, my Department is undertaking extensive preparatory work and consultation to anticipate the impact of Brexit on key sectors, including the retail sector. As chair of the committee for responding to Brexit in my Department, I will continue to ensure we address the challenges and, of course, the opportunities arising from Brexit.

Deputy Thomas P. Broughan: I thank the Minister for her response but there are growing concerns. We had reports yesterday concerning the slowdown in growth of our exports to the UK in the same period and they are less valuable to us now because of the decline in sterling. There is a fall-off in the hospitality industry of people coming here; I know this relates to the Department of the Minister, Deputy Shane Ross, rather than the Ministers who are present.

The motor trade is a very important industry in this country and it has over 40,000 workers, contributing approximately €1.5 billion to the Exchequer last year through vehicle registration tax, VAT and so on. That was significantly up on 2015. As the Minister states, the industry saw significant recovery after the recession. We will have a debate this week on the outrageous price gouging in car insurance for younger and older drivers, which is very annoying. I am glad to hear the Minister will have a sectoral response to the motor industry, as well as other areas of indigenous industry. I wonder if there are already any responses that could be taken in budget 2018 to alleviate concerns in the motor trade.

Deputy Mary Mitchell O'Connor: I hear what the Deputy is saying. He indicated there was a slowdown in exports to the UK but I make the emphatic point that overall, the Enterprise Ireland companies exported €21.6 billion of goods and services in 2016 but in 2015 they exported goods and services worth €20.5 billion, which means the value increased by €1 billion over that year. We are continuing to monitor the matter. I stated earlier that Enterprise Ireland is making sure that companies reach out to the eurozone, and we have put out a target of a 50% increase in this by 2020. I will make sure we will help Enterprise Ireland and the companies it supports in reaching those targets. The Deputy is correct that we are undertaking a sectoral impact assessment of Brexit, including the retail sector. This work will be completed later in the year and will help to reveal the Brexit issues, including in the car market.

Question No. 59 answered with Question No. 54.

Science Foundation Ireland Remit

60. **Deputy James Lawless** asked the Minister for Jobs, Enterprise and Innovation her views on whether the shift in Science Foundation Ireland's mission from basic oriented research to applied research, as per the Industrial Development (Science Foundation Ireland) (Amendment) Act 2013, has been detrimental to the funding of frontier research here with attendant loss of skills; her plans to redress the balance; if the research priorities set out by ministerial directive following that Act are due for review; and if she will make a statement on the matter. [22982/17]

Deputy James Lawless: Before introducing the question I put on record the fact that the Minister of State, Deputy Halligan, and I travelled to the European Space Agency recently as part of a very useful trade mission. I acknowledge and recognise the Minister of State's cross-party and collaborative approach in that matter and it was an excellent trip. The question is in a

related field regarding Science Foundation Ireland, SFI, and its remit, specifically whether there has been a detrimental effect in research areas because of too much focus on applied research at the expense of basic research.

Minister of State at the Department of Jobs, Enterprise and Innovation (Deputy John Halligan): I thank Deputy Lawless for his company in the visit to the European Space Agency, where a number of contracts were signed for Irish companies. The Deputy was part of the discussions and I am glad he was there.

Science Foundation Ireland, SFI, funds a comprehensive suite of oriented basic and applied research funding programmes to deliver excellent research with impact in the fields of science, technology, engineering and maths, STEM. The annual budget for 2017 amounts to €162.5 million. Science Foundation Ireland's legal remit was extended in 2013 to allow it to fund applied research in line with the Government's policy of research prioritisation, which was adopted in 2012. This broad remit enables Science Foundation Ireland to support an important range of work from early stage investigations, novel discoveries through to pre-commercial activities. The adoption of research priority areas has not affected the level of funding by Science Foundation Ireland as over 80% of funding is currently committed to oriented basic research projects.

My Department and its agencies are important funders of research, with spending on research and development of €394 million in 2016. I am conscious of the time allowed to answer the question and I will speak later about the three specific areas, which are oriented, applied and frontier research. Frontier research is beyond the frontiers of what is called "current understanding". The criteria for funding frontier research is typically excellence alone, with no requirement for alignment with particular themes or priorities. The Irish Research Council, IRC, makes competitive awards on the basis of excellence only. Its budget for 2017 is €34.15 million, including €2.5 million for new frontier research laureate awards.

The original remit of Science Foundation Ireland in 2003 was to promote, develop and assist oriented and basic research. That remit was changed in 2012 to include applied research and research in frontier science, as mentioned by the Deputy. I agree we need to look further on further funding for frontier research.

Deputy James Lawless: We can work together on that. I was aware of the changes in the SFI Acts in 2012 and 2013, when the policy was changed. At the time, Deputy Calleary would have spoken for my party and raised concerns. I know the academic community at the time were also concerned about the shift in emphasis. There was also the issue that for the first time, research priorities were being directed by the Ministers, as opposed to allowing academics to decide. Undoubtedly, commercial activity is needed along with frontier research but the view in the academic community and those involved with high-end research, certainly at an academic level, would be that the shift was a bridge too far. It is the equivalent of Isaac Newton in the orchard, when he watched the apple fall, being told to go back to study cider fermentation instead of discovering gravity. Groundbreaking discoveries happen when somebody with a great mind is looking into matters without a focus on the goal or outcome.

Deputy Calleary put these questions when the Bill was passed and 900 scientists wrote to *The Irish Times* in 2013, expressing their alarm and dismay at the Government's approach in 2013. Unfortunately, in 2017 we are seeing a similar pattern. I joined the March for Science with a number of academics and researchers - people at the top end of their fields - only a few weeks ago and the same concerns were again being voiced. The Government needs to change

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direction in the matter and I ask the Minister of State to take that on board.

Deputy John Halligan: It is a very good question and I make the point that Action 3.8 of Innovation 2020, Ireland's strategy for research and development, science and technology provides for a new programme to fund frontier research. As I stated, in April 2017, I launched the Irish Research Council's frontier research laureate programme with initial funding of €2.5 million and I can assure the Deputy that the Department is currently leading on a refresh of research prioritisation. A number of studies have been completed to form the evidence in a base for that exercise, which will include looking into frontier research. I absolutely agree with the Deputy that frontier research is an absolute necessity when it comes to funding, especially as science and technology advances over the next number of years. The Deputy met many scientists at the European Space Agency who specifically deal with frontier research rather than oriented and applied research. After the review is done by my Department, we will contact the Deputy and if he would like to make any submission to the review, he should feel free to do so. I could meet the Deputy personally to speak about this.

Written Answers are published on the Oireachtas website.

Topical Issue Debate

Occupational Therapy

Deputy Thomas Byrne: Tá mé lán-sásta gur thug an Ceann Comhairle an deis dom an t-ábhar tábhachtach seo a lua ar an Athló inniu. I am very grateful to the Ceann Comhairle for allowing me to raise this issue.

It is an issue that affects families in County Meath to an extraordinary degree. I have been contacted by parents who cannot get occupational therapy for their children because there is only one occupational therapist, OT, covering County Meath and the town of Kingscourt in County Cavan for children aged between 0 and 18. That person works 17.5 hours per week. As of last week there are 350 children waiting to be seen in County Meath and that one part-time OT has to deal with all of them. A child in County Meath has to wait four and a half years for an assessment. That is what the staff tell us. That is coming straight from the horse's mouth. There are other OTs who work in Enable Ireland and the child and adolescent mental health service, CAMHS, to address the needs of children with diagnosed disabilities, including physical disabilities and autism but primary care is the first point of contact for children so most people coming to the primary care OT have no diagnosis and wait four and a half years for that.

Some OTs left the service in County Meath this year and there has been no word of their replacement. There was a long period when there was no manager to advocate for the service within the Health Service Executive. The OT in County Meath organised meetings of parents because she was so concerned at the situation she and the parents were facing and asked the parents to contact their local politicians such was the gravity of the situation. I have never before seen a public servant gather people together and ask them to advocate for a service. That is the job of the Minister of State and of HSE management, not that of the OT on the ground. It is shameful that children must wait four and a half years for an assessment. It is extremely worrying for parents because they know and hear from others who have gone through the worry

and trauma of requiring these services that the early years are when children are diagnosed and their needs are assessed. This needs to be addressed urgently. There are parts of Dublin where there is no problem whatsoever but children in my county have to wait almost five years to be assessed for occupational therapy.

Minister of State at the Department of Health (Deputy Finian McGrath): I thank Deputy Byrne for raising this very important issue about Meath. The HSE has advised that the Meath occupational therapy service is delivered across three divisions: primary care consisting of adult services, including palliative care and children services; social care consisting of the adult disability team, a six to 18 school aged team and older persons and acute care services delivered at Our Lady's Hospital in Navan.

The paediatric service provides an assessment of and services to children up to age 18 years, for whom typical presenting needs relate to, amongst other things, developmental coordination disorder, also known as dyspraxia, sensory processing difficulties, chronic pain and orthopaedic conditions. There is an open referral system in that referrals are accepted from general practitioners, parents, schools and other multidisciplinary team colleagues. I am advised that there are two priority levels in children primary care services and the longest waiting time under priority one is three months and 61 weeks under priority two. The HSE has informed me that there are staffing related matters affecting the delivery of occupational therapy services in County Meath. The complement for Meath occupational therapy services, which include adult and paediatric services, is 8.1 whole-time equivalents. However, the complement delivering services is 6.1 whole-time equivalents; this is due to a number of factors including maternity leave, sick leave and recent resignations. I understand from the HSE that one of the current vacancies has been approved for backfill and the position is going through the recruitment process.

A business case for the backfill of the other vacancy as well as four new additional positions for paediatric services awaits approval. Notwithstanding the change in the staffing complement in County Meath, the HSE assures that the services continue to be prioritised based on clinical need. I am aware that assessment and treatment waiting times in all community healthcare organisation, CHO, areas are dependent on identified need and the capacity and demands on the occupational therapy service in the particular area. In many areas, treatment intervention is completed on assessment and therefore there is no time delay once a client is assessed. Following the screening of referrals, a client's needs are prioritised by a standard prioritisation system. I do appreciate the Deputy's concerns that accessing services can be very difficult for the families and children affected and the need for additional therapy posts is highlighted in A Programme for a Partnership Government. The HSE has established a national therapy service review group to address therapy waiting times, including those for access to occupational therapies. This joint primary care and social care project will include a detailed analysis of waiting times and resource deployment across the country. I will seek to make the services more responsive to people's needs and also seek to put in place a standardised approach to the delivery of occupational therapy services across the country.

Deputy Thomas Byrne: I thank the Minister of State for his response but it is not sufficient. His waiting list figures are wrong. The person who spoke to me pointed out that a part-time OT has a responsibility to see eight new cases per month. There are 350 children waiting to be seen. Simple mathematics shows that it takes four and a half years for a child on that list to be seen. The Minister of State says there is a recruitment process to fill one vacancy, which is welcome but I plead with him to speed it up. I find it deeply offensive that a business case must be made to fill another vacancy. These are not extra posts. It is not the case that there is

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an increase in population requiring extra posts. These are existing jobs that people have left recently. Someone must make a business case so that our children receive the therapies they need. It is scandalous if the HSE thinks a business case has to be made to replace OTs. If the Minister of State is standing over that I suggest he goes back to the HSE and tells it to fill that vacancy as soon as possible. There is a business case because the position was there until early this year. The idea that when someone leaves a job the case to keep that position has to be made while children have to wait four and a half years for occupational therapy services is scandalous, outrageous and unacceptable. I urge the Minister of State to rethink that and go back to the HSE and tell it to sort this out quickly.

Deputy Finian McGrath: I disagree with the Deputy because we have approved one position and the case has been made for four new additional positions. I will push the case, and so will the HSE, to get funding because it is very important.

The total staffing complement for adult and paediatric services is between 8.1 and 6.1, clinically available *in situ*, excluding maternity leave, sick leave and recent resignations. The two resignations took effect on 31 March 2017. That happens in life and that is a problem we have. It is a reality. The second reality, which is not mentioned in the response, and which I have many concerns about is that many OTs emigrated during the financial crash and went to other European countries and England.

6 o'clock
We are trying to encourage them to come home. One resignation was in the social care area. As I mentioned, this position has been for the backfill and is going through the recruitment process.

It is also important to remind people that there are service locations and that the Meath occupational therapist services are delivered from five network bases. They are: network 1 - Navan and surrounding areas; network 2 - Kells and Kingscourt; network 3 - Trim and Summerhill; network 4 - Dunshaughlin, Ashbourne, Dunboyne and Ratoath; and network 5 - Laytown and Duleek.

In terms of investment in occupational therapy services, the last investment in primary care services was in 2013 when 52.5 posts were approved. In addition, under the progressing disabilities services for children and young people aged 0 to 18 years programme, 64.5 occupational therapy posts were approved in 2014. We have to rebuild and invest in services.

A service improvement initiative has been established for the national occupational therapy service to review the existing model of care and develop new models that will be standardised across CHOs to improve waiting times. I will, of course, make this a priority issue when talking to the HSE.

Bord na Móna

Deputy Alan Kelly: I find it incredible that a Minister of State at the Department of Health who is from inner city Dublin, although, in fairness, originally from Galway, as I found to my cost in a recent national league final, is dealing with this question.

An Ceann Comhairle: He is multi-talented.

Deputy Alan Kelly: Surely one of the Ministers was available from the appropriate Depart-

ment. I ask for the indulgence and support of the Government for the workers in the Littleton Bord na Móna factory.

A political charge was made against me on the floor of the House today by the leader of Fianna Fáil which was, frankly, childish. I know that he wants to run away from discussing the Garda Commissioner, but his remarks were childish. He was aided by his deputy leader, my colleague, Deputy Jackie Cahill. If he wants to take the stabilisers off the Deputy and let him come out and play, he should do so because it was one of the most childish things I had seen in my time in politics.

We met the workers in Littleton. Until today, the five Deputies involved were playing a very good game and trying to ensure we achieved the best outcome for the workers. We had worked together and met the Minister. I have spoken to the CEO of Bord na Móna. We have tried to work out the best way forward for the workers who have seen significant restructuring in the past few years which has affected 122 people, between full-time and part-time workers.

When we met the Minister last Friday week, it was quite an emotional meeting because some of the workers' grandparents had worked in the factory which goes back generations and it is not just about the work. It is also about minding the bog and ensuring production levels are maintained. It is a way of life. The decision of Bord na Móna, with which we disagree, has been made and we have been told it will not be changed under any circumstances. However, we need to fight to try to get the best deal for the workers.

There are four issues, the first of which is the peat which remains, how it can be used and whether there is capacity for it to be used for export purposes, in particular, in order to maintain and, it is to be hoped, generate some employment into the future. It is a distinct possibility with markets looking for peat.

Second and most important, we need to secure an extension of the closure date. April 2018 is far too soon. We need at least two more seasons in order to ensure the peat can be used and the workers will have a fair length of time to plan their exit and futures. We also believe there is a demand for their produce. There is a dividend payment of €10 million a year from Bord na Móna. Surely it could be used to facilitate the extension of time required for the workers.

Third, we need to renegotiate the redundancy package because the one in place is awful. To be frank, if somebody has worked at the plant for 30 or 35 years, he or she is being penalised. The longer someone has worked there, the worse off he or she will be by comparison. Therefore, we need to get a better deal for the workers.

Fourth, we need to have hope for the infrastructure and plant in place. The connection to the grid is nearby and facilities are in place. What incubation or other services could we plan for if we were to secure an extension of the closure date to ensure there will be some employment on the site? I am not referring solely to harvesting and exporting the peat but to other renewable energy sources that could be developed in the area, given the infrastructure in place and scale of the facility.

Deputy Finian McGrath: I thank the Deputy for raising this very important issue and supporting the rights of the workers in the Littleton Bord na Móna plant. I am taking this matter on behalf of the Minister for Communications, Climate Action and Environment, Deputy Denis Naughten, who apologises that he cannot be present to take it.

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Bord na Móna is a commercial State company operating in accordance with the Turf Development Acts 1946 to 1998. While operational matters such as this are the responsibility of the board and management team and not matters in which the Minister for Communications, Climate Action and Environment has any direct role or function, the Government is nonetheless conscious of the impact the recent decision has had on the employees of Bord na Móna. It is facing significant business challenges in the context of the deregulation of the electricity market and an increasingly competitive and challenging environment across all of its business areas, not least its fuels business. Its fuels business in general, including the briquette business, has been operating in recent years at a level significantly below existing capacity. The fall in sales is driven by a range of factors, including increased competition, consumer trends, carbon tax, mild weather and low oil prices.

Arising from the reduced demand and in line with the normal process of the ongoing review of each sector at Bord na Móna, the fuels business undertook a comprehensive review of current briquetting operations, with the intention of identifying a solution to sustain the business and jobs in the long term. The review concluded that in order to sustain the business into the future, the Derrinlough factory, employing 61 people, would be the optimum location for future investment to secure the future of the fuels business. The report also concluded that the company's facility at Littleton should continue production for the coming season and should permanently cease production in April 2018. There are 69 permanent employees at this facility.

I understand that, having received the review conclusions, the company has begun a process of engagement with the group of unions and employees. It has confirmed that no redundancies in this area are being contemplated in the current year. While the Minister has no direct role in the matter, he has held a series of meetings with affected stakeholders. He has called for engagement and imagination from all sides - I accept many of the points raised by Deputy Alan Kelly - in order to come up with a range of solutions for the employees. He has urged Bord na Móna to consider all opportunities for redeployment, a phased reduction in employment numbers and any other renewable technology opportunities which may arise in respect of its investments.

As part of Bord na Móna's general strategy to move towards sustainable businesses based on renewable energy sources, pilot trials for the production of a biomass briquette have been conducted. The development of the biomass briquette represents a significant investment by the company which has confirmed its intention to begin large-scale production of the product. This will be a critical step in future-proofing the fuels business as it offers the potential of sustainable and quality regional employment.

In addition, the Minister will bring a memo to the Government to establish a new entity, BioEnergy Ireland, focusing on the development of the biomass sector in Ireland. It will assist farmers in establishing a new source of income and secure existing regional employment levels by transitioning staff away from milling peat to harvesting biomass in a fair way.

Deputy Alan Kelly: I thank the Minister of State for his efforts in reading that out. As I said earlier, a political charge was made. In June 2015, the CEO of the company came and spoke very well to the workers. I regret, however, that a senior member of Bord na Móna did not come down to meet the workers to tell them they were losing their jobs. It is unacceptable that a senior representative of the company at board or management level was not there on the day of the closure of an industry which has been in place for multiple generations. When the CEO addressed the workers in June 2015, he outlined a potential investment plan to create projects in

the plant. I very much welcomed the proposed heat and power plant, but there were a number of conditions which the CEO outlined to the workers. In the circumstances, the charge which was made this morning was childish. Not only was it childish, but I note that Deputy Micheál Martin is a former history teacher and that he must like engaging in revisionism. I would like him to correct what he said. The heat and power plant did not happen as I found out long after I left Government because management decided against it due to issues around connectivity to the grid, the cost associated with it and the changing commercial situation with the lowering of volumes of briquette production.

I ask the Minister of State to relay a number of things back to the Minister. We need an extension of time. This has been a bolt from the blue for the workers and an extension will give them time to format their lives and plan. We need a plan for the resource and plant that is left in place. The peat that is left there needs to be exported which would save some jobs and create others. As somebody who supports workers, I note finally that the redundancy package is unfair. I do not know how it was negotiated in the first place. The workers with the longest time served will, on average, do worse, which is incredible. I know the Minister will have to talk to the Minister for Public Expenditure and Reform about that and I ask the Minister of State to ask him to do so.

Deputy Finian McGrath: I would not like to get into a scrap between Deputies Alan Kelly and Micheál Martin, so I will stay out of that aspect of the debate. Deputy Kelly is right to come here to defend and fight for the rights of workers. That is the duty of all of us. The issues he raises are very important. He referred, for example, to the remaining plant there and the capacity for export. There is an issue I will bring back to the Minister, Deputy Denis Naughten. There is also the whole issue of the extension of the closing date and demand for the produce internationally, including in European countries. I do not know what can be done about the €10 million dividend, but these are issues at which we must all look. We all have a duty to try to ensure that people are employed. A very important issue and one which I would find unacceptable would be any injustice in the redundancy package. Deputy Kelly said people with 35 years service were not getting justice and that is something I will also bring back to the Minister, Deputy Denis Naughten.

School Enrolments

Deputy Louise O'Reilly: It is hardly necessary for me to rehearse all of the issues again. We have had this discussion several times already. On 1 March, the Minister advised me that one of the primary schools in Swords was undersubscribed, if not to the extent that it would be able to absorb the excess capacity, although he failed to mention that it was a boys-only school and, therefore, not in a position to deal with the full waiting list. The Minister said he would monitor the situation as the schools completed their enrolment process in the coming weeks. That was ten weeks ago. While I hate to say it given the fact that the children have not even had their summer holidays, we are quickly approaching September. Some two or three weeks ago, I spoke with a number of parents with children in the Holy Family national school at the moment whose siblings are waiting to attend. They have been in touch with me since to say they still have no clarity. It appears that the Minister is waiting for this situation to somehow magically resolve itself, but it is not going to. There is a need for action on the part of the Minister and the Department to deal with this on a proactive basis. It is not a case that will sort itself out once the waiting lists are cleared because there are children who are going to be left without places. The

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last time we discussed this, I asked the Minister if he would consider emergency or temporary measures. I also asked him to consider doing everything possible. I want to hear from him this evening what will be done because these people will be back on to my office as well as to those of the other Members representing the area.

This is a very serious issue in particular for those people whose children are already in the school with siblings waiting to attend. It is also very serious for those children born in November and December. They are not eligible for an additional year of the ECCE scheme and, as such, cannot go back to crèche. Their parents face having to return them to and pay for crèche facilities. At least one mother maintains it will probably not be worth her while to work given that she will have to pay over so much money. It is unfair to leave families waiting in limbo.

The Minister will not dispute that we have a growing population as evidenced by the census. While it is clear we need something done in the short term, there is a real need in Swords to increase school capacity in the long term. This is not a case of parents saying they only want their children to go to the local school. If the Minister has ever been in Swords in the morning, he will know that it is not possible for these parents to drop one sibling to the Holy Family and to then make it in any reasonable time to another part of Swords to drop another child off at a different school. It is also not reasonable to expect siblings to go to separate schools. All these parents want is to be able to educate sibling children in the school that is closest to their homes and rooted in the community where their children play sports and are growing up among their friends. While it is a long time since I had to think about these issues, that is all I wanted as a parent myself. It is what most parents want.

Minister for Education and Skills (Deputy Richard Bruton): I thank Deputy Louise O'Reilly for raising this issue again and I understand the concern. There are 11 schools in the Swords area which enrol junior infants and they run across the spectrum from Catholic schools, one Gaelscoil, Educate Together and a Church of Ireland school. The basic problem here is that the Holy Family junior national school is maxed out and cannot take in additional junior infants at this point. It is already full and its senior school, which would also have to take any increased enrolment, is on a very constrained site. As such, expanding capacity at the Holy Family junior national school is not an option.

There are 760 children who are due to be taken into junior infants across the 11 schools in Swords. I am told that two schools currently have junior infant places available. St. Cronin's, which has the largest number of available places, is a mixed school, not an all-boys school. The schools have also expressed a willingness to offer further junior infant places for September 2017 if necessary. As such, there is capacity available to meet the need. The Department is very much aware of the position in the Holy Family school, which has 26 mainstream teachers and an enrolment of 680 pupils. We have been liaising across the various schools to check their waiting lists. As the Deputy knows, there is multiple enrolment on waiting lists, which makes it difficult to identify exactly what is the need. The underlying difficulty outlined by Deputy O'Reilly is that parents want their children to go to the nearest school and I can understand entirely why this is the case, but the Department has to operate on the basis not just of the local school but groups of schools. We have to plan across planning areas and in this case we are doing so.

The Department remains of the belief there is sufficient capacity there, but has recognised schools that could expand to meet that need in September should that be necessary. That is the current position. I fully recognise this is a very rapidly growing area and there is no doubt that

based on demographics we will be looking at the need for additional schools in Swords and in fairly short order. I am sure that is the case. For this coming September, the Department remains of the view that between the existing schools, which either have existing capacity to provide or can do so without constraining a site, which is the difficulty in Holy Family junior national school, they can take on extra junior infant children on a sustainable basis and are able to see them right through the school. There are schools available to do that. I can understand the difficulty when a parent wants a child to go to a particular school, or a child has a sibling in a particular school. That is the position as of now and the Department is very closely monitoring the situation. Expanding the capacity in Holy Family junior national school is just not an option available of to us, as I am informed.

Deputy Louise O'Reilly: I do not think the Minister has looked at the capacity in Holy Family junior national school in any meaningful way. I ask that he speak to his officials and advise them to liaise directly with the board of management of the school and engage with the parents. I would not ask the Minister to take my word for it. There are 27 children on the waiting list out of 107 who have siblings in the school already. It is not possible for these children to be dropped in the morning and for their parents then to head out into the traffic in Swords, which is really problematic first thing in the morning. It is not possible for these parents to get to the other school on time without leaving the sibling in Holy Family junior national school too early. This is further complicated for parents who are trying to get to work, again trying to make their way through the traffic. There is a problem. The Minister has told me he will monitor it, but I have not heard anything from him with regard to the solution. I ask that the Minister and his officials meet the board of management to discuss with it every and any option that might be available, and meet directly with the parents so they can explain their concerns. I have met these people. They are very ordinary people. They are not people who would seek something outrageous from the Department of Education and Skills. They are telling me, and I am telling the Minister, it is not possible for them to be able to drop their children in the morning and then make it to another school. If a child has a sibling in a school already it creates its own problems. They do not want anything other than the capacity to be able to have their children educated in their community, where they play sports and live, where their friends are and where their siblings go to school.

Deputy Richard Bruton: I asked directly this question of my officials, in other words whether Holy Family junior national school can be expanded, and they answered directly it is maxed out in terms of the existing accommodation, permanent and temporary, and the current devolved grant development is to replace existing prefab accommodation. That will leave the site constricted. Also, any development of the junior national school has implications for the senior national school. All pupils from the junior national school progress to the senior national school. The site of the senior national school has no capacity for further development, hence the need to control the junior infant intake. In other words, it is not sustainable, as the Deputy is suggesting, to expand the school. That is not a sustainable solution. This is the advice of the Department. I understand the patron has advised the junior national school can accommodate the pupils on the waiting list in September 2018. As I said, other schools in the catchment have the capacity to meet the demand and can expand this capacity if necessary. This is the position. Obviously when a site such as this is maxed out and there is a growing need we need to look at the need for an additional school. I have no doubt that will be on the agenda very shortly in the Swords area. The advice to me is very clear that the capacity is not there to expand the school the Deputy wants to have expanded. We have to have other offerings made to accommodate those families. That is what the Department is doing. If I had a solution to this I would offer it.

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We are not trying to be obtuse. I will certainly convey the concerns, which I know other Deputies have raised in the House. I know it is a genuine concern the Deputy is raising.

Passport Applications

Deputy Declan Breathnach: I thank the Ceann Comhairle for the opportunity to raise this Topical Issue. I also thank the Minister and I am pleased to see him in attendance. I compliment his Department and officials in terms of my dealings with them on many matters.

We may have express buses and express trains but we certainly do not have an express passport application process in the Department. It is a huge concern not only to my constituents but to all throughout the country who are represented in the House, so much so that since the Topical Issue was tabled today four Deputies have asked me to raise specific issues, which I will do later.

The current delay is unacceptable in the turnaround times for the issuing of passports applied for through the passport express system operated by An Post. Until last month, people were still being told by their local post offices that the turnaround time was ten working days. I have seen cases where the turnaround time extended to up to four weeks, double what people were told. I will give the example of a mother of a child with special needs, who spent more than €1,500 on a holiday for herself and the child. Her passport was out of date so she applied on 11 April through passport express. She thought she was doing the right thing because she read the small print, which stated the renewal of the passport would be expedited within ten working days. Instead, she received her passport on 9 May and missed her holiday, which was due to commence on 7 May. The travel agency would not even cover the loss because of the passport not issuing. This week, I heard of another case of a four week wait for a passport express application.

I also want to bring to the attention of the Minister a big problem with passport express applications, whereby people who experience delays and have imminent travel arrangements cannot get any joy when they apply for an urgent appointment as they are told that because they applied through passport express the application cannot be retrieved and, therefore, expedited in any way. This is something that needs to be looked at and changed. Today the Department's website states the turnaround time for a passport express application is 16 working days. For the new online application system the turnaround time is ten working days. This is another issue with which I have problem. There should not be any priority given to online applications over passport express. Most of my constituents, particularly those in rural areas, do not have adequate broadband to access the online system, but this is a Topical Issue for another day.

I am aware the Passport Office has hired more staff to deal with the influx of applications due to Brexit. Anyone who has a parent or grandparent born in Ireland is entitled to a passport. Surely people applying for an Irish passport for citizenship reasons should be on a different track, especially where there is no urgent need. Latest figures from the Department of Foreign Affairs and Trade show applications from the UK increased by 74% in January compared with the same time last year, and that in January this year more than 7,000 people from Northern Ireland applied for an Irish passport, which is an increase of 3,973 from the number in the same month last year. With these types of figures and the inordinate delays being experienced, the Minister has obviously not hired enough staff and he needs to look at this.

I have also brought to the attention of the Minister the need for a satellite passport office in Dundalk or another Border town to deal with the increase in applications from Northern Ireland and the UK. Exactly one year ago this week, I raised this issue with the Minister in a Topical Issue debate in the context of the European football finals. That was pre-Brexit. It is a system that cannot cope. It is unacceptable and in my view it is not fit for purpose.

Minister for Foreign Affairs and Trade (Deputy Charles Flanagan): I thank the Deputy for raising this issue. I very much regret the difficulties being encountered by his constituents. It is not the first time Deputy Breathnach has raised this issue with me and I am anxious to ensure that the matters are resolved, notwithstanding current challenges.

Different turnaround times apply to applications, depending on whether the applications are to renew a passport, replace a passport that has been lost, damaged or stolen or to apply for a passport for the first time. The Deputy will be aware of the security considerations that pertain to passports and the need to implement robust anti-fraud measures, particularly in the current security environment. First-time applications, therefore, take much longer due to the security checks and issues involved.

The passport service aims to process passport express renewal applications within 15 working days. This target is in place for over a year and is communicated very clearly in all An Post promotional materials and on my Department's website. It is also regularly communicated by me in responses to parliamentary questions and through written correspondence with Members who may have queries from time to time. The current turnaround time for renewals is 16 working days, one working day over our target turnaround time. Currently, first-time applications and applications concerning passports that have been lost, stolen or damaged take 22 working days, two working days over the target time.

Meanwhile, online renewals are being processed in ten working days plus postage time. Turnaround times are updated weekly on the passport service website. My Department also keeps An Post apprised of the situation. It is not the case that applicants are being advised of a ten-day turnaround by my Department. My understanding is that this advice is not being given either by An Post. I want to be very clear that the target for renewals is 15 working days - in other words, three weeks. If there are instances of a ten-day turnaround being advised I am interested to have the details. I very much regret the difficulties as expressed by Deputy Breathnach and if he would provide me with the information as to where the advice was given on the matter of ten days I would be happy to have it examined.

While we are falling marginally behind our projected turnaround times for passport express applications, I believe the Passport Office is doing an impressive job considering the exceptionally high volumes of applications received in recent months. To date this year, over 350,000 applications have been processed compared to 500,000 in all of 2016.

My Department has taken a number of measures to handle the exceptional volumes of applications, including targeted overtime. Almost 230 temporary clerical officers have been recruited and a number of additional permanent staff have been assigned to the Passport Office. Workloads are continually reallocated between the three Passport Offices to optimise an efficient service. We will continue to keep these measures under careful review to ensure that the impact of any further increase in demand is minimised.

In general terms, it is considered best practice to apply for a new passport in plenty of time

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and to allow at least six weeks for a passport to be processed in case any issues arise, for example, incomplete documentation, which often arises. I strongly advise checking the remaining validity on passports before booking travel, paying particular attention to the validity of children's passports, which are shorter. My Department provides a free e-mail renewal reminder service to all passports holders and I urge Deputies to join me in promoting that service.

The Deputy raised the matter of retrieving passports mid-process which have been submitted through Passport Express. As the Deputy can imagine, asking staff to locate individual passport applications among the 70,000 or more that are being processed at any one time is time consuming and disruptive, with possible knock-on consequences for other applicants. Therefore, we only do this in limited circumstances such as illness or death of an immediate family member abroad.

Deputy Declan Breathnach: I thank the Minister for his response. We can deal with the semantics of whether the turnaround time is ten, 15 or 16 days but, unfortunately, the reality is that it is not working for those who are in the situation I outlined. I am not criticising staff in that regard. Nobody, including the Department, should not be allowed push any of the days outward and if there are delays beyond 15 or 16 days, people should be entitled to a refund of the passport express charge. Equally, for every day subsequent to that, the Department should be penalised by a certain amount of money based on the deadline set.

People are losing out on flights to go on holiday, to which I alluded earlier. It is not the Department's fault. It can be their own fault because of delays in making the application and it is appropriate that we highlight them at this stage.

I want to make some comments I was asked to make on the issue. As of today, the appointment for first-time applications in Mount Street is taking four weeks to process. In other words, it will take until 13 June for somebody who makes an application today. We are getting into the holiday time and that needs to be highlighted again, as the Minister said.

Representations to the Minister's office are receiving, by and large, generic responses. Should there not be a contact line for the public and even for public representatives in terms of getting greater access to deal with the issue? Why are alerts only sent out when the three weeks expire, for example, if the photograph is unsuitable? Surely those could be checked separately at an early stage.

The new online service for renewals or lost passports is accepting applications and then after one or two days, a request is made for new photographs.

It is very important that we highlight what the Minister said on the issue of messaging people when their passports are close to being out of date, which is something I did not know until now. Also, modern technology should be able to highlight the expiry date on the passport. It is very visual when one opens it and it would be a strong reminder to the person that it is time to have the passport renewed.

Deputy Charles Flanagan: I again acknowledge the points made by the Deputy. I undertake to have a look at the individual questions he asked and to reply to him at the earliest opportunity.

It is most important that at the outset applicants choose the most appropriate channel, and I am grateful for the assistance of Deputies in the matter of advising constituents. I ask Depu-

ties to join me in promoting the use of the online service. The response from applicants has been extremely positive. A promotional campaign is under way which should lift the numbers further. As more applicants avail of the service, the efficiency gains will help improve the turnaround time more broadly.

The decision of the United Kingdom to leave the European Union has had an impact, as has the ongoing economic recovery, which has led to more people travelling abroad. I repeat that it is considered best practice to allow six weeks for an application in case any issue arises. Issues arise in the matter of incomplete documentation or whatever and it is vital that applicants choose the correct channel when applying.

I ask for the assistance of Deputies in this regard. The passport service clearly sets out the current turnaround times in public communications. I urge Deputies to promote the use of the free e-mail renewal reminder service provided by the Department through the website, *www.dfa.ie*.

I wish to pay tribute to the hard work and professionalism of the staff in the Passport Offices in Dublin, in Balbriggan and in Cork who as always have risen to the challenges. I am not saying there are not further challenges to be dealt with and I thank the Deputy for raising some issues that I will undertake to pursue.

The online passport renewal service is a major innovation and it will considerably enhance passport processing capacity. We have already seen over 21,000 online applications in the six weeks since the launch and the service looks set to handle one third of all renewals this year, well ahead of target. Given the benefits to applicants of a faster turnaround time and convenience, as well as the efficiency gains, the service should be the default for everyone eligible. I strongly urge Deputies to encourage its use.

Minerals Development Bill 2015 [Seanad]: Instruction to Committee

Minister of State at the Department of Finance (Deputy Eoghan Murphy): I move:

That, pursuant to Standing Order 154, it be an instruction to the Select Committee on Communications, Climate Action and Environment that it has power to make provision in the Minerals Development Bill 2015 to prohibit prospecting for mercury and primary mercury mining pursuant to Article 3.3 of the Minamata Convention on Mercury done at Geneva on 19th January, 2013, and to change the title of the Bill and make other consequential amendments required to take account of the inclusion of such provisions.

On Second Stage of the Minerals Development Bill 2015 on 22 February my colleague, the Minister of State at the Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs, Deputy Seán Kyne, indicated to the House his intention to table amendments on Committee Stage to give effect to certain obligations under the Minamata Convention on mercury, which was signed by Ireland in 2013 and which will prohibit primary mining of mercury. In effect, the motion before the House allows for consideration of these amendments by the Select Committee on Communications, Climate Action and Environment in the context of its consideration of the Minerals Development Bill 2015 tomorrow, Wednesday, 17 May.

The convention, agreed to and adopted in 2013, is a global treaty to protect human health

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and the environment against the adverse effects of mercury. It focuses on a global and ubiquitous metal that, while naturally occurring, has broad uses in everyday objects and is released to the atmosphere, soil and water from a variety of sources. Controlling the human sources of releases of mercury throughout its lifecycle has been a key factor in shaping the provisions under the convention. The provisions of the convention include a ban on new mercury mines, the phasing out of existing ones, the phasing out and phasing down of mercury use in a number of products and processes, control measures for emissions to air and releases to land and water, and the regulation of the informal sector of small-scale gold mining. The convention also addresses the interim storage of mercury and its disposal once it becomes waste and sites contaminated by mercury, as well as broader health issues.

Ireland officially signed the Minamata Convention in October 2013 at the diplomatic conference in Kumamoto, Japan. The purpose of the Minister of State's amendments is to insert a new Part 8 into the Minerals Development Bill which will effect in Irish law a ban on primary mercury mining, implementing one of a number of actions necessary to allow Ireland to ratify the convention in 2017. No primary mercury mining occurs in Ireland.

Deputy James Lawless: Fianna Fáil will be supporting the motion. We firmly believe Ireland should immediately ban mercury mining. I have just come from a briefing on the Minerals Development Bill which is due to proceed to Committee Stage tomorrow. Obviously, the motion is necessary to enable the amendments to be tabled.

Banning mercury is a crucial step towards maintaining the health of Ireland's people and its environment and towards fulfilling our commitments under the Minamata Convention. The convention, as adopted in 2013, is a global treaty to protect human health and the environment from the adverse effects of mercury. The focus is on mercury which is a naturally occurring element commonly found in everyday objects and which is emitted into the atmosphere, soil and water through a variety of means. Controlling the human sources of releasing mercury throughout its lifecycle has been a key factor in shaping the provisions under the convention. Fianna Fáil is a strong supporter of the convention and other protections of the environment. We recognise that the health, well-being and livelihoods of millions of Irish people, from those in fishing and agriculture to those involved in tourism and beyond, are intricately intertwined with their environment. If we jeopardise that environment, we jeopardise those communities, their employment and so much more.

The provisions of the Minamata Convention effect a ban on new mercury mines, the phasing out of existing ones, the phasing out and phasing down of mercury use in multiple products and processes, control measures for emissions to air and releases to land and water and the regulation of the informal sector of small-scale gold mining. While there is no primary mercury mining occurring in Ireland, there are insufficient protections to ensure this will not change. Therefore, an explicit ban on mercury mining is needed in order to bring us into compliance with the convention. I am aware of the timelines required in order to process the amendments on Committee Stage of the Minerals Development Bill tomorrow. Fianna Fáil and I are very happy to support the motion which I recommend to the House.

Deputy Brian Stanley: I welcome the Minerals Development Bill 2015 which has been many years in the making. It recognises the need for the regulation of mining in the State and it will modernise and consolidate the legislative framework underpinning a very important industry. Most important, the industry concerns the assets of the people.

We welcome the motion on the Minamata Convention and the intentions of the international agreement. It is estimated that 15 million to 19 million people worldwide are directly at risk of mercury poisoning. Children are especially susceptible and vulnerable to such environmental threats. There are specific periods in the development of children when exposure to chemicals or physical or biological agents may result in adverse health outcomes. The mercury problem is mainly man-made and, therefore, can be minimised by implementing efficient measures. Banning mercury mining outright in Ireland is the way to go. For our part in Sinn Féin, we fully support that measure.

Let me refer briefly to the amendments tabled for Committee Stage. I welcome the Government's amendment to delete section 82 of the Bill. The section allowed the Minister to sell State assets. We do not want to see any loss to the State when it comes to mineral rights. I raised problems with this section many times previously in the House, as did my predecessor.

The Bill is lengthy, but there are a few overarching issues that must be to the fore when examining legislation on mining rights. We must consider possible environmental implications and potential damage to health, farming, tourism and agriculture. I refer to working mines, in addition to those that have ceased operation. We must examine the safety concerns of workers and members of the public. We must consider the financial benefits to the people of the State who, after all, own these assets. The State must always guarantee that the people are getting the best deal. It should not be like a jumble sale. We need to guarantee that we will not cheaply hawk the family silver. Unfortunately, past Governments did so with our offshore gas reserves. That has happened and we have an obligation to ensure current and future Governments will not do so. The natural minerals listed in the Bill are the property of the State and to be used to the benefit of all the people of the State.

This is not small business. We must remember that we are not dealing with a small niche business tucked away somewhere; rather we are dealing with a wide variety of mineral deposits. In respect of some minerals, we are dealing with a considerable amount of deposits. In 2012 there were 1,373 full-time jobs in the industry and the revenue to the State was €56 million. Turnover was €426 million. Ireland is the largest producer of zinc in Europe, with 30% of European output. It is the tenth biggest zinc producer in the world. It is the second largest producer of lead concentrate in Europe. For companies undertaking mining, output as measured by sales turnover amounted to €426 million in 2012, a considerable sum of money. Companies mining in the State receive many financial benefits from the Exchequer and capital allowances, including write-offs for exploration and development and expenditure on plant and machinery. There is an immediate tax write-off of up to 100% on exploration and development expenditure. The costs of rehabilitation after closure are also tax deductible.

We are concerned about the issue of royalties for the State. We are concerned that the public and the Exchequer might lose out on potential gains. Under the Bill, the setting of royalties payable to the people is to be determined by the Minister on the basis of what is "fair and reasonable", having regard to all of the circumstances in the case. Potential loose legal provisions need to be addressed. We need to ensure the highest safety standards are met in mining for workers, on sites that have permanently ceased operation and in access to these dangerous environments. There are concerns about a number of locations. Private entities running mines must be compelled to ensure the highest safety standards which must be enforced by the State. Once minerals are taken, there is another concern, that is, the ongoing environmental and agricultural impact and the rehabilitation of the surrounding environment. The example that comes to mind first is the case of the Silvermines. A considerable amount of State money was used to address

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what was left behind around the mines after the company had taken away the profits. Look at what has happened to the landscape there, with the tailing ponds, the dangerous run-off and the dangerous chemicals getting into the water system and surrounding environment.

The manner in which we manage, use or abuse the environment has considerable implications. I refer, in particular, to the threat to agriculture. We have enough difficulties with Brexit and everything else. We will have to ensure we are able to stand over our green image and that food produced here is safe. The only way we can gain an edge over other countries is by producing high-quality food in a good environment, with farming based on sound practices. We must not have any threats to that, be it from mining or anything else. Economic issues and jobs are part of the Minister of State's brief and he will understand that, in rural areas in particular, many smaller producers are coming under pressure because of Brexit. It must be ensured that Ireland has the edge in producing high quality food in a safe, clean environment compared to more industrialised European states.

We welcome the Bill but we will seek amendments to address our concern. It is timely to consolidate the relevant legislation and, in the main, it is a positive development. I look forward to the Bill being passed.

Question put and agreed to.

Civil Liability (Amendment) Bill 2017: Second Stage (Resumed)

Question again proposed: "That the Bill be now read a Second Time".

An Ceann Comhairle: Deputy Jim O'Callaghan was in possession.

Deputy Jim O'Callaghan: One of the most tragic events that can happen to a child is that it sustains catastrophic injuries at its birth that will dominate the rest of his or her life. Unfortunately, although these events are infrequent in Ireland, they do occur. The parents of that child are then also placed in a life altering position. They were expecting to take home a healthy child who would grow up to enjoy all the great pleasures and challenges of life but instead they take home a child who will no doubt provide them with joy but who will require enormous care throughout his or her life. Overnight, the parents of that child have their lives changed and, for their remaining days, their primary and never ending responsibility will be to ensure the care of the child. Many parents in Ireland today are in such a position in that they are the parents of children who sustained catastrophic injuries at birth. Those parents need to be commended and acknowledged. Being responsible for a child with catastrophic injuries is not only emotionally draining, it is also financially impossible for most ordinary people. When one thinks of the costs that need to be incurred to accommodate the care necessary for the child, one can recognise the enormous cost involved. Houses need to be restructured - on occasion, they need to be rebuilt - and facilities need to be provided while constant nursing and medical care are required.

In many instances, when parents ask what caused their child to sustain these injuries, the hospital is guarded in giving a response. Unquestionably, there is a fear on the part of the hospital that litigation may ensue but, notwithstanding that, parents are entitled to be told what happened to their child if he or she sustained catastrophic injuries during birth. If there is negligence on the part of the hospital, court action will follow. Professional negligence in all walks of life is an occupational hazard. It applies in every profession. If there is negligence, it would

be preferable if parents of children who suffered catastrophic injuries at birth could be told that from an early stage and if hospitals and the HSE could own up at an early stage to the fact that there was negligence leading to catastrophic injuries rather than dragging parents through the arduous and emotionally draining process of going to court.

The cost of looking after a child with catastrophic injuries is enormous. All parents, however, who have such a child will do their best to ensure he or she is cared for throughout his or her life. The greatest fear that the parents of a child with significant disabilities have is that once they die, there will be no resources in place for the child to be cared for. That is why parents go through the process of trying to get compensation for their child if they believe there has been negligence during child birth. It is not just children at birth who can sustain catastrophic injuries. People can also sustain serious injuries during childhood and adulthood, which alter their lives permanently. The injuries mean that they need constant care throughout their lives. If that is the fault of others, individuals are entitled to seek to hold those responsible for the life changing injuries they have sustained to account.

The only method our legal system has to try to rectify damage done to individuals who have sustained such catastrophic personal injuries is that the courts will award them damages for the negligence of others. In our system, people can only get damages as a method of recompensing them for those injuries. They can seek general damages or special damages. General damages are intended to compensate the person for the pain, suffering, distress and loss of amenity of life. However, it is in the areas of special damages that matters become more complicated. Special damages include loss of earnings. That obviously does not apply in the case of a child who sustains catastrophic injuries at birth but it would apply to somebody in middle age who sustains a catastrophic injury. Special damages also include the cost of care, medication, treatment and medical aids required to carry somebody through his or her life. When it comes to the assessment of special damages, the courts make assumptions in respect of relevant factors and contingencies. They are based on factors such as the life expectancy of the person taking the case, the prospect of deterioration, the cost over time of medical care, inflation rates and the rate of return on the compensation for the category of loss concerned when invested. When this matter comes before a court, it can be complicated for the court to calculate how much is required for an individual who sustains catastrophic injuries at birth, assuming that he or she will live to the age of 65 or 70. In many respects, the court is making a guess as to how much money is necessary. To do so, the court will calculate the capital value of future care by multiplying the annual net cost by a multiplier, which is actuarially calculated based on life expectancy. The resultant capital sum is awarded to the plaintiff as damages to enable him or her to pay for a lifetime of future care.

Many legitimate criticisms can be made of a process that requires a court when a child is aged ten to award him or her a lump sum to compensate him or her for life. The process can be seriously undermined by the assumptions that are taken into account by the court such as the life expectancy of the person taking the case. The child may live much longer, or not as long, as has been assumed by the court. The court also estimates future investment returns and inflation rates as best it can when awarding a lump sum. The court cases become lengthy hearings because of a conflict of evidence between the two sides as they both try to advance the best outcome from their point of view. They will have different actuarial reports and different assessments based on the child living to a particular age and the court will then have to determine which is correct and resolve the conflicting expert medical and other evidence. This is a difficult task for the court because it has to do what is fair and just in all circumstances. The reason

it may be unfair if many catastrophically injured persons have spent their final years without the appropriate compensation. If a court could make periodic payments on an ongoing basis, it would not have to guess as to what is the appropriate amount. Currently, certain individuals who have sustained catastrophic injuries at birth can be left without sufficient compensation in the latter part of their lives to pay for the care required. That is an unfairness to them. A shortfall arises because the lump sum awarded many years previously has proved to be insufficient.

Similarly, there can be a situation where a defendant will have to pay a lump sum on the basis that the child will live to 65 years of age. It may be the case that the person concerned will die in his or her 20s or early 30s. In that instance, it is unfair on the defendant to have to pay the money; the defendant is paying a lump sum to compensate a person who was to live to the age of 65 years.

There are strong arguments in favour of what is contained within this legislation, which is why Fianna Fáil will be supporting it. The arguments in favour are that there will not be a situation where there will be an unfairness whereby somebody could be awarded too much or too little. By far the preferable position is for the court to be able to make periodic payments, to assess the needs of the child or the person at a particular stage and then to come back and assess it at a later stage to see whether a top-up is required and how much further compensation is necessary.

We are behind the curve compared to other countries on this issue. If one looks at other civil law or common law jurisdictions, one will see that many of them have periodic payment structures in place. Periodic payments were introduced in Germany in the late 19th century as the appropriate means of compensating for pecuniary loss. In Belgium damages for future loss may be awarded as a lump sum or by way of periodic payments. The court has discretion to decide the method of compensation to be employed. Initially, there is a mechanism whereby periodic payments are permitted. Periodic payments are still the norm in Sweden in cases involving serious loss of earnings.

When one looks at the common law world, one will see that periodic payments are also made. They were introduced in Australia in the 1960s. In the United States and Canada there has been a recognition from as far back as the 1980s that partial and periodic payments are the most appropriate mechanism. Legislation was introduced in the United Kingdom in 2003 to enable a court awarding damages for future pecuniary loss to order that damages take the form of periodic payments. It required the court to consider whether it should make such an order.

This matter was also considered by an expert group in Ireland in 2010. It was chaired by the High Court judge Mr. Justice John Quirke. It produced a report in October 2010 which concluded that the existing method of awarding damages for future pecuniary loss in Ireland, namely, the single lump sum award, was inadequate and inappropriate in cases where a plaintiff had been catastrophically incapacitated in the long term or permanently. The group noted that these views had been expressed in this jurisdiction previously and that they had also operated in other jurisdictions at the time. It recommended that the court be empowered by legislation to make periodic payment orders in catastrophic cases where long-term or permanent care would be required, subject to its satisfaction that the continuity of the periodic payments would be secured.

The report and its recommendations were produced in late 2010. It is unsatisfactory that the legislation is only now going through the Oireachtas in 2017. It is not just me who is saying

it is unsatisfactory; it is apparent to anyone who has knowledge of the courts that it is unsatisfactory for parents to be put in a very difficult position when they have a child with catastrophic injuries and to have to go through this process involving a lump sum payment rather than have the option available under the legislation going through the House. It is instructive to note that the President of the High Court, on 22 March this year, referred to the fact that it was shameful that legislation to allow periodic payments in such cases had still not been enacted. He was saying it was shameful not as a judicial criticism of the Oireachtas because the judges wanted the option but because in the case of a young boy from Killorglin a settlement of €15 million had been approved because of brain injuries he had sustained at birth. The court, when making the comments, stated it had seen many families worn down by the legal process who were opting for lump sum payments instead of coming back to the court for interim payments.

It is important to note that there is urgency attached to this legislation. It is not to facilitate judges or lawyers but families, in particular parents who find themselves in the most appalling position of having to go to court to gain compensation for a child who sustained catastrophic injuries at birth. It is important to note that sometimes when people hear that families have been awarded millions of euro as a result of their children sustaining injuries at birth, they think that in some respects it is a windfall for the family, but it is nothing of the sort. The money is kept under the control of the wards of court system. The parents do not receive the money. It is to be used for the child and his or her essential care throughout his or her life for as long as he or she is a ward of court. That is why we welcome the legislation.

There is another part to the legislation which was introduced when it was brought to the Dáil. It is contained in Part 4 which deals with open disclosures of patient safety incidents. It is a proposal within the legislation which we also support. It seeks to cut down the barriers that prevent medical practitioners or hospitals or other individuals from apprising a patient of the fact that he or she sustained an injury of which he or she should be informed. The hospital may or may not have liability, but that is not the issue. In section 9 of the Bill there is a reference to the open disclosure of patient safety incidents. I believe this will have a positive effect on the way medicine is practised in Ireland. I also believe it will have a positive effect on the rights of individuals who are in hospital and receiving treatment.

As I said, professional negligence is an occupational hazard. There is no professional in this country who has never made a mistake. Unfortunately, if one is a doctor and makes a mistake, it can lead to catastrophic injuries. In general, however, when doctors or medics make mistakes, it does not lead to catastrophic injuries, but it can lead to injuries to a patient in a hospital. The benefit of this legislation is that it will enable the hospital to make an open disclosure. There may be concerns on the part of insurance companies or the hospital about whether this will lead to liability being imposed on the hospital or the doctor concerned. I am pleased to say section 10 of the Bill recognises that any such disclosure will not constitute an admission of liability or fault on the part of the person or hospital making the disclosure.

A novel proposal is contained within the legislation which we welcome and can consider further on Committee Stage, but the legislation should be expedited as much as possible through the House in order that the parents of children with catastrophic injuries will not be forced to go through the very difficult process outlined by the President of the High Court two months ago.

Deputy Jonathan O'Brien: I will be brief in my contribution because we will also be supporting the legislation and look forward to its speedy passage through the Dáil.

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As Deputy Jim O'Callaghan outlined, this legislation stemmed from the recommendations of a working group on medical and periodic payments in 2010, under the leadership of Mr. Justice John Quirke who was then in the High Court. He had been asked to examine the system of claims for damages arising from alleged medical malpractice and to identify shortcomings in the system. The group concluded that the system was inadequate and inappropriate and that it should be replaced by periodic payments. We welcome this recommendation. I know that in my constituency in Cork we had a situation where one family had to go to court on three separate occasions to try to secure a settlement. That was a very difficult process for them, They spoke about it in public, but I will not name them here. It was a much publicised case in national media at the time. Their son had a brain operation and, as a result of that, was left with a catastrophic injuries. The family found itself in a very difficult position in which it ended up having to make numerous High Court appearances on the matter. One of the other reasons that the periodic payments should be looked at, which was touched on by the working group, was that in cases in which somebody who is receiving this compensation exceeds the life expectancy, there can then be additional costs in care for that individual. It should be up to the court to periodically review that. It is very unlikely in the types of scenarios we are talking about that one would see an improvement in a person's condition, but one could very easily see a worsening of that condition. That may be reflected in the periodic payments. It is something that we will be supporting.

We have one concern in the proposed new section 51L in the 1961 Act, which deals with the indexation of payments and would allow for the adjustment of the PPO in line with the cost of living. We would like to discuss that further on Committee Stage. Not only should it relate to the cost of living, but one of the biggest costs in terms of care is the cost of labour. That is something that we could discuss further on Committee Stage. We will support the legislation and want to facilitate its speedy passage through the Chamber.

Deputy Clare Daly: I feel like I am out of sync with everybody else on this, because while I am obviously very glad the Bill is before us today - there is no doubt about it, it is incredibly long-awaited - the biggest problem I have with it is that there are two key areas it was specifically teed up to address but, as far as I can see on both scores, it is deficient and will need radical overhaul if it is to achieve what all of us hoped it might. The two areas relate to periodic payment orders, which other Deputies have addressed, and open disclosures. In the manner in which both are dealt with in the Bill and in the way they have made it into the final stages of the Bill, they nearly end up thwarting the very objective that was there in the first place.

There are two problems with the open disclosures provision. The first problem is that in its current form, the Bill essentially provides that any open disclosure made and any information gathered as a result of the open disclosure process cannot be relied upon as evidence in any subsequent civil actions. As far as I am concerned, this conflicts with long-established principles of national justice and is likely to adversely impact on the trust between the patient and the health service, which is what the Bill is designed to enhance. In other jurisdictions, like the UK, for example, no such restriction is placed on this information. The other key problem with open disclosure is that, in our legislation, it is voluntary and not statutory. That is a massive failing as far as I am concerned.

The periodic payment orders are obviously long-awaited. Other Deputies who spoke have addressed that. The Bill could have represented an excellent opportunity to address the deficiencies in the existing lump sum model for compensation by replacing it with periodic payment orders, but in order for such a system to work, the periodic payments have to be linked to

the right index. It will not work otherwise. It must ensure that annual payments remain pegged as closely as possible to the future cost of medical care and treatment. That is what we should be striving to get to. The original recommendation unanimously endorsed by the judicial working group on medical negligence was that an earnings and cost-related index would be introduced. Perhaps for budgetary reasons, although I do not know, the Bill before us has actually gone for a completely different model and recommends a harmonised index of consumer prices as published by the CSO, which is, as I said, the opposite of what the judicial working group recommended. It completely ignores the group's unanimous recommendation. Linking payments to the consumer price index actually ignores the difference between the general increase in consumer prices compared to the much greater increase in medical wages and treatment costs. Therefore, as it currently stands in the Bill, there is a very real danger that the Government is putting people who have been catastrophically injured in our health service at risk of running out of the money they need to live and maintain an adequate quality of life.

I know, and the Minister of State will undoubtedly say, that there is a review built into the Bill to examine the operation of the index every five years. However, that is a bit half-baked. It is the worst of all worlds. It is as if we know it is limited and we are just throwing something in there. I do not think it is adequate. This must be addressed when the Bill goes to a later Stage. I compliment the work done by the Medical Injuries Alliance in its address to the health committee on these issues.

I would like to develop the points about open disclosure a little bit. In the Bill in its present form, they are totally inadequate and contrary to the principles of natural justice. Again, the Bill states that any disclosure and associated information provided as part of the open disclosure in accordance with the legislation is not admissible as evidence in any court proceedings in connection with any injury or death caused by the health service provider. This is an absolute missed opportunity as far as I am concerned. The system we have at present is clearly not working. All the Deputies have articulated that position. People who are injured by our health service are at present forced into litigation to find out what happened and to try to get justice. Yet, we have had a national open disclosure policy since 2013. The policy has not changed the fact that expensive and antagonistic litigation is the only way ordinary citizens have to get anywhere near the truth. That is a fact.

It is interesting that back in February 2015, the then Minister for Health, Deputy Leo Varadkar, described doctors who failed to be fully open about incidents as the medical equivalent of a hit and run. He is right about that. He said at that time that if more doctors were open about making mistakes, there would be fewer lawsuits. That is true, and I think it has been verified in other jurisdictions. He promised to make it mandatory for medical and nursing staff to admit errors that have caused harm to patients. That promise has not been delivered in the legislation before us. When people make open disclosures, is it more about protecting the system rather than giving patients and families the right to full and open disclosure? Preventing evidence gathered through open disclosure from being used in subsequent court cases is ludicrous and I think it would be constitutionally suspect. I believe the Medical Injuries Alliance made good points in regard to this. It states that it would be abhorrent to the administration of justice that a court might be precluded from considering all existing information necessary to establish relevant facts before making a decision on questions of liability.

I have less difficulty with the proposition in the Bill allowing that admissions made pursuant to the legislation cannot be deemed to be an admission of liability. That is fair enough. However, when there is a dispute on liability, it is essential that the court has the right to consider all

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relevant factual information gathered on foot of the legislation. That has to include any open disclosure and all records created for the purpose of making that disclosure.

Let us be clear about this. Patients are at a massive disadvantage compared to the health service provider in terms of knowledge when it comes to establishing how an adverse incident came about. Let us be clear that it is the service provider that is in control of the information.

Sadly, unless we change this legislation on Committee Stage, it will not change. Patients might get some more information but will not be able to do anything with that information which is totally wrong and makes the legislation somewhat redundant. Allowing information and records given over as part of an open disclosure process to be entered into evidence in court proceedings does not mean the court proceedings will proceed. That is fair enough. The legal safeguards are still there because the patient would still be required to establish liability when there was not an admission of same. That would provide ample protection for the service provider, in particular when one considers the burden of proof the patient has to reach in any civil action is very high because it has to be proven the doctor is guilty of a failing which no other reasonable doctor of like skill or experience would be guilty of.

It is important to examine the legislation that exists in other jurisdictions. A statutory duty of candour has existed in the UK since 2014. Following an adverse incident there, health service organisations must give a patient a full explanation of what is known at the time, including what further inquiries will be carried out. Organisations must provide an apology and they must keep a written record of the notification to the patient. On top of that there is a statutory duty to provide reasonable support for the patient, such as emotional support or an interpreter, to ensure the discussions are understood by the patient or his or her family. The UK's guidance note on implementing the duty of candour states: "A public authority's objective must not be to win the litigation at all costs but to assist the court in reaching the correct result and thereby to improve standards in public administration." That is what we should be trying to achieve by this legislation.

The UK's statutory duty of candour came about as a result of the Francis report which investigated catastrophic failings of the NHS in Staffordshire. We are devastatingly familiar with catastrophic failures here in Ireland. Deputies should think of Portlaoise or Portiuncula. The HIQA report into the deaths of babies in Portlaoise was hailed at the time by the then Minister, Deputy Varadkar, as a watershed in terms of maternity services in Ireland. It was published years after some of the incidents occurred. The report made sweeping criticisms of the HSE and its staff for repeated failures in the care in the units and, critically, the failure to learn from those mistakes over the years. Who is to say that, had they learned from those mistakes, some of the tragedies would not have occurred. A statutory duty of candour is one of the ways to address this.

Despite having Portlaoise in our recent history, the Government has shied away from this in the legislation. I cannot understand it. Let us look back. The HSE director general, Tony O'Brien, threatened to injunct HIQA when he saw its first draft report on Portlaoise and its criticisms of senior management. All this happened at a time when the HSE had a voluntary open disclosure policy similar to the one we are debating here. It has not done much good for the families in Portlaoise who spent ten years trying to highlight what went on at the hospital. I find it a bit bizarre that the Department's briefing note states there is no question that the protections in section 10 provide a hiding place for "incompetent, negligent or other unprofessional patient care" and that "organisations and health professionals continue to have accountability

mechanisms.” Having spent a lot of time working with families and the campaign to ensure mandatory inquests in cases of maternal deaths, I can tell the Minister of State the accountability mechanisms that are there now are not fit for purpose.

There were eight inquests into maternal deaths in Ireland between 2007 and 2015. All of them had to be fought for tooth and nail by the families involved in the face of intense HSE stonewalling. All eight were marked by consistent under-co-operation or non-co-operation by the hospitals involved. Families need to know when tragedies happen. Sadly, tragedies will happen and it is not necessarily anybody’s fault. It is life. We need to be open when they happen. Our hospitals are chronically understaffed and underfunded which means accidents are probably guaranteed. The full scale of the crisis has to be known by the public and a statutory duty of candour is the key way of providing an impetus for change. There is a huge issue here because the proposal to prevent a patient from being able to rely in any way on the open disclosure process is likely to breed a lot more distrust. What will it do to public confidence in our health service if a patient is provided with clear and frank information about how an adverse incident happened but later in court the very same facts and version of events are denied by the service provider? The reality is the Bill, as structured at present, will lead to increased legal costs. The State already spends tens of millions in fighting damages claims as do the families who have to put up the money in fighting for it. If one party to a civil case has access to relevant factual information and the other party is denied access to the same information, the only consequence will be much more hard-fought, lengthy and costly civil actions. Patients will be forced into a situation of instructing a bunch of independent medical experts to give expert evidence needed to establish sub-standard care or causation, something which had potentially already been established under the open disclosure process but which they could not use in court. It is bizarre and will need to be changed. If the open disclosure is legislated for properly, it will lead to an improvement in the level of trust patients have in our health service, which is supposed to be one of the objectives. I genuinely believe, as the then Minister, Deputy Varadkar, said two years ago, it would lead to fewer civil actions, less trauma for injured patients and families and less money wasted on litigation. It will not happen as the Bill is now. In some ways the Department of Health agrees because the report of the commission on patient safety and quality assurance, published almost a decade ago in 2008, said:

Over the last two decades there has been growing support in the international literature for the concept that doctors should make full disclosure of medical errors to their patients. As well as enhancing patient safety by the acknowledgement that an error occurred, it is also in keeping with the ethical commitment of honesty to patients. Failure to communicate effectively with patients following errors therefore damages the integrity of the profession. Studies show that openness can decrease the trauma felt by patients following an adverse event and that patients often forgive the medical error when it is disclosed promptly, fully and compassionately and action is taken to make sure it does not happen to another patient.

That is the battle the spouses and partners of the women who lost their lives in maternal deaths in our hospitals over the last number of years engaged in when they launched their campaign to secure mandatory inquests in cases of maternal deaths. It cannot bring their wives back but it can stop it happening to somebody else. That has to be the objective of this litigation. Last week, I again met in my office an incredible man, Micheál Grealy, who is 84 years of age and whose wife, Kathy, went into hospital on Christmas Day 1972 to have their first baby. The baby was born on Christmas Day and died because the Coombe did not realise the mother was rhesus negative and the baby was rhesus positive and it did not correct it. Even worse than that,

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Kathy was given an anaesthetic when she should have been given an epidural. She vomited, which resulted in Mendelson's syndrome, and died seven weeks later in 1972. Her husband, at 84 years of age, is still carrying on the fight to find out what happened in that case.

He has seen documents which state his wife's death was avoidable, but he has had no explanation of why it happened. The names of the medical personnel involved in the case, the anaesthetist in particular, were withheld from him for decades. He eventually found out the correct name, following which medical personnel involved in his wife's care gave him information which led him to believe the anaesthetist had had a drug problem and probably should not have been working on that tragic day. He has still not received proper answers. These are things that follow people for a lifetime and the damage and trauma caused are reprehensible.

We have nothing to fear from a proper duty of candour which can actually also protect doctors and nurses in terms of personal liability for accidents. In the final Francis report which led to the statutory duty of candour in the United Kingdom Mr. Robert Francis, QC, very reasonably made the point about professional misconduct proceedings that professional regulators would be far more lenient on those who owned up to errors that had a serious effect on patient safety than they would on those who denied or sought to cover up their lapses. He said, "We need a situation where the legal advice is going to be, 'I know this is unfortunate, but you are going to be better off by telling them about it and by being honest and open about it than not'." Sadly, this Bill, as structured, will not do that. We owe it to people who will fall foul or be the victims of adverse incidents in the health service to deliver a proper Bill. I hope we can work together on Committee Stage to ensure the Bill will deliver on open disclosure and periodic payment orders in a way in which all of us believe citizens should be treated.

Deputy Willie Penrose: I welcome the opportunity to contribute to the debate on the long-awaited and long overdue Civil Liability (Amendment) Bill 2017. I am broadly in agreement with the points so cogently made by Deputy Clare Daly on open disclosure which were closely modelled on the well researched points made by the Medical Injuries Alliance. Open disclosure is an important concept. Very often a full and frank disclosure could prevent the initiation of a personal injuries claim and would most likely lead to a reduction in same. In that context, it is important for people to know the sequence of events. There is a duty of candour in other jurisdictions and the proffering of a full explanation of the sequence and precise nature of events is an act of civility founded on common sense and decency. An immediate apology should likewise be forthcoming contemporaneously. As Deputy Clare Daly said, this has clearly applied in the United Kingdom since 2014, particularly in the context of catastrophic events. I am of the opinion that it could be helpful to the professionals involved, doctors and others, to give their views and opinions and articulate precisely what happened in various situations. We have had a significant number of events in this country involving hospital treatments which would warrant a statutorily enforced open disclosure policy. As a midlands Deputy, I am familiar with some of the cases alluded to by Deputy Clare Daly.

We often hear the State Claims Agency referring to the significant costs associated with medical negligence claims. A lot of these costs would be eliminated at the outset by an early admission of failure, if there was fault. This could be facilitated by a statutory duty of candour. Very often plaintiffs are put through the legal wringer, with costs incurred at every step. Even when it is abundantly clear that liability should be admitted, there are still motions for discovery and so forth. Everyone is entitled to defend a case and I strongly argue that point because it is important to ensure all matters are properly tested. However, where it is abundantly clear that liability should be admitted, it should be so done. There is no point in bemoaning the cost of

civil actions in the context of significant events where the opportunity to reduce such costs is not taken. This would be greatly facilitated by an open disclosure policy.

I now turn to the issue of periodic payment orders, the central core of the Bill. In December 2012, during the term of the previous Dáil, I brought this issue to the attention of the House. I am, therefore, no latecomer to it. As a barrister, it is an issue that has exercised my mind for some time. As the House will be aware, where a person is injured in an accident as an employee, or in a road traffic accident or under the auspices of the occupier's liability principles and the injured party establishes liability against a particular person or company, that party is entitled to recover compensation by way of damages. In deciding the amount of compensation to be awarded to a civil claimant the courts resort to two headings of damages - general and special damages. General damages are that part of an award which compensates a person for the injury up to the day of the court hearing and also into the future which at best is a guesstimate since the effects of the injury can be borne by the injured party throughout his or her life until he or she dies. One will often hear people belittling those who have been injured; for example, one will regularly hear people pour scorn on whiplash injuries. However, I know people who are still suffering ten or 15 years after suffering a whiplash injury and still receiving physiotherapy. People say this does not happen in England and so forth, but I take issue with those who belittle individuals who suffer such injuries. I am not talking about low-velocity accidents but those in which significant injuries occur.

General damages are encompassed by a lump sum award which, despite public perception to the contrary, is not unlimited as there is a court defined cap on general damages in civil claims. The second heading is special damages which include various items which can be calculated with reasonable accuracy with the aid of expert evidence provided by an actuary. Consultants and other experts are often also involved. Such items include loss of earnings, both past and future. In the context of likely future earnings, the possibility of not always being in employment must be factored into the estimate. Special damages also include future medical expenses and in the case of very serious physical injuries can include the cost of equipment, the modification of a dwelling house, the requirement for an automatic car, the requirement for home care and the cost of specific medical aids. Under the system as constituted in this jurisdiction, awards in these cases consist of a lump sum which is a once off payment. In terms of the amount awarded in special damages, it is especially problematic because the amount is intended to be a capital sum which, if invested wisely, will yield enough annual income for the person injured to pay his or her medical and other expenses and live comfortably with the injury.

The Judiciary has been very active in this area for the past six or seven years. Mr. Justice Kearns, then President of the High Court, established a working group on medical negligence and periodic payments under the chairmanship of Mr. Justice John Quirke and the first module of a report on periodic payment orders was presented in October 2010. The report has been available for more than six years. Several members of the Judiciary, most notably Ms Justice Mary Irvine and Mr. Justice Kevin Cross who have taken a number of these cases for ruling, have been urging the bringing forward of appropriate legislation to implement the recommendations made in the aforementioned report but nothing happened in this regard until recent times. In that context, I compliment the Minister of State on bringing forward the Bill.

The House will be aware that since 2005 in England and Wales personal injury awards in catastrophic injury claims may be based on structured settlements or periodic payments. A structured settlement is, in effect, an annual payment or an annuity purchased from an insurance company to meet the obligations in an agreement to provide periodic payments. Periodic

payments are the payments made as a result of personal injury claims and to be made by way of a future stream of payments.

The executive summary of the working group's report contained 13 specific recommendations. The group was unequivocally clear that the single lump sum award was inadequate and inappropriate in cases where the plaintiff had been catastrophically injured either in the long term or permanently or where the person would require ongoing care and medical treatment into the future. As an alternative to a lump sum award of damages, the court can make consensual or non-consensual periodic payment orders to compensate injured victims in cases involving catastrophic injury where long-term or permanent care will be required for the cost of future treatment and care and the future provision of medical and assistive aids and appliances. The order should apply to the whole or part of an award in any case where, having regard to the nature of the injuries for which the award is being made and the circumstances of the person to whom the award is being made, the court considers it is appropriate and in the best interests of that person that such orders should be made, provided that the parties have been given an opportunity by the court to make submissions and be heard in full on the relevant issues. The court should be empowered to make periodic payment orders to compensate for future loss of earnings only with the consent of all parties to the relevant claim. That is important because we do not want a broad brush. We want to give people an opportunity to be able to make their points in court. I wonder whether the Bill will facilitate this. The Minister of State might refer to this in his response because it is important that people have that opportunity. The legislation should facilitate rather than impose.

The 2011 programme for Government, to which the Minister of State, Deputy Eoghan Murphy, subscribed, as did I as part of the Labour Party's participation in government, included a strong commitment to the introduction of legislative reform in this area. It stated legislation would be introduced to enable the courts to make "provision for structured settlements in circumstances where lump sums are currently awarded as a consequence of individuals suffering catastrophic injury because of the negligence of another". The main purpose of an award of damages is to restore people, as far as is possible by way of pecuniary compensation, to the position that prevailed for them before they were wrongly injured. The provision of such awards is clearly inadequate for people with catastrophic injuries, but its objective is restitutory in nature. Such an attempt at restitution by way of monetary compensation is, of course, totally and absolutely inadequate.

I take grave issue with the fact that it has been determined by the courts that the maximum claim in general damages that somebody who has been catastrophically injured can receive is €450,000. The big awards are made when special damages are being claimed in respect of medical assistance, aids and equipment, the modification of houses, the provision of automatic cars and the loss of earnings. A recently qualified plumber aged 25 years should have 40 years of paid work in front of him or her, given that he or she could work until he or she is 65 years of age. When the loss of these earnings is actuarially evaluated, the amount of the compensation could come to several million euro. However, it is lost in the discussions on this issue that the maximum one can receive in court for the injury is €450,000, which is totally on the lower side. Special damages constitute a significant element of any award in catastrophic injury cases. I reiterate that the current ceiling on awards of €450,000 in general damages for catastrophic injuries is totally inadequate when considered against the pain and suffering, the loss of amenities and the loss of expectation of life.

Advocates of a lump sum award note that it is final and that it allows the injured party, or

those acting on his or her behalf *in loco parentis* or as part of a committee, to deal with his or her needs and wants as they arise. I accept that it is an advantage that a lump sum award of €4 million or €5 million is final. This approach enables people to deal with their circumstances. While there are advantages to this approach, the argument against it centres on the possibility of over or under-compensation. The Minister of State has made this argument, with which I agree. The periodic payments principle is enshrined in the Bill for this reason. The role of the actuary is central to the calculation of awards in cases involving catastrophic injuries. Actuarial assessment plays a pivotal role. The calculation of average life expectancy which a court has to determine might not ultimately bear comparison to the real or actual life expectancy of the person involved. If the injured person dies before the date expected, measured or outlined, there is over-compensation. In such circumstances, the defendant cannot recover or reclaim what is, in effect, an excess of damages. We are talking about special damages in such cases because that is where the huge sum arises. Of course, the converse is also true. It is clear that when an injured party lives for a significantly longer period than expected, anticipated or measured under the Irish population mortality statistics - all of this is done statistically - the damages will not be sufficient to meet his or her needs or requirements during the latter phase of his or her life. Such a person will find himself or herself with insufficient resources to meet his or her needs. That creates a huge issue. Annual periodic payments could deal with this issue on a real and practical level. That is why the Bill is so important.

The rate of return on the investment of lump sums which have to be invested is critical. The other issue that has to be considered when a lump sum is awarded is that it is predicated on the cost of care and various other things I have mentioned. Such costs could escalate significantly as a result of inflation. This might mean that they are well in excess of the rate or value operating at the time of the court proceedings and the awarding of the grant. While lump sum awards have the benefit of being definitive and final, they have presented a significant challenge to the members of the Judiciary who deal with these cases and try to do their level best in a sea of uncertainty. Various judges have consistently championed the development of a system of paying damages by means of periodic payments. As I have said previously, periodic payments facilitate the structuring of awards or settlements in a more realistic way in order that injured parties receive regular annual payments for as long as they live.

The working group under the chairmanship of Mr. Justice John Quirke specifically recommended that a periodic payment order be made only where the court was “satisfied that the continuity of payment under the order is reasonably secure”. If that recommendation is to be brought into effect, a form of financial infrastructure will have to be established to guarantee the level of payment. I suggest the Minister of State consider the possibility that the National Treasury Management Agency, NTMA, will have to be involved. It might well seek to be involved. My view is that it could have a significant role to play in that regard. It is a complex area. The Minister of State has a role in the Department of Finance which might well look at the possibility of providing for NTMA involvement in that regard. It has a very high reputation in areas such as this. It would be useful to resort to it in this instance. I have always been concerned about the impact of cases in which plaintiffs live for longer than expected or are imputed in the calculations. It is possible that the awards in such cases will be insufficient to meet the needs of those involved, thereby placing substantial pressure on parents, people acting *in loco parentis* or others concerned with meeting such needs. We hope those who receive €3.5 million or €4 million will live for ten or 15 years more than we might anticipate, but we must have arrangements in place for such cases. That is why this is an important area.

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I have always advocated that provision should be made for the appropriate indexation of periodic payments. I believe they should be index-linked with the earnings of treatment and care personnel and changes in the cost of medical and assistive aids and appliances. The Minister of State deals with the ordinary consumer price index every day of the week. There is a huge difference between medical inflation and ordinary inflation. The Minister of State might say attempts are made to control both, but there is a big difference between them nonetheless. A link with the consumer price index would do a disservice to what we are trying to do. It would actually defeat the purpose of our endeavours. The Minister of State has spoken about the involvement of statistics from the Central Statistics Office and such things, but I argue strongly that there should be a link with the level of earnings of treatment and care personnel who are essential in this context and changes in the cost of medical and assistive aids and appliances. That would ensure plaintiffs would be covered for the cost of treatment and care well into the future.

I certainly welcome the Bill and compliment the Minister of State on reaching this point. I raised this issue with the then Minister, former Deputy Alan Shatter, on 4 December 2012, which is near enough to four and a half years ago.

Deputy Danny Healy-Rae: Is he gone that long?

Deputy Willie Penrose: He assured me that this legislation would be brought forward in 2013. I appreciate that it is a complex area and the Bill is better late than never. I congratulate the Minister of State and the officials in the Departments of Justice and Equality and Finance. There is a lot of work ongoing in these Departments. I do not wish to criticise anybody as people do their best to bring forward proposals and it was not easy to legislate to deal with this issue. People often say flippantly that certain things can be done overnight. There are many flaws in the current arrangements. I have pointed to one or two things, of which I would like the Minister of State to take cognisance. I do not say this for the purposes of blowing a trumpet but to make sure the legislation that will emerge will deal with this issue. It will benefit people who receive catastrophic injuries in the course of medical treatment or road traffic accidents - we would love if nobody suffered such injuries at any stage - and who become plaintiffs in employers' liability or occupational injury claims. We hope no such accidents will occur, but when they do, we must ensure it is possible for those who are unfortunate enough to find themselves in this position to secure the very best result. The others who will benefit from this legislation are legal people, particularly judges, who have been advocating for it for a long time and will be mightily relieved and grateful to see it at long last being placed on the Statute Book and passed by the Houses of the Oireachtas.

Deputy Danny Healy-Rae: I am pleased to speak to the Bill as it deals with a matter that affected many people when they presented at a hospital and the right result was not achieved for them. This is an issue that does and will continue to affect many.

As the Minister mentioned, open disclosure is about an open, honest and consistent approach to communicating with patients and their families when things go wrong in health care. The open disclosure process should include keeping the patient informed, providing feedback on investigations and the steps taken to prevent a recurrence of the incident. It may also include, depending on the particular circumstances involved, an apology for what happened. I note that the Minister first announced his intention to push forward legislation to enforce a medical negligence open disclosure policy in an address to delegates at the State Claims Agency's first annual quality, patient safety and clinical risk conference at Dublin Castle in September 2016.

It is a fact that many involved in the legal profession make a great deal of money out of cases where people make a claim to obtain redress because things had gone wrong in hospital, something should not have happened to them and, in some cases, lives were lost or people were hurt and the right result was not achieved. The Minister also said at the event that the establishment of a new national patient safety office would “lead a programme of significant patient safety measures” that would include a review of how adverse medical events were disclosed to patients and their families and the process for claiming medical negligence compensation. I would be worried if this were to be another governance arm set up in the HSE where we would have to depend on the HSE to tell the patients about their rights. An independent body should be monitoring this area. It should not be another job handed to the HSE to correct itself or check what happened. I would not trust it in that scenario. It must be an independent body to monitor this area.

I note that A Programme for a Partnership Government also makes it clear that open disclosure is an essential component of patient safety and commits to measures to support it. The programme also states it will be made mandatory to report specified patient safety incidents or serious reportable events to the authorities and the patient harmed. That is certainly necessary.

The general scheme of the Health Information and Patient Safety Bill also has provisions on voluntary external reporting of non-serious incidents to the States Claims Agency, supporting and complementing the current reporting process to the agency. However, it is not proposed to legislate for mandatory open disclosure to patients. That is wrong. That is what we should be hoping to achieve in the Bill, that there would be mandatory open disclosure and that doctors, nurses, matrons or whoever makes a mistake or an error would come clean and tell patients or their families what had happened. That is what this is about. It appears that doctors and others involved in the medical profession are prevented by the HSE from disclosing to patients what happened in different cases. That is wrong. This measure should legislate for mandatory open disclosure to patients. We are told the reason it is not proposed to legislate for this is related to creating the positive voluntary climate for open disclosure laid out in the Madden report and which will be reviewed in line with experience to see whether it needs to be strengthened and how, if necessary, that could best be done. I do not trust that aspect of the Bill

In Australia one of the central principles of open disclosure policies involves the presence of good governance and the insistence that quality assurance requires organisations to be able to demonstrate that they learn and improve their performance through continuous monitoring and by reviewing the systems and processes in place for meeting their objectives and delivering appropriate outcomes. Can we hold out any great hope the HSE will be capable of demonstrating that approach? As the Australian model of open disclosure also notes, health care organisations need to ensure appropriate direction and internal control through a system of governance. It is imperative that each facility and its management show the capacity and a willingness to learn from adverse events. As noble as the aim is and as good as the principle is, do we really need to go about creating an additional level of governance within the HSE? How can we prevent the difficulties that will go along with it?

I welcome the principle of the Bill, but I have serious concerns about the capacity of the HSE to carry it through. There is a need for a radical change in its culture first. We all know about the serious events where the lives of family members have been lost, where family members have been left with serious disabilities, where babies have been left with serious disabilities caused by negligence during childbirth and where mothers, likewise, have suffered during childbirth. Doctors and nurses know at that point that they have slipped up and it would be

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much easier if they were allowed to come clean. I know that most of them would, but they are prevented from doing so by their organisation, the HSE. I refer to people who have lost a family member, a father or a mother, the breadwinner in the family, because cancer was not diagnosed in time. Men and women have lost their lives because a heart complaint was not diagnosed. Sadly, after spending days in hospital, when it should have been detected, they died. Someone has to be held to account. Someone must be accountable when something dreadful like that happens and family life as they knew it is finished forever. In cases where the breadwinner dies the wife and children will suffer for years and never recover following
8 o'clock their loss. I know of one hospital which I will not name where six lives were lost in the space of two months. They lost their lives because they had developed clots as their complaints were not addressed when they presented at the hospital. I know about these incidents because I was very close to one of the people concerned. That is not right. I know that the doctors and nurses involved knew that things were not right and that they would have come clean, but the system in place does not allow them to do so. A lot of money has been lost in the courts with mounting legal costs. When an award is made, a percentage of it goes directly to the legal profession, including barristers and solicitors; that money could be used to pay damages to many people to give them some retribution, while freeing the courts to deal with other business.

Debate adjourned.

Equal Participation in Schools Bill 2016: Second Stage [Private Members]

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

We live in a State where it is legal to keep a child out of school based on the religion of his or her parents or the lack of religion. We live in a State where people of different religions work and live side by side but schools tend to segregate them. In surveys, 71% of people in the State have indicated that church bodies should have less influence over our local schools but 96% of primary schools are church-controlled. A number of organisations, including the Irish Society for the Protection of Cruelty to Children, Pavee Point, BeLonG To, the Children’s Rights Alliance, the Migrant Rights Centre Ireland, Empowering People in Care, the Irish Human Rights and Equality Commission and no less than the United Nations Committee on the Rights of the Child have stated this discrimination, on the grounds of religion, is completely and utterly wrong and an abuse of human rights. Nearly 72% of people agree with this so what is the problem? The only people with an issue would seem to be Fianna Fáil, Fine Gael and, potentially, the Labour Party. These Deputies are the extreme rather than the norm if we compare them with the aspirations of people in society. Fine Gael and Fianna Fáil are extreme with many church and State matters. They believe Deputies should be forced to observe a denominational prayer and some of them believe rape victims should not have the right to terminations and are no more than vessels. Most people in society do not share that belief.

This Bill is far from radical and in most countries it would not even be an issue. There are two aspects to the Bill, the first being to abolish section 7(3)(c) of the Equal Status Act, which allows schools to refuse to admit people; this is the so-called baptismal barrier. Our Bill goes further, as it stipulates that the curriculum must not be dominated by religion and there must be respect for students if they manage to get into a school. There should be an objective curriculum that caters for the needs of young people. The recent census indicates the number of non-religious people rose by 74% on the level five years before, with the Muslim population

increasing by 29%, the Hindi population increasing by 34% and the number of people declaring themselves to be Catholic down to 78% of the population. That does not mean all of those are practising Catholics and want to see a continuation of the way schools are run. These are schools funded by the taxpayer and they should be for education and not faith formation. It is estimated that 24% of people have had their children baptised just so they can secure a school place. How long will this continue?

The Minister raised a number of issues opposing change in a speech he made in the new year. He argued that this generation of politicians had nothing to do with the current position and inherited it. The Minister knows it does not fit people's needs and his argument is completely wrong. The Education Act was only introduced in 1998 and it allows the characteristic life of the school to be permeated by spiritual or religious ethos. Catholic congregations are still being awarded schools; as recently as in the past couple of months in Castleknock, a secondary school was awarded to the Christian Brothers Edmund Rice Trust, which owes money within the abuse scheme. Why is that happening? That comes from the current generation of civil servants and politicians.

The other myth that comes up again and again is that the church stepped in when others were not willing to do so. The Minister said that in his speech. The reality is that since the 19th century, the Catholic Church in Ireland opposed a national school system. Cardinal Paul Cullen said it was very dangerous and "the aim is to introduce a mingling of Protestant and Catholic"; by God, would that not have been absolutely dreadful? I do not have time to expand the point and give a history lesson but the curtailment of State education and health continued not just unchecked, but was facilitated by the two big parties after Independence.

For nigh on a century it seems, Fianna Fáil, Fine Gael and the Labour Party in power relied on the church for authority, support and civil control. That is why we are in this ridiculous and absurd position. The majority of people want change but the only block is Dáil Éireann and, in particular, the two big parties. Of course, we have a State-funded school system but after the taxpayer pays for the land, which can be very expensive, school sites, buildings, staff, extensions and repairs, it hands over those schools to private, generally religious congregations, entrusting them with these State assets and the education of young people. It gives an inordinate amount of power over young people, who is admitted and how things are taught.

In the consultation process, the Minister recently outlined four options but each of them maintains discrimination. The first option regarding a catchment area still puts Catholics from the catchment area first and non-Catholics second. It is discrimination and it will not solve the problem because children will be segregated, if they attend the school, when it comes to the teaching of religion, or they will not be given the option of opting out, which is generally the case. In an overcrowded case, the school will be for Catholics only. The second option is the nearer school and the third relates to a quota of non-Catholics, as is happening in some cases anyway. Even option four, which gets rid of the baptismal barrier, would require pupils to conform to the school ethos, which is a major problem in many cases. The Le Chéile school in Tyrellstown is another one in my local area and it is dripping with Catholicism, as it is the first thing one sees. However, it states that it facilitates students from all religions.

Our Bill would also amend sections of the Education Act, vindicating the rights of students and the rights of parents when they get into a school. The opt-out, which is a constitutional right, is not practised, as the Minister knows, even when it is offered. A teacher from the Teachers for Choice group has indicated that in her school, the opt-out is never presented to any

student. In the staff room a discussion took place when an atheist child landed in the school and the principal said the student was “in the wrong place” and it was a Catholic school. It was not too long before that child left. Such infringements on people are not uncommon and can be seen every day. Even when students are allowed to opt out, they tend to sit in the back of the room with a crayon, listening to the religious lesson. Laughably, today the Government says it will oppose this Bill because it wants to protect minorities. Any party that voted last week to inflict a majority prayer on the national Parliament is hardly an arbiter of minority rights. The people who would benefit most from our Bill are minorities. To try to use them is a bit rich. Roopesh Panicker is in the Visitors Gallery tonight. His daughter was refused a place in approximately seven schools, as the Minister knows. She is now in a Catholic school and has asked her father when she will make her first communion. This is a Hindu child. Are there no rights for people of minority religions? A teacher posted on Facebook to say the class picture was taken last Saturday during the communion service. That was considered to be the year picture for the class. Three students did not make their first communion and they are not counted as being in the class. That is commonplace, as well as the inordinate amount of time spent in preparation.

We want to see an end to the baptismal barrier but we also need absolute change in the curriculum and life of schools. There is a fifth year student in the Gallery who spoke yesterday at our press conference about how no sex education has been offered throughout her school life. Anyone who is lesbian, gay, bisexual or transgender, LGBT, is sidelined and told not to bring that up because it is a Catholic school. Is it not ironic that we held a referendum on same-sex marriage and people came out in droves to vote, yet people who are gay, transgender, bisexual or whatever are not allowed to be fully open about their sexuality? How long is that infringement going to continue? It is high time the Minister realised there is a movement in this country for separation of church and State, for example, in respect of the national maternity hospital and that people will want a say on the proposals of the Citizens’ Assembly. Let us start with getting our schools out of the control of the church.

Deputy Richard Boyd Barrett: I thank Deputy Coppinger for bringing forward this Bill. I was curious to see the Government’s amendment to a Bill which concerns equal participation in schools. One could not think of something that could appear more obvious or less controversial than such a Bill, yet the Government has put down an amendment signalling its intent to block the further passage of this Bill. That is about as clear as it gets: this Government does not believe in equal participation in school, which makes me think Fine Gael should change its slogan to “The best small country in the world to discriminate against children” because that is the thrust of its amendment, or “The best small country in the world to brainwash children and shove a particular religious ethos down their throats regardless of whether they share that religious view or have no religious belief whatsoever”. The Government proposes to retain a *status quo* where it is alright in law to discriminate against particular groups of children. That is shameful. The Irishness of it is brilliantly summed up in the famous section 7(3)(c) of the Equal Status Act 2000 which states:

An educational establishment does not discriminate [...] where the establishment is a school providing primary or post-primary education to students and the objective of the school is to provide education in an environment which promotes certain religious values, it admits persons of a particular religious denomination in preference to others or it refuses to admit as a student a person who is not of that denomination [...].

Let me cut that short: “An educational establishment does not discriminate [where] it

admits persons of a particular religious denomination in preference to others or it refuses to admit as a student a person who is not of that denomination [...]”. It does not discriminate if it does discriminate. That is what our law says. It is unbelievable. One could not make it up. This was a Fianna Fáil Bill.

The religious Taliban is not a distant exotic threat. It exists in this country. The law continues to give it the right to dominate our schools and it is represented faithfully into the 21st century by Fine Gael and Fianna Fáil. It really is unbelievable. That means for young people of minority faiths or no faith that they are isolated, excluded and made feel different. What a shameful thing to do to young people. It is unconscionable that the Government can stand over that continuing.

When I heard the school student, Megan, speak at our press conference about how this impacts on the quality of education, it shocked me and made me think of James Joyce and *A Portrait of the Artist as Young Man*, which I would recommend that the members of Fianna Fáil and Fine Gael read. It is clear they have never read it, chapter 3 in particular, where the priest in a retreat lectures the schoolchildren about the hell and damnation they will suffer if they give any expression to sexual appetite or if they refuse to submit to the authority of God, if they refuse to accept that the divine power is one to which they have to submit. Joyce brilliantly characterises the guilt he felt as a child and the fear and terror that he would suffer retribution if he had sexual feelings or refused to submit to the diktat of the religious authorities.

This has very serious implications. Its modern version is incredibly still going on, as Deputy Coppinger said, when 80% of schools are dominated by a particular religious ethos. They refuse to give proper sex education, which affects the health and safety of our children, because it does not suit their religious ethos. They refuse even to acknowledge the existence of LGBT people, or to educate our children about sexually-transmitted diseases and how to protect themselves. They make young people feel guilty about sexual feelings and so on. It is shameful that we allow that to persist but that is what the Government proposes to do. Deputy Coppinger’s Bill proposes to remove that imperative in the law brought in by Deputy Micheál Martin. This is not a legacy issue or the residue of a dark distant past but Deputy Martin’s decision in 1998 to allow the characteristic spirit of the school to pervade the school day and that means in the vast majority of schools the Catholic or Christian ethos and all that goes with it. Instead of encouraging young people to think for themselves and educate them properly about sexuality, reproductive health and so on, the school is allowed to deny them those things or shove a particular doctrine down their throats. It is absolutely scandalous that the Government would allow that to continue.

I will conclude by saying how angry I am that this is justified in the Government amendment by reference to the need to protect minority religions and faiths. Let me be absolutely clear. I would fight to the death for the right of somebody to profess and hold a religious belief and practise it. The reality is that by allowing the current situation to pertain, anybody who has a minority faith or is of no faith is being discriminated against. The Government is not upholding a diversity of religious views or the rights of those of no faith. Rather, it is actively allowing discrimination against minorities and those with no religious faith.

The Bill proposes that school facilities should be made available to those of particular religious beliefs or denominations after school hours. An education system that is entirely funded by the public in school buildings that are funded, built and maintained by the public should not allow a particular religious denomination to take advantage of and exploit those public facilities

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in order to shove a particular religious doctrine down the throats of children and exclude, isolate and deny rights to those who do not share those beliefs or who have different beliefs. I appeal to the Government to withdraw its quite disgraceful amendment and allow this simple Bill, which is about equality, pass to the next Stage and bring in the equality that the majority of the people in this country expect for our children.

Minister for Education and Skills (Deputy Richard Bruton): I move amendment No. 1:

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

“Dáil Éireann, while supporting the principle that change is needed in relation to the role of religion in school admissions, declines to give the Equal Participation in Schools Bill 2016 a Second Reading for the following reasons:

(a) Dáil Éireann last June agreed that the Labour Party’s Equal Status (Admissions to Schools) Bill 2016, which aims to deal with this issue but does so in a very different way, would proceed to Second Stage in 12 months to allow sufficient time for scrutiny by the Oireachtas Committee on Education and Skills;

(b) the Oireachtas Committee on Education and Skills has recently held consultations on this issue and this Bill takes no account of the results of those consultations;

(c) the Bill, as drafted, would have a devastating impact on minority religious communities, including Protestant, Muslim and Jewish communities, and their ability to run primary schools in accordance with their ethos;

(d) the Bill, as drafted, would remove the ability of a school to maintain a ‘characteristic spirit’ whether its ethos is of a denominational, multidenominational or non-denominational nature - this would also remove the possibility of a school, for example, to have a particular linguistic ethos, as in the case of Gaelscoileanna, or a particular ethos in respect of special educational needs as in the case of a special school, and all of this would have far reaching consequences on our capacity to run an education system which depends, as it does currently, on patrons to run schools; and

(e) the Bill has a number of aspects which would appear to be unconstitutional.”.

I thank Deputy Coppinger and others for introducing the Bill. Unfortunately, I have to oppose it and cannot support it as outlined. I fully recognise the need for change in this area, which is something I have been determined to do from the very start of my Ministry.

I recognise, as does Deputy Coppinger, that in the recent census 10% of the population said they were of no religion, and in the age cohorts of those who are bringing their children to school the percentage is even higher. I recognise that one third of people are now getting married outside any denomination. There is clearly a need to change, and the question is what change we want to have. We need to promote more choice and diversity. I have pledged to introduce new types of schools that would be multidenominational or non-denominational and expand their number in order that there would be wider choice. I have taken a number of initiatives in that area to drive on that process.

I also believe that we need to change some features to which Deputies have referred. It is unfair that a parent of a child would find that his or her child who is of no denomination is

passed over in favour of a child living miles away who comes into a school area and gets preference because of denominational reasons. It is not fair that parents should feel pressurised to baptise their child in order to get into a local school. We need to come up with changes that provide for a way in which parents can get access to local schools on a fairer basis. In order to achieve this change in a way that does not throw out everything good in our existing education system, we need to do that in consultation with people who are players in the system.

As we know, under the Constitution parents are the primary educators. I do not share the Deputies' belief that it is wrong that a person of a particular denomination should want to bring his or her child up in a faith and have him or her educated in a school that has a characteristic spirit reflecting that faith. It is not something that every parent wants, and that is what we have to recognise.

The Bill is designed to try to move us to a position whereby there would be just one type of school and does not recognise the characteristic spirits of different schools. It is very evident that there is a different characteristic spirit in an Educate Together school, a community national school or a Gaelscoil, which is welcome. The Bill would put a red line through all of those provisions. We need to recognise that this is an area where we need change, but we need change in consultation with others and to bring people with us.

In the admissions Bill that is before the House, every school must accept every child if it is not oversubscribed. Some 80% of our schools have to accept every child. They cannot decide that they will not accept a child because of his or her religion or for any other reason. It is only in the case of oversubscription that the possibility of a selection process arises. It is important not to portray our system as one which blocks out people on a universal basis because it does not but, as I said, it needs to change.

Deputy Coppinger said her Bill protects minority religions, but I would say the opposite is the case. If a person is a member of a minority religion and wants his or her child to be raised in the ethos of one's religion, the Bill kills that stone dead. That cannot happen under the Bill. There cannot be a Methodist, a Church of Ireland or a Presbyterian school because under the Bill such schools could not have a selection process that would allow them to select children from that ethos. I do not think that protects minorities. Rather, it discriminates against minority churches.

At the weekend I attended the conference of Church of Ireland managers and associations, which Deputy Coppinger did not attend. Representatives expressed concerns about what Deputy Coppinger deems wholly inadequate. They expressed much concern about how they would be protected under the various options that are available. There are very different views, and we have to accommodate them. It is good that we show respect to the very strong traditions within our community and recognise that the desire to have children raised in a tradition is a reasonable aspiration. We, as politicians, in recognising that parents are the primary educators should seek to support them as best we can, while not leaving others without.

That is the reason I have outlined a series of steps. As the House knows, the Labour Party proposed a Bill this time last year in which it advocated a process of catchment areas. A religious school could only give preference within the catchment area of the school. That is clearly one approach. A child from outside an area could not be given preference over local children. Another approach I have outlined is a quota system, whereby a school could only provide preference to a certain proportion of children of a particular ethos but other places would have to be

offered on an open basis to children who wished to attend the school.

A third approach would be to consider the possibility of amending the equal status legislation and, in certain circumstances, allowing a minority church which found that the number of children of its ethos dropped below a certain threshold to reintroduce a preference for children of a religious denomination in order to protect the ethos of the school. It could have a school that would retain a characteristic ethos that represented a religious approach. They are fair and balanced approaches. The Oireachtas committee has held hearings in this area.

I fully respect that, at the end of the day, the Legislature is sovereign in this area and will have to decide on this matter. It is absolutely right for me, as Minister for Education and Skills, to hold a consultation process in order to allow stakeholders in education to have a chance to express their views. Not only have I held that consultation and received submissions, which I appreciate, I am going to follow it up with a forum to tease out some of the thorny issues so that we will be in a position to come forward with legislation in circumstances where the House, in making a decision, will have had full access to the views of those who would be impacted by it.

Deputy Ruth Coppinger: Would a citizens' assembly be good?

Deputy Richard Bruton: The House could then make a decision in a way that is fair and respectful of all the various traditions here.

I wish to correct a few things Deputy Coppinger said. The reason the Catholic Church was successful in some of the competitions for new patrons was that it reflected parental choice, which was the criterion used in those selection processes. Where a religious patron was successful, it reflected parents' views. It was not a departmental view.

Deputy Ruth Coppinger: Catholic schools did not give out the non-Catholic information.

Deputy Richard Bruton: It is also worth reflecting on the mix of those schools. In every case at primary level, it was a non-denominational school under the patronage of either Educate Together, Foras Pátrúnachta, an ETB or other multidenominational patron. Each of the 31 new schools in the last couple of years was non-denominational. As such, there is no big conspiracy to prevent the emergence of choice. We are trying to promote choice.

Deputy Coppinger asked how we could improve provision for children who are not of the particular religious ethos of their school and ensure they are protected. This is an area in which, again, we are taking initiatives. It will have to be specified in the admissions Bill how schools will deal with pupils who want or whose parents want them to opt out conscientiously of religious instruction. They will have to set that out in their admissions policies. Moreover, that will be overseen under the parents and students charter with parents having the right to go to the Ombudsman for Children if they are not happy with the way in which they are being respected under that provision. Again, we are moving to introduce changes which will allow children who do not want to participate in the particular ethos to have their positions respected and dealt with.

I return to the basic reasoning. I cannot support a Bill which throws out all of the characteristic ethos and diversity of schools. What we need to do is create more and diverse schools and to deal with the issue of children who are not of the denomination of their local school to provide them with a fair chance of access. We are trying to restrict the use of religious grounds for choice either through catchment, nearest-school quotas or the amendment of the Equal Sta-

tus Act in such a way as to also protect those schools.

Deputy Thomas Byrne: I thank Solidarity-PBP for bringing forward this legislation. It is a welcome reminder of the need to do something about this issue. While I agree that there is an issue there that must be solved, Fianna Fáil cannot, unfortunately, support the Bill because, like a great deal of what Solidarity-PBP produces, it goes way too far. By going to the heart of the ethos of a school, whether it is religious or multidenominational, and abolishing it entirely by removing any characteristic spirit, Solidarity-PBP has gone way too far and will not get support in the House.

Everybody agrees that people should be allowed to go to their local schools. However, people also value the ethos of a school and are entitled to look to go to a school which reflects their own ethos. We do not have a system of State schools in this country. Rather, we have a system of patronage for which the State provides. There is a varied system of patronage and choice. There are Catholic schools and, despite all of the commentary, there are still parents who want to send their children to them. There are Protestant schools which are very highly valued by Protestant parents and communities not only for their educational provision, but also for their positive impact on those faith communities. There are multidenominational schools and there are Gaelscoileanna. I asked Deputy Micheál Martin about the idea of characteristic spirit this morning. There is no doubt that it is a much wider concept than that of religious spirit. It goes to the heart of what schools are about and whether they are renowned for a particular sporting activity or, perhaps, an artistic focus. Some schools are really good at engineering, technical subjects and science.

Deputy Richard Boyd Barrett: That is a bit spurious.

Deputy Thomas Byrne: It is not spurious. The point is that it is not simply a question of religion, but one of ethos and spirit and what a school is known to prioritise. Some schools prioritise rugby. It was not so in my school, but there are others which do it.

Deputy Ruth Coppinger: They should not. They are not there to prioritise rugby.

Deputy Thomas Byrne: Other schools prioritise Gaelic football. That is part of it. This is not simply about religious ethos. While I accept that there is an issue here which must be solved and while I cannot support the Solidarity-PBP Bill, neither can Fianna Fáil support the Minister's amendment for the simple reason that we have already had hearings in the Oireachtas committee and a public consultation. Fianna Fáil has set out its particular solution to this problem and it is about time the Minister put forward his. People have been spoken to and given their views. We have heard from everybody at this point, as has the Minister on foot of the public consultation. It is about time Fine Gael and the Government put forward their views and let the public know what their position is so that, together, the Oireachtas can come up with a solution.

Our focus in Fianna Fáil is very much on protecting minority faith schools. There is no doubt that if Solidarity-PBP's Bill were passed, minority faith schools and their particular ethos would cease to exist. They would be lucky to have any members of their own faiths attending given their extremely wide catchments. They draw in children from all over. If the Bill were passed, they would more than likely have to operate a list and that would inevitably restrict them to local people who might not have a particular link to the schools. It is very important to recognise the role of minority faith schools.

We must also recognise the entitlement of parents to send their children to Catholic schools

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if they so wish. The entitlement exists in the UK also and is not unique to Ireland. An Italian law has been upheld in the European Court of Human Rights which allows crucifixes to be displayed in schools. While that is not where I want to go, the point is that there is a religious aspect to education in many parts of the world. It is simply a fact. As the Minister pointed out in respect of one of the schools in Deputy Coppinger's constituency, it is something parents have sought. The role of the Oireachtas is to bring everyone together. The children of the nation are equal and the system is funded by the State. We must bring all competing interests together to ensure that children go to their local schools while also ensuring that the ethos of those schools is protected. We must ensure that parental choice exists.

A related reason as to why I want this dealt with and on foot of which I am not supporting the Bill is that there is too much focus on educational legislation. We need to settle these issues and get them off the table so that we can move on to focus on what is most important in education, namely, resources, getting more classrooms and reducing the teacher-pupil ratio. All of this legislation should be dealt with. Those provisions which need to be dealt with should be passed as soon as possible to allow us to move to the real focus, which is money to fund our schools.

Deputy Fiona O'Loughlin: Ireland has an increasingly secular population which has led to a demand for more diversity in schools. It is also a fact that 96% of our primary schools are under denominational patronage, which creates significant issues for children of minority faiths and none in the Irish education system. A 2015 article in *The Irish Times* set out that four out of five immigrant children were concentrated in 23% of our primary schools. ESRI research from 2012 found that 44% of primary schools did not have any ethnic minority pupils whereas in 9% of primary schools more than 20% of all students were from an ethnic minority background. Clearly, we have a problem.

It is unfair that those children who do not go to a faith school or whose parents do not want them to attend such schools receive lower priority when seeking to enrol in denominational schools. There is no doubt that multid denominational schools are more likely to be oversubscribed because they are so few in number. Primary school admissions policies must reflect the significant cultural, social and demographic changes the country has undergone and provide for increased diversity. There is an increasing mismatch between the current patronage arrangements and the wishes of parents. I have to say schools have a right to defend their ethos, and this is explicitly protected by Article 44.5° of the Constitution. We have to allow the ability of minority faith schools to defend their ethos. If a school can choose its own language, and rightly so, in terms of Gaelscoileanna, then surely a school should have a right to choose its own ethos. The Fianna Fáil solution, and the only workable approach, is to use catchment areas as the basis for selection processes and, for oversubscribed schools, criteria based on locality and catchment area should be used. Catchment areas could be sized according to the popularity of the school ethos. For example, Presbyterian or Jewish schools would have a very wide catchment area for admissions as there are so few of them in the country. This would protect them, and rightly so, as minority denominational schools. With this approach we could remove the worst problems of the baptism barrier and provide the right to religious freedom and equality of education for all.

We must support choice and we must support diversity. At this point in time, as the Minister is aware, two Bills with regard to equal access to admissions are before the committee. We spent some time today at a committee meeting looking at these. The committee hopes to be in a position within the coming weeks to have a finalised report to recommend to the Minister.

What is the bottom line? It is that nobody should have to baptise his or her child to get into a school and that all children, regardless of religious denomination and outlook, should have access to a school in their local community. This should be extended to all children outside of their religious beliefs or none. Children with disabilities should also have the right to access a school in their own area. The treatment of non-Catholic parents and children in our education system is an urgent rights issue and needs to be dealt with.

Deputy Declan Breathnach: I acknowledge the enormous work of all religious orders, priests, nuns and brothers. Without their support over the years in finance and time this country would be at a huge loss educationally. If they were to pull out entirely, the Department of Education and Skills would not be able to educate the young, particularly at primary level. I also acknowledge the great work of lay people on boards of management, who with very little resources over the years managed and ran very successful schools and continue to do so.

I spent 35 years as a primary school teacher and know the type of subsidisation required for the maintenance of school property and general upkeep when the capitation grants, then and now, were scarcely sufficient to meet the schools' insurance and heating costs. Unfortunately today, that shortfall in school funding tends to fall on the shoulders of proactive parents' associations to meet growing school needs.

Members need to know the Equal Status Act 2000 prohibits religious discrimination in educational services. However, the Act allows oversubscribed schools to enrol coreligionists in preference. We all know of the 20% of schools, mainly in Dublin, which are oversubscribed and which have led to this huge debate. These are the most active in employing admission processes and selection criteria based on religious background. I firmly believe this is wrong.

I suggest in the interim, when we are trying to get a solution to ensure everybody, religious or not, is treated equally, that the Department of Education and Skills could, through the inspectorate, seek that all enrolment policies embrace the conditions which we all know are needed to provide equality in religion and everything else throughout the school. This would be subject to the payment of the grant, and would be acceptable in terms of ensuring there was no discrimination.

Deleting section 7(3) of the Equal Status Act in the manner proposed would endanger minority faith schools, as has already been alluded to. This is why the section was included in the Act in the first place. Fianna Fáil's view is the selection process should be based, as others have said, on catchment area. In the case of oversubscribed schools, locality and catchment would have priority to a school place.

On the issue of faith formation and religious instruction, we do not support instruction after school hours and believe it would be unconstitutional. My experience from having taught in schools with a Catholic ethos for many years is that all religions and none were always accepted. I would venture to suggest that leaving aside the sacramental issues, to which any religion is entitled, the ethos in schools and the teaching of any form of faith or ethos was based on respect, with the children respecting themselves, their community, their family and their neighbours. This permeates civic, moral and religious beliefs in all faiths. I suggest to the Minister that he could take interim action and ensure all schools have a clear policy before grants and other such items would be paid.

Deputy Niamh Smyth: No parent should have to baptise his or her child simply to get him

or her into a school. All children, regardless of religious denomination or outlook, should have access to a school in their local community. Therefore, I will not support the Bill. It is unconstitutional and would discriminate against the right of schools to defend their ethos. About 20% of schools in the country are oversubscribed and they are the most active in employing admissions processes and selection criteria based on religious background. This is wrong. However, simply deleting section 7(3) of the Equal Status Act in the manner proposed is too simplistic and would endanger the right of minority faith schools to defend their ethos. At the time, the section was inserted with the intention of protecting the right of minority faith schools, in particular, to defend their ethos.

Our approach is constructive and would not infringe on the rights or identity of minority faith schools. Selection processes should be based on catchment area, where children from the catchment area get preferential access. I favour the introduction of selection criteria for oversubscribed schools, based on locality and catchment area, whereby children living in newly-designated school catchment areas would be prioritised. However, I do not believe that schools should be able to give admission to children of their own denominational background from outside their catchment area in preference to children of a different denomination from inside their catchment area.

Catchment areas could be sized according to the availability of schools of different ethos. This would mean that catchment areas could be sized according to the popularity of the school's ethos. For example, Presbyterian schools would have an extremely wide catchment for admissions as there are so few of these schools in the country. This would protect them as minority denominational schools. This would mean that a situation could not occur where a child from outside an area could be considered for a school place before a child from the local area, even if the local child is not of the denominated belief.

In addition, a new schools admissions appeals body should be established in the Department of Education and Skills to which parents who suspect their child has been discriminated against during the admissions process of a school would have recourse for appeal and investigation. There are many minority schools in my constituency of Cavan-Monaghan. They include Bailieborough model national school, Cabra Central national school in Kingscourt and Monaghan model school, which have all expressed serious concerns because removing section 7(3) of the Equal Status Act would provide absolutely no protection for minority denominational schools. Ultimately, the reason for the insertion of section 7(3) in the first place was explicitly to provide equal status to protect schools of minority ethos. What Solidarity-PBP proposes would mean obliterating this section and would completely disregard all of the schools' concerns.

Deputy Carol Nolan: Gabhaim buíochas leis an gCeann Comhairle as ucht an deis chun cainte ar an topaic seo anocht. Tá Sinn Féin ag tacú leis an mBille seo. Tá sé leagtha amach i bhforógra mo pháirtí go bhfuilimid i gcoinne aon chineál idirdhealaithe. Aithníonn an páirtí gur cheart bunúsach é ceart oideachais. Aithníonn an páirtí go bhfuil an tromlach de scoileanna sa tír seo ag déanamh a seacht ndícheall le bheith cothrom ina bpolasáí iontrálacha. Tá sé soiléir go mbaineann an topaic de idirdhealú reiligiúnda le scoileanna atá lán, go háirithe i gceantair uirbeacha. De réir tuairisce a d'fhoilsíodh in 2012 ón bhForam Pátrúnachta a bhaineann leis an mbunrannóg, tá 96% de bhunscoileanna faoi thionchar pátrúnachta.

The increasing diversity of our population has led to increased demands for an education system that is reflective of all trends within our society and that ensures equal treatment of all children. The Equal Status Act 2000 states that schools can refuse admission to a student on

the basis that it is necessary to maintain the ethos of the school. Emerging evidence shows that when a school is oversubscribed, as approximately 20% of all schools in Ireland are, the religion of the child seeking admission to school can be a determining factor as to whether the child is admitted.

This situation has been highlighted by several representative groups and bodies such as the Teachers Union of Ireland, the Irish National Teachers' Organisation, the Ombudsman for Children and the Irish Human Rights and Equality Commission. All of them have criticised the fact that the Equal Status Act 2000 gives schools considerable scope to refuse admission or exclude and have called for a provision to be amended or repealed in order to fulfil the rights of the child.

Sinn Féin believes that the right of a child to receive an education within reasonable conditions and without discrimination must be the paramount consideration in determining our approach to this issue, and it must be an approach that is respectful of all views because this is a contentious issue and we have to be respectful.

Sinn Féin believes in and strives to achieve an inclusive Ireland where all cultural and religious traditions are valued and respected. We believe that an inclusive education system where children learn about different faiths, ethics, morals and religions and grow in an atmosphere of mutual tolerance and respect is the key cornerstone in achieving this type of society. We believe it is important to send out a clear message that discrimination in any form will not be tolerated and that all children should be treated equally in terms of access to education. Sinn Féin, therefore, will be supporting this Bill and we encourage the Government to act on this issue and to ensure that full equality for all children can be achieved.

Deputy Louise O'Reilly: The Minister spoke earlier about the need to be fair to children, parents, minority faiths and everybody. From what I can gather, and I had some experience of this as a parent, it is not easy in some instances if one is not a Roman Catholic to be able to have one's child educated in a way that will suit one. This Bill is only about fairness and the elimination of discrimination and I thank Solidarity-PBP for bringing it forward and giving us the opportunity to have the debate because there seems to be a significant amount of agreement among us. We all agree that discrimination is wrong but it happens on a daily basis, and it is facilitated by this Government. It will happen to children next September. The only fair way to do this is to allow parents who wish their children to be involved in faith formation, ceremonies and all that goes along with that to be facilitated to do that in their own time, outside of what we can all agree are the core activities of school, not rugby but a lot of learning.

In 2011, the UN Universal Periodic Review recommended that Ireland eliminate discrimination in schools on religious grounds. It is a mystery to me why that has not been done, yet in this debate this evening we are all saying that there should be no discrimination in our schools. It is not an urban-rural issue; it happens throughout the country. If we are all agreed that there should be no discrimination in our schools, should we not do the decent thing and support legislation which seeks to eliminate discrimination in all of its forms from our schools and allow our children get on with the business of going to school to learn and to grow and allow those people who so choose to engage in faith formation and all that goes along with that outside core school hours?

There needs to be a change to ensure that religious instruction and faith formation classes take place outside core hours. It would allow an opportunity, as it does in multid denominational

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schools, for children to learn about all religions. That is probably a very good idea but without doing so within a faith formation setting.

I had personal experience of this because my daughter was educated in a multidenominational school. While there was a certain amount of discussion around religion, it was about all religions, and no child in that classroom felt left out. No child sat in the classroom while the other children engaged in an activity that was not part of their life or their family, and no child was discriminated against. If there is broad agreement that there should be no discrimination in our school system, there should be broad agreement in support of this legislation.

Deputy Joan Collins: I support the Bill brought forward by Solidarity-PBP. It is a very important Bill, and I have spoken on this issue a number of times in the Dáil in the past few years.

In terms of the consultation process, the Minister has had 11 consultations and there are to be another four, but that is not dealing with the issue we are facing as a society. A recent report in *The Irish Times* suggested that in that consultation process some political parties and larger patron bodies have favoured a catchment area rule. A catchment area rule is not a resolution to the baptism barrier issue. It would still allow State funded schools to give preference to children of a particular religion over others. It is clearly a form of discrimination that has no place in a modern democracy. It prioritises the protection of a patron's ethos over a child's right to equal access to education. It potentially would be an administrative nightmare for the Department and has the real possibility of taking years to finalise.

I want to make a point on which other Deputies have spoken. Ireland is fairly unique in Europe from the point of view that 96% of our schools are faith schools, with almost 90% under the patronage of the Catholic Church. Parents are helpless in the face of an education system that makes it legally permissible to discriminate in order for a school to protect its own ethos.

9 o'clock This is a situation that shames us as a nation. The United Nations Convention on the Rights of the Child, the European Commissioner for Human Rights, Ireland's rapporteur on child protection, the Ombudsman for Children and the Irish Human Rights Commission have called for reform of this system. They have called on the Government to prohibit the use of religious-based admission policies in State funded schools in order to protect the right to religious freedom and equality, so it is not a question of fairness. It is a question of human rights. This is the issue we, as legislators, must take on board in this Dáil.

Recently published census figures show that those selecting "No Religion" is by far the largest growing segment of Irish society. The figure has risen from 269,820 in 2011 to 468,000 in 2016. In large parts of the country, people have no option but to send their children to local State funded schools as there is no real alternative for them, and those State schools can legally turn away those children. It is five years since the Government first considered tackling this issue and the fact that we are where we are now is shameful.

There was a very good legal opinion piece done recently by Michael Lynn, senior counsel, who I have met previously. The Minister would do well to read it.

I do not know whether the Minister has read it. Paragraph 4.2 of the opinion piece states:

While legislation providing State aid for schools shall not discriminate between schools under the management of different religious denominations, there is no constitutional impediment to the State requiring that all publicly funded schools cease discriminating on the grounds of religion in their admissions policies. Thus, there are no *'thorny constitutional*

issues' at play in this context.

The Bill requires that the faith of parents and their children be dealt with after school hours. The Minister and, I am sure, the Solidarity-PBP Deputies, are correct that there should be no religious ethos in schools once they are funded publicly by the taxpayer. Everybody should have an equal education. There should not be privilege on the basis of religion or the ethos of a school, whether it be a rugby ethos or any other. Every child should have the same education through State-funded schools and if one wants to practise anything afterwards outside school hours, it may be organised within the schools and dealt with in that way.

Deputy Thomas Pringle: People in this country are increasingly becoming aware of issues of inequality in areas where the Catholic Church traditionally played a dominant role. Particular examples concern the marriage equality referendum, the children's rights referendum and, most recently, the national conversation starting on the eighth amendment. What people are trying to say is that we no longer want an unhealthy, unchecked relationship between church and State but, rather, a country in which the diversity of people of beliefs and faiths and none is fostered and equality between citizens is paramount. Somehow, however, the unchecked relationship between church and State schools remains strong in our education system, primarily because the Government seems intent on protecting its influence by failing to amend existing legislation, thereby preserving the baptism barrier and affording the church special protection when it comes to the role that religions play in our schools.

I want to use this opportunity to highlight a recent development that represents the extent of how unchecked religious influence truly is in our education system and why we need to address this. It has come to my attention that teachers in parts of the country are being inspected by lay personnel hired by dioceses to monitor the implementation of the Grow in Love programme, designed and supported by the Catholic Church. As the House may be aware, the programme is a new religious education programme for Catholic schools rolled out in September 2015 and which will expand to third and fourth classes this September and fifth and sixth classes in September of next year. Dioceses across Ireland developed the programme and currently support its rolling out, providing teachers with manuals, teaching kits, animated videos and online materials, all of a religious nature. This sphere of influence has been growing, however, and now involves the procuring of so-called diocesan directors and advisers hired by the church to support the work during religious education in Catholic primary schools. Primary school-teachers across Ireland have been frequented by such diocesan advisers on the school grounds themselves during class hours, where they are monitored and evaluated on their teaching of the Grow in Love programme.

I have some very basic questions with regard to the visits of diocesan staff to school campuses in the presence of children during school hours. First, is the Minister aware this is going on? If so, does he know how frequent these visits are? Does he have a list of the people carrying out these inspections? What level of communication do diocesan advisers and directors have with the Department of Education and Skills, if any? Does the Minister have specific guidelines or a code of conduct for visitors on school grounds who are not employees of the Department of Education and Skills? More fundamentally, are the directors verified by the Department? Are parents made aware of the presence of these advisers visiting their child's school? If so, how? Let us be honest: if any of these visits are going unchecked by the Department, we need to have another conversation about the relationship between church and State. So long as religious influence goes unchecked in our schools, the problem of inequality in our education system will continue to grow.

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Deputy Danny Healy-Rae: We are elected here to represent all of the people. While I am here, I will always strive to do that fairly. I am a Catholic and I am not ashamed to say that. I believe, however, that all people of other religious views are entitled to those views. I respect their views but I want to be respected, too. Since I came here, however, there has been a continuous onslaught against the Catholic religion and not against any other religion. While I am not saying there should be an attack on any other religion, this racket needs to be curtailed and stopped. Fair play needs to be given to the people we are representing because, when one is hitting at the Catholic religion, one is hitting at an awful lot of people.

The proposal in this Bill is to get rid of the Catholic ethos in all schools. The reason being given is that children have to be baptised before they are admitted to school. In the county of Kerry, from where I come, I have not had one complaint about that from parents, teachers or others. We are glad to have many families, including children, from many other parts of the world, especially in Killarney and Tralee. We have not had one complaint. Neither I nor any other member of our outfit has had one complaint to the effect that children were being deprived of a place or could not gain access to a school because of their not having been baptised in the Catholic religion.

I know there have been many unsavoury incidents in schools in the past. Nuns and brothers were found to be responsible. I would never condone that. The State, however, had a role to play also. In those times, there was a Minister for Education and a Department of Education. They do not seem to get the same blame at all as the people who were involved. In every outfit, one had a boss, and the Minister for Education and the Department in those times were equally responsible for letting those things happen.

I take this opportunity, however, to note that we have to appreciate brothers and nuns who played a very positive role in the education of the people of this country in the past and who do so even in the present. I went to the Presentation convent in Kenmare for a few years and I really appreciate and recognise the great work that was done there by the Poor Clare nuns. I will always think of them and thank them for the time and effort they devoted to all of the children. They treated all of the children fairly and equally.

Many parents hold the Catholic religion very close to their hearts. They still want their children brought up in the Catholic ethos and they make no apology for asking for this or doing it. I recognise the great work being done by management and teachers in all the schools in Killarney, Tralee, Castleisland, Kenmare, Killorglin, Caherciveen and all the rural schools around the county.

I take this opportunity to mention one school, in Tahilla, where there are only about 20 children. Thirteen of them are of 13 different nationalities and, I believe, they may have 13 different religious views. They are all being accommodated and treated fairly and equally in that school and have been for many years. That part of the country attracts people from many different countries because of its natural beauty and views. Many important people have come to live there and sent their children to the local schools. We appreciate the attention the teachers and management have given to those families all the time.

I raised with the Minister a problem in Kerry in regard to access to schools. Since the last Government and the current one came into office, they have deprived many children in rural communities of the opportunity of attending their own local school. There are different places like Cordal, Knocknagoshel, Brosna, Kilgarvan, Blackwater, Sneem, Tahilla, Annascaul and

Lispole in north Kerry. They are being deprived of the opportunity to go to the local school their parents went to because the Government took away the school transport. School transport was promised when the outlying schools in the hills and the valleys closed. An undertaking was given by the Department in 1956 that children would always be transported free of charge to the local central school. I remind the Minister that is not happening. Children in Scartaglin parish who are entitled to go to Scartaglin school have to go to another school because free school transport is not available to take them to the school in their own parish which happens to be further away than a school in another parish. They find themselves going to school in the other parish. I ask the Minister and the Government to address that issue because a word is a word and that word was given as far back as 1956 that children from those areas would be taken to their local school free of charge. The Government has reneged on that and I am sorry about that because it has hurt many families.

Deputy Catherine Martin: Tá an Comhaontas Glas sásta tacaíocht a thabhairt don Bhille. The Bill seeks to tackle the issue of the baptism barrier in our schools and the place of religion in our schools. This is not the first time we have dealt with this issue in this House and not the first time I have had the opportunity to contribute on it. The Oireachtas Joint Committee on Education and Skills is currently examining two Bills - the Government's Education (Admission to Schools) Bill 2016 and the Labour Party's Equal Status (Admission to Schools) Bill 2016. Neither Bill deals adequately with the issues created by the baptism barrier. I welcome Deputy Coppinger's Bill today because it seizes much more effectively on an opportunity to remove the baptism barrier from our schools. This is an issue the Minister in his Bill has skirted around entirely and which the Labour Party has sought only to water down instead of removing in its Bill.

Schools should reflect the modern diversity of families and communities. No State-funded school should be able to discriminate for or against a child on the basis of his or her religion. Our country is home to a wide diversity of people with a wide diversity of faiths. It is essential that our schools be a place where all are welcomed, whether they are of any faith or none. We cannot continue with a system where taxpayers' money is funding discrimination in our schools. I welcome the provisions in this Bill which seek to remove religious instruction from the school day. Not alone is this necessary for equality in the classroom, but it shifts the onus onto parents and religious leaders for the education of their children in their faith. Our Constitution recognises parents as the primary educator of children, and it is right that they should take on the responsibility of educating their children in their faith if they so wish. It is, however, important that we note the contribution made by the religious to the education of our children and our young people down through the generations. For many years they were the only people willing to take on the burden of education for the children of Ireland and abroad, and many of us owe our education to schools founded and run by the religious.

As legislators, however, we must do all in our power to protect our children from becoming isolated and insulated, and we cannot risk depriving our children of the rich lasting experience of encountering children who come from different cultures, different points of view or different religious beliefs. No child should be denied a friend because he or she prays in a different way or does not pray at all. A child who cannot interact with the wonderful diversity of our country and our world to the fullest extent is a child whose childhood has not been as rich as it ought to be. It is imperative we embrace our diversity as a nation. Our children are growing up in worrying times, facing the challenges of the far right and populists preaching intolerance and hate for those who are "other" - other nationalities, other races, other genders, other sexual ori-

entations and other religions. However, children simply do not see these differences; they see only other children. We cannot let religious division keep some children apart from others. It is in our diversity that our children learn the values of tolerance and respect and love for others, regardless of religion or any other difference.

Our responsibility is to show those who would hate and divide that we celebrate our diversity. We do not just tolerate diversity, but we embrace it and become enriched by it. We have a State and a society based on a Constitution that guarantees the equality of all, and discrimination on the grounds of religion can be no part of that. Religious discrimination has no place in a modern society. All schools in receipt of State funding should be fair, transparent, and inclusive. The Green Party will support the Bill because discrimination on the basis of religion would not be tolerated in any other walk of life, and the education system should be no different.

Deputy Gino Kenny: I commend Deputy Coppinger on bringing the Bill forward. This is a worthwhile debate to address religious discrimination in State schools. The subtext to the debate is the power of the Catholic Church and its iron grip on society. Thankfully, that grip has been dramatically loosened over the past 20 years, but it needs to be loosened much further. I was brought up a Catholic but I am not a Catholic anymore. A majority of our people probably still recognise themselves as a Catholic but no Catholic could ever defend what the Catholic Church did to this country, including committing some of the most despicable acts against people.

I would like to highlight a relevant case relating to school admissions. I was contacted by a family from Dublin earlier to highlight the situation they are facing, which is incredible. They live next door to a primary school but their child cannot go to the school because he is not Catholic. I will quote the reasons the child cannot get a place in the school under the heading, "Procedures for offering places":

In the event of there being more applicants than places available, the following criteria will apply:

1. Sisters and brothers of children who are currently enrolled in the school.
2. Catholic children who are resident within the parish boundary of Our Lady of the Rosary, Harold's Cross, Dublin 6.
3. Children who attended the Montessori facility.
4. Catholic children resident in the parish of Mount Argus.
5. Children of other faiths and non-resident in the parishes of Harold's Cross and Mount Argus in that order.
6. The order in which names are recorded in the registration book.

The child qualifies under the fifth procedure. As a young child, he cannot go to a school of his peers in his neighbourhood. The family of that child is paying tax, which funds that school, and it is incredible that he cannot go to the school because he is not a Catholic.

If that child was a different colour - if he was black - it would be discrimination. I find it incredible that in the 21st century, this sort of thing can go on. Members eulogise about the Con-

stitution in this Dáil and its righteousness. The Constitution says to treat all children equally, but those words are very hollow when it comes to this child.

Minister of State at the Department of Finance (Deputy Eoghan Murphy): I thank Deputies for their contributions this evening. This is an important and complex issue.

The basic aim of the Government is to use our economic success to create a fair and compassionate society and ultimately to make life a little easier for people. A key part of this is making it easier for parents and children to more easily access local schools that reflect their values and needs. We all recognise that we need to deal with the situation whereby some religious schools, when oversubscribed, admit children of their own religion from some distance away ahead of children of other religions or no religion who live close by. It is important to remember that only 20% of schools are oversubscribed and therefore the vast majority of schools are unaffected by this issue. We are taking two major steps to make it easier for parents and children to more easily access schools.

First, the Education (Admissions to Schools) Bill 2016 has been published. It passed Second Stage on 17 November and is due to proceed to Committee Stage shortly. This Bill will reform the process of school admissions, including the banning of waiting lists and admission fees. It will ensure that where a school is not oversubscribed, it must admit all students who apply and will require more information and consultation for parents throughout the process.

Second, a comprehensive public consultation process on the role of religion in school admissions has commenced. The first stage of the consultation process for submitting written submissions has recently finished and submissions are being collated and examined. The Minister, Deputy Bruton, has also announced that the second stage of the process will involve a half-day forum on this matter to be held at the end of the month. The forum seeks to find a solution to address this issue, while respecting the desire of many parents to send their children to denominational schools. We must also ensure that minority religious groups continue to run schools which are of their own ethos.

Separately, the Government agreed last June that the Labour Party's Equal Status (Admission to Schools) Bill 2016 would proceed to the Oireachtas Joint Committee on Education and Skills for scrutiny and would not come before the Dáil for a Second Stage hearing before 28 June 2017 to facilitate this. It is clear from the debate this evening that there is a broad consensus that children should have access to their local schools. This is particularly important at primary level. It is also clear from the discussion on this matter that the amendments proposed in this Equal Participation in Schools Bill involve significant legal and constitutional issues. Simply repealing section 7(3)(c) of the Equal Status Act is not the solution. It would have significant implications for minority religious communities, including Protestant, Muslim and Jewish communities, and their ability to run primary schools in accordance with their ethos. This will not address the complex legal, constitutional and operational elements that a solution requires.

The Bill also proposes to remove references in the Education Act 1998 to the characteristic spirit of a school and provides that religious instruction and faith formation classes should take place after school hours. While the intention of the Bill may be to remove religious ethos, proposed removal of a concept of characteristic spirit will affect all schools, for example, in respect of the existing objectives of Irish language schools and special schools, as well as the secular approach of Educate Together schools. This proposal appears to have significant implications

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for the current governance of the school system and the role and functions of school patrons and boards, particularly those with a religious ethos.

The advisory group to the forum on patronage and pluralism in the primary sector acknowledged that denominational religious education and sacramental preparation are long-established features of the primary system and are likely to continue to be so. The forum report did not recommend that religious instruction be removed from the school day. The advisory group also put forward a number of practical suggestions on timetabling of religious education to facilitate those pupils whose parents want them to opt out of denominational religious education in primary schools. This includes the use of flexible timetabling to allow children who opt out to participate in another class and the timetabling of denominational religious education at the beginning or end of the school day to facilitate parents who wish to remove a pupil from the school during denominational religious education.

The Education (Admissions to Schools) Bill 2016, which is due to proceed to Committee Stage shortly, includes a specific requirement that school enrolment policies must include details of a school's arrangement for any students who do not wish to attend religious instruction. This is an important measure which will help to ensure transparency from the outset as to how schools will uphold the rights of parents in this regard. The Attorney General has also advised that she considers that a number of potential significant legal and constitutional issues arise for consideration with regard to the proposed amendments in this Bill. We need to ensure that any proposals in this area strike a balanced and measured approach in respect of competing rights and do not give rise to unintended consequences that create an adverse impact on the rights of parents to send their children to denominational schools of their choice, including schools of minority denominations.

I thank the Solidarity-PBP party for its proposal and consider that following the completion of a consultation process on the role of religion in schools admissions and consideration by the Oireachtas Joint Committee on Education and Skills of the Labour Party's Bill, we will be better positioned to identify the best way forward that captures the complex legal, constitutional and operational elements in this area.

Deputy Mick Barry: I was born in the United States of America and I went to school there for eight years. Every morning, we had to stand, face the flag, place our hands on our hearts, and sing "O say can you see". Children going to school in England at the time would have been taught in school that once upon a time, the sun never set on the British Empire, that Britain was the workshop of the world. Every ruling class needs an ideology to justify its rule. The gombeen men who passed themselves off as a ruling class and took over the control of the State in 1922 and 1923 in the midst of a counter-revolution leaned heavily on the Roman Catholic Church to provide it with an ideology to justify its rule. Control of the schools was handed over to the brothers and the nuns and leaving aside socialist or communist ideas among young people, even liberal or questioning ideas were beaten out of the heads of young people with the cane and the ruler. Times have passed and changed since then but the rulers of this society today - the likes of Fianna Fáil and Fine Gael - are slow to let go of that prop that has been so useful for them down through the years, to separate church and State and to end religious control and domination of the State-funded school system.

What is the word that has been used more than any other in the debate tonight? It is probably "in" or "the" or "or" but if one takes those little words out of it, the word is "ethos". Let us talk about ethos. In 1982, Ms Eileen Flynn was sacked from her job in the Holy Faith primary

school in New Ross because she was pregnant and had started a family with a man who was married to someone else. The Employment Appeals Tribunal upheld the decision of the nuns and said that the sacking was in keeping with the Catholic ethos of the school. This ruling has never been overturned in a society the Minister of State described as a republic. That was 30 years ago. What happens in the schools today? We had a press conference yesterday to advertise and promote this Bill. We had a young school student who recounted her experience as a primary school student of asking the teacher “what about gay people?” The reply was “We won’t talk about that.” She went to secondary school. A Catholic group was invited into the school to give a talk about these issues. She asked “What about gay people?” She was referred to an outside organisation, BeLonGTo, and was told that it was not going to be discussed in the school. That is the reality of what ethos means. It is a scandal that in the year 2017, in a society that describes itself as a republic, we do not have appropriate sex education for our young people, boys and girls, in schools. We do not have sex education which caters for the LGBT community in schools that are funded by their parents, the taxpayers.

Is this solely and exclusively because of religious ethos? It is not. There are the failings of politicians, of the State, of Fianna Fáil and Fine Gael. Is religious ethos a major factor in this? Absolutely, it is. The Government is failing tens of thousands of young people there. According to a recent survey, 8% of young people indicated that they were LGBT. That would represent tens of thousands of school students. Let us look at transgender young people. The Trans Youth Forum report of 2015 found that 32% of trans young people stated that the education institute they had attended did not respect their gender identity. A mere 25% of them found that their gender had been acknowledged in school. Just 9% could participate in sport and 91% could not according to their chosen gender. It is an absolute disgrace, and that is apart from the problems that those young trans people face in terms of school trips, sports teams, uniforms, bathroom facilities in school, bullying and so on and so forth. That is down to ethos.

I quote the following experience of one parent:

As foreigners and parents of Irish children living in Ireland, we are the most affected with the educational system in Ireland which is based on catholic ethos and spirit, some of the Muslim students and their parents in our community, experienced difficulties in Catholic’s primary and secondary schools, some of the students were forced to attend mass in the churches and to participate in religion classes, which is contrary to their belief and conscience, consequently they felt discriminated against and that their right as human was violated. Some of them were expelled and some were asked to leave, many families and students from other faiths are suffering in silence.

That is from a submission from a Muslim parent to the Forum on Patronage and Pluralism in recent years. It is an example of the situation in the major cities of this country. That is what the Minister stands over and describes as a republic. It is an absolute disgrace in reality.

The fact is the people are a million miles ahead of the Minister on these issues. Findings from a poll commissioned by Equate asked questions of members of the public. A total of 72% of respondents agreed that the law should be changed in order that baptism can no longer be a requirement for school admission to State-funded schools. They are a million miles ahead of the Government. Some 24% of people said that they personally would not have baptised their child if it was not needed to gain entry to the school. A total of 71% agreed that the time had come for church bodies to have less influence over our local schools. That is miles ahead of the Government.

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The reality is this Bill, far from being incredibly far-reaching or radical, is actually very modest. It does not take the ownership of schools out of the hands of religious institutions. It merely applies some basic democratic conditions to the situation. It allows for a situation in which a board of management can state what it wants for a school and does not have to be bound by the ethos imposed upon it by the church organisation that runs the school. I do not see any reason parents who send their children to Gaelscoileanna would want to overthrow that ethos in those schools. That is a red herring. It is perhaps not quite as ridiculous as the points made about rugby-playing schools.

It is also a modest proposal in the sense that it allows for religious education and instruction within school buildings. The terrible atheists from the benches on this side of the House are proposing that school buildings might be allowed for religious education and instruction, but on two conditions: that it is not within the core hours of the school when it is funded by the taxpayer but organised after hours; and that the children who do not want to participate in it are not left twiddling their thumbs at the back of the class or, as Deputy Coppinger explained, left to play with the crayon they are given by the school authorities, but rather are provided with a real and genuine alternative in terms of what would be done with their time.

The big two capitalist parties in this House, Fianna Fáil and Fine Gael, have a real problem on their hands now. The mood in society is changing. There is a new emerging majority. Women and young people are central to it and many progressive thinking men are part of it as well. They are coming to the position that we need to separate the church from the State in this country. On abortion, the Government is pointing in the opposite direction. On prayers in this House, the Government is pointing in the opposite direction. On the national maternity hospital, the Government is pointing in the opposite direction. In terms of how schools are run, the Government is pointing in the opposite direction. It is pointing in the wrong direction. There is an emerging majority that is looking for something very different. If the Minister is not prepared in a genuine and wholehearted way to cater for and satisfy that demand, he will be bypassed as well.

An Ceann Comhairle: Cuireann sé sin deireadh leis an díospóireacht ar an Dara Céim den Bhille um Rannphairtíocht Chomhionann i Scoileanna 2016.

Amendment put.

An Ceann Comhairle: In accordance with Standing Order 70(2), the division is postponed until the weekly division time on Thursday, 18 May 2017.

Deputy Richard Boyd Barrett: On a point of order, can the Government amend a Bill?

An Ceann Comhairle: Of course it can.

Deputy Richard Boyd Barrett: With a motion?

An Ceann Comhairle: The Government can amend a Bill, yes.

Message from Select Committee

An Ceann Comhairle: The Select Committee on Communications, Climate Action and Environment has completed its consideration of the Inland Fisheries (Amendment) Bill 2017

and has made no amendments thereto.

Estimates for Public Services 2017: Message from Select Committee

An Ceann Comhairle: The Select Committee on Education and Skills has completed its consideration of the following Revised Estimates for Public Services for the service of the year ending 31 December 2017: Vote 26 - Education and Skills.

The Dáil adjourned at 9.35 p.m. until 12 noon on Wednesday, 17 May 2017.