



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

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SEANAD ÉIREANN

Déardaoin, 19 Meitheamh 2014

Thursday, 19 June 2014

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

*Machnamh agus Paidir.
Reflection and Prayer.*

Business of Seanad

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

The need for the Minister for Social Protection to explain why she plans to press ahead next week with measures that will disincentivise up to 9,000 one-parent families from working and in so doing act counter to stated Government policy.

I have also received notice from Senator Colm Burke of the following matter:

The need for the Minister for Health to review immediately the current requirement whereby medical card holders are obliged to furnish a prescription before emergency contraception is made available to them.

I have also received notice from Senator Michael D'Arcy of the following matter:

The need for the Minister for Health to outline his views on the usage and pricing of the drug Fampyra which is used for people with multiple sclerosis.

I regard the matters raised by Senators Fidelma Healy Eames and Colm Burke as suitable for discussion on the Adjournment and they will be taken at the conclusion of business. I regret that I have had to rule out of order the matter raised by Senator Michael D'Arcy as it involves a repeat of the reply to a similar motion on the Adjournment on 17 June.

Order of Business

Senator Maurice Cummins: The Order of Business is No. 1, address to Seanad Éireann by Ms Catherine McGuinness on children's rights in Ireland, to be taken at 11.45 a.m. in ac-

cordance with the arrangements set out in the motion passed by the House on Tuesday, 17 June - I hope as many Members as possible will be in the Chamber for the address; No. 2, motion regarding the renewal of certain provisions of the Offences Against the State (Amendment) Act 1998, to be taken at 1.15 p.m. and conclude not later than 1.45 p.m., with the contributions of all Senators not to exceed four minutes; and No. 3, motion regarding section 8 the Criminal Justice (Amendment) Act 2009, to be taken at 1.45 p.m. and conclude not later than 2.15 p.m., with the contributions of all Senators not to exceed four minutes.

Senator Paschal Mooney: I wish the banking inquiry committee the best of luck in its endeavours. It is meeting for the first time this morning and I hope it will expedite matters, rather than drag them out, as appeared to be suggested, with a political agenda in mind.

In a month during which the Minister for Social Protection has been out on the hustings and reassuring Labour Party members that she has learned the lessons of the recent election debacle, in which the party's vote was decimated, that there will be no more austerity measures and that she will stand up for core Labour Party values in the Government, particularly in the budget, it is somewhat ironic that she has announced that she will take money from over 9,000 single parents who will lose their one-parent family payment, while next year it is intended that the payment will be taken from all families with children over seven years of age. I realise these measures have been in gestation for a couple of years and date from a couple of budgets ago. However, in the light of all that has happened and the recent verdict by the people on continuing austerity, it is extraordinary that the Minister is still pursuing her austerity line. It is affecting the most disadvantaged part of society, one that I would have thought the Labour Party would consider to be a natural constituency - lone single parents. The National Lone Parent Family Network claims that working single parents will be forced to give up work because of the cut. It states that when it is implemented, there will be a loss of €3,600 per year and that single parents would be better off not working. Despite the fact that the Minister's spokesperson-----

An Cathaoirleach: That issue will be the subject of an Adjournment matter later.

Senator Paschal Mooney: I am aware of that, but I raise the issue in the context of the Social Welfare and Pensions Bill. Perhaps the Leader might indicate when it is intended to take that Bill because I am referring certain provisions contained in it.

On an unrelated matter, the continuing sectarian war in the Middle East is a source of great concern. It might appear that it involves countries about which we in this country know little and care less but nothing could be further from the truth. There are substantial oil deposits in Iraq and the war could have a detrimental effect on the Irish economy. I would be grateful if the Leader invited the Tánaiste and Minister for Foreign Affairs and Trade to come to the House to make a statement on Ireland's position on the war and also update us on the European Union's position on the action, if any, it intends to take. There appears to be no international reaction to the war, perhaps because people are waiting to see what will happen militarily. The issue is fraught with complexity and it would be helpful to have a debate or at least be given an indication from the Minister as to the Ireland's and the European Union's position on it.

Senator Aileen Hayden: I also wish the banking inquiry committee well in its endeavours. The inquiry starts this morning.

I wish to comment on Professor Thomas Piketty who has published a landmark study of history and the dynamics of inequality in economies. He will speak at the Think-tank for Ac-

tion on Social Change, TASC, economic conference tomorrow at Croke Park. He has called for amendments to property tax in Ireland and suggested it should be redesigned so as to be based not on the gross value of properties but on the net value to owners, in other words, after the amount of any mortgage or other debt on property has been taken into account.

Senator Mark Daly: That is a great idea.

Senator Aideen Hayden: I express my support for this proposal. I cannot see any way we can justify levying a tax on a property where the owner might be in negative equity and the asset might be worthless. It simply compounds his or her nightmare. I have dealt with a sufficient number of people who are in that position to know that we must address the issue. If we remove taxes on people who are in negative equity or have lower levels of value in their homes, we will have to seek to obtain more from people with greater wealth, be it in their homes or other forms of wealth such as stocks and shares. However, I am prepared to champion such a move towards greater fairness and strongly suggest there be a debate in the House to consider it. I ask the Leader to facilitate such a debate.

I welcome the report from the National Economic and Social Council, NESC, today. Unfortunately, it states approximately one quarter of Irish households are economically inactive. I do not welcome this aspect, but the fact that the author of the report, Dr. Helen Johnson, has welcomed moves by the Government to try to address some of the structural issues faced by people who find themselves in that position. It is unfortunate that at the height of the Celtic tiger economy Ireland had the second highest rate of economically inactive households in the European Union. Dr. Johnson has highlighted, in particular, changes the Government is making to the rent supplement system and the introduction of the Intreo offices as positive steps in the right direction. However, I agree with Senator Paschal Mooney and call for the Minister for Social Protection to be invited to the House in early course to discuss the NESC report and the position of single parents.

On a positive note, I welcome the introduction of the Leap card deal for tourists, which will give tourists 72 hours of travel in the Dublin region for €19.50. It is a great idea. I cannot understand why we did not do it years ago and hope it will be rolled out quickly to other parts of the tourism industry.

My final comment is directed at those who have advocated that, as a nation, we should default on our debts. I bring to their attention the fact that Argentina is experiencing problems in paying the next tranche of its debts which falls due for payment at the end of the month. Because it defaulted in 2002 it has been unable to access the capital markets and its economy is in serious trouble. We should take on board this salutary lesson.

Senator Feargal Quinn: I propose an amendment to the Order of Business that No. 13 be taken before No. 1 today. I urge the Leader to accept this proposal.

During the week the Central Bank warned customers that there was no regulation in Ireland or elsewhere in Europe of crowd funding. Crowd funding is a wonderful idea and those involved are happy to see regulations, but there is no urgency because the small number of companies involved have taken steps to protect consumers, investors and lenders. However, the fact that there is no regulation in Europe probably means we should be setting some standard because at some point in the future somebody may misbehave and citizens will lose out if that happens. I suggest, therefore, that we bring the issue to the attention of the responsible Minister

who I imagine is the Minister for Finance.

Senator Jillian van Turnhout: I second Senator Feargal Quinn's proposal.

Senator Eamonn Coghlan: I welcome the announcement yesterday by Rory McIlroy that he will represent Ireland at the Olympic Games in 2016. This is wonderful news. Rory has represented Ireland from when he was a young man in youth and junior competitions. It is only two years since the London Olympic Games took place and we were all delighted with the wonderful gold medal performance by Katie Taylor and the other medals won. With two years to go before the next games in Rio de Janeiro, the excitement in Irish sport has already begun. The athletes are half way through their preparations to represent Ireland and pursue their dreams. I know that when athletes compete at the Olympic Games, whether from the North or the South, they are very proud to represent the island of Ireland. When the fans watch the Olympic Games, irrespective of whether the sports person concerned is from the North or the South, they know that they are representing the people of this island. We must not forget those athletes who are pursuing their dreams and ambitions now that Ireland's most famous son on the international sports circuit has announced his intention to represent Ireland.

I welcome the decision by the R&A that Portrush will stage the British Open in 2019. This is a major statement and another indication of the relationship between Great Britain and Ireland. I have no doubt that with Rory representing Ireland and the British Open taking place in Portrush in Northern Ireland, it will give a huge boost to tourism here in the next five years.

Senator Ned O'Sullivan: Members will have received recently a copy of the annual report of Horse Racing Ireland, which makes interesting and encouraging reading. It highlights again the contribution of the racing industry to the economy and the number of jobs involved in it, apart from the great image it creates for us abroad. I ask that the Minister for Agriculture, Food and the Marine come into the House to take us through the report, examine the positive aspects and the ways by which we could enhance and expand on them. The rural festival race meetings have huge turnovers. Everybody knows about the meetings at Punchestown, Leopardstown and the Curragh, but in my town of Listowel the turnover in one week in September was almost as much as the turnover at the Curragh for the entire year. These are issues that should be examined and the Minister might come into the House to do so.

I note that a small training stable not far from where I live pulled off a wonderful achievement at Royal Ascot yesterday when Charles Byrne who mostly trains national hunt horses beat all of the Arabs and the other big names with the million pound horses. It shows that if the right man has the right ammunition, he can do the business.

An Cathaoirleach: It must be the Ring of Kerry-----

Senator Diarmuid Wilson: Senator Ned O'Sullivan should have told us about it.

Senator Cáit Keane: On the day on which former Senator Catherine McGuinness will address the House on children's rights I refer to the European Commission's country-specific recommendations for Ireland. There are eight recommendations on which Ireland should act in the period 2014 to 2015. The Commission recommends that Ireland take action in the period 2014 to 2015 to facilitate female labour market participation by improving child care facilities and having more affordable and full-time child care services, particularly for low income families. If we ever listen to the European Union on any issue, we should listen to it on this one, particularly when we hear that management at Tallaght hospital sent an e-mail to all members

of staff - the hospital has a huge staff - informing them that the crèche located in a mobile unit which had operated for a number of years would close. I call for a debate on child care provision, particularly workplace crèches. Tallaght hospital would be the ideal place in which to promote this European Commission country-specific recommendation. The chief executive officers of the hospitals, the Minister for Health, the Minister for Children and Youth Affairs and child care organisations should come together to produce a prototype of a workplace crèche. New buildings are due to be built at Tallaght hospital and it would be an ideal place in which to start implementing this country-specific recommendation for Ireland. Twenty years ago I led the way in proposing, as my first action in the former Dublin County Council, that a crèche be provided in the functional area of South Dublin County Council. The idea was pooh-poohed initially, but I got an architect involved and it was the first local authority in Ireland to have a crèche. Some 20 years later we are still on the back foot waiting for workplace crèches in particular to be provided. We now have a recommendation from the European Commission which I ask the Seanad to take seriously and address. We should lead the way. Tallaght hospital would be a good place in which to start. There are new buildings ready to go and a workplace crèche should be incorporated in them. I suggest it be used as a prototype. There are workplace crèches, but the Government, hospital managements and everybody else should become involved. However, we should lead the way on the issue, particularly as we have been given a kick, so to speak, by the European Commission.

Senator Trevor Ó Clochartaigh: Ba mhaith liom aontú leis an méid a bhí le rá ag an Seanadóir Mooney maidir leis na ciorraithe atá ann do tuismitheoirí aonair. I support what Senator Paschal Mooney said about the cuts for lone parents. I listened with interest to Government Senators discuss issues to do with child care, housing, etc. I hope the concerns they are expressing will also be expressed at budget time when we will see further cuts of up to €2 billion. These are the areas that have been hammered in budget after budget. The position in which lone parents, in particular, find themselves, especially young mothers, is distressing. My office in Galway is inundated with people who are very concerned about how they will cope because of the cuts made to rent supplement.

I thank all those Senators who were able to attend the presentation last night on the direct provision system. It was a very good presentation and I extend an invite to anybody who wants to become involved in the cross-party Oireachtas group we have set up; he or she will be most welcome. The Leader might consider having a debate on the direct provision system, for which we have called previously.

The main issue I want to address is the crisis facing farmers. Is the Leader concerned that on two days this week we saw huge protests on different issues by members of the farming community? There will be another protest today about the GLAS programme. Small farmers, in particular, are protesting. They were very unhappy with the Ministers, Deputies Simon Coveney and Jimmy Deenihan, last night.

11 o'clock

Very little wriggle room is being given in regard to how the collective agreement situation is being handled, how the GLAS programme will proceed and the impact this will have, particularly on small farmers in the west of Ireland. Farmers are also concerned about the legacy environmental issues from previous Administrations, which have affected the way farming has progressed, and about some of the environmental impacts of measures they were asked to take previously which are now being rowed back on, leaving them high and dry and without funding

to continue the work that was started.

With this and with yesterday's conference on our ocean's wealth in mind, perhaps we could have a series of debates on agriculture, fishing and natural resource issues. We could focus on fisheries and aquaculture in one session, on the changes to the terms of the oil and gas regulation in another, on inland fisheries and on agricultural issues. Will the Leader ask the Minister to come to the House to discuss the issues affecting farmers within the next week or two?

Senator John Whelan: Thanks to extensive media coverage over the past week, most people in the country are aware of the dastardly deed that took place in Dalkey earlier this week - the cruel and callous attempt to poison peregrine falcons nesting in the quarry. Unfortunately, this is not an isolated incident, and we have records of recent attempts to kill, poison or shoot protected species such as white-tailed eagles, red kites and owls.

We in Ireland are blessed to have such a range of wild birds and birds of prey, but unfortunately we do not value and prize them as much as we should. I call on the Leader to invite the Minister for Arts, Heritage and the Gaeltacht, Deputy Deenihan, to the House to discuss this. In fairness, he has shown great interest in his brief and remit in regard to natural habitats and the preservation and support of wildlife. However, we must support organisations such as Birdwatch Ireland, which must often operate on a wing and a prayer, with limited resources, to try to do a great deal of work. It is impossible for Birdwatch Ireland to do the task before it unless we resource and fund it better.

I am calling this morning for us to support Birdwatch Ireland's call for the appointment of a wildlife liaison officer so that the public at large and the stakeholders in this sector, such as the National Parks and Wildlife Service and the Garda, can be made more aware of the value of our natural heritage, our habitats and our wild birds, particularly birds of prey. It is horrendous to think that people would set out deliberately to poison, persecute and shoot birds or steal eggs from the nests of rare and protected species.

If we look across the water to the UK, we can see the energy, resources and effort put in there to protect birds of prey and develop them as a resource and tourist attraction in rural communities. It is well established that many sustainable and good jobs can be made available to rural communities in places as remote as the Isle of Mull in Scotland, where birds of prey attract tens of thousands of tourists to the area every year, which supports the local economy and tourism. I call on the Leader to invite the Minister, Deputy Deenihan, to the House and I call for support for the efforts of organisations such as Birdwatch Ireland so we can stop the type of carry-on and misconduct we have seen here, which is often based on misinformation surrounding birds of prey. Unfortunately, the situation in Dalkey was not an isolated incident, as we have seen similar incidents in Kerry, Donegal, Tipperary and Clare. We must ensure that we value our natural heritage and environment.

Senator Michael Mullins: I welcome the announcement made yesterday by the Government that it will provide €200,000 to GOAL to provide humanitarian assistance for vulnerable families fleeing the conflict in Iraq. We all share the concern that the security situation has seriously deteriorated and the fact that 500,000 people have been displaced as a result of the intense fighting there. Everybody in this House joins the Tánaiste in condemning the sectarian attacks against civilians in Iraq and calls for the immediate release of prisoners, including the Turkish nationals that were taken hostage recently in Mosul. In recent elections the Iraqis have demonstrated their support for civilian government, and it is now incumbent on all Iraqi leaders

to come together to provide national unity and ease the tensions within the country.

I also call on the Leader to schedule a debate in this House on the NESC report published yesterday which shows that 23% of Irish households are jobless. This is far above the European norm. Some 56% of Irish jobless households have children and these households are most likely to have no educational qualifications, to be unskilled and never to have had work. The Taoiseach has said it is a priority of the Government to break the cycle of poverty and unemployment and the Government has stated that it will not accept a recovering economy and labour market where a large number of people are left behind. We need to tease out with our Ministers how we are going to break this cycle of unemployment for so many people. If we cannot have this debate before the end of this session, can we have it early in the new session?

Senator John Kelly: I support Senator Eamonn Coghlan's welcome for Rory McIlroy's decision to declare for Ireland in the Olympics. This is an excellent decision for this country. We have no idea of the talent that exists here, talent like that of Rory McIlroy. A family in my town, Ballaghaderreen, has a few young lads in it and one day the father decided to bring the boys out for exercise and chose golf. After three years of playing golf, the family's 13 year old is now playing for Ireland. I have no doubt that Patrick Callaghan from Ballaghaderreen will be the Rory McIlroy of this country at some stage in the future.

I wish to raise the issue of small businesses and call for a debate on the struggle these businesses face on a daily basis. Commercial rates are a noose around their necks and county councils have failed to deal with this issue. If we are lucky, each year they just manage to keep them at the rate they are at or reduce them by 1%, which is not adequate. I know of businesses that in an effort to keep their doors open have decided to take most of their stock and move it into only half of the area from which the business operates to try to survive. These businesses are struggling against the Tescos and Aldis of this world. In particular, because of bad planning decisions made in the past, they are struggling against out-of-town developments. This is happening in most towns. People come to the outskirts of a town to do their business. They do not go into the towns and support other businesses but go home. I appreciate that the Minister for Social Protection, Deputy Joan Burton, has tried various initiatives, such as the JobsPlus, where half of a social welfare payment can be given to a business to employ somebody. This is an excellent initiative, but the problem is that it is working to the benefit of big business, as small businesses cannot afford to match that payment and employ people. Businesses are on their knees and we should have a debate in this Chamber on that issue as a matter of urgency.

Senator Michael Comiskey: On a day when thousands of farmers are coming to Dublin to protest about new measures, it is important that we have a discussion on the whole rural development programme, particularly the GLAS programme. From consultation with farmers over the weekend since the details of the scheme were announced, I have found that most small farmers, particularly those all along the west coast, will not be able to participate in the scheme. Over the years, we have seen the benefits of rural development and environmental schemes for the countryside. It is important that we have a debate, resolve this problem and allow the smaller farmers to join the schemes.

Senator John Crown: I have a quick question for the Leader. When I was fairly newly elected, a controversy arose involving another politician who had made representations in respect of a criminal case to the Judiciary. It emerged in the press that several similar episodes had occurred. I was interviewed in the press and stated this was a practice we should probably regulate and legislate for. My first backbencher Bill was an attempt to regulate the process. At

the time, the then Minister for Justice and Equality issued a statement to the effect that it was a bizarre proposal and that it would have represented a gross violation of the separation of powers. In view of recent reports, I wonder whether it is possible to have the question re-addressed. Considering that the practice I described still occurs, is it possible to have it acknowledged that my proposal to have clarity surrounding the making of representations, rather than the current opacity, and force people to register representations made to judges on behalf of constituents in criminal cases was not bizarre after all?

Senator Maurice Cummins: Senator Mooney made a point on lone parents. I understand there will probably be a social welfare Bill considered in the House next week. Therefore, we will have ample opportunity to discuss the matter.

Senator Mooney and others called for a debate on the sectarian war that is taking place in Iraq. I have asked the Minister for Foreign Affairs and Trade to come to the House to debate the issue. I am still awaiting a response.

Senator Aideen Hayden referred to a number of reports and called for more fairness in the taxation system. She outlined the positive changes to the rent supplement scheme that were announced. She pointed out the circumstances in Argentina, which defaulted in 2002. We now see the problems it faces as a result, and lessons should be learned in that regard. I am sure this is not the first we will hear about the Argentinian economy.

Senator Feargal Quinn asked that the Order of Business be amended so No. 13 could be taken before No. 1. I am willing to accept that amendment to allow the Senator to publish the Bill.

Senators Coghlan and O'Sullivan referred to sporting themes. Reference was made to Rory McIlroy representing Ireland in the Olympic Games. This is wonderful news. He has represented Ireland since he was a schoolboy, as was pointed out. The British Open will be held in Royal Portrush Golf Club. This will be a major boost to tourism. Senator O'Sullivan referred to the successes of Irish horse trainers in Royal Ascot. With regard to the Horse Racing Ireland report, the Minister was in the House discussing the horse-racing industry not so long ago. I doubt, therefore, that we will get him back to discuss that issue.

Senator Cáit Keane referred to country-specific recommendations from the European Commission, especially that on child care, and the emphasis on workplace crèches. She called for a debate on that issue. I will ask the Minister for Children and Youth Affairs, Deputy Flanagan, to come to the House to discuss it.

Senator Trevor Ó Clochartaigh referred to direct provision. I could not make the meeting last evening but I acknowledge there is certainly a need for more to be done with regard to direct provision centres. There is no question about that. The Senator raised the GLAS programme, as did Senator Comiskey, and called for a debate with the Minister. As stated, the Minister and Minister of State met farmers last evening on the matter.

Senator Whelan referred to the value of our natural heritage and the despicable effort of some individuals to poison peregrine falcons and many other protected species. This is a dreadful practice. The Senator praised the efforts of BirdWatch Ireland. We all praise its conservation efforts. I take the Senator's point on the recruitment of an extra member of staff to deal with these matters.

Senator Michael Mullins mentioned the allocation to GOAL to assist with humanitarian ef-

forts in Iraq. He called for a debate on the NESC report also.

I note Senator Kelly's points on small and medium-sized enterprises, especially in the context of commercial rates. I am trying to arrange another debate on jobs and small and medium-sized enterprises with the Minister for Jobs, Enterprise and Innovation, Deputy Richard Bruton, in early course.

Senator Crown referred to the registration of representations made on criminal cases. I agree there should be a register so we can see who is making representations. It is not acceptable that politicians should ask judges to reduce sentences, irrespective of the crime committed. I am sure we will hear more about that on another occasion.

An Cathaoirleach: Senator Quinn has proposed an amendment to the Order of Business: "That No. 13 be taken before No. 1." The Leader has indicated he is prepared to accept this amendment.

Amendment agreed to.

Order of Business, as amended, agreed to.

Health Insurance (Reform) Bill 2014: First Stage

Senator Feargal Quinn: I move:

That leave be granted to introduce a Bill entitled an Act to reform the regulation of the health insurance sector and for that purpose to vest responsibility for the management of the State's ownership of VHI in the Minister for Public Expenditure and Reform; to provide for the regularisation of VHI's regulatory status; to dissolve the Health Insurance Authority and to confer responsibility for the regulation of health insurance providers on the Central Bank of Ireland and for that purpose to amend the Voluntary Health Insurance Act 1957, the Voluntary Health Insurance (Amendment) Act 1996, the Health Insurance Act 1994 and the Central Bank Act 1942 and to provide for related matters.

The Bill addresses some concerns about certain aspects of the health insurance sector. This legislation is necessary and it should overcome the challenges faced in the area of health insurance. It is in line with what has been done in other European countries over the years. It is worthy of consideration and I hope it can be introduced next week.

Senator Diarmuid Wilson: I second the proposal.

Question put and agreed to.

An Cathaoirleach: When is it proposed to take Second Stage?

Senator Feargal Quinn: Next Tuesday.

An Cathaoirleach: Is that agreed? Agreed.

Second Stage ordered for Tuesday, 24 June 2014.

Senator Maurice Cummins: I appeal to Members to attend the address of our guest Ms Catherine McGuinness at 11.45 a.m. in as great a number as possible.

Sitting suspended at 11.10 a.m. and resumed at 11.52 a.m.

Address to Seanad Éireann by Ms Catherine McGuinness

An Cathaoirleach: On behalf of Members of Seanad Éireann, I welcome Ms Catherine McGuinness who has been invited to address the Seanad on the topic of children's rights in Ireland. As chair of the external assessment panel for the Children's Rights Alliance report card, she is to the fore in advocating the changes necessary to secure the rights of children in Ireland by seeking full implementation of the UN Convention on the Rights of the Child. Her address is timely coinciding with the publication of the report of the Seanad Public Consultation Committee on Ireland's compliance with the International Convention on Civil and Political Rights. Some of the recommendations made in the committee's report echo comments made in the Children's Rights Alliance report card for 2014. I am sure the proceedings will offer an opportunity for dynamic engagement on these matters of common concern.

Although the address of Ms McGuinness will focus on her work on children's rights, Members scarcely need to be reminded of her long and illustrious career. During a multifaceted career in law she practised at the Bar and served as a judge of the Circuit Court, the High Court and the Supreme Court. She was adjunct professor of law at NUI Galway and has been president of the Law Reform Commission. She was also a legislator, having served three terms in the Seanad as a representative of the University of Dublin. In a sense, we are welcoming her back today. Her contribution to public life has also been made during her service on a wide range of public bodies. She is also a member of the Council of State for a second time. Some changes have, of course, taken place in the House since she last served in it. The spirit of reform which has both enthused and challenged us has been given some substance by a number of changes to our procedures, not least of which is the procedure by which the Seanad may invite persons in public and civic life to attend and be heard in the House. It is this procedure that has facilitated today's address. I have no doubt that the discussion with Ms McGuinness will prove its value. I again welcome her and invite her to address Seanad Éireann.

Ms Catherine McGuinness: I am honoured to have been invited to address the House on the theme of children's rights in Ireland. It is a very happy occasion for me to return to this familiar and beautiful Chamber in which I spent many happy, if somewhat controversial, days and made many lasting friends among Senators of all political views.

The theme of this address is one that has received increasing attention in recent years, in particular, during the period of the children's rights referendum approaching two years ago. In recent weeks the controversy about mother and baby homes showed the lack of rights available to children in the past. I will refer briefly to this issue. The controversy brings me back to the Status of Children Act 1987 which, notably, was first introduced in the Seanad and legislatively ended the status of illegitimacy. I am proud that this crucial law was enacted, not without opposition, at the time when I was a Member of this House.

My first involvement in children's rights issues was in the movement for reform in educa-

tion during the 1960s and 1970s. In more recent years, as the Cathaoirleach mentioned, the outstanding voice in this area has been the Children's Rights Alliance. I have been happy to assist as an external assessor in the preparation of its annual report card which surveys the extent to which policy promises concerning children have been fulfilled and highlights successes and failures in the light of the standards set in the UN Convention on the Rights of the Child. As I am sure Senators already know and as the Cathaoirleach said and, in particular, given that Senator Jillian van Turnhout is one of the Seanad's number, the Children's Rights Alliance is a coalition of over 100 organisations working to secure the rights of children in Ireland. It works for the rights of children using the collective experience and expertise of member organisations.

I draw attention to some of the issues covered in the Children's Rights Alliance's report cards since 2009 because I have found the report card process to be fair, balanced and evidence-based both in its research and conclusions. Too much of the commentary on public issues lacks these qualities. The report card is intended to reflect the reality of children's lives and the influence of decisions taken at national and policy level on how their rights are respected or fulfilled or not, as the case may be. In surveying issues concerning children in Ireland in 2014 it is important to give praise where it is due, as well as seeking change where it is needed. During the years the balanced approach of the Children's Rights Alliance in the report card process has been recognised by those who work in Departments such that public servants are now willing and helpful in providing the evidence necessary to make a proper assessment. An atmosphere of trust has grown such that there is no need for a defensive response on either side. This adds very much to the credibility of the evidence provided.

I will pause briefly to pay tribute to the highly important work done by the former Minister for Children and Youth Affairs, Deputy Frances Fitzgerald, during her tenure. I do not need to go into detail. To have laid the foundations for the new Child and Family Agency is tribute enough. I congratulate the new Minister for Children and Youth Affairs, Deputy Charles Flanagan, on his appointment and welcome his stated determination to complete the crucial programme of legislation which is current in his Department, although it might be said he has had to jump in at the deep end.

Government actions and policies that attracted praise and encouragement in the 2014 report card included the establishment of the Child and Family Agency, the proposed free GP care for children under six years as a step towards universal health care, the provision of funds for school building and the improvements in child literacy levels. The movement towards change in the patronage of national schools is also welcomed, as are the closing of St Patrick's Institution and the positive steps taken to improve conditions for children in detention centres.

12 o'clock

It was felt that budget 2014 was fairer for children than some previous budgets and that good progress had been made on area-based childhood programmes. The extent of childhood poverty remained, however, a considerable concern, as did youth homelessness.

Today I would like to highlight the two groups of children that attracted the lowest grades for the Government in the report card. The first group is the children of the Traveller community, for which the Government was marked with an E grade. Outcomes for Traveller children are almost universally worse than those of settled children. Many Traveller children live in conditions that are far below the minimum required for healthy child development and this is reflected in their general health throughout their lives. In the 2011 census it was shown

that although virtually all Traveller children were enrolled in primary school, which is good, 55% of them had left education by the age of 15, nearly five years earlier than the average in the general population. The percentage of Travellers with no formal education in 2011 was 17.7%, compared with 1.4% in the general population. Access to education is vital for this group of children, yet in budget 2011 virtually all of the teacher supports for Travellers were simply abolished. This action by the previous Government has not been reversed by the current Government. Discrimination against and bullying of Traveller children is more common than among other children. While we are contemplating the sins against the children of the past, we need to remember the needs and rights of these children of the present.

The second group, one which attracted an actual F or fail grade in the report card, is that of migrant children, particularly the children of asylum seekers living in what is known as direct provision. Here I should declare an interest as I am patron of the Irish Refugee Council. I have spoken on this issue on many occasions and have even gone so far as to stand on the steps of the Department of Justice and Equality in a demonstration - not very dignified, perhaps, for a former judge, but I felt very strongly about it. The conditions under which these children live are becoming well known. Perhaps one of the worst aspects is that there is no real possibility of their living in a natural environment with their families. They attend school but on a total allowance of some €9 per week, and have no resources for the incidental expenses of any normal school child such as school trips or games. They may be moved on to a different hostel and a different school at short notice. I have met and talked with teenagers living in direct provision whose complaints were not by any means unreasonable.

Tomorrow in Temple Bar, in connection with World Refugee Day, the Special Rapporteur on Child Protection, Geoffrey Shannon, will speak on the reality of child welfare and protection issues that arise for children in the direct provision system. One of the most vivid illustrations of the situation of these children is that in August 2013, Mr. Justice Stevens of the Northern Ireland High Court refused to return a Sudanese refugee family to this country under the Dublin II regulation because such a return would be contrary to the best interests of the children concerned. We need to realise what a disgrace to us all this decision implies.

I said earlier that the Children's Rights Alliance surveys policies and outcomes in light of the United Nations Convention on the Rights of the Child, the basic international standard. The convention was adopted by the UN in 1989 following a ten-year drafting process and came into force in 1990. It is the most highly ratified instrument in international law, having been ratified by every member of the UN except Somalia and the United States of America. Ireland ratified the convention without any reservation on 28 September 1992, but due to our dual system under Article 29 of the Constitution, it is not yet part of Irish domestic law. This is despite the fact that the text of the recent referendum relied considerably on the convention.

The UN convention, however, is becoming more influential in the work of our courts, especially in the area of hearing the voice of the child, which is stressed in European child law as well as in Article 12 of the UN convention. This can be described as using the convention as soft law. In this particular area, there is a need to reassess the role in our courts of the guardian *ad litem*, who has the dual role of expressing the wishes or voice of the child and of recommending what is best for that child. At present, our statute law governing the role and appointment of guardians *ad litem* is in part vague, in part relevant to the criminal justice system only and in part enacted by the Oireachtas but not yet brought into actual effect. The choice and appointment of guardians *ad litem* is purely at the discretion of the presiding judge. The quality of the guardians and the amount they are paid varies, but it is accepted that the system

is becoming very expensive and is not satisfactory. There is an urgent need for new and clear legislation in this area and for the establishment of a regulated and trained panel of guardians. We need go no further than Northern Ireland for a good example. Such action would result not only in a better service but also in a probable reduction in the overall cost. Looking at the legal system as a whole, however, I believe it is more than time for Ireland to bring the UN convention home into our domestic law.

Before I conclude this address, I would like to make a brief reference to the planned commission of inquiry into mother and baby homes and perhaps into a wide range of other institutions. I have no difficulty in empathising with the many individuals who have told their stories on radio and elsewhere. I can well understand the need for certainty of identity. I speak from a background of knowledge, as I was a member of the Adoption Board for most of the 1970s and thus was in close contact with the pressures of poverty, social attitudes and overt persuasion that forced unmarried mothers to give up their children. I also knew the careful assessment of prospective adoptive parents. In the present tidal wave of publicity, one of my fears is that a grey shadow is being cast over these very adoptive parents, ignoring the deeply loving upbringing they have given to their children, who love them in return. I know also that whatever about earlier times, during that period of the 1970s, the then Registrar of the Adoption Board, Tom Wolfe of GAA fame, left no stone unturned in preventing illegal adoptions wherever they were found.

A few weeks ago, before the media focus on the Tuam home arose, I was asked to address The Wheel, the central charity organisation, on the subject of restoring trust. In the course of my address, I said that our present lack of trust in a number of areas in Irish life stems, I believe, from the manner of our response to the various crises which have beset our public life. Whether through the belated disclosure of information or through the action of whistleblowers, an area of wrongdoing in public or personal life, present or past, comes to light. Politically and through the media a crisis is declared and there is an immediate rush to attribute blame, either to individuals or to an organisation. Often there is little sign of balance, either in the hunt for scapegoats or in the actions that follow. Hysteria reigns in the more colourful parts of the media and political grandstanding wins much-desired publicity for more colourful political figures. This is followed by declarations of the need to take instant action, often in reality by the setting up of an inquiry of some kind. There may indeed be a start on remedial action, but the difficulty is that after a time the media frenzy dies down and the inquiry takes time to make its findings and recommendations. By that time, the will to change has considerably dissipated. This may be a bit unfair, but does it sound familiar? A recent study by Dr. Helen Buckley of Trinity College analysed all of the inquiries concerning children from the Kilkenny incest inquiry onwards. This demonstrated how few of the recommendations over the years had been fully put into effect.

I fully accept the need for an inquiry and the need to assist those who want to ascertain their original identities and tell their stories. There is in existence a great deal of relevant written material, which is held by the HSE and local authorities, both of which appear to be ready to provide this documentation for analysis. Much of the period an inquiry would cover is within living memory. It is, for instance, notable that journalists of more senior years, if they will forgive me, have provided a much more balanced commentary on the reality of Ireland both yesterday and today. These are people who like myself can remember the times before vaccination or antibiotics when children died of diphtheria and scarlet fever, outbreaks of measles raced through schools and institutions and families died one by one of tuberculosis and the times there were no welfare payments to enable an unmarried mother to keep her child. We are also able to

remember that it was not the nuns who pushed the unmarried pregnant girls out of sight.

Inquiries can consume considerable resources. The State continues to be short of resources and the idea of seeking more resources from the taxpayer is distinctly unpopular. In providing the needed inquiry into the mother and child homes, my hope is that the Minister and the Government as a whole will think carefully about what are its real priorities in the terms of reference and will direct the proposed inquiry in accordance with the principles of the Children's Rights Alliance report card fairly, with balance and firmly relying on established evidence. Finally, if resources are needed for this necessary inquiry, let us be quite certain that those resources are not taken from the children who are alive and with us today, for example, from the resources of the Department of Children and Youth Affairs or Tusla, the Child and Family Agency. In the final outcome, I feel that the real priority is today's children and their rights. Just as we sit in judgment on our forebears, it is certain that we too will be judged on our response to today's children.

Senator Hildegard Naughton: I very much welcome the former distinguished jurist and Senator to the House. Ms McGuinness has a litany of other qualifications and has held many positions of both authority and influence, any of which we could happily discuss. However, there is one experience I would like to address and she referenced it in her address.

Ms McGuinness was the Sole Member of the tribunal of inquiry into what was known at the time as the Kilkenny incest case. Her report was a classic example of clarity and made very cogent recommendations, the most important of which was recently put to the people and passed in the form of the children's rights referendum. I thank her for campaigning on that issue. The term "campaigning" is probably not one judges are comfortable with but, in this instance, it is easy to see that her career was one spent trying to improve the lived experience of our citizens and our children.

My question concerns the recent revelations about residential institutions such as industrial schools, mother and baby homes and the Magdalen Laundries as well as matters relating to forced adoptions and vaccine trials. When I first raised the matter of mother and baby homes in the House some weeks ago, it was on the basis of shock that such things were possible. In the interim, I have read more into the subject and it is surprising we were so shocked. We are obviously poor students of history in this country. The newspapers, the Official Report and various other sources at the time are replete with references to these homes, the conditions of those who were detained and those who died there and the appalling mindset of the public, politicians, churches and State in respect of unmarried mothers and their children.

During her long career, Ms McGuinness had much occasion to deal with and consider matters relating to social policy as a legal practitioner, judge, member of various synod committees of the Church of Ireland and head of the Law Reform Commission, LRC. Her career spanned bitter debates within and outside these Houses on issues such as contraception, divorce and children's rights. I wonder then, now that she is "slightly" retired, what her views are on what were the causes of such attitudes. These institutions were answerable to Departments, which comprised different Ministers who took up office over the years and the permanent Civil Service, which had responsibility under the Constitution to set standards and ensure the safeguarding of our citizens. Where does the balance of responsibility lie for what unfolded within these institutions? How did cases such as the mother and baby homes, the industrial schools and the Magdalen laundries escape the attention of the State? Was it accidental or endemic collusion?

Senator Terry Leyden: I would like to give a warm welcome to a former Member and judge. She is welcome back to a House to which she made a major contribution during her time as a Member. She is an example to those who are ageist in their approach. She has brought wisdom to her work in every capacity as a judge, chairman of the LRC and so on. She is currently studying the wind turbine issue on behalf of the Government. All her work has been of the highest standard and we are delighted that she accepted the invitation to attend the House. Nobody deserves that honour more than her.

She was a Senator in 1987 and she referred to the Bill that provided for the removal of the word “illegitimacy”. I was the Minister of State who introduced the Bill. I do not get much credit for that obviously but it was introduced by a Fianna Fáil Government. Sometimes the party is not given the recognition for this work. The Seanad was held in the ante chamber at the time because this Chamber was under reconstruction. My official was on my left hand side and we were all together in a small room. I recall the contributions of Members, including Mary Robinson, our former President. We got rid of the awful, derogatory word, “bastard” and it is illegal to use it. If someone hears the word on radio and television, it should be immediately reported as inappropriate. The word “illegitimate” was also removed. Every child is legitimate and has a right to life. That legislation was progressive at the time and I am pleased to record my presence then.

I disagreed with Mary Robinson who is a brilliant woman but she was not always that brilliant either at times. She made the point that *Iris Oifigiúil* recorded all adoptions made under the name of the person, for example, John, adopted in 1945 by Mary and James Smith. She wanted to get rid of all copies of the publication but I told her that was impractical because they were held in Garda stations and the National Library. She made the point because of the issue of traceability.

I compliment Senator Averil Power and the Minister for Social Protection on the excellent articles they wrote in this week’s edition of the *Sunday Independent* in which they outlined their experience as adoptees. They are an example to anyone who is adopted. They respected their adoptive parents and they wanted to contact their natural parents. The Minister’s case is sad because her mother is dead. I will support her if she introduces legislation to provide for a proper procedure for both the parents and the child to be contactable by agreement. They could come together with proper counselling. Senator Power pointed out yesterday that Barnardos or a similar organisation would be suitable as a vehicle to provide such a service but that is another day’s work.

I commend the Children’s Rights Alliance on its work. Senator van Turnhout, among others, is the face of children’s rights and it was a wise decision by the Taoiseach to appoint her to the House. The presence of Ms McGuinness is an important day for her. While I do not want to discuss Fianna Fáil in particular, the party was very progressive when it came to the appointment of Brian Lenihan as Minister of State with responsibility for children in the Cabinet, and he was followed as Minister of State by Deputy Brendan Smith and Barry Andrews. Then, rightly, the Government decided that, because of the work that was being carried out by those Ministers of State, Deputy Frances Fitzgerald would be appointed Minister for Children and Youth Affairs. I wish her well in her new appointment as Minister for Justice and Equality. She worked on the establishment of the new agency as well as the referendum, which we all supported. It was a tremendous success, put rights for children in the Constitution and took a very progressive approach.

I note Ms McGuinness's wise words about the Tuam situation - with knowledge comes great wisdom. That situation has been around for a very long time and people were aware of what happened there. The fathers of those children seemed to have no regard whatsoever for the responsibilities they had in fathering a child in wedlock or out of wedlock. They walked away scot free while parents, grandparents and others stood silently by. The fact is that illegitimacy was one of the greatest crimes, or was regarded as such in this great democracy founded in 1916. We were a disgrace as far as that was concerned. We treated them abominably - that is a fact. The nuns and those who were forced to provide a service were at least doing something to help them in their own way, whether it was successful or not. The point Ms McGuinness made about medicine, including penicillin, is absolutely accurate.

As a young man working in an architecture firm in Roscommon, I visited an orphanage in Ballaghadreen. I was only just past my teenage years and I felt so sad for those children. They clung on to the staff they were with because they wanted love and attention, and they wanted a home. However, because some of them were born in so-called legitimate families, they could not be adopted, although that has now been changed due to the constitutional changes. They were there without anyone to care for them except the nuns, who, at the time, as far as I could see, were doing what looked to be a very good job. We could say a lot about the situation. The points made by Ms McGuinness were very worthwhile and, indeed, a wonderful contribution to the debate in this House.

With regard to the publication in the newspapers on Sunday of the details of all the children who died, I wonder how many families looked at those and asked whether they were involved or responsible for what happened in Tuam. It was not just what happened in that institution but what happened outside it. They left those mothers and babies there without any care or concern. They were dead to the world, and that is what others wanted them to be because they brought so-called disgrace to the family.

Senator Ivana Bacik: It gives me great pleasure to welcome our distinguished speaker today. Others have spoken of the former Mrs. Justice McGuinness's illustrious career, which spanned so many different areas of Irish public life as a barrister, Dublin University Senator, president of the Law Reform Commission and, of course, a judge in the Circuit Court, High Court and Supreme Court. She has a long track record in so many areas of human rights, children's rights and family law reform, as well as on end-of-life care with the Irish Hospice Foundation, as patron of the Irish Refugee Council and, indeed, most recently as the chair of the expert panel on Grid Link and Grid West.

I am delighted she is here to speak with us on the topic of children's rights in Ireland. I want to commend Senator van Turnhout, who took the initiative originally at the CPP to suggest she would be invited to speak on that topic today. Of course, Senator van Turnhout has also had an impressive record on children's rights and I know both she and Ms McGuinness played pivotal roles in the passage of the children's rights referendum in November 2012.

Senator Leyden and others have talked about the history of the lack of protection of children's rights. If one looks back, of course, it was following Ms McGuinness's own investigation into the horrific Kilkenny incest case in 1993 that the first call for an amendment on children's rights in the Constitution was made. Certainly, there was a very strong need for that referendum, in particular to safeguard the position of children of marital parents who, as has been said, were unable to be adopted. It is the amendment that has changed that situation.

The State has a long record of failings. Senator Naughten asked a question about the cause of these failings towards children and the lack of protection of children. I believe some of it has to do with culture and one cannot just blame State institutions or, indeed, religious institutions. The State handed over responsibility in so many ways for the welfare and education of children to religious institutions over the years, yet the State was failing to ensure adequate supervision in those institutions. It is also important to say this culture extended to families and to the private setting. It was families who gave up their daughters into Magdalen institutions and into mother and baby homes, as we know. There is a huge issue about the cause of this and one cannot lay blame either at the door of the church or the State alone. There was clearly a cultural conservatism, a cultural view of women and children and a view of sexual morality in particular that meant that the treatment of children and of women was very lacking in terms of the protection of their rights.

Things did begin to change in the 1980s with the very important Status of Children Act but also with the hugely important practical change made by the introduction of the allowance for single mothers, which, at one move, removed this awful dependency whereby women who were thrown out of their homes had nowhere to go. I know that, certainly in the 1970s, even where mother and baby homes were not available, in some areas schemes were being run by other entities such as NGOs and perhaps by councils, where women would go into private families who were willing to take them in where their own families had thrown them out. There is a huge array of bad treatment and neglect of women who became pregnant outside of marriage that still has to be exposed.

I listened very carefully to what Ms McGuinness said about the media frenzy and what we would call in criminology the moral panic that often arises when something like the Tuam case comes to light. She is absolutely right that there is a danger that we descend far too quickly into a search for a scapegoat and somebody to blame. The merit of setting up commissions of investigation or commissions of inquiry, as we have seen, is that it produces a measured set of data and information for people. One thing we have learned from the mother and baby homes and from other reports such as the Ryan and Murphy reports is the need for information and for transparency around sharing of information.

I should say that in the past I acted before the redress board for many survivors of sexual abuse in institutions. One thing that really characterised so many of those involved was that they felt the lack of an identity and the lack of information about their origins, which is hugely important. I welcome the fact the Department of Social Protection and the General Register Office have released, for example, the death certificates of the babies who died in Tuam. That sort of information must be brought out. We need to look at the issue of tracing and the right to identity for children.

It is also fair to say there has been a strong commitment by the Government to children's rights and an attempt over a number of different areas to build up a framework of protection for children's rights to ensure we have a solid basis in order that the failings we have seen in the past will not happen again. This includes the appointment of the first full Cabinet Minister for Children and Youth Affairs, with Deputy Frances Fitzgerald and now Deputy Charlie Flanagan, the passage of the referendum in November 2012 and the insertion of Article 42A into the Constitution, the establishment of the Child and Family Agency, Tusla, and then the passage of a package of legislative measures designed to deal with the problems identified in the Ryan and Murphy and Cloyne reports and others. These include the Criminal Justice (Withholding of Information on Offences Against Children and Vulnerable Persons) Act 2012, which finally

closed that gap in the law by making it a criminal offence to fail to disclose information about sexual abuse of children, the National Vetting Bureau (Children and Vulnerable Persons) Act 2012 and now the Children First Bill, which we will see being brought into law and which will place the guidelines for child protection on a statutory footing.

Other important legislation is also coming up. I believe the children and family relationships Bill is hugely important in providing a proper statutory framework for children born in other, non-traditional family forms, particularly children born to gay parents, children born through surrogacy and so on. I very much welcome the Government strategy, Better Outcomes, Brighter Futures: the National Policy Framework for Children and Young People, which was just launched a couple of months ago and which sets out a clear strategy for the Child and Family Agency and others to take on board.

There are, however, a number of areas where we are still failing children, and Ms McGuinness has identified them clearly and eloquently. More needs to be done in regard to children in direct provision. What is Ms McGuinness's view on the single best way to improve the situation of children in direct provision? The previous Minister of Justice and Equality has said, and we in this House have all challenged him on it, that his aim was to reduce the number of families in direct provision and to reduce the time spent, which is also important. I agree that we should also consider children in Traveller communities. I would add to that children who are at risk of domestic violence. Safe Ireland recently put on a very potent, visual display in Temple Bar - it was another campaign that a number of us took part in - to illustrate the number of children at risk of homelessness due to domestic violence and of violence and abuse within the home. That is an area where we still have a great deal more to do.

Senator Jillian van Turnhout: I welcome Judge Catherine McGuinness. It was a joy to listen to her, but her words have provided us with a stark reminder and challenged us in this House for work ahead. I note her work on the Children's Rights Alliance Report Card, and she rightly pointed to the work of Tanya Ward, Maria Corbett and all the team at the Children's Rights Alliance. She also pointed to work of the member organisations of the Children's Rights Alliance which come together to provide evidence and put together the Report Card. I am delighted to welcome representatives of many of them to the Gallery. In fact, we could not fit them all in, so there are people in the wings waiting and listening. I could use up all my time listing every organisation, but I want to focus on some current issues. I want also to note the work being done by the Special Rapporteur on Child Protection, Geoffrey Shannon, and his annual report. His report and that of the Children's Rights Alliance provide an invaluable tool for me as a legislator and policymaker. It is good to see that the state supports these initiatives.

The programme for Government 2011 to 2016 set out an ambitious reform agenda for children and family services. Senator Bacik has listed many of the things that have been accomplished since then. Equally, there are areas of concern that impact on the daily lives of children and we need to shine a light on those. As I am sure Ms McGuinness and my colleagues in this House will know, I am strongly committed to pursuing the gamut of children's rights through my "senatorship". We have had in this Senate excellent debates on children's rights, most recently on beauty pageants and protecting childhood. In the autumn, we had a interesting debate on direct provision and valuing youth work. They were really good, informative debates and I pay tribute to my colleagues.

Other speakers have mentioned survivors. When I have met survivors over the years - we were campaigning before the children's rights referendum became a reality - many said to

me that the real testament would be to see children's rights articulated in the Constitution of Ireland. Chief among the advancements that we have made was the passage of the children's rights referendum on 10 November 2012. Unfortunately, the enactment of the amendment Bill, the will of Irish people, has been subject to lengthy postponement pending finalisation of the second part of a legal challenge by Mr. Justice McDermott in the High Court before a full appeal can proceed to the Supreme Court. The delay in the legal process is a source of frustration when I think of the body of legislation that has been passed since November 2011 that could have benefited from a constitutionally recognised best interests of the child principle. I also feel sadness when I think of the number of children of married parents, many of whom have spent the vast majority of their childhoods in the care system, who have now turned 18 since we voted as the people of Ireland and are eligible for adoption. Their rights have been expunged. It is my sincere hope that priority is given to the delivery of the judgment in the High Court, that the challenge will be given priority listing in the Supreme Court and that it is ruled upon as expediently as possible.

While Ms McGuinness is before us, I want to address two specific issues that are facing children today and seek her guidance. Chapter 5.4 of the Children's Rights Alliance Report Card looks at children in detention. It states that, according to a communication that the alliance received from the Department of Children and Youth Affairs, 103 young people were detained on remand in 2013 for 138 different periods ranging from one day to several months. We have to bear in mind that a young person may be remanded more than once pending the outcome of proceedings. The number of children detained on remand, particularly the significant percentage of them who do not go on to receive a custodial sentence, raises serious concerns about Ireland's compliance with the international and domestic principles of detention as a last resort for children, which incorporate a presumption against detention of children accused of criminal offences. I want to ask Judge McGuinness's opinion on the practice of the Children Court of remanding children for assessment despite section 88(13) of the Children's Act clearly stipulating that the court should not remand a child in detention on the basis solely of care or protection concerns. I want to ask her how the absence of a formal system of bail support and services in Ireland impacts on a child's ability to meet their bail conditions, with the consequent risk of their receiving a custodial remand for failure to comply.

The second issue that I want to raise is that of direct provision, which Ms McGuinness mentioned. Chapter 6 of the Report Card opens with a piece by Dr. Liam Thornton entitled, "Closing Our Eyes: Irish Society and Direct Provision". Dr. Thornton has done some excellent work, as have many NGOs such as the Irish Refugee Council and Doras Luimní. I put forward a motion on direct provision in this House last October. We were all at one on this issue. Unfortunately, the Minister then was not at one with us, but we will keep pursuing it and we have a very good Seanad cross-party group working on the issue. We know the high number of children who are in the 34 direct provision accommodation centres. Can Ms McGuinness give us advice on what immediate action could provide greater protection to children who are caught in the direct provision system? What could we do in the immediate future? All Senators in this House have agreed that such centres are not places for a child to be accommodated, especially beyond three-month or six-month period. I thank Ms McGuinness again for her address. She has given us many challenges.

Senator Feargal Quinn: Judge McGuinness is very welcome, and particularly so because of the words that she used today and the opportunity that she has given us to speak about this topic. It gave me the opportunity to look through - I would not say study - the Report Card of

the Children's Rights Alliance. I congratulate Senator Jillian van Turnhout and Tanya Ward on the work done. I have been in this House for more than 20 years now. Within a few minutes of the budget having been read out, I try to do a report card here and invariably find myself writing the sort of things that the alliance has put in the report, which is "tries hard but could do better". That is what I always wanted to get in school.

I was struck by the number of grade Cs, grade Ds and even grade E minus, and those were in important areas such as education, literacy, mental care, the children's hospital, child poverty as well as areas which Judge McGuinness has mentioned already, namely, Traveller children and migrant children. How much we have to learn.

There is great benefit in having someone like Judge McGuinness come into this House, and it is also a reminder of the great benefit in the House existing. I am reminded of the work that went on here in abolishing the word "illegitimate" 20 years ago - the judge and Senator Terry Leyden talked about it, too. It is also a reminder of the amount of work that we can do in the years ahead, one of the principal areas of which being education. My wife and I were going through Kinsealy the other day and saw the sign above the national school there which said that it had been established in 1831. I think that was when free compulsory education came to Ireland. Often, we blame the British for a lot of things, and I am sure that there is a lot to blame them for, but the vast majority of our children in Ireland got the benefit of that education.

Judge McGuinness told us that we still have a problem with education for Traveller children and migrant children, and of course we have got a lot more to do there. My wife and I talked about it because we are fortunate enough to have 16 grandchildren. We see how enthusiastic they can be and how much they can learn from a very early age. My only sister had seven children when her husband was killed up north. A couple of years later, she told us she was getting married again and that her future husband's wife had died two years previously, leaving him with nine children. My sister, with seven children, married Jim, with nine, and it has been a marvellous success. I mention it because it is a joy to have healthy children and to enjoy their company, compared to those who ended up in institutions, whatever they may be.

Last year, somebody who was trying to adopt a child from Russia contacted me. The person had met and bonded with the child, but suddenly the laws changed and it looked as though the adoption would not happen. In the last hour of the last session before the Christmas recess, six months ago, the then Minister for Children and Family Affairs, Deputy Fitzgerald, came here and managed to change the law. This morning I received a lovely e-mail with a photograph inviting me to the christening of the little boy, who has come from Russia to Ireland. When one sees such joy, one thinks of those who have not had that benefit. The Seanad can work on this.

In one of our supermarkets, a man came to me and said he knew nothing about Champagne but wanted to buy a bottle. I helped him find what he wanted, and he told me he had been looking for his birth mother for 30 or 40 years and had not been able to find her, but he had taken three days off and traced her to the Isle of Man. He phoned her and asked her if a certain date 40 years earlier meant anything to her. She was thrilled because she had been looking for him for 40 years. He told me she was coming into Dublin Airport and he wanted to welcome her home. I thought of how fortunate those of us who have been able to stay out of institutions are. While some institutions are marvellous, we have the record and we know there are always good and less good people. The fact that there has been much criticism in recent weeks of some of the things that happened years ago should not make us condemn everything. Much can be done. The report card tells us some of the things that can be done and what we hope to achieve

in the years ahead.

How should we judge success in 2020, six years from now? What do we have to do now to sow the seeds of success and overcome the problems to which Ms McGuinness has drawn our attention and to which the Children's Rights Alliance has drawn our attention in its wonderful Report Card 2014? It should be compulsory reading for everybody, as should Ms McGuinness's speech.

Senator Kathryn Reilly: Like previous speakers, I welcome our distinguished guest. It is great honour for the Seanad to have her here and to be able to discuss the issue with her. In my very limited time I will speak on direct provision, which is another example of the failure to protect some of the most vulnerable people in our society. Some academics and researchers have criticised it as the new apartheid, a system aimed at socially excluding asylum seekers, enforcing abject poverty and an abuse of basic human dignity. It is plain to see that living in overcrowded, confined space with little or no access to study and recreational space, lack of control over meals, inappropriate diet, lack of resources and rationing has had a negative impact on children.

Given that this is a debate on children's rights, it is apt that I lend voice to one of these children, a 12-year-old child living in direct provision, as follows:

Life here is not easy, especially for children. The embarrassment and shame you feel is so tense and terrifying. I now feel like the best part of my childhood is gone. How embarrassed I am to tell my school friends where I live and how sad I feel when I have to tell my school teacher that I would not be going on school trips or retreats. Now that I am in sixth class, more pressure is added because I will be going to secondary school next year. While this year I still have retreats, trips, talks and fun things to remember each other, it's a shame that I will be the only person in my sixth class not to get her own personalised hoodie with everyone's name printed on the back because it costs €25. At lunch time it's very embarrassing for me to open my lunch bag, afraid that someone will tease me for having a sandwich which has the tiniest piece of ham and a baby carton of orange juice. Direct provision has gotten to the point where children I see are getting bullied and teased, and are always alone because of their colour, status and, well, behaviour. Children are born almost every week into direct provision and every child has the right to an amazing childhood, and I definitely do not want to see their childhoods go to waste.

Those are the words of a 12-year-old girl in direct provision and it is very important that we heed them.

A study, *Parenting in Direct Provision: Parents' perspectives regarding stresses and supports*, reported that one parent said:

It's always rice and potatoes, they don't think about nutrients, anyway the food is not for growing, but so that we will not die, whether you are healthy or not, it is not their business.

Another parent said:

There is no recreation ground for the children to play, the only place is the corridor, your room or other residents' room and you don't know whose room they are entering and what is happening to them. The space is small and you cannot hold your children in one room for 24 hours.

When the Irish Refugee Council launched its report on children in direct provision almost two years ago in September 2012, Ms McGuinness said “the recommendations called for in the report are practical and achievable”. Has she seen any movement or progress since then? Has there been a concerted movement on the recommendations? What can the Government do immediately to upgrade its F grade on this? What steps does Ms McGuinness think the Government should take to address the fact that increasing numbers of families with young children are living in hostels and hotels due to the housing crisis, and the impact this is having on child poverty?

Senator Cáit Keane: As I have time only for a question, I cannot compliment Ms McGuinness on her many achievements over the year. I thank her. I compliment Senator van Turnhout and welcome all the people to the Gallery who have come here from all the agencies under the umbrella of the Children’s Rights Alliance and others. In particular I welcome Mina Phelan of St. Nicholas Montessori Society of Ireland, with whom I worked back in the early 1990s, before there were any rules or regulations on child care. This morning here I raised the issue of one of the EU recommendations that Ireland take action in 2014 and 2015 to facilitate female labour market participation by improving child care facilities and having more affordable full-time child care, particularly for low-income families. Thankfully, under this Government we have for the first time a Minister for Children and Youth Affairs who is responsible for child care, which falls between the two stools of health and education. Could Ms McGuinness comment?

Hopefully, Ms McGuinness will never retire. She said the most senior journalists provided the most balanced commentary. Her valuable contribution to society should never end. She should keep it going, and I welcome her. One of the rights of the child advocated by the Children’s Rights Alliance and the convention is education. Yet preschool education and child care are very often neglected. When I mention child care, I am always conscious to take into consideration the rights of families who want to stay at home and the need for facilities for them.

Senator Colm Burke: As a fellow legal practitioner, I welcome Ms McGuinness. My question returns to what Senator Leyden said about the abolition of the status of illegitimacy. I started that campaign in 1980 as head of a youth organisation. We held public meetings and collected signatures, and although we envisaged that it would take us ten years to change the law, it took seven years.

Senator Terry Leyden: Good for you. I never heard the Senator’s name mentioned in connection with it.

Senator Colm Burke: As someone who organised public meetings around the country and collected more than 50,000 signatures on the street, I am well aware of it.

An Cathaoirleach: I ask the Senator to stick to the question as he has limited time. I am sorry about that.

Senator Colm Burke: My question is about how slow we are to respond to the need for legislative change. As somebody who has been in the Houses of the Oireachtas and on the Bench, what would Ms McGuinness change to make the Oireachtas and the structures in place respond faster to the need for change? It was stated that it would take ten years to change a law in this particular area but it took seven. There are many other areas where we have been very slow to change the law. From her own experience, what changes would she suggest?

Senator Mary M. White: It is a great pleasure to have Ms McGuinness in the House. She

is a role model for women of all ages in Ireland. As Senator Cáit Keane said, I hope she goes on forever because we need her. She speaks with feeling and passion. There are many politicians who do not speak with passion; we need passion.

I was elected to the Seanad in 2002. In 2005 I held public meetings as to how I could contribute best to the social and economic issues in Ireland, having set up a business that created employment. I saw the transformation in a human being when he or she was offered a job. It was not just about the money but the social interaction on a daily basis and how they grew in self confidence. As I have said many times here, it is printed indelibly in my mind, there is a huge transformation in a human being when he or she gets a job. While the employment position has improved we still have an unemployment rate of 11.8%. At my public meetings two of the main issues that arose were child care provision and abolition of the retirement age for people who did not wish to retire at the age of 65 but were forced to. I produced policy papers on both issues. My policy paper, A New Approach to Child Care in 2005, which I presented to the Fianna Fáil parliamentary party made a major contribution to the first initiative taken by any Government in Ireland on child care provision. We still have a long way to go on that because it is a huge issue. There is still a large gap between children who are born into families that are less well-off. In 20 years' time I think there will be a big gap between the children who have two parents working and those who have only one parent working. I feel very strongly about this issue.

An Cathaoirleach: We are in a timeframe?

Senator Mary M. White: I just want to ask this question. I find it difficult to listen to all the criticism of the institutions and the way they looked after children. I do not know how a family could have done that to their daughters. Second, I would like to know how the men in Ireland have got away with fathering all these children irresponsibly and who are still doing it without any responsibility.

An Cathaoirleach: A number of other Senators have indicated.

Senator Mary M. White: Go raibh míle maith agat. I introduced a Bill last year to provide for maternity leave for fathers, whereby the mother could share her 26 weeks maternity leave with the father of the child, if she so wished,-----

An Cathaoirleach: I call Senator Aileen Hayden.

Senator Mary M. White: -----as a way of getting the men to take responsibility for their children. I am not just speaking about those who have big jobs - barristers, solicitors, doctors and so on. The men of Ireland still do not accept responsibility when they father a child.

Senator Terry Leyden: The Senator is dead on.

Senator Aileen Hayden: I welcome Judge McGuinness to the Chamber and all the other organisations which have worked tirelessly to champion children's rights, including my colleague, Senator van Turnhout. Many people have mentioned the various achievements in improving the position of children but we have a long way to go. The publication of the NESC report today setting out that 23% of Irish households are economically inactive and the specific impact on the life chances of children directly relating to poverty and social exclusion, is an issue we need to address as a society. If we are to give real equality to children we have to look at other aspects, for the sake of argument, of the Constitution enshrining economic, social and

cultural rights and, in particular, the right to a home. As has been mentioned, we have an unprecedented level of homelessness among families and children, in particular. It goes without saying that the position of direct provision is abhorrent. The position whereby only one parent can be determined to be the primary carer of the child and get sufficient social welfare payment in order to enable him or her to house that child, means that one parent does not have his or her right to parent or the child's right to be parented adequately protected.

I wish to ask a specific question in respect of St. Patrick's Institution. There were numerous reports into St. Patrick's Institution. I was very disturbed when Ms Emily Logan commented that part of the reason that children there were ignored was because they were poor and deemed to be anti-social. I believe we should have a commission of inquiry into what when on in St. Patrick's Institution. I am disturbed that we continue to look at these matters on a case-by-case basis. I believe a permanent commission should be established to examine institutions of the State and county homes and the manner in which they have conducted themselves in respect of children. What is Ms McGuinness's view on the idea of the commission having a permanent mandate of inquiry rather than having issues brought forward on a case-by-case basis?

Senator Mary Ann O'Brien: I welcome Judge McGuinness. It is an honour to have her in the House. I have three comments and-or questions. With Senator van Turnhout, I attended a very interesting talk by Alcohol Action Ireland. It is very educational and was about using children's rights as a rugby ball. Senator Feargal Quinn asked how we could visualise a better Ireland for Ireland in 2020. I was shocked as I think everyone was. We all know how wonderful rugby or some of the other sporting events or the summer festivals of music have become to which one can take one's children or grandchildren. I will take rugby for the moment where daddies and mummies bring their little sons all dressed up in their Heineken jersey and the entire beautiful stadium is dressed up in the colours of the sponsor, the wonderful green of whatever particular brand of alcohol. It is not I that is affected or my 28 year old but the little child at that match is the one who is ingrained sublimely into their psychic. It is wonderful to have a glass of wine with supper but this country and its culture is in real trouble and we are damaging the future lives and health of our children by allowing sport to be sponsored futuristically by alcohol.

Following on from Senator Feargal Quinn, surely it is the right of our children to have a proper, modern children's hospital. This is another political football. We have listened to the experts for almost 20 years on the issue. I could make a long speech on the rights and wrongs of St. James's but it is also becoming a nightmare and an 18-month delay is already coming upon us.

I wish to raise an issue which is important to me and the Jack & Jill Foundation babies. The United Nations report on children recommended that children should be granted free medical care - I am speaking about gravely ill children - regardless of whether their mummy or daddy or adoptive parents have jobs. It is the right of gravely-ill children to be treated as citizens and given medical cards. This issue has been a political football in the Oireachtas for the past year. We have to wait a year until the expert committee has completed its report. Discretionary cards are allowed for children. If a child is born in the next month with a gravely ill condition or is palliative, those parents have to fill out forms and go through the stress of trying to get a medical card for that child. I want those children to have the right to immediate and free medical care.

Senator James Heffernan: I thank the Cathaoirleach for the fairness and indulgence he has shown to all speakers in this debate.

An Cathaoirleach: The Senator has one minute.

Senator James Heffernan: I am unsure how to address our distinguished guest. Should I call her-----

Ms Catherine McGuinness: As I am an ex-Senator and see myself as among friends, the Senator is perfectly free to address me as Catherine, if he wishes.

Senator James Heffernan: It is very nice to meet you, Catherine.

I o'clock

I thank our guest and Senator Jillian van Turnhout for reminding me that politics is not completely futile and that there is light at the end of the tunnel in some cases.

I agree with Ms McGuinness 100% that it was not the nuns who sent girls with crisis pregnancies to the mother and baby homes but their parents and grandparents. However, it would not be right of me not to give credit to those who did not send girls away but who brought up their grandchildren as their own. I was reminded of this at a funeral I attended recently. A man who worked with us at home for many years, including with my grandmother, carried the stigma of illegitimacy like a chain around his neck and struggled to deal with it.

I will be bold and ask Ms McGuinness whether she could lend support to the provision of a memorial to the victims of institutional abuse. There are more than 130 such institutions around the country and I am not including asylums, the Magdalen laundries or mother and baby homes. We have nothing to remind us of their existence or that this abuse of children took place. It is incumbent on the Government and various Departments, be it the Department of Children and Youth Affairs, the Department of Transport, Tourism and Sport or the Department of Education and Skills, to provide money. If €30 million can be granted to redevelop Páirc Uí Chaoimh in Cork, surely we can provide a couple of million euro for the provision of a proper memorial.

Ms Catherine McGuinness: I thank Senators for their great interest in what I have said and their interesting questions, although it makes me nervous. If I was able to answer all of their questions, I might be the Archangel Gabriel. The questions ranged from reconstructing the entire system of the Oireachtas to solving the child care question and so on. I am delighted to see that Senators have not lost the old tendency to overrun the bell, as we always did. It is a tradition of the House. It would take a long time to answer all of the questions and matters raised, but perhaps I might stick to the ones that seemed outstanding.

I was interested in the first contribution made by Senator Hildegard Naughton on the causes of the attitudes that appeared. Fr. Vincent Twomey is not a writer with whom I always agree, as people will understand, but he wrote an interesting article in today's edition of *The Irish Times* on puritan attitudes in the Victorian era when to be respectable was all. Perhaps this might explain a certain amount as to why things happened. Unfortunately, it seemed to fit in with the Jansenist attitude of the Catholic Church in that period. To be fair, there was much the same attitude in the Protestant churches. I well remember not just Bethany Home but also other homes, for example, the Bird's Nest in Dún Laoghaire, and there was exactly the same attitude. Protestants, possibly, had even more of a desire to be respectable because of their minority position in the population. They did not want to let the side down, as it were. These things happened right across the board, but I cannot give a real explanation. When we started as a new country in the 1920s and 1930s, to some extent there was a feeling that it was a new wholly Catholic Ireland

with an Irish-speaking people. The attitude played into that aspiration. However, I am anxious not to be too condemnatory of parents in that situation, as it was difficult.

As a child in primary school, I remember growing up in Belfast. My example will remind Senators of this year's D-Day anniversary. A series of soldiers were planted in our community and put in people's houses. We had British soldiers, white and black Americans, Poles, Belgians and a number of others, with the inevitable result of quite a number of children, many of whom were kept in the community and I know them to this day. Perhaps it was easier to keep them in what was a working class community, which is what my father's parish was like, in which there was less of a feeling that people needed to be respectable all of the time in the middle of a war. It was more important to survive than it was to be respectable. The children were taken in and brought up, generally by the grandmothers. If one examines different cultures, one may find different answers. Perhaps we should not be too condemnatory. I would be all for looking for the beam in our own eyes rather than the speck in the eyes of others.

To respond to Senator Terry Leyden's comments, of course, I appreciate the background work for much of what happened under the Ministry of Deputy Frances Fitzgerald was conducted by the previous Ministers of State with responsibility for children. The late Deputy Brian Lenihan was a personal friend of mine because he practised at the Bar and I knew him as a barrister. With Mr. Barry Andrews, formerly my local Deputy, he did good work in the area of children and not for one moment would I try to do away with the tributes that should be paid to them.

The adoption of illegitimate children is a real issue. I am most anxious that the legal controversy over the children's rights referendum should end. As it is obviously not proper for me to comment on my former colleagues and the way in which the legal case is going, I will not do so, but I hope it will come to an end.

Some fathers just walked away but others were driven away. This issue was drawn to my attention yesterday when I was speaking to a neighbour who described his experiences growing up in Bray, County Wicklow, and how a fair few fathers had been run off. Perhaps they were not all entirely to blame.

Turning to Senator Ivana Bacik's comments, regardless of whether one agrees with bits of Fr. Twomey's article, it is interesting. There were schemes through which girls were allowed to live in private accommodation. For example, through the Ally scheme, which was established by the Dominican priest Fr. Fergal O'Connor young expectant mothers were placed in private families, in return for which they acted as childminders of children within that family. I agree on the importance of knowing one's identity. The late Judge Rory O'Hanlon, in a judgment in the 1980s, stressed the absolute right of children to know their identity. Since then, it has become a most important thing.

Several Senators raised the question of what we should do about children in direct provision. The simple answer is that we should abolish that system. I refer Senators to the report of the Irish Refugee Council on the matter. It would take too long for me to go into detail on what is contained in that report but it does provide a possible way forward. One of the main solutions is a reduction in the amount of time people spend in direct provision. To be fair to the former Minister, Deputy Shatter, he did make more of an effort in that regard than did many of his predecessors. Based on my personal interaction with him I believe he had a more compassionate attitude to asylum seekers and refugees than did many other Ministers and people in

authority generally.

Senator Mary M. White: Hear, hear. The best record.

Ms Catherine McGuinness: Perhaps rather than putting these families into these types of curiously institutional system, they could be housed in the many apartments and so on in NAMA ownership. This would allow them to live more naturally. There are not now as many asylum seekers as there were at the time direct provision was established. Some thought should be given to placing these families in the type of housing in which the mothers can at least cook food and so on for their children, and which might also provide them with an opportunity to work. They could then support themselves. It is not impossible to put in place a system that allows asylum seekers to work. That is as much as I can say on that matter.

Senator van Turnhout raised the complex issue of children being put on remand. In principle, the Senator is right that children should not be sent into remand, which means they are held in custody while awaiting assessment. That is not supposed to happen. The constitutional right to bail applies to children at least as much as, or indeed more than it does to adults. Adults are only refused bail for clear reasons which do not include awaiting assessment. Although from time to time people who are in custody are assessed, and there is nothing wrong with that, to have them taken into custody purely for assessment seems to be wrong, particularly for children. The trouble is that children, when given bail, are given a date for reappearance in court and because they are children they may not be good at reappearing in court on the right day or time. The vast majority of these children come from families that are not organised and are, perhaps, socially deprived and poor. Their parents may be drug addicts and so on, so that they do not have the type of support that ensures they turn up at the right time in court and that they do all the right things such as signing on at the right time at the local Garda station. If the person given bail is a member of the board of Anglo Irish Bank and is required to sign on at Irishtown Garda station at a particular time he or she will do so, but a kid from the inner city may forget to do so. We need to find some way of supporting these children, perhaps through the probation service.

I am aware of Senator van Turnhout's interesting piece of research into this area, which she kindly gave me to read in advance and was of great help in terms of her having raised this rather complicated issue today. I agree that these children need support. There is also a need for a speedier court system so that there is no necessity for long periods of remand. The problem may be caused by a lack of judges or inefficiencies in the system, but whatever the cause, the system needs to be quicker.

Senator Quinn raised the issue of foreign adoptions and the difficulties that have arisen in this regard. This is the other side of the coin. Historically, during the early period of the Irish State, prior to the enactment of the Adoption Act 1952, there were undoubtedly a large number of illegal adoptions. There was no such thing at that time as legal adoption. Many children were adopted by people in America. We were giving our children to richer people in America who had no children of their own and desperately wanted to adopt children. To be fair, many of them were in much the same position as are many Irish people who are now trying to adopt children in Russia. During the 1970s, when I served on the Adoption Board, the situation of Irish girls giving up their babies under all the pressures I mentioned earlier still prevailed. Leaving aside the rights of those girls, their babies were being adopted in a well organised way by Irish families. Many of those adopted went to happy homes. I frequently meet people in the street who come up to me and say, "By the way, do you know you were on the Adoption Board when

our child was adopted?”. The person then goes on to tell me all about the successes the child has had, which is wonderful.

Adoption is a huge issue. Irish people are now the rich and the ones looking to adopt. It is the other side of the coin. It is a difficult situation. I hope we can work through it and improve the system so that there is not such a great deal of difficulty in it. I congratulate Senators on their interests in the area of children and, in particular, direct provision. Senator Reilly also spoke about children born into direct provision and the lack of areas in which they can play, which is an issue also brought to my attention by Fergus Finlay of Barnardos, who had visited one of these hostels in an area in Athlone. He told me that next door to the hostel there was a huge children’s playground which contained all sorts of play equipment, but the asylum seekers’ children were not allowed to play in it.

Senator Terry Leyden: It is a dreadful form of apartheid.

Ms Catherine McGuinness: Yes, it is, in many ways. A young teenage lad living in a direct provision hostel in Clifden in County Galway said to me, rather sadly, “Well, it’s really rather dull in Clifden during the winter.” I know and love Clifden and it is a beautiful place. However, to live in an institutional hostel in Clifden with no money all through the winter would be pretty boring.

Senator Terry Leyden: Hell on earth.

Ms Catherine McGuinness: All the Senators have raised this question and have done an excellent job in bringing it to public attention.

Other Senators mentioned the need for improved child care. That is very important too, but I do not feel I have the time or ability to deal with that whole question here, except to say, obviously, that it is a very important area. If we are asking single mothers, or mothers in families where the mother is the sole carer, to participate in an initiative and suggesting to her that the initiative would help her - and it would help her - to go out and get a job, then we must offer a solution in the way of child care that would enable that to happen.

I agree with what was said about the slowness, sometimes, with which legislation goes through the Oireachtas. In the Law Reform Commission we have spent a lot of time nagging every Minister we could lay our hands on to move things along. I refer, for instance and in particular, to the mental capacity Bill, which I am proud to say was introduced in the Seanad by a former colleague. We need to improve matters. Some of the delay has to do with the way IT is used to draft legislation in the Office of the Attorney General. However, legislation not regarded as politically urgent can be put to one side - through no fault of the people who work in that office, but just because there is a lack of resources. Over the years there has been a tendency to stick to the quill pen instead of the computer. I am probably being unfair to today’s people, but that situation lasted for a certain amount of time and resulted in the Land and Conveyancing Law Reform Bill being drafted by the Law Reform Commission, rather than in the normal way. Perhaps the Seanad should ask the Law Reform Commission to complete the drafting process. For instance, there is an enormous draft of the courts Bill, which will try to reform the courts structure and which we provided some years ago. It is just sitting there and nothing is being done about it. The Senators should not encourage me to start nagging because I could go on for too long.

Senator Mary Ann O’Brien mentioned the children’s hospital. I would like to see the project

moved forward.

Senator Heffernan praised the people who did not send their daughters away. He will understand from what I said before that I understand that view and agree it is important. Yes, we should have memorials to those whom we neglected in their lifetime.

As regards free medical care for all children, the present Minister for Health is trying to move towards providing free medical care - or at least free GP care - for children under six years of age. Obviously I would like to see universal health care provided, and I hope that people will work towards that goal.

With regards the question of alcohol sponsorship of football or sports events generally, I would like to see this type of sponsorship brought to an end and there is a movement towards doing so.

Whether we will get social and cultural rights into the Constitution is a very big question. As Senators will know, the parts of the Constitution that refer to social and cultural rights are clearly stated as being non-justiciable. In other words, the courts cannot make decisions on whether those rights, or their limits, are constitutional. The question is difficult. A lot can depend on the views held by the judges of the Supreme Court at the time when such a question comes up. It is interesting to see that the Constitutional Court of South Africa has embarked on dealing with social and cultural rights of that sort. It has made some very interesting judgments, including one in particular on the right to housing or for a person to be housed. The court took the approach that it could not or was not in a position to say to the government to build house A in place B or to give detailed instructions, but it could say that the government must have a scheme or policy for providing housing and that the policy must recognise social rights. Even if we approached the matter at that level it would be an advance, but first one would have to take the right cases before bringing the matter before the court.

I shall end by thanking Senators again for their great interest and for all their very interesting questions. Unfortunately, I cannot solve all the problems of the world.

Senator Maurice Cummins: On behalf of the House I express our thanks to Ms Catherine McGuinness for her thought-provoking address this afternoon and her comprehensive replies to my colleagues. I also thank the Members of the House who contributed to this debate. I am afraid the bell rang before I stood up so I must be brief. Debates such as this, and contributions such as the ones Ms McGuinness made today, are what the Seanad should be all about.

Senator Ivana Bacik: Hear, hear.

Senator Maurice Cummins: We thank Ms McGuinness most sincerely for coming here to address us here this afternoon.

Offences Against the State (Amendment) Act 1998: Motion

Senator Ivana Bacik: I move:

That Seanad Éireann resolves that sections 2 to 4, 6 to 12, 14 and 17 of the Offences

Against the State (Amendment) Act 1998 (No. 39 of 1998) shall continue in operation for the period beginning on 30 June, 2014 and ending on 29 June, 2015.”

Minister of State at the Department of Jobs, Enterprise and Innovation (Deputy John Perry): The House will be aware that the Offences Against the State (Amendment) Act 1998 was enacted in the wake of the murder of 29 people by the Real IRA in Omagh on 15 August that year. It was a necessary response to that atrocity and the loss of 29 innocent lives. The bombing and those murders represented a direct attack also on the fragile peace process and, indeed, on this State as a major sponsor of that peace process. It demanded a robust response from the State, and a clear statement that the morally bankrupt culture of death and destruction adopted by these murderers would not prevail and that the will of the majority could not be so contemptuously disregarded. Those responsible for these murders continue today to deny the people of this island the peace which they long for and which they deserve. I will return to this point later in my speech.

This democratic State’s response was to provide strong legislative powers to ensure that the Garda and the courts were in a position to meet the challenge laid down by those opponents of peace. In that regard, the Offences Against the State (Amendment) Act 1998 was a necessary and proportionate response. It is right, at the outset, that tribute is paid to the excellent work of An Garda Síochána and the Police Service of Northern Ireland in countering the threat from the paramilitary organisations.

The Act contains a series of amendments to the Offences against the State Acts 1939 to 1985 to make them more responsive to the threat from certain groups. Principally, these amendments concern the following: changes in the rules of evidence for certain offences under the Acts, including the drawing of inferences in certain circumstances; the creation of new offences, such as directing an unlawful organisation, possession of certain articles and collecting information; and extending the maximum period of detention permitted under section 30 of the 1939 Act to 72 hours.

Section 18 of the 1998 Act, as amended by section 37 of the Criminal Justice Act 1999, provides that sections 2 to 4, 6 to 12, 14 and 17 must be renewed by the Oireachtas at specified intervals if they are to remain in force. By virtue of resolutions passed by both Houses of the Oireachtas in June 2013, these sections were continued in force for a period of 12 months. Prior to moving any motion for renewal, the Act requires that the Minister for Justice and Equality lays before the Oireachtas a report on the operation of the relevant provisions. The current report covers the period from 1 June 2013 to 31 May 2014 and was laid before the House on 16 June 2014. It also includes, following a commitment given previously, a table showing the figures for each of the years since the Act came into operation. This table is helpful in showing the importance of the Act in equipping the Garda to detect and prevent terrorist actions.

While some provisions were not used in the period in question it should not be inferred from this lack of use that these provisions are in some way redundant or unnecessary as the usage of the different provisions can vary from year to year. For example, section 3 was used on 19 occasions in the reporting period prior to this. It is the fervent wish of the Government and, no doubt, this House that the time will come when these provisions will no longer be required. However, the Minister for Justice and Equality must take into account the reality of the situation. The Garda assessment of the terrorist threat level in Northern Ireland, which is shared by the Police Service of Northern Ireland, PSNI, is that it is regarded as severe. We all know that those groups vehemently opposed to peace seek to attack the institutions of Northern Ireland

and to destabilise the peace process.

During 2013, there were 30 terrorist related attacks in Northern Ireland and there have been have so far this year. This includes such serious incidents as the planting of a bomb in a Belfast shopping centre in the run up to Christmas last year and the fire-bombing of a hotel in Derry on 30 May, where continuing scant regard for human life and the targeting of civilians were clearly demonstrated. While the direct threat level in this jurisdiction may be different, it is imperative that our laws and our police are properly equipped to deal with the threat, whether in this jurisdiction or in Northern Ireland. Let nobody be under the illusion that these groups do not represent a threat to this State as well as to Northern Ireland. By way of example, I point to the discovery by An Garda Síochána of an estimated €10 million in partially forged bank notes in April this year, the detection of a large improvised explosive device in County Louth, possibly destined for Northern Ireland, last May and the disruption of a Real IRA gun attack in Tallaght earlier this month.

North-South cooperation in the area of security is vital and it has never been better. As was the case with her predecessors, the Minister intends to keep in close contact with the Secretary of State for Northern Ireland, Theresa Villiers, and with the Northern Ireland Minister of Justice, David Ford. Indeed, she recently met with the Secretary of State, on 29 May last, and is due to meet the Northern Ireland Minister of Justice, Mr. Ford, next week under the auspices of the Intergovernmental Agreement on Co-operation on Criminal and Justice Matters. The Acting Garda Commissioner also maintains close and frequent contact with her counterpart in the PSNI.

The powers available to the Garda under the 1998 Act are considered paramount in maintaining effective preventive action against the terrorist groups. It is the firm view of the Garda Síochána that the Act continues to be a most important tool in its ongoing efforts in the fight against terrorism. The Garda authorities have stated that the provisions of the Act are used regularly, which is evident from the report the Minister has laid before the House. It is therefore essential that the Act's provisions should continue in force to support the ongoing investigation and disruption of terrorist activity.

As I have already stated, terrorist groups remain a threat to the peaceful lives of people on this island. They are opposed to the benefits that have flowed from the peace process and are determined to undermine it. The State must retain, in its laws, the capacity to defeat them. On the basis of the information set out in the report and on the advice of the Garda authorities, the Minister considers that the House should approve that the relevant provisions of the 1998 Act remain in operation for a further 12 months commencing on 30 June 2014.

I commend the motion to the House.

Senator Thomas Byrne: We support the Government in this motion. We wish to send the strong message that the Irish State and its political system is united against terrorism. We understand and recognise that the continuation in operation of the Offences Against the State (Amendment) Act, which was brought in after the Omagh bombing, is a vital legislative tool in the battle against dissident Republican groups engaged in terrorism. The legislation is so serious and punitive it must be renewed every year, on the advice of the Garda Síochána, and that advice must be taken seriously by all in elected office. Those people who choose to oppose that advice or not to renew the legislative provisions of the Offences Against the State (Amendment) Act show themselves to be not yet ready for Government.

When Éamon de Valera came into power, and throughout his period as Taoiseach, he took a very hard line against the dissidents of that time, which was appropriate in the formation of a new state. That work must continue on a cross-party basis with regard to issues of terrorism, threats to life and the security of the nation, and issues such as bombs in shopping centres, bombs being found on the way to the North or the discovery of partially forged bank notes to the value of €10 million. This State should be united politically in sending out a strong message that we will not accept that. There must be no weakening of the resolve and no shying away from doing what is necessary, and anyone who votes against this motion will be seen as members of a party of protest, a party that opposes everything and a party that is not yet ready to lead this country or even be part of the leadership of this country in a serious way.

We support the Minister for Justice and Equality wholeheartedly on this, and we support the gardaí wholeheartedly in their fight against terrorism. I hope the House unites without calling a vote to send that clear message from the political system.

Senator Martin Conway: I echo Senator Byrne's comments and welcome the Minister of State, Deputy Perry, for what is vital legislation to protect the lives of our citizens. I am delighted, as we all are, with the advances made in the peace process in Northern Ireland. Many thousands of people are alive today because of the efforts of all parties, including Sinn Féin and its leadership, to bring people together. Unfortunately, there are many dissidents who seek to undermine that process and derail all of the good work that has been done. I suggest respectfully to everybody that it is just work in progress in that we have a long way to go.

This legislation is necessary to protect our citizens and respect their human rights. People have a right to move freely in a democratic country knowing that the institutions and the apparatus of the State will protect them.

The advice from the Police Service of Northern Ireland, An Garda Síochána and the Department of Justice and Equality, through the Minister, is that this legislation is necessary. Like everybody else I will be delighted when we can stand down this legislation but if the advice of the security forces is that there is just one life in danger were it to be discontinued, we have a responsibility to ensure it remains in force.

People who are going about on a daily basis minding their own business and not interfering with anybody would have no issue with this legislation. Along with Senator Byrne I hope that all parliamentarians will see this legislation as being on the best advice of the security forces North and South and that we would view it as an insurance policy to protect the people of Ireland and, ultimately, the peace process. We have responsibilities, and as parliamentarians we must take those responsibilities. I urge the House to vote in favour of this very important measure.

Senator Trevor Ó Clochartaigh: Ba mhaith liom a rá go bhfuilimid i gcoinne an rún seo. Tá sé áiféiseach a bheith ag éisteacht leis an Seanadóir Byrne ag caint faoi de Valera. B'fhéidir gur cheart dó dul siar ar a chuid staire. Tá mé ag ceapadh go bhfuil go leor daoine nach n-aontódh leis an léamh a bhí ag an Seanadóir ar ghníomhaíochtaí an tIar-Uachtarán.

Acting Chairman (Senator Pat O'Neill): Excuse me, Senator Ó Clochartaigh. I call the Deputy Leader.

Senator Ivana Bacik: I propose amending the Order of Business to reflect the time originally allocated for this debate, given that the session with former judge and Senator, Ms Mc-

Guinness, went a little over time. I presume there will be agreement to enable everyone contribute.

Acting Chairman (Deputy Pat O'Neill): The debate on this motion will conclude at 2 p.m.

Senator Ivana Bacik: And the later session will conclude at 2.30 p.m.

Acting Chairman (Senator Pat O'Neill): Is that agreed? Agreed.

Senator Trevor Ó Clochartaigh: We all know the background to the Offences Against the State (Amendment) Act and Senators need to consider the destructive effect of this legislation on human rights, civil liberties and democratic life in the State. We are living in a new political reality and the Minister and the Government have an onus to live up to their obligations under the Good Friday Agreement to remove obstacles that hinder the normalisation of security.

In this context the scrapping of the Offences Against the State (Amendment) Act is a must. The provisions up for renewal and the Act in its entirety have no place in a modern democracy and have nothing to contribute to future peace on this island. The apathy of the Opposition, and of Fianna Fáil, on this issue and the ill-advised enthusiasm of others for specific aspects of the Act has negative implications for all of Irish society.

The Minister has referred in the past to upholding and implementing in full the Good Friday Agreement because it is the democratic wish of the Irish people. That means there is an onus on us to bring about, as quickly as possible, the normalisation of policing and justice on the island. In this context the Government has obligations under the Good Friday Agreement to work towards the normalisation of security in the Twenty-six Counties and in the Six Counties.

Sinn Féin believes this legislation is counter-productive in the long run. The retention of these provisions is an admission of the failure of this and previous Governments. The challenge for us is to prove we have a normal society and that normal policing will convict those who seek to undermine it. Draconian legislation can never be a substitute for sound law and good and accountable policing. The continuation of this Act erodes the human rights ethos on which the State's legislation should be grounded. We are a normal society and our existing laws are strong enough, if properly resourced.

Is ar an mbunús sin atáimid ag cur i gcoinne an rún seo arís agus a bheimid ag brú vóta. Ní chóir go dteastódh a leithéid de reachtaíocht ar chor ar bith in aon phoblacht atá aibí agus atá ag dul chun cinn.

Senator Ivana Bacik: I welcome the Minister of State to the House and welcome the opportunity to debate the review and continuance of the relevant provisions of the Offences Against the State (Amendment) Act 1998. It is hugely important that the Oireachtas would maintain an overview of these provisions given their draconian nature and the fact that they depart from the normal criminal justice system measures.

I take issue with Senator Ó Clochartaigh's suggestion that some of us are enthusiastic about these provisions. I am certainly not enthusiastic about them. I believe, as the Minister of State has said, it is the fervent wish-----

Senator Trevor Ó Clochartaigh: Others seem to be.

Senator Ivana Bacik: I am not. I believe it is the fervent wish of the Government that the time will come when these provisions will no longer be required. That is right, and all of us should wish for that time and it is important that we would move to normality. All of us very much welcome the peace process and the continued steps towards normality but it is difficult to oppose the request by the Garda to maintain these provisions in force. I should acknowledge my own interest as having appeared in the Special Criminal Court representing people in connection with this legislation on previous occasions when I was in practice.

We all appreciate the ongoing nature of the terrorist threat about which the Minister of State has spoken. There were 30 terrorist related attacks in Northern Ireland in 2013 and five so far this year. We know the original impetus for this legislation was the appalling atrocity in Omagh. However, we must ensure balance between this sort of legislation and adequate protections and safeguards.

I am grateful to the Minister that this year the report she has provided us with provides not only a table of usage of the Act over the past 12 months but also a table of usage going back to 2000 when it first came into force. It enables us to examine in a balanced way the way in which the sections have been used, and some sections are being extensively used by the Garda. For example, section 2, which deals with membership of an unlawful organisation and inferences to be drawn, was used 62 times last year and 41 times already in 2014. Section 14, a different provision with offences under the Act to be scheduled offences, was used 52 times last year and 53 times so far this year. The need for those provisions is on the table, so to speak. As I said last year, some provisions are used far less frequently, in particular, section 4 - referring to guilt by association - regarding how membership of a proscribed organisation can be inferred from certain matters. I have misgivings about this section, particularly when I note it has not been used since 2009. It was last used in 2008, on 13 occasions. I am conscious that there are provisions which might be unused for a number of years such as section 17, the section which deals with the forfeiture of property and which was used for the first time in 2012. Therefore, I am not saying that just because a section has not been used for a period, it should be repealed. Section 5 was repealed. We should look at the Act section by section regarding ongoing usage. That is why this debate and review are so important. I support the Minister, but it is up to the Oireachtas to scrutinise each of these provisions and their usage in particular years. That is what makes the 12 month review important.

Minister of State at the Department of Jobs, Enterprise and Innovation (Deputy John Perry): I thank the House for giving time to consider this important amendment. As I said, there remains a substantial threat from terrorist activity, in particular dissident Republican paramilitary groups, which warrants the continuance in force of the provisions of the Act. The message needs to be sent loud and clear that the State will not bow to the self-serving interests of such individuals and will continue in its resolve to see them defeated.

Comments have been made that the Offences Against the State Acts have been destructive of life in the State. However, there would surely have been destruction of our society by terrorist groups if the provisions of the Offences Against the State Acts were not in force. The Government could not contemplate such a scenario, although I accept that it and our legislation must respect fundamental human rights. That is why the majority of Members of the Oireachtas recognise we have an independent judicial and courts system. However, the Minister for Justice and Equality and the Government have a responsibility to recognise and protect the human rights of all citizens. There is no greater human right than the right to life and the groups against which the 1998 and 2009 Acts are targeted are ones which have shown scant regard for

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this fundamental human right. I will not be put in the same bracket as such groups.

Question put:

| The Seanad divided: Tá, 29; Níl, 2. | |
|-------------------------------------|-------------------------|
| Tá | Níl |
| Bacik, Ivana. | Ó Clochartaigh, Trevor. |
| Burke, Colm. | Reilly, Kathryn. |
| Byrne, Thomas. | |
| Comiskey, Michael. | |
| Conway, Martin. | |
| Cummins, Maurice. | |
| D'Arcy, Jim. | |
| Gilroy, John. | |
| Hayden, Aideen. | |
| Healy Eames, Fidelma. | |
| Heffernan, James. | |
| Higgins, Lorraine. | |
| Keane, Cáit. | |
| Kelly, John. | |
| Landy, Denis. | |
| Leyden, Terry. | |
| Moloney, Marie. | |
| Mooney, Paschal. | |
| Mullen, Rónán. | |
| Mullins, Michael. | |
| Naughton, Hildegard. | |
| Ó Domhnaill, Brian. | |
| O'Neill, Pat. | |
| Power, Averil. | |
| Sheahan, Tom. | |
| van Turnhout, Jillian. | |
| Whelan, John. | |
| White, Mary M. | |
| Wilson, Diarmuid. | |

Tellers: Tá, Senators Aideen Hayden and Michael Mullins; Níl, Senators Trevor Ó Clochartaigh and Kathryn Reilly.

Question declared.

2 o'clock

Criminal Justice (Amendment) Act 2009: Motion

Senator Martin Conway: I move:

That Seanad Éireann resolves that section 8 of the Criminal Justice (Amendment) Act 2009 (No. 32 of 2009) shall continue in operation for the period beginning on 30 June, 2014 and ending on 29 June, 2015.

Minister of State at the Department of Jobs, Enterprise and Innovation (Deputy John Perry): The resolution will provide for the continuation in operation of section 8 of the Criminal Justice (Amendment) Act 2009 for a 12-month period beginning on 30 June 2014. Let me remind the House of the background to the 2009 Act. It was a response to a number of difficulties that were being experienced and circumstances in which the entire justice system was under serious threat. Organised criminal gangs were behaving as though they were untouchable by the gardaí and the courts. The House will recall certain dreadful crimes where the gangs involved acted in a way that portrayed their willingness to undermine the very operation of our criminal justice system. Hand in hand with the disregard for human life was the intimidation of whole communities to prevent people co-operating with the forces of law and order to bring these thugs to justice. If these people were prepared to intimidate witnesses, why would anyone believe they would not also intimidate jurors?

It was imperative for the Government, and the Oireachtas, to take the steps necessary to ensure the criminal justice system was robust enough to withstand the assault that was launched upon it through intimidation of and violence towards witnesses and jurors. The measures contained in the Criminal Justice (Amendment) Act 2009 were designed to tilt the balance firmly in favour of the rule of law and justice and instil confidence in all that criminal gangs were not going to be permitted to frustrate criminal investigations or prosecutions of their activities.

The Act provides for a limited number of specific organised crime offences to be prosecuted in the Special Criminal Court. The proposal to use the Special Criminal Court for a limited number of organised crime offences removed the possibility of jury-tampering or the intimidation of jurors. Therefore, the purpose of section 8 is to ensure organised criminal gangs cannot interfere with the criminal process to determine the outcome of cases. To this end the section declares that the ordinary courts are inadequate to secure the effective administration of justice and the preservation of public peace and order in regard to certain offences. The offences in question are the organised crime offences under Part 7 of the Criminal Justice Act 2006. In brief, they concern the following: directing the activities of a criminal organisation – section 71A of the Criminal Justice Act 2006; participating in or contributing to certain activities of a criminal organisation – section 72; committing a serious offence for a criminal organisation – section 73; and liability for offences committed by a body corporate – section 76. Section 8 of the Criminal Justice (Amendment) Act 2009 makes these scheduled offences for the purposes of Part V of the Offences against the State Act 1939. While this means that the Special Criminal Court will hear prosecutions for the offences in question, the Director of Public Prosecutions

may still exercise her power to direct that the offences should be tried in the ordinary courts. Permitting the DPP this discretion maintains the fundamental balance in deciding which cases are appropriate to be tried in the Special Criminal Court.

A further bulwark in maintaining this balance is set out in section 8(4) of the 2009 Act which provides that the section shall cease to be in operation unless a resolution has been passed by each House of the Oireachtas resolving that it should continue in operation for a further period to be decided by the Oireachtas. In order to assist the House in considering the motion on the continuation of section 8, section 8(6) provides that before a resolution is passed, the Minister for Justice and Equality must prepare a report, which shall be laid before both Houses, on the operation of the section in the period under report. The report, covering the period from 1 June 2013 to 31 May 2014 was laid before both Houses on 16 June 2014. It provides considerable detail on the operation of the legislation. In all, there were 29 arrests under the relevant provisions. Charges have resulted in a number of these cases including charges in respect of murder, possession of firearms, burglary and the handling of stolen property.

The Act has been in operation for almost five years. While there have been arrests under the relevant sections of the Criminal Justice Act 2006, no cases have yet come before the Special Criminal Court in accordance with section 8. This does not, however, invalidate the reasoning for having such a provision available for use in appropriate circumstances. Rather, the use of the Act to date serves to highlight the considered approach of the DPP. The reasons for which the Government seeks the renewal of section 8 are clear. Organised crime continues to present a significant law enforcement issue with a number of criminal gangs continuing to engage in serious crimes. There is, unfortunately, stark evidence of the willingness of these gangs to engage in murder, armed robbery, kidnapping, drug smuggling, counterfeiting and other serious offences. Since 2009, there have been 68 murders linked to organised crime. We are also faced with the reality of growing and inextricable links between paramilitary groups and organised crime. It is clear that age is no barrier to becoming a victim of gun crime. Witness, for example, the appalling shooting of a six year old child in Ballyfermot last Friday. The House will share the Minister's revulsion and that felt by the population as a whole in the wake of this dreadful act. The Minister, Deputy Fitzgerald, appeals to anyone who has information which could be helpful to gardaí to pass it on immediately.

In the report to the Minister on the operation of section 8, the Acting Garda Commissioner expresses the clear view that the provision will be required for some time to come. The Minister must have the utmost regard for the views of the Garda authorities in matters such as this. The Acting Commissioner has the Government's full support in tackling these scourges of society. In all the circumstances, the Minister considers that it is necessary to continue section 8 in operation for a further period of 12 months from 30 June 2014. I commend the Motion to the House.

Senator Thomas Byrne: I rise to express the support of Fianna Fáil for the motion. Section 8 is a very important section of the 2009 Act. I was delighted to be a Member of the Oireachtas which passed the Act. We received the support of Fine Gael at the time, although there was some dispute among the Opposition. Most elements of the political system supported the legislation.

Gangland crime is a serious problem in Ireland. While the right to a trial by jury is generally a fundamental one in the common law world - the system of Government that comes from the British - it is not universal throughout the democratic world. Certainly, it is not that com-

mon on the Continent. It is something we value hugely - certainly I do - but it is not unusual in democracies to have non-jury trials. The Special Criminal Court is the suitable forum to try cases of serious organised crime, including the directing of a criminal organisation, participating in its activities, facilitating an offence by one or committing an offence on its behalf. I do not see the argument against it. We are asking jurors, who are our fellow citizens, to take huge risks with their lives and for their families where these cases come before the ordinary courts. The ordinary courts are not suitable. I do not see the controversy in using a Special Criminal Court in these cases. It is, in fact, the logical and practical thing to do and it is not out of step with the rest of the democratic world. The jury trial is not universal, notwithstanding that I do support it, as I have said.

Part of this debate today is that we must send a message from the Houses that we are united on the prosecution of these offences. I also appeal to the Government to consider Garda resources. Garda numbers are falling in many stations and we do not have a dedicated gun crime unit in west Dublin. While the legislation is crucial, we must look at the resourcing of An Garda Síochána and see how capable it is of dealing with these crimes and how capable its vehicles are of driving to the scenes of these crimes and chasing after these serious criminals. There is a great deal of information in the public domain suggesting that gardaí are not properly resourced at the moment. We support the Minister in every effort she makes to secure funding from her Cabinet colleagues, in particular the Minister for Public Expenditure and Reform, to ensure the legislation is matched with appropriate resources.

We will support this 100%. Any support we give to allow a division to take place is simply to allow such division to take place, in case there is any confusion as there was on the last occasion.

Senator Martin Conway: I welcome the Minister of State back to the House. This is a very important provision in legislation and I would like to see it receive unanimous support.

We have all seen the horror of organised crime in this country. A county next to my own - Limerick - is a place in which gardaí have done an enormous job dealing with organised crime. They have been able to use the relevant provisions to bring people to justice. My own county has been affected by some of the organised crime that has taken place in Limerick over the years. Events last weekend where a six year old child was caught up in a shooting incident appalled the nation. I reiterate the call by the Minister of State, Deputy John Perry, on behalf of the Minister, Deputy Fitzgerald, for anyone with information to come forward. It was one of those crimes that showed us the need to do everything we can to protect people who are prepared to give evidence.

Juries are part of a modern democracy and a modern justice system. Unfortunately, when jurors are intimidated, as has happened, other actions must be taken. Other actions must be taken. Until such time as organised crime ceases to be a threat to the citizens of this country, this measure is imperative. I have every confidence in An Garda Síochána in dealing with organised crime. It has already had significant success in Limerick. I have absolute confidence that it will get on top of the scourge of organised crime in Dublin as well but it needs our assistance. We can assist it in this House by supporting this measure because it is obviously deemed necessary as part of the suite of measures to tackle the scourge in urban and rural society.

Senator Trevor Ó Clochartaigh: There is no question that we all share the Minister of State's revulsion at some of the heinous crimes described here. They are being perpetrated by

hardened criminals in this State who need to be dealt with. That in itself cannot justify this type of legislation. It is a sad reflection on a Government or State when it must admit-----

Senator John Gilroy: Is this for real?

Acting Chairman (Senator Michael Mullins): Senator Ó Clochartaigh without interruption.

Senator John Gilroy: Without any exasperation.

Senator Trevor Ó Clochartaigh: When Senator Gilroy is finished on Twitter. It is a sad reflection on a Government or State when it must admit that its courts are unable to deal with individuals involved in organised criminal activity. In such circumstances-----

Senator John Gilroy: Is this a parallel Senate? Is it parallel to any normal democracy?

Acting Chairman (Senator Michael Mullins): Senator Ó Clochartaigh without interruption.

Senator Trevor Ó Clochartaigh: In such circumstances, the State in question has failed to deal with issues like jury intimidation and witness protection. If we are serious about dealing with organised criminal gangs, we must put resources in place. For example, we should not be closing rural Garda stations. The Minister will say that this is just one aspect of the matter. However, if we are serious about tackling organised crime, we must ensure financial resources are invested in front-line services and manpower. If this means that the public service recruitment embargo has to be lifted, so be it.

I have no doubt that people involved in organised criminal activity see the introduction of legislation to ensure they are tried before a special court as an admission of failure. In other words, it means the State has failed to provide protections and safeguards to people who serve on juries. However, the Special Criminal Court is the wrong way to go. This is not to flippantly disregard the activities of the criminal gangs. We understand that they cause misery and hardship. We know they destroy whole communities, murder, maim and have no regard for law and order. However, if we examine best international practice, we see that other countries have found more effective ways of dealing with organised criminal gangs that do not involve draconian institutions like the Special Criminal Court. There are better ways of dealing with this issue that do not contravene basic human rights such as the right to a trial by jury and which are far more effective in the real and ideological struggle against organised crime. Ar an mbunús sin, beidh muid ag cur i gcoinne an leasú áirithe seo agus beidh muid ag brú vóta ar an gceist.

Senator Ivana Bacik: I welcome the opportunity to speak on the review of section 8 of the Criminal Justice (Amendment) Act 2009. Let us be clear about what section 8 does. It provides that certain offences under Part 7 of the Criminal Justice Act 2006 - offences specifically dealing with organised crime under sections 71(a), 72, 73 and 76 - would be regarded as scheduled offences and that, therefore, the DPP may send the offences forward to the Special Criminal Court. In fact, the section has not been used. No cases have been sent forward to trial in the Special Criminal Court in accordance with section 8 in the period under report nor indeed for the previous 12 months because I looked back at our discussion of this last year. However, there have been a number of arrests made under those sections. There has been one arrest under section 71(a), which deals with directing the activities of a criminal organisations. There have been 13 arrests under section 72, which concerns participating in or contributing to activities of

a criminal organisation. There have been 15 arrests under section 73, which concerns committing an offence for a criminal organisation. Those offences were specifically introduced to deal with the very serious threat and scourge of organised crime. Others have referred to the really heinous shooting of a six-year-old child in Ballyfermot last week but there are other equally horrific incidents about which people have spoken.

It was part of a package of measures introduced in 2006 and again in 2009 but it is worthy of note that the DPP has not operated the section. An Garda Síochána and the acting Garda Commissioner have asked the Minister to keep the provisions in operation for the next 12 months. I very much welcome the fact that we will be able to review it in 12 months time because a jury trial is a fundamental right but there may be very specific incidences where we may see the sort of exceptions or the possibility of the exception being put in place even though it has not been used yet.

We all very much hope that if the threat recedes, the section will not remain in force. I wonder if Sinn Féin were in the next Government, this provision was still in force and the threat of organised crime remained, whether it would take a different view in a 12-month review of section 8 of the 2009 Act.

Senator John Gilroy: It would nationalise organised crime.

Senator Trevor Ó Clochartaigh: What was Labour's position in opposition?

Senator Ivana Bacik: I think colleagues may deduce for themselves what position Sinn Féin would take.

Acting Chairman (Senator Michael Mullins): Is any other Senator contributing?

Senator John Gilroy: I am absolutely perplexed and amazed. Words fail me when I see a party that purports to be a democratic party offering some sort of sympathy to these organised thugs. I suppose it was not that long ago that many of these thugs were fellow travellers of the same party. I can point to some-----

Senator Trevor Ó Clochartaigh: On a point of order, the Senator is casting aspersions on our political party and he should withdraw that statement unless he can back it up with facts.

Acting Chairman (Senator Michael Mullins): That is a political charge.

Senator Trevor Ó Clochartaigh: He should spend less time on Twitter and more time doing a bit of research.

Senator John Gilroy: I am glad that my social media strategies work. It is rather remarkable. A six year old boy is lucky to be alive after being shot by absolute thugs in Dublin during the week. How are we going to prosecute people who carry out these crimes? What is the way to prosecute them if they are likely to shoot a child or intimidate juries? Our friends on the Opposition bench offer some comfort to these people. This is nonsense. I will not get political about it but it is hardly surprising to find an attitude like that in a party whose leader can be legitimately questioned about a murder but who cannot be questioned by anyone in his own party about it.

Senator Trevor Ó Clochartaigh: On a point of order, I call on the Senator to retract that statement.

Senator John Gilroy: It is a matter of fact.

Senator Trevor Ó Clochartaigh: What facts? Has Senator Gilroy got the facts to back it up?

Senator John Gilroy: He was questioned on suspicion of murder.

Senator Trevor Ó Clochartaigh: Has he been charged?

Acting Chairman (Senator Michael Mullins): Could we stick to the subject matter?

Senator John Gilroy: He has been questioned on suspicion of murder.

Senator Trevor Ó Clochartaigh: Has he been charged?

Senator John Gilroy: When did I say he was charged? I said he was being questioned.

Senator Trevor Ó Clochartaigh: I call on Senator Gilroy to withdraw that statement immediately.

Senator John Gilroy: The leader of my colleague's party was questioned on suspicion of the murder of Jean McConville. That is a well-known fact. Nobody can argue that point.

Senator Trevor Ó Clochartaigh: I would like the Acting Chairman to rule on that. On a point of order-----

Senator John Gilroy: There is no point in asking me to withdraw the statement.

Senator Trevor Ó Clochartaigh: Will the Acting Chairman rule on the point of order? I think Senator Gilroy should retract that statement. He has absolutely no basis to make the accusation he has made about the leader of our party. It is totally out of order and an obvious slur because his own party and the Government are not dealing with the issues at hand regarding organised crime. He is using all kinds of accusations that are without basis.

Acting Chairman (Senator Michael Mullins): Senator Gilroy did not make a charge. He stated a fact but I would urge him to stick to what we are discussing.

Senator John Gilroy: It would be remiss of me to stray from the point. I need to put on the record that we are supporting the legislation. Any civilised country would take the most severe action against people who disregard the law and put citizens' lives at risk.

Acting Chairman (Senator Michael Mullins): Are there any other contributions?

Deputy John Perry: Without this legislation, actions by organised criminals to subvert our democratic principles and criminal justice system will certainly go unanswered. No responsible Government could stand aside and allow murderous gangs to dictate how our criminal justice system should operate. It is the height of irresponsibility to act otherwise.

I wish to express my gratitude to the House for passing this motion. As I have said, the individuals involved in organised crime are desperate people who will stop at nothing to avoid being brought to account for their crimes. It is incumbent on us to ensure that An Garda Síochána has the requisite powers at its disposal to bring these people to justice. The passing of this resolution demonstrates the resolve of the Oireachtas to ensure that this remains the case. In the end, the only effective way to combat organised crime is by disrupting and prosecuting

those involved in its operations, especially the drugs trade, which is at the heart of much of its profits. Substantial efforts by An Garda Síochána and Customs and Excise are therefore devoted to damaging this lucrative business. Week in, week out, gardaí are making arrests and bringing persons before the courts, with substantial sentences being handed down in many cases. Homicide rates and related gun crimes continue to be monitored closely by senior Garda management with a view to putting in place appropriate initiatives to target this specific type of criminality. An Garda Síochána has ongoing operations to tackle and dismantle serious and organised crime. Investigations continue to be actively progressed under the daily supervision of local Garda management, supported by gardaí attached to the specialised national units.

Question put:

| The Seanad divided: Tá, 31; Níl, 2. | |
|-------------------------------------|-------------------------|
| Tá | Níl |
| Bacik, Ivana. | Ó Clochartaigh, Trevor. |
| Barrett, Sean D. | Reilly, Kathryn. |
| Brennan, Terry. | |
| Burke, Colm. | |
| Byrne, Thomas. | |
| Comiskey, Michael. | |
| Conway, Martin. | |
| Cummins, Maurice. | |
| D'Arcy, Jim. | |
| D'Arcy, Michael. | |
| Daly, Mark. | |
| Gilroy, John. | |
| Hayden, Aideen. | |
| Healy Eames, Fidelma. | |
| Keane, Cáit. | |
| Kelly, John. | |
| Landy, Denis. | |
| Leyden, Terry. | |
| MacSharry, Marc. | |
| Moloney, Marie. | |
| Mooney, Paschal. | |
| Mullen, Rónán. | |
| Mullins, Michael. | |
| Naughton, Hildegard. | |
| O'Neill, Pat. | |
| Ó Domhnaill, Brian. | |
| Sheahan, Tom. | |
| van Turnhout, Jillian. | |
| Whelan, John. | |
| Wilson, Diarmuid. | |

| | |
|---------------------|--|
| Zappone, Katherine. | |
|---------------------|--|

Tellers: Tá, Senators Aideen Hayden and Michael Mullins; Níl, Senators Trevor Ó Clochar-
taigh and Kathryn Reilly.

Question declared carried.

An Cathaoirleach: When is it proposed to sit again?

Senator Maurice Cummins: It is proposed to sit again at 2.30 p.m. on Tuesday, 24 June 2014.

Adjournment Matters

One-Parent Family Payments

An Cathaoirleach: I welcome the Minister of State at the Department of Health, Deputy Kathleen Lynch.

Senator Fidelma Healy Eames: The Minister of State is most welcome. I thank her for being present to hear what I have to say on the issue I have raised on the Adjournment: It reads:

The need for the Minister for Social Protection to explain why she plans to press ahead next week, on Thursday, 26 June, with measures that will disincentivise up to 9,100 one-parent families from working and in so doing act counter to stated Government policy.

This measure was introduced in the budget for 2012. I voted for it, but when we debated the provisions of that budget, the Minister accepted that one-parent families were a group at risk of poverty. I am not a lone voice in saying this and there is substantial evidence to support it. At the time the Minister said she would not implement the measure until a Scandinavian style child care model was in place. That model is not in place, yet this measure is due to be put in place next week. Some 9,100 one-parent families in receipt of the one-parent family payment will have their payments ended and will be placed in the new jobseeker's assist payment scheme, a basic requirement of which is that a person must be available to work part time. I support this in principle. It is absolutely fine in theory, but from what I have heard - I have met a number of one-parent families - it is not working in practice.

The recipients of one-parent family payments are men and women who are parenting alone due to separation, divorce, the death of a partner, relationship breakdown and, in some cases, domestic violence. Only last week the Minister of State and I both know that as a national collective we were wringing our hands at our social history. We were experiencing remorse and

anger over the thousands of babies of single mothers who apparently had been discarded cruelly and largely against their mothers' wishes. This time last year we were celebrating because the women who had been in Magdalen laundries were finally being awarded compensation having been submitted to a lifetime of torture and punishment for having a child outside marriage. Today, however, single parents are about to be plunged into an evermore complicated and restricted regime of double binds and increasing poverty. Single parents who have been out of work for a minimum of seven years are expected to gain ready access to work in the current jobs market which largely favours interns under the JobBridge and JobPath programmes. A new lone parent whose child is already seven years old is not entitled to the jobseeker's assist payment and must receive the jobseeker's allowance straightaway. The person concerned will be required to take part in activation measures, while not having access to child care. That is the crux of the matter. How can it be truly said that parents are available for work if they do not have access to free child care? There must have been an assumption that people who were parenting alone had parents or friends available for free child minding. We all know that is not the case. People who are parenting alone are still waiting for the Scandinavian style child care model, promised in budget 2012 and for which I voted on the basis that it would be in place. What we voted for has not been put in place.

Let me give some examples of cases in which a supposition will be made that a lone parent has managed to find a real job, not an internship. In my first example a lone parent who will be in receipt of the new jobseeker's assist payment, being introduced next week, is working 15 hours a week. That person's income will be down €19 a week, from €324 to €305. The payment of €324 includes the one-parent family payment and the jobseeker's scheme element, in addition to a child allowance of €29.80.

Minister of State at the Department of Health (Deputy Kathleen Lynch): Is this a person with a real job?

Senator Fidelma Healy Eames: Yes, the person concerned is working 15 hours a week spread over three days. A mother who works 20 hours a week will receive family income supplement. Her take home pay will be down €70 a week. I am obliged to ask why these people should work. Lone parents who work will be financially disadvantaged by new legislation which is due to come into effect next Thursday. This runs counter to Government policy. The Minister of State did not vote for this and neither did I. We voted to put in place a measure to enable lone parents – mothers or fathers – to work. Now they will be disadvantaged if they work. Where is the incentive to work here? Work is vital but we still do not have an affordable child care programme available. The position in rural areas is quite bad. In one instance a child care place was available only if the parent was willing to drive 45 miles each way from the workplace. That is a joke. Another lone parent who contacted her local social welfare office regarding the after-school scheme was sent away twice with no information. On the third attempt she was told that the person in charge was out of the office. After a lengthy exchange of e-mails, the parent was advised that she was not eligible for the scheme, even though - following six years of unemployment - she had re-entered the workforce just as the scheme commenced.

I rest my case and look forward to the Minister of State's answer. I really hope we can resolve this anomaly together in the interests of people who are parenting and who also want to work. We must assist them in doing both.

Deputy Kathleen Lynch: I am taking this matter on behalf of the Minister for Social Protection. The matter is not dealt with in my reply but, given that the Senator raised it, I must

point out that 80% of the women who were incarcerated in Magdalen laundries did not have babies. They are always very anxious to make that point. While some of them did give birth, the majority did not do so. It is important to clarify the position in that regard.

I thank the Senator for raising this important issue. The one-parent family payment, OFP, scheme has played an important role in providing income support to lone parents since its introduction in 1997. The payment was originally introduced, under a different name, by the late Frank Cluskey and was the main instrument and driver of Ireland's acceptance of people who are parenting alone. The number of OFP recipients stood at 77,209 in May 2014. The cost of the scheme for 2014 is estimated at €863 million. However, in the past the income support provided by the OFP scheme was passive in nature, with little systematic engagement being made by the State with recipients. This engendered long-term social welfare dependency and associated poverty among one-parent families.

Despite significant levels of State spending on the OFP scheme, results have been poor in terms of tackling poverty - a matter on which the Senator and I agree - and social exclusion rates among lone-parent families, which continue to experience higher rates of consistent poverty in comparison to the population generally. The survey on income and living conditions figures published in April show that in 2012 some 17.4% of lone parents in Ireland were experiencing consistent poverty, as compared to 7.7% of the population as a whole. The reforms to the OFP scheme that were introduced in the budgets for 2011, 2012, and 2013 aim to address these issues by providing the necessary supports to lone parents to help them to escape inter-generational poverty and joblessness. The reforms in question will improve lone parents' access to education, training and employment programmes so that they can develop their skillsets with the aim of attaining financial independence for both themselves and their families.

The Social Welfare and Pensions Act 2012 contains provisions to reduce, on a phased basis - from 2014 in the case of new entrants and from 2015 for existing recipients - the maximum age limit of the youngest child at which an OFP recipient's payment ceases to seven years. The next phase of the OFP age reductions will take place on 3 July 2014. It is expected that approximately 5,140 customers will leave the scheme on that date. The Department has contacted all affected customers and invited them to attend information seminars or one to one sessions in their respective social welfare local offices. The purpose of these sessions is to brief affected lone parents on the broad range of income and other supports, which the Department provides. Special arrangements have been introduced to assist affected lone parents in making the transition to other income support payments. For example, affected OFP customers who are also in receipt of family income supplement, FIS, will have their payments automatically adjusted to take account for their loss of OFP. The latter is one of the issues about which the Senator expressed concern.

Exiting OFP customers who are also in receipt of the half-rate carer's allowance payment will be moved to the full-rate version. Customers who do not fall into these two categories can apply for either the jobseeker's allowance payment or the jobseeker's allowance transitional arrangement. Applications for these income support payments are expedited for the customers in question. The jobseeker's allowance transitional arrangement was introduced in the Social Welfare and Pensions (Miscellaneous Provisions) Act 2013 in order to support customers who lose their entitlement to the OFP payment and who have a youngest child aged under 14 years. In recognition of their caring responsibilities, these customers are exempt from the jobseeker's allowance conditions which require them to be available for, and genuinely seeking, full-time work. Former OFP recipients who avail of a jobseeker's payment - including the transitional

arrangement - are required to engage fully with the Department's activation process. These customers will be assigned case officers who will work with them to jointly develop personal progression plans. The aim of a personal progression plan is to increase the customer's skills and job-readiness and assist his or her entry into the workforce. As part of this process, customers will be advised on a wide range of educational, training, and employment programmes that may be suitable for their specific requirements. Depending on their circumstances, customers may also receive information on a range of wider supports including FIS and the subsidised child care schemes that are provided by the Department of Children and Youth Affairs. I hope I have answered at least some of the Senator's questions.

Senator Fidelma Healy Eames: I thank the Minister of State. We are in agreement on a number of issues. I have no difficulty with regard to the age reduction and I want people to be active rather than passive. The Minister of State acknowledged that the members of the group in question are living in consistent poverty. The missing piece of the puzzle is a child care programme that will work. How can the Minister of State justify people's FIS payments being reduced by €70 per week because they work 20 hours? For a mother and child or a father and child, that €70 represents food on the table. That is the aspect with which I have difficulty and it is what prompted me to pursue this matter. Those to whom we are referring are contributors to society. They are the mothers and fathers who produce the children that we are glad are born. We do not want to push them into poverty. As the Minister of State rightly indicated, we want to get them back to work. We must provide a structure that will allow them to contribute in another way, which is what they want to do.

I have a difficulty with the Minister of State's reply. I welcome the fact that one-to-one sessions will be facilitated but I am of the view that they are not going to work.

An Cathaoirleach: This is not a debate.

Deputy Kathleen Lynch: The FIS payment of those who are affected will be automatically adjusted to take account of their loss. I accept that perhaps the detail with regard to what is going to happen is not as clear as should be the case. I do not believe that the loss will be significant because it is clear that FIS payments will be adjusted upward rather than down.

Senator Fidelma Healy Eames: The evidence shows that they are going down.

Deputy Kathleen Lynch: Perhaps people are not yet fully *au fait* with the detail. The progression plans that will be put in place will ensure that the transition will not be financially prohibitive.

Medicinal Products Availability

Senator Colm Burke: I am raising this issue because the figures relating to it were brought to my attention yesterday by the Union of Students in Ireland. As Fine Gael's spokesperson on health in the Seanad, I thought it would be appropriate to seek a response in respect of it from the relevant Department.

The Union of Students in Ireland argues that the cost of the relevant medication can vary quite substantially, from €9 to over €45. If one is a medical card holder, one cannot obtain this medication without a prescription.

3 o'clock

My argument is that one does not have to get a doctor to diagnose that one needs a prescription. It is a considerable waste of doctors' time if someone goes to see them in order to get a prescription. I am looking at the matter in that context also. There are doctors in universities. If a person has a medical card and they must go to a doctor; the doctor has to give a prescription and his or her time is being taken up. That is a matter I have been asked to raise. I said I would do so at the earliest possible date.

Deputy Kathleen Lynch: We have had brief discussions already on this matter, which I thank Senator Burke for raising. There are currently two emergency hormonal contraception products licensed for sale on the Irish market - Levonelle and NorLevo. Levonelle is a prescription-only product which is available to medical card holders under the GMS scheme, subject to the prescription charge – that everyone has to pay - once they have a prescription from their GP. The other levonorgestrel emergency hormonal contraception product licensed for sale on the Irish market is NorLevo. In February, 2011 the Irish Medicines Board announced its decision to allow the sale of NorLevo without prescription. This product may, therefore, be supplied from pharmacies without a prescription by or under the personal supervision of the pharmacist.

The Pharmaceutical Society of Ireland, PSI, has issued guidelines under section 18 of the Pharmacy Act 2007 to pharmacists requiring that the emergency hormonal contraceptive may only be supplied to a patient by the pharmacist personally, following a private consultation between the patient and pharmacist in order that the pharmacist can determine the appropriateness of the supply and to provide an opportunity to meet the appropriate patient counselling requirements. This consultation is required to take place in the pharmacy's patient consultation area. However, as NorLevo is an over-the-counter product it no longer complies with the applicable reimbursement criteria for the GMS scheme and the community drugs schemes, as a prescription is not normally required for its supply to a patient. Therefore, for all recipients of this product, the supply process is essentially a private transaction between the patient and the pharmacy. The HSE has statutory responsibility for decisions on pricing and reimbursement of medicinal products under the community drugs schemes in accordance with the provisions of the Health (Pricing and Supply of Medical Goods) Act 2013. In that context, one of the criteria which the HSE must have regard to when deciding whether a product should be added to the list of items reimbursable under the GMS and other community drugs schemes is that the product must be such that it is ordinarily supplied to the public on foot of a prescription. Therefore, over-the-counter products are not normally covered under the GMS and other community drugs schemes. Any change in this policy approach would have wide-ranging implications.

The central point is that there is a product which can only be used in emergency contraceptive situations and it is only available on prescription. Anyone who has a medical card can avail of it. I take on board Senator Burke's point that requiring a prescription makes it a very expensive way to make the product available.

Senator Colm Burke: Could the Minister of State clarify whether the product could be supplied by a pharmacist without a prescription?

Deputy Kathleen Lynch: Yes.

Senator Colm Burke: Is the Minister of State saying that if someone has a medical card a prescription is not required?

Deputy Kathleen Lynch: No.

Senator Colm Burke: Is a prescription required in both cases?

Deputy Kathleen Lynch: In one case a prescription is required and in the other case the product can be bought over the counter.

Senator Colm Burke: Is a person entitled to get the product over the counter if they have a medical card?

Deputy Kathleen Lynch: No. That is not what we are saying.

Senator Colm Burke: Is it not covered by the medical card?

Deputy Kathleen Lynch: The drug is not available on the GMS scheme and therefore the cost cannot be reimbursed either to the pharmacist or the GP. Therefore, it is not covered by the medical card. One emergency contraceptive is covered by the GMS scheme and one does need a prescription for it. Anyone with a medical card can avail of that.

Senator Colm Burke: But they must have a prescription.

Deputy Kathleen Lynch: Yes, because it is only available on prescription.

Senator Colm Burke: I thank the Minister of State.

The Seanad adjourned at 3.05 p.m. until 2.30 p.m. on Tuesday, 24 June 2014.