



# SEANAD ÉIREANN

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*Dé Céadaoin, 27 Bealtaine 2009.*

*Wednesday, 27 May 2009.*

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Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

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*Paidir.*

*Prayer.*

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## **Business of Seanad.**

**An Cathaoirleach:** I have received notice from Senator Maria Corrigan that, on the motion for the Adjournment of the House today, she proposes to raise the following matter:

The need for the Minister for Health and Children to confirm that funding will be provided to ensure September placements for young people with disabilities who will leave school in June 2009.

I have also received notice from Senator Kieran Phelan of the following matter:

The need for the Minister for Education and Science to give an update on funding for upgrade works for Scoil Bhríde national school, Rathdowney, County Laois.

I have also received notice from Senator David Norris of the following matter:

The need for the Minister for the Environment, Heritage and Local Government to recognise and remedy the dangers of microwave radiation from the new Garda station in Leixlip which is situated in close proximity to five schools.

I have also received notice from Senator Cecilia Keaveney of the following matter:

The need for the Minister for Agriculture, Fisheries and Food to outline the actions that can be taken as interim, medium and longer-term measures to ensure harbour and vessel safety at Greencastle breakwater, County Donegal, and the role of the new marine body in prioritising and supporting the development of marine infrastructure to support job creation.

I regard the matters raised by the Senators as suitable for discussion on the Adjournment and I have selected the matters raised by Senators Corrigan, Phelan and Norris, which will be taken at the conclusion of business. Senator Keaveney may give notice on another day of the matter she wishes to raise.

## **Order of Business.**

**Senator Donie Cassidy:** The Order of Business is No. 1, Companies (Amendment) Bill 2009 — Committee Stage, resumed; No. 2, Statements on the Report of the Commission to Inquire into Child Abuse; and No. 34, motion 30 re the Monageer report. It is proposed that No. 1, the Companies (Amendment) Bill 2009 — Committee Stage, resume at the conclusion of the

[Senator Donie Cassidy.]

Order of Business; and No. 2, Statements on the Report of the Commission to Inquire into Child Abuse, commence at the conclusion of No. 1 but not earlier than 2 p.m. and conclude not later than 5 p.m. Spokespersons may speak for 15 minutes and all other Senators for ten minutes, and Senators may share time by agreement of the House. The Minister shall be called upon ten minutes from the conclusion of the debate for concluding comments and to take questions from leaders and spokespersons. No. 34, motion 30 re the Monageer report shall be taken at the conclusion of No. 2 and shall conclude not later than 7 p.m.

**Senator Frances Fitzgerald:** Three of the 18 congregations are now responding to the Government and there is a Government response urging the congregations to act on ethical grounds and make an appropriate response at this point. I commend *The Irish Times* today for giving people a forum in which to air their views and thoughts at the disgust people feel about what has been unveiled by the Ryan commission.

I welcome the Government's acceptance of the recommendations yesterday. That is important, but it is an implementation plan that is necessary. Many of these recommendations have been made previously. Frankly, the idea of a Minister of State reporting to Government at the end of July on what steps it should take to implement the recommendations is not adequate. It lacks a sense of urgency. It is too late to be coming in when the House is in recess at the end of July with an action plan. This report demands an immediate response, not just from a Minister of State but from the Taoiseach.

**Senator Fidelma Healy Eames:** Hear, hear.

**Senator Frances Fitzgerald:** We need him to take charge of the issue of child protection because as the report from the HSE yesterday makes absolutely clear, child protection services at present — I do not speak of the past — are dysfunctional and in disarray, and action is needed immediately.

I want to ask the Leader three questions. Is he satisfied that both Houses will be in recess when the Minister of State at the Department of Health and Children with responsibility for children and youth affairs is to report at the end of July? It is certainly not good enough.

**Senator Fidelma Healy Eames:** Under the carpet.

**Senator Frances Fitzgerald:** Is the Department of Finance in a position to make resources available to deal with the enormous child protection issues? There are thousands of cases of children who are not being assessed at present who are reported as being at risk. What is the Government's response to the HSE report published yesterday? These are three serious questions. The issue of child protection is a national crisis which must be led, not by a junior Minister but by the Taoiseach.

**Senator Jerry Buttimer:** Hear, hear.

**Senator Frances Fitzgerald:** I ask the Leader to bring that view to Government from this side of the House and to ask for an immediate action plan. I hope we will begin to hear this afternoon from the Minister some preliminary steps on that action plan. We need an action plan that deals with the short-term, medium-term and long-term issues as well as the vast array of issues that arises about institutional violence that emerge in the Ryan report.

I will conclude by quoting from one of the letters in *The Irish Times* today. The letter states:

“At least 400 children” and “28,000 adults with disability” are in residential centres which are not subject to standards or inspections... The Minister for State for disability John

Moloney announced last week that the State does not have the [money]...to remedy the situation.

We all are extremely upset about what happened in the past, but look to the services today. Where is the Government response on these critical issues today?

**Senator Joe O'Toole:** On the issue we will discuss further today, whatever about the length of time from now until the end of July, about which I will listen to what the Government has to say, and which sounds long and may not be too long, the one point on which I and everybody in House completely agree with Senator Fitzgerald is that this is a time for political action. If there is to be a report, whenever it is, it should be a report to the Houses. Nobody here can justify a situation where we are not involved in and responding to this issue. I appeal to the Leader. No matter whether the report comes in July, August or whenever — it should be early rather than later although I am prepared to listen to the Government's reasoning on why it should take two months — and whatever the reason, any politician who feels he or she should be on holidays while this business is being dealt with reflects poorly on all of us. This is part of what we spoke about. Whatever the other House decides, this is another example of where the Seanad can be seen to do business, engage with topical issues and show a public political response. I ask for a commitment from the Leader that when there is a report from the Minister of State this House will debate it. The Minister of State at the Department of Health and Children with responsibility for children and youth affairs, Deputy Barry Andrews, I suppose, is a step between a junior Minister and a full Minister. Whatever the situation, I want the report discussed here.

I also ask that amidst those proposals would be a Government decision to have a day of remembrance, probably annually, for the victims of this. Time will show this is a fulcrum in our development as a State and we should not allow ourselves or succeeding generations ever to forget it.

I ask that a Government warning hang on the Christian Brothers' commitment, as they called it yesterday afternoon. There is nothing new about this. We were through all of this previously. In this House I had a major row with the Christian Brothers some years ago where that order undertook to do a particular report after a number of months when the media died down, and when it did the order did not deal with the issues. That is water under the bridge. I want to give the Leader one salient fact and I ask that this be kept in mind by everybody who speaks on this issue. In 1991 the Christian Brothers in Canada had assets to the value of €100 million. The order squirrelled it away into trusts. We, as politicians, know that to dissolve a trust needs an act of parliament.

**Senator Paul Coghlan:** An order of the High Court.

**Senator Joe O'Toole:** When it came for the order to pay up in 1996 that €100 million had been reduced to €4 million. That is what we are facing. The order has already set up a trust. I do not have confidence in what Brother Edmund Garvey stated in the past couple of days. First, the Government should ensure the order pays up, as the order is leading us to believe without saying so. Second, if there are moneys to be made available, they should not be made available by a charitable route or conduit from the Christian Brothers to deal with the same people who were their victims decades ago. It should be dealt with independently and away from the representatives of the perpetrators. I look forward to a more detailed discussion this afternoon on other issues which have been raised during the week.

**Senator Denis O'Donovan:** Not to divert from the important issue on which the other Senators spoke, I ask again for a debate on the current review of the Common Fisheries Policy

[Senator Denis O'Donovan.]

and reiterate my demand for an exclusive 100 mile limit, which I think the Minister is considering. If we do not conserve our stocks the fishing industry and the fish to be eaten in the next decade will deplete.

On a more positive note, through the Leader I want to I pass on our congratulations to the marine scientists of this country on finding a wonderful coral reef in the Porcupine bank. This is most unusual in the northern hemisphere. This indicates that our marine scientists are second to none in the world if given the opportunity. They have an exploration vessel which is more or less doing a hydrographic survey and mapping the seabed throughout our coastline, which probably should have been done years ago. They should be congratulated on this wonderful success story. Will the Leader ask the responsible Minister and the EU to ensure the part of the Porcupine bank in question, a true ecological gem, is conserved sooner rather than later? Since this would show that marine issues are important to the House, will the Leader acknowledge my request? Will he also ensure a debate on fishing before the House rises in a few weeks, particularly given the review of the Common Fisheries Policy? It is a critical issue, but a debate next October would be too late.

**Senator Fidelma Healy Eames:** I will reserve my comments on the child abuse issue until later, but how can the public have confidence in the Government and the Minister of State, Deputy Barry Andrews, concerning the latter's new role in the proposed implementation of the Ryan report's recommendations when he chose not to resource the out-of-service social worker hours following the Monageer report?

**Senator Jerry Buttimer:** Hear, hear. Well said.

**Senator Fidelma Healy Eames:** He is already in difficulty with the adoption issue. According to a newly released HSE report, more than 8,000 reported child protection cases were not investigated in 2007.

**Senator Nicky McFadden:** Hear, hear.

**Senator Fidelma Healy Eames:** It is still going on and we are still neglecting our children because we do not have enough social workers. Last year in the House, I outlined the degree to which the HSE's service in Galway was being threatened. It has the lowest number of social workers per case.

On the doorsteps, the worry on everyone's lips is jobs. A medium-sized employer in the media business told me the current climate and the banking situation are providing an ideal opportunity for business to exit the country. This is a serious matter. In Germany, the employer was offered grants to attract his business. He has already moved half of it. He was also offered a state guarantee as a reliable employer to ensure that, when he goes to the bank, he can get the necessary credit. Why can the Government not consider ways other than making the bank the king? Why can we not consider offering State guarantees to reliable employers, thereby rewarding the creators of jobs and wealth?

I extend to everyone a welcome to Galway this weekend for the Volvo Open Ocean Race.

**An Cathaoirleach:** I will be there. The Senator's time is up.

**Senator Fidelma Healy Eames:** The Taoiseach graced us on Sunday night.

**Senator Jerry Buttimer:** He had the wind behind him.

**Senator Fidelma Healy Eames:** I can promise Senators magic, fine weather——

**Senator Mark Daly:** A biscuit and a sandwich.

**An Cathaoirleach:** This is not relevant to the Order of Business.

**Senator Fidelma Healy Eames:** —a positive city and fair sailing.

*(Interruptions).*

**Senator Paul Coghlan:** Favourable rates.

**Senator Shane Ross:** Will the Leader ask the Minister for Justice, Equality and Law Reform, if he is the appropriate Minister, to attend the House to assert the right of journalists to protect their sources? Most Senators are aware of the ongoing case in Northern Ireland concerning the journalist Suzanne Breen of the *Sunday Tribune*. She is apparently being forced to hand over her computer records and other records, which will obviously prejudice her right to seek more information and may put her life in danger. Given that she works for a newspaper based in the Republic, it would be important that all Members of the Oireachtas stand behind journalists doing work of this sort instead of behind those who would curtail such journalism. We have all been asked to sign a petition. As only some Senators have signed, I ask the others to do so.

We should bear in mind that Suzanne Breen is under immense pressure to give away her sources, which would kill journalism of that sort in this country. We should also bear in mind that some of this generation's great stories have been revealed by journalists. If a story like the one on the Christian Brothers that is currently disturbing us was curtailed by the State by using weapons of this sort, we would be appalled. It is important we defend the right. In understand the difficulties that Governments and authorities have with journalists speaking to subversive elements. However, it is essential journalists do so if those stories are to come out into the open. Will the Leader ask the Minister for Justice, Equality and Law Reform to reassure the House that the types of activity occurring in Northern Ireland in stopping Suzanne Breen will not spread to this part of the island?

**Senator Eugene Regan:** I will mention a subject covered in this morning's *The Irish Times*, that is, a report on the 2009 summer scientific meeting of the Faculty of Public Health Medicine of the Royal College of Physicians of Ireland. It points out that alcohol has been blamed for 6,500 deaths in Ireland in the past five years and more than 3 million hospitalisations. We all know that Ireland has one of the highest levels of alcohol consumption. Therefore, the percentage of deaths caused by alcohol is much higher. The paper delivered at the seminar pointed out that the cost of hospital bed days attributable to alcohol was horrendous.

We can do something about this. The Intoxicating Liquor Act, which the Minister for Justice, Equality and Law Reform rushed through this House last summer, dealt with certain restrictions on the supply side of alcohol, but we must consider the demand side. There is no question that advertising plays a critical role in contributing to the problem, particularly in the case of young people. Studies have shown that the professional advertising of alcohol has a strong appeal for young people who see it as stylish, humorous and promoting a desirable lifestyle, with the suggestion being that alcohol helps to improve confidence and social skills. We should consider a total ban on alcohol advertising. That is the one instrument left to us in attempting to deal with this problem in a serious way. Voluntary codes have not worked.

We have played politics with the issue for long enough. The current system is not working, given the costs in terms of hospital care and the dreadful impact on young people. There are strong links with crime, public order offences in particular, and children losing their way in the education process.



**An Cathaoirleach:** Time, Senator.

**Senator Eugene Regan:** The Irish Medical Organisation and the Royal College of Physicians of Ireland have made recommendations. France is also a good precedent, as its total ban on advertising has worked. Will the Leader arrange for a debate attended by the relevant Minister?

**Senator David Norris:** I will not say much regarding the House's upcoming debate, but I propose an amendment to the Order of Business so we can take up the matter of the exemption granted to the churches, which is morally unsustainable given the various reports. I will say more on that later. I am saddened by CORI's behaviour.

**Senators:** Hear, hear.

**Senator David Norris:** I have often received excellent briefings from it and it has taken precisely the type of social position I would like to be embodied in the House's work. To find CORI callously stalling makes me wonder about the pleasure with which I will receive its briefings in future. All of the elements involved have made it a legal matter. This is what is costing money. I deprecate the self-congratulatory tone of the former Taoiseach, Deputy Bertie Ahern. It was inappropriate.

Regarding my amendment, it is a question of leadership, which I seek from the Leader. Significant elements in his party in the Upper and Lower Houses, including at ministerial level, agree with our position. The matter should be discussed. It is not for civil servants in the Department of Justice, Equality and Law Reform to block this House in the exercise of its democratic function. Regarding *The Irish Times*, I have never seen two pages of its letters page devoted to one subject and that is a significant indicator of the way in which this has become a major issue.

I wish to raise another issue which has been raised by Senator Mary White, that is, the question of the criminal record of some of these people. There was a letter yesterday from a woman who was taken to court at the age of two and, as she said, sentenced to 14 years in one of these institutions. What was that for? According to her, she has a criminal record. She objected strongly, as I do, to a letter which appeared previously from a person who said that all the young people who were put into these institutions were thugs. That is a disgusting remark to make about people who have suffered.

Regarding Northern Ireland, I signed the letter about journalistic sources. It is a very complex matter and it would be appropriate to have a debate on it because we can see from the newspapers today that we have what the former Dean of St. Patrick's, Victor Griffin, described as enough religion to make us hate. There is an appalling photograph of a woman with her face beaten into a pulp, whose husband was killed and a pregnant neighbour was attacked. They were attacked with baseball bats by people who apparently think they are Protestant. She was called a "Taig". It was a mixed marriage. She was Protestant and he was Roman Catholic, and what should it matter? How does that give licence to anybody to beat somebody else into a pulp?

**Senator Mary M. White:** I will leave my comments on the Ryan report until statements this afternoon. When the Minister of State at the Department of Health and Children, Deputy Barry Andrews, launches his report, we should all be advised of the date of the launch. Last week I said all Members of this House, on all sides, should work together across the political divide to make sure the 21 recommendations in this report are delivered.

**A Senator:** Hear, hear.

**Senator Mary M. White:** If we wait until we come back at the end of September to pick this issue up again, we are half asleep. We will not keep momentum on this issue if we wait until September to talk about it. It is the most critical social issue facing the country at the moment. Our country is traumatised by this issue.

I was very pleased with the Taoiseach's response last night after the Cabinet meeting, and I will talk about that later, but we should be at the launch of the Minister of State's report. The people will prove their desire to get delivery of the 21 recommendations to look after children in the future. I will have a more detailed response later.

I draw attention to what Senator Regan said about the number of deaths due to alcohol. New research which was published yesterday by the Royal College of Physicians found that alcohol was responsible for 6,500 deaths from 2000 to 2004. It blamed alcohol for more than 3 million hospitalisations during the same period.

In my document on suicide in the new Ireland, I have three recommendations which deliberately refer to alcohol. I have called for the total abolition of sports sponsorship by companies that make alcohol.

**Senator David Norris:** Hear, hear.

**Senator Mary M. White:** Last week I was shocked that the new president of the GAA, who is a Pioneer, said he did not have a problem with Guinness sponsoring sports.

**Senator Jerry Buttimer:** He did not say that.

**An Cathaoirleach:** The Senator should conclude.

**Senator Mary M. White:** I call for the abolition of all sports sponsorship to protect human life because alcohol is major contributor to deaths by suicide. In two weeks' time, the Oireachtas sub-committee on suicide will launch its report on suicide.

**Senator Paudie Coffey:** Regarding the report of the Commission to Inquire into Child Abuse, this has been a shameful chapter in Irish history. I agree all religious orders and the State acted in a shameful way and failed to protect our innocent children. It is better to approach this in a cross-party political way to try to achieve the recommendations in the report. That is how it should be addressed.

I support Senator O'Donovan's call for a debate on the new Common Fisheries Policy that will be implemented from 2012. The Leader well knows that fish stocks around the Irish coast have been decimated in recent years and fishing communities have seriously suffered. On the south coast alone, from Kilmore Quay to Castletownbere in west Cork, there are more than 3,200 jobs involved. More than 500 of those jobs are based in Waterford, in Dunmore East and Helvick Head in Dungarvan, where fishermen and their families have been struggling to keep their livelihoods. It is incumbent on all of us, because we are an island nation, to debate this issue in a timely manner to give full vent to the fishing industry, and politicians who represent them, to allow them to re-establish fishing as one of the main indigenous industries in this country and in Europe. I fully support Senator O'Donovan in that call.

Regarding the oceans, I note the EPA report on water quality around our coasts which states that in the Fingal area, four out of six beaches failed tests for bathing quality water, which is a shameful indictment of water treatment systems. One beach in Ardmore in County Waterford, which has always been a blue flag beach, has, unfortunately, also failed the bathing quality test. Ardmore is one of seven villages in County Waterford that have applied to the Department of the Environment, Heritage and Local Government for a foreshore licence for a new sewage



[Senator Paudie Coffey.]

treatment plant. This has been an issue for seven years as it has been tied up in all kinds of bureaucracy.

Last week, in Cappoquin in County Waterford, the fire service and emergency services were called out because sewage was coming up through manholes on to public streets. This is the environment we are living in as a modern society because we have failed to invest and to remove the bureaucracy that allows essential infrastructure such as this to be developed. I ask the Leader to allow a debate on essential infrastructure in our local authorities and how we can support them. All the necessary plans are in place and all the applications have been made, but they are held up in the Department through bureaucracy and lack of funding. That is why the water quality in this country is as bad as it is.

**Senator Cecilia Keaveney:** I have some comments on the report of the Ryan report and the discussion that will take place today. It is very important this is debated — there is no doubt about that. I heard the comment about discussing institutional abuse and I reiterate a point I made earlier this week. It is very important we find mechanisms for people who suffered abuse under anybody's hands, institutional or otherwise, to come forward. I accept the helplines are not supported enough to take all the calls they are receiving.

There are many people who never come forward and the paths their lives take are seriously challenged and changed by the abuse they suffered at a young age. Perhaps there should be a separate debate, but I do not like separating institutional abuse from other abuse. Abuse is abuse and we must find mechanisms to help people to come forward who feel they cannot do so, and provide them with the support, care and help they need to deal with the trauma of what has happened to them. I include in that all types of abuse.

I support the call for a discussion on the marine. I agree with the comments on alcohol and its relationship with suicide and many other problems in our daily and social lives.

I ask the Leader to again consider Seanad reform. We came in here a couple of years ago and the first issue raised was Seanad reform, which lasted, as usual, for the first week. We then talked about alcohol and a statement was made at that stage that — I am paraphrasing — if we did nothing else but take one or two issues and really drive them, we would have done something. Sporadically, one, two or three of us — a small group — constantly raise the issue of alcohol, yet no concerted effort is made to put together a case that we can drive over a particular line. I am not saying it is a simple issue. It is a complex issue, but I ask the Leader to keep it on the agenda and keep talking about it to try to find solutions, whatever they may be.

I ask how we can find a mechanism to discuss the Judiciary, judicial sentencing and reoffending. There is a separation between politics and the Judiciary and there is a separation of powers, but we must find a mechanisms to discuss the issue because no one should be above criticism or constructive debate.

**Senator Feargal Quinn:** I intended raising the issue raised by Senator Regan and others on alcohol. One of the points that emerges from the research is that the image of Ireland is tainted by the amount of alcohol consumed, and the question of how we can handle it. It will be difficult for us to deal with controls on advertising and sponsorship in Ireland alone if we do not manage to get some level of agreement on it in Europe. Steps are being taken in Europe in that regard. We did lead the way with tobacco and we can do the same with alcohol by influencing what is done in Europe as well.

I will not repeat the figures but what surprised me is how high we were in the statistics for alcohol consumption and the amount of hospital care that was required as a result of it. It

emerged that alcohol caused 4.4% of deaths in this country while the rate in the United Kingdom was 3.1% and in Sweden it was 3.5%. That is only part of the results.

I have one other point to make on the image of Ireland. The child abuse publicity will damage our image abroad. The sentencing yesterday on corruption charges introduced me to another table I had not seen previously, namely, the corruption perception index, which shows that Ireland's identity overseas has worsened considerably since the revelations of the planning tribunal. It is worthwhile recognising that we must take action even though sometimes those actions are not something we welcome doing.

It frustrates me to see money being spent on things unnecessarily. Recently in Britain a significant amount of money was spent to discover that 94% of train passengers get annoyed when trains are not punctual. There was much criticism over spending such an amount of money to discover that. Yesterday, the consumer panel of the Financial Regulator published its report, which found that most customers have lost considerable sums of money. The report found that the Financial Regulator has been deficient to date. I wonder how much money was spent for us to discover that.

**Senator Larry Butler:** I remind Members that the Spirit of Ireland group will be in Leinster House today and Members of all parties are welcome to attend the meeting to hear about the innovative project the people concerned have put together to ensure our future energy independence. I expect we will have a worthwhile debate and question and answer session. I would like as many Members as possible to attend. This is probably the most important issue we will discuss since the development of information technology in this country. We need a new development and this is one of them. The Members of this House can make a great difference when we discuss the matter this afternoon in view of the great potential it has for this country. All are welcome, and I look forward to a good debate.

**Senator Jerry Buttimer:** I again raise with the Leader the need for an urgent debate on the consumption of alcohol in this country. The research yesterday which blamed alcohol for 6,500 deaths over a five-year period illustrates the seriousness of the alcohol crisis. The Leader knows well that I have raised the point in this House previously. When are we going to learn that we have a national epidemic and crisis with alcoholism which we cannot handle? Senator Quinn is correct in saying the image of Ireland abroad as a beer-swilling nation is wrong and we should dissuade people of that notion. To do that we must have a holistic debate on the consumption of alcohol. Senator Regan is correct in saying the voluntary code has not worked. We must consider sports sponsorship, perhaps the advertising ban and, more importantly, we need to include alcohol as part of the national drugs strategy which is enforced.

I call on the Leader to arrange a debate with the Minister for Health and Children on child care. The report yesterday from the Health Service Executive revealed a total of 23,268 reports of child abuse, neglect and welfare concerns. What is more startling is that approximately 8,000 cases, 35%, were not investigated. If we cherish children then this sends the wrong message. This is a message the HSE and all of us collectively must tackle. We must debate the issue in this House.

What is more worrying is that in the four local health offices in Cork, 26% of cases were only assessed, which means that in 74% of cases there was no initial assessment. What are we saying to our children and the people of Cork? Are we serious about protecting children or are we only paying lip service? If we are serious then we need to have a debate followed by political action and the employment of out-of-hours social workers. We must put the full apparatus of the State behind this operation. Otherwise, we are failing our children.

**Senator Rónán Mullen:** I compliment my colleagues on raising the issue of alcohol. I was present at the NUI Galway alumni event at which the Ard-Stiúrthóir of the GAA spoke and I raised the issue of alcohol advertising in connection with GAA events. Let us be clear, the reason alcoholic drinks companies advertise or connect themselves with sporting organisations and activities is to piggyback on the glamour associated with sport. No one is as sensible of the glamour associated with sport as young people. I am reminded of the courageous point of principle taken by people such as Dr. Mick Loftus, a former president of the GAA. I wish there were others like him who see clearly that alcohol is a serious problem in our society. I call for a specific Seanad debate on alcohol advertising. We could make a great contribution by having that debate soon.

Unlike my colleague, Senator O'Toole, I felt hope when I saw the Christian Brothers' statement. Time will tell which of us is right. I read into it that there was a preparedness to be generous. Time will tell. I warned yesterday of my fears that a kind of anti-Catholic bigotry would re-emerge under another guise. I have concerns about people raising extraneous issues. For example, my colleague, Senator Norris, does not like section 37 of the Employment Equality Act. I do not see that as protecting the privileges of any church.

**Senator David Norris:** It does, because it puts them above the law. That is a privilege.

**An Cathaoirleach:** Senator Mullen should be allowed to speak without interruption.

**Senator Rónán Mullen:** I see it as protecting the rights of different groups in society, in conscience, to an education that reflects their ethos. People who raise such issues at this time, which are extraneous to the needs and concerns of victims, in particular, run the risk of being accused of being cynical or manipulative at a time when we are all struggling to deal with a grim reality.

**Senator David Norris:** That is a classic smear from you, you smug hypocrite.

**An Cathaoirleach:** Please. Senator Mullen should be allowed to speak without interruption. We are taking questions to the Leader. Time is running out.

**Senator David Norris:** I object to my reputation being taken in that way. It is quite disgusting and repellent.

**An Cathaoirleach:** Senator Mullen has the floor and his time is up. We are having questions to the Leader.

**Senator Rónán Mullen:** I do not intend to take anybody's reputation but I am asking——

**Senator David Norris:** You do it all the time in a sly kind of way, but you will not get away with it with me.

**An Cathaoirleach:** Senator Norris should not interrupt, please.

**Senator David Norris:** I am not having my reputation sullied.

**An Cathaoirleach:** Please.

**Senator David Norris:** If the Cathaoirleach does not protect me I will protect myself.

**Senator Rónán Mullen:** In the light of that I will reserve any further comment for the substantive debate.

**Senator Paul Coghlan:** I second Senator Norris's proposed amendment to the Order of Business. I agree with the sentiments of other speakers on the frightful child abuse matters we have had to deal with and have to deal with yet. I very much agree with the remarks of Senator O'Toole when he said that this House should not be in recess while we still have these matters to consider. The report of the Minister of State with special responsibility for children and young people, Deputy Barry Andrews, on the implementation of the report of the Commission to Inquire into Child Abuse is still to come.

I wish to ask the Leader specifically about Nos. 3 and 17 on the Order. There is so much to do. This House could be sitting throughout July and we could come back early in September. We should bear that in mind. We have so much work to do. Will the Leader inform the House as to when he envisages Committee Stage of No. 3, the Property Services (Regulation) Bill 2009 being reached, and when will the House deal with No. 17, the Multi-Unit Developments Bill 2009? I would like an answer to both questions. I support the calls of Senators O'Donovan and Coffey for a debate on fisheries policy. This is vital as there are many people around our vast coastline whose livelihoods depend on fishing, and we have neglected them. This would be a useful debate and I look forward to the Leader giving us time on the matter.

**Senator John Hanafin:** I would like to reiterate that I abhor all the findings in the Ryan report. I welcome the fact there appears to be some recognition among a large number of the religious institutions that they will actually try to do more. I hope the debate is conducted in a proper manner in this House. I trust we will not be hearing dúirt bean liom go ndúirt bean léi, hearsay evidence presented. We have a report and it should be dealt with as the reported findings. I call for balanced and proper debate on an extremely frightening and upsetting report with which we must deal.

I wish to raise the issue of North Korea. For the first time this morning I heard that should the South Koreans search ships leaving the North Korean area, something they indicated they would do, North Korea was prepared to go to war. This is a very serious development and I ask the Leader for a debate.

**Senator Michael McCarthy:** I wish to comment on the findings of the Ryan commission. I could not help but be almost moved to tears by listening to the man in the audience in "Questions and Answers" on Monday night. It was difficult to listen to his personal account of the sheer horror of what happened and to his sheer frustration with the manner in which he was dealt with by the commission. As he put it so eloquently, but painfully, seven barristers literally ran questions left, right and centre of him, and then someone alleged he was only in it for the money.

These people need justice. They need some sort of movement from the religious orders. It is not all about the money. It is about a step that is much greater than that. It is about showing some level of sympathy with the victims of this horrible abuse. As I said in the House last week, this is probably the most shameful period of Irish history and it is certainly our holocaust. I welcome the comments from the Christian Brothers that they are willing to contribute more. I welcome the statement from the Taoiseach that he is seeking this type of commitment from the religious orders. We need to bear in mind that the debate needs to be balanced, but we need to be ultra-sensitive to the abuse the victims have suffered. We need to be very cognisant that their suffering should be lessened in the future.

I support Senator Coghlan on the fisheries industry. We have spoken at length in this House regarding the dangers of people leaving that industry. This industry is one of our greatest reserves, and our greatest opportunity to reboot the rural economy is to look at the manner in which the Sea-Fisheries Protection Authority does its business. The homes of fishermen in west

[Senator Michael McCarthy.]

Cork were raided two weeks ago. They were treated like common criminals. These are the people who were responsible for finding the cocaine hauls off the west Cork coast last year. They unofficially police our coastline and we are treating them worse than we treat the scum who peddle those drugs around the coast.

I call on the Leader to call on the Minister of State with responsibility for fisheries before the House. We need to discuss the manner in which harsh sea fisheries legislation is enforced. I have called for it before and again I call for a system of administrative sanctions, as opposed to the criminal sanctions which currently exist. If fishermen are found to be in violation of what are minor sanctions at a European level, their catch and their boats are confiscated and they are brought before a Circuit Court judge, which is harsh to say the least. The Minister of State should come before the House and debate whether we could look at relaxing laws in this area, helping an economy that is dying on its knees and helping to reboot the coastal economies.

**Senator Ivor Callely:** I welcome the fact there will be a debate on the Ryan report. We should not lose sight of the fact that while we can all point fingers, we must accept it was the State which put these children into care. At the end of the day, maybe the finger should be pointed at ourselves. Whatever it may be, let us hope it is the catalyst for change and I look forward to that change taking place.

There is a very interesting debate on the global financial difficulties taking place in Dublin. The OSCEPA is holding its economic forum conference and it is being hosted by this House. It is a great event, so I congratulate one and all. Following some door-to-door canvassing, I am aware people are asking about State policy on Irish financial institutions. It is important the Leader gives clarity to this. Is it a case of nationalisation, or is it a case of assisting the banks to clear their toxic debts and to balance their books? Can the Leader tell us whether NAMA is a bail out for builders? I know the answer to that question and it is important the Leader gives a clear answer—

**Senator Paudie Coffey:** Nobody knows what it is at the moment.

**Senator Ivor Callely:** —to the question whether NAMA is a bail out for builders and property developers.

**Senator Paudie Coffey:** Michael Somers asked that question as well.

**Senator Donie Cassidy:** Senators Fitzgerald, O'Toole, Healy Eames, Mary White, Coffey, Keaveney, Mullen, Buttimer, Coghlan, Hanafin, McCarthy and Callely all expressed their views on the Ryan report. I welcome the Taoiseach's comments and his invitation and request for the religious orders to meet with him on the serious situation in which they find themselves. A special Cabinet meeting took place last night, and I look forward to the contributions of all Senators today on the issue. I have the full support of this House regarding everything and anything to do with child protection. As Senator O'Donovan said, until we get a referendum, strengthening the law is of the utmost importance.

If there is an urgent matter and a request is made for this House to be recalled, we will not have any difficulty in allowing for that. I assure Senators on this issue. The Senate is leading today, as this is the first House that is debating and discussing the report. I thank everyone who helped to make that possible. The Minister, Deputy Noel Dempsey, mentioned on "Questions and Answers" something that Senator O'Toole raised today, which is that we consider a national day of atonement. It can be discussed and brought to the Minister's attention when he is here today. Senator O'Toole also mentioned the experience in Canada, where trusts were set up to protect assets. That is a very serious issue and something we will no doubt be dis-



cussing during the day, when the Minister is present. We can all agree that the removal of the criminal records of all of these young people must be brought to our attention, and it should happen as a matter of urgency. I look forward to the debate and there will be no difficulty in allowing time for future debate on these reports in the House.

Senators O'Donovan, Coffey, Keaveney and McCarthy all called for an urgent debate on the Common Fisheries Policy, and the enforcement of the rules, which must be fair for all. I have already given a commitment to Senator O'Donovan on this, and we will discuss it before the summer recess. On a point of information, I hope to bring to the House on the next sitting day after the elections the programme for three and four day sittings which will take place in the House from 9 June until the middle of July. There is a great amount of legislation coming before us for our consideration and approval.

**Senator Eugene Regan:** Another rushed job.

**Senator Donie Cassidy:** Senator Healy Eames called for a debate on jobs. Yesterday, the House had a discussion on the National Asset Management Agency, NAMA. I was disappointed the full time allowed for the debate was not availed of. Be that as it may, I thank the leaders for their co-operation and assistance in that regard.

**Senator Jerry Buttimer:** Where was the Minister?

**Senator Donie Cassidy:** I have no difficulty in providing further time for a debate on jobs which is a priority issue for the future. However, given the amount of legislation coming to this House, I suggest any Member who wishes to bring this issue to the Minister's attention should do so when he is in the House tomorrow morning for the Finance Bill 2009. That would be an ideal opportunity for colleagues to bring the matter to the Minister's attention.

Senator Ross, with the support of other colleagues in the House, including Senator Norris, asked that the Minister for Justice, Equality and Law Reform, Deputy Ahern, be requested to come into the House to debate the issue of the independence of information and sources of journalism and, in particular, the case involving Suzanne Breen. I have no difficulty in making time available for such a debate.

Senators Regan, Mary White, Keaveney, Quinn, Buttimer and Mullen expressed their shock and horror at the reports in today's newspapers on alcohol abuse. I agree with the sentiments expressed, in particular in regard to the 6,500 deaths and the €3 million being spent in our hospitals in this regard. This is an enormous challenge to society, one we did not face years ago when people had no money. There is nothing wrong with alcohol, rather it is the abuse of alcohol that is at issue. Many Members of this House are lifelong members of the Pioneer Total Abstinence Association. Everyone must be responsible. However, I inform the House that the sale of alcohol Bill which seeks to codify the law in regard to the sale and consumption of alcohol will be published late this year. It is opportune that we would have a lengthy debate in this House on alcohol and alcohol abuse before the final parts of that Bill are drafted. I will endeavour to provide time for a debate on this matter prior to the summer recess, if at all possible.

Senator Norris proposed an amendment to the Order of Business. I hope to be able to respond to this matter tomorrow morning. I tried to obtain a response on the matter for this morning but owing to a special Cabinet meeting last night that was not possible. I hope to have a response on the matter tomorrow morning.

Senator Coffey called for a debate on the Environmental Protection Agency, EPA, report on water quality. I have no difficulty in passing on his concerns to the Minister, in particular the unacceptable problems in the Waterford region. The Senator is correct to bring these



[Senator Donie Cassidy.]

matters to the attention of the House. I will pass on his comments to the Minister following the Order of Business.

Senator Hanafin raised an issue of great concern to the world, namely, the intention of the South Koreans to search ships leaving North Korea and its preparedness to go to war should that happen. I agree with the sentiments expressed by the Senator and will endeavour to arrange a debate on this urgent matter with the Minister for Foreign Affairs.

Senator Callely welcomed the major economic conference taking place in Dublin which will provide Ireland with an opportunity to show Third World countries how it progressed and became a successful nation during the Celtic tiger years. That the conference is being held here acknowledges that Ireland is one of the leaders in the world in its field in terms of our economic recovery. It is hoped that in 12 to 18 months we will be able to look back on these difficult times and say we have done it again. I welcome the conference to Ireland.

**Senators:** Hear, hear.

**Senator David Norris:** We certainly have.

**Senator Frances Fitzgerald:** There is not much evidence of it.

*(Interruptions).*

**An Cathaoirleach:** Senator Norris has moved an amendment to the Order of Business that No. 34, motion 8 be taken today. Is the amendment being pressed?

**Senator David Norris:** In the spirit of co-operation and because of the Leader's attempts to raise the matter with Cabinet, I wish to press the amendment in an effort to strengthen the his hand with the civil servants in the Department of Justice, Equality and Law Reform.

**An Cathaoirleach:** Is the amendment being withdrawn?

**Senator David Norris:** No, I wish to press the amendment in an effort to strengthen the Leader's hand in battling on behalf of the oppressed people of Ireland against the civil servants.

Amendment put.

The Seanad divided: Tá, 16; Níl, 25.

Tá

Bradford, Paul.  
Burke, Paddy.  
Buttimer, Jerry.  
Cannon, Ciaran.  
Coffey, Paudie.  
Coghlan, Paul.  
Cummins, Maurice.  
Fitzgerald, Frances.

Healy Eames, Fidelma.  
McFadden, Nicky.  
Norris, David.  
O'Toole, Joe.  
Prendergast, Phil.  
Regan, Eugene.  
Ross, Shane.  
Ryan, Brendan.

Níl

Brady, Martin.  
Butler, Larry.  
Callanan, Peter.  
Callely, Ivor.  
Carty, John.  
Cassidy, Donie.

Corrigan, Maria.  
Daly, Mark.  
Ellis, John.  
Glynn, Camillus.  
Hanafin, John.  
Keaveney, Cecilia.

Níl—*continued*

Leyden, Terry.  
 MacSharry, Marc.  
 Mullen, Rónán.  
 O'Brien, Francis.  
 O'Donovan, Denis.  
 O'Sullivan, Ned.  
 Ó Domhnaill, Brian.

Ó Murchú, Labhrás.  
 Ormonde, Ann.  
 Phelan, Kieran.  
 Quinn, Feargal.  
 White, Mary M.  
 Wilson, Diarmuid.

Tellers: Tá, Senators David Norris and Joe O'Toole; Níl, Senators Camillus Glynn and Diarmuid Wilson.

Amendment declared lost.

### **Companies (Amendment) Bill 2009: Committee Stage (Resumed).**

#### SECTION 8.

Debate resumed on amendment No. 16:

In page 11, to delete lines 3 to 6.

—(Senator Frances Fitzgerald).

**Senator Ciaran Cannon:** I welcome the Tánaiste back to the House and hope we can continue in the same spirit of co-operation that was the hallmark of our previous debate. This amendment is about striking a balance between awarding the Director of Corporate Enforcement the powers he needs to carry out his duties and not frightening off anyone from getting involved either in entrepreneurial effort or becoming a company director. This amendment seeks to strike that balance. In section 8, subsections (11) and (12), the pendulum has swung too much in favour of the Director of Corporate Enforcement. It provides that directors of companies who fail to comply with the disclosure requirements provided for in section 41 shall be guilty of a criminal offence. Subsection (12) provides a defence for subsection (11). It appears the usual burden of proof has been switched and that it is for the company director, the accused, to persuade a court he or she took all reasonable steps — that is the phrase used — to secure compliance once the facts of defective disclosure and the fact of him or her being a director are established. What would this mean in practice for a company director? A company director may not have the time or resources to check whether all the accounts in this respect are accurate. The director must ensure the company employs financial personnel to carry out these functions and, furthermore, that the auditors are properly informed regarding all relevant matters.

In the recent past, we have discussed decreasing the financial and administrative burdens we place upon companies, especially small, fledgling, indigenous companies. Obliging directors to engage in this sort of activity would not lead us in that direction. I do not believe a company director can be expected to carry out detective or sleuthing work in his or her own company to ensure every single potential conflict-of-interest transaction is disclosed. I would have thought that is a most unfair burden to place on a company director. In general, criminal law should penalise actual wrongdoing, rather than providing for guilt by association, as is most certainly the case in these two sections. The burden of all reasonable steps would appear to require a level of performance from directors that is substantially higher than simply being non-negligent. This burden leaves every director exposed to criminal sanction unless this very high — and I have to say, not very easily defined — standard is met. Apart from criminalising conduct which may not be errant or wrong in any conventional sense, it will provoke substantial

[Senator Ciaran Cannon.]

board resolutions detailing the process followed. More often than not, it may pay lip service to disclosure so as to provide for a defence without having any real effect in rooting out corporate wrong-doing, which is the Bill's ambition. The focus should be on a director who has failed to disclose the conflict-of-interest transaction, and only that director, with a clearly defined offence and an appropriate penalty.

In respect of a number of amendments that we have already tabled, the Tánaiste has undertaken to re-examine certain elements of the Bill and revert to us on Report Stage. I ask that this should also be done with regard to these two subsections.

**Tánaiste and Minister for Enterprise, Trade and Employment (Deputy Mary Coughlan):**

Recalling what I said on the last occasion in response to amendment No. 16, I made the point that the new subsection (12), which immediately follows the amendment before us, provides a defence for anyone who is a director of a company in question. My view is that subsection (12) will provide the adequate defence to which the Senator referred.

*12 o'clock*

He also mentioned family situations in which people may not have had knowledge or due cognisance of anything, but without a doubt the necessary safeguards would be consistent with the requirements of the House. The Senator also referred to section 383 of the Companies Act 1963, which dealt with officers in default. In this instance, the defence provided for in section 383, would be different from that now provided for in the new section 40 of the Companies Act 1990, which is inserted by section 7 of the Bill before us. I appreciate the debate we have had, but my intention is to give due regard to people who may not necessarily be dealing with such issues on a day-to-day basis. Having analysed this matter since we last discussed the Bill, I am satisfied the approach contained in section 8, specifically regarding the insertion of a new subsection (11) and the related defence of subsection (12), is appropriate and consistent with the wording of the existing related provisions. Although I appreciate the crux of the Senator's argument, I feel subsection (12) gives the necessary safeguards. In my definition of this matter, I am satisfied that defence mechanism is there.

**An Leas-Chathaoirleach:** Is amendment No. 16 being pressed?

**Senator Ciaran Cannon:** Yes, it is.

Question put: "That the words proposed to be deleted stand."

The Committee divided: Tá, 30; Níl, 15.

Tá

Brady, Martin.  
Butler, Larry.  
Callanan, Peter.  
Callely, Ivor.  
Carty, John.  
Cassidy, Donie.  
Corrigan, Maria.  
Daly, Mark.  
Ellis, John.  
Feeney, Geraldine.  
Glynn, Camillus.  
Hanafin, John.  
Keaveney, Cecilia.  
Leyden, Terry.  
MacSharry, Marc.  
Mullen, Rónán.

Norris, David.  
Ó Domhnaill, Brian.  
Ó Murchú, Labhrás.  
O'Brien, Francis.  
O'Donovan, Denis.  
O'Malley, Fiona.  
O'Sullivan, Ned.  
O'Toole, Joe.  
Ormonde, Ann.  
Phelan, Kieran.  
Ross, Shane.  
Walsh, Jim.  
White, Mary M.  
Wilson, Diarmuid.

Nil

Bacik, Ivana.  
Bradford, Paul.  
Burke, Paddy.  
Buttimer, Jerry.  
Cannon, Ciaran.  
Coffey, Paudie.  
Coghlan, Paul.  
Cummins, Maurice.

Fitzgerald, Frances.  
Healy Eames, Fidelma.  
McCarthy, Michael.  
McFadden, Nicky.  
Quinn, Feargal.  
Regan, Eugene.  
Ryan, Brendan.

Tellers: Tá, Senators Camillus Glynn and Diarmuid Wilson; Níl, Senators Ciaran Cannon and Maurice Cummins.

Question declared carried.

Amendment declared lost.

Section 8, as amended, agreed to.

Section 9 agreed to.

#### SECTION 10.

Government amendment No. 17:

In page 14, to delete lines 27 to 29 and substitute the following:

“(c) the company is a subsidiary or a holding company of a company or another body corporate that satisfies either or both of the conditions specified in paragraphs (a) and (b);

(d) the company is a subsidiary of a company, another subsidiary of which satisfies either or both of the conditions specified in paragraphs (a) and (b).”.

**Deputy Mary Coughlan:** Section 10 of the Bill is amended to allow companies which are in a holding company or sister company relationship with a company that has a real and continuous link with economic activity in the State to register in Ireland. The previous wording allowed only those in a subsidiary relationship to such companies to do so but following examination and consultation with the Revenue Commissioners this was seen to be too restrictive.

**Senator Joe O’Toole:** This is a sensible and useful amendment which strengthens the legislation enormously. There should be no difficulty supporting it.

Amendment agreed to.

Section 10, as amended, agreed to.

#### NEW SECTION.

**An Leas-Chathaoirleach:** Amendment No. 18 is in the name of Senator O’Toole. Amendment No. 19 is consequential on amendment No. 18. Is it agreed that amendments Nos. 18 and 19 may be taken together? Agreed.

**Senator Joe O’Toole:** I move amendment No. 18:

[Senator Joe O'Toole.]

In page 14, before section 11, to insert the following new section:

11.—The following section is substituted for section 45 of the Act of 2003:

“45.—The Act of 1990 is amended by inserting the following in Part X:

205E—(1) In this section—

‘amount of turnover’ and ‘balance sheet total’ have the same meanings as in section 8 of the Companies (Amendment) Act 1986;

‘relevant obligations’, in relation to a company, means the company’s obligations under—

(a) the Companies Acts,

(b) tax law, and

(c) any other enactments that provide a legal framework within which the company operates and that may materially affect the company’s financial statements;

‘tax law’ means—

(a) the Customs Acts,

(b) the statutes relating to the duties of excise and to the management of those duties,

(c) the Tax Acts,

(d) the Capital Gains Tax Acts,

(e) the Value-Added Tax Act 1972 and the enactments amending or extending that Act,

(f) the Capital Acquisitions Tax Act 1976 and the enactments amending or extending that Act,

(g) the statutes relating to stamp duty and to the management of that duty, and

(h) any instruments made under an enactment referred to in any of paragraphs (a) to (g) or made under any other enactment and relating to tax.

(2) This section applies to—

(a) a public limited company (whether listed or unlisted), and

(b) a private company limited by shares,

but it does not apply to a company referred to in paragraph (a) or (b) that is of a class exempted under section 48(1)(j) of the Act of 2003 from this section or to a company referred to in paragraph (b) while that company qualifies for an exemption under subsection (9).

(3) The directors of a company to which this section applies shall include in their report under section 158 of the Principal Act a compliance statement—

(a) acknowledging that they are responsible for securing the company's compliance with its relevant obligations,

(b) confirming that the company has in place a compliance policy statement that is, in the opinion of the directors, appropriate for the company, and, if this is not the case, specifying the reasons,

(c) confirming that the company has in place appropriate procedures and arrangements that are, in the opinion of the directors, designed to secure compliance with its relevant obligations, and, if this is not the case, specifying the reasons, and

(d) confirming that the company's procedures and arrangements referred to in paragraph (c) have been reviewed during the financial year to which the report relates, and, if that is not the case, specifying the reasons.

(4) For the purposes of this section, a company's procedures and arrangements are considered to be designed to secure compliance with its relevant obligations and to be effective for that purpose if they provide a reasonable assurance of compliance in all material respects with those obligations.

(5) Where the directors of a company to which this section applies fail to comply with subsection (3), each director to whom the failure is attributable is guilty of an offence.

(6) A private company limited by shares qualifies for an exemption from this section in respect of any financial year of the company if either—

(a) its balance sheet total for the year does not exceed—

(i) €12,500,000, or

(ii) if an amount is prescribed under section 48(1)(l) of the Act of 2003 for the purpose of this provision, the prescribed amount,

or

(b) the amount of its turnover for the year does not exceed—

(i) €25,000,000, or

(ii) if an amount is prescribed under section 48(1)(1) of the Act of 2003 for the purpose of this provision, the prescribed amount.

205F.—(1) The auditor of a company to which section 205E applies shall undertake an annual review of the directors' compliance statement under subsections (3) of that section, having regard to information obtained by the auditor, or by an affiliate of the auditor within the meaning of section 205D, in the course of and by virtue of having carried out audit work, audit-related work or non-audit work for the company.

(2) Where, in the auditor's opinion, the directors have—

(a) failed to prepare, or to cause to be prepared, a directors' compliance statement as required by section 205E(3), or

(b) failed to include a directors' compliance statement in the directors' report as required by section 205E(3), or



[Senator Joe O'Toole.]

(c) made a compliance statement which is either false in a material particular or has been made recklessly to comply with section 205E(5) and (6),

the auditor shall report that opinion and the reasons for forming that opinion to the Director of Corporate Enforcement.

(3) Section 194(6) applies, with the necessary modifications, in relation to an auditor's compliance with an obligation imposed on him by or under this section as it applies in relation to an obligation imposed by or under section 194.

(4) A person who contravenes this section is guilty of an offence.”.”.

Amendment No. 19 is consequential; it involves a change in the Long Title to respond adequately to it.

The Minister asked me to be calm in how I dealt with this amendment. I will try to be calm, measured and logical about it and I expect a similar response from her in terms of flexibility.

I will put this amendment into context, which has to do with the debate on light touch, heavy handed legislation and so on. What I propose addresses a number of issues. First, it raises the threshold under which companies are required to come in under the new section I propose. As a result, fewer companies are tied into it. Second, it requires directors to disclose material facts which they know. Materiality will be the judgment call for themselves at the time. Third, it requires the auditor to sign off on that. That is what I propose in broad terms.

In terms of what I am proposing, on four or five different occasions while we were going through the Bill the Minister referred to the Office of the Director of Corporate Enforcement to support her argument. She referred to his office and to him time and again in the Committee Stage debate, in response particularly to Senator Cannon's issues. What I have put before her today is precisely, down to the comma, what the Office of the Director of Corporate Enforcement proposed to the company law review group. On that basis alone it is an open and shut case. This is similar to how one deals with the issue politically. I am putting before the Minister something from the office on which she has relied for all her argument to date, and I believe she should accept it. She should not tell me about the companies Bill, with its 1,350 sections or whatever, she will bring in next year.

During the time of the rows about offshore accounts, when the banks queued up to appear before the Committee of Public Accounts, the argument they put forward time and again was that they did not know. Even though I agreed with the argument made by Senator Cannon on the last amendment, I found it difficult to support what he was saying because it put an onus on directors to find out, or put in place the structures to find out, the position. That is probably the argument he was making also in trying to introduce balance into it. He felt the balance went too far, and made a plausible and cogent case which I did not support subsequently because I felt the argument was more on the Minister's side.

In terms of what I am saying in the amendment, I am reminding the Minister that her predecessor as Tánaiste, the Minister for Health and Children, Deputy Mary Harney, went into the Committee of Public Accounts. I sat beside her. We put forward the proposals on the report of the audit review group and at least six times during that speech she said she never again wanted to hear anybody use the argument that they did not know as an excuse for not dealing with it.

We then had the business to do with Anglo Irish Bank some months ago. The Minister will recall that the day after that blew up all the discussions were on whether those people could

be brought to courts and if they were in breach of company law. There was only one voice, Professor Niamh Brennan, a member of the audit review group, who took a different view to that of everybody else. Her view was that there was an issue of the common law based on company law. I made reference to that earlier. The common law is as important as the written company law in many cases. If this issue is moved forward, and I do not want to get into individual issues in individual banks, common law will become very important but if what I am proposing had been in place, that legislation could be used in such a case because there was at least one director who had been a chief executive and a chairperson and who could not deny he did not know the information. It was clearly a question of making a judgment call and the judgment call in respect of what is available currently is whether there is something in place to ensure people are staying within the laws of compliance whereas under what I propose they must say it is appropriate to the needs and that it is material. That is the fallout position on it.

The Minister may choose not to support this amendment but I am proposing what was supported by the Committee of Public Accounts and what was put forward by the Office of the Director of Corporate Enforcement. I am not on my own in this regard. This is not just a throwaway amendment, so to speak, from an Independent Senator. I am speaking Government policy, Committee of Public Accounts policy and the Office of the Director of Corporate Enforcement policy.

This amendment requires us to put in place what people expect us to do. I do not expect it to get one word of coverage from anybody in the Irish media who would be far too lazy to spend any time trying to work out what it is I am saying. They would not bother their heads. I have written to the joint committee on regulation asking it to support this measure. It will not do so but it allows me to say when I am next in the committee that it had the opportunities and it cannot whinge the next time company law is not strong enough to deal with errant directors or that some measure is not in place.

In terms of what I am proposing, the current legislation is section 45 of the 2003 Act, which amends section 205 of the 1990 Bill. We had this debate in 1990. I believe Declan Purcell was the adviser on that occasion. I saw him on "Prime Time" last night. I believe he would still share my views on this issue.

I believe the gods are on my side on this issue. The Minister is in a lonely position in regard to it and nobody will thank her if she does not accept the amendment. This is a simple amendment which also makes the position easier for company directors. It reduces the number of companies involved in it and it makes it easier for them. I am removing large amounts from what is in the legislation currently but the main thing I am doing is this. A section in the current Bill states: "It confirms that the company has internal financial and other procedures in place that are designed to secure compliance". What I am proposing was very close to what was in the original Bill published by the Minister's Department in 2003. Of course, when company directors were required to state to the public that they had put in place something which was secure or material and so forth, there was an outcry from IBEC, various other directors' groups and from what was then called the "big five" accountancy bodies. As the world knows, the big five has been reduced substantially in the meantime. It is down to three at present and getting smaller, due to their involvement in Enron and various other matters.

What I am proposing was in the original Bill, and in that case the Minister and Tánaiste of the day, Deputy Mary Harney, was forced to concede. Pressure was brought on the Government to introduce this. There has been no debate on it in the intervening period but this is what is there. Many of the people, incidentally, who were complaining about the lack of regulation and legislation to deal with Anglo Irish Bank are the people who did not support what they should have supported in 2003. What is stated at present is that the legislation and procedures

[Senator Joe O'Toole.]

are designed to secure compliance, but the amendment uses the phrases “confirming that the company has in place a compliance policy statement that is, in the opinion of the directors, appropriate for the company” and “confirming that the company has in place appropriate procedures...designed to secure compliance”. In other words, the directors will make a value judgment that what they have in place is appropriate for the company.

I am sorry to repeat my point but I have a reason. This provision is not nearly as harsh as the Minister's last amendment about throwing people into jail. This is about company directors doing what I believe they should. When I put forward this proposal in 2001 and 2002 as chairman of the audit review group to the Government, I honestly did not believe I was raising the bar. I believed that the limited liability which this democracy grants to company directors was a privilege and that the least we were entitled to get in return were declarations on any issues that were material and that the directors would act in compliance with the law of the same democracy that gave them their privileges. I will argue with any group, accountants or otherwise, who say this provision is harder on directors. It is not. It puts one duty on directors — it makes them form a judgment.

What does that mean? How does it work in real terms? Let us say the company falls apart and the directors are brought before a court on the basis of this legislation. They will have to stand up and say they were directors of that company; that as directors they ensured the process was explained, put in place and reviewed each year, as is required in the provision; that they got a report every quarter or six months to the effect it was being implemented and the company was compliant; that they ensured it was put in place and that they got a report; and that they cannot be held responsible for some errant person somewhere else who was acting fraudulently. It must be stressed that this amendment is not like the Minister's last amendment; it does not throw people in jail for something about which they could have known nothing. It effectively provides that the directors act proactively and positively to put in place a system to ensure they are paying their taxes, that the books are a fair and accurate reflection of what they are doing and whereby the directors can form a judgment that they acted as fairly, honestly and correctly as possible in the spirit of and as required by the legislation.

That is what is required of the directors. The next part of the amendment applies to the auditors. What is required of the auditors? One need only reflect on events two months ago when the Anglo Irish Bank problem hit the fan and people were asking about the role of auditors. We know the role of auditors. I must declare an interest because I am a director and member of the Irish Auditing and Accounting Supervisory Authority, so I have been immersed in this issue. In my view, the auditor is a watchdog, not a bloodhound. The same applies to the directors. It is not the case that a director must chase around every office or sub-office of the company to find out if everybody is acting honestly. One can only require the director to do what is appropriate for a director. Directors are not managers, nor should they be required to spend millions of euro on consultants to get this information, as was argued by many of the accountancy bodies at the time, including the big five. They should spend no more than would reasonably be required to put reasonable and practical mechanisms in place to ensure they comply with the law. If the company is Anglo Irish Bank, for example, giving out over €100 million in loans to directors and telling nobody about it, the directors would be required, under this amendment, to disclose anything material and would be required to be told of anything material. There are, therefore, two bites of the cherry.

Let us say the directors are before the judge and are asked what the auditor does. The amendment uses the phrase “in the auditor's opinion”. The auditor must form an opinion or make a judgment. What I am seeking through this amendment is that both directors and auditors form judgments. What else are they paid for? What else are they doing in the company?

Auditors are the bridge between the company in business and the rest of us. They tell shareholders in the company they are auditors and not part of the company; they have read through the books; and the books are a true and fair reflection of the accounts. They say the same to the Minister, the Revenue Commissioners, the Department of Finance and the political system. The amendment provides that where the auditor forms an opinion that the directors failed to prepare or cause to be prepared a directors' compliance statement or where they failed to include a compliance statement in line with others or where they made a compliance statement which was either false in a material particular or made recklessly, the auditor must report that to the Director of Corporate Enforcement.

I can predict the argument that will be made against this provision. It will be against the use of the word "material". Every accountant, trainee accountant and accounting technician knows what "material" means. Can it be defined? It probably cannot; it is one of those mysteries of accountancy. It is like asking somebody to define an elephant. One cannot, but one knows it when one sees it. The same applies to material. One need not define it but one knows it when one sees it. If somebody is auditing a company and discovers some company directors have received loans of over €100 million which do not appear in the books, one will know it is material without ever receiving a definition of it. Generally, material in the books in accountancy terms would be at 10% but there is also the issue of its impact. As we have seen, the amount of the loans was far less than 10% but the impact was much greater than 10% in terms of profits, turnover, value, equity and so forth.

I hope I have convinced the Minister. I have tried to cover all the angles. The amendment I have put forward is exactly in line with what the Committee of Public Accounts asked of the Government in 2002. It is also in line with what was proposed by the Minister's Department and the then Tánaiste, Deputy Mary Harney, in 2003. Furthermore, it comprises the exact words proposed by the Office of the Director of Corporate Enforcement to the Company Law Review Group some time ago. It deals with a gap in the legislation at present and requires directors and auditors to form judgments. This will give comfort to shareholders, stakeholders, customers, the Revenue Commissioners, the Department of Finance and the political system. It is a no brainer; the Minister should accept the amendment.

**Senator Ciaran Cannon:** Before Senator O'Toole's contribution and after a cursory look at the amendment, I was somewhat conflicted about it. However, having heard the Senator speak, I believe he is employing a subtle and enlightened way of policing the actions of company directors. The previous amendment we dealt with is an instance of employing a machete to remove a tumour. What Senator O'Toole proposes is more subtle and skilful scalpel surgery. It suggests that this will afford company directors acting in a genuine way the protection they need from the very rare errant activity of other directors. It suggests putting in place a genuine system of monitoring the activity of all directors and allowing those who act properly to make a believable claim that they did all in their power to police the activities of their company director colleagues. I support the amendment and hope the Tánaiste will see fit to act in the same way.

**Senator Brendan Ryan:** From experience in industry I have some concerns. I would be interested to hear what the Tánaiste has to say. I was impressed by Senator O'Toole's comments generally. The use of a phrase like "forms a judgment" in legislation tends to frighten me. People can argue in any forum that they formed a judgment and therefore get themselves over the line in a particular way. They can excuse themselves on the basis that they have formed a particular judgment. I have some concerns about the use of that phrase.

**Deputy Mary Coughlan:** The Senators have set out their position in respect of Senator O'Toole's proposal. The recommendations that directors of companies should be required to prepare an annual compliance statement was contained in the report of the review group of auditing, of which Senator O'Toole was chair, and was submitted to my predecessor in July 2000. Section 45 of the resulting Companies (Auditing and Accounting) Act 2003 contained the relevant provision. As we all know, that section was the subject of considerable comment during the Act's passage through the Oireachtas and significant changes were made before it was finally enacted.

Following enactment, the Office of the Director of Corporate Enforcement was requested by the then Minister of State, Deputy Michael Ahern, to develop appropriate guidance on how the provisions would be expected to operate in practice. This in turn led to the identification of a number of issues, which resulted in the Company Law Review Group being asked to examine the matter. Having conducted an intensive risk and regulatory analysis, the Company Law Review Group submitted its report in 2005. The report contained a more detailed analysis of the provision and the consequences that would flow from its commencement. One of the CRLG's most important findings was that commencement of the section in its enacted form would give rise to a cost to industry ranging from €377 million to €692 million in set-up costs and from €202 million to €343 million in ongoing costs.

As we all know, there were divided views within the CLRG with some interests recommending the provision be simply repealed, while at the other end of the spectrum it was recommended that the section be commenced as enacted. The majority of the CLRG recommended that a significantly revised provision be substituted while a minority of members supported a revised alternative proposed by the Director of Corporate Enforcement. In the event the Government decided to accept the alternative proposal by the majority of the CLRG and that has been included in the companies consolidation and reform Bill, which is being drafted by the Parliamentary Counsel.

The amendment tabled by Senator O'Toole is, as he indicated, essentially that recommended by the Director of Corporate Enforcement and I am not in a position to accept it. I appreciate that all the arguments I have brought to the House have been on the basis of his recommendations. This is not one he brought to my attention on the immediacy or the robustness of his legislative framework. The issues I have brought to the House have been on the basis of his recommendations to assure people during this time that he will have robust legislation available to him. However, I am prepared to review the issue to ascertain whether developments since the Government last considered the matter warrant refinement in the requirement for directors' compliance. In this regard, for example, the imminent transposition of EU directives, amending the fourth, seventh and eight company law directives contained elements requiring reporting by directors. The alternative to a directors' compliance statement will need to be aligned to these requirements to avoid unnecessary overlap and to remove potential inconsistencies.

I listened to what people had to say and I reread the company law reform group report. I do not wish to take from the argument that has been put to me, but at this time I am not in a position to accept it. I will read out statements that do not come from the regulatory people or the lawyers. As we all know, the food and drink industry is under severe pressure. Its main concerns were:

- requirements out of step with international practice. As a small open economy, it is important to have best practice corporate governance practice however it is equally important not to gold-plate best practice standards



- imposes a serious cost burden on industry; in particular the requirement will greatly reduce the profitability of SMEs
- timing of legislation is problematic...
- scope of legislation too broad in terms of thresholds applied and breadth of requirements placed upon directors.

IDA Ireland stated that the view of multinational companies was that it would increase the regulatory burden, give the perception of less friendly business environment, increase compliance costs and reduce competitiveness. It also referred to host versus home country regulation. Its submission stated: “When multinational companies contemplate investing in Ireland they are sensitive to changes in the respective regulatory and compliance environments between their home country, Ireland and competing locations.” These are not statements from the regulatory people who, I appreciate, might sometimes look after their own agenda, but from people in industry.

This report was published in 2005 on the basis of the situation arising from 2002. I have had further discussions with the Minister for Finance on this issue, particularly as it affects the financial sector. There have been serious difficulties in the financial sector in the broadest sense over the years. There is existing legislation governing the activities of such companies that allows for the imposition of obligations effectively amounting to a requirement to prepare a directors’ compliance statement. Section 25 of the Central Bank Act 1997 enables the bank to require a regulated financial services provider to provide a compliance statement to the bank within a specific period. I consulted the Minister for Finance who has announced his intention to reform radically the regulatory structure for credit institutions. It would be possible for further refinements to be introduced as they would apply to financial entities.

The provision on a directors’ compliance statement as exists in draft form would contain relevant obligations of the Companies Act, which is contained in the Company Law Act anyway and in tax law. We ought to think about the other requirement that has been spoken about. I am happy to listen to other people’s arguments and my view is that we should provide the best legislation we can, which reflects lessons learnt. I have a concern about the other aspect of relevant obligation. Section 11 of the Bill refers to “any other enactments that provide a legal framework within which the company operates and that may materially affect the company’s financial statements”. In a small sense this can be considered with regard to the financial institutions. However, are we expecting a director of a company, for example involved in some kind of environmental business, to bring in a professional with that expertise to allow him or her to sign off on a compliance statement even though the company itself would be obliged under the regulatory frameworks? It is the same for the pharmaceutical industry. Are we expecting that a director, before he or she signs off on the compliance statement, needs other expertise to assure him or her that he or she may sign off? It is not just the small things, we need to think about whether this is the appropriate approach.

The second aspect is the need to bring in an auditor to sign off. Sometimes we do not make good laws when people are under pressure. There are companies that are under serious pressure. They are beating down the door about regulation and surveys and asking to have some of this eliminated because they want to focus on doing their business. Their view is that compliance means being compliant with taxation law and other appropriate laws.

I appreciate Senator O’Toole’s statement that I have received considerable guidance from the Director of Corporate Enforcement. The Senator must appreciate that, in the context of this legislation, which is almost an emergency Bill, the director did not raise this issue arising from his investigative work. I require convincing that the proposed measure is necessary. I



[Deputy Mary Coughlan.]

regard compliance statements as necessary but I do not want to subject companies to excessive regulation.

The threshold set in the legislation is high. While it is important to have expectations of directors, as politicians we must also consider the likelihood that an insufficient number of people will be willing to become directors of companies because it will not be worthwhile for them to do so. We must strike a balance at this difficult time. Ireland is a small country and only a limited number of people have the capacity to do things.

Members frequently argue that politicians should not be discouraged from participating on boards. I am not sure this is the right time to accept the amendment. I remain open to argument, however, and I will leave open the door for further discussion on the issue. I will make a final determination on whether to proceed with the recommendation issued by the Company Law Review Group, which is a Government decision that I am not entitled to change, or whether I will bring to Government a different perspective. I am not in a position to accept the amendment.

**Senator Joe O'Toole:** In thanking the Minister for her comprehensive response, I gently point out that she is wrong on all points. Some of the Minister's comments were embarrassing. I also point out to my colleague, Senator Ryan, that I used the words "form a judgment" to explain how the legislation would work and they do not feature in the Bill.

In his response to the Company Law Review Group, the Director of Corporate Enforcement described as unnecessary the proposal that a company may rely, at the director's discretion, on internal or external advisers to secure compliance. The Minister has adopted a position in support of the Company Law Review Group's proposal to allow the use of external and internal advisers. I concur with the view of the Office of the Director of Corporate Enforcement that such a measure would institutionalise heavy advisory costs. Those who are telling the Minister they do not want the provision in my amendment included in the legislation are the same companies which will supply consultants to ensure compliance. I share the Director of Corporate Enforcement's view that directors should make up their own minds and should not spend money on advisers.

What did the Minister mean when she cited the examples of environmental and health and safety issues and the pharmaceutical sector? She appears to believe companies involved in these areas are not compliant. There is no other way to explain the implication in her statement that directors do not take responsibility for abuse of health and safety or environmental laws.

**Deputy Mary Coughlan:** I did not say that.

**Senator Joe O'Toole:** Is the director of a company which is dumping materials in an unauthorised dump supposed to know about the practices in which his company is engaged? Must I engage a consultant to tell me about this kind of thing?

**Deputy Mary Coughlan:** That is what the Senator is proposing.

**Senator Joe O'Toole:** No, it is not. The Minister has been given a false trade on this matter. I will resign my seat if she can provide information to support her contention that this measure would cost millions of euro. I have been listening to a similar argument since 2002.

We must abandon the idea that companies must engage consultants to tell them they are complying with the law. Consultants are precisely the people one does not want running a company. A publican running a company must ensure he complies with strict legislative requirements on matters such as opening and closing times, who he may employ and where he may

employ them, the display of signs and so on. As with individuals running companies in other areas, he ensures he is in compliance with a check list.

The Minister's comment on pharmaceutical companies was close to libellous. Perhaps she is unaware of the steps directors of such companies must take to ensure compliance. The requirements they must meet before signing off on anything are above and beyond those required of other groups. Pharmaceutical firms are surely the most compliant of all companies. If a director of such a company believes there is a 0.01% chance that any aspect of a medication is dodgy, the product will be destroyed.

I was informed by an individual at a briefing I received on this issue last month that he had not slept for an entire weekend because he had refused to sign off on a material that his company was placing on the market, a decision that cost his company, a large, well-known international pharmaceutical firm, €27 million. He said he had no choice in the matter because he was unable to tick all the boxes and strict criteria had not been met somewhere along the line.

I also asked a professor of business about the argument being made by the Minister. Incidentally, her argument is as old as the hills. It begins with a thesis that company directors do not bother or could not care less about environmental or health and safety legislation. This is completely unfair to decent company directors who try to cope within the law.

**Deputy Mary Coughlan:** I did not say that.

**Senator Joe O'Toole:** The Minister is arguing that company directors will have to wheel in consultants if they want to be able to state their companies are compliant with the law. We may as well close down the whole system if that is the case. That is the precise argument used in 2003 and there is no basis for it. People act within the law to the best of their ability. If my company contracts another firm to transport and dispose of materials in a proper manner in the local dump and the latter decides to dump the material at the end of a farmer's field or in an empty quarry, I will not find myself in court provided my company has met all requirements and put in place the proper structures to ensure it is dealing with a reputable company. In such circumstances, the company cannot be held responsible for fraudulent or illegal behaviour. If we have reached the stage that we must engage consultants to establish that legislation being passed on a monthly basis in the House is being complied with, we have a serious problem.

The Minister referred to people knocking on doors because of heavy regulation but declined to comment on the fact that my amendment would raise the threshold and reduce the number of those required to be involved in the compliance process. I ask her to comment.

Does the Minister's memory stretch back to two months ago when Members were lining up in both Houses and in committees to highlight the failure of the Financial Regulator to regulate with sufficient strength. Last week's edition of *The Economist* featured a whole section of some 15 pages on how we should approach the regulation of companies. President Obama stated recently that we must strike a proper balance in a number of areas, including regulation.

I am opposed to heavy-handed regulation. The purpose of the amendment is to ensure people act honestly as our forefathers did in the past. Before legislation was introduced people did not sign documents but shook hands. One's reputation was one's bond. That is the way I was reared and it is how I would like legislation to work. All I seek is that people do their best to comply with the law and ensure they can show what measures they put in place to try to ensure compliance. We can demand nothing else of decent, honest company directors. We do not want them relying on consultants in big offices on Merrion Square or Fitzwilliam Square at €600 an hour to come in and tell them they are complying with the law. It is their own executive who tells them they are complying with the law. Can one imagine that companies do

[Senator Joe O'Toole.]

not have a risk audit, a health and safety person? They are supposed to have a person appointed by the company to ensure that they comply with the law in a variety of ways.

I strongly reject the contention that this is to place additional burden on the company. It is quite the opposite, but it is being presented to the Minister as such. It is for honest people to state and show that they have done their best, and for the auditor to confirm that that has happened. What is the high bar on that one? What is the threat in that to anybody? Why would any honest company director have a problem with it?

Recently, I asked a professor of business about this issue. As devil's advocate, I put the argument the Minister put about the issue of other legislation on environment, health and safety etc. There is a long list of such legislation which I have in my office since I got all this stuff in 2003. The answer I got back questioned company directors not being responsible for having in place structures that save people's lives or make them work more safely. The professor looked at me like I was from the Dark Ages. All I am asking for is simple, straight-forward stuff.

I also want to put on record the other points the Office of the Director of Corporate Enforcement made about what the Minister is supporting. He stated that, regrettably, he could not endorse it because it means that the Office of the Director of Corporate Enforcement, as the body responsible for encouraging compliance with company law, including the preparation of books of accounts that give a true and fair view, finds unacceptable a proposal which omits reporting on obligations "that may materially affect the company's financial statements". That is what the Minister is supporting. The Minister's Department is the parent Department of the Office of the Director of Corporate Enforcement which states this is the situation. That is what she is asking me to accept. The director went on to state that the provision for auditor review of the director's compliance statement has been entirely deleted. This was a key recommendation of the audit review group in enhancing the public interest role. The director stated that the proposed definition of material compliance no longer requires that the arrangements of structures in place must be reasonably effective. We, therefore, have heard it from the Director of Corporate Enforcement.

The first time this goes wrong politicians will stand up in this House and the other House to ask why the Director of Corporate Enforcement did not get in there and do this, that or the other. The director offered his view and here we are ignoring that view. It cannot be right.

The Minister stated that she is open to dealing with this issue. I have given her the view of the Office of the Director of Corporate Enforcement, the Committee of Public Accounts and the audit review group. What does it take to change the Minister's mind on this? If she is open to it, what does she need to hear or from whom does she need to hear on this matter? The other group which had a reservation about this section was the Revenue Commissioners, but I will not go into that. Let it be on the record that the House had the opportunity to act on this and it refused to do it or it is not doing it for issues of no relevance whatever. I appeal to the Minister to open her mind to this, to take it on board and to make it happen.

**Deputy Mary Coughlan:** In normal circumstances I accept the views of those who are elected in this House, particularly if they are articulated in such a way that the argument is convincing. I totally refute Senator O'Toole's assertions that I do not know what is happening and that I do not know that companies in particular sectors must abide by the laws of this land on health and safety, licensing etc. What I articulated on this was in the context of the compliance statement. If Senator O'Toole wishes to have an audit done, in normal circumstances I would put money on it, because half the time we are talking about money, that they will not allow a director to sign off on their obligations in certain circumstances unless they have an expert

opinion to allow them to do so. The argument I was making was not that a company must abide by the rules and regulations by which it is regulated no matter what the company is. That is taken as read, as said and as expected. We are specifically speaking about this.

I introduced this legislation, as I indicated to the Senator, following from the debacles that took place within the financial sector where I asked the Office of Corporate Enforcement what additional measures he wished to see in the context of this specific issue. He put them forward and I have accepted them, and these are the measures that I am putting to the floor of the House. In general, they are being accepted.

The discussion here is on different legislation, section 45, which was controversial and which has not been enacted. I have taken the past year in familiarising myself on the company law side. There are issues that I have asked to be considered so that when I come back to the floor of this House in approximately a year's time or less, I will have formed an opinion and briefed a Government to form an opinion to bring certain measures to the floor of this House and to the Lower House.

I say to the Senator is that there is an argument out there, and that argument has been articulated by Senator O'Toole and three other speakers. There is a majority who are against this. However, since 2005 matters have changed. I give an undertaking here publicly that I will take on board Senator O'Toole's views — we can have further discussion privately later if necessary — and ask the CLRG for a review. It will not be an overall massive review because it has a considerable amount of work to do, but I will speak to the chairman. I spoke to congress on a number of issues of company law and it has articulated its views. I will speak to Mr. Paul Appleby's office again before I make a final decision on what I think would be the best recommendations to put to the floor of the House and discussed further because it is huge legislation. I would prefer not to be put in a position where I would be expected to accept this amendment in a vacuum of the overall revised company law legislation that I would like to bring to the House.

Senator O'Toole made a fair argument and I would like to consider that argument, to hear what the Lower House will say on this issue and then form an opinion where I would come back to the floor of the House with my recommendations and have further opportunities. It is a process and much work has been done on company law. We will have further discussions with the relevant parties and bodies, and a final determination will naturally be made on the floor of the House.

I am not rejecting this. My preferred option is to consider it further and that we would bring back to the House what we wish to see in an amended section 45 so we can bring the matter to finality. Obviously, it has been very controversial on the basis that since 2002 this matter has not been brought to finality. I do not think I am being unfair. I would like to bring to the House the best legislation but on the basis of what we are specifically doing here, my view is that we should consider it further.

On the issue of the amount of money, Goodbody Economic Consultants were asked to deal with that, and I am sure Senator O'Toole has the CLRG recommendation available to him. I can only be guided by what has been brought to my attention and what has been articulated by the majority of the CLRG. I cannot accept the amendment but that does not deter me from reflecting on the thrust of the discussion in the House.

**Senator Joe O'Toole:** I thank the Tánaiste for going through that. I do not know why she felt I had criticised her personally. If I did, it was not my intention. I do not take that road. I hold the Tánaiste in the highest regard and I do not need to go down the road of personal criticism, as she well knows.

[Senator Joe O'Toole.]

The Tánaiste has crystallised the point of disagreement between us. She cannot stand over a situation in which directors must get advice from lawyers, consultants or whoever it was she mentioned before they can sign off on something. It would be neither acceptable nor necessary. If one runs a company, one puts structures in place and does one's best. That is the end of it. If we are passing legislation that outlines the requirements in question, we must revisit all of it. This is where the costly heavy touch and over-regulation come into play. The section appears to imply someone can be a company director for a year and sign off on meeting after meeting decisions with which people are happy, until the day on which he or she must sign off on a compliance statement.

I chair a number of finance committees. A finance committee goes through a matter and reverts to the board with its case about which the board asks questions. An element of trust is involved, just as there is with a board's audit sub-committee. Companies of the size in question have audit committees to go through the issues in question. It is the case that, somewhere along the way, a director will ask what is in place to ensure a company complies with health and safety, environmental or other regulations. The company will receive a report. We are not saying the company director must spend the weekend going through what was put in front of him or her. The director must have trust and confidence in the report, which is all a court can ask of him or her. The director formed an opinion based on the putting in place of what he or she considered to be appropriate structures.

One cannot stop fraudulent or illegal behaviour or hold company directors responsible for it. Neither can one set out auditors to be bloodhounds. They are watchdogs. They determine whether something is done inasmuch as they can form their judgment from what they receive. That is stated in the 2003 legislation, although I am unsure as to whether it is referred to in my amendment. Auditors form their judgments based on the information made available to them. There is an argument for an in-between position, namely, that the legislation can be written in such a way as to make the compliance statement refer to the issues of revenue taxation, financial accounting and governance only. I do not agree with this argument, but it is an in-between position. In other words, one would deal with the issues about which one has expressed a concern.

My amendment does not add to the burden on directors in any way. Rather, it reduces the burden and the number of companies. However, it requires that they reach a conclusion based on how they have done their work in the course of a year. Surely this is as much as anyone can be asked to do. It is a reasonable requirement in that situation.

I welcome the Tánaiste's comment on holding further discussions. She stated she took what came from the Office of the Director of Corporate Enforcement, ODCE. While I accept her statement and do not challenge it in any way, will she ask the Director of Corporate Enforcement for his opinion on my proposal? Is he in favour of its inclusion in the legislation? Let us hear the answer. When I saw him recently, I was dying to ask him that question, but I did not want to compromise him in any way. The Tánaiste can ask him the question on behalf of us both. I cannot imagine he would not support my proposal, seeing as how it was his proposal to the Company Law Review Group, in which he has no interests. His only job therein is to ensure companies comply with the law of the land, governance is adhered to properly and standards of audit are acceptable on behalf of the public good.

**Senator Jim Walsh:** I have followed this interesting debate on the monitor. While the arguments are quite plausible, I must insert a note of caution, which I also did during our previous discussion on the Bill. People view directors as being knowledgeable of every aspect of their companies' running, but that is not the case. In the main, executive and non-executive directors,



a distinction that one must make, meet on a monthly basis. The directors, specifically the non-executive ones, will give direction in terms of policies, the finances examined at each meeting and what must be done to improve performance. They give overall direction over where the company should go. To suggest that certain obligations relating to important minutiae would lift the corporate veil and expose directors personally to issues that, by virtue of their time spent on the company's operation, could not be grasped by them fully is to make a serious error in judgment in terms of where we are going in how businesses are run.

It has been argued by others and acknowledged by the Tánaiste that the law of the land applies to all companies. However, some executives within companies have designated responsibilities over a wide range of areas, including health and safety. Statutory obligations attach to them for the manner in which they administer their functions. However, I am seriously concerned about and critical of the thrust of policy that is being articulated by many in politics, namely, that we are heading towards becoming a nation of retirees and public servants. In that case, who will pay the Exchequer's bill of €41 billion or €42 billion other than the private sector?

We must encourage people to participate in and give of their time and expertise to the functioning, management and direction of companies, but only in a way where they are protected by limited liability. This is essential. Recently, there has been a thrust, no doubt promoted by elements within social partnership, to lift that protection. While it may seem plausible, let us consider the result. I am critical of the secure professions, including the legal and medical professions, for profiteering from the other sectors. A contingent liability does not attach to their functions. However, most other businesses are operated as limited liability companies for a good reason.

We must ensure the laws of the land are used to penalise people, but only in a reasonable and practical way. Let us not undermine people's interest in participating as non-executive directors. Many people argue we are only developing the role of the non-executive director, particularly in the private sector. Such directors add an extra dimension of expertise, which is important.

I caution against a catch-all measure so a director of a company does not have any protection from all sorts of eventualities over which he has no knowledge or control. We need to be cautious and careful, because that argument has not come forward strongly in the debate. The Minister has a responsibility to give very careful consideration to that side of the situation, so we have a thriving entrepreneurial business approach in this country which, despite the current climate of being dismissive and critical of that arena, has done a lot to get us to where we are economically.

While we are experiencing a downturn of some 8% or 9% in our GDP this year, it should not be forgotten our GDP increased since the mid-1990s at a rate of approximately 8% per year, which is one of the most significant and impressive rates in the world. I am trying to ensure we do not move in a direction which puts impediments in the way of that. I have seen many plausible arguments being made, not on this section of Companies Bill, which are being injected into policies and will be a disincentive for that particular area to grow in the future.

Those of us who work in the public service or are dependent on social welfare must realise that unless the private and productive sectors of this economy function properly, and are encouraged to do so, there may not be money to pay those in the public sector or on social welfare. We need to be very mindful of where we are going.

**Senator Joe O'Toole:** I am sorry to bore the Minister by going over the same points, but obviously Senator Walsh was——



**Deputy Mary Coughlan:** The Senator is educating me.

**Senator Joe O'Toole:** —not listening to any of the debate, so I will have to put it on the record again for him.

My amendments, such as the exemption, reduce the number of companies covered by the Minister's proposal. I am raising the required level of turnover for the companies limited by shares from €15 million to €25 million per year, and making a number of other changes which I will not discuss. It reduces the number of companies involved, and I ask Senator Walsh to acknowledge that.

A point I read into the record already is that the Bill contains a proposal that a company may rely, at the director's discretion, on internal and external advisors to help secure compliance. It is unnecessary and incurs additional costs. The director forms a view on the basis of acting honestly. I will not accept anybody telling me one has to get somebody in to say one has done one's best to comply with the law of the land.

I will give a simple example. If a company has to make an appointment at any level, it is more than likely nobody from the board will be involved with most of the appointments made. An appointment has to be made in line with the laws of the land. No company will sit down and say, "Show me the advertisement". They will not ask how many days did one have between the advertisement and the appointment, how the criteria were determined, how they were applied, who asked the questions and if the same questions were asked of all candidates. That is a job for the executive of the company. There is no question about that.

The same applies to legislation on health and safety, the environment, bullying or anything else. The company puts things in place and one must trust people to do so. All the director has to say is the company has a structure in place to ensure it complies with the law. If somebody did not put structures in place, one cannot hold the director accountable. There is no point in bringing in an outsider to check that, because he or she has to go through every single thing that happened during the course of the year. That is not what this is about. People have to act on the basis of trust and confidence.

I have no differences with the points made by Senator Walsh, in terms of his views on companies. I do not agree we should withdraw limited liability. One could certainly not have business without it. I made reference, on many occasions, to the fact people should be told it is a privilege to allow companies to operate. However, it is no more a privilege than a bank handing a loan to somebody. There is trust and confidence it will be paid back and the person is able to do so.

If people take on the responsibility and privilege of limited liability, they do so on the basis they will do their best. If a company goes to the wall, all we ever ask is if it happened in a way that was beyond the control of the company. We do not pull people before the courts, but if we felt somebody was not acting honourably, we would do so. That is all that is involved.

I listened to what the Minister said and asked her to put something to the Office of the Director of Corporate Enforcement. We are not dealing with Report Stage today. The Minister has listened and said she will look at the issue again. It is not my intention to push this to a vote at this point. We will revisit it on Report Stage and I would like to hear something extra from her then. We will see if something needs to be done at that point.

I thank the Minister for her engagement on the issue. It was very much appreciated.

**Senator Jim Walsh:** I listened to the debate, which is what prompted me to come in and make a contribution. The law is there and companies have an obligation to comply with it. I have signed compliance notices, which are part of the annual audit. I understand Senator

O'Toole wants to have that extended to other areas. He is looking to extend it to areas of which the directors may not have knowledge or control.

**Senator Joe O'Toole:** No, I am not.

**Senator Jim Walsh:** The system should——

**Senator Joe O'Toole:** I am not doing that, and I said I was not doing that.

**Senator Jim Walsh:** The system should be in place and it is up to the law to uphold that. One should not put an additional obligation within the compliance notice. If anybody has read it, it is already very onerous, has been extended in recent years and there is a thrust to continue adding pieces to it. That should not be the case.

**Senator Joe O'Toole:** Agreed.

**Senator Jim Walsh:** Directors have responsibilities. Where they act negligently, with gross negligence or wilfully incorrectly, they are exposed, and that is as it should be. There have been cases taken against directors in that regard. However, we should be very careful to limit that to situations where people are acting fraudulently or with gross negligence.

I would also apply that to the public sector, which has not always been done. I mentioned the HIV blood scandal in this House many times, which warranted people ending up in jail as a consequence of their actions. I am fully in favour of that type of accountability for those who hold responsible offices. I agree with Senator O'Toole that to be a director of a company and have the protection of limited liability places responsibility on one to act in accordance with the law. We should be careful. There is also an economic and business side to this and people need to be encouraged.

We have seen examples of bad corporate governance and greed within many large companies, and that needs to be tackled. I do not like the thrust of placing more and more onerous responsibilities on directors, because a conscientious director will not sign off on a compliance notice without being 100% satisfied.

I concur with the point made by the Minister. In many instances, that may mean going outside the executives and getting independent validation and verification of what one is signing off on. One could perhaps qualify it by submitting a compliance notice, which Senator O'Toole inferred, and that it is a matter for executives. I agree with that. I was an executive of a company and I know the responsibilities involved and how one is held to account by directors.

However, if one qualifies it by saying one is relying on certain information, based on what the executives said, one is diluting it to the point of being meaningless. I am not sure there is any need to go beyond where we are.

**Deputy Mary Coughlan:** I do not want to get into an argument between two sides of the House. The crux of my argument comes from the need to have an auditor. Senator O'Toole said an auditor was not a bloodhound.

**Senator Joe O'Toole:** I said an auditor was a watchdog not a bloodhound. It is not an original phrase.

**Deputy Mary Coughlan:** It sounds original when it comes from the Senator's utterances. I appreciate that. Company law should not be used as a vehicle to ensure other legislation is adhered to. Company law is company law. Senator O'Toole has made a considered argument and raised one or two matters for consideration such as tax law and other aspects of company

[Deputy Mary Coughlan.]

law obligations. I will consider those points. I will be speaking to the Director of Corporate Enforcement and others in the context of the heads of the Bill. Depending on their reaction to the draft I would put money on it we will be inundated with people seeking to give their views on it. Consultation will take place before I form a final opinion on what we will bring to the House. That is the best approach to take. I appreciate that Senator O'Toole does not wish to press the amendment. It was my intention to address the matter in the context of the new draft legislation. I accept Senator O'Toole wishes that to happen now but my view is that should not be the case.

**Senator Joe O'Toole:** That is fine.

**Deputy Mary Coughlan:** However, I will have two weeks to think about it in between canvassing. I will be thinking about Senator O'Toole when I am out knocking on doors trying to get a few people elected. We will have further discussion on the matter.

**Senator Joe O'Toole:** This could be a big issue on the doorsteps.

**Deputy Mary Coughlan:** It will be the last thing on people's minds. They will be wondering what we are talking about up here. There are no votes in it anyway, one way or the other, but it is still necessary legislation. I will reflect on the matter and read what Senator O'Toole said in the Official Report.

Amendment, by leave, withdrawn.

Section 11 agreed to.

TITLE.

Amendment No. 19 not moved.

Title agreed to.

Bill reported with amendments.

**An Cathaoirleach:** When is it proposed to take Report Stage?

**Senator John Carty:** Next Tuesday.

Report Stage ordered for Tuesday, 2 June 2009.

Sitting suspended at 1.25 p.m. and resumed at 2 p.m.

### **Report of the Commission to Inquire into Child Abuse: Statements.**

**An Cathaoirleach:** I welcome the Minister for Education and Science to the House.

**Minister for Education and Science (Deputy Batt O'Keefe):** I welcome this opportunity to contribute to the debate this afternoon on the report of the Commission to Inquire into Child Abuse. At the outset, I emphasise the Government's abhorrence at what was allowed to happen to children in these institutions. No one could be unmoved by the horror of what occurred.

For years the story of those who suffered in the residential institutions remained hidden and ignored. Worse still, their stories were denied. When they tried to speak out, their claims and accusations were rejected. One can only imagine the hurt and frustration they suffered in those years when they tried to tell us, but we were not listening. They have now been vindicated.

The Taoiseach's apology in 1999 and the establishment of the commission and the redress board were the first steps on the path that has brought us to the truth of what really happened, to the acknowledgement of the story of the children in these institutions and to redress for the damage caused. It is fitting that we pay tribute to those former residents who gave evidence to the commission so that the truth can be surfaced. To revisit the horrors of the past must have been very painful and their fortitude and courage has to be commended. It is important also at this time to remember those former residents who are no longer with us, who did not live to see these days of disclosure and vindication.

In devising the arrangements for investigation and redress, the Government attempted to make them as non-adversarial as possible. In the case of the redress board the process was made as simple as possible. This was a much more benign system than having to go to court to justify their claims with adversarial cross-examination. The burden of proof is significantly less onerous than in the courts process.

The Commission to Inquire into Child Abuse comprised a confidential committee and an investigative committee. The confidential committee provided a forum in which former residents could tell their story in a non-adversarial setting. In the case of the investigation committee where allegations were being investigated, there was no legal way of preventing cross-examination and people against whom allegations were made had to be allowed due process. However, the arrangements that I have outlined were designed to minimise adversarial elements in the interests of the former residents. Nevertheless, giving evidence must have been painful and traumatic, and the bravery of those who gave evidence has enabled the full story to be told. However, the adversarial nature of the cross-examination at the investigative committee did no credit to the congregations.

The commission's report is a profoundly important document. It presents us with a compelling and disturbing account of a dark aspect of our society. It brings the shameful history into the full glare of public scrutiny. The appalling reality of life in these institutions is laid bare in the report. It articulates the reality of the neglect, fear and abuse which shaped the lives of tens of thousands of our most vulnerable children from the youngest age. Is it any wonder the horrifying nature of their experiences shaped and blighted so many of their lives? The harrowing accounts of the lives of children in these institutions helps the rest of us to understand somewhat the continuing pain and distress which is all too evident in the lives and statements of the survivors.

The State indicated at the public hearings of the commission its regret for inadequacies in discharging its function in relation to the industrial and reformatory school system. Areas in which the State has publicly acknowledged that there were failings include funding, inspections, handling of complaints, education and training. The commission's recommendations are addressed to the State and to the religious congregations involved in the operation of the institutions. There are wider conclusions and recommendations which are, in effect, addressed to all of us as a society, not least in our approach to the well-being of children and others who are vulnerable and dependent on effective care and support.

The report makes clear that from the State perspective abuse of children occurred because of failures of system and policy, management and administration and of senior personnel concerned with industrial and reformatory schools. While we apologise wholeheartedly for these failings, our wholehearted apologies will never undo those failures. I believe the most important recommendation in the report is that the lessons of the past be learnt. We must never forget what happened and we must ensure it is never allowed to happen again.

We owe it to the thousands of victims and the commission to study this report carefully, to reflect on its conclusions and to act on its recommendations. For this reason, the Government

[Deputy Batt O’Keeffe.]

decided to hold a special meeting yesterday to begin the process of detailed consideration of how we should respond. The Government has accepted all the recommendations in the report and, as the Taoiseach stated last night, we are fully committed to their full implementation.

My colleague, the Minister of State, Deputy Barry Andrews, will develop a plan in regard to implementation of the recommendations. In developing this plan, he will consider the various issues which need to be addressed and what actions are necessary, feasible and effective. This plan will include a more detailed analysis of the precise actions required, a timetable for their implementation and the costs and other resources associated with these actions. The implementation plan will be brought to Government for approval by end July 2009.

Consideration of actions to implement the Commission’s recommendations will centre on further implementation of robust independent inspection processes relating to children receiving personal social services; ensuring that a child centred approach is taken and the voice of the child is heard in the development of policy and its implementation; how best to hold service providers to account in the implementation of the recommendations, in particular in relation to child welfare and protection guidelines and the associated legislative and regulatory provisions required. In addition, the Government will consult representatives of the survivors of abuse in relation to the memorial to victims.

The report also raises serious issues for the congregations. The commission believes they need to examine how their ideals became debased by systemic abuse. The report confirms that the management of orders were aware of the widespread abuse and did not act or, in the case of sex abusers, moved staff to other institutions even though the recidivist nature of such abuse was known. Terrible crimes were committed and the individuals who committed these crimes must face the full rigours of the law. An assistant Garda commissioner has been charged with examining the report. The Government will provide the Garda and the DPP with full support in pursuing criminal investigations that might arise.

In light of the horrific, systemic abuse recorded in the report, the Government has decided to call on the relevant congregations to provide a substantial additional contribution towards the cost of the redress scheme and to meet the ongoing needs of victims. There is a moral and social imperative for them to face up to their responsibilities. In calling on them to do this, I know the Government has the full support of all Members of the Oireachtas and the Irish people, who have been horrified by the scale of the abuse. It is deeply shameful for all Irish people that this was allowed to happen in our country for so long without being challenged.

I welcome the all-party approach to dealing with this report, which is in keeping with the spirit and tone demanded by victims. I acknowledge the statement published yesterday by the Christian Brothers, in which they accept their culpability and moral obligation to former residents and the acknowledgement by their representative that this is long overdue. I welcome also their willingness to commit additional resources in reparation for abuses of the past and the fact that they want to consult the Government and other stakeholders on how this can be achieved.

As the Taoiseach stated last night and again today, other individual congregations involved should now also articulate their willingness to make a further substantial voluntary contribution. I welcome the indications given by a small number of congregations this morning. The Government will be meeting with representatives of the congregations to discuss the making of further contributions and how this will be done. This will include the possible establishment of a trust which would be available to support education and welfare services for victims. It is important, given the concerns about how matters were handled in the past, that there is trans-



parency in the way the public can assess the significance of contributions by reference to the resources available to the congregations.

As a society, we owe Justice Ryan and the commission members a deep debt of gratitude for their comprehensive report. I again thank the former residents of the institutions who so bravely gave evidence to the commission. Their bravery has given a voice to thousands of victims, for which we are indebted to them. I reiterate the Government's commitment to the implementation of the report's recommendations. We owe this to the victims and to current and future generations of children in Ireland.

**Senator Fidelma Healy Eames:** I welcome the Minister of State and hope he can stay for the whole debate, which marks a watershed in our social history.

In February 2009, following the Roscommon abuse case, I wrote an article entitled "Is it time for mandatory reporting of child abuse in Ireland". Following publication of that article in my local paper in Galway, a man, a victim of abuse in Letterfrack, one of the institutions covered in the report, visited my office. He told me he had been placed in that institution for three years for missing school at the age of 12. He said he was raped, buggered and beaten. Luckily, in his case there was a conviction, but his life has been destroyed. Years later, in my office he cried about the difficulties he has experienced in his health in respect of alcoholism and particularly in forming relationships. Intimacy is very difficult for him owing to flashbacks. It took him nine years to get the courage to ask a woman out and, on a trip to Letterfrack, she admitted to him that she too had been abused. This is our history of shame.

I am aware of another case involving a young mother who reported the abuse of her 11 year daughter but found that the Director of Public Prosecutions refused to take a prosecution. I saw her distress as recently as last week, when I sought advice from Deputy Charles Flanagan. She is overwrought. In the absence of children's rights being enshrined in our Constitution, a statutory footing for the Children First guidelines or mandatory reporting by professionals, I hold little hope for change. I fear this litany of abuse will continue unless legal protections are put in place.

The Irish people have a history in which 170,000 children were plucked from their mothers' arms and put into institutions which destroyed their lives. The lesson we learn from this must be that children come first. The matter is now in the lap of the Minister and his Cabinet colleagues.

The report of the Commission to Inquire into Child Abuse is an appalling litany of sexual abuse, physical brutality and neglect perpetuated over a period of decades in institutions operated by various religious groups, men and women. The Minister of State at the Department of Health and Children, Deputy Barry Andrews, has described the report as a catalogue of failure and neglect by the State and religious congregations. This is the challenge he and his Government colleagues must address.

The State failed abjectly to enforce its own rules and regulations with regard to the treatment of children in institutional care. However, as Deputy Shatter has noted, the publication of this report should not mislead anyone into believing all is now well with our child protection services. Why, for example, were the recommendations of the Monageer report blacked out? In the aftermath of that report's publication, the Minister of State, Deputy Barry Andrews, refused to resource an after hours social work service because it would cost the State €15 million. I wonder whether he feels the same way now. The Ombudsman for Children had to call off an investigation because of difficulties with the HSE, the authority charged with the protection of our children's health. In recent days, the 2007 HSE report revealed that more than 8,000 child protection cases were not investigated during 2007. Where are these children now?



[Senator Fidelma Healy Eames.]

I draw the Minister's attention to what he is doing to children with mild learning difficulties. Children who have no speech or need toileting are being mainstreamed. As an educator who has worked in many classrooms, I can tell him that mainstream classes are no place for many of the children concerned. This will come back to bite us if we are not careful.

**Deputy Batt O'Keeffe:** Are they mild learning disabilities?

**Senator Fidelma Healy Eames:** Yes, they are mild.

**Deputy Batt O'Keeffe:** Then perhaps they should be reclassified.

**An Cathaoirleach:** Allow Senator Healy Eames to continue.

**Senator Fidelma Healy Eames:** We will note that for the record. These examples show that the Government has repeatedly failed to protect children even to the present. The report recommends that child care rules and regulations should be enforced, with breeches reported and sanctions applied, and that management at all level should be held accountable for the quality of services and care provided.

These areas have not just been ignored but deliberately avoided by the Government and, in particular, the Minister of State, who is under severe stress in coping with his huge workload. Prior to Christmas, he admitted he did not have time to read the Cloyne report. This issue is far bigger than the Taoiseach realises. Instead of holding providers of child care accountable for the quality of services they deliver, the Government accords the welfare and safety of children a lower priority than protecting the reputation of those who fail to implement the guidelines properly. As was evident from the treatment of the Monageer report, the culture of secrecy and cover up is still alive and well. Why else would the recommendations be blacked out? Members on the opposite side of the House are asking the same question.

I have for some time argued that we face a real crisis in child protection and this report shines a bright light on my contention. I ask that the Minister discontinue the rhetoric on the Government's prioritisation of child protection. Is it likely we will see legislation in this House before the summer recess? When will the Children First guidelines be put on a statutory footing? Our schools provide inadequate training on the guidelines, with one or at most two designated liaison persons trained in each school. Without this training, teachers may not recognise the signs of abuse in children. A constitutional amendment on the rights of children is not imminent, even though Deputy Bertie Ahern made a key announcement on this prior to the 2007 general election, no doubt to deflect attention from the Mahon tribunal. This is another example of the lip service and window dressing to which we have grown accustomed.

How can the public have confidence in the Government when the Taoiseach has relegated this important area to an overworked junior Minister? It was decided that the implementation plan would be published at the end of July, when we are on holidays and probably attending the Galway races.

**Senator Mary M. White:** She is being nasty now.

**Senator Fidelma Healy Eames:** As I noted earlier, the Minister of State chose not to resource an out-of-hours social work service——

**Deputy Batt O'Keeffe:** The Senator's tone is inappropriate to this debate.

**Senator Fidelma Healy Eames:** ——subsequent to the publication of the Monageer report.

**Senator Geraldine Feeney:** This is a serious issue and her comments are uncalled for.

**Senator Fidelma Healy Eames:** We have learned that more than 8,000 child protection cases——

**Deputy Batt O’Keeffe:** She will not get any credit from the people for her tone.

**Senator Fidelma Healy Eames:** ——were not investigated in 2007.

**Senator Geraldine Feeney:** The public will see her for what she is.

**An Cathaoirleach:** Members, please.

**Deputy Batt O’Keeffe:** It is a disgrace in this House.

**Senator Fidelma Healy Eames:** It is a disgrace because it is not new.

**Senator Geraldine Feeney:** What she is saying is a disgrace.

**An Cathaoirleach:** Please allow Senator Healy Eames to continue.

**Senator Fidelma Healy Eames:** This is not new.

**Deputy Batt O’Keeffe:** I ask Senator Healy Eames to control herself.

**Senator Fidelma Healy Eames:** We are all disgusted now.

**An Cathaoirleach:** Senator Healy Eames without interruption.

**Senator Geraldine Feeney:** She should withdraw her last comment about the Galway races.

**Senator Fidelma Healy Eames:** It is true. We will be at the Galway races.

**Senator Geraldine Feeney:** She is playing politics.

**An Cathaoirleach:** Senator Healy Eames without interruption.

**Senator Fidelma Healy Eames:** I would like to be able to continue.

**An Cathaoirleach:** Members will have an opportunity to reply.

**Deputy Batt O’Keeffe:** The victims demand that we take a proper tone in this debate.

**Senator Fidelma Healy Eames:** This is a proper tone.

**Deputy Batt O’Keeffe:** Do not take that tone.

**Senator Fidelma Healy Eames:** This is a respectful tone. We have learned that more than 8,000 reported child protection cases were not investigated by the HSE in 2007. Some of these children’s lives could have been at risk. Last year, social workers in Galway, which had the lowest rate of social workers per caseload, told me they were overworked and worried about files which had been left unopened for longer than two weeks.

It is time to introduce mandatory reporting of child abuse in Ireland, whereby one is obliged by law to report a suspicion of child neglect or abuse to the relevant authorities. Mandatory reporting would be helpful in providing professionals such as teachers and doctors with an explanation for why they had to report their suspicions. Today’s patterns reveal that little has

[Senator Fidelma Healy Eames.]

been learned. The recommendations made in various reports on Government action and reform of child care services have not been implemented. The HSE and the Government have signally failed to implement the Children First guidelines since their publication in 1999. If the guidelines were given statutory force, it would be a different matter. Will the Minister give them statutory force in his implementation plan? When will we have the promised referendum on enshrining children's rights in the Constitution? Loathe though I am to say it, our children will remain at risk until this happens. Whistleblower legislation is also required to enable anyone to report suspicions. I call on the Government to devise a means for rescinding the criminal records of child victims. Some of these children were criminalised for missing school. Today, children are absent for more than 60 days before the State acts.

For the victims who have had the courage to tell their stories, healing is critical. A review of compensation is needed. I am appalled by CORI's response. Speaking on behalf of that organisation, Ms O'Connor said the deal was closed.

**Senator Geraldine Feeney:** She is a sister, not a miss.

**Senator Fidelma Healy Eames:** I have always respected Fr. Seán Healy but I am now concerned about his preaching on social justice. I ask him not to disappoint us because we have listened to his pre-budget briefings. Unless a new statement is issued I think we will never listen to them in the same way again. Is it another case of saying one thing and doing another?

I welcome the statement by Cardinal Seán Brady that the religious orders could do more, as well as Archbishop Diarmuid Martin's response. The initiatives taken by the Christian Brothers, the Oblate Order and the Sisters of Mercy are no more than is absolutely essential. The other 15 orders now need to speak out. As we know, the Vatican is rich. We must never forget the actions that have destroyed lives and caused death.

A memorial to mark abuse and a national day of atonement are good proposals. They would make it all right to talk about abuse and to acknowledge our history of shame. This, in itself, is a healing process. At the core of this there was too much submission to the religious authorities at the time. The State has a duty as the victims were betrayed by the State which handed them over to the religious orders, which in turn abused their powers and moral responsibility.

Reading the description by the ex-mayor of Clonmel, Mr. Michael O'Brien, I was outraged by the treatment he suffered at the hands of seven barristers questioning him in the commission. He said he attempted to commit suicide after that experience. Those of us who never experienced abuse cannot possibly understand what it is like or the sensitivity needed in dealing with such victims. At the core of this matter also is a perverted, unhealthy and abusive perception of sexuality, which was used as a means to dominate and silence children.

We need to address this matter as a nation, but I am by no means convinced that we have done so. In schools we have the Stay Safe programme and the Relationships and Sexuality Education, RSE, programme. I was one of those trainers and I know that we have always had difficulties in this area. Despite the earlier vision that every teacher would be an RSE educator, most schools now bring in an expert at the end of the senior classes because of teachers' difficulties in handling the subject matter. While the honesty of their position must be respected, the question remains as to whether this quick-fix injection on sexuality is an adequate way to convey a healthy view of relationships and sexuality. I am inclined to think it is not. I also accept, however, that parents have a responsibility in this regard.

It is clear that power corrupts. In this report, we see how both sexuality and violence were used as a means to abuse power. The sad fact is that it is still going on. The organisation One in Four did not get its name for nothing. Failure to act now will further compound our shame.

I look forward to hearing the Minister's response to my recommendations on statutory guidelines, including mandatory reporting and constitutional safeguards for children, as well as the Government's commitment to timeframes for delivery. I ask the Minister to change the relevant date to the end of July so that the Houses will be sitting when the Minister of State, Deputy Barry Andrews, brings forward his implementation report.

**Senator Liam Twomey:** On a point of order, were the specific questions I asked the Leader of the House on Tuesday referred to the Minister and, if so, why were they not alluded to in the Minister's speech? If he is not aware of them it is clear that those questions were not conveyed to the Minister. I asked them specifically so the Minister could address them in his opening speech today. Like everyone else, I think we should avoid these outbursts of false rage that I saw happening here. That will not set the tone for what is happening.

**Deputy Batt O'Keeffe:** I ask the Senator to maintain a proper tone concerning what is a very difficult situation for all of us.

**An Cathaoirleach:** Please, we are dealing with statements on the report of the Commission to Inquire into Child Abuse. I call Senator Mary White, who has 15 minutes.

**Senator Mary M. White:** Senator Healy Eames should apologise to the Minister of State, Deputy Barry Andrews, because she inferred something negative — that he might be so busy attending the Galway races.

**Senator Fidelma Healy Eames:** No.

**Senator Liam Twomey:** I am sorry, Senator, but we have just made a remark on the tone of this whole debate. The Senator and the Government are acting as if we should go down on our knees to apologise to them. It is out of order.

**Senator Mary M. White:** Excuse me.

**Senator Liam Twomey:** This is too serious so stop that nonsense.

**An Cathaoirleach:** Senator Mary White, without interruption.

**Senator Mary M. White:** I spoke every day on the Order of Business since this report came out.

**Senator Liam Twomey:** The Senator should move on.

**Senator Mary M. White:** I do not accept the appallingly derogatory words of Senator Healy Eames that the Minister of State, Deputy Barry Andrews, is overwhelmed with his brief.

**Senator Fidelma Healy Eames:** May I respond? I would be happy to respond.

**Senator Mary M. White:** How does the Senator know he is overwhelmed?

**An Cathaoirleach:** I ask Senator Healy Eames to resume her seat. It is Senator Mary White's opportunity to speak. She has 15 minutes to speak on the report but almost one minute has already elapsed.

**Senator Mary M. White:** When a person gets up to speak on this serious issue they should not engage in criticising the Minister of State with responsibility for children, Deputy Barry Andrews, by saying he might be at the races in Galway. I do not know why she said that.

**Senator Fidelma Healy Eames:** That was not what I said.

**Senator Mary M. White:** She did say that.

**Senator Fidelma Healy Eames:** I did not say it.

**Senator Mary M. White:** She did. She always changes her mind about what she said.

**Senator Fidelma Healy Eames:** The Senator should check the record of what I said.

**Senator Mary M. White:** The Senator should apologise. Members of the Opposition should know that the Minister of State, Deputy Barry Andrews, sits at Cabinet. That is a serious position and all his colleagues can hear what he has to say. It is a very senior position.

**Senator Fidelma Healy Eames:** Check the record, please.

**Senator Mary M. White:** The Senator should stop wasting time.

**An Cathaoirleach:** Please allow Senator Mary White to continue without interruption.

**Senator Mary M. White:** She is taking from her talent to get diverted so easily.

**Senator Fidelma Healy Eames:** What would the Senator call her outburst?

**Senator Mary M. White:** I welcome the Minister of State, Deputy Finneran, to the House.

**An Cathaoirleach:** The Senator's time is slipping away.

**Senator Mary M. White:** Over the period 1936 to 1970, a total of 170,000 children and young people entered the gates of the 50 industrial and reformatory schools. Just think about it. The Ryan report of the Commission to Inquire into Child Abuse in Industrial and Reformatory Schools was described last week by the *New York Times* as the "map of an Irish hell". The Ryan report calmly describes the systematic torture of defenceless children involving more than 800 known abusers in over 200 institutions during a period of 35 years. As the Minister for Education and Science, Deputy Batt O'Keeffe, said, tens of thousands of children were abused by 800 known abusers.

Children were flogged, kicked, scalded, burned and held under water. It was instilled in the children by those in charge of the institutions that nobody else wanted them and that they would never be successful in life. Sexual abuse was widespread in boys' institutions. The schools investigated by the Ryan commission reveal a substantial level of sexual abuse of boys, which extended over a range from improper touching and fondling to rape with violence. Much of the abuse took place at night in the institutions and, thus, many survivors now find it difficult to sleep. Night time therefore is often when they need someone to talk to and the lack of a 24-hour helpline, apart from the Samaritans, continues to cause grief.

This Irish hell did not take place in secret. Complaints were made to the Garda Síochána, the Department of Education, health boards, priests and members of the public. Department of Education officials were deferential and submissive to the religious congregations and did not have the moral courage to shout "Stop". Not only were children abused by the religious orders, but they were also often sexually exploited by volunteer workers, visitors, work placement employees, foster parents and even those who took them out for holidays or work experience.

In his speech, the Minister said the most important recommendation in the report is that the lessons of the past must be learned. We must never forget what happened. We must ensure



that it is never allowed to happen again. I draw the Minister's attention, and that of the House, to three places where there is no independent inspection where children are in State care. First, 213 children are in residential centres for children with intellectual disabilities, yet there is no independent supervision. The Health Information and Quality Authority, HIQA, is charged with inspecting residential centres for children. However, HIQA does not inspect residential centres for children with intellectual disabilities because the administrative measures required for such inspections to take place have not yet been drawn up. The Ombudsman for Children, Emily Logan, is concerned about this situation and has convened a series of meetings with the Health Information and Quality Authority, the Department of Health and Children and the Minister of State with responsibility for children aimed at speeding up the commencement of independent inspections. We must never let it happen again that there is no independent monitoring of children in State care.

The second place where there is no independent monitoring of children in care is St. Patrick's Institution, which is an adult prison where children are held. There is no effective independent complaints process available to boys detained in St Patrick's Institution. The former Inspector of Prisons and Places of Detention, the late Mr. Justice Dermot Kinlen, repeatedly called for an end to the detention of children in St Patrick's Institution. It is a closed, medium security place of detention for males aged from 16 to 21 years of age serving sentences up to life. International human rights treaties, which Ireland has signed, and our amended Children Act 2001, make it clear that children should not be detained together with adults.

Previously, the Ombudsman for Children called for an end to the practice of detaining boys aged 16 and 17 in St Patrick's Institution. Although there is now some degree of separation between those under and over 18 years of age in St Patrick's, the Ombudsman for Children has called for the use of St Patrick's as a place of detention for children to end as soon as possible. This can be changed immediately.

On the day of a visit by the Ombudsman for Children, 50 children were detained in St Patrick's Institution; 16 of them were aged 16 years and 34 were aged 17 years. The children were locked in their cells from 7 p.m. until 8 a.m. They were also locked in their cells for breakfast and supper and lunch was the only communally eaten meal. No open visits were allowed; the children sat on one side of a Perspex panel while their visitors sat on the other. On the day of the Ombudsman for Children's visit, the sound quality in the visiting room was very poor. St Patrick's is an old building and the material conditions of detention are very poor and the poor state of the building and the cell accommodation has been well documented by the Inspector of Prisons and Places of Detention and the European Committee for the Prevention of Torture.

The third category of children in care who are not subject to independent monitoring is that of separated children living in Ireland. At present, there are approximately 180 separated children under the age of 18 living in Ireland in the care of the HSE. Separated children are children who have come to Ireland without their parents or a guardian. The majority of these are based in the greater Dublin area. While all these children are in the care of the State, only a small number live in HSE-run centres and the majority reside in private hostels which have been contracted by the HSE to provide accommodation for the children. The private accommodation is not subject to any independent inspection. Separated children do not have access to an independent guardian and many separated children do not have regular access to a social worker directly allocated to them.

Every day we have spoken passionately about the Commission to Inquire into Child Abuse and the inquiry into sexual abuse in our institutions and reformatory schools. I have just placed on the record three categories of children who are not inspected. This is the very issue we are



[Senator Mary M. White.]

speaking about. Tens of thousands of children in State care were abused and, today, children can still be abused because we do not have independent monitoring. Unless independent monitoring is put in place we have no guarantee that children are safe in State care today.

To bring the Minister of State up to date, the Seanad has spoken about a cross-party dimension of this report and it is an opportunity for us all to work together to ensure delivery of the 21 recommendations of the Commission to Inquire into Child Abuse. When I read of the Cabinet meeting yesterday and the Taoiseach's statement on implementing the 21 recommendations, my heart lifted. The Minister of State, Deputy Barry Andrews, has been designated to draw up a plan to deliver these 21 recommendations and to show how this will be done. He will have a report in place by the end of July.

The question was asked why this report will be done in July when the Seanad is not sitting. We can sit when the report is published. What is stopping us? We can all attend. I do not know what is the issue about the date. It shows the bureaucratic mentality of the people who raised it as an issue. It is up to everyone to be present on the day when the report of the Minister of State is delivered to the public. It was also drawn to my attention that the Children First guidelines are being reviewed. The recommendations of the report of the Commission to Inquire into Child Abuse and those which will come from the report of the Dublin archdiocese commission on child abuse will be implemented in the Children First guidelines. I thank the Minister of State for his patience and I thank the Cathaoirleach.

**Senator Joe O'Toole:** I thank the Leader for allowing this discussion to take place so soon after the request from Senator Fitzgerald and myself. It was important to do so. I will begin by looking into the future and I ask the departmental officials present to consider what I say. I will echo a point made by Senator Mary White and put five simple facts on the record. Recently, the Irish Mental Health Commission stated that 247 children are wrongly incarcerated in adult mental institutions throughout the State. The Irish Society for the Prevention of Cruelty to Children reported that last year it took more than 600,000 calls for help but because of a lack of resources it was able to respond to fewer than half of them. Over recent years 360 non-national children were lost by the HSE. They were on the records but now they have vanished and we do not know whether they have absconded, have become sex slaves, were killed or have left the country. Residential homes and institutions for children with intellectual challenges are exempt from inspection but surely of all groups they should be included and Senators White and Corrigan have made this point. There is a current court case — I will not mention any details — concerning the murder of a 14 year old child who was on our list of at-risk children but who was dead for more than a year before anyone thought to look for her. This is how we cherish the children of the nation equally as proclaimed by the Constitution and it is worthwhile putting this on the record prior to stating anything else.

I want to outline a number of issues which are of some importance to me. People may not like what I will state because I will refer to some of the shady and sinister Catholic organisations to which I referred last week. People stated I should say more about them and I am quite happy to do so. Since I came to this House 22 years ago I have lost count of the number of times I have raised and spoken on these issues.

**Senator David Norris:** I remember.

**Senator Joe O'Toole:** My colleague, Senator Norris, has also done so. I have raised issues from the Kilkenny incest report to the Murphy report in 1998 and all the various matters along the way. I want to put on the record, without fear of contradiction, that every single proposal

I ever brought forward on child protection was opposed left, right and centre, and I will provide the House with some examples.

One issue was the Stay Safe programme, a very simple programme to help children and which is in primary schools at present. That is one issue. Sex education programmes is another. Mandatory reporting, referred to earlier by Senator Healy Eames, is another. For six years I called for mandatory reporting in this House until I got tired of doing that. Nobody wanted to know. All I heard were the problems it would create. That was from Governments of all shades, not just one Government. This is an issue that goes across Governments.

I will tell the Minister a story about the Stay Safe programme. The Stay Safe programme was being developed by two women, a psychologist and a medical doctor, for the then Eastern Health Board. The funding for their project was withdrawn through the influence of the Knights of St. Columbanus. I cannot prove that but it has been told to me many times. Those people were left without any support for a hugely important programme.

I recall going to the executive of my union, the Irish National Teachers' Organisation, which would often be criticised for being conservative and careful, and it was one of the proudest days of my membership of that union when the national executive voted £10,000, which was a decent amount of money in the 1980s, to allow those two women finish their programme, which they did. They prepared an excellent programme.

I then went to the Minister of the day, Deputy Mary O'Rourke, and showed her the programme. She said it appeared to be very important and progressive and something in which we should get involved. I asked her if we could do it and she told me she would run into problems in her own Department.

I want to put on record that she and I met with the crucial people. She set up a meeting in her ministerial office, for which she deserves credit, in Marlborough Street. We brought in the most senior person in primary education and the head of psychology in primary education — this is the time before NEPS — and the two women who developed the course. We asked the two women to make the presentation. Having made the presentation and knowing all the problems that would arise we had a discussion on the position. We looked at this man, who was a senior Knight of St. Columbanus and the most senior person in primary education, who had various reservations about the programme. I indicated that I thought it was a very good programme. The Minister for Education asked many searching questions and came to the conclusion that it was a very good programme. The officials highlighted the problems that might arise but the Minister said it was a solid programme to protect children and, to Deputy O'Rourke's credit, she said she wanted it in the schools. It took years for the programme to get into schools but it would never have got into them without her.

Around that time I attended the funeral of one of her parents — I believe it was her mother — in Athlone and I remember noticing afterwards that there was no bishop at the funeral of the mother of a Cabinet Minister. I found that interesting, but the Lenihans were never afraid of taking on the crozier, from the then Minister's grandfather down, and they deserve credit for that.

**Senator David Norris:** Hear, hear.

**Senator Joe O'Toole:** Senator Norris and myself sat on these benches for debates on an issue Senator Norris has raised three or four times in the past month, that is, the equal status legislation. We have a system where the people who are responsible, the same orders who have not put more money into the kitty, are running schools and hospitals and even if they do not work in the schools or hospitals they decide the teachers and the consultants who get the jobs, with their views being brought to bear on that.

[Senator Joe O'Toole.]

When the Stay Safe sex education programme was being brought forward I was not in Dublin. My three teenage daughters were at home on their own. We live out in the country. I got a call from them and they were hysterical because there was a crowd of weird people picketing our bungalow out in the country. One can imagine the words on the placards, and they were shoving various pictures, imagery and items in bottles at my three daughters. I rang the local gardaí because I could not get back home in time and they went out to my home and put order in the place. They told me who the groups were — Family Solidarity, Youth Defence and three or four others, all people that we knew.

Nobody gave children a chance. When it came to dealing with the issue of mandatory reporting in this House a new concept was discovered. Who remembers the great concept of false memory that was developed by those right-wing Catholic organisations? The way it was proved that children should not be believed was by telling them that what they remembered was not true. Those organisations brought right-wing experts from America here to preach around Ireland that this was false memory, that it was put into the children's heads and that it never happened in all these incidences. I dealt with these issues here on the floor of this House, in my job as the chief executive officer of the INTO and in various other places in life and it is unfair that it should go on.

On the equal status legislation, we fought in this House for what we wanted and did not want in that legislation. It is only right that if Catholic parents want their children to have a Catholic education, they should have an entitlement to that. There should be no problem with that. It is only right that if somebody working in that context tries to undermine that particular ethos, they should have no place there but they were not happy with that. They did not want to wait for any such approval. If they did not like somebody's colour, their sexual orientation or views they might have offered elsewhere, they felt they should not be given the job. We have put into our legislation the right to discriminate in the most unfair way on a ground which should never be accepted.

**Senator David Norris:** Hear, hear.

**Senator Joe O'Toole:** I will tell the Minister how that applies to other countries. There has been much talk recently about Canada; I made reference to it myself this morning. Some years ago Canada set up an inquiry like the Ryan inquiry, and like the Ryan inquiry a senior judge from the superior courts was appointed to hear all the evidence. That judge was appointed but his appointment was objected to. He was removed from the commission of inquiry because he was a member of the Knights of St. Columbanus.

Can somebody tell me why we as politicians — the Minister, all our colleagues, the Cathaoirleach and myself — have to disclose all that we do in terms of our backgrounds etc.? We have to sign this form and that form. We have to declare an interest if we speak on something here. We have a Government of whatever colour which is committed to openness, transparency and all that goes with that but at the same time secret organisations such as the Knights of St. Columbanus and Opus Dei can do what they want.

I took the trouble to meet with Opus Dei years ago and it is written into their requirements that they should try to impose the beliefs of the organisation on their jobs. I raised the issue here years ago that people being appointed to jobs of sensitivity in areas like the Attorney General's office and others should be asked the question about membership. I still believe that.

I do not believe we did this deal in 2002 without the involvement of the Knights of St. Columbanus. I heard the former Minister, Deputy Michael Woods, say during the week that he is not a member of the Knights of St. Columbanus or Opus Dei. I believe that anybody

involved in that deal should be asked that question. Everybody appointed to a senior position in the State should be asked that question.

There is no place in an open, transparent democracy for people who have other agendas. The rest of us must stand up and declare an interest. I had to declare an interest earlier. This afternoon I declared an interest in terms of my INTO background and other matters. It is only right that we should do that to ensure that people know where we are coming from but that does not apply to these people.

I will give the House an example of the way that works. There is a priest in the west, Fr. Kevin Hegarty, who is a curate in a tiny parish as far west as one can go beyond Belmullet. He is a highly erudite, intelligent man with a huge amount to offer. He was editor of a church magazine, *Intercom*, in the 1990s. He wanted to develop a number of debates at that time, one of which was a debate too far. He wanted a debate on clerical child abuse. For his troubles, he was sacked by Bishop Brendan Comiskey, a man who was to hit the headlines very shortly after that. Bishop Brendan Comiskey was also selected by the Knights of St. Columbanus when they decided to show a more public face to the media. He was a media friendly bishop, and he was their chaplain or whatever.

He then went to Ferns where he dealt with child abuse cases. Before he went to Ferns, to divert slightly, he tried to instigate a boycott of the Irish Press newspapers on the grounds that they were committing blasphemy, a subject which is very topical at the moment. What was the blasphemy? Madonna the singer was expecting a child and a columnist made some comment about that and the Madonna and child icon precious to Christianity. It was a dumb, inappropriate comment but hardly one that should have led to that kind of action but that is what happened in that case.

The same man went to Wexford where he was in charge of all the problems in Monageer. When the *Wexford People* and the *Wicklow People* newspapers honestly and openly reported the conviction of a priest there for paedophile activity, he and the Knights of St. Columbanus attempted to boycott the People newspapers. That is on the record. There was also the horrible incident when there was a complaint and an investigation regarding a priest in Monageer having sexually assaulted a child. The priest insisted on doing the First Communion or Confirmation — I cannot remember which — two weeks later. The people appealed to Bishop Cumiskey to stop the priest doing so, but he insisted. This man was up on the altar for the event. It is similar to what Mr. Michael O'Brien described on television during "Questions and Answers". Mr. O'Brien spoke about being assaulted and raped on one night and being offered the sacred host the following morning by the same person. The same issue was involved for the child in Monageer.

That incident was investigated by the local Garda sergeant, who did a very good job. His chief superintendent insisted on getting the files and nothing else happened. Too much time had passed by the time people figured out why the Director of Public Prosecutions had done nothing about it. As a result, the then Garda Commissioner appointed an outside chief superintendent to investigate the matter. He came to the conclusion that the local investigation had been well done but the matter had not been properly brought to a conclusion. The files were lost. The files were in the gift of the chief superintendent who was a senior Knight of St. Columbanus in the area. He retired, received his Benemerenti medal from the Pope and took his secrets to the grave. The priest was never prosecuted and the matter was never brought to a conclusion.

**An Cathaoirleach:** The Senator has one minute left.

**Senator Joe O'Toole:** I am only starting what I wish to say in this debate. There is more involved than just the people we have mentioned. Far worse than the Catholic church are these shady organisations which wield influence behind our backs in ways of which the public is unaware.

I reject calls for balance in this debate. There is no balance. This is about imbalance. It is about power and influence hammering, raping and brutalising young children. There is no balance in that and there never will be. However, I must finish by stating there are decent, good and honourable people in the clergy and the religious orders who have been tainted and hurt by this. We stand by those people. They are good people. There are also Christian organisations, such as the Society of St. Vincent de Paul, the Legion of Mary and so forth, which do extraordinarily good work. We should honour them, but there can be no balance about the imbalance in how these children were treated.

**Senator Geraldine Feeney:** I welcome the Minister of State, Deputy Michael Finneran, and thank him for listening to this harrowing and upsetting debate. Everybody who comes to the Chamber today to discuss the report of the Commission to Inquire into Child Abuse does so, like me, with a very heavy heart.

The comments of our colleague, Senator Healy Eames, are pitiful and shameful. She has debased the tone of the debate. I come to this debate bereft of politics; I am not wearing political colours. I do not believe anybody should wear a political hat when we debate this report. What Senator Healy Eames has done in her comments is not what the victims would desire or deserve. I will not lower my standards by attacking, but I wish to put on the record that I am absolutely appalled by what she said today. I remind the Senator of the "Questions and Answers" programme last Monday night, when Mr. Michael O'Brien, a former Fianna Fáil councillor, rightly criticised the Minister, Deputy Noel Dempsey, the Government and the Fianna Fáil Party. He also reminded Deputy Leo Varadkar to give the message to Deputy Enda Kenny that he should not play politics with this issue. I ask Senator Healy Eames not to play politics with the matter and not to debase the tone of the debate further than she has done.

I am a mother of four children and I would do time if anybody put a finger on any of them, let alone raped, bugged, pillaged and robbed them of their childhood and early adolescence. I would gladly do time if they were touched in any way. I cannot imagine what I would do if somebody interfered with them in the manner outlined in this report. I congratulate and commend Justice Sean Ryan and his team. It must have been an awfully difficult couple of years hearing this terrible evidence. I sat on the Medical Council which inquired into the caesarian hysterectomies carried out by Dr. Michael Neary. I was the only woman on a five-person committee and the only lay person. I had to read a sheet of paper five or six times to absorb how horrible the incidents were for the young women who were robbed of their wombs.

This report is a million times worse. The sad aspect of this is that for the 2,000 people who went before the commission, there must be another 2,000 persons whose stories we have not heard. The Archbishop of Dublin, Diarmuid Martin, warned the public two weeks ago about this terrible report. If he had spent a month telling us how bad it would be, he could never have prepared us for it. I have only read the summary version. There are five volumes in the report and it would take months if not a year to read them and absorb their gravity. I hope this is the first of many debates on the report. One debate, with Senators getting ten or 15 minutes to speak, will not bring comfort or closure for the victims. We must talk about this report for a long time.

What can I say about the €1.8 million deal? It was wrong. The bill is now €1.3 billion. It is time the clergy and the religious orders stepped up to the mark. Can they blame the Irish public when it turns away from the church and religion? If they want anybody to stay in the



church, they must step up to the mark and meet their responsibilities. As Michael O'Brien and other victims said, this is not, and never was, about money, it is about somebody saying: "Yes, we abused you; we were wrong and should not have done it; we apologise." A few nights ago the Taoiseach said the Government was sorry that it did not detect the children's pain or intervene to protect them. He was probably too young to know of these institutions and might not even remember them.

I grew up in Tullamore, County Offaly, and Daingean is only eight miles from there. I grew up with the word "reformatory". I did not know what a reformatory was but I knew it was not a nice place. I was a teenager in the mid-1970s and youth clubs were starting to become popular. I regularly went to a youth club in Tullamore. On a Friday night once a month a bus came from Daingean reformatory bringing young boys of my age for what we called a "hop". One would turn one's eyes away from the Tullamore lads because one wanted the good looking lads from Daingean reformatory. I have thought a great deal about those young fellows who were the same age as me, getting back on the bus after a great night in Tullamore, going back into that reformatory and what must have awaited them behind those dark walls. I know no more about them than that, but they are on my mind. I keep thinking, if only someone had said something. They did, but no one listened.

It is time the religious orders stepped up to the plate. The spokesperson on "Morning Ireland" yesterday was Sr. Marianne O'Connor, who I believe is a Sligo woman and an Ursuline sister. I live in Sligo with my four children. Her comments left a lot to be desired. I felt she was still trying to protect the interests of the religious congregations. She did great damage. I do not blame her; she is a spokesperson. It was a collective statement. However, she alienated people even more in their views of the religious congregations. I am glad those same congregations have woken up to the reality. It was public opinion that shook them and woke them up.

I welcome what the Taoiseach had to say last night when he called on them to shape up. Yesterday I asked that they would not be brought kicking and screaming and that they would give what they should to this. It is not about money and resources are scarce. As someone said in the House yesterday if the religious congregations do not pay up, although I believe they will, the Government will need to resort to using its funds to look after those who have suffered from what happened while the abusers get away with it. I am glad to see the Oblates, who ran the reformatory school in Daingean, the Sisters of Mercy and the Christian Brothers have come out to confirm they will step up to the mark and pay their fair share, and rightly so.

Like Senator O'Toole, I hope we will have more time to debate this matter. I am somewhat emotional today. One could not but be emotional given the gravity of the issue. One would need a heart of stone not to be touched by the pages I have read. One of the recommendations is to ensure a child-centred approach is taken and the voice of the child is heard in the development and implementation of policy.

There was a terrible case in Sligo a number of years ago. Everybody remembers the story of Sophia McColgan and her terrible family situation, living with her father. He has since served his time and has been released. Those children were not listened to and were turned away. Everyone they approached told them they were making up the stories. We need to ensure this will never happen again. With the level of public outcry, we will never let it happen again.

**Senator Brendan Ryan:** I welcome the Minister of State. The 18 religious orders implicated in the report of the Commission to Inquire into Child Abuse ought to be ashamed of the awful treatment meted out to children in their care. There was rape, buggery, physical attacks, assaults, neglect and emotional exploitation. The term "child abuse" is not adequate to define what happened to these poor children. The scale of it is beyond belief, as is the fact that it was so pervasive and systemic. I found it very difficult to read this report on the monstrous behav-



[Senator Brendan Ryan.]

ious by people in positions of authority and trust. It was perpetrated by so-called pillars of society. Those involved included the Christian Brothers, the Rosminians, the Presentation Brothers, the Brothers of Charity, the Sisters of Mercy, the Sisters of Charity, the Dominican nuns, the Daughters of the Cross of Liège and others.

The victims were young boys and girls, the majority of whom were from poorer families. Special needs children were especially vulnerable. Children with impaired mobility and communication deficits were seen by the perpetrators as easy targets. Deaf, dumb and blind children were at a complete disadvantage. It happened in industrial and reformatory schools, children's homes, hospitals, national schools, secondary schools, day and residential special needs schools, foster care, laundries and hostels.

Many people were aware of it. Society, both official and unofficial, was aware of it and many people will now have to live with their conscience as to why they did or said nothing. I am talking about Government inspectors, gardaí, teachers, and general practitioners. Local people were employed in these places. Local businesses were supplying goods and services. Health boards, the Department of Education as it was known then, priests of the parishes, parents and relatives all had knowledge to a greater or lesser extent and no action was taken.

Of the 1,090 men and women who gave evidence, 90% reported physical abuse which was both casual and random. There were reports of flogging, kicking, scalding and burnings. Some children were held under water. Some 50% reported sexual abuse which consisted of rape, buggery, molestation and voyeurism. Neglect consisted of inadequate food, clothing, heating. There were also untreated injuries and medical conditions which continue to this day. Children were being starved and neglected.

Let us consider the emotional side. There was no attachment, affection or family contact. There was separation from siblings. Several children were told their parents were dead when in fact they were not. There was humiliation and constant criticism of children. All this is shocking stuff even to contemplate or imagine, let alone to read in the understanding it is fact.

There was utter failure on the part of the State through the then Department of Education which failed to monitor and control the units. It had a certification role in which it miserably failed. There were too few inspectors and the scope of the inspections was too limited. All inspections were announced in advance making it very easy to pass such inspections. The inspectors were aware of the abuse and the inadequate education that was being provided. They had ample legal powers which were never exercised. The Department never thought of changing the system. The main problem was that the Department and the inspectors showed too much deference to the religious congregations, thereby facilitating the abuse. Society as a whole showed too much deference to religious at the time. Thankfully that is changed a great deal today.

Many, but thankfully not all, the victims have had to carry the effects with them through adult life. Unfortunately, many did not survive to adult life. I knew some who fell into that category. There was poverty, social isolation, alcoholism, mental illness, sleep problems, self-harm and aggressive behaviour as a result. Many had relationship problems.

What are the lessons? It goes without saying that something like this cannot happen again. It must not be allowed to happen again. The disappointing thing about the whole period and episode is that standards, systems and guidelines were in place which, if implemented, could have prevented much of what is contained in the report. However, the systems, policies and management all failed the children. There was far too much deference to the authority of the Catholic church, as was apparent in many aspects of life in Ireland during the period these vile events were taking place.

Deference to anything or anyone must now be consigned to history. I know as a parent that recent generations, thankfully, are incapable of such deference. Children must now be put first and all supports for children must be properly resourced. All child care guidelines must be put on a statutory basis. There must be a legal responsibility to report abuse or even a suspicion of abuse. Where there is even a whisper of abuse, it must be reported. The State must never abdicate its responsibility to children again. Control measures must be put in place and adequately funded. Effective monitoring and audit systems are essential elements of all this. We must introduce whistleblower legislation as a matter of urgency. The need for that has been obvious for some time in other matters.

Deference to the church was a reality at the time and is the only possible explanation for the failure of the Department and its inspectors. That said, I cannot accept it as an excuse. There is ample evidence in the report that the religious congregations were aware of the problems in their institutions. It is unforgivable that it was allowed to continue. It appears their only motivation was to avoid scandal in order that they could maintain their elevated status in society at the time. While they were prepared to report lay persons to the Garda, they were not prepared to do the same if one of their own was perpetrating the abuse. Instead, they moved them around in the full knowledge that they would continue with their vile behaviour. The Ryan commission report contains ample evidence that this practice occurred. Whereas no regard was shown for the safety of children, protection was always provided for perpetrators at both local and diocesan level.

I compliment the witnesses on their bravery in coming forward and giving evidence to the commission. One can only imagine what they endured as children and in many cases continue to endure as adults, as we heard from Mr. Michael O'Brien on "Questions & Answers" on Monday night. I hope the victims get some relief now that their stories have been vindicated.

I urge the Government to implement the recommendations of the Ryan commission in full and as speedily as possible, irrespective of the cost. The Labour Party is of the view that the religious orders must accept responsibility for what took place and must pay more. For this reason, while proposals emerging from several of these institutions in recent days are to be welcomed, we must suspend judgment until we are clear on the details.

I congratulate Mr. Justice Sean Ryan on the fine work he and his team have carried out.

**Senator Maria Corrigan:** As colleagues have noted, this is probably one of the most distressing debates to have been held in the Seanad Chamber. I am pleased, however, to have an opportunity to make a contribution to the debate. Before doing so, I place on record that I have a professional association with a religious organisation.

First and foremost, the Ryan report is about little children who had their childhoods savagely taken from them. These victims of rape, injury, torture and humiliation were condemned to forever pay a price for actions for which they had not one whit of responsibility. The price they must pay has resulted in shattered lives and has left a legacy of never-ending pain, torment, hurt and anger. Life is precious and we have only one shot at it.

Of all the tragic chapters in Ireland's history, the Ryan report is testament to one of the saddest and most shameful. Words are not sufficient to pay tribute to the courage of those who came forward to speak out and tell their stories. One cannot read the Ryan report without feeling the start of a deep burn of shame underneath the sadness, horror and anger. The behaviour of some members of the religious orders responsible for the care of young babies and children was abhorrent and criminal. Terrifying in its depravity, cruelty and lack of humanity, it betrayed the trust of people and violated the Christian principles by which the church instructs us to live. This behaviour has tarnished the good work done by many religious people.

[Senator Maria Corrigan.]

The debate that emerged in recent days regarding reopening the agreement with the religious orders has inflicted another hurt on those who have already suffered and it should not have been necessary. Organisations such as the religious orders which frequently hold out to us the right thing to do should have known immediately what was the right thing to do and they should have done it. In this respect, I acknowledge the courage of Father Tim Bartlett in speaking out on the issue and the subsequent statements by Archbishop Diarmuid Martin and Cardinal Seán Brady. This debate should not have been necessary.

While the focus in recent days has been on the religious orders, we cannot allow ourselves to be distracted from our culpability, responsibility and shame. The Ryan report is a concrete testament to and acknowledgement of the suffering of the children who resided in the institutions covered in the inquiry. We must keep in mind those whose lives were so shattered by their experiences that they were too broken or debilitated to tell their story. The report is important for them also and, as the Minister of State pointed out, we must also remember those who are no longer with us.

The strength of public resolve following the publication of the Ryan report is such that we have an opportunity to make meaningful reparations to those who have suffered. The focus of such reparations must be on people rather than money and any future plan emerging from the report must be people led. We must do everything in our power to ensure the victims have the best possible quality of life from now on in order that they can achieve the best possible level of well-being. Most important, we must support them to find some degree of peace from the torment that will forever be with them.

I welcome the commitment to implement in full the recommendations of the Ryan report. When the relevant plan has been drawn up I ask that it be first presented to the victims and, thereafter, to the Oireachtas. If necessary, a special sitting of the Houses should be arranged. That is the least people deserve from us, their representatives.

I welcome the appointment of a deputy Garda commissioner to ensure criminal charges are pursued. The crimes described in the Ryan report were carried out on children who were vulnerable and whose vulnerability seems to have had at its root poverty, broken homes or families who had experienced the death of a parent. Today, we still have vulnerable children in our midst, although the reasons for their vulnerability may be different. I welcome the commitment that we will learn from this report and apply this learning to ensure such events do not occur again.

While I do not want to repeat what my colleagues said, we must grasp the opportunity to do something concrete and meaningful. We have an opportunity to create a positive legacy to the Ryan report, one which will owe its creation to the courage of those who told their stories.

I propose to raise a number of issues, including a number that will require changes in legislation, structures, supports and mindsets. While I am aware that other issues also arise, I will focus on a number of specific matters while the Minister of State is present. As I and many other Senators have stated on many occasions, we have in place a most peculiar arrangement whereby residential facilities for children with disabilities are exempt from inspection. This exemption is unacceptable and intolerable. While I welcome the steps taken by the Health Information and Quality Authority in establishing an inspectorate, inspections for residential facilities for children with disabilities must be introduced as quickly as possible.

The Ryan report noted that industrial schools continued here after our nearest neighbours in Britain had moved away from institutional care settings and towards placement in family homes. The lesson we can learn from that experience is that institutional and formal residential settings should be the place of absolute last resort for a child. Our priority should be to ensure

the placement of children in family settings because we know such settings are much more conducive the development and well-being of children.

Some welcome legislative changes have been introduced in recent years. For example, children are now supported in giving evidence and testifying in cases of abuse. An issue remains, however, regarding the implementation of these supports for children with disabilities. I ask that this matter be addressed as quickly as possible.

Dual placement is the practice whereby children are placed in various settings with adults. It occurs in psychiatric institutions, prisons, as Senator Mary White pointed out, and some institutions for people with disabilities. While I accept the number of such institutions is decreasing, children with disabilities continue to be placed in institutions alongside adults.

While I am conscious we are discussing children, another vulnerable group within society for whom there would be similar concerns and issues is adults with disabilities or mental health challenges or who have acquired an age related illness. No inspectorate is in place for any of the residential settings for these people and I ask that this be addressed as quickly as possible.

I welcome the commitment to implement the guidelines regarding allegations of abuse. When it comes to their implementation in the case of vulnerable adults, especially those with an intellectual disability or mental health challenges, as demonstrated by the most recent report from Tipperary, there are considerable challenges and concerns as to how to proceed. Sometimes the nature of disability and the concerns about reliability, capacity and credibility can result in delays and confusion on how best to proceed when allegations are made which results in vulnerable adults being left increasingly vulnerable.

Residential facilities for children under the care of the HSE, including non-national children and especially those who are unaccompanied minors, are exempt from inspection. There is the issue of more than 300 children missing from the care of the HSE. We need procedures in place to follow this up. We need to know where these children are and whether they are safe.

We need to look at the reunification procedures in place for unaccompanied minors. They are not in the best interests of the safety of the children. We need to send out a message on female genital mutilation. I ask that we would get confirmation from church leaders that no member of a religious organisation who has been the subject of an allegation has been re-assigned to a Third World country for missionary work.

All our schools are public schools. We need to tighten up on the procedures for substitute teachers. Not only must they be qualified, we must never allow a situation whereby a substitute teacher who has not been the subject of a Garda check can take a class of children by himself or herself. Unfortunately, that is the situation at present.

Following the publication of the report I am sure there are people experiencing shame and anguish who knew or who had an inkling of what was happening but who, for whatever reason, were ineffective in their intervention or perhaps made no intervention. It is essential for the future that we put in place a clear mechanism for alerting people to what constitutes abuse and where or who they can contact if they have concerns. The shame initiated by this report shouts of the onus on each of us to ensure we play a role in maximising the protection of children.

**Senator Nicky McFadden:** I welcome the Minister of State, Deputy Moloney, to the House for this harrowing debate. It is a shame we must have it in the first place.

I listened to Senator Corrigan's contribution and I compliment her on the way she spoke with such heartfelt compassion for people who have been abused. When she spoke of people who had intervened, it made me question whether people had listened, and I suppose the kernel of the issue is whether anyone listened. The shame of the matter is that people in authority did not listen.

[Senator Nicky McFadden.]

Senator Brendan Ryan named some of the organisations and they rang hollow in my mind. When I was thinking of the Brothers of Charity and the Sisters of Mercy, I asked myself what mercy was shown.

The Joint Committee on Social and Family Affairs heard a presentation today from the eminent Fr. Seán Healy and Sr. Brigid Reynolds, representatives of CORI. They spoke about the heartache they were feeling as individuals and the pain and the anger they have felt with their colleagues. They spoke of the horror of the matters which they were having to discuss at the committee. They wanted to clear up for the committee that their organisation was not part of the congregations involved and that they still represent, on a social and justice vein, all the organisations but were not there to speak for the 18 congregations. That is important to put on the record because we cannot tar every religious organisation or person with the same brush.

I, too, welcome that a Garda deputy commissioner has been appointed so that these thugs will be brought to justice and will get the sentences they deserve for the brutality they brought to bear on little children.

Senator Healy Eames spoke about mandatory reporting. Only last week it was brought to my attention where a little child had been interfered with. Only for the good Stay Safe programme that child would not have been able to communicate the inappropriate behaviour. That child went through all the various channels — the social worker channel and the Garda channel. It was eventually found that a cousin had also been interfered with and that little child had learning difficulties. However, he also had been through the Stay Safe programme and he was able to speak about what was a secret and what was not a secret, and that the behaviour was inappropriate. Alas, the only Garda unit in the country able to deal with little children like this, even though they were priority one, was not available for two weeks. I found that extraordinary when there were two children of the one family who were being abused, had been interfered with and had reported to all the correct channels. To add insult to injury, the perpetrator then took his own life. This happened only last week.

While we speak of what happened in the past, I spoke about collective responsibility the other day. What I meant by that is there is an onus on people such as us and those in power such as the Department of Education and Science, the Judiciary and the medical profession to protect little children, and we badly need that legislation. Senator O'Toole spoke about cherishing the children and, indeed, I used those words last week in the Seanad. There is so little protection for children.

Because this has been such a highlighted topic in the past week it is an issue which has been discussed as I canvass throughout my constituency. Many people are telling their own stories. One woman told me about the cruelty man, which is what the man who was supposedly coming from what is now the ISPCC was called. In fact, he was coming to take children from their families. We all heard from Mr. Michael O'Brien that he and his seven siblings, including his sister as young as a month old, were taken from their mother and put into this institution and he was only two days there when he was raped. It is beyond words. To add insult to injury, this cruelty man got £9 per child for lifting these little children from their parents and from their family home. I cannot comprehend it.

Then there is the issue of the lives they led when they were in these homes. We heard Ms Christine Buckley during the week on television and on radio. She spoke about children being tied to their pots and left for hours, going to bed hungry and being forced to make rosary beads that made money for their organisations. They were not taught how to read and write. Will the laundry system that was run by the various religious organisations, of which there was one in my town, be investigated?



I was educated by the Sisters of Mercy and was a boarder at Summerhill in Athlone. I received a great education and the sisters cared for us as young women. They were feminists ahead of their time. They cared about us culturally, academically and spiritually. For this reason, I find it difficult to reconcile that experience with the abuse and cruelty that occurred elsewhere during the same century. The likes of Colm O’Gorman, Michael O’Brien and Christine Buckley spoke openly and honestly of their personal tragedies to prevent a recurrence and to ensure we deal with the issue now. It is not just a question of the organisations apologising. Rather, the congregations should ask the 170,000 abused children for forgiveness. The way in which they have apologised is not realistic. As other Senators have said, this is not a question of money.

Initially in the 1990s, people were not believed that this was occurring, but we now know of the outrageous Kilkenny case, the Kelly Fitzgerald case in County Mayo, the McColgan case and a recently discovered case in County Roscommon. These situations were allowed to occur despite our priding ourselves on being a caring community. An underlying cruelty and abuse persists. Shame on the Department of Education and Science, the State, the medical profession, the Judiciary and others who allowed this situation. Children went to hospitals battered and bruised but people turned a blind eye. If anything is to come of the report, it is that we should own up and allow the 170,000 people and their families the opportunity of healing.

I heard a story recently of a lady in her 60s who could not stop crying. She reared a lovely family and she had a loving husband but she cried everyday. Her family could not understand what was wrong with her. She had never told anyone she had been in an orphanage where the children had been abused. She later visited the orphanage. The building was still there but the congregation had moved on. With the help of a good counsellor and her family’s support, she was able to move on. This must be done for each of the 170,000 people in question. To move on and deal with their heartache and sorrow, they must be given space, love and compassion.

**Senator Ann Ormonde:** I welcome the Minister of State to the House to listen to our contributions on this awful subject. I also welcome the opportunity to contribute to the debate. It was heartbreaking to read the details of the savage abuse meted out to defenceless children who had been in the organisations’ care for years and to whose assistance no one came. They were hidden, ignored, rejected and denied simple rights. The abusers took advantage of the children’s vulnerability. Apathy reigned and nothing was done until the abused acted.

The report is compelling. One must read it, even though it is stomach churning. I can only take so much of it before having to put it down again. It is too disturbing. The religious orders are debased and have a long journey ahead of them if they are to recover. The trust and confidence in the orders have gone. They have given an apology, but the first lesson they must learn is that words are cheap.

The “Questions & Answers” programme was disturbing, and listening to Michael O’Brien was difficult. However, I am glad his story came out on the programme because it recognised the torture those children went through. Nothing will ever make up for lost childhoods and family lives, the inability to love and be loved, the lack of education and decades of unrecognised abuse, but we have all seen it now.

Having said all that, having been a boarder for five years and with an aunt who was a nun, I must spare a thought for the good ones, namely, the thousands of honourable and decent brothers and nuns who are being tarred with the same brush as the abusers. Those who have brought about this debasement of Ireland must be brought to justice.

The Government can show its commitment to the children by implementing the report’s recommendations. Attention has been centred on the 2002 agreement. There is no option but

[Senator Ann Ormonde.]

to revisit it, although I do not know how. I am glad the Taoiseach and our two leading religious individuals, Cardinal Brady and Archbishop Martin, have made their criticisms known and stated there is no going back, but where will we go from here? It was a dark age in society.

As legislators, we will play our part. The lessons are stark, awful and eerie, but we must acknowledge the failures of the State and the congregations in terms of the system, policies, management and administration.

Where do we go from here? I welcomed yesterday's special meeting and I am glad that a process has started. We must respond to the abuses outlined in the report. I welcome that the Minister of State, Deputy Barry Andrews, has been authorised to analyse the current situation, produce a plan for implementation and put resources in place. The timespan for implementation is the key to this.

The recommendations must be analysed. I have not read them all but I have extracted a few. They refer to providing counselling and education services. I have become allergic to the word "counselling". I do not like it. We do not want an approach where a counsellor is provided for these people who have suffered such traumatic abuse who asks them whether they would like to tell him or her all about themselves.

There should be an infrastructure of professional people, starting with public health nurses, teachers at pre-primary level and social welfare personnel, who will also be qualified. All these people should also be qualified counsellors because one cannot isolate the issue. There has to be a global approach when dealing with this colossal problem. The public health nurse is the key person because he or she is in the family home from the day a child is born. He or she visits every family and has a nose for knowing what is going on in any part or area of society. Such people should be given a key role, along with educationalists. There must be co-ordination between Departments. Independent personnel should make unannounced investigations to look at and assess situations at any given time.

These are simple, small measures, but one can get it right by having three or four main points. There are more than 20 very good recommendations in the report. I have no difficulty with them, but three or four of them should be set out which will determine the course of action from the time a child is born in terms of family background and back-up services.

One should pick up what is happening. Abuse will not go away; it is a part of life. While we should be aware of that, we must stamp it out none the less. I am glad the congregations have closed these reformatory schools because we should no longer give them a role. We should not have given a role to people who had no training and should never have been in the orders. They should not have been out in society. I do not know why they went into such congregations in the first place. Perhaps it was because in the past one's job was to become a Christian Brother or whatever. Perhaps that was the way it was. That said, such people had no training or background and frustration was coming out of every part of their body.

All that must go. We must have trained people who are balanced. The people we are talking about were not balanced. It is extraordinary we had such people around us in society. They should have been banned from society. I am ashamed the congregations were dealing with these situations while at the same time pontificating in churches on how we, as individuals, should behave.

I spoke to a woman during a canvass recently who told me she would not go to church any more. I do not want that either because that is the other extreme. However, I can see how society would react in this way.

There should be four or five key points to be dealt with, starting with when a child is born, looking at the infrastructure and family background, which will tell a great deal, and having trained people who can pick up on situations very quickly. If we get it right and have trained personnel in place to help children at two, three or four years of age, we will have covered a lot of ground.

**Senator David Norris:** I am grateful to the Minister of State, Deputy Moloney, for staying in the House, because I know he is under considerable pressure. I wanted him to be here because I want to ask him, directly and personally, to take particular action today. I know there is support within his own party, on this side of the House and from many professionals for a motion I raised this morning, and will continue to raise, to re-examine the exemptions granted to all the churches from the operation of equality legislation.

I tabled the motion before this report and in light of the Ferns and Cloyne reports. We had the Laffoy report and now have the Ryan report, and it is getting worse all the time. Archbishop Diarmuid Martin, who is a decent man and a man of integrity, has said there is more to come in the report on what happened in the Dublin archdiocese. In light of what has happened, it is not appropriate to put the very people who have perpetrated criminal acts above the operation of the law. If that is what we are prepared to continue to tolerate in this House, every syllable said here today is nothing other than meaningless, sentimental waffle that patronises and condemns more people to the same kind of thing.

I will put a very immediate and practical example on the record. Last Saturday I attended, with the Minister of State at the Department of Health and Children, Deputy Barry Andrews, a man for whom I have the highest respect and is a decent man and a man of integrity, a meeting of a group called BeLonG To who were opening a new office. It is a group of young gay people who campaigned and succeeded in getting a Fianna Fáil Government to authorise the issuing of posters about homophobic bullying in schools. In school, 80% of bullying contains some homophobic element and 80% is never dealt with because the teachers are afraid as a result of this exemption. At that meeting in the centre of Dublin, a 16 year old who is a pupil in a Christian Brothers school told how, during the previous week, the authorities in his school had forced him to take down the posters which would have defended young people against the operation of prejudice and bullying.

We have heard in the House about the ethos that needs to be defended. What is the ethos that needs to be defended? This was not a couple of rotten apples. It was endemic, systematic and took place over a long period, so one can ask what the ethos was. It consisted of the exploitation of children for financial reward, sexual pleasure and sadistic purposes. There is case after case. It has brought Ireland into contempt and that is why we need to do something about it.

What is the ethos? We all read the report. We heard people on the radio. Members of the religious fixed a small boy between the two halves of a window, pinioned him down in the sashes and then anally raped him. A brave, courageous, elected Fianna Fáil politician and former mayor of Clonmel said he was beaten and raped, and the next day had the sacred host placed in his mouth by the people who had done this to him.

We spoke a little in the House about blasphemy. I would like to know, is that not blasphemy? How can such people describe themselves as Christian Brothers? Do not talk to me about our culpability, our shame or our responsibility. I have none of it. I did none of those things. I do not see why I should be required to support these orders financially, when they are trying to weasel out of the situation. I do not see why an old age pensioner should have tax money taken from them. I most certainly do not see why the victims of abuse, because they pay tax, should be forced to finance their own rehabilitation.

[Senator David Norris.]

It is obscene for the religious orders to dare to suggest they are in a position to offer counselling. How many of the victims have said one of the worst things that happened to them was to have to sit in court, sometimes right beside the people who had abused them? Does the Minister of State really think that someone who has been abused and violated needs to be counselled by agents of the very forces that inflicted this upon them?

When we have a balanced debate, these are the things we need to consider. I ask the Minister of State to go back to his colleagues and ask for the business of the Equality Authority to be re-examined. It is very clear the exemption should be removed. Taxpayers pay the wages in the schools concerned. We must also consider the fact that in some circumstances the largest hospitals in the State are directed and controlled by members of religious orders whose ethos is questionable. For example, I raised a case previously in the House about where life-preserving cancer treatment with experimental drugs was denied by an ethics committee. There was interference by secret groups such as the Order of the Knights of St. Columbanus and Opus Dei. We all know that.

I seem to have been accused this morning of being anti-Catholic. I do not believe I am because I spoke out about abuse, not just in Catholic schools but in Protestant schools. I painfully placed on the record that I had the experience not of being sexually abused but of being physically abused for a while. I hardly like to say this but a very close family member was violently abused in an upper class Protestant boarding school. While I was in that school the boy next to me, who also had a dysfunctional background and wet the bed, had his nose rubbed in it every single day. He was exposed to the contempt and ridicule of other students until he ran away and was killed by a motor car. There was no inquiry in that case. I have said those things. I do not think I am anti-Catholic. I have been very fair in what I have said but I cannot see how what occurs could be covered by Christianity.

I am a gay man.

**Senator Mark Daly:** That is no news, David.

**Senator David Norris:** I do not think that comes as any great surprise to people in this House. I saw one of the “Reeling in the Years” programmes last year that was looking back approximately 25 years. I was then making a dignified but passionate plea to change the criminal law on homosexuality. Sitting behind me was a plump, smug, self-important priest who showered me with contempt and abuse. It was only last year after the events that took place that I realised who he was. Fellow Senators, that was Fr. Seán Fortune, who at that time was raping children in his own diocese of Ferns, but I was the outcast, not that man. If we really wish to be sincere, it is time to do something to stop more children being attacked.

There is a very good article by Justine McCarthy in a Sunday newspaper. She said: “They lied. They stole. They terrorised. They assaulted children. They manacled them.” They sexually assaulted them. There is a catalogue of such actions. Who were “they”? The article continued:

Throughout it all, they — and the whole world — thought they were holy men and women.

Children were made to lie in bed at night with their arms piously crossed over their chests. When they slipped out of this position unconsciously in their sleep, they were woken up and beaten. Holy men came into the dormitories at night, sometimes two at a time, and put their private parts in the children’s hands and in their mouths.

Was that not blasphemy?

On the issue of where the responsibility lies, I deny any responsibility. I spoke out, although it caused me pain as a teenager and adolescent. I continued to speak out. I have spoken out not just about the Roman Catholic authorities but about the whole situation of bullying because it is the principle that motivated me. I defy anyone to say I am anti-Catholic. I want this matter to be addressed. I am horrified by the approach of some people who should now be covered in shame. I refer to people such as Deputy Woods who thinks we should be glad the taxpayer is liable. Why? He says the State is responsible. He was negotiating on behalf of the State and yet he appeared to be more in the pockets of the church. In my opinion the victims were betrayed.

One or two people in the Judiciary, such as Judge McCarthy, was more sensitive to the needs of those people who were brought before him. What was the result? A member of the Government of the day, Mr. Gerry Boland, tried to have him sacked for being too lenient and easy. That is the kind of mentality of the person who wrote a letter to *The Irish Times* saying most of those people were thugs. A dignified 76 year old woman wrote back who was put into care at the age of two. She got a criminal record for being abandoned when she was two years old. That is appalling.

I appeal to the Minister of State, Deputy Moloney. I know it will be difficult, but he is a man of principle, integrity and courage and if he wants to avoid further damage in that clear area I have outlined, he should not allow what I saw not two years ago nor 20 years ago but last Saturday, when a brave young man stood up and said he was forced by the Christian Brothers to take down posters against homophobic bullying.

**Minister of State at the Department of Health and Children (Deputy John Moloney):** Am I allowed to add a point of information?

**Acting Chairman (Senator Denis O'Donovan):** Yes.

**Deputy John Moloney:** I have two points to make. Although I do not have responsibility for the matter under discussion I wish to respond to two points. As Minister of State with responsibility for disability issues, I attended a recent Inclusion Ireland conference. I was asked a question from the floor about State supervision and inspection. At the time I said I could not make a commitment on the issue. In the light of what has emerged in recent days I consider it necessary for me to re-examine the matter and to see whether I can make changes in that regard.

I wish to respond to Senator Norris, this time wearing my hat of Minister of State with responsibility for equality issues. I do not say this by way of pretence just to get through the door. I give him a serious commitment to re-examine the exemption clause, especially in light of what has occurred in recent days. I will not hide behind legal jargon. I intend to test the issue of why the advice was followed. For the sake of the record of the House, I do not for a second believe Senator Norris is anti-Catholic. In fact, I think the opposite.

**Senator Frances Fitzgerald:** On a point of order, may I respond to what the Minister of State said about what was said a few weeks ago?

**Acting Chairman:** No, with all due respect the Senator cannot do that.

**Senator Frances Fitzgerald:** I raised the matter on the Order of Business this morning. I am pleased to hear what the Minister of State said.

**Acting Chairman:** I will not allow that now.



**Senator Frances Fitzgerald:** I hope it will be included in the Government recommendations.

**Senator David Norris:** I very much welcome the Minister of State's commitment.

**Senator Mark Daly:** Senator Norris gave a passionate speech in which he raised a number of issues. The fact that there is a prohibition on posters speaking out against homophobic behaviour by school students in religious institutions is another example of how the abuse is continuing to some degree.

One can but wonder who is leading those 18 religious orders because they are so out of touch. I spoke yesterday about the fact that regardless of whether they knew it then, they would have to bear a bigger share of the burden of the €1.3 billion in compensation. Senators spoke yesterday about whether the cost should be split on a 50:50 basis, given that the State is equally culpable in that it sent the children to the schools, it did not police the schools when the abuse was brought to its attention and it covered it up. For that reason the State must pay its share. The religious orders have not yet handed over the properties they were supposed to hand over as part of the agreement.

The fact that at this time the State is responsible for the lion's share of the €1.3 billion means the religious orders are continuing the abuse because those funds could be used to help the vulnerable today, such as those children who are in need or who need to be taken into care. The funds should be used for such purposes but because we have to pay for the sins of the past we cannot help people in the present. The religious institutions are insisting they have done a deal and they will not renegotiate it. By the end of the week I am sure they will all have seen the errors of their ways.

What annoys me more than anything else is not that we had so many who were perpetrating these crimes but that there was a huge cover up. Who knew what, when did they know it and why did they say nothing? For every abuser, there were thousands who remained silent. They may not have participated, they may not helped in any way, but their silence was a help. As we know from working here, when one is working in one place the stories go around and one hears the rumours, yet they all stay silent. Those who were brave enough to speak out, and the sad fact is these people were few and far between, they too were punished by their orders. They were sent abroad or on punishment details in their institutions. Those who perpetrated crimes were also moved on as soon as reports came through about them.

How is it that we did not know about these things in this country? Investigations into child abuse in South Africa, Australia and New Zealand pointed out that the Christian Brothers and Irish religious orders were the main protagonists. They were singled out by judicial investigations in South Africa. Why did we not wonder if that was happening here? There was a headline on France 24 last night about the Irish sex abuse scandal, and it makes one think about how this is replicated around the world. Our shame as a country is deserved because when we knew it, we ignored it.

I remember launching a book on the Kerry Rape and Sexual Abuse Centre five years ago, which was an organisation starved of funds. It is still starved of funds today and 0.1% of that €1.3 billion would help the centre to help those who are now going to revisit their terrible past. For the 15,000 victims of whom we are aware, there are probably ten times that number who were sexually or physically abused. While it might be possible to bury it for a time, it cannot be buried forever. This publicity, which will no doubt go on for weeks and months, will bring the past to life for all those who never spoke about it to anyone. Regarding the religious orders offering support, it is difficult to imagine who would take help from those who not only supplied the abuser, but also ensured the abuser was never prosecuted. This is the big question that faces us.

It is not about the money. When €1.3 billion is divided between all the victims, it is small money. It is a small token that will not do much. All the money should be spent on counselling because these people will need it. When one thinks of all the money that will be diverted to pay off those victims, then that is the tragedy. We are looking at a church that covered it up. As a result of all the abuse, those victims turned to alcohol as a crutch. Many of them committed suicide. As an institution, the Roman Catholic Church as good as killed these people. By not informing the police and by not bringing to justice those who perpetrated the crimes, they as good as killed them.

People have referred to these institutions as concentration camps and spoken about the Holocaust. The one thing about the Holocaust was that the German people denied and claimed they did not know. However, everyone heard the rumours, even in a society that was covered by wartime propaganda. In a country with a free press, people knew but they did not want to know.

I remember a case that came to light a few years ago. I was sitting or standing at the back of a church — I do not go up to the front — and I looked at the priest and wondered whether he would stay silent as well if my niece or nephew were in harm's way. If he knew of a priest who was sexually abusing children in a school that my niece or nephew attended, would that priest stay silent? Would he be like all those other people in the religious orders who stayed silent when they knew about someone in their order who was abusing children? That is fundamentally unfair to those great priests who have done gone great work. They face an enormous burden today because the collective guilt, perpetrated by many through either the abuse itself or the silence of those who knew, is a shame shared by all in each of those institutions.

For all the great work done by CORI and for all the errors it pointed out that were made by the Government in protecting the vulnerable, any statement it makes from now on is not worth the paper it is written on. This is because its response has been appalling. CORI's members knew this report was coming for the past ten years. They knew the extent of the abuse a long time before we did. They had all the files. They tried to stop us getting them, so they knew the extent of the abuse, yet they still lectured politicians on how we should treat the most vulnerable. When they were given the protection of the most vulnerable, they committed the most heinous crimes, and their silence was possibly the worst crime.

**Senator Ciaran Cannon:** I would like to share my time with Senator Cummins.

I am 43 years of age and I do not recall in my lifetime a greater veil of shame, horror, angst and despair descending upon this country as a result of what we have heard over recent days. The contribution by Mr. O'Brien on Monday night on RTE laid bare for us all the horror that every single person who was the subject of this report had to endure. It was real and it was passionate. If any one of us was given the opportunity of being able to travel back to the mists of time to that night when that little child was first raped and was then beaten to a pulp the following morning, then we would grab that chance this very minute and extract him from that environment. We would do everything possible in our power to take every one of those children out of that environment and ensure they were never subjected to that kind of torture and degrading treatment ever again.

Unfortunately, we cannot travel back in time. All we can do at this point is try to care for the people who suffered, put in place the kind of support they need and hope we can somehow work with them in finding the kind of peace they deserve. I am convinced the majority of them will never find that peace, but it is incumbent upon us all to work with them in doing that.

In the Ireland of 2009, we can answer the call of children who are still suffering abuse and violence. It is in the power of every one of us in this House to answer the 236,000 calls that

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went unanswered to the Irish Society for the Prevention of Cruelty to Children last year. Senator O'Toole raised this previously. A total of 236,000 children rang that number hoping to find at the end of that line a person who would offer them the advice, support and care they needed. The Irish Society for the Prevention of Cruelty to Children, ISPCC, published statistics for last year which report that it took a total of 650,000 calls, of which 414,000 were answered and 236,000 were unanswered. Some 13% of the calls that were answered were from children suffering severe abuse and violence. Assuming the same case mix across all of the calls, this to me means that just over 30,000 calls from children suffering the same abuse and violence were unanswered. This is utterly unacceptable in the Ireland of 2009. Celtic tiger or no Celtic tiger our priority, in the 1940s and 1950s, should have been to answer the call of the children abused at that time. More important, given current resources we have no excuse for allowing that type of neglect to happen. Some 30,000 children suffering abuse and violence did not get the response they deserve.

I spoke earlier by phone with the ISPCC. It is putting in place a programme through which it hopes to achieve by 2011 a 100% response to calls. That is two years away and is not soon enough. I asked the ISPCC what it would cost to ensure every call, 24 hours a day, would be answered. I was told it would cost an additional €3 million over the next three years, of which it undertook to raise €1.5 million and had asked the Government to respond with the balance, but was told that could not happen. For all the hand-wringing and platitudes engaged in the past couple of days, what greater symbolic response could we give to the children of Ireland who today continue to suffer abuse and violence than to say that as and from next week every call to the ISPCC Childline would be answered for the paltry investment, on our part, of roughly €500,000 per annum? No call unanswered must be the response and it must happen now.

**Senator Maurice Cummins:** The charge was made that one of my colleagues was making a political football of this issue, a charge I totally reject having listened to the debate at the time. I would like to quote my party leader yesterday on this issue:

It is not for me or anyone else to point the finger of political accusation. I extend to the Taoiseach and the Government the hand of unity, political solidarity and political necessity to deal with the consequences of these horrendous revelations.

I thank the Minister for Education and Science, Deputy Batt O'Keeffe, for acknowledging today the all-party support and unity on this issue.

I welcome, as mentioned by my party leader yesterday, the initiative of the Taoiseach to meet with the religious orders to implement the recommendations of the Ryan report. The report highlights the Government's failure to invest adequately in child protection policy and its abject failure to ensure the National Guidelines for the Protection and Welfare of Children 1999 were properly implemented. These guidelines have not up to now been implemented even though, through the boom years, the coffers were full. The welfare of children was not given the priority which was necessary and which it deserved.

There is no doubt there is a moral responsibility on the religious orders to make a further contribution to show that every possible effort is being made to address their wrongdoing. I welcome the belated response from CORI today which accepts this stance. I believe those who are guilty, regardless of when the abuse took place, must face the full rigors of the law. I hope the Garda Assistant Commissioner will report soon on this issue and that we will be in a position to prosecute the perpetrators of these horrors.

We are told the Minister of State with responsibility for children, Deputy Barry Andrews, will draft and present to Government in July a detailed plan for implementation of the recommendations of the Ryan report. Should the Houses of the Oireachtas not be recalled to discuss the details of this plan? It is imperative that the opinion of both Houses is sought on this matter.

Like other speakers, I welcome the statements from the leader of the Catholic church, Cardinal Brady and the Archbishop of Dublin and their call on the religious orders to pay their agreed contribution to the State scheme and stating that it was their moral duty to revisit the scheme and pay more compensation. In my opinion, apologies made by the religious orders should be sincere, unlike the Christian Brothers, who appeared sincere, but who then legally challenged the victims at every step of the road and the commission, thus preventing it naming individuals in the report. I believe all living victims should receive from the religious orders in question, regardless of how long it takes, a personal apology in addition to extra financial reparation.

Not a night or day passes that victims do not feel hurt or pain or endure the need for love and atonement. This shames us all and leaves us with a measure of guilt. This is an horrific story, a sad saga for the children of the so-called island of saints of scholars. We cannot in any way understand how these people grew up with these terrible crimes so vivid in their minds and imprinted on their souls. We heard the other night former Fianna Fáil councillor, Michael O'Brien, speak so emotionally on this issue on "Questions and Answers".

There must be a response from the religious institutions that provides real support for victims and recognises the moral imperative of the revelations to which everyone needs access. There must be an understanding that there are many whose stories have not yet been told and who may now find the courage to come forward. When listening to the radio a couple of days ago I heard the presenter read out a text he had received from a man saying he had been abused and that was the first time he had admitted it. How many more such people are out there?

The officials and inspectors in the Department of Education throughout the shameful period when this abuse took place have an awful lot to answer for. They had the power to halt this torture of the innocence but were grossly negligent in their duties. The judges who handed down sentences which were beyond their remit must feel ashamed of themselves at this stage. Indeed, the legal system that allowed those custodial sentences go unchallenged also has an awful lot to answer for. The sentences handed down to victims of these horrors in the past must be deleted and expunged from the records. This is a matter that should be addressed as a matter of urgency. These people did not commit crimes and all those records should be deleted.

I join in the calls for a national day of commemoration for the victims of abuse. We as a nation should never forget this horrific and shameful period in Irish history, which should not be allowed to happen again.

**Senator Fiona O'Malley:** The report of the Commission to Inquire into Child Abuse, which was published last week, is the latest report on institutional abuse in this country. It comes after the Ferns Report in 2005 and will be followed shortly by a report on the archdiocese of Dublin. Once again the horrific sex crimes, neglect, torture and brutality perpetrated by priests and nuns on poor and vulnerable children are laid bare. Their victims' humanity was dismissed, their identities expunged and their voices silenced.

What I find truly shocking is the collusion between the State and clergy in what was effectively human trafficking. The system of capitation created an incentive to increase the numbers held in industrial schools. The report recounts how this system made the schools economically

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viable. The religious orders pounced on this opportunity and exploited the system to create what one inmate of Letterfrack described as labour camps and child prisons.

The apology which the Taoiseach gave in 1999 was long overdue but the State's actions have rendered it somewhat hollow. The State assured victims of abuse who went before the commission and the redress board that they would be spared the trauma of a trial but this was not the experience of many. The gentleman who was on television earlier this week outlined the ferociousness with which he was cross-examined and re-traumatised and spoke about his difficulties in coping with this process. I am aware that many more could not cope and, as a result, committed suicide. They did not deserve this fate.

The Department of Education and Science was anything but co-operative with the inquiry. Ms Justice Laffoy referred to this on her resignation from the commission. It is shocking to learn that a Department was dragging its heels on an inquiry commissioned by the State.

Former residents have spent decades trying to recapture their lives. They have received vindication of sorts with the publication of the Ryan report but total vindication only comes with justice. Until the perpetrators of these crimes are brought to court and made accountable, justice will never be delivered to the young children who suffered so abominably under the supervision of pillars of our society. Yesterday the Taoiseach sought to reassure us the criminals will be pursued but has the State not offered them solace by the fact that the Ryan inquiry rendered vital evidence inadmissible in a criminal proceeding? This begs the question of who will receive justice from this report.

The indemnity agreed between the church and State was a shameful deal reached under dubious circumstances. The former Comptroller and Auditor General made a stinging criticism of the deal in September 2003. *The Irish Times* reported his concerns as follows:

The fundamental question remains: why did the government agree to a deal which gave rise to unlimited liability for the State, yet scrapped the liability of the religious orders in return for €40 million in cash and 80 million in property ... While much focus has been on the fact that the CAG has put the potential bill at 1 billion, the report also highlights the fact that during the negotiations no government department ever did a detailed analysis of the potential exposure of the State.

Indeed the report highlights the fact that, as the negotiations with religious orders were ongoing, the potential number of claimants and cost of the scheme kept being revised upwards.

This reveals the extent of the State's failure to assess its exposure properly with the result that it is now vulnerable to huge liabilities.

The citizens of this State have supported the clergy and this is what has made them rich. I do not offer devotion and blind loyalty to the church but I recognise that others do so. The church's behaviour towards these people has been traumatic. It clearly believes they do not deserve the moral guidance they seek. The orders have shown mealy mouthed determination in keeping their purses closed. Regardless of the legal complications of the deal, if the church wants to portray itself as the country's moral guardian, it needs to think about what it is doing. I was somewhat repulsed by the manner in which CORI indicated that it wanted to show more charity in dispensing money rather taking appropriate responsibility in terms of sharing culpability with the State. The notion of dispensing charity is an indication of a superior attitude which I find deeply offensive.



Happily, we live in a republic and as such we should ensure the separation of church and State. Constitutionally, however, the Catholic Church is in a preferential position. We see now the damage that can do. It is high time that we modernised the Constitution into a truly republican document in which church and State are clearly separate.

The nation's stunned anger is clear to all but we must ask ourselves what we can learn from the report. The best promise we can make is that children in the care of the State will be protected to the highest standards.

**Acting Chairman:** It has been ordered that the Minister of State will speak at 4.50 p.m., so Senator Mullen will have to conclude then.

**Senator Rónán Mullen:** I dtosach báire, ba bhreá liom an tAire Stáit a fháiltiú go dtí an Teach. Is díospóireacht tubaisteach í an díospóireacht seo, i ndáiríre. Tá gach éinne atá tar éis dul i ngleic leis an méid atá sa tuairisc seo croíbhriste de bharr an méid a tharla do dhaoine óga. Ba chóir go mbeadh na daoine is laige i gcroílár an tsochaí. Ba cheart go mbeadh cosaint ar fáil dóibh, ach an mhalairt a bhí fíor. Tá géarghá le machnamh a dhéanamh ag an am seo.

This report makes for sickening reading. It is difficult to find the right words at a time like this other than to reiterate the sorrow, anger and shame we all feel. A storm rages around us. The publication of the commission's report is having a devastating effect, and rightly so. At one level it seems strange, though, considering that so much was already known about the horrors of life in the institutions run in decades past by the religious orders. It seems, however, that the consolidation of this catalogue of evil has reawakened in many people their well established sense of shame and sorrow. This is especially so in that this should have happened for many of us within our church and society, where we would have wanted to see a greater example of love and care to be given by definition. In some hearts there is even a desire for vengeance, which is understandable too.

Two examples from this report stick out for me as being particularly tubaisteach. They exemplify some of the horror of what went on. One example concerns the disparity of treatment accorded to lay abusers. On a number of occasions where there were lay abusers within these institutions, the gardaí were sent for promptly and action was taken. On many other occasions, however, there was clearly a failure to act properly in the same institutions when the abuser in question turned out to be a member of a religious order.

Another example struck me perhaps because we are talking at a time when we have been reflecting a lot about our economy and the greed that has led to the current crisis. It is truly scandalous, however, to think that greed may also be part of this story. The Ryan commission's report claims, for example, that there was a movement by the orders to keep the institutions open in the early years of the 20th century. They had an interest in keeping their numbers up for revenue reasons, which is truly scandalous, heartbreaking and profoundly unacceptable.

It is difficult to find anything like the required calmness, balance and precision, but it is important to say something for those people of faith in particular. Our first thoughts are for the victims of abuse, but it is important to note and to put on record the profound heartbreak of people of faith in particular. This is precisely so since they love their church so much and because this happened under the watch of agencies working within their church. There are feelings of humiliation that those in leadership in the church should not only have failed to rise above the cruelty of the times but also that they exemplified it on occasions and on many occasions they exacerbated it. I am speaking here not only of the people who perpetrated abuse but also of those who presided over the institutions. This is the damning thing about this report, that time after time one sees that people knew what was going on. I was struck in particular by a line about the Rosminian Order which, unlike other orders in their dealings with the

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commission, at least sought to understand the abuse. However, the report notes that other congregations sought to explain it. Therefore even at the investigation stage there was a failure to accept the reality of what went on. We see many examples of occasions when not only were people aware of abusers on the staff of these institutions, but they were also moved to other institutions. In some cases they were allowed to continue to work for many years, even though their propensity to abuse was well known.

It was particularly tragic that in one institution so much hardship — I am not speaking of sexual abuse — was imposed on children who had to work under a regime of extreme drudgery manufacturing rosary beads. The contradiction at the heart of that defies belief.

There are feelings of helplessness and indignation. There are also feelings of indignation when one thinks of how the reputation of the entire church has been affected, not just of the orders in question, but also of the many good people who have worked and continue to work so well and generously and very often for nothing. People who love God and their neighbour get forgotten at a time like this. There are also feelings of indignation because the huge unpaid contribution by the religious to social justice for the betterment of the disadvantaged in our society gets left out of the equation, perhaps understandably but no less painfully at a time like this.

I must be honest and say that there are feelings of indignation when we see people using the current wave of anguish and anger as a wedge to advance a separate political project. I noted what Senator Norris said and I think he was referring to me when he thought he was accused of anti-Catholicism earlier. Given the tragedy of anti-Catholic bigotry that blighted life in Northern Ireland for so many years, I would regret if it were to raise its head again under a different guise, particularly under provoking circumstances such as these. I would be doing less than my duty as a public representative if I did not view and note with concern attempts to prosecute a different political agenda on the back of the horror and anger we all feel, and a certain lack of respect for the facts on occasion as people seek to do so.

Yesterday in this House, for example, my colleague Senator O'Toole raised the matter assuredly and informatively because, he said, the Ryan report made it clear that the Vatican was used as a place for orders to lodge files that they do not want to make available to the Government. This is a serious claim indeed, but it is a claim without any solid basis. Anyone who takes the time to read the Ryan report carefully, which, I submit, is what every public representative should do, will see that there are no references on any occasion to Vatican files. What are mentioned are the important files that were kept by religious congregations in Rome, which happened to have, and do have, headquarters in the city of Rome in the Italian jurisdiction, precisely because the Vatican is based there.

This highlights the need to educate ourselves about topics we choose to speak about, particularly when we choose to speak about them so fervently and authoritatively. This is not an attempt to water down the horrors of what is in this report. It is morally wrong, however, to seek to take advantage of the anger of these unique and dreadful days to push a separate agenda. It was in that context that I would be critical of Senator Norris for raising section 37 of the Employment Equality Act. I am really disappointed that the Minister sees fit, as he said, in light of the current circumstances, to review that section, because it has nothing to do with child protection. It has nothing to do with any one church. Section 37 of the Employment Equality Act, negotiated at European level and implemented in our legislation, merely guarantees that religious run institutions, be they educational or health care institutions, can run these institutions according to their ethos when making employment decisions. That is a matter of protecting freedom of conscience. Even if I am wrong about the substance of the issue and the desirability of section 37, surely I am not wrong in saying that it is wrong to use these tragic

times as the lever or wedge to open up that particular debate. It amounts to saying that because Catholics and non-Catholics are disgusted at the behaviour of some — indeed, many, I have to say, tragically — members of our church, we are going to use this opportunity to attack religion and the free practice of religion in our society.

Senator O'Malley talks about the separation of church and State, and she is absolutely right to do so. However, the group of distinguished American visitors in the Visitors Gallery would tell her that separation of church and state is about protecting church and state.

**Senator Fiona O'Malley:** Both.

**Senator Rónán Mullen:** It is about leaving people free to follow their consciences, which in the context of equality matters includes employment decisions.

**Senator Jerry Buttimer:** That is what she is saying, apparently.

**Senator Rónán Mullen:** I am open to that but it was not clear to me. One must look honestly at the Constitution and ask how much undesirable linkage there is in the present set-up. The mere fact that religion is honoured in our Constitution does not mean there is an absence of separation between church and State.

**Senator Fiona O'Malley:** There is a preference for a certain type of religion.

**Acting Chairman:** The Senator has one minute remaining and there should be no interruptions please.

**Senator Rónán Mullen:** It certainly honours the free practice of religion and recognises it as a social good, but it in no sense places a disability on people who do not practice that faith or a Christian faith of any kind.

**Senator Fiona O'Malley:** All faiths are not just Christian.

**Senator Rónán Mullen:** Yes, and I would be open to looking at that aspect of it, but that would not amount to a separation of church and State. I would be in favour of including other faiths but that would not open up the issue of what Senator O'Malley described as a separation of church and State.

As we all know, the young people in the institutions were not guilty of any sin. Nonetheless, it seems appropriate to recall the words of the founder of Christianity to which many of those who presided over the abuse adhered, albeit so badly: "Woe to you that caused one of those little ones to sin, better that a millstone be cast around your neck and that you be cast into the sea." They bear a terrible moral responsibility for what they have done, whether they are ever brought to book for it in this State or not.

**Senator Fiona O'Malley:** They are criminals.

**Senator Rónán Mullen:** Let us go forward remembering that what we must now do is focus on the need for justice for those who were abused and focus on the need for fairness as we come to terms gradually with the evil that occurred in our society. Let us do everything necessary to ensure such evil never occurs again.

**Senator Jerry Buttimer:** On a point of order, given the enormity of the report, which is the single biggest report we have had in this House, it is wrong that the debate concludes today. Three Members on this side have offered to speak but have been unable to do so. I understand

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the Acting Chairman's position but this debate should be allowed to adjourn rather than conclude this evening.

**Acting Chairman (Senator Denis O'Donovan):** Unfortunately, it has been ruled on and the Order of Business was agreed to. My hands are tied.

**Senator Jerry Buttimer:** I appreciate that——

**Acting Chairman:** It is a matter worthy of mentioning again. I would like to speak on it also.

**Senator Jerry Buttimer:** We need to roll over this debate to another day.

**Acting Chairman:** Senator Buttimer should raise it with the Leader on the Order of Business tomorrow morning.

**Senator Jerry Buttimer:** It would be wrong if we concluded the debate today with a statement from the Minister of State because Members on both sides of the House wish to speak on it.

**Acting Chairman:** I agree but the order of the day compels me to ask the Minister of State to respond and to conclude the debate at 5 p.m.

**Minister of State at the Department of Education and Science (Deputy Barry Andrews):** I will respond to some of the items to which I had an opportunity to listen. The final point made by Senator Mullen on the employment equality legislation is very interesting and goes to the heart of how we order our society. The difficulty with Ireland is that we do not have a substantial parallel educational or health system that is non-religious; it is almost impossible in many parts of Ireland to access education and health services without crossing the threshold of a religious ethos. It has grown in this way and if were to start again we would probably start from a different point but we do not have this choice. I understand people asking why we do not apply the employment equality legislation and there is an argument to be made. Rather than it being an attack on a religious ethos surely we should have the confidence to know that it would enhance a religious ethos and parallel and match that ethos and give it a fresh authority. This is an interesting debate and it goes to the heart of many of the issues on which I have touched over the past year as the Minister of State with responsibility for children.

Senator O'Malley made a very passionate speech and I thought she captured the public mood, which is one of shock at the extent of the breadth and depth of the abuse and neglect of children over an entire century and almost certainly it went back to before living memory. Those tragedies will never be ventilated but the Ryan commission has done a great service to the State. The challenge for me as Minister of State with responsibility for children is to try to ensure it was not done in vain and that those who articulated their testimonials to the committees of the Ryan commission did not do so in vain.

Times have changed substantially since the period that the Ryan commission reported on. Our child welfare and protection services has gaps and I am the first to admit this. However, very substantial improvements have been made. In recent months we have had the enactment of the Criminal Evidence Act 1992, which allows children to give evidence by way of video conferencing; for the first time we have removed the trauma of having to give evidence live in court and Senator O'Malley referred to this. The Ryan commission was given power under statute to refer evidence that had come before it to the Garda if it was thought it might be of assistance in a prosecution.

The issue of anonymity forms a very interesting part of the Ryan report and is worth reading. Mr. Justice Ryan invited submissions from all interested parties on the issue of the anonymity of perpetrators and every submission stated it was highly problematic. Everyone acknowledged that it would lengthen the process very severely, in circumstances where many of the victims were elderly and whether they would be able to give evidence was in question. While they were agreed on this, they could not agree on a way forward so Mr. Justice Ryan took the decision to seek a change to the legislation on anonymity and this allowed him to report, albeit a full five years later.

I very much welcome last night's Government decision. It was based on the new information that has come out of the report and the much greater extent than was initially anticipated of compensation that has been paid out. I welcome the decision of some of the congregations to speak with the Government in the very near future. As Minister of State with responsibility for children, I intend to meet children's rights groups later this week to discuss their views on the outcome of the report and I hope to be able to outline to them the changes that have taken place, those that are in play and those which they think are additional and I will try to match them against the recommendations made by Mr. Justice Ryan. It will be very difficult for me to present that implementation plan but I am anxious that it will be done in full and I propose to take soundings from the Departments of Education and Science and Justice, Equality and Law Reform as well as my office.

As the Minister, Deputy O'Keeffe, stated earlier, we are all united in our abhorrence at the harrowing stories told in the commission's report and I welcome the all-party approach to dealing with the report. I also take this opportunity to pay tribute to the former residents who gave evidence to the commission so that a true account of what really happened could be given. To tell their stories was a very painful experience and I want to acknowledge their bravery. I also want to acknowledge those victims who are no longer with us but who were given a voice through the harrowing accounts given in the report.

The report makes it clear that from the State's perspective the abuse of children occurred because of failures of systems, policy, management and administration as well as of senior personnel who were concerned with industrial and reformatory schools. These children were placed in institutions by the State and the State had a duty of care to them. The victims were let down by the State and we must ensure this does not happen again. Children who are in care and detention rely on the State to identify their needs and provide appropriate, relevant and sufficient services in a timely manner.

Other children, who do not come into care arrangements, rely on the State to provide support services to them and their families so they can continue to live in their family environment. The HSE has indicated that since 2003 funding for family support services has increased significantly by 79%, foster care by 34% and residential by 7%. The smaller increase in residential care reflects the positive steps taken by the HSE on foot of Government policy in this area to prioritise foster care placements over residential care.

The agenda for children's services is the overarching Government policy for children's services and was published in December 2007. The agenda contains many of the key principles which are in line with the recommendations made in the report of the commission into child abuse, including that policy should be child centred and clearly articulated, methods should be in place to evaluate the extent to which services meet their aims and contact and involvement with family should be ongoing.

As the Taoiseach stated last night, the Government is fully committed to implementing the recommendations of the commission's report. The report contains 20 recommendations and there are other issues throughout the body of the report that require consideration. I will be



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developing a plan for the implementation of the recommendations which will include specific actions, a timetable for implementation, costings and any other associated implementation issues. I will bring the plan to the Government by the end of July.

I take this opportunity to thank the commission and Mr. Justice Ryan for all their work in producing this comprehensive report and I want to assure the House I am fully committed, as is the Government, to ensuring we learn the lessons of the past and that the recommendations are implemented.

### **Private Members' Business.**

#### **Monageer Report: Motion.**

**Senator Frances Fitzgerald:** I move:

That the Monageer report in full be referred to the Joint Committee on Health and Children for the committee's consideration both of the substance of the report and to determine whether it should be published in full and submissions requested on the recommendations made in the report.

The Fine Gael Party decided we needed to discuss the Monageer report in this House. It is particularly relevant that we are discussing a contemporary report as opposed to a historical report into children's services here. It is particularly relevant also that the Monageer report should form the key item for our discussion in Fine Gael Private Members' time.

At the outset I extend sincere sympathy and condolences to the relatives of the Dunne family on the tragic deaths of their family members two years ago. It is not the purpose of this debate to contribute in any way to their distress but rather to examine the lessons that can be learned from the report, such as it is, that is available to us.

The Monageer report is what we call a redacted report. Many people have asked the meaning of "redacted". It means that huge sections of the report are blacked out. Pages 92 to 106, inclusive, and 109 are blacked out. Further along in the report pages of the recommendations are blacked out also. What we have is a redacted report into a tragic event. One could call it censoring or that it is not the fully story, and it raises serious questions. It is edited, deleted, suppressed and we do not know the reasons for that. That makes it difficult to read the report because we do not have the full information which the inquiry team wished to give the Government. I understand that is on legal advice from the Attorney General.

A committee of three people produced the report but we do not have the report in full. We do not have the full details of what happened and we do not have the full recommendations. It is very difficult, therefore, to act on the report. That is the most serious problem we face in regard to this report. I do not know the reason the procedures led to this outcome but that is what happened.

Our motion is an attempt to ensure, as in the Kelly Fitzgerald case, that the report is referred to a committee of the Houses of the Oireachtas where it can be considered and we can ensure its recommendations are acted upon, implemented and monitored.

Seven out of the 26 recommendations and 15 of the 31 conclusions in the report are blacked out. The report raises a range of concerns and wide-ranging questions about current child protection services in the country. It raises questions also about an out-of-hours social work service. This tragedy happened on a Saturday when an out-of-hours social work service was not available.

I ask the Minister of State, who I understand may have to leave shortly, to re-examine the information he has been given about the costings of an out-of-hours social work service because they may not be the amount the Minister has quoted, which was €15 million. An out-of-hours service available to the gardaí, curates and a range of people is very important and might have prevented this tragedy.

Another key issue in the report is that the Children First guidelines are not applied consistently across the State. There is a strong recommendation in the Ryan report on that very issue. The Ryan report is a contemporary report which states that those guidelines are not applied consistently across the State and recommends that they should be so applied.

Because so much of it is blacked out it is difficult to understand the vital lessons that must be learned from the Monageer report. If we cannot learn lessons from this tragedy, how can we avoid a similar tragedy occurring again? I look forward to hearing what the Minister of State has to say about the way he intends to proceed with this report. He has tabled an amendment to the motion which states that whether the report can be referred to the committee will depend on further legal advice. I ask him to bring the House up to date in that aspect. I hope he will be able to tell the House that this report will be referred to the relevant committee.

In recent years we have had many reports on the neglect of children, not just the Ryan report, which is the most dramatic and comprehensive report ever produced. It is the most comprehensive report ever published in the history of the State into child protection and child care services, and it is a damning indictment. In more recent years, however, we had the Kilkenny incest case, the Kerry babies case, the Kelly Fitzgerald case, the Madonna House report, the McColgan report, the McCoy report, the Hynes report and now the Monageer report. What we see in this report is that the risk to children remains and there is an absence of urgency in putting in place the necessary measures to ensure our children are protected and potential tragedy averted.

There is a group of children who are currently very vulnerable. I do not have time to go into all of the details but the Health Service Executive 2007 report contains a good deal of detail. The immigrant children who have gone missing in this country are a key vulnerable group as are the 247 children in adult psychiatric inpatient care facilities. We also have the closure of local child and family services throughout the country to any case but the most urgent psychiatric emergency. That is the position today. The vast majority of those services throughout the country only take the most acute psychiatric emergency referrals, and we still do not have the out-of-hours social work service.

People are frustrated that child protection is not getting the priority it deserves. The inquiry team acknowledged that the fundamental problem has been the State's failure to provide an out-of-hours social work service. The Minister must respond on that later.

I want to raise a number of issues in the report which are of major concern, the first of which is the assessment of the early intervention teams throughout the country. A great deal of criticism has been expressed about the way they are acting currently. Major problems are being experienced including files not being sent from Donegal to Wexford and consent needed before any files or information is sent, which means clients get lost along the way, so to speak. There is a good deal of information in the report about that and we need a plan of action to address it. That is a most serious problem. We are putting money and resources into early intervention teams and if they are not working effectively we must understand the reason and take action.

On the Disability Act 2005, this was a very vulnerable family who needed intervention from the disability services. They did not get the kind of intervention that was needed.

This report focuses mainly on frontline staff. There is no analysis of management. That aspect is missing from this report. There is a chronology of events and of whom the family had

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contact with, but there is no analysis of the findings before the report makes its recommendations. The inquiry team, wrongly in my view, excluded the resource issues. How do we know the front-line staff dealing with the family had the resources they needed, if the inquiry excluded resource issues from its terms of reference? It is extraordinary that this was done in the current climate.

A number of points should be made about the people who responded to this situation. Sensitivity was shown by the undertaker when she saw what was essentially classic pre-suicide behaviour. She attempted to get help. I hope the people who worked so hard to try to help this family do not feel guilty about what they did. They really tried. Many people made efforts. The gardaí were contacted out of hours and made several efforts to ensure services were available. However, no key worker was ever appointed to this family so there was nobody to whom the gardaí could go. They had no pre-existing information on which to act.

A great deal more could be said about the suicide risk issue, and I am sure Senator Mary White will comment on this. I cannot accept the report's conclusion that it was not clear that anything could have been done that would have prevented this terrible tragedy. With proper assessment and management, a key worker, proper assessment of the family and perhaps the involvement of psychiatric services, there might have been a different outcome. Huge issues arise from this report. I do not have time to comment on the Minister's response regarding what he intends to do. He intends to appoint a type of super manager, but if there are insufficient people in the front-line services, a super manager will be unable to do his or her job.

I commend the motion. A lack of co-ordination of services is apparent from this report. I could say a great deal more about it but I do not have sufficient time. This motion would put in place a framework for ensuring that the recommendations are implemented and enforced.

**Senator Liam Twomey:** I second the motion. When considering what happened in this case we should not focus on the family involved but on how it points to what is happening in the health service. As somebody who is involved in the health service, I am under no illusions about what is happening. There are numerous families with issues involving neglect, physical and emotional abuse and possibly even cases of sexual abuse. We are inclined to react faster when the latter come to light because of its serious nature but sometimes we are inclined to drag our heels with cases of emotional neglect. There is a focus on trying to work with the families. There can be problems with drug and alcohol abuse as well as the sheer inability of some parents to look after themselves and their children. These are not just isolated cases. There are thousands of children in those circumstances at present.

This mirrors what is happening in the rest of the health service. We manage our health and social services as if we were in a war. We are fire fighting with these services but we allow some matters to fall through the cracks. What is considered good procedure and good policy are not implemented because everybody is under pressure and stressed out or they cannot cope with what they are doing. The first impression one gets from the report is that many of the social workers and front-line staff are not talking to each other. One must ask why that is happening. Is it because the procedures are just a mess or is it that all the individuals on the front line are just too busy and stressed out to do things right? Then a disastrous situation such as Monageer occurs, there is a report about it and recommendations are made, but nothing significantly changes.

The circumstances of any disaster or crisis such as this, involving children, that has occurred in this country in the past few years are similar throughout, regardless of whether it happens in Roscommon or County Wexford. I have never seen a Minister who has responsibility for these issues crack the whip and insist on changing things in a way that will work. It does not

happen. We do not have 24-hour social worker cover. Social work is a different job from what I do as a doctor or from what a garda does. Regardless of whether it was a priest, myself or a garda who called to that house, we are not trained nor do we have the legal responsibility to deal with what was happening in that house that night. It would have to have been a social worker.

I cannot say whether we would have saved the lives of that family. However, if the social worker service is in place and is running efficiently, we will save the lives of the next family in a similar situation. That is the way we must think in this regard. The 24-hour cover must be put in place in a way that will work properly. There must also be communication between the different services. It is clear from the report that people did not bother finding out what the personnel in Donegal were thinking. People did not care what the general practitioner thought, as long as the boxes were ticked. The “attempted to make contact” box was ticked and then it was forgotten. That is the situation.

In some respects, there are many policies and bureaucracy in place that make this worse. The issue of consent is one. Let us be realistic about this. Consent can be a barrier in these cases. I have no wish to trample on the rights of individuals but it can be very difficult to get individuals who require the help of the social services to this degree to fill out forms so one can send a copy of the form to Dublin, from where it can be forwarded to Donegal to get the reports sent back. We need to be a little more sensible in how we run our services. The files should automatically move with the patient so if somebody who is a recognised official from the social work services in Wexford and has the required authority rings up for a form, it is sent to them. Nobody looks for these files for some Saturday morning reading over a cup of coffee. If the right official in Wexford makes contact with a reasonable official in Donegal, that will protect the confidentiality of the clients and family involved. Instead, we bog ourselves down with unnecessary bureaucracy because we think we are protecting the family. Look where that got us. It cost the lives of every one in that family.

The Minister should show that type of leadership and make changes. There is too much glibness. The Government is growing tired. I cannot say that for the Minister of State present, Deputy Trevor Sargent, because he is new to the Government but the incumbents that preceded it appear to have grown tired. The Minister for Health and Children, Deputy Mary Harney, when push came to shove, said at a health committee that she would publish this report. Has anybody seen it? Has anybody heard the Minister say she would publish it? No. Once she had done her soundbite for the media, that was that. This is the problem. We do not have a Minister who says: “Good God, I cannot let this happen again.”

I foresee what is happening in the social services today being the basis for the next commission on abuse in 20 years. The same type of dead-hand complacency and carelessness about what is happening is present across the upper levels of the system. Just as was the case 20 years ago, some of us who were not in positions of authority would have heard about what was happening. However, I am sure the Minister will have seen from the commission report that there were reports to the Department of Education and to other people in authority who could have done something about what happened in those institutions long before they were dealt with. We now see the same type of devil-may-care attitude at the upper echelons of health service management.

That is why I compare it to a wartime situation. In such situations, things are chaotic. That is what is happening on the front line of social services at present, but it is the time these people need direction from the top. I know the social workers and public health nurses who are involved in these cases, and they are doing their best. They send their recommendations to

[Senator Liam Twomey.]

what is called their back office but things get lost or fade away somewhere between there and the people who make the decisions. The result is crises such as this across the services.

We must spend money on the 24-hour social worker service and we will probably have to spend money on beefing up some front-line services. There should be a focus on leadership. We constantly talk about leadership, taking responsibility, doing the job and not pandering to special interests fearful of what might happen. Being very realistic about what we can achieve, we can get this thing sorted out. I do not believe we will solve all the problems. However, when something happens I hate reading reports that glaringly state the cock-ups that happen could have been prevented or at least minimised. That is what I would like to see happen.

**Senator Mary M. White:** I welcome the Minister of State and would like to bring him up to date. For the past week we in the Chamber have been constantly discussing the Ryan commission inquiry into child abuse. The bottom line is that our country does not value children's lives. The Ryan commission highlighted that tens of thousands of defenceless children were abused, physically, emotionally and sexually under the care of the State. Sharon Grace was depressed and walked into the hospital in Wexford seeking help. As it was out of hours for the HSE, she took her two children aged four and three, went to Kaats Strand and drowned herself and her two children. Very recently we have had the case of neglect by the mother and incest in Roscommon. There was total and utter neglect of those children. There was also the Monageer tragedy that we are discussing today. There is a litany of children who are ignored by the State. Many of us in the Chamber believe hundreds of children are at risk because of the lack of proper systems.

If I were the Minister of State with responsibility for children and youth affairs, I would immediately take the initiative to have social workers available after hours and at weekends. It is unforgivable that in this civilised country we do not have social workers available after 5 p.m. and on Saturdays and Sundays, and that we do not have an after-hours helpline that people can ring at a time of crisis. In the earlier debate on the report of the Ryan commission, I said that most of the abuse in reformatory schools took place at night. Many of those people cannot sleep and need help during the night when all that is available is the doctor on call or to visit the accident and emergency unit. For God's sake, that is not good enough. In the North there is a 24-hour service that people can ring. Thankfully we have the Samaritans. However, that is a voluntary group. Our State has an obligation to the children of this country. The Ryan report made it clear that tens of thousands of children were abused under the care of the State. Not having an out-of-hours social workers service is also neglect by the State. I find it unforgivable and cannot understand it.

**An Cathaoirleach:** Is the Senator moving the amendment to the motion?

**Senator Mary M. White:** I must be.

**Senator Liam Twomey:** The Senator probably does not want to move the Government amendment in light of what she has said.

**Senator Mary M. White:** I move amendment No. 1:

To delete all words after "That" and substitute the following:

"this House commends the Minister for Children and Youth Affairs on his publication of the Monageer Report, his determination to look forward and see the Report's recommendations implemented in the most effective way possible, and his intention, contingent on legal advice, to refer the recommendations, including those redacted, to the Joint



Oireachtas Committee on Health and Children for their information and consideration with a view to the State taking on all the learning to be gained from this Report for the purpose of enhanced service provision into the future.”

I hope the Attorney General will give permission for the Monageer report to be published.

**Senator Liam Twomey:** She is back in the camp again; the Minister of State is okay.

**Senator Mary M. White:** I had to look up what the word “redacted” meant in the dictionary. I found this edited report useless. However, it did recommend: “The provision of a national out of hour’s Social Work Service structured and resourced to ensure an appropriate response to all serious child protection and welfare concerns.” Many people, including the Minister, have said there is no proof that if this service were available this family would not have died. However, that is an intellectual response and argument. As a layperson and having produced my document on suicide, it is clear that even giving a person five minutes of professional time can save their lives. My proposal was that there should be a national 24-hour helpline available seven days a week staffed by psychiatric nurses or social workers who can decide whether an immediate response is required and the person should go to hospital, or whether chatting to them for a while or saying they could go the next day would be adequate. It is savage that we do not have this service. If a person is depressed, we do not have an adequate after-hours service. What good is the doc on call service for a person who is so bad? How accessible are the accident and emergency units during the night? The Monageer report is hopeless in the sense that so many of the conclusions and recommendations are blacked out.

An earlier speaker mentioned the adequacy of the social work service, with which I fully agree. From my experience in business I know the Irish bureaucracy is extremely badly managed. Everybody is left to his or her own devices. Nobody supervises the workers. To manage a social work service we need a supervisor managing a certain number of people and checking on them all the time to see if they are doing their work. It is not appropriate to leave it as a free for all with people doing their thing their own way. Some of them can be brilliant and some will be meandering and nobody getting anywhere.

The bottom line is that we need the full report. Of course I will be voting with my party tonight. However, we need the report published. Hundreds of children are currently at risk. I said this afternoon that separated children in care, children in St. Patrick’s Institution, are not supervised. There is no independent supervising. Children’s care must become a mantra and the country must not be the hell that *The New York Times* last week described the Ryan report as showing. We need to get the Children First guidelines carved in stone so people know that our country protects its children. Up to this time we cannot say we are doing that.

**Senator Feargal Quinn:** I welcome the Minister of State for this pertinent debate. I have no problem supporting the Fine Gael motion. When I discovered that the Garda Commissioner, Fachtina Murphy, and the HSE chief executive, Professor Brendan Drumm, were the only two people who have technically seen the report, I realised we must do something about it. The report into the Monageer tragedy is as notable for what it omits as for what it includes. It is difficult to believe the chief executive officer of the Health Service Executive, Professor Brendan Drumm, may read the report, including the sections which are blacked out in the published version, but may not pass on to his staff any of its recommendations. It is not surprising in light of this approach which does not make sense that some people have labelled the report a whitewash.

The reputations of individuals appear to take precedence over the protection of children and reform of the system. All over the country, there are not enough social workers. I support the

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motion seeking to have the report published in full. Perhaps it could be published without personal references. It is not possible for Senators to determine if this option is possible because we cannot read the full report.

It is shocking that if a child is not deemed to be at immediate risk, the case is placed on a list to be assigned a social worker. Currently, the names of 6,500 at risk children are on a list and child protection services outside Dublin are only available during office hours. I am aware from gardaí of the problems the force faces when something goes wrong at weekends or after hours when children are placed in Garda stations or prison cells because suitable places are not available.

One of the key recommendations in the report is to establish a national out-of-hours social work service. I understand this proposal is unlikely to be implemented for cost reasons, which is unacceptable. However, I welcome the decision to introduce a new emergency foster care system for at risk children.

Other sections of the report point to a disjointed communications system in the Health Service Executive and failures on the part of the Garda Síochána. The system lost track of Adrian Dunne and his family because they moved so many times. Many nurses have records on vulnerable families who they are unable to locate. The suggestion that social welfare payments should be linked to the community nursing scheme, if implemented, could help address this problem. The introduction of a measure along these lines could offer a solution.

The Monageer report states that even if the Garda or HSE social services had called to the home of the Dunne family during the weekend in which the deaths occurred, the tragedy may not have been averted. I gather gardaí drove past the house but did not call. This conclusion is too convenient. Given the significant difference highly qualified social workers can make, it is inaccurate to dismiss the influence they could have had in the case of the Dunne family.

The provision of services is urgently required. Mr. Des Kavanagh, general secretary of the Psychiatric Nurses Association of Ireland, stated that for resource reasons mental health services are only available on a voluntary basis and described the current position was “a bit chaotic” and “unacceptable”. Mr. Kavanagh also noted some positive outcomes from the tragedy, including the response of the Wexford mental health services in establishing mental health liaison officers and nurses in the accident and emergency unit of Wexford General Hospital as well as the appointment of a suicide screening nurse who is available to work with general practitioners. It is intended to extend this service, which currently covers one half of County Wexford, to cover the entire county.

The Monageer report is vital in that it highlights deficiencies in the child protection and mental health systems. It seems, however, that a tragedy must take place before action is taken. The report appears to suggest that upholding the rights of individuals takes precedence over health and social services. It certainly took precedence over the well-being of the children who lost their lives.

The Monageer report is not the first report to be censured and by not making anybody accountable, it is debatable that it will provide an incentive to make services better and more responsive. For this reason, I support the motion.

I am concerned that a similar incident could occur. We cannot blame others for the problem as achieving a solution is in our own hands. Senator Mary White made an interesting contribution. Citizens are concerned about the Monageer tragedy and hope we will find a solution which helps avoid similar cases in future.

I welcome the Minister of State, Deputy Barry Andrews, to the House. I understand he was unable to attend earlier. My concern is that the well-being of children does not take precedence over the protection of individuals who may have been involved in this case. By blacking out such a large part of the report, we are protecting the individuals involved and failing to protect children. I support the Fine Gael Party motion and urge the Minister of State to find a way to publish the report, possibly by substituting pseudonyms for the names of those who it seeks to protect.

**Senator Jim Walsh:** The case we are discussing is not unique as similar cases have occurred in Ireland and other jurisdictions. Such events challenge us all to find ways to try to prevent their recurrence. Nevertheless, one must draw distinctions between different incidents. Given that we have just concluded a three-hour debate on child protection issues arising from the Ryan report, it is understandable that the focus of this debate should be on child protection. The issue, however, is wider than that and includes the issue of mental health.

There have been other cases in which children were killed by their parents. We need to be mindful that no parent in his or her right mind would even contemplate carrying out such an act. Senator Mary White made an interesting observation on the unfortunate case involving the Grace family in County Wexford. In that case, a mother sought to speak to a social worker only to find the service was not available. She subsequently went to the River Slaney and she and her children drowned. That case focused attention on the need for an out-of-hours social work service.

I am not certain the Monageer tragedy mirrors the tragedy of the Grace family. Based on the report, it seems there was a considerable degree of planning involved. As we have seen in other cases, including in other jurisdictions, when one partner snaps in circumstances where there has been conflict between a husband and wife or cohabiting partners, he or she may take the children away with the unfortunate result that both they and the parent and question are killed. These are usually spur-of-the-moment cases.

In the Monageer case, I find it difficult to see how social services could have acted to prevent the outcome. We need to examine such matters, rather than simply prescribe what appear to be plausible and ready-made solutions which may not yield significant results or improvements. It struck me reading this report that the couple involved appeared to most outsiders — there is nothing in the report to suggest otherwise — to be getting on satisfactorily themselves but kept to themselves. The report underlines that Adrian Dunne's IQ was 64 and he was perhaps bordering on mild mental handicap, and that his wife, Ciara, was a slow learner.

The report recognises as well that both families, in particular the O'Brien family, had little interaction with them. Therefore, they did not have that wider support which often is fairly essential and necessary. Indeed, there was a great tradition of that in this country in the past where there might have been three generations of a family living together. I suppose economic circumstances may well have dictated that happening but there definitely was a social benefit derived from that. Indeed, anybody who has been to China will have been struck by the fact that such a system is still very much in operation. There are many benefits, particularly for the development of the children where they have the support and loving care of both grandparents and parents. This family appeared to have cut itself off from that.

I am also very much of the view that while there will always be exceptions, many families live their lives well in privacy and look after their children well. While the State has a supportive role, there is this line between supporting and protecting, or perhaps interfering, and that is a difficult balance to achieve. It is easy in hindsight in this instance to look and state that inter-

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vention would have been desirable, and nobody would disagree with that. According to the report, approximately four weeks before the tragedy the family visited a sports shop. As Liverpool Football Club supporters, they were looking for some Liverpool paraphernalia — a Liverpool teddy or something — but the mother actually remarked to the person in the shop that she wanted to put it in the coffin with a child. Equally, on 4 April when they rang the undertaker anonymously and made certain inquiries of one of its staff, they talked about pre-planning a funeral, not only for themselves but for their children. That would indicate to me that this was something which was being planned in advance.

It is interesting that also in that conversation the person who took the call felt that the gentleman, Adrian, who was on the telephone was being prompted by a lady behind him. Nobody will ever know. Who can go back into the minds of people who were in that situation? Whatever the cause, it is most unfortunate for them, for their children and, indeed, for their wider families. It was a terrible tragedy to befall them and, unfortunately, others have had to experience the same pain and grief.

I commend the Garda, the priest and the undertaker who were involved and who conscientiously did what they felt was reasonable and right. I am inclined to agree with the report that this was a situation where a social worker's intervention would probably not have made a difference to the outcome. I am not even sure whether the intervention of a psychiatrist would have made a difference.

It brings me back to the entire area of mental health and people who become suicidal or depressed, many examples of which we see for a variety of reasons. Often those who know or live closely with such persons express surprise that this should happen and it is that area we should concentrate on and try to develop so that such instances can be minimised. Such instances probably will never be totally avoided. If they were, it would be great. At least they can be minimised.

**Senator Eugene Regan:** No doubt this is one of those terrible tragedies about which it is difficult to speak. Suicide is always a difficult subject, particularly in this case when it involves an entire family. The “what if” question in a suicide situation is especially difficult, both for all the members of the wider family and all those who had any interaction with the people who, essentially, are the victims of this situation.

The report is comprehensive and detailed and makes some key recommendations. Those of which we can read seem very relevant to improving the system of health care and care of children.

However, there are some flaws in this report. One of the fundamental flaws is not in the terms of reference which have been given but in the interpretation of the terms of reference. The terms of reference include: “To identify the services sought or required and contacts made by or in respect of the Dunne family from public and other relevant services.” The next main provision is: “To examine the way in which public and other relevant services ... responded to any requests and contacts ... discharged their functions ... [and] ... co-operated with each other. This is interpreted to mean that it must be examined in a broad sense, that the terms of reference, “require them to examine the provision of public and other relevant services rather than the performance of any individual person involved in the provision of such services”, and yet it goes on to state that, necessarily, “an analysis of service provision will involve consideration of its provision by individuals”. Therefore, there is a contradiction in the interpretation of the terms of reference and how the inquiry team came to this conclusion is puzzling.

The section of the report dealing with the interpretation of the terms of reference states: “It is the view of the Inquiry Team that the identity of each person has been protected to the extent possible consistent with the fulfilment by the Inquiry of its terms of reference.” If that is so, why is there the various instances of editing to which I will refer. It states in its interpretation of the terms of reference that, “the Inquiry Team has endeavoured not to attribute fault to or comment adversely on any individual”. In a somewhat contradictory statement the report states that where adverse comments are made in respect of individuals, they would be advised and be given the opportunity to make a submission.

Why, if we are holding an inquiry and the Government wants to get to the bottom of a subject, do we speak in such general terms? Why do we not identify those who are responsible? I am not suggesting in this inquiry that any individuals are particularly responsible for specific faults which led to this specific tragic event, but the entire methodology is flawed. I do not know who influenced or suggested this interpretation to those carrying out this inquiry, but it destroys confidence in so many other such inquiries into what went wrong in specific individual cases. Why not identify people? Why not get to the bottom of these issues? Then we can learn. However, we cannot learn from generalised findings and recommendations which do not attribute any responsibility or accountability to an individual. Where those who operate the system at no point feel that they have a responsibility because they will not be named or identified or have blame attributed to them under any circumstances, there are no consequences. How can anyone be confident that the system can be improved by virtue of this type of inquiry? This is a general point on which the Minister of State may have opinions. Perhaps he will explain the rationale for this approach and whether it was the intention of the inquiry’s terms of reference. He made a statement to the effect that the inquiry was about learning, not about apportioning blame, which suggests that he endorses this methodology. This is where the problem lies, as we are failing to improve the health care system, the operational systems and the sense of personal responsibility.

I do not know what the problem is with the Fine Gael motion, which is to have the report referred in full to the Joint Committee on Health and Children for its consideration of the report’s substance, submissions and recommendations. This anodyne amendment compliments the Minister of State. In fairness, the report was commissioned and presented, but I qualify my compliment in terms of the manner in which it was presented. I draw the House’s attention to one phrase in the amending counter motion. It states: “contingent on legal advice, to refer the recommendations, including those redacted, to the Joint Oireachtas Committee on Health and Children for their information and consideration with a view to the State taking on all the learning to be gained from this Report”. This phrase often appears in discussions on this type of case. We are constantly in a learning process, but there is no responsibility, past or future, or accountability.

The report is meant to guide the House in the formation of policy and legislation. If recommendations are edited, redacted and deleted, how can the report provide a guide to policy? It is said that the Attorney General and outside counsel have advised on the necessity to edit the document, but has the former advised——

**An Cathaoirleach:** The Senator’s time has expired.

**Senator Eugene Regan:** ——on the motion to present the full report to the joint committee for consideration? The point of the motion does not concern the Government’s redacting of a published public document.



**An Cathaoirleach:** The Senator, to conclude.

**Senator Eugene Regan:** What is the legal impediment to referring the report in full to the joint committee? The Kelly Fitzgerald case set the precedent for this. Will that precedent be followed?

**An Cathaoirleach:** I welcome the Minister of State at the Department of Health and Children, Deputy Barry Andrews.

**Minister of State at the Department of Health and Children (Deputy Barry Andrews):** I want to address some of the issues raised. I apologise for needing to step out at the beginning of the debate. Several speakers have referred to the Kelly Fitzgerald inquiry. While I do not want to be overly defensive, the comments made about that report by the then Minister for Health, a member of the Fine Gael Party, in 1996 are worth reflecting on. He stated:

It was my intention that the report, subject to legal advice, would be put into the public domain. The legal advice available to me confirms the difficulties associated with publication of the report. The Government considers it appropriate, however, in view of the public concern about the important issues addressed in the report that an Oireachtas committee should consider the report as regards the legislative implications of its recommendations.

He was attacked by Opposition Members, those in my party, and accused of a cover-up. The same is being repeated today in that I am being accused of a cover-up. The only difference is that we are on different sides of the——

**Senator Eugene Regan:** I have not used that word.

**Deputy Barry Andrews:** It was used in the Lower House.

**Senator Eugene Regan:** We are discussing this House.

**Deputy Barry Andrews:** The Houses of the Oireachtas. Fine Gael made the accusation. If Senator Regan is resiling from it, he should make that clear. The accusation was made on behalf of his party——

**Senator Eugene Regan:** On a point of order, I made specific statements. The Minister of State has attributed something to me, although I do not necessarily disagree with it. I have addressed particular comments and questions to the Minister of State and I ask that they and nothing stated in the Lower House or elsewhere be dealt with.

**Senator Jim Walsh:** That is not a point of order.

**An Cathaoirleach:** The Minister of State indicated that the point was made by a party in the Lower House.

**Deputy Barry Andrews:** I stand over my comments. Let us not be overly sensitive. A member of the Senator's party said something in the Lower House about this report. If we cannot discuss such things, we cannot have a full debate. Let us stick to what has been said in public and be honest about it. If we cannot comment for the reasons suggested, we would be overly constrained. My original point was worth highlighting.

Senator Walsh stated that familicide, the killing of an entire family, is a growing problem. This is true. Research shows that approximately 90% of cases are not preventable. It is a

stark and challenging statistic that gives social workers no consolation, comfort or cause for complacency. The report refers to the family's isolation, which is also true, since it was moving all the time, but improvements have been made. There is an exciting pilot scheme in Wexford and Dún Laoghaire, where the Cluain Mhuire service is trying to educate the areas' health professionals to detect incidents of psychosis in young people and others. The current opinion is that detecting it earlier will avoid unhappy consequences. This scheme, one of several developments in mental health services since then in Wexford, is welcome.

Regarding Senator Regan's comments, the inquiry was independent. The suggestion that influence was brought to bear on the committee in conducting the inquiry is not well grounded. I stress that the committee conducted its affairs independently.

I welcome the opportunity provided by the House to reflect on the publication of the report of the Monageer inquiry. It has been a difficult and emotional time for the families concerned and I wish to convey the sympathies of the Government and the House to the families on the tragic losses of their loved ones.

In the first instance, I would like to state that it was always my intention to publish as much of the report as was legally possible following the completion of the work of the inquiry team and the presentation of its report. I am pleased that this has been achieved. When the report was received in October, I undertook to have it examined to determine what could be legally published. When this work was finalised, the report was published in its redacted form. It was left to the legal advisers to examine the report from a legal perspective and to consider the implications of publishing its full content, cognisant that a delicate balance needed to be found between protecting individual rights and the sharing of knowledge with health professionals and the wider public. In publishing the report, I did what I was legally empowered to do. Publication of the redacted report will facilitate greater awareness of the needs of families and will improve the response of service providers, and that is its value.

The provision of appropriate, robust and responsive child welfare and protection services is a key priority for me, as Minister of State with responsibility for children and youth affairs, and the Government. The report of the Monageer inquiry identified a number of issues regarding services for children and families, and my office, the HSE and the Garda Síochána are taking actions on the report's recommendations.

There has been substantial media coverage of this report in the period following its publication. All debate on services provided to children and families is to be welcomed. However, there has been a disproportionate focus on the issue of the material redacted from the report. I have stressed, and continue to do so, that what has been published has been done so on the basis of what could be legally released into the public domain. This in no way detracts from the significant learning that can be achieved.

The chief executive officer of the HSE and the Garda Commissioner received copies of the full report in their capacities as heads of the statutory bodies with responsibilities for matters which were the subject of the inquiry. It is intended this will enable the redacted recommendations to be addressed in so far as they apply to their respective organisations.

My aim in publishing the report was two-fold, namely, to assist health and social care professionals in examining the systems they operate and work within and improving and enhancing those systems to ensure gaps in service are identified and addressed, and to allow the public in general and those in positions of influence to be informed about the circumstances of this tragic case, so that in future they might be alerted to warning signs, however slight they may seem at the time.

[Deputy Barry Andrews.]

Public vigilance can and should be promoted in this way. Senator Walsh rightly pointed to the vigilance of members of the public, in particular the undertaker and the curate who visited the family just before the tragedy.

I appreciate the sensitivities of the information divulged in the report, but I feel it is important practical lessons are learned from reports such as this. We should be reminded that the key message of the Children First guidelines for the protection and welfare of children is that responsibility for protecting children must be shared by all adults. Grounds for concern should be immediately reported to the statutory authorities and those who report concerns in good faith will be afforded all the protections afforded by the law.

The Government and the HSE have been quick to respond to the findings, conclusions and recommendations of the report. There are a number of recent initiatives I would like to draw to the attention of the House. I am pleased to acknowledge the new proposals unveiled in recent weeks by the HSE to support a more integrated health and social care system. The plan is to put in place a post under a national director for service integration to address the service needs of children and families across the HSE. This is the first time such an appointment has been made in respect of health and social services for children.

Co-ordinating these services to provide an integrated multidisciplinary solution with good communication and clarity of roles and responsibilities goes to the heart of the recommendations of the Monageer inquiry report. I can confirm to the Seanad I had a meeting with the HSE today to progress this matter further.

Another major development, and one which addresses some of the communications issues identified by the inquiry team, is the establishment by the HSE in February 2009 of a task force to standardise policies and procedures for child protection and welfare services across the country, to be completed by the end of this month and implemented in June. This task force has involved detailed, indepth consultation with social work staff and management in the HSE around the country, and will set national standards across the HSE.

It has examined issues around the reform of social work services, analysis of key management information flows and the definition and implementation of standardised business processes. From June 2009, the HSE intend to operate a place of safety service for children to enable the Garda to place children in a safe environment when they have to remove children from a situation of extreme risk.

The HSE is putting in place a more integrated multidisciplinary approach to out-of-hours services, building on existing general practitioner, acute hospital and mental health services, to ensure people seeking services outside normal working hours can be provided with appropriate advice, information and support, and in emergency situations access to specialist staff, such as professionals working in the areas of mental health and suicide prevention.

The HSE is commencing a comprehensive review of nursing services in the community, which will cover public health nursing services as part of the HSE transformation programme and development of primary care teams. This review will have regard to the role, function and reporting relationships of public health nurses and community registered general nurses, and will take specific account of the public health nursing service for children under five years of age by reviewing systems currently in place.

In March 2009, the HSE initiated a process, led by a small group with experience in early intervention team services, to prepare a framework for the delivery of early intervention

services, covering both statutory and non-statutory providers, to ensure a standard and consistent approach to the delivery of such services.

The findings of the Monageer report will be incorporated into Garda practices and procedures to complement the Children First guidelines, which provide a framework for the Garda Síochána and the HSE to deal with the sensitive area of child welfare and protection. Co-ordination between the Garda and the HSE will be a priority over the next number of months. Considerable progress has been made on missing children, and protocols have been developed around that, as well as the place of safety initiative I referred to earlier.

These actions have been taken in the context of this inquiry and the publication of the redacted report. This shows the value of this inquiry and proves I was correct to take the course of action I did in having the report published. The learning from this inquiry is already being put to good use, and my determination to improve services as a result of this learning is bearing fruit. This is what we should be concentrating on, because we must look forward, learn and improve our responses in a co-ordinated and focussed way in the best interests of children.

A key finding of the inquiry states that even if Garda or social services had called to the Dunne family during the course of the weekend, it is likely the tragedy would not have been averted. Notwithstanding this, it is incumbent upon us to take every possible action to address issues of inter-agency and inter-personal co-operation and communication, and to develop, to the best extent possible, an approach to identifying and intervening in situations where children and families may be at risk.

It is impossible to create a catch-all remedy, but the steps I have outlined go a long way in terms of the ongoing development of a pro-active, preventative approach to dealing with families in need. In this context, I also note the ongoing work to develop a greater understanding of the phenomenon of familicide.

To further our understanding of the complexities of this occurrence, the HSE established a group headed by Geoff Day, director of the National Office of Suicide Prevention, in 2008. The work of the group is focusing on identifying risk and protective factors and the measures that can be taken to minimise such risks.

I would like to inform the House I am currently in the process of obtaining legal advice on the issue of appraising the Oireachtas Joint Committee on Health and Children of the substance of the redacted recommendations of the report. Whatever course of action I will be in a position to take will have to be taken in line with the legal advice I receive, and in a manner and context which ensures the rights of those involved are protected and no reputational damage is suffered. I await further clarification in this regard.

For the moment, I expect to have comprehensive legal advice on the issues involved in the next number days and I assure the House I will act on the basis of that legal advice promptly and decisively. I thank the House for the opportunity to speak on this issue.

**Senator Michael McCarthy:** I welcome the Minister of State, Deputy Andrews. To put this in context, the Fine Gael motion states:

That the Monageer report in full be referred to the Joint Committee on Health and Children for the committee's consideration both of the substance of the report and to determine whether it should be published in full and submissions requested on the recommendations made in the report.

[Senator Michael McCarthy.]

The Government amendment, in that context, sounds general enough and, contingent on legal advice, the Labour Party will support the Fine Gael Private Members' motion. It is most important we see transparency and accountability, particularly regarding the recommendations of this report.

I wish to begin by touching on the whole issue of mental health and suicide and, to use the Minister of State's own term, familicide. How many of us thought two years ago we would be discussing such an appalling tragedy in this House? It is so sad that just over two years ago, Adrian Dunne, his wife Ciara and their two small girls, Shania and Leanne, died in appallingly tragic circumstances. The whole country was touched and saddened by the horror that visited that household on the day or night in question.

It is linked to the issue of mental health. Despite the efforts made, there is still a major taboo regarding mental health and, in particular, negative mental health. I am reminded of the television campaign which ran in recent times, and used a succession of people of all nationalities and ethnic backgrounds, and people who were or were not famous, who all spoke about mental health. It is a question of whether it is positive or negative.

There is still a major taboo about it. A lot needs to be done to help people who have negative mental health, such as providing community facilities and home services. I do not think anyone in this House does not know somebody who, unfortunately, has been affected by depression. We all know it leads, in some cases, to a situation where people feel they cannot go on and, unfortunately, revert to suicide. The difference between that general affliction for the population and this case is that, unfortunately, the warning signs were all there. The alarm bells did go off but for a variety of reasons no action was taken.

No matter how we attempt to understand it, we will never understand the thinking behind this appalling tragedy. What makes it all the more gut-wrenching is the fact that there were warning signs. It almost defies belief that no action was taken when somebody who on the face of it appeared to be healthy and to have a healthy partner and children attended an undertaker and inquired about ordering two coffins for adults and two coffins for children. It is tragic to say the least, with horrifying consequences, that the non-professional in this case in terms of health services, namely, the undertaker, raised the issue with the health professionals. We heard much in recent days from the Commission to Inquire into Child Abuse about what was covered up, but in this case the clergy also brought the case to the attention of the health professionals. It is sadly ironic that the non-professionals in this case acted above and beyond the call of duty.

The other side of the argument is that the professionals, in particular the social workers, were operating a 9 a.m. to 5 p.m. Monday to Friday service. In an ideal world it might be possible to do so, but in reality one cannot switch off one's afflictions involving negative mental health on a Friday at 5 p.m. and turn it back on Monday morning when people are back in the office. I do not wish to apportion blame to the social workers or the Garda. I am just touching on the circumstances leading up to this appalling tragedy. For example, members of the legal profession were all aware of the case but there was a complete and absolute breakdown in communications. If we are to learn anything, surely to God we can have an out-of-hours service that is meaningful and resourced with staff who are ready to attend to situations where it is clear the safety, health and welfare of children is at such huge risk.

I am forced to use words such as "sad" and "tragic" repeatedly. One of the findings of the report suggested that intervention might not have prevented the tragedy. We are aware that the late Mr. Dunne was anything but transparent in his dealing with the Health Service Execu-



tive. That makes it even sadder to think that if intervention were available it might not have saved this family.

The report on the Monageer inquiry contains 26 recommendations, including seven that have been blacked out. I am aware the Minister of State has received legal advice and he has a legal background himself. Legally, there is a good case for such an approach but it does nothing in terms of the lessons we need to learn from this incident if we say the legal advice is that we cannot do it. We need to put in place a remedy for that. We need to make the information that was blacked out available, if not to the Oireachtas joint committee then to the Houses in some shape or form at least to create the impression that we are beginning to understand the full import of what happened and that we are willing to implement the recommendations.

One of the recommendations is that where a member of the Garda Síochána receives a report and has reasonable grounds for believing there is an immediate and serious risk to the health and welfare of a child, he or she should take immediate action to ensure the safety of the child and, where necessary, to invoke section 12 of the Child Care Act. The inquiry team also highlighted the public health nursing service offered to children under five as being critical in identifying children in need of intervention. That goes back to the point on the importance of the provision of the resources and necessary powers to intervene. Unfortunately, in this particular case the report tells us we might not have prevented the tragedy. The report went on to say that it was unclear whether the systems currently in place are sufficient and recommended a review.

If we are to learn anything about the appalling tragedies in this particular case we must ensure we have a full publication of the recommendations and the Government takes action. I say that as sensitively as I can. We need to take action to ensure no one loses his or her life unnecessarily. On the face of it, the Monageer case looked like a suicide and three murders. However, that is not the case. What happened is simply appalling but we need to learn from it and to implement the report's recommendations in full. For the sake of others who may be in that type of situation where the risk is high, I urge the Minister of State to ensure the resources are in place to deal with them.

**Senator Maria Corrigan:** I welcome the Minister of State. He has spent a considerable part of his day in the House. This report was produced following an incredibly sad event. I extend my sympathies and condolences to the Dunne and O'Brien families. Every time the case is referred to on television or in the newspapers a particular photograph of the family is used. I find it difficult to look at that photograph as the faces of the two little girls in particular seem so full of hope, life and happiness. If I find it difficult, I can only imagine the upset, grief and distress caused to the members of the families when they see it.

So much of the report is blacked out that a discussion of it is of limited value. I accept the Minister of State's actions were taken in good faith. I understand that to date only a couple of people have had access to the full report. Does he consider that the limited number of people who have been furnished with the full report are sufficient to ensure we learn the maximum from the report? That is a big responsibility to place on a couple of people. Professionally, my reading of the extracts that are available makes it clear it is essential that at least one person who has access to the full report should have a background and experience in disability to gain the maximum from the report.

I second the amendment to the effect that the Minister of State, subject to legal advice, will make the full report available. It is essential that we take whatever lesson is to be learned and apply it. If for some reason legal advice does not make it possible for the full report to go

[Senator Maria Corrigan.]

before the Oireachtas Joint Committee on Health and Children, I suggest a small group with the appropriate expertise could be established that would have access to the full report to ensure the maximum lesson possible is learnt from the report and that it is applied in practical ways across front-line services, and to have responsibility for developing a concrete plan for the implementation of what has been learned.

I welcome a number of specific recommendations from the part of the report available to us, including the focus on early intervention services and the need for standardisation, and the recommendations on the need for the responsibilities of individuals to be spelled out, with regular reviews and in-service training. In particular, I welcome the recommendation on communication. That is an area that will always be difficult to address across such wide and disparate services.

One factor that makes it especially difficult is the professional balance that is required on occasion between maintaining confidentiality and ensuring safety. One of the points that comes across strongly from the bits of the report to which we have access is that it appeared that individual clinicians, practitioners and team members had different pieces of the stories on their files but that the first time all that information became available was when each person handed it over to the review team who compiled the report. The lesson for us is how seemingly disparate bits of information could paint a very different picture when considered collectively. We will always struggle to achieve a balance given the professionalism required of us to maintain confidentiality and given circumstances where it is not necessary to breach that confidentiality. Sometimes when people only have pieces of a story that do not flag an immediate concern, they do not share that information with other professionals.

I welcome the recommendation on the out-of-hours social work service. I am aware of the points the Minister of State made on the limited resources. Is it possible to be creative with this? I welcome the commitment the Minister of State gave us this evening on the place of safety service from next month. With new contracts, is it possible to look at out-of-hours social services a bit differently? Maybe we do not always have to have a nine to five work rota. Is it possible to vary that a little bit and to have an extended service?

I welcome the recommendations regarding familicide and the suggestions that it may be of interest to the State to undertake research at some stage. The report identifies vulnerable families and family support, mental health and child protection. It also identifies disabilities and the subsequent vulnerability arising for families and children as a result of disabilities. Given my background, I would like to address this issue for a moment.

I believe that disabilities and the challenges arising from them played a very significant role in this case. There are many aspects of the description of family life that is consistent with challenges encountered through disabilities. These include the information provided to us in this report on budgeting, the isolation of the family, the accumulation of debt, being picked on within the community, hoses being placed through the letter box and eggs being thrown at the window. These are all consistent with the identification of people with disabilities as being vulnerable. Other issues include planning and an ability to keep and maintain appointments. People with disabilities face similar challenges. I accept that disability issues are not identified within the generic HSE services where there is no existing background in disabilities, but I note from the report that both Adrian and Ciara had been identified at a young age as having presented with special needs.

One lesson that we could take from the report is that there is an emerging need to help people with mild intellectual disability. These people might leave the special school system or

special class system in schools, and because they are leaving the Department of Education and Science, there is no automatic link with support services at 18 years of age. They can often fall through the cracks in the system and they only come to the attention of support services and the authorities. For young women, such difficulties include early pregnancy and for young men they include running into problems with the law. This is an area that would be well worth identifying. From my personal experience, I know that people with mild intellectual disabilities who try to establish family lives for themselves can encounter ordinary difficulties that become serious if they do not receive support at an early stage. We then only become aware of these difficulties when they lead to a child protection issue for their children.

**Senator Joe O'Toole:** I welcome the Minister of State to the House and I wish him well in dealing with this. I listened carefully to what he said and I also listened to what Senator Corrigan said. Although I do not support the Government's counter motion, the points made by the Senator at the end of her speech are very important.

I referred to the case earlier about the murder of the 14 year old girl in Sligo. I will not comment on the innocence or guilt of anybody charged, but the real issue is that the child came from a family with problems. That child was on our books but she was dead for one year before anybody started looking for her. There is something wrong with that.

I remember chasing up the background to two horrific murders about 15 years ago. One of them was a murder in Clontarf where a man in his own home disturbed a burglar and the burglar hacked him to death with a golf club or some implement that was nearby. The guy was found guilty of murder and is serving life for it. I checked back on him and I found out that when he was four years of age in junior infants class, his teacher and his principal asked for a psychological assessment. This happened well before the establishment of NEPS. Before he reached 11 years of age, that school twice pleaded for support for that child from a dysfunctional family, claiming that he was clearly heading for trouble, and he committed murder afterwards. Nothing was done.

Another well known case was that involving Brendan O'Donnell in Clare. He murdered a mother, a child and a priest. I decided to look at the background of Mr. O'Donnell and how he behaved as a child in primary school. In junior infants, the school authorities expressed their concern about him. He used to lie on his mother's grave in the middle of the night when he was four, five and six years of age. The school asked for help and support, but it was not there.

I put these examples forward to back up the point made by Senator Corrigan and the Minister of State about the need for early intervention and to deal with issues in an appropriate way. They also highlight the need for mandatory reporting. The two examples showed that the schools took the initiative, even if it did not do any good in the long run. There should be consultation at school level where all the different groups involved in dealing with a difficult child come together. There might be a probation officer, a health board officer, a worker from the Society of St. Vincent de Paul, a psychologist and so on. These people sometimes do not know about the others. I have come across many instances of that, so the information should be put together at primary school as that is where all the children attend.

I have much respect for the Minister of State. I listened very closely to his speech as I wanted to hear why he did not publish the report in full. He spoke about the need for a delicate balance to be found between protecting individual rights and the sharing of knowledge with the public. I agree with that. People cannot be damned on the basis of a report like this. There are certainly plausible arguments to be made for not naming people, but I do not understand why the format for the Ryan commission report was not followed. Pseudonyms could have

[Senator Joe O'Toole.]

been used and we could have left it at that, so that we could at least read what the report was saying. There is nothing that destroys and dilutes the impact of a Minister faster than legal advice. The Minister of State should ask Michael Noonan about that. It is only advice. The legal people are not politicians and they are not answerable to the people.

It is not just about the delicate balance on legalities. How did the Minister of State see it as a representative and the advocate of children? I accept his word if he felt that he put a balance on it here and there. What is the worst that could happen if we published it in full? How can we ameliorate that? We could put pseudonyms into the report so that it could be published in full. That is worth considering.

The Fine Gael motion asks that this report be referred to the committee. There is no reason that it cannot be referred to the committee in confidence, as a confidential document, either with the names blacked out or not. The Minister of State, on the basis of the argument he makes, has no responsibility other than to keep it from the wider group. If public representatives are to learn from this, they must be able to read the report. I accept the argument that they do not need to know the names of the people. However, they do need to know how the process worked or did not work. There is a certain offensiveness — I accept this is not his intention — in the Minister of State saying even a committee elected by the people to deal with this issue cannot be told.

I heard recently that senior officials of the Health Service Executive have not seen the full report either. While I do not wish to hark back to the bad experience in terms of confidentiality experienced by the Minister of State on the last occasion he was in this House, there must be trust and confidence. The person who discloses the information will be the person at fault. In my opinion, no case has been put forward to stop people who need this information to learn from it and to develop legislation from it to prevent this happening again from knowing all the facts. This could be done in private session of the committees. There is nothing unusual about that. Issues surrounding the conduct of a judge — I must be careful of my words — were discussed in private session of a committee. There is no reason this could not be done in that way. I ask that the Minister of State rethink this matter and consider addressing it in that way.

While I do not know what is and is not discoverable, I do know that no judge in the land, recognising the clear distinction and separation of powers between the Executive and the Judiciary, would find against a Minister if he, she or the Department argued they made available documentation to an appropriate committee of the House in confidence. For this reason, I believe the Minister of State's reference in his speech to legal advice is, with due respect, a little light. There must be more to it than that, although I am not suggesting anything other than that is the case. I am sure the decision was made with the best of intentions one way or another. However, I believe this matter can be dealt with in a different way and that the Minister of State should make a decision on whom he considers appropriate to have this information. If not a member of the committee, I will not need to see it. However, I do not see why members of the committee should not be given the information in confidence. On the basis of the separation of powers, I do not believe the Judiciary would intervene in such a situation.

**Senator Jerry Buttimer:** Cuirim fáilte roimh an tAire Stáit. The motion before the House is important not least because of the tragedy involved but to ensure lessons are learned for the future. Senator O'Toole is correct that there is a need for joined-up thinking on this matter.

We all know that early intervention is critical and that this requires resources, action and political motivation. Similarly, there is a growing view that mandatory reporting should be

introduced, an issue also requiring debate. When speaking of stakeholders and the realm of people involved, including juvenile liaison officers, the Garda, psychologists, social workers, educationalists, HSE case workers and families, we must remind ourselves that it is people we are talking about.

The Monageer report leaves out much more than it contains. The motion before us is a simple one — I hope Senator Mary White is listening — which calls on the Government to send this report to committee where it can be debated in private, ensuring a frank and open discussion devoid of politics. That is what the motion is about. We must ensure a positive outcome from this report so that no other family will have this tragedy visited upon them. It is appropriate at this point that I sympathise with the Dunne family. None of us in this House can comprehend the pain which the remaining family members have to endure.

Deputy Alan Shatter, when speaking on the Ryan commission report, made a very good point. He stated: “It is clear that the culture of secrecy and cover-up is alive and well.” We cannot allow cover-ups or secrecy to continue when it comes to reports that affect people. The Ryan commission report states that the needs of the child should be paramount and that management at all levels should be accountable for the quality of children’s services. The buck stops with the Minister, the Government, the HSE and those employed to provide care. Let us not cod ourselves anymore. Let us stop the political pandering in this House. This issue requires political action by those who dictate to the HSE what should happen. That is the reality.

Where were the social services? Where are our mental health services? The report, *A Vision for Change*, was trumpeted as a the great new way forward. With respect, we can launch all the glossy papers and reports we want but if they are not followed up by action rather than mealy mouthed platitudes, we will get nowhere. What assessments of needs were carried out? Where were the community services? Relationships must be built up. I am only an ordinary punter who does not use fancy jargon or lexicon. We must arrive at a point whereby assessments are made and necessary action is taken. This was not done.

The Garda, local curate and undertaker acted with credible foresight in terms of what they did. What happened? They ended up on a roundabout and nothing happened. The Minister for Health and Children said nothing happened because the incident arose outside normal working hours. What about weekends? We are living in a society where an increasing number of people are at risk. Are we living in the real world? More of our people are at risk, including young families and young professional adults who are vulnerable and feel let down by society. These people are reaching out for help and we have an obligation to help them to provide them with hope.

In this regard, Members need only look around their own communities. I met a couple this week whom I have known for more than 20 years, both of whom are heartbroken at not being able to conceive a child. Issues such as inter-country adoption are forcing a change in mindset and are altering emotional behaviour. Never more than now have people required the assistance of the organs of the State. We are living in traumatic times, be the issue the Ryan commission report, the Monageer report or the Kilkenny incest case. We need to be people centred and people focused and to forget about budgetary constraints. This is not about budgetary incomes but about people, including children, husbands, wives and adults.

The word “redacted” was used. Senator Fitzgerald is correct. It means blacked out or censored. The Minister of State will not publish the full report because he is afraid of what will happen. Are we coddling ourselves? The report we are discussing failed to identify a motive for what happened. Are we, as Senator O’Toole said, hiding behind legal matters and so on?



[Senator Jerry Buttimer.]

The report has been edited, with seven of the 26 recommendations and 15 of the 31 conclusions blacked out. How are we to move forward? This is about people and not outcomes or concepts. We are speaking about human beings. The Minister of State, Deputy Haughey, knows what I am talking about.

We need a national out-of-hours social work service. Swift and appropriate action must be taken. What happened after the Garda, priest and undertaker raised their concerns? The State failed the Dunne family. This must be the last family to be so treated. It is not enough for Ministers to give us political jargon and lectures because the core duty of the State and public representatives is to protect the vulnerable in society. If the Government is not a voice for the downtrodden and the afflicted it has failed in its duty.

This report must be shared with the Joint Committee on Health and Children because we need to find out what happened and what we can do better in responding to people who need help. We can black out names if necessary but we must learn for the sake of the future. I have a difficulty with censorship based on legal advice if it causes paralysis owing to fear of litigation. By considering the report in private, the committee will be able to make recommendations on policy and legislative reforms.

I raised on the Order of Business the extraordinary situation whereby 8,000 reports of child abuse and neglect have yet to be investigated. Out of a total of 2,255 reports received in the four Cork local health offices, initial assessments were carried out on only 585 children. The HSE ignored 74% of the reports on children at risk. If the Government condones that, it has learned nothing from Monageer or the report of the Ryan commission report. I hope we no longer allow the State to abdicate its responsibilities.

**Senator Rónán Mullen:** Cuirim fáilte roimh an tAire Stáit. Níl mórán le rá agam. Is maith an rud é go bhfuil an díospóireacht seo againn inniu. Bheinn buartha dá mbeimid ag cur iomarca béime ar ghnéithe an tuarascála atá fágtha ar lár. Tá línte ag dul tríd na hailt sin. Tá contúirt ann go gcaithfidimid iomarca ama ag caint faoi ceistanna a bhaineann le cursaí dlí. Sa chás sin, b'fhéidir go ndéanfaimid neamhaird ar na buncheistanna atá ardaithe i tuairisc Móin na gCaor. I mo thuairim, is é an rud is tábhachtaí a léiríonn an tuairisc ná gur theip ar an Stát cloí le fealsúnacht agus moltaí treoirlínte Children First. Is é sin bun agus barr an scéal. Theip ar an Stát é sin a dhéanamh.

This is a welcome debate, especially in light of the publication of the Ryan commission report. However, I caution against giving too much attention to the blackening out of elements of the report. Notwithstanding the comments made by my esteemed colleague, Senator Buttimer, if genuine legal issues exist there is a danger that our attention will be diverted away from the key issues raised by the Monageer report.

This report clearly demonstrates the lack of State compliance with the philosophy and recommendations of the Children First guidelines. It is clear the HSE is not policing itself with regard to their implementation. Interested practitioners in the field of child care have made it clear to me that oversight of HSE activities is greatly lacking. There is, for example, considerable confusion over who decides when to call a child protection case conference to discuss particular cases which arouse the suspicion of the relevant parties. There is also a lack of consistency as to when and why such conferences are called. In short, there is a lack of rational ownership of the issue. No child protection case conference was called on the Monageer case nor was a preliminary strategy meeting considered.

Legislation is not the problem because the legislative framework is in place to address cases such as Monageer. The problem is, as is so often the case with the HSE, the failure to implement policies properly. With that in mind, I wish to make a passing comment on the constitutional issue of child protection. It is natural at a time when people are deeply concerned and angered by the past neglect and abuse of children that a constitutional referendum would be considered as a necessary next step. A decent argument can be made to support such a view but we must stick to the facts.

In Judge Walsh's decision in *G v. an Bord Uchtála* he stated that nothing in the Constitution indicates that in cases of conflict the rights of the parent are always to be given primacy. Writing about constitutional law in Ireland, Hogan and Whyte note that an approach which places greater emphasis on the rights of children and is more protective of the important psychological relationships which a young child establishes with a caring adult can be achieved by re-arguing the constitutional principles involved and without the necessity of a constitutional amendment. It is worth rehearsing Article 40.3.1°, which states: "The State guarantees in its laws to respect, and, as far as practicable, by its laws to defend and vindicate the personal rights of the citizen." Furthermore, Article 42.5 refers to the natural and imprescriptible rights of the child. The Guardianship of Infants Act 1964 clearly requires that the welfare of the child be paramount and this principle informs family law generally. It is worthy and important that we debate what more we need to do to protect children but we should remember that constitutional change or legislation may be less important than, as arose in the Roscommon incest case, asking whether the law as it stands is implemented in favour of vulnerable children.

There is a need for an independent observer to act as watchdog, unafraid to name and shame structural and professional inadequacies. Ironically, in appointing Ian Elliot as an independent outsider to oversee the implementation of guidelines aimed at the safeguarding of children, the church, by which I primarily mean the diocesan church, has shown encouraging signs of learning from past mistakes. There is no reason the HSE should not follow this model because thereby it would help to circumvent a system characterised by conflicting interests and bring clarity to a situation marked by confusion.

**Senator Paudie Coffey:** I welcome the opportunity to contribute to this debate on the tragic events which occurred in Monageer, County Wexford. It is important we hold a public debate on these issues and the effect they have on families and communities. We must reflect on how we respond to tragedies as a society. Are we learning from these difficult situations so that they never happen again? The real litmus test for civil servants and politicians is whether our responses change society for the better. I offer my sympathies to the Dunnes' relatives and extended community. We must hope that whoever reads the Monageer report, despite the redactions or blackouts, whether they are HSE officials, those at the top of the Garda Síochána or the Minister of State himself, will follow through with action that will have an impact. It is no good reading the report and not communicating its recommendations and conclusions to effect the necessary changes in the relevant institutions or agencies. That must be the priority for all political parties and, as I said on the Order of Business, a cross-party approach is required. The leader of Fine Gael, Deputy Enda Kenny, has said that publicly.

We have come to this debate to try to improve the lot of children in our society. Fine Gael tabled this motion because we feel there is an opportunity for a committee to analyse and reflect upon this report in a detailed way and to make recommendations. That is the thrust of our motion which was proposed in good faith to ensure such tragedies can be avoided in future. We should all aspire to that goal.

[Senator Paudie Coffey.]

What are the consequences and implications of this report for service providers? How will it feed through the system down to social workers in the field? It identified a lack of resources for people at risk who are crying out for help. Can we respond when that cry for help comes on a dark winter's night when everybody else is asleep? Most tragedies do not occur in broad daylight when everybody is at full thrust at work or in school. They happen when society shuts down for the night and vulnerable people are left isolated. When that time comes for people in darkness, are the necessary services in place for them? They are not at the moment, which amounts to societal neglect.

I can speak from some experience in this regard. My mother was a public health nurse for more than 40 years. As a child I remember growing up in a small community where people would knock on the door at all hours of the morning. Social issues were raised because my mother was the locally identified professional in the area. It was not her job but people knew they could knock on her door and that she would listen to their problems. Over the years, many public health workers, who had no social workers to support them, helped people who were in trouble. They did so voluntarily. They lived in their communities and knew everyone in the area, including the children. In the present climate, unfortunately, we have lost a lot of that personal contact. Public health nurses today do not even live in the districts they work in because they cover vast areas. That is no slight on them because they are overloaded with work, but they do not even know the families they are working with nowadays. That is the sort of society in which we live. It is a sad indictment of where we are but there is something to be learned from it.

In the Monageer case, the Garda and local undertaker responded because they knew the people involved. They referred the case to the social services for action but the State agencies that should have had the professional capacity to deal with these problems were not in a position to respond. As with public health nurses, there are fewer gardaí living in our communities. We can see that the local priest responded in a positive manner in the Monageer case but there are fewer priests in our communities. Therefore those who know our communities are growing further away from them, thus opening up huge voids in which vulnerable people can no longer find a sympathetic ear. This also concerns local gardaí, nurses and doctors who are no longer living in the communities they serve. That is the reality check and the real test for us. If they are not living in the communities they serve, how can the State provide such services? It is obliged to step in under the provisions of the Child Care Act 1991. The State has a duty of care to any vulnerable children at risk but if it cannot respond, it is not fulfilling its obligations to them.

The 1916 Proclamation promised to cherish all the children of the nation equally, but we are not doing so. We realise the necessary resources are at a premium. I am on a school board of management but if children are suspected of being at risk, they are referred to social workers and may be left waiting for months, if not years, for attention. According to recent media reports, 6,500 children have been identified as being at risk, yet they have not been allocated a social worker.

Earlier, we heard from Senator Cannon that thousands of phone calls to the ISPCC remain unanswered. Society is not responding to those cries for help, so who in Government is responsible for all this? There are major lessons to be learned in this regard. Politicians, charity workers and professionals, including gardaí, nurses and teachers, are at the point of contact. Resources should be made available to them to identify children risk. We also need to allocate resources to agencies to ensure that when a cry for help comes, somebody will be in place to

respond. If that cry for help goes unanswered, we will have more such tragedies. We will be back in this House debating them but will have moved no further, so more communities will be suffering heartache. We must consider the people in the communities so that when the cry for help comes, we will be ready and able to respond.

**Senator Frances Fitzgerald:** It is sad and ironic to be debating this topic on the same day we have debated the report of the Commission to Inquire into Child Abuse. In the latter case, we were told that because of legal advice none of the perpetrators of horrific crimes could be named. Therefore nobody was identified, except by pseudonyms, throughout the report. We know the reasons for that and the authors of the report said they had to do it. It is ironic, however, that on the same day we have had the first debate on that report, we are discussing the Monageer report which has so much material deleted from it.

Does it matter? Different views have been expressed on that but I believe it does matter. What happened with the Monageer report was not good enough. It should not have happened. It may have been a question of putting different terms of reference to the group that carried out the inquiry. I am critical of what the Minister of State said in his speech, which was very legalistic. It was a very legalistic response and he did not ask the questions about responsibility, accountability and putting children first. He asked what he could legally publish. I do not mean to do him a disservice but it is not good enough. He should have accepted our motion and sent the report to the committee in confidence asking it to make recommendations. I am disappointed he is not accepting our motion. He should have done so. There is a supreme irony in the fact that on the same day we have been discussing historic abuses, we are now debating a report in which accountability and responsibility are not addressed at all. That is not good enough.

The Government has been in place for 12 years during which time we have had four Ministers of State with responsibility for children. When I read the response of the Minister of State to the publication of a redacted report of the Monageer inquiry, it was as if we had never had a Minister of State with responsibility for children. It is like reinventing the wheel, going through the recommendations and saying that we will have a place of safety service. Many questions arise, but I do not have time to go into all of them now. Will the staff be available and will they be vetted? If so, who is going to do it? Is it legal to ask the Garda to act under section 12 by going to a family without evidence? In these circumstances, the Garda had no evidence, so is section 12 the correct legal response? We are going to integrate various disciplines but it is like starting from scratch. We have had ten years of Celtic tiger resources and four Ministers of State with responsibility for children but the response to the Monageer inquiry is like starting from scratch. It is not good enough for families. It is like reinventing the wheel in terms of services. We are told that €16 billion is invested in the health services every year, yet this is what we get. It is simply not good enough.

To return to the issues in the report, no assessment was made of the “at risk” nature of the family and no case conference was held. The material about this family was only brought together at the final point when the inquiry team asked for it to be brought together. This is an absolute failure. There was no referral from one part of the country to another to pick up the seriousness of the struggle which the family was having. As so eloquently put by Senator Coffey, many volunteer members of the local society responded but the professional responses were not good enough and yet no issues of accountability and responsibility were dealt with. These were totally missed.

I do not wish to intrude further on the family but it is very clear it was isolated. I want to make a very contemporary point about the family. The family was very concerned about issues

[Senator Frances Fitzgerald.]

of debt. At present, many families are worried about debt and when they get to a stage where they feel there is no way forward, huge despair can set in. I am disappointed the report did not examine the issue of resources or that of familicide, which was critical to this case. They should have been considered in the report.

The report falls short of what we could have expected in the manner of its publication. The response from the Minister of State is aspirational and there is no guarantee the recommendations will be implemented. Similar ones have been made over the past ten to 15 years but they have not been put into effect. How much longer will vulnerable families and children have to wait to have these types of recommendations implemented? We need a Minister who will monitor and evaluate them and demand a response to ensure families who need services get them when they need them.

At present, we have a crisis in child protection in this country. Earlier today we spoke about an historic crisis in our discussions on the report of the Commission to Inquire into Child Abuse, and it is documented clearly in that report. This is why I believe we need a very strong reaction from Government. We need short-term, medium-term and long-term reactions to the report of the Commission to Inquire into Child Abuse and to the types of incidents outlined in the Monageer report. I commend the motion to the House.

Amendment put.

The Seanad divided: Tá, 24; Níl, 17.

Tá

Brady, Martin.  
Butler, Larry.  
Callanan, Peter.  
Carty, John.  
Cassidy, Donie.  
Corrigan, Maria.  
Daly, Mark.  
Ellis, John.  
Feeney, Geraldine.  
Glynn, Camillus.  
Hanafin, John.  
Keaveney, Cecilia.

Leyden, Terry.  
MacSharry, Marc.  
Ó Domhnaill, Brian.  
Ó Murchú, Labhrás.  
O'Brien, Francis.  
O'Donovan, Denis.  
O'Malley, Fiona.  
O'Sullivan, Ned.  
Ormonde, Ann.  
Phelan, Kieran.  
White, Mary M.  
Wilson, Diarmuid.

Níl

Bradford, Paul.  
Burke, Paddy.  
Buttimer, Jerry.  
Coffey, Paudie.  
Coghlan, Paul.  
Cummins, Maurice.  
Fitzgerald, Frances.  
Healy Eames, Fidelma.  
McCarthy, Michael.

McFadden, Nicky.  
Mullen, Rónán.  
Norris, David.  
O'Toole, Joe.  
Regan, Eugene.  
Ross, Shane.  
Ryan, Brendan.  
Twomey, Liam.

Tellers: Tá, Senators Camillus Glynn and Diarmuid Wilson; Níl, Senators Maurice Cummins and Liam Twomey.

Amendment declared carried.

Motion, as amended, put and declared carried.



**An Cathaoirleach:** When is it proposed to sit again?

**Senator Donie Cassidy:** At 10.30 a.m. tomorrow.

### **Adjournment Matters.**

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#### **Special Educational Needs.**

**Senator Maria Corrigan:** I thank the Cathaoirleach for the opportunity to raise this issue of funding for young people with intellectual disability who will be leaving school at the end of next month. There was uncertainty last year regarding whether funding would be made available and, fortunately, with the assistance of the Minister of State, Deputy Moloney, we were able to get confirmation for those young people and their families the week after school closed that they would receive funding for places in September.

The reasons for the importance of knowing about this are twofold. First, it gives families and the young people themselves a great deal of reassurance and confidence as they face into the summer holidays that there will be a place for them to attend in September, that their education has not come to a dramatic end and that they will not be destined to remain sitting at home.

Second, confirmation that the funding will be made available would provide the opportunity for some planning to take place and for the individuals to visit some of the placements on offer for September. In that way they will have an idea what awaits them in September. For any of us starting in a new place it is always a time of anxiety and apprehension but as the Minister of State can imagine, for somebody with an intellectual disability that change and uncertainty is all the more pronounced. Confirmation of the funding being made available would give them some certainty.

While I have the opportunity I will raise another matter with the Minister of State. It has come to my attention that there are a number of individuals who, unfortunately, left school last year but who are still at home and have been unable to access school placements. I realise this is not included as a matter for the Adjournment but would it be possible for the Minister to see what could be done for those individuals?

**Minister of State at the Department of Education and Science (Deputy John Moloney):** If I can be allowed move off my prepared script to answer Senator Corrigan's last question, I am aware of people who left school last year. I intend to deal with that. More importantly, I realise this mirrors what happened last year in that parents and providers are wondering if positions and day places will be available. Before I go into the detail I must say it is well known that new money for development will be in short supply but rather than have people wondering about their future I intend to make an early announcement on what will be available.

I ask the Chair's indulgence on another matter. The Senator left the House on other business during the debate earlier. On the point she raised regarding the inspections of homes and places of care, some time ago I clarified the position to the effect that there was no new money available to initiate the inspections and supervisions. I intend to revisit that issue in the light of Mr. Justice Ryan's report. I see a need to revisit the area, particularly in terms of care centres where people with disabilities are housed.

I am replying to this Adjournment matter on behalf of my colleague the Minister for Health and Children, Deputy Mary Harney, who cannot be present to address the issues raised by Senator Corrigan. I reaffirm the Government's steadfast commitment to people with disabilities

[Deputy John Moloney.]

and to the national disability strategy and its long-term goals and objectives, which we will continue to pursue in the coming years in partnership with all the key stakeholders. The co-ordination and planning of services to meet the needs of people with disabilities form a central tenet to the national disability strategy. A critical element of such co-ordination and planning is the requirement to provide financial support for the development and implementation of services.

Since 2005, the Government has provided significant additional resources for services and supports for effecting real change in the development of services for people with disabilities. The multi-annual investment programme, which was a key component of the Government's disability strategy, had by the end of the period 2005-08 provided the following for the intellectual disability services: 804 new residential places, 307 new respite places and 1,863 new day places. In terms of services for people with physical and sensory disabilities, 275 new residential places and 911,626 extra home care-personal assistance hours have been provided for. In addition, in the same period, 195 day places have had their services enhanced with the provision of additional supports to allow the places deal with school leavers or other adults with significant disabilities. A total of 406 places in the intellectual disability residential service have been enhanced, 61 respite places have been enhanced while 43 residential places in the physical and sensory disability services have been enhanced.

The increase in services for people with disabilities funded under the multi-annual investment programme has ensured that young people with intellectual disabilities have appropriate services in place, to ensure a smooth transition from secondary school. In some cases, the funding provided supported the school leavers to access appropriate day services, in line with a person centred plan. In many cases, this funding provided places for individuals completing rehabilitative training, thereby creating training places for other school leavers. Due to the current economic situation, it has not been possible to provide significant levels of development funding for additional services in 2009. However, the HSE and voluntary disability service providers are working together to ensure the existing resources available for specialist disability services are used in the most effective manner possible. The common aim of all should be to ensure the needs of as many individuals as possible are catered for within the resources available. Both the voluntary sector and the HSE are committed to the best use of available resources in a creative and flexible manner to be as responsive as possible to the needs that present.

With regard to the specific issue of availability of day places, the Department of Health and Children and the HSE are aware of the particular needs of school leavers in September 2009. The HSE has, through its occupational guidance service, been working with schools, service providers, service users and families to identify the needs of young people with disabilities who are approaching completion of their second level education. It is my intention not to leave it until the last day, as it were, to announce what services can be provided. I am aware of the difficulty last year. It was new to me, as I did not realise the import of it. However, it was brought home to me that there is a need to be able to recruit people in time and the longer there is no clarification, the greater the problem will be. While I cannot guarantee new development money, I will outline the clear position of what can be made available in the hope we can meet as much of the need as possible.

The needs of these individuals may be addressed through one or more of the following services: health funded rehabilitative training, health funded day services, FÁS funded rehabilitative training, FÁS funded vocational training and approval to extend education placement

for a specified period of time. Plans are being finalised by the HSE in each local health office with service providers to address identified needs for health funded day services or rehabilitative training. Some funding may be available within the context of the HSE's service plan to provide additional capacity in the event that existing services are not in a position to accommodate an individual's service requirements. The HSE and the Department of Health and Children will monitor the outcome of this process to ensure that, in as far as possible, the needs of each individual young person with a disability leaving school in 2009 will be addressed.

**Senator Maria Corrigan:** I thank the Minister for his opening comments regarding the school leavers from last year who are still at home and particularly his commitment to revisit the issue of inspections of residential services for children and adults with disabilities. I welcome his response. Perhaps when the picture is a little clearer, the Minister would give us some information on it. I acknowledge the commitment and forthrightness the Minister has brought to this area since his appointment.

**Deputy John Moloney:** It is my intention to be open about what exactly we can do in providing the service. It is certainly not my intention to leave it until the last day to announce the services. I am anxious to allow people to make provision in the event that we might not be able to provide as much as last year, although I have no wish to go down that road.

### **Schools Building Projects.**

**Senator Kieran Phelan:** I thank the Cathaoirleach for allowing me to raise this issue. I thank the Minister for coming to the House to give Members an update on the position with Scoil Bhríde, Rathdowney. The Minister and I visited the school a couple of months ago, so the Minister is aware of the problem there.

The school is divided into two portions in Rathdowney and pupils must travel from one part of the school to the other, which means covering perhaps one mile to attend their classes. It is extremely awkward. A site is available at Mooreville, Rathdowney and I hope a start on the new school can be made in the near future. Much of the preparatory work has been done and I look forward to the Minister's comments on the matter. I acknowledge that a classroom extension was provided for the school. Although it is demountable, it is a welcome addition for the school from next September. The Minister did a great deal of work to ensure the school was given that classroom.

I look forward to the Minister's response. He is well aware of the position in Rathdowney.

**Deputy John Moloney:** Again, I apologise for the Minister, Deputy Batt O'Keeffe, who cannot reply on this issue. I thank the Senator for raising this matter as it provides me with the opportunity to outline to the Seanad the Government's strategy for capital investment in education projects and also to outline the current position with Scoil Bhríde in Senator Phelan's native Rathdowney. The Senator and I met Mr. Gunnell, the school principal, some time ago and heard at first hand about the difficulties under which he is labouring.

Modernising facilities in our existing building stock as well as the need to respond to emerging needs in areas of rapid population growth are a significant challenge. The Government has shown a consistent determination to improve the condition of our school buildings and to ensure the appropriate facilities are in place to enable the implementation of a broad and balanced curriculum. All applications for capital funding are assessed in the planning and building unit of the Department. The assessment process determines the extent and type of need presenting based on the demographics of an area, proposed housing developments, condition

[Deputy John Moloney.]

of buildings, site capacity and so forth, leading ultimately to an appropriate accommodation solution. As part of this process, a project is assigned a band rating under published prioritisation criteria for large scale building projects. These criteria were devised following consultation with the education partners.

Projects are selected for inclusion in the school building and modernisation programme on the basis of priority of need. This is reflected in the band rating assigned to a project. In other words, a proposed building project moves through the system commensurate with the band rating assigned to it. There are four band ratings overall, of which band one is the highest and band four the lowest. Band one projects, for example, are those for the provision of buildings where none currently exists, but there is a high demand for pupil places, while a band four project refers to the provision of desirable but not necessarily urgent or essential facilities, such as a library or new sports hall. The proposed new school building for Scoil Bhríde national school has been assigned a band 1.4 rating. This applies as the application is for accommodation arising from the amalgamation of two existing schools. The brief for this extension and refurbishment project is to provide accommodation for a long-term projected staffing of a principal teacher plus eight mainstream class teachers plus ancillary staff plus general purpose room. The project is at an advanced stage of architectural planning.

As the Senator will be aware, in February the Minister announced details of 43 major building projects to proceed to tender and construction and 25 high priority projects to commence architectural planning. The Senator will understand that it is not possible to advance all projects at the same time. It was not possible to include the project for Scoil Bhríde national school in this announcement. Therefore, it is unlikely it will be progressed further in 2009. Given the competing demands on the Department's capital budget, it is not possible at this stage to be precise about when this project will go to construction.

The progression of all large-scale building projects, including this project, from initial design stage through to construction is dependent on the prioritisation of competing demands on the funding available under the Department's capital budget. The proposed building project for Scoil Bhríde will continue to be considered in the context of the Department's multi-annual school building and modernisation programme for 2010 and subsequent years. In the interim, the school has been allocated an all-in grant for the provision of an additional classroom to meet current needs.

The allocation for school buildings in 2009 is almost €614 million. This represents a significant investment in the school building and modernisation programme. This level of funding for the building programme, at a time of great pressure on public finances, is a sign of the commitment of the Government to investing in school infrastructure and will permit the continuation of progress in the overall improvement of school accommodation. I thank the Senator again for giving me the opportunity to outline to the Seanad the current position regarding the school building project for Scoil Bhríde in Rathdowney.

**Senator Kieran Phelan:** I thank the Minister of State for his response. I understand that the school cannot be included for funding this year. I am glad the project is at an advanced stage of architectural planning. I have no doubt the Minister of State and I will use our offices to ensure the building works for the school in Rathdowney will start in 2010. I again thank the Minister of State for his response.

### Communications Masts.

**Senator David Norris:** This is turning into a bit of a Laois love-in and I am quite happy to participate in such an event. I welcome the Minister of State, who has been in and out of the Chamber very busily and very positively all day. I hope he will be able to be positive about this matter which is rather scientific and technical. It is the concern a number of people in Leixlip have about low-frequency microwave radiation emanating from masts used to broadcast mobile telephone signals and in particular a specific form of this that has been acquired by the Department of Justice, Equality and Law Reform for the Garda Síochána. There is a very significant mast attached to the Garda station in Leixlip which is within 500 m of a series of schools that contain 2,000 students.

There does not seem to have been any real research done and people are interested in a base level of research to understand what kind of impact such masts have. The fact that such radiation is unseen does not mean there is not a physical reality. The Minister of State may or may not have the experience I have had. Indeed, I just had it once more.

I have a small transistor radio, a little pocket wireless, on which I listen to the news. As I travel along the corridors of Leinster House it is frequently interrupted by various kinds of buzzing, whirring, whizzing, cheeping and so on. It can go off the air altogether. That indicates to me that various kinds of radiation are passing through the ether and also obviously passing through my body. Luckily, I have survived to the age of 65 and I may well go on for another little while. However, I am kind of settled in my ways. My skeletal structure is established and my brain, such as it is, is perhaps inured to these things. However, it does concern me that there is a physical presence and there may well be a physical effect. We are nowadays blanketed by wireless radiation.

As people were concerned about the matter, various distinguished eminent scientists were invited to address a local meeting in Leixlip. They included Professor Olle Johansson of the Karolinska Institute in Sweden. This is a very prestigious world-ranking science institute. Also in attendance was Dr. Magda Havas who, like Professor Johansson, is an expert on the biological effects of low-frequency electrical and magnetic fields. Dr. Havas was invited by the city of San Francisco to prepare a report on this kind of radiation as a result of which San Francisco dumped the entire project. They at least took it seriously. She has been very strident in her criticism of this particular system that involves WiMax. She describes it as “Wi-Fi on steroids”. That is a fairly highly coloured description from a distinguished international scientist.

Professor Johansson has had some worrying things to say. He has done research on the matter at the Karolinska Institute that examined the impact on children. As a result of his studies he felt there might be an effect, including increased rates of leukaemia and brain cancer. He also stated as a fact — not a speculation — that after only 45 minutes exposure rats obtained retarded learning and mice that had been exposed to the radiation became irreversibly infertile after five generations. I should not perhaps allow myself the following aside. I have to say that would put me on its side because when I consider the vast explosion of population, I think that a little bit of infertility would not be any harm at all in addition to the form of infertility which I enjoy. I do not say I suffer it — I enjoy it.

A test of children showed that after only one minute’s exposure to microwaves from mobile phones, it resulted in changes in brainwaves in the child for up to one hour after the exposure. That does not actually prove that they would get malignancy. However, it shows a detectable physical effect. Malformed calves are another effect that has been claimed. A lady from Clontarf with a mast next door to her house describes having been told to shield her windows from



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the radiation with tin foil. However, she found there were holes in it and she claims this came from the radiation.

This is not always met with great sympathy, but they are important things to consider. There is a political aspect to this as the Minister of State knows. In that equation it is important to point out that recently the European Parliament voted by 522 votes to 16 in favour of significantly lowering the exposure guidelines based on biology rather than on the technical measures that were presented as a possibility by commercial interests. Over the past two years a number of health agencies have changed their view. In the old days they used to say there was no risk whatever. They now recommend we should observe the precautionary principle. Again it is significant that when one of the agencies with a financial interest in installing this material gave a presentation to Leixlip town councillors, in complete contradiction to their normal pattern of behaviour they held the meeting in private rather than admitting the public. That is of concern.

I am not a scientist. My father was, but I am not. I am not even particularly scientifically gifted or interested. However, I am concerned because I believe there may be concealed effects from this which could be detrimental. I look forward to the Minister of State's reply.

**Deputy John Moloney:** I read a comment made by Deputy Joan Burton last week that Ministers of State used to be sent out at night to give replies. I thank God I have a prepared statement to respond to the matter raised by Senator Norris.

I thank the Senator for the opportunity to address this issue. The potential health effects of electromagnetic fields were the subject of an expert group report published by the then Department of Communications, Marine and Natural Resources in March 2007. The report, titled Health Effects of Electromagnetic Fields, is available on the Department of the Environment, Heritage and Local Government's website, [www.environ.ie](http://www.environ.ie).

The expert group report examined a wide range of issues related to the potential health effects of electromagnetic fields. Its findings address many of the health risk questions raised by members of the public in that regard. The views expressed and conclusions drawn in the report were informed by the principal scientific reviews available worldwide on the matter at that time, including World Health Organisation and other expert studies. The recommendations of the expert group were accordingly approved by the Government and responsibility for this policy area was subsequently transferred to the Department of the Environment, Heritage and Local Government.

The expert group concluded there is limited scientific evidence of adverse health effects from electromagnetic fields. It recommended that Ireland continue to adopt and enforce the international limits developed by the International Commission on Non-Ionising Radiation Protection and endorsed by the World Health Organisation and European Commission. In addition, the group recommended that precautionary measures be used, where appropriate, and this recommendation has also been accepted by the Government.

The Department's current advice to those living in close proximity to mobile telephone base stations, based on the conclusions of the expert group report, is that there is no scientific basis for or evidence of adverse health effects in children or adults as a result of exposure to electromagnetic fields. This applies irrespective of the location of the telephone mast.

As I indicated, all telecommunications operators in Ireland are required to adhere to internationally established limits in regard to exposure of the public to electromagnetic emissions from their masts. These are applied under the terms of their licences from the Commission for Communications Regulation, ComReg. The limits are set by the International Commission for

Non-Ionising Radiation Protection, a body of independent scientists who have expertise in researching the possible adverse health effects of exposure to non-ionising radiation. The Commission has published a set of guidelines on limiting human exposure to electromagnetic fields, which are freely available from its website.

In recent years, ComReg has conducted measurement surveys to verify compliance with these limits by its licensees. The detailed measurement results from 600 sites have been published on its website. All measurements have so far shown total compliance with the international limits.

My colleague, the Minister for the Environment, Heritage and Local Government, Deputy Gormley, will forward to Senator Norris a number of frequently asked questions and answers on the subject of electromagnetic fields.

With regard to planning issues, Garda stations or other buildings, premises or installations, or other structures or facilities, used for the purposes of or in connection with the operations of the Garda Síochána are exempt from the requirement to obtain planning permission. However, the planning regulations prescribe a public consultation process in the case of such developments. The public must be notified by the State authority concerned regarding the proposed development by means of a notice on the site and given the opportunity, for a period of six weeks, to make submissions or observations to the State authority. The State authority is also required to notify the planning authority in whose area the proposed development would be situated.

When making its decision the State authority must take into consideration any submissions or observations received from the planning authority or any other person or body. The State authority may decide to carry out the proposed development, make variations or modifications to the proposed development or decide not to continue with the proposed development. Anyone concerned about a particular mast on a Garda station should take up his or her concerns directly with the Office of Public Works, the State Authority with responsibility in this case.

**Senator David Norris:** I thank the Minister of State for his reply, even though he engagingly admits that, like myself, he is not a world ranking scientist. I note the statement refers to the “Department’s current advice to those living in close proximity”. The use of the word “current” is interesting because it suggests there may be developments in this area. Some eminent scientists have expressed more than hesitation in this regard.

I am grateful to the Minister for the Environment, Heritage and Local Government for this reply. It is interesting that a Green Party Minister should be in charge of this area and involved in implementing this programme. One listens with respect to what he has to say.

While I will read the questions and answers the Minister will supply, I am familiar with these types of documents and the Minister does not overestimate my intelligence in choosing to send me such a document. They often take the form of Jimmy asking whether there is a danger to the brain from radiation and Seán replying that there could not possibly be such a danger and asking why people would live next door if that were the case. Notwithstanding my reservations, I will pass on the questions and answers.

It would be more effective if the Minister could be persuaded to engage more directly with the people who have been in touch with me. They have suggested, and this has surprised me, that he seems reluctant to do so and has not answered some of their queries and communications. Perhaps the Minister of State will be kind enough to inform the Minister that I am prepared to read the stuff provided, which will not mean much to me, before shoving it on to

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the people in question. They will not be impressed by it and would prefer to have some degree of direct engagement.

**Deputy John Moloney:** I did not come before the House to pretend for a second that I am an expert in this area. I will inform the Minister that the Senator would prefer to have a face-to-face discussion with officials rather than a question and answer document.

As former councillors in County Laois, Senator Phelan and I are familiar with this issue as it is a regular and significant cause of concern. Members of the public often believe we are jumping ahead through the planning guidelines.

I also note the Senator's point that the statement refers to "current advice". As someone who worked in Dublin Airport, which is strongly dependent on radio and support services in air traffic control, I am aware that those who lived near the airfield at that time were worried that the electromagnetic field could cause health problems. While I ceased working in Dublin Airport more than 20 years ago, I know this concern persists. Clearly, therefore, it is important that as much clarification as possible should be provided to those seeking information on the issue.

The Seanad adjourned at 7.50 p.m. until 10.30 a.m. on Thursday, 28 May 2009.