



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

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SEANAD ÉIREANN

Dé Máirt, 31 Eanáir 2017

Tuesday, 31 January 2017

Chuaigh an Cathaoirleach i gceannas ar 2.30 p.m.

Machnamh agus Paidir.
Reflection and Prayer.

Business of Seanad

An Cathaoirleach: I have received notice from Senator Martin Conway that, on the motion for the Commencement of the House today, he proposes to raise the following matter:

The need for the Tánaiste and Minister for Justice and Equality to advise the House on when she plans to initiate a new coroners Bill.

I have also received notice from Senator Paul Gavan of the following matter:

The need for the Minister for Education and Skills to explain why his Department is still outstanding in honouring Labour Court recommendations LCR 21162 to LCR 21181, inclusive, and LCR 21185 which refer to former workers of Tipperary Hostel.

I have also received notice from Senator Robbie Gallagher of the following matter:

The need for the Minister for Health to make a statement on current ambulance response times in County Monaghan and confirm if there are enough resources now in place to prevent further delays.

I have also received notice from Senator Keith Swanick of the following matter:

The need for the Tánaiste and Minister for Justice and Equality to engage directly with the Courts Service and the Common Investment Fund, with a view to divesting from tobacco-related stocks, and the need for clear guidelines within her Department on such investments, given that tobacco-related illness is the leading cause of preventable deaths in Ireland.

I have also received notice from Senator Neale Richmond of the following matter:

The need for the Minister for Education and Skills to extend the consultation period on the role of denominational religion in the school admissions process and possible approaches to making changes.

I have also received notice from Senator Denis Landy of the following matter:

The need for the Minister for Housing, Planning, Community and Local Government to explain how he arrived at the decision to exclude councillors in Dublin, Cork and Galway from the proposed increase in councillors' representational allowances, in so doing discriminating against those in the areas listed.

I have also received notice from Senator Michael McDowell of the following matter:

The need for the Tánaiste and Minister for Justice and Equality to discuss the proposal to have a lay chairperson and a lay majority on the proposed judicial appointments advisory commission.

I regard the matters raised by the Senators as suitable for discussion. I have selected the matters raised by Senators Martin Conway, Paul Gavan, Robbie Gallagher and Keith Swanick and they will be taken now. Senators Neale Richmond, Denis Landy and Michael McDowell may give notice on another day of the matters they wish to raise. Senator Keith Swanick has withdrawn his Commencement matter which I had selected for discussion.

Commencement Matters

Coroners Service

An Cathaoirleach: I welcome the Minister of State, Deputy Catherine Byrne.

Senator Martin Conway: Go raibh maith agat, a Chathaoirligh, for selecting this matter for discussion.

It gives me great pleasure to welcome the Minister of State, Deputy Catherine Byrne, a lady for whom I have enormous regard. I wish her well in her portfolio. She is already doing a great job. It is a difficult portfolio, but it gives me great pleasure in the Seanad to acknowledge and salute the work she is doing.

I have tabled this matter because I firmly believe the set-up for coroners must be reviewed and updated. It is fair to say the coroners legislation governing the operation of all coroners in the country is outdated and badly needs to be upgraded. Certainly, in the light of issues that have recently been raised in hospitals, particularly when it comes to newborn babies dying or being found dead, a coroner's inquiry should be mandatory in all such cases. We have seen scandalous examples in a tiny minority of hospitals where mothers and their babies have died and it is totally unacceptable for no inquiry to be held. It should be mandatory to have a coroner's inquest into all maternal deaths.

Having the Coroner Service under the auspices of local authorities does not make sense in the modern era. I know that the Department of Justice and Equality is the lead agency, but in all cases coroners are paid by the local authorities and the money comes from local authority budgets. Many Senators regularly receive correspondence from local authorities seeking additional funding for various services. In fairness to all local authorities, they have made great strides in reducing costs, cutting waste and so forth. The cost over which they have no control

is that of coroners. They receive a coroner's bill every year which they must pay. They cannot question it, negotiate a reduction or seek value for money. They never know whether the bill will be large or small. Therefore, it is difficult for councils and finance officers in local authorities to budget for the expense. Unfortunately, there have been many tragedies in my county, Clare, and many other counties with a coastline. In fact, the services of coroners are required a great deal more than we would like. For the sake of all citizens of the country and in the interests of the profession of coroners, we need the long promised legislation to be delivered as a matter of urgency. This is one particular statute and set-up that badly need to be brought into the 21st century.

Minister of State at the Department of Health (Deputy Catherine Byrne): I thank the Senator for his statement. On behalf of the Tánaiste and Minister for Justice and Equality, Deputy Frances Fitzgerald, who cannot be here, I thank him for raising this subject as it affords me an opportunity to update the House of the most recent developments. I acknowledge his active involvement in promoting reform of the system under which the coroners operate.

With other members of the Joint Committee on Justice and Equality, the Senator met officials from the Tánaiste's Department on 23 November 2016 to continue engagement on the matter. The officials updated the committee on the extensive work already undertaken on the legal and medical aspects of the comprehensive review of the Coroners Bill 2007 directed by the Tánaiste.

The Tánaiste has now established a dedicated coroner unit in her Department. The unit will develop policy and contribute to the review of the legislative provisions, with the clear mandate to do what needs to be done to bring about reform as soon as is practical. The unit became operational at the beginning of this month. It has started engagement with relevant stakeholders and a review of the latest developments in coroner organisations in similar states with a common law heritage.

The critical issue is that any proposal brought forward to the Oireachtas to move to a modern coroner system must be coherent and cost-effective. Most importantly, the new coronial law and service must meet our obligations to the people and also those obligations under the European Convention on Human Rights.

The Coroners Bill 2007 was a significant attempt to bring about modernisation of both the law and practice of the coroner's investigation and the nature and role of the office of coroner. Responsibility would be transferred from local authorities to the Minister for Justice and Equality, with a new post of chief coroner, full-time coroners and a new central coroner service to provide enhanced support for coroners and liaise with bereaved families. To operate the intensive requirements for improved coroner death investigation services, as set out in the 2007 Bill, and allowing for developments since, we must examine and decide on an appropriate delivery system. The new coroner unit will have to urgently consider whether the full-time model proposed in 2007 is still the optimum approach. This would end the current part-time coronial service, provided by either lawyers or doctors, in jurisdictions based on county or sub-county divisions. Such an approach has already been taken in the modernised coroner services of Northern Ireland and New Zealand. These states also operate a lawyer-only coroner model.

While not the focus of this discussion, I should mention the recent proposals to amend the law to make certain deaths subject to mandatory inquests and to add to the range of permissible inquest verdicts put forward by Deputy Clare Daly and Senator Pádraig Mac Lochlainn, re-

spectively, in the Dáil and the Seanad. Their proposals will be integrated into the review being conducted by the coroner unit in the Department.

Senator Martin Conway: I thank the Minister of State for her positive and comprehensive reply. It would be remiss of me not to pay tribute to Deputy Clare Daly and Senator Pádraig Mac Lochlainn - a former Deputy - for the immense work they have done on this issue. The news from the Department is good. I sincerely hope that by this time next year we will have new coroners legislation in place and that the system will be in line with international best practice.

Deputy Catherine Byrne: I have taken note of what the Senator said. I concur with the reply from the Tánaiste and Minister for Justice and Equality, Deputy Frances Fitzgerald, to the effect that the current cohort of coroners strive to offer the best possible service within the confines of the existing administrative framework. The Department agrees that there is a need to get on with a long-term plan to modernise the system. The aim is to move from the original 19th century approach to one that is suitable for the 21st century. The new coroner service must provide for a better service in the nature and speed of its response to persons touched by deaths reported to the coroner.

The Senator made particular reference to the death of babies and argued that some cases were not taken seriously enough. I agree with him in that regard. I again thank him. I have taken notes on his contribution and will bring them to the attention of the Tánaiste and Minister for Justice and Equality.

Redundancy Payments

Senator Paul Gavan: My question relates to outstanding Labour Court recommendations Nos. 21162 to 21181, inclusive, and 21185, which refer to SIPTU members who were formerly employed at the Tipperary Hostel on the basis of a job initiative scheme. The hostel closed in 2010 and in 2011 the Employment Appeals Tribunal determined that there was a genuine redundancy. As a result, SIPTU made a direct application to the then Department of Enterprise, Trade and Employment for the payment of statutory entitlements through the Social Insurance Fund. It took the workers approximately 14 months, through their union, to receive these payments. SIPTU then progressed a claim for enhanced redundancy payments in line with previous agreements of the Labour Court which issued its findings on 16 March 2016. The court recommended in all cases the making of an *ex gratia* payment of three week's pay per year of service over and above the statutory redundancy payments made. The former workers covered by these recommendations are Gary Ryan, Seán Twomey, Patrick Merrigan, Seamus McCarthy, Carmel Mc Grath, Denis Hansen, Michael O'Dwyer, Oliver Keogh, Richard Capliss, Michael Ward, Ian Dawson, Richard Brennan, Michael Cohen, David Ryan, Gerard Culhane, John Joseph Lyndon, Dominic Frewen, Pat Morrissey, Seán Carew, Philip Wilson and Cornelius Connors.

In its efforts to secure payment of the outstanding moneys, SIPTU wrote to Ms Deirdre Shanley, principal officer in charge of employment schemes at the Department of Social Protection, on 29 April and 28 June last year. There followed a meeting between Ms Shanley, representing the Department and-----

An Cathaoirleach: It is not appropriate for the Senator to name officials.

Senator Paul Gavan: I apologise. The Cathaoirleach is quite right and I am sorry for doing so.

An Cathaoirleach: Departmental officials are entitled to some protection.

Senator Paul Gavan: The Cathaoirleach is right and I apologise.

There followed a meeting between the Department and SIPTU on 13 June to discuss the outstanding moneys due. SIPTU again wrote to the Department on 11 July, detailing these cases alongside a number of others involving former workers under a number of other schemes. SIPTU received no response and again wrote to the Department on 13 September in pursuit of outstanding moneys for its members. In this correspondence Mr. Eddie Mullin, a SIPTU senior sector organiser, detailed that the union had written to the Department in 2014 confirming its intention to refer a breach of the community employment supervisor enhanced redundancy agreement of 2002, as amended in 2005, to the Workplace Relations Commission, WRC. In October 2014, at the request of the Department, SIPTU had agreed to put the referral on hold to allow further talks to take place between the two parties. One meeting took place but no progress was made. SIPTU referred the matter back to the WRC last September. Almost five months have passed and the WRC has still not received a response from the Department to its invitation to attend a hearing.

With the greatest of respect, I genuinely do not understand why the Minister of State at the Department of Health, Deputy Catherine Byrne, is here. I did not direct this question to her or her Department. Is it okay for a Minister to ignore Labour Court recommendations? It is the Minister of State's colleague, Deputy Leo Varadkar, who is ignoring them. What signal does this send to employers and unions that a senior Minister is ignoring the highest body in the State's industrial relations machinery? What message does it send that the Department of Social Protection did not even bother to tell SIPTU that it had chosen to pass on this issue to another Department, if that is what has happened? What about the Workplace Relations Commission, WRC, which has been waiting for a response for five months on whether the Government will attend the hearing to resolve the related matter of the breach of the community employment supervisor enhanced redundancy agreements? Will the Minister of State at least confirm that the Government will accept the WRC's invitation to talks? Is she even aware that the invitation has been outstanding for the past five months? We have Ireland's largest union waiting for a response that has not come. We also have the Workplace Relations Commission waiting for a response. We have 16 men and their families, seven years after they lost their jobs, waiting for this payment and the Labour Court's recommendations to be honoured. I hope the Minister of State will be able to give me some precise answers today.

Deputy Catherine Byrne: I thank the Senator for tabling this Commencement matter. As he correctly pointed out, it is not within my area of responsibility. I have been asked to take it on behalf of my colleague, the Minister of State at the Department of Education and Skills, Deputy John Halligan, who sends his apologies that he cannot be here. I will read the statement I have been given. I have taken note of what the Senator has said which I will relay back to the Minister of State.

The Tipperary hostel project was a community based project set up in 2000 by Tipperary Hostel Limited. Its objective was the transformation of a Famine era workhouse in Tipperary Town into a facility which was expected to operate primarily as a local community based hostel under community and voluntary management. The project was part funded under a FÁS job

initiative programme. FÁS provided financial support to assist with the job intervention programme, for example, with participants' wages. Funding was also provided for the project by Pobal. The aim of the job initiative programme was to assist long-term unemployed persons to prepare for work opportunities by providing participants with work experience, training and development opportunities.

In April 2010 the board of Tipperary Hostel Limited informed FÁS that it would be ceasing work on the project on 30 April 2010. This followed on from an internal audit investigation by both Pobal and FÁS. At the time of the closure there were 22 employees participating in the scheme. FÁS arranged alternative employment on community schemes for 22 participants, however only one availed of this offer.

A case on behalf of the employees was taken to the Employment Appeals Tribunal where it was established that the employer of the job initiative programme participants was Tipperary Hostel Limited, not FÁS. FÁS ceased to fund and manage all job initiative schemes in 2011 as this function was transferred to the Department of Social Protection. In October 2013 FÁS was abolished and SOLAS was established. SOLAS has no liability for redundancy payments to the former participants as its predecessor, FÁS, was never their employer as was confirmed at the Employment Appeal Tribunal. SOLAS was not a party to the Labour Court recommendations of March 2016, LCR21162 to LCR21181, inclusive, and LCR21185. The parties involved were Tipperary Hostel Limited and SIPTU. In the recommendations of the Labour Court the finding was against Tipperary Hostel Limited. Tipperary Hostel Limited stated it had no funds as during its operation it had relied on funding from FÁS and POBAL. The Labour Court recommended that the parties, Tipperary Hostel Limited and SIPTU, jointly co-operate in seeking the necessary funds from the funding agency to discharge the amounts recommended. Tipperary Hostel Limited and SIPTU have not at any stage sought funding from SOLAS or the Department.

In relation to the decision on the provision of funding, it should also be noted that there is an outstanding liability due to SOLAS of €159,960 from Tipperary Hostel Limited. SOLAS has continued to pursue this funding from the company.

I thank the Senator for giving the Minister an opportunity to outline the position on the Tipperary hostel project.

Senator Paul Gavan: I hope the Minister of State can understand why I am extremely disappointed with her response. The least the workers deserve is respect. They have been shown no respect by the Department of Social Protection. The Minister of State acknowledged in her reply that responsibility for job initiative schemes had been transferred to that Department. When officials from the Department met representatives of SIPTU, they did not say this had nothing to do with the Department. A WRC invitation has been outstanding for five months. I have to say the Government is playing ducks and drakes on this issue. It is ducking here and ducking there. The workers are waiting for moneys that are due to them on foot of a Labour Court recommendation. The disrespect shown to them is in stark contrast to the affording of moneys to banks and developers by the Government. I do not mean it personally when I put it to the Minister of State who has a rotten job here today that this is a disgrace. I am extremely dissatisfied because it is a disservice to the Seanad that I have been unable to get a single straight answer on behalf of the workers. I hope the Minister of State can do more than that before she leaves.

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An Cathaoirleach: I do not think this issue will be resolved today. Does the Minister of State want to-----

Deputy Catherine Byrne: No, I just-----

Senator Paul Gavan: Will the Minister of State accept the WRC's invitation?

An Cathaoirleach: I know that the Senator is very passionate about this matter, but, as he has admitted, the Minister of State is not the line Minister in this area. As she is standing in for somebody else, she does not have all of the answers. I do not think the issue will be resolved today. I ask the Minister of State to make some brief remarks in conclusion.

Deputy Catherine Byrne: I thank Senator Paul Gavan. I appreciate that the reply has frustrated him. To be honest, I could raise my own concerns in that regard. I will bring the issues he has outlined to the attention of the Minister. The Minister and his office will reply to the Senator in more detail and answer some of the questions he has raised. Unfortunately, I am not in a position to provide detailed answers. It would be wrong of me to try to do so, but I will give a personal commitment to pass on the concerns and frustration expressed by the Senator during the debate.

Senator Paul Gavan: I appreciate it.

An Cathaoirleach: I am sure the Senator will raise the issue again if the line Minister does not heed the Minister of State's hints. I hope it can be resolved without another debate.

Ambulance Service Response Times

An Cathaoirleach: Cuirim fáilte roimh an Aire Stáit, an Teachta Corcoran Kennedy, go dtí an Seanad.

Senator Robbie Gallagher: Ba mhaith liom fáilte a chur roimh an Aire Stáit.

I am raising the issue of ambulance response times to call-outs in counties Monaghan and Cavan in the context of two very serious and life-threatening incidents that occurred in the north Monaghan area at the end of December 2016 and the beginning of January 2017. One person collapsed in a shopping centre in Monaghan and another person fell down the stairs of her family home. There was a delay of two hours in one case and two and a half hours in the other while those involved waited for an ambulance to arrive. It subsequently transpired that the ambulance had to travel from County Longford. An ambulance was called last 3 o'clock week in Killeshandra, County Cavan after a young pupil began to feel unwell. The school was informed that it would take 45 minutes for the ambulance to arrive. The school principal who is to be complimented on acting so quickly was concerned and decided to contact a local general practitioner who, in fairness to him, left his practice and went straight to the school. The case was so serious that he decided to travel with the child in a car to Cavan General Hospital. Surely that is not good enough in this day and age. I am sure the Minister of State can appreciate the trauma the family went through. Family members were worried about their loved ones and extremely annoyed and upset about the delays that took place.

They join a long list of cases in counties Monaghan and Cavan in which there were similar life-threatening delays. Unfortunately, this has been a problem in County Monaghan for over

a decade. When acute hospital services were removed from Monaghan General Hospital, the people of the county were promised a beefed-up ambulance service to compensate for the lack of services at the hospital. Unfortunately, they are still waiting.

I wish to clarify the definition of a “golden hour”. It is a term with which people living in counties Monaghan and Cavan are rather familiar. The golden hour is a period of one hour, or less, following traumatic injury being sustained by a casualty or medical emergency, during which there is the highest likelihood that prompt medical treatment will prevent death. Today there is a real and palpable fear among people living in counties Monaghan and Cavan that a delay will occur following an ambulance call-out. Ambulance response times in counties Monaghan and Cavan are well outside the recommended levels. The same applies in the north-east region generally, according to the latest National Ambulance Service statistics. HIQA guidelines are clear: an ambulance should arrive at the scene of a life-threatening emergency in fewer than 19 minutes in 80% of cases. However, last September this target was met in only 67% of the 809 calls in the north-east region, well below the national average of 74%.

Last week, to great fanfare, the Taoiseach, with senior Ministers, told us how the Government was going to look after and focus on the needs of rural Ireland. The most basic need of any citizen living in rural Ireland is access to health care. Surely, the Minister of State will agree that the ambulance call-out consistency rate is abysmal.

The Minister and the HSE have much to do to establish confidence in the provision of health care in rural areas in counties such as Monaghan and Cavan. In no way is any criticism directed at front-line staff. They are put in a difficult position and arrive at a scene where people are upset and distressed. They deserve great praise for the professionalism shown in adverse circumstances, as well as for the care and kindness they show to the people concerned and their families. The lack of resources explains inadequate ambulance cover and delays. Ambulances are trying to cover areas that are too extensive to be feasible within time targets. The problem of accountability for delays and poor service must be fixed as a matter of urgency. I call on the Minister of State to arrange for a commitment to be given to the people of counties Cavan and Monaghan to the effect that delays of this nature will not continue and that adequate resources will be put in place to ensure people will be attended to when the need arises.

Minister of State at the Department of Health (Deputy Marcella Corcoran Kennedy):
I thank the Senator for raising this important matter. I welcome the opportunity to address the House on it.

Monaghan ambulance base provides a 24/7 ambulance service. In addition, the National Ambulance Service has been moving to a policy of dynamic deployment, whereby vehicles are strategically located in the areas they are most likely to be required, rather than located at a particular station. In that regard, County Monaghan can also be served by resources based at Castleblayney, Cavan, Dundalk, Ardee and Virginia.

While response times are helpful for performance measurement, it should be recognised that sole reliance on response times does not provide a comprehensive picture of modern ambulance service performance. A steering group set up by the HSE has been working to define a new set of key performance indicators for the ambulance service. They will include patient outcome indicators to assess performance.

The National Ambulance Service has undergone a significant process of modernisation in

recent years and a number of important service innovations and developments have taken place. The national emergency operations centre has been established. At the centre emergency calls are received and emergency resources are dispatched. The National Ambulance Service has visibility of all available paramedic resources and vehicles in real time, ensuring the closest available resource is dispatched to an emergency. In addition, the National Ambulance Service has developed the intermediate care service to provide lower acuity hospital transfers. This frees up emergency ambulances for the more urgent calls. Furthermore, a permanent emergency aeromedical support service has been established to provide a more timely response time for persons in rural areas. The National Ambulance Service is considering alternatives to the current model of care which requires every patient to be brought to an emergency department.

The options under consideration include hear and treat whereby clinical advice is provided over the telephone for callers who can then, if appropriate, be referred to other care pathways. I am advised that a recruitment process is under way for the necessary staff to facilitate the roll-out of a pilot hear and treat model of care. This ambulance reform programme is taking place against the backdrop of the Health Information and Quality Authority's review of ambulance services which was published in late 2014 and the National Ambulance Service capacity review which was published last year. The capacity review examined overall ambulance resource levels and distribution against demand and activity. Implementation of the recommendations made in the capacity review will require a multi-annual programme of phased investment in ambulance manpower, vehicles and technology. I am happy to confirm that in that context, additional funding has been made available to the National Ambulance Service in 2017 which will provide for the recruitment and training of additional staff, the development of alternative care pathways and the implementation of the electronic patient care record.

Senator Robbie Gallagher: I thank the Minister of State for her response. I welcome the statement that additional resources will be allocated which, as I said, are very much needed.

When I was first alerted to this incident in County Monaghan in the first week in January, I contacted the HSE. The incident caused great concern for the people of that county. I asked for the reason for the delay. We are now entering February and I have not received a response. I do not expect the Minister of State to have the answer to that question, but this issue needs to be addressed. With respect, I take cold comfort from the contents of the Minister of State's statement. It is an issue that has to be addressed. If someone is in a critical and life-threatening situation and lies waiting for two and a half hours for an ambulance to arrive, we have a serious problem. Unless we address it, fatalities will occur.

Deputy Marcella Corcoran Kennedy: I cannot comment on specific cases, but I absolutely understand the Senator's concern. Perhaps it might be more appropriate to refer the specific cases to the National Ambulance Service for investigation. I am sure if the Senator provides it with the details, it will investigate the instances mentioned.

Senator Robbie Gallagher: That has been done.

Sitting suspended at 3.05 p.m. and resumed at 3.30 p.m.

Appointment of Clerk of Seanad Éireann

An Cathaoirleach: Before I call our esteemed Leader, Senator Jerry Buttimer, to outline

the business of the day, I would like to make a brief but very important announcement. It is an historic occasion for this Seanad. I announce formally for the information of the House that, on my recommendation - it is a great honour and privilege for me as Cathaoirleach - the Houses of the Oireachtas Commission today appointed Mr. Martin Groves as Clerk of Seanad Éireann in accordance with the Staff of the Houses of the Oireachtas Act 1959, as amended. On a personal level, I wish Martin the very best. He is very professional and has been acting Clerk for approximately two and a half years. I hope he will in some way emulate the longevity of his predecessor who I think was Clerk for 24 years and prior to that Clerk Assistant for about five years. He has a hard act to follow, but I wish him well. Some people had been complaining, rightly so, that we had no Clerk of the Seanad and that Martin had been acting Clerk for some months. In that regard, the shortage of staff took from the impetus of the work we were trying to do. It is a great day for Martin and his family and I hope he will enjoy it.

Order of Business

Senator Jerry Buttimer: The Order of Business is No. 1, motion of referral to Joint Committee on Health of EU directive on illicit drug trafficking, to be taken without debate at the conclusion of the Order of Business; and No. 2, Adoption (Amendment) Bill 2016 - Committee Stage, to be taken at 4.45 p.m.

Senator Catherine Ardagh: I congratulate Mr. Martin Groves and his family on his appointment. I look forward to continuing to work with him. It has been a pleasure so far and we will continue in that fashion.

On 9 November 2016 I entered this House and raised concerns about the undocumented Irish in the United States of America after it had become apparent that Mr. Donald Trump had won the election and would become President of the United States of America. That day I called on the Government to establish a special task force to work on behalf of the undocumented Irish. However, no task force was established and nothing appears to have been done by the Government. As with Brexit and most problems, the Government ignores problems until such a time as they turn into a crisis. The Government must stand behind the undocumented Irish in the United States and urgently establish a task force to make representations on their behalf.

Of the numerous executive orders signed by the President of the United States, the newest anti-immigration policies scare me the most. I am sure many of us will take a stance on them today in the House. I formally oppose, in particular, the anti-immigration, anti-refugee and anti-Muslim policies of the President of the United States. What is most disturbing and which shows a serious erosion of the rule of law is his sacking of Ms Sally Yates, the US equivalent of the Attorney General, for refusing to defend the new anti-immigration policies, which include the 120-day stay on the already meagre refugee programme and the 90-day ban on entry into the USA by nationals from seven countries with majority Muslim populations. When the Taoiseach visits the White House in March, I hope he will take the opportunity, on behalf of the many people who will never get a chance to meet the President of the United States, to raise the concerns of many Irish people about his immigration and other discriminatory policies. To do otherwise and just turn up for a photo opportunity and present a bowl of shamrock would let many people down.

Senator Marie-Louise O'Donnell: I thank the Cathaoirleach and congratulate Mr. Martin Groves on his new post, in which I know he will perform extraordinarily in every way.

I alert the House to something extraordinarily historic and creative that happened in County Mayo this week - Westport House was acquired by the Hughes family. I bring up their name because the matter is in the public domain. They bought Westport House, one of the greatest landmarks and jewels in the crown of County Mayo to keep it alive and give it a future. It was a national, regional and local triumph. It is a place of great beauty, creativity and imagination for tourism, art, geography, history, music and architecture. As a business family in the town, they have kept it alive forever. All of the jobs are saved by their generosity and new direction. It was done with no rancour whatsoever. I congratulate Mr. Cathal Hughes, chairman of the Hotel Westport. In this House we talk about jobs, architecture and beauty and our own counties. This is a national icon. I also congratulate Mr. Harry Hughes and Mr. Owen Hughes, Mr. Peter Hynes of Mayo County Council, the Minister, Deputy Michael Ring, the Department and the Taoiseach. Mr. Cathal Hughes - one of our own in the west - said he intended to put €50 million into something that was our own to keep 200 jobs, understand and articulate the importance of Westport and Mayo as a county and to ensure the house would be maintained in creativity, history, beauty and imagination in perpetuity. They are exactly the kind of generous businessmen, thinkers and educators every county needs and has. It took courage to do it without rancour and disturbance. I am glad to see it. It is a change. It is one of our own, buying one of the great houses to keep it in perpetuity for the people of County Mayo. It is extremely important, especially in a world that is fluctuating.

Senator Rose Conway-Walsh: I thank the Cathaoirleach. I congratulate Mr. Martin Groves on his new position, in which I wish him well. If he does it as well as he has done his other job since I came here, I am certain that he will enjoy success. He will have our co-operation in doing the job.

I commend the Hughes family for their initiative in buying Westport House and congratulate all involved. At the end of the day, they were the ones who put their hands in their pockets. They have a proven track record and it is good for Westport. I hope it will work out well for them. It certainly could not be in the hands of better promoters than the Hughes family.

I refer to the executive order introduced last week by US President Donald Trump to halt the US refugee programme and the introduction by him of a travel ban for nationals from seven Muslim-majority countries. They are in breach of EU and UN obligations and amount to the subversion of proper standards of decency and equality. I am firmly of the view that this arbitrary ban is wrong and will be totally counterproductive. It will undermine efforts to improve relations between peoples of all faiths and nationalities. Generations of Irish people fled starvation, poverty and conflict to make a new life and contributed to the building of America. Millions of their descendants are among the most outraged at the recent moves. It is worth noting that many Americans are opposed to President Trump's policies. The Government should refuse to impose the ban on citizens from the seven countries in question seeking to enter the United States through the pre-clearance facilities at Dublin and Shannon airports. We have organised a protest tomorrow at Shannon Airport on this very issue. We need to ensure the State's obligations under the European Convention on Human Rights and other international agreements will be fully observed. The question is whether the Government will take the opportunity to advise the undocumented Irish in the United States not to be alarmed by recent developments. I know that many people are frightened. Will the Taoiseach meet them when he is in the USA to hear from and talk to them about the issue? The focus of his visit has to be on engaging with the diaspora, standing up for the undocumented Irish and maintaining our strong ties with Irish America. Will the Government indicate in the strongest possible terms the Irish

people's total opposition to the racist, anti-woman and anti-immigrant policies of President Trump? There is a big job of work to be done and we are relying on the Taoiseach to do it. We, in the Sinn Féin Party, will be doing likewise.

I commend the farming organisations, including the IFA and the Irish Natura and Hill Farmers Association, for the protests they have organised today on the delays in making GLAS payments to 10,000 farmers. That is wrong and my colleague, Senator Pádraig Mac Lochlainn, will talk further about the issue.

Senator Lynn Ruane: On my own behalf and that of the Civil Engagement group, I congratulate Mr. Martin Groves and wish him the best of luck in his new role as Clerk of the Seanad.

Like everyone else, I express my disgust and horror at the executive order issued by the Trump Administration last Friday. President Trump's defence is based on national security grounds, but no nationals of the relevant countries were involved in the events of 9/11 and the central shared feature is that they are all Muslim-majority nations. President Trump campaigned on a platform of nativism and racism, but many commentators said his radical policies would never be implemented. However, recent events have proved them to be wholly wrong. I am horrified that a US President believes he is justified in pursuing this course of action. He is targeting members of one of the world's largest religions based on the actions of extremists, a religion which has 3.3 million followers in his own country. He is absolutely failing in his duty to represent all Americans. It is clear that we must take every opportunity available to us to oppose and resist the discriminatory policies of this President which fly in the face of the values of the Irish people and Irish society. We value diversity which we appreciate is one of our greatest strengths. We oppose discrimination and those who engage in the politics of division. I support the call that the provision of US immigration per-clearance facilities be reviewed to ensure we are in full compliance with constitutional and statutory requirements. If it is discovered that we are colluding on Irish soil in imposing this discriminatory ban, we should no longer offer the service at Irish airports.

Senator Ivana Bacik: I join others in congratulating Mr. Martin Groves on his appointment as Clerk of the Seanad. It is well deserved and I look forward to working with him.

I join other speakers in recording my strong condemnation and that of the Labour Party of the executive order issued by President Trump. With many others in this city, on 21 January I took part in the women's march to express our opposition to what we saw as the sexist, misogynistic policies of President Trump. However, his actions since, particularly at the weekend in issuing the executive order restricting immigration, have gone further. As others said, this very much deserves outright condemnation by those of us who are concerned to ensure we do not see racial profiling and what amounts to an effective ban on Muslims in that it is a ban on citizens of many countries. As others said, the executive order has serious implications for us in Ireland. If one looks today at the website of the US Embassy in Ireland, one will see a notice on the front page telling anyone who is a citizen, or a dual citizen, of one of the seven countries mentioned not to apply for a visa, not to continue with a visa application already in train and to cancel an interview if one has been granted one. These are Irish citizens who also happen to be citizens of one of the seven countries named in the order.

We then saw the dismissal of Ms Sally Yates as Attorney General by President Trump because she had taken the view that she could not be sure of the lawfulness of the executive order,

in particular its effect on those who had already been through a process and who now it appears will be denied entry to the United States. These are all very serious questions. I call on the Leader to bring the Minister for Foreign Affairs and Trade, Deputy Charles Flanagan, before this House to answer a number of private notice questions that my colleague and our party leader, Deputy Brendan Howlin, tabled in the Dáil today but which were disallowed. He asked that the Taoiseach outline the circumstances which had led to his request for a complete review of the operation of pre-clearance facilities, in particular that he explain whether there were possible legal implications for Ireland arising from possible complicity in the implementation by US authorities of policies that might have the effect of causing discrimination based on race or religion. He also raised the question others have raised, namely, whether the new US restrictions fly in the face of the international legal obligations on each state towards asylum seekers and those seeking refuge. Therefore, I ask the Leader to bring the Minister for Foreign Affairs and Trade before this House this week to answer these questions.

I also support my party leader's call for the Taoiseach not to attend the St. Patrick's Day celebrations in the United States on 17 March if the restrictions remain in place. We all hope the US legal and democratic system is sufficiently robust. As we have seen, a number of judges are refusing to implement the order in the case of people who have been through the visa process. I hope we will see the executive order being reversed or repealed before St. Patrick's Day. However, we must take a stance as Irish people in support of our own values and against these discriminatory and highly troubling new orders emanating from President Trump.

Senator Paudie Coffey: I share the concerns expressed about the recent developments in the USA. However, how we respond to and deal with this international challenge which is what it is is very important. It is important that the Taoiseach visit the White House on St. Patrick's Day. I disagree with and strongly reject what the leader of Fianna Fáil in the Seanad has said about the Government. The Government is concerned about the undocumented Irish. The Minister for Foreign Affairs and Trade, Deputy Charles Flanagan, is in Washington engaging through the Irish Embassy and consulate with American officials. He will highlight the concerns of the undocumented Irish. The Government appointed a Minister of State with responsibility for the diaspora. It also appointed a Member of this House, Senator Billy Lawless, who is a strong voice for many Irish emigrants in the United States of America. Therefore, it is unfair to be political on this very important issue for all of us. I ask the leader of Fianna Fáil in the Seanad to take back what she said today. Thousands of Irish people have used the pre-clearance facilities in Dublin and Shannon airports and continue to take advantage of them. Simply abandoning them will not achieve what I think we all wish for in respect of our shared concerns about immigration. We must be very careful in how we approach the issue.

I turn briefly to another major challenge facing Ireland, namely, Brexit. The economic challenges facing the country cross many sectors, including the agrifood sector, but one sector which can be particularly vulnerable is the energy and IT sector. As an island nation, now is the time for us to engage with our European partners to invest in an energy interconnector and a high-speed broadband interconnector with mainland Europe and a transatlantic broadband connection with the United States of America. We cannot afford to allow ourselves to be isolated or at a disadvantage in any way if a hard Brexit occurs. Now is the time to put the fundamental parts in place in planning infrastructure in order that Ireland can compete internationally with no disadvantages as an island nation. Our European partners can help us in that regard. I ask the Leader of the House to arrange a debate on these issues in order that Ministers can outline their plans for how they propose to deal with these challenges.

Senator Mark Daly: I congratulate Mr. Groves on his appointment and know that he will do an excellent job.

I support my colleague, Senator Catherine Ardagh, in her comments on the need to establish a task force for the undocumented Irish in the United States, of whom there are 50,000, for each of whom, there are ten people at home who are worried about their future. That represents 10% of the population of this island who have somebody in the United States facing deportation.

In his executive order President Trump singled out the Muslim community. It is the headline we are hearing and it is truly appalling. It is sectarian and racist and meant to be so. On the campaign trail he promised that he would target and ban Muslims. This has nothing to do with terrorism but with people's religion. In the small print and of particular concern to the undocumented Irish, he has ordered the hiring of an extra 15,000 enforcement officers. He has told people in "sanctuary cities" such as San Francisco and Boston that they can no longer have a system under which law enforcement officers are not allowed to ask about anyone's immigration status. They must now start to ask about the immigration status of anybody they question about a particular crime or even something as small as running a red light.

The Mayor of Boston, Mr. Martin Walsh, has stood up to President Trump and stated he will not implement this instruction, as have many other mayors throughout the United States. President Trump stated he would only get rid of criminals among the undocumented 11 million people living in the United States, but his definition of "criminal" has again been broadened, which means that all 11 million could quite easily fall within the scope of the definition of those to be deported. There will be no comprehensive immigration reform Bill in the United States any time soon, or at all, but we were very close with the McCain-Kennedy Bill in 2007. In 2013 the Senate passed a Bill by 68 votes to 32 that would have given 10,500 visas to the Irish. I know that Senator Billy Lawless and Mr. Ciaran Staunton of the Irish Lobby for Immigration Reform worked very hard on that Bill.

We are asking for a task force to be established because we have spoken to people in the Irish-American community. We have spoken to people in pastoral centres in New York, Boston and San Francisco and they will need resources to help those who will be arrested. They will need to provide counselling resources for those who will find themselves isolated and fearful about their future. We need a task force to ensure resources will be provided for the Irish-American community, including the 50,000 people who are under threat of deportation at any moment.

Senator Billy Lawless: I congratulate Mr. Groves on his appointment. I was going to say it as a young rookie, but I will keep the "young" out of it. For the few months I have been a Member of the House, Mr. Groves and his staff have been so courteous to me. I wish him well. His appointment is well deserved.

On Friday, 27 January 2017, President Trump signed an executive order halting the entire refugee programme for Syria for four months. Citizens from Iran, Iraq, Somalia, Sudan, Libya and Yemen will be blocked for a period of three months. The executive order also included permanent legal residents and dual citizens who held a passport for any of the countries listed. The result was confusion and fear among immigrant and refugee communities across the United States and at major airports. The reaction of ordinary American citizens to this un-American act, however, has been nothing short of extraordinary. On Sunday I stood as a Senator for the global Irish in solidarity with immigrant and refugee community groups at Chicago's O'Hare

Airport. Over 4,000 people turned out in an impromptu show of force and defiance to denounce President Trump's executive order. There were similar protests in New York, Boston, Denver and at 33 other airports across the United States. At one stage more than 50 people had been detained at O'Hare International Airport in Chicago. Citizens and green card holders with valid visas were detained by customs and border control agents operating under the auspices of the Department of Homeland Security. New York Federal Judge Ms Ann Donnelly, a good Irish-American, granted a stay on deportations and eventually everyone who had been detained was released.

On Sunday I met a young man from the Iraqi Mutual Aid Society in Chicago. His parents are from Iraq and both of them have a green card. They have spent ten years in Iraq working for American non-governmental organisations helping to rebuild a ravaged country. Recently, Othman Al Ani's mother travelled to Egypt to visit a son who she had not seen in eight years. As of Sunday, she remained trapped in Egypt and unable to return home as a result of the ban.

America is a country of laws, but it is also a country of values. It has always been outward looking and welcoming to immigrants of all faiths and from all lands. The executive order does not reflect the spirit of the American people or the country's leadership role in the world. I do not believe President Trump's actions serve the interests of Muslims who are banned from entering the United States, the 50,000 undocumented Irish living in the United States or the 34 million people in the United States who claim Irish ancestry. I call on the Trump Administration to rescind the executive order. I call on it to follow the words of Pope Francis who has admonished us to welcome the stranger and those fleeing suffering or persecution. In this climate the 50,000 undocumented Irish in the United States are watching closely in fear and trepidation. President Trump stated in his presidential campaign that those who had overstayed their visa were more guilty than those who had sneaked across the border into America and that would include Irish people. It is my hope we can present a united voice in this country that will have a lasting effect. I hope we can come together in a collective way to tell President Trump exactly what the citizens of Ireland think of his actions in the past few days. He may wish to build walls to divide nations, but that cannot be our objective.

I fully support the Taoiseach in not rejecting the invitation to visit the White House. Ireland is the only country that has this honour on its national day, which we have enjoyed for the past 60 years. Many countries are envious of our special relationship with the United States. We need dialogue. For advocates of immigration reform in the United States like me and others, it is essential that we keep open the gates of communication. I stand ready to work with the Government to represent the interests of our most vulnerable citizens living abroad. I call on the Taoiseach to continue to raise this issue at the highest levels of the US Government.

Senator Paul Coughlan: I heartily add my words of congratulations to Mr. Groves on his well deserved appointment.

At the weekend there was distress at airports in the United States and elsewhere as a result of President Trump banning travel from seven countries with a Muslim majority. He has turned his back on the plight of refugees. No matter what a person's faith is, he or she deserves to be protected from conflict and helped to find safety. I add my voice to all who have appealed to President Trump to show grace and understanding. His ban does not target terrorists but vulnerable people and, disproportionately, those of the Islamic faith. His action cannot be defended and should not continue. It is only with understanding and co-operation can we hope to end the conflict and discourage terrorism.

On the question of the Taoiseach's visit, it is vital that he travel to Washington on our national day. It is a unique opportunity to meet President Trump face to face and deal with these issues, not least for the 50,000 undocumented Irish. I am sure the Taoiseach will deal with the matter in his own inimitable way. If I may so, he is our trump card.

Senator Mark Daly: Steady on.

Senator Paul Coghlan: We have every confidence in him.

Senator Rose Conway-Walsh: We do not.

Senator Mark Daly: When all is said, I can never have confidence in him.

Senator Paul Coghlan: President Trump would do well to remember the words of the great Monsignor Hugh O'Flaherty who saved thousands of Jews, prisoners of war and others in Rome during the Second World War, namely, that God has no country. We must help and show goodwill to all.

Senator Trevor Ó Clochartaigh: Dúirt an Cathaoirleach ina chuid fhocal maidir leis an gCléireach nua-cheaptha gur onóir mhór é an ceapachán seo do chlann Martin Groves agus dó fhéin, ach is onóir mhór dúinne é a leithéid de Martin a bheith ceaptha sa ról mar Chléireach.

It is a huge honour for us that Mr. Martin Groves has been appointed Clerk of the Seanad. He has been exemplary in his work to date and very supportive of every Senator across the board. I congratulate him and look forward to working with him in his new role.

I have called regularly for a debate with the Minister of State at the Department of Foreign Affairs and Trade with responsibility for the diaspora, Deputy Joe McHugh, which we have not had yet. I concur with many of the sentiments expressed. What role is the aforementioned Minister of State playing in this scenario? We need an urgent debate with him within the next seven days, if possible, because there are two major international issues looming, one being Brexit and the other being the situation in the USA, which is changing daily. We need to know what role the Minister, the Minister of State and the Department of Foreign Affairs and Trade are taking in supporting the diaspora across the board but most particularly in Britain and the United States. What steps are being taken to look after their rights as Irish citizens? It is a little ironic that Fianna Fáil is now calling for the establishment of a working group because when it came to supporting votes for the diaspora, it was not so quick to respond. It is important that we have a good debate with the Minister or the Minister of State, which has not happened to date.

The issues being raised about the treatment of people who come from different backgrounds, religions and countries and so forth should lead us to point the finger at ourselves and ask how we are treating both migrants and those seeking asylum in this country. We still have the absolute scandal of a direct provision system which should be dismantled. I would certainly welcome a debate on that issue.

On the question of migrants, I have been doing quite a bit of work recently in Galway with people working in the hospitality industry. It is very clear to me from the work I am doing there that we have people involved in that industry, especially migrants, who are being very seriously abused. A debate on working conditions in the hospitality industry is overdue. It is very important that we have such a debate to ensure we can address abuses of all types, be they contractual

or related to working conditions, as well as physical, sexual or verbal.

While I have called on the Leader to schedule a number of debates, it is imperative that we have a debate within the next week with the Minister of State at the Department of Foreign Affairs with responsibility for the diaspora.

Senator Alice-Mary Higgins: I join my colleagues in offering the warmest of congratulations to Mr. Martin Groves who has been exemplary in the support he has given to us all, especially the Senators who are new to the Chamber. I wish him every happiness in and enjoyment of his new role and know that he will perform it wonderfully.

I am not going to reiterate all of the points made about concerns about the executive order, one of a number of very concerning executive orders issued by the new President of the United States of America. The executive order, commonly known as the Muslim ban, has been of particular concern because it has immediate relevance for Ireland. While we can talk about symbolic protests against it, we also need very concrete action in Ireland in how we respond to an executive order which is not just discriminatory but which is also very much designed to sow division. As someone who was an immigrant in America in the past, I am very much aware of the spirit of inclusion and diversity that is at the heart of what has made and grown that country.

There are concerns about the Aviation (Preclearance) Act of 2009 which very clearly requires compatibility with Irish law. It is imperative that there be urgent action to ensure what is happening in airports is compliant with our UN obligations to refugees, the European Convention on Human Rights and our own laws, particularly in respect of national origin and ensuring equality on that basis. If we cannot be satisfied in that regard, we must consider whether we can continue the pre-clearance facilities. We have seen widespread opposition, led in many cases by Irish-Americans in the United States, including the Mayor of Boston, Mr. Marty Walsh, who led one of the initiatives in respect of cities of sanctuary. I urge the Taoiseach and other Ministers to visit Boston and engage with Mr. Walsh. That would be a constructive measure and show solidarity with the Irish-Americans whom Mr. Walsh and others are representing.

I was part of the Irish branch at the women's march in Washington where we saw the growing opposition in the United States. We are seeing a very systematic silencing of opposition, about which we need to be very robust. I refer, for example, to what has happened in the case of the National Parks Service, the global gag rule, etc. There has been a diminution of checks and balances which has allowed Mr. Steve Bannon, an individual about whom I am concerned and to whom I referred previously in the House, to have been recommended for membership of the National Security Council. In that context and the context of statements made in recent months on torture, I ask that we review the position on the use of Shannon Airport. Valid concerns have been raised about the US military's use of it and the need to address them is more urgent than ever.

When the Minister for Foreign Affairs and Trade comes before the House, as requested by my colleague, Senator Ivana Bacik, I ask that he also address the European Union's immigration policy and the partnership framework agreements we are making with countries such as Afghanistan on repatriation. There is a real concern that the European Union needs to observe the highest standards of transparency and equality in its migration policies. I request that we have a debate on this matter, the agreement between the European Union and Turkey and other agreements.

Senator Catherine Noone: I join others in congratulating Mr. Martin Groves. It is an excellent appointment and I wish him well in the post.

I, too, condemn President Trump's actions in the strongest possible terms. I do not want to repeat what has been said, but we in this country need to do everything in our power to influence the repeal of the relevant executive order, which is just astonishing. The world is truly shocked. Regarding the invitation to the White House, it is more important than ever that we avail of such diplomatic opportunities. There is no other place the Taoiseach should be on our national holiday.

On pre-clearance facilities, as Senator Alice-Mary Higgins said, we need to look at the legalities. However, we must also be very careful not to put the issue on the table in negotiations because the provision of pre-clearance facilities is something for which we are envied. We must, by all means, be happy in carrying out that function, but we also need to be extremely careful before we put the issue on the table. There is a queue of other countries waiting to have pre-clearance facilities, particularly as they lead to a greater influx of people into a jurisdiction.

I have raised on many occasions the issue of alcohol consumption. A recent study in *The Lancet* placed Ireland in the top five countries in the world for the highest estimated alcohol intake during pregnancy. The study concludes that 60% of Irish births show evidence of alcohol consumption during pregnancy and that one in every 67 mothers who consumes alcohol during pregnancy will deliver a child with fetal alcohol syndrome. Fetal alcohol syndrome can cause problems with neurological development and growth and may result in learning difficulties and other such problems for children. The findings are truly alarming. Prevention is obviously very easy and requires greater awareness and education. I call on the Minister, to whom I have written, to consider the issue. In the light of the report to which I refer, clearly we have much to do. It is no big boast to say Ireland is in the top five countries for alcohol consumption during pregnancy.

Senator Robbie Gallagher: I join others in congratulating Mr. Martin Groves on his appointment. I have no doubt that he will be a huge success in the position.

I refer to the availability of substitute school teachers at primary and secondary level. School principals throughout the country are reporting having to make 20 or 30 telephone calls to try to get teachers to step in when needed, unfortunately without success. The issue is causing serious problems at primary and secondary level. When a school cannot find a substitute to stand in for a teacher who is absent, a number of things must happen. Sometimes a class is divided and that causes disruption for students. Teachers cannot attend in-service days and principals are sometimes obliged to stand in for colleagues. Smaller schools are particularly badly hit, especially those with fewer than three teachers. Principals have no choice but to use their learning support or resource teachers to cover classes. This means that those who need the most help are, unfortunately, being discommoded and left out. Ultimately, they are the ones who lose out. The situation is very frustrating, given that the first cohort of newly qualified teachers with four years of training behind them completed their studies last year. Unfortunately, other countries are benefiting from the expertise of this country's teachers and nurses who have been educated to a very high standard but who are jumping on aeroplanes to travel to Dubai or the United Kingdom. It is a very unsatisfactory situation for the Minister to be overseeing and I would like it to be addressed for once and for all in order that children do not lose out.

Senator Joan Freeman: I join everybody else in congratulating Mr. Martin Groves on his

appointment as Clerk of the Seanad. I am probably one of the Senators who depend most on him. My dependence on him is almost palpable. The only fear I have about his appointment is that my direct line to him might be severed.

An Cathaoirleach: I am sure it will not be. Mr. Groves cannot speak while the House is in session.

Senator Joan Freeman: I remind the House once more of the double standards in the treatment of physical health problems and mental health issues. By the time the third or fourth week of January comes around, we have often forgotten the new year's resolutions made at the start of the month. I have not forgotten my resolution to continue to tell the House, on the Order of Business in 2017, about some of the realities facing children in the treatment of mental health issues on a daily basis. I will focus on the admission of children to adult psychiatric units. Senators will be aware that I introduced a Bill in November 2016 to prevent this practice from continuing, but they probably do not know that the main reason for the practice is the unavailability of an out-of-hours service for children. In other words, no mental health services are available for children after 5 p.m. from Monday to Friday and all day at the weekend. After 5 p.m. on a Friday children who are in trouble will either be placed in an adult psychiatric unit or left to handle their own issues with their families. Senators might recall that before Christmas three young people in County Cork took their own lives. There has been a suggestion the reason behind these suicides was the absence of 24/7 treatment. When are we going to realise crises do not stop at 5 p.m? In this country many suicides are attempted at the weekend, particularly on a Sunday. In November the Minister of State, Deputy Helen McEntee, launched a campaign in which she committed to providing increased out-of-hours services for children. I wonder where she is with this. To where is the €15 million, not the €35 million, provided for in 2017 being allocated? I would like the Leader to ask the Minister of State to report to the House immediately on the progress being made in the implementation of this service. I would also like the Minister of State to clarify whether 24/7 treatment facilities will be available at Portrane.

Senator Colm Burke: I join other Senators in wishing Mr. Martin Groves well in his new role following his well deserved appointment. He has always worked extremely hard for everyone in this House. I wish him well in the future and look forward to working with him.

I join others in condemning what has happened in the United States in the past seven to ten days. I do not think it is the way forward for a peaceful world. A great deal of progress has been made in the past 50 years. Approximately 63 million people were killed in wars during the first 50 years of the last century. We seem to have forgotten quickly that horrendous atrocities occurred during that period. I accept that atrocities are occurring in the Middle East and other places. We need to work together to make sure there is peace. We should try to make progress with the peaceful resolution of conflicts. I do not think that is being helped by what is happening in the United States. Like Billy Senator Lawless, I know people in the United States who have worked with the United Nations and retained the passport of their country of origin. They are now worried about their position. They worked for 15, 20 or 25 years and are now retired. They are concerned about their future in the United States. Some of them are married to Irish people.

The US President referred to the threat to people living in the United States. I have examined the figures. The number of murders associated with Islamic extremists is nine. The number of people killed by armed toddlers is 21. The number of people killed as a result of being knocked down by a bus is 264. The number of people killed by Americans is over 11,000.

These are the figures for one year. The chances of a person being killed by an armed toddler are greater than by an Islamic extremist. This shows how silly the process undertaken by the US President has been. It is important that a message be sent to him, loud and clear, that he does not have support in this country and throughout the world. The Taoiseach should go to the United States to ensure we send a clear message on our views.

Senator Pádraig Mac Lochlainn: People have been focusing on what the US President, Mr. Trump, and his Administration have been responsible for in recent days. They have talked about a lack of empathy and compassion. Yesterday was the 33rd anniversary of the death of Luke Kelly. When I think of someone who showed empathy, compassion and love for those who needed it, I think of Luke Kelly because he showed them in abundance. He reached the hearts of so many in this country and throughout the world. It is long past time that a statue was put up to his memory in this city. I posted a message on social media in recent days and never had a response like it. People really feel strongly about this issue. I call on the Leader to raise it with the Minister for Arts, Heritage, Regional, Rural and Gaeltacht Affairs, Deputy Heather Humphreys, or whoever he believes is the relevant Minister. He should determine whether State funding is available and whether there is precedent for making it available. The answers could enable us to commence the process. I assume it would happen in partnership with Dublin City Council. Those involved would source a location and put up a statue to Luke Kelly.

The second issue I want to raise relates to delays in the making of GLAS and AEOS payments. Farmers have reached an agreement with the Department of Agriculture, Food and the Marine in the farmers' charter of rights 2015 to 2020. All of the farming organisations have been out protesting today. They have made the point that if any other payment in the State that is made as of right, for example, a social welfare payment or the old age pension, was one or two days late, it would not be tolerated. The matter would be sorted out, rightly so. The farmers affected have been waiting since October. The problem affects 9,000 farmers and the average payment involved is €4,000. Their farms are not sustainable without this money. The issue has been raised in the Chamber and we have been assured on numerous occasions that the matter will be resolved by the Minister for Agriculture, Food and the Marine, Deputy Michael Creed. I call on the Leader to ensure the moneys will be released to the 9,000 farmers affected as soon as possible in order that they can get on with the making of their livelihoods.

Senator Frances Black: I congratulate Mr. Martin Groves on his appointment as Clerk of the Seanad. I thank him for his support, especially when I first came into the House. He still supports me and I appreciate all of his hard work.

I thank Senator Catherine Noone for highlighting the issue about which she spoke eloquently - alcohol and pregnancy and the fact that the country was among the top five in the statistics. Prevention is important in that regard, but I believe the Public Health (Alcohol) Bill can play a major role also. I encourage the Leader to ask his party members to support the Bill. It is imperative that it get through in its entirety.

I thank Senator Pádraig Mac Lochlainn for mentioning Luke Kelly and endorse his comments 100%.

I was in Queen's University Belfast last night to attend an interesting event organised by the university law society to discuss Brexit, the ruling of the Supreme Court of the United Kingdom in London last week and its implications for the North. I am very concerned. At that event, among top professors and lawyers there was a great deal of certainty about the position of the

UK Government, but there was a general lack of knowledge about the position of the Irish Government and what demands, if any, would be made in the forthcoming negotiations. That is very worrying. With the UK position on immigration, it seems certain that a border will have to be reintroduced on the island of Ireland which will deny Irish citizens living in the North freedom of movement. The Prime Minister has spoken about retaining the freedom of movement between the two countries, but this does not seem possible. Will the Government insist on the North getting special status in the negotiations? Freedom of movement on the island must be a red line issue. It is vital. The great repeal Bill will end the European Union's legal supremacy in the United Kingdom and give Parliament the power to absorb pieces of EU legislation into UK law and scrap elements it does not want. Is there a danger that EU legislation dealing with equality issues may be scrapped, thus undermining the Good Friday Agreement? As co-guarantor of the Agreement, will the Government insist on this not happening?

Senator Martin Conway: I, too, congratulate Mr. Martin Groves who has been very good to us in recent years, in this and the last term. It is appropriate that he was given this appointment. I wish him well and hope we will all be here for many years to work with him.

An Cathaoirleach: The Senator is plamassing him now.

Senator Martin Conway: Like many others, I have been watching nightly what is going on in America with the newly elected President Trump. Sometimes I wonder if it is a nightmare from which I will wake up or is it reality. Unfortunately, it is very real. For many years I have taken a position on the US military's use of Shannon Airport and believe it is not appropriate that it should have free access to it. There should be inspections. Even as a councillor, I tabled motions on the issue at Clare County Council, all of which were defeated, which was not surprising. Now that the newly elected President has made it clear that certain forms of torture are quite appropriate in his view and that he will endorse their use, we need to have extreme inspections of military planes using Shannon Airport. The time is appropriate to have a debate on whether it is appropriate for the US military to use Shannon Airport.

Senator Trevor Ó Clochartaigh: Hear, hear.

Senator Martin Conway: This is a neutral country. We have always prided ourselves on our neutrality. I do not accept the business case for the US military using Shannon Airport. So be it if it goes to Germany or some other country with its business. With the current leadership in America, I would be quite happy to see that happen. In the intervening period I call on the Leader to request the relevant authorities in this country to ensure all US military flights will be subjected to extreme inspections to ensure no rendition is taking place.

Senator Gerard P. Craughwell: Like everybody else, I congratulate Mr. Martin Groves on his appointment. I had the pleasure of dealing with the man during one of the most stressful periods of his life, the by-election, and found him to be more than professional. It is a tremendous appointment and I wish him well for the future. I hope I, too, will be here for many years with him.

On the issue of President Trump, the press has a huge case to answer. On the day millions of women all over the world marched against President Trump, his press officer said the press had reported the wrong number of people who had attended his inauguration. What did the press do? It swallowed it. It is printing what he wants it to print. For God's sake, what happened to the media that would hold people to account? What happened to the media that once would

have questioned the likes of President Trump?

I also congratulate my colleague, Senator Billy Lawless. On Sunday evening in Chicago he was representing Irish people with fears. That was a brave thing to do for a man who worked and had his business interests in the United States. He was not shy today in standing up and criticising the new administration. We are extremely lucky to have a man of that calibre sitting in this Chamber with us.

On Brexit, with Senator Frances Black, I attended the seminar at Queen's University Belfast last night at which we had some of the greatest legal brains on the island speaking about the implications of the Supreme Court's ruling. I am rather shocked. It is the third or fourth seminar, debate or conference I have attended at which Brexit has been the topic of discussion. At one I was the only representative from this country. I understood Brexit was the single greatest issue facing the economy. Therefore, I am asking why members of the Government parties are not attending these meetings.

Senator Jerry Buttimer: What meetings?

Senator Gerard P. Craughwell: The one held in Brussels organised by Friends of Europe. It was a conference on Brexit.

Senator Jerry Buttimer: Who was invited?

Senator Gerard P. Craughwell: There were only two representatives from Ireland at the conference in Bratislava - Senator Terry Leyden and I. Last night at the conference in Belfast there were two representatives, neither of whom was representing the Government. Are we serious about Brexit or are we not? I am calling on the Taoiseach to make a state of the nation address on precisely what the Irish priorities are. I am not asking him to show his hand in the negotiations, but I am asking him to set people's minds at rest in order that we know what we are talking about. I have seen two people from the Taoiseach's office at committee meetings and they were really good as to what it was they were doing. I am asking that we have clarity quickly.

Senator Máire Devine: I extend my congratulations to Mr. Martin Groves on his appointment as Clerk of Seanad Éireann. I say, "Well done," to him. It is well deserved. Most of all, I ask him to enjoy it, if he can.

I refer to the legal challenge made against the operation of the Committee of Public Accounts which was alleged to have been a witch-hunt against the previous CEO of the Rehab Group. I welcome the finding that the court has no power to intervene in utterances, comments, observances, expressions, etc. made by Members of the Oireachtas in the Houses as set out by the Constitution. I do not think any of us was in any doubt that this would be the finding. I am glad that the separation of powers in the Legislature has been respected and reinforced. It is of paramount importance that we have the power in this House, the Lower House and the committees to investigate matters of public importance, uphold the public interest and protect our constitutional democracy. There are further judgments due and pending in the near future and I am sure we all look forward to the findings with interest.

An Cathaoirleach: I thank the Senator for her brevity.

Senator Rónán Mullen: I, too, regret President Trump's executive order concerning im-

migrants and refugees. I certainly think it is a retrograde step in promoting solidarity with some of the world's most vulnerable people. However, there were no protests against the Obama Administration's mean and ungenerous approach to the admission of Syrian refugees, if the United States is compared with other countries. It is the right of the US Government to decide who it lets into its country, even if we do not like its decisions. If we were not willing to make pre-clearance facilities an issue over the fact the United States already allowed capital punishment and continued to be enthusiastic about it, I do not think we should be so in this instance either. It seems that there is an element of selective compassion about the responses across the board. There will be things President Trump will do that will horrify us. There will be things that he will do with which we will agree. We must be mindful of our position and need to be consistent.

To turn to a matter that we can influence in this House, ba bhreá liomsa dá dtiocfadh an tAire, an Teachta Heather Humphreys, isteach sa Teach chun plé a dhéanamh linn ar an seasamh atá ag an Rialtas i leith na Gaeilge.

Senator Jerry Buttimer: Beidh sí anseo Déardaoin.

Senator Rónán Mullen: Táim ag súil leis. Tá Ard-Rúnaí nua ceaptha ag an Roinn Ealaíon, Oidhreacht, Gnóthaí Réigiúnacha, Tuaithe agus Gaeltachta. There is a new Secretary General in the Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs. We wish Ms Katherine Licken the very best. Ní Gaeilgeoir í. Níl Gaeilge aici, bíodh go bhfuil an Ghaeilge agus an Ghaeltacht mar chuid dá freagrachtaí. In fairness, it has been said she will work on her Irish within a reasonable timeframe. However, the fact is it was not a requirement, as Mr. Julian de Spáinn of Conradh na Gaeilge said, gur “údar díomá” dó é nach bhfuil an Ghaeilge ann mar riachtanas do phost mar sin. Proficiency in the Irish language should be a requirement for senior jobs in the Civil Service, particularly where the responsibility for the Irish language is involved. I commend the Minister of State, Deputy Joe McHugh, as during his time as Minister of State with responsibility for the Gaeltacht, he went to the trouble of acquiring a sufficient level of proficiency in Irish to do his job. The Minister, Deputy Heather Humphreys, promised to do the same when she was appointed. I would like to hear from her, not as a matter of point scoring but as a matter of providing feedback for us, on whether she took steps in that regard.

An Cathaoirleach: Tá an t-am istigh.

Senator Rónán Mullen: I am very disappointed with my own *alma mater*, NUI Galway, or UCG as it was in my time, the governing authority of which took a decision recently that proficiency in the Irish language would not be a requirement in selecting the next president of the college. It went through on the nod. Fair play to Deputy Catherine Connolly who raised the issue in the Dáil. The Minister for Education and Skills, Deputy Richard Bruton, shrugged his shoulders and said the university's decision was something with which he could not interfere.

Senator Jerry Buttimer: He could not either.

Senator Rónán Mullen: Fair play also to Deputy Éamon Ó Cuív who brought forward legislation on this very point to make it a requirement that the person appointed to such an important job have Irish. The Government did not oppose it at that point. It seems that a lot of lip service is paid to the Irish language. However, when one considers the amount of goodwill towards NUI Galway because it is a bilingual university and because it is so associated with the Irish language and culture, it is a disgrace that it is not a requirement in the appointment of a president that the person either have or will within a very short time seek proficiency in the

Irish language.

Senator Gerard P. Craughwell: Hear, hear.

Senator Niall Ó Donnghaile: Ba mhaith liom féin mo chomhghairdeas a sheoladh go Máirtín Groves ar a cheapachán feasta. I congratulate Mr. Martin Groves on his appointment.

I wish to expand slightly on what Senators Frances Black and Gerard P. Craughwell said about Brexit. I particularly wish to draw the attention of the Leader and other Members to the report issued recently from the policy department for citizens' rights and constitutional affairs at the European Parliament. Its forthright conclusion is that Brexit will have a direct impact on the institutional arrangements of the Good Friday Agreement. That is not political point scoring or academic speculation but the European Parliament and its membership telling us that the vote in England to remove Northern Ireland from the European Union against its will is not just undermining the democratic mandate expressed by the people in the North but will actively and institutionally undermine the precious arrangements enshrined in the Good Friday Agreement, of which the people in the North and the rest of the country voted overwhelmingly in favour.

The report goes into considerable detail on the processes and effects Brexit will have on the European Union, Britain and, most importantly in this instance, Ireland. At the core of its findings for Ireland, it concludes that, while the European Union has brought many benefits in terms of funding streams and structural supports, it will have more than just a financial impact on Ireland, as I said, but will also have a significant impact on the Good Friday Agreement. I quote from it:

The impact will be both political, in particular since the Good Friday Agreement – an international agreement – will require alteration, which could lead to instability in the region as well as to tensions between Ireland and the UK, and economic/technical, as the re-establishment of a hard border between the North and the South could provoke a reversal of improvements in cross-border trade.

That lays out the challenge for us very clearly. Through the Committee on Procedure and Privileges and the broader Seanad, we should seek, as advocated by other Senators, to engage as a matter of urgency with the policy department for citizens' rights and constitutional affairs at the European Parliament to discuss and I hope expand on its findings. As an institution, this Seanad should make it very clear that we respect the democratic mandate in the North.

I was disappointed when the Taoiseach did not make it clear in his engagement with the British Prime Minister yesterday that we respected the democratic mandate expressed in the North and that, as an institution, we would and should, as a right and a matter of principle, argue for special status for the North to enable it to remain with the rest of Ireland in the European Union, as applies to other states and arrangements across the Continent.

Senator Jerry Buttimer: Ba mhaith liom mo chomhghairdeas a dhéanamh le Martin Groves ar an bpost nua a ghlac sé. As Leader of the House and on behalf of the Fine Gael Party, I congratulate Mr. Martin Groves who is an honourable, professional and decent man on his appointment to the position of Clerk of Seanad Éireann. During my tenure as Leader I have always found him to be impartial, fair, a thorough professional and an absolute gentleman. I wish him longevity in the post and hope many of us will stay here as long as he has. I congratulate the Chathaoirleach for making this wise and inspired decision. I hope Martin will get the balance right between music, playing the drums and work in order that he can continue to play

a role in the evolution of Seanad Éireann.

Senator Paul Coughlan: There is no doubt about that.

Senator Jerry Buttimer: We are fortunate to have a good and wise man in the position.

Senator Rónán Mullen: He will not hear such praise again until his retirement.

Senator Jerry Buttimer: In welcoming the new I also acknowledge the old. I also commend Ms Deirdre Lane for her work during her tenure as Clerk and wish her well.

Sixteen Members referred to the executive order signed by the President of the United States, Mr. Donald Trump, as well as pre-clearance facilities at and the use of Shannon Airport and the visit of the Taoiseach to the White House on St. Patrick's Day. Irrespective of one's political ideology, it was an extraordinary decision. To see fear and panic on the faces of refugees or ordinary American citizens in trying to go about their daily lives last weekend was appalling. Irrespective of those who protested, to hear the testimonies of people who had been separated from their loved ones and to see people preparing to welcome strangers into their homes beggared belief. Preventing people from entering the United States because of their religious faith is un-American. As the Taoiseach has made clear, it does not stand with the American values many of us share. It is not a policy I share. The Minister for Foreign Affairs and Trade, Deputy Charles Flanagan, is in discussions in Washington with the American Administration on the matter. What is extraordinary is that rather than making it the United States of America, President Trump is dividing people. Irrespective of the views expressed by Members, either pro or anti, there are genuine concerns and it is important that the Government express them.

On the point made by Senator Catherine Ardagh, the Government created a post of Minister of State with responsibility for the diaspora which was held by Jimmy Deenihan and is now held by Deputy Joe McHugh. The Taoiseach appointed Senator Billy Lawless as a representative of the diaspora. The Senator has been strong in standing up for it in travelling across America. There is a need for engagement and I would be interested to hear Senators Catherine Ardagh and Mark Daly flesh out the idea of a task force and what it could achieve. While not ruling it out, there are a Minister of State and a Senator responsible who are working on behalf not just of the undocumented Irish but also those who work in pastoral centres in many parts of the United States on behalf of families and this country. Senator Mark Daly is correct that engaging with the diaspora is critical to maintain strong ties with it.

Equally, it is important that the Taoiseach, on behalf of the people, travel to the United States of America, visit the White House on St. Patrick's Day and engage with the new President, as well as the Secretary of State, Mr. Rex Tillerson, if approved; the Vice President, Mr. Mike Pence, and other members of the US Administration. We have access to the highest office of the land in America, to the most powerful person in the world. On behalf of the many hundreds of thousands employed in this country and across the world with Irish-American links and having regard to the investment links between the two countries, it would be foolish to cut those ties. It is about diplomacy, access and being able to speak up on behalf of Irish people. The Taoiseach and Ministers will travel not only to Washington DC but also cross from the east to the west coast of America to make that very point. It may not be business as usual and the usual imagery of presenting the President with a bowl of shamrock. Strong words may and should be said to the new Administration. I am confident that the Taoiseach; the Minister, Deputy Charles Flanagan; and the Minister of State, Deputy Joe McHugh, as well as Senator Billy Lawless and

others will do so on behalf of the people.

I wish to make a point about pre-clearance facilities at Irish airports. I commend the Mayor of Boston, Mr. Marty Walsh, whom I have never met or to whom I have never spoken, for his remarks on RTE at the weekend and yesterday which were measured and considered. They were not knee-jerk, inflammatory or populist but very sincere. They were from a man from Connemara-----

Senator Trevor Ó Clochartaigh: He has good breeding.

Senator Jerry Buttimer: -----who became mayor of the most Irish-American city in America, with due respect to Senator Billy Lawless and the city of Chicago. He deserves great credit for the words he expressed.

Senator Niall Ó Donnghaile: Boston is a sister city of Belfast.

Senator Jerry Buttimer: Regarding pre-clearance facilities at Irish airports, I accept the bona fides of many Members and those who comment on social media and elsewhere, but as someone who has travelled extensively across America, I believe the removal of pre-clearance facilities at Irish airports would hinder business. We must be careful to ensure we will not sever our economic ties with America. I welcome the Taoiseach's remarks in the Dáil this afternoon and yesterday that there will be a review of the facilities. It is worth pointing out that they were used by 1.8 million passengers at Dublin Airport and 204,000 at Shannon Airport. They include tourists, visitors and business people from many parts of the world. The facilities are important. They allow persons travelling to America to avail of the immigration service on this side of the Atlantic. The important and fundamental point is that Irish law continues to apply. The Taoiseach's remarks in calling for a review of the pre-clearance facilities are to be welcomed, but we must ensure we will not hinder in any way the free movement of people.

I very much look forward to the executive order being modified. We know what has happened since Saturday when there was a change for green card holders. I am sure those of us who condemn what has taken place will work to ensure there will a change to the executive order.

Senator Marie-Louise O'Donnell spoke about Westport House. I join her in congratulating the Hughes family on their €50 million investment to ensure the retention of jobs. I pay tribute to the Minister of State, Deputy Michael Ring; the Taoiseach and Mayo County Council for the work they have been doing. The Senator is right in saying this is both a national and a regional triumph. It is important that Westport House continue to provide the service it has been providing.

On Brexit, at the risk of provoking a row with my good friend Senator Gerard P. Craughwell who raised the matter, as did Senators Frances Black and Paudie Coffey, the Taoiseach was not engaged in a debate yesterday at Queen's University because he was in the most important place he could have been, namely, Government Buildings, engaging on and discussing the issue with the Prime Minister of the United Kingdom.

Senator Gerard P. Craughwell: That is the problem - it is all talk.

Senator Jerry Buttimer: I would much prefer to have the Taoiseach in Government Buildings engaging with the Prime Minister of the United Kingdom, rather than in a debating cham-

ber at Queen's University.

Senator Paul Coughlan: Absolutely.

Senator Jerry Buttimer: I do not want to have a row with Senator Gerard P. Craughwell, but the Government has been engaged-----

Senator Gerard P. Craughwell: I was not talking about the Taoiseach. Perhaps some of his party's soldiers might come along to the meetings.

Senator Jerry Buttimer: Let me make the point-----

Senator Gerard P. Craughwell: The Leader always does.

Senator Jerry Buttimer: -----that as a political party, Fine Gael has appointed Deputies Alan Farrell and Fergus O'Dowd as co-chairmen in considering its response to Brexit. I invite the Senator to join me in my home city of Cork where the Taoiseach will speak at a public meeting on the issue on 13 February. That shows that, in addition to the very successful meetings we have had in many parts of the country about Brexit, another would be more than welcome.

Senator Gerard P. Craughwell: But we do not know what they are doing.

Senator Jerry Buttimer: I accept the point that we cannot lose sight of the importance of Brexit. That is why the Government created a second Secretary General post in the Department of the Taoiseach to deal explicitly with issues related to Brexit. It is also why the Minister for Public Expenditure and Reform, Deputy Paschal Donohoe, has confirmed that an extra €2.6 billion is being made available to support the economy in responding to Brexit. It is important that we keep the issue in the political diary and on the political agenda. It is a little unfair to suggest, therefore, that the Government is not engaging. The Taoiseach has travelled throughout Europe. The Minister for Foreign Affairs and Trade, Deputy Charles Flanagan, has also travelled, while the Minister of State, Deputy Dara Murphy, is engaging on the issue. It is important that we understand Ireland will be to the forefront with its European Union partners in working to find a solution. Yesterday the importance of this country and the North-South divide was highlighted to ensure there would not be a hard border.

Senator Paudie Coffey raised the issue of interconnectivity in Europe and referred to the importance of energy projects. I will be happy to have the Minister for Communications, Climate Action and Energy, Deputy Denis Naughten, come to the House to address those issues.

Senator Joan Freeman referred to the importance of mental health services. The Minister of State, Deputy Helen McEntee, will be in the House tomorrow to respond to a Commencement matter to be raised by Senator Gabrielle McFadden. The Minister of State has travelled the country and committed to making available the funding she secured in the budget for mental health services. It is important that we work together to highlight the issue and that the monies which have been secured be ring-fenced, whether for youth mental health services which the Senator rightly mentioned or the provision of 24-hour support to ensure the availability of people out of hours, an issue on which we all need to seek a solution. We all commend the Senator for the work she is undertaking in another capacity. As she rightly said, the problem is one that does not stop at 5 p.m. in the evening or at 5 p.m. on a Friday afternoon. It is important that we work together to ensure there will be a different approach to how we respond to mental health needs. A Vision for Change, a document that has evolved into Government policy, per-

haps needs to be changed and amended. To be fair to her, the Minister of State is committed and has worked with the Health Service Executive in recognising, in its service plan, that there are action points to be implemented.

Senator Trevor Ó Clochartaigh asked for the Minister of State with responsibility for the diaspora, Deputy Joe McHugh, to come to the House. I hope that will happen in the coming weeks.

Senators Alice-Mary Higgins and Martin Conway mentioned Shannon Airport. We should not react the way we sometimes do when it comes to Shannon Airport. There is an international agreement that we must honour in keeping with our neutrality, as I am sure the Government will do and is doing.

The issue of green low-carbon agri-environment scheme, GLAS, payments was raised by Senators Rose Conway-Walsh and Pádraig MacLochlainn. I can inform Members that today the president of the Irish Farmers Association, Mr. Joe Healy, met departmental officials. On Friday 1,164 members of the farming community received payments. I understand there are around 9,000 outstanding payments since October. The Minister for Agriculture, Food and the Marine, Deputy Michael Creed, is committed to dealing with the matter to ensure payments will be made as quickly as possible. There will be weekly payment rounds. It is important to mention that in some cases GLAS applications must be validated to satisfy EU regulations since the scheme is co-funded by the European Union.

Senators Frances Black and Catherine Noone raised the very important issue of alcohol misuse, in the context of which they referred to fetal alcohol syndrome and the Public Health (Alcohol) Bill 2015. To respond to Senator Frances Black in particular, it is not a matter of Fine Gael supporting the Bill but of all Members of the House supporting it, whether they be Fianna Fáil, Sinn Féin, Independent, Fine Gael or Labour Party Members. It is important that there be all-party support for it. We all want to see a reduction in the level of harm caused by alcohol misuse.

Senator Máire Devine referred to the decision of Mr. Justice Kelly in the High Court in the Angela Kerins case. I will not get into the minutiae of the ruling, but I welcome the decision of Mr. Justice Kelly which is worth reading. Those of us who are Members of this House have a responsibility not to allow that privilege to be abused. We cannot abuse that privilege by ridiculing a person, although I am not saying any of us has done so.

Senator Máire Devine: No.

Senator Jerry Buttimer: We have to be careful in how we use that privilege in order that we do not rely on people-----

Senator Máire Devine: We should use it responsibly.

Senator Jerry Buttimer: That is important.

Ba mhaith liom a rá leis an Seanadóir Mullen, cé nach bhfuil an Ghaeilge go flúirseach agam, gur mian liom mo chomhghairdeas a dhéanamh le Katherine Licken as ucht an post nua atá glactha aici sa Roinn Ealaíon, Oidhreacht, Gnóthaí Réigiúnacha, Tuaithe agus Gaeltachta. Beidh an tAire Stáit, an Teachta Kyne, istigh linn ar an Déardaoin chun cúrsaí Gaeilge a phlé. The point made by the Senator about the use of the Irish language is one to which we all sub-

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scribe. If at all possible, we should be able to use and support the use of the Irish language. I am amused because if the Minister for Education and Skills, Deputy Richard Bruton, had a hand in the appointment or reappointment of the president of NUIG, the Senator would accuse him of interfering in the appointment process.

Senator Rónán Mullen: It is about not the person but the requirement to have Irish in making the appointment.

Senator Jerry Buttimer: It is important to indicate that the Minister must stand far from the process. He cannot be involved in it.

Senator Rónán Mullen: He could do what Deputy Éamon Ó Cuív did and introduce legislation.

Senator Jerry Buttimer: The Minister is responsible for the Department. As in any other university, the governing body of NUIG has the power to appoint its president. As a Corkman, I pay tribute to Dr. Michael Murphy who is retiring from his position as uachtarán of Coláiste na hOllscoile Corcaigh. I wish him well and every success in his retirement. He has been an exemplary and extraordinary leader of the college for the past decade. Under his leadership, it has seen growth and expansion.

Order of Business agreed to.

EU Directive on Illicit Drug Trafficking: Referral to Joint Committee

Senator Jerry Buttimer: I move:

That the proposal that Seanad Éireann approves the exercise by the State of the option or discretion under Protocol No. 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, to take part in the adoption and application of the following proposed measure:

Proposal for a Directive of the European Parliament and of the Council amending Council framework Decision 2004/757/JHA of 25 October 2004 laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of illicit drug trafficking, as regards the definition of drug,

a copy of which was laid before Seanad Éireann on 26 January 2017, be referred to the Joint Committee on Health, in accordance with Standing Order 70A(3)(k), which, not later than 8 February 2017, shall send a message to the Seanad in the manner prescribed in Standing Order 74, and Standing Order 76(2) shall accordingly apply.

Question put and agreed to.

Adoption (Amendment) Bill 2016: Committee Stage

Sections 1 and 2 agreed to.

SECTION 3

An Leas-Chathaoirleach: Amendments Nos. 1, 4 and 12 are related and may be discussed together, by agreement. Is that agreed? Agreed.

Senator Fintan Warfield: I move amendment No. 1:

In page 6, between lines 16 and 17, to insert the following:

“(e) a birth grandparent, siblings, or other blood relative, who has played a formative, active and beneficial role in the life of that child, as may be determined by the Authority;”.

Having given further consideration to this amendment, I am satisfied with the Minister’s answers on Committee Stage in the Dáil. I am happy to withdraw the amendment, with amendments Nos. 2, 4 and 12.

Amendment, by leave, withdrawn.

Section 3 agreed to.

Sections 4 to 6, inclusive, agreed to.

SECTION 7

Amendment No. 2 not moved.

An Leas-Chathaoirleach: Amendment No. 3 has been ruled out of order as it imposes a potential charge on the Exchequer.

Amendment No. 3 not moved.

Question proposed: “That section 7 stand part of the Bill.”

Senator Alice-Mary Higgins: I recognise that amendment No. 3 has been ruled out of order. At this point, I would like to reserve the right to reintroduce further amendments in respect of this area on Report Stage. The amendment touches on and is complementary to some of the other amendments raised by Senator Fintan Warfield who I recognise has withdrawn them.

Having campaigned very passionately in the children’s rights referendum, I very much support the Children and Family Relationships Act. The key point being discussed in the amendments is the importance of recognising the full diversity of relationships which a child should have. It is a cross-cutting point. We will come later to the question of open adoption, but there is also the question of how we ensure we are really promoting the best interests of the child. I recognise the valuable role of the Bill in producing security and continuity and allowing for adoption in many circumstances where it would be valuable for the child. However, the child also has a diversity of relationships, not just with the birth parents but also with the wider family, for example, the siblings he or she may have and the grandparents. We are aware that, in many cases, it may be difficult for grandparents to either foster or adopt owing to constraints such as age and circumstance; therefore, it is very important that the diversity of relationships be maintained.

I know that this view is very strongly felt by many organisations which work on a voluntary

basis across such cases in Ireland. We see voluntary arrangements being put in place between new adoptive parents and former birth parents, but they have no legal status or security. Moreover, in what I believe is an omission, they are not reflected in the Bill owing to the constraints in the current model of adoption which is very much a zero-sum model and one I do not believe serves the wider best interests of the child. I believe the Bill is and should be the opportunity to develop a genuinely strong network of relationships for the child to ensure that possibility.

I also want to speak about a contact plan being put in place, potentially not just at the point of adoption but perhaps at a later stage.

Later we will discuss the fact that circumstances can change. A birth parent who is not in a position to be a primary carer or who may no longer be in a position to parent might nonetheless arrive at a position of having the capacity to have a meaningful relationship with the child. How is that to be facilitated? There is something of a limbo post-adoption in Ireland. My proposals certainly do not seek to impose anything, but they would be amenable to and could be requested by all parties but only with their agreement. I urge the Minister in the period between now and Report Stage to work with us to find ways by which we can ensure that type of contact plan which Barnardos and other organisations have made clear are informally in place in many cases, which would have a meaningful legal basis and which would be recognised, supported and, if necessary, given resources.

It might be my reference to resources that led to my amendment being ruled out of order; therefore, I will probably remove that reference on Report Stage. However, as I am sure the Minister will acknowledge, resources are necessary. There are provisions and informal mechanisms which have allowed meaningful contact, even with birth parents who are not in a position to act as primary carers. Again, siblings are another key concern, as
5 o'clock are half-siblings, cousins and the wide network that makes up a child's universe, particularly in cases where children are moving from a family perhaps into foster care and have already experienced a childhood with another family. The deep issue we must consider in Ireland - as I will reach it in my later amendments, I will not go into detail on it now - is recognising that we can be open and loving in terms of complexity, yet still ensure security. We must move beyond a drive towards a very simple narrative of the family unit which led to some very poor practices in the past.

Senator Ivana Bacik: I have some brief comments on section 7. I record my thanks to the Minister for expressing, in her concluding remarks on Second Stage, her intention to introduce the information and tracing Bill in the Seanad on 7 March. I am grateful to her for confirming this in response to a specific query I had raised with her. I tabled amendment No. 20 on an adoption tracing scheme with the intention of withdrawing it in the light of the Minister's announcement on Second Stage. However, it has also been ruled out of order on the basis that it involves a potential charge on the Exchequer. I had intended to support Senator Alice-Mary Higgins' amendment No. 3 on a similar basis, in that it dealt with this very important issue for adopted children of knowing their identity and origins and, if possible, having information on their birth family. Her amendment addressed that key human concern.

It is welcome that the Minister will introduce the Bill I mentioned in the Seanad. My colleagues and I would also welcome the opportunity to meet the Minister and her officials prior to the Bill being introduced in order that we could discuss some of the issues dealt with in the Bill and ensure our concerns about the sensitivities of all involved were met. This is a complex area and it has taken a long time to legislate for it. However, we addressed all of that on Second

Stage. There is a huge welcome for the Bill, as there will be for the information and tracing Bill when it is introduced. Nevertheless, it would be good to have some consultation in advance on potential amendments that might be made in the Seanad.

Minister for Children and Youth Affairs (Deputy Katherine Zappone): I appreciate the Senators' contributions. I am delighted to be in the Seanad and reflect with Senators on the different amendments and sections of the Bill. That is the great thing about the Seanad. Senator Alice-Mary Higgins has presented her strong and articulate views on an amendment that has been ruled out of order in the context of her understanding of this section, as well as on the wider issue of proposals to create a more open adoption process. However, we will come to that issue in dealing with some of her other amendments which I understand have not been ruled out of order owing to the cost issue, as was the case with amendment No. 3.

The Senator's wider points are related to the importance of acknowledging the diversity of relationships, particularly the diversity of the family unit. I am sure she will agree that the Bill goes a long way towards doing that, not only in the context of bringing forward a recognition of the diversity of relationships and the possibility of adoption for cohabiting and civil partners but also in extending the definition of the relevant non-guardians and incorporating the wider number of relevant non-guardians in a number of aspects of the Bill.

The Senator has pointed to the importance of the informal supports provided. They are supported by the statutory agencies, if there is agreement, in terms of contact between birth parents and adoptive parents and supporting children. The Senator suggests more formalisation of these supports. We hope to debate that issue more extensively in the context of the information and tracing Bill which Senator Ivana Bacik mentioned when there will be an opportunity to do that a little more in statute as distinct from in this Bill. Of course, I would welcome the opportunity to meet the Senators and others prior to that really important Bill being introduced in the Seanad. We can spend as much time as is necessary discussing it in the Seanad to ensure it is as good as it can be before it goes to the Dáil.

Senator Alice-Mary Higgins: I thank the Minister for her response. I acknowledge that one of the strong features of the Bill is that it recognises the family unit as including step-parents which I very much welcome and all forms of partnership. Of course, we are moving beyond recognising civil partnerships to recognising marriage between same-sex couples and the full diversity of the family unit. My point relates to the family network which is even wider than the family unit - in Ireland there is a strong focus on the family unit - and to the wider network of meaningful relationships. The Minister might not be able to comment, but - this issue also arose in the Dáil - perhaps there might be a wider definition of relevant non-guardian. Will the Minister give a sense of where she believes she might be able to go in widening that definition to reflect the wider spectrum of family relationships?

I am concerned that we might fall between two stools. We are hearing that some of the issues we are discussing might arise in the information and tracing Bill. The Minister has acknowledged that the contact plan and the measures involved are happening informally, but the Bill offers no recognition or accommodation of them. It is important, between now and Report Stage, to find some way to build in a recognition of these agreements whereby they might be supported. In one sense, the Bill might be moving forward. However, in the information and tracing Bill we might not be in a position to amend this legislation because it might still be held up. It is important to have a meeting between Committee and Report Stages to ensure the Bill will be ready to serve and complement the information and tracing Bill and will not require

amendment.

Deputy Katherine Zappone: I have no difficulty with meeting the Senator to see if that is possible. As we come to other sections, we can tease out a little more the ways in which the legislation can respond and support the wider family network. However, my understanding is we must accept and acknowledge and be attentive to the basis of the legislative framework for adoption in this country which is closed, not open. That is our starting point, about which I will say a little more later. Are there ways by which we can, even in the context of not having an open adoption process, incorporate aspects of more open systems and support the wider family network?

Question put and agreed to.

SECTION 8

Amendment No. 4 not moved.

An Leas-Chathaoirleach: Amendments Nos. 5 and 19 are related and may be discussed together.

Senator Alice-Mary Higgins: I move amendment No. 5:

In page 10, between lines 29 and 30, to insert the following:

“(8) In circumstances where practicable and possible and where the parties agree, provision for an open adoption should be considered.”.

This amendment deals with an open adoption model. In many parts of the world we are seeing a shift towards open adoption and it is something that has been recommended by many of the organisations that work with children and on the issue of children’s rights. Open adoption can be seen in the recent case in France. We are seeing examples of both semi-open and open models, neither of which operates in Ireland. The Bill may represent a missed opportunity in that we are putting something new in place, something that is to be in tune with the Child and Family Relationships Act and the constitutional change as a result of the referendum on children’s rights.

At this point I will probably withdraw the amendment but reserve the right to reintroduce it on Report Stage. However, I would appreciate it if the Minister clarified what discussions have taken place on the question of open adoption. What are the major objections to it? In Ireland we have a very poor history *vis-à-vis* mother and baby homes, of which we are all aware, whereby many birth mothers disappeared from the picture. What is the reason for not moving towards open adoption when so many of those who are experts on children’s rights and welfare recognise that it has huge benefits? Why are we not seizing this opportunity, when we have not just one but two Bills dealing with adoption moving through the Oireachtas, to ensure we are introducing best practice in this area by including open adoption as an option? I ask the Minister to give her views on the matter.

Deputy Katherine Zappone: With many others in this House, more than anything I want to progress the change of which Senator Alice-Mary Higgins speaks as quickly as possible. Having said that, we all know how long it takes to progress fundamental and significant change. That is also true of open adoption. Such a change would be significant, notwithstanding the passionate recommendation of some of the exceptional children’s organisations which are at the

coalface in working with children and their families that we move towards a more open adoption framework.

Where are we now in this country? Where a child has been adopted, that child is considered, in the context of the rights and duties of parents and children to each other, as the child of the adopter. The mother or guardian of the child and every relevant non-guardian loses all parental rights and are free from all parental duties to the child. Under our legislative framework for adoption, parental rights and responsibilities are assigned to the adoptive parents. While there is only provision for closed adoption in law, to which I have referred, the reality is that in practice, other arrangements are more prevalent in domestic adoptions. Senator Alice-Mary Higgins has referred to this and I have acknowledged it to be the case.

Adoption is now much more open than it was in the past. Under current practice, arrangements are often put in place for ongoing contact between birth parents, adoptive parents and their families where there is agreement with the relevant parties. The fact that I am saying adoption is now more open than in the past raises the question of what open adoption actually means. What is open adoption in France or other countries? It differs, depending on where it is applied and how it is implemented in the context of each country's legislative framework. There is a diversity of understanding of what it actually means. Having said that, I suggest Ireland is more open than in the past, even in the context of a closed adoption framework.

I have also referred to the fact that the Adoption (Information and Tracing) Bill will allow for more sharing of information between both parties. However, the insertion of a provision for open adoption in a legislative framework could give rise to many difficulties of an intractable nature, given the context. We currently have a legislative framework of closed adoption. Open adoption is a complex provision which could give rise to possible constitutional issues in regard to the family. It is a fundamental change to the adoption process which can only be considered as part of a comprehensive review of adoption policy. Even though many of us may wish to move in that direction, it would be a significant policy change. It would not be possible to move us in that direction in the context of one or several amendments without investigating extensively the various reasons for a decision to move towards open adoption, what we understand it to mean and why it might be better than what we have now.

We have had these conversations in the Department, but I suggest an appropriate way forward would be to raise it as an issue for discussion by the Oireachtas Joint Committee on Children and Youth Affairs. I will be delighted to participate in any such discussion, as will my officials. Such discussions could examine the wider issues involved, from which a report and recommendations could be made. That would feed into what I have said about open adoption being a significant change in policy direction in this country.

Senator Alice-Mary Higgins: We are legislators and should not be afraid of significant changes in a legislative direction. The very fact that we are looking at these amendments, that we have the Child and Family Relationships Act and that we had the marriage equality referendum, with the many other changes we have had, reflect the fact that we do not need to be afraid of significant legislative change when it is moving in the right direction.

The UN Convention on the Rights of the Child talks about the right to identity. There are circumstances in Ireland where one can obtain a new birth certificate and part of one's identity, culture and cultural rights can be affected by the process of adoption. The Ryan report on child abuse found that restrictions in family contact were a concern and could be damaging for some

children and their relationships with others. We need to do better in ensuring this legislation has been designed in such a way that it will be able to respond to the introduction of open adoption, if that was to become possible. That is something that should be worked on between Committee and Report Stages.

The Bill embeds many of the factors of closed adoption. In later sections, for example, the Bill deals with inheritance rights from new adoptive parents, but in terms of the wider family network and a person's potential rights as a next-of-kin, it could be damaging for the child. There are circumstances in which we are going to have a very material impact on children's lives in the changes in law we now have and I see this as an opportunity missed. I appreciate that the Minister has said she is willing to discuss how we move forward on this issue. It is not enough to have an informal move towards more openness and communication. This legislation needs to include some provision for voluntary agreements. People who have looked at it from a legal perspective believe a voluntary agreement between the birth family and the adoptive family should be possible where the adoptive family is agreeable. The adoptive family takes on the rights under the Constitution. Perhaps we might examine that issue. We need to be more ambitious between Committee and Report Stages.

An Leas-Chathaoirleach: The Senator can speak about the matter again on Report Stage. Is she withdrawing the amendment?

Senator Alice-Mary Higgins: I am withdrawing it, but I reserve the right to reintroduce it on Report Stage.

Amendment, by leave, withdrawn.

Section 8 agreed to.

An Leas-Chathaoirleach: Amendments Nos. 6 and 7 have been ruled out of order because they involve a potential charge on the Exchequer.

Amendments Nos. 6 and 7 not moved.

Section 9 agreed to.

Sections 10 and 11 agreed to.

SECTION 12

An Leas-Chathaoirleach: Amendments Nos. 8 and 10 are related and may be discussed together.

Senator Fintan Warfield: I move amendment No. 8:

In page 13, to delete lines 15 to 19 and substitute the following:

“(a) the child resides in the State, and”.

The basis for the amendments is allowing for circumstances where a child has started in the adoption process while still a minor but who has passed the age of 18 years before the process is completed. I commend the Minister for referring to such scenarios on Second Stage and her willingness to engage on what can happen, as attested to by Senator Colm Burke previously. There is ample opportunity to amend it to stop situations arising where children lose out on suc-

cession and kinship rights with their prospective parents as a result of a provision which should consider such exceptional circumstances.

Deputy Katherine Zappone: I thank the Senator for noting my reference to the matter on Second Stage. I am always very happy to look at these issues again, particularly in a debate in this House. Since working through and responding to the amendment in the Dáil, actions have taken place to which I can refer in the light of the concerns raised about this and the other amendment. It is right and proper that the issue be raised. As the Senator is aware, there are ways of resolving or acting on issues raised other than in the context of changing the law, that is, by accepting the amendment in a way that would equally be as effective and acceptable in the context of the law, as I will explain.

The primary purpose of the Adoption (Amendment) Bill 2016 is to give effect to Article 42A of the Constitution in so far as it relates to adoption. In particular, the Bill provides for the adoption of any child, regardless of the marital status of his or her parents, and that in any matter, application or proceedings under the Adoption Act 2010 before the Adoption Authority of Ireland or any court it shall have to regard the best interests of the child. It is really important that we remind ourselves of this, particularly in the context of the amendments. It is about the best interests of the child as being the paramount considerations in the resolution of such a matter and, in respect of any child who is capable of forming his or her own views, ascertaining his or her views. Such views shall be given due weight, having regard to the age and maturity of the child. That is the opening and the context. I will now go to the substance of the amendments.

Priority is given by the Adoption Authority of Ireland, the Child and Family Agency and the courts to cases where a child is older to ensure the adoption process is completed before the child reaches the age of 18 years. There is no evidence to suggest a provision in that regard is required. However, a number of Deputies raised concerns that while this may not have happened to date, it could possibly happen in the future and they called for a strengthening of the procedures involved. I heard Senator Colm Burke's comments on Second Stage. I invited Senators to come forward with any information, but none has been brought forward so far.

After giving careful consideration to the concerns raised, I agreed that the procedures involved in such cases should be strengthened. I committed in the Dáil to requesting the Adoption Authority of Ireland to prepare a proposal, in consultation with Tusla, the Child and Family Agency, for inclusion in its business plan to address this issue. I am pleased to inform the House that I have written to the chairperson of the board of the Adoption Authority of Ireland on the matter and been advised that the authority has been liaising with the Child and Family Agency on the issue and that a new protocol has been established to strengthen the management of all cases where an adoption application concerns a child aged 16 years or over. For these reasons, I do not intend to accept this or the other amendment.

Senator Fintan Warfield: I hope the Minister will appreciate that I still believe the Bill is an opportunity to deal with the issue. In the light of the protocol and the Minister's understanding of the amendment, I will withdraw it.

Amendment, by leave, withdrawn.

An Leas-Chathaoirleach: Amendments Nos. 9 and 15 are related and may be discussed together.

31 January 2017

Senator Fintan Warfield: I move amendment No. 9:

In page 13, between lines 35 and 36, to insert the following:

“(3) The Minister shall provide by way of regulation for the circumstances under which the particular circumstances referred to in section 23(2) will apply.”.

Does this amendment relate somewhat to amendment No. 8?

An Leas-Chathaoirleach: Amendments Nos. 8 and 10 have been dealt with and withdrawn. We are on amendment No. 9. Amendments No. 9 and 15 are related and may be discussed together.

Senator Fintan Warfield: I will withdraw the amendment.

Amendment, by leave, withdrawn.

Section 12 agreed to.

Amendment No. 10 not moved.

An Leas-Chathaoirleach: Amendment No. 11 has been ruled out of order because it involves a potential charge on the Exchequer.

Senator Fintan Warfield: I wish to speak to it.

An Leas-Chathaoirleach: Yes. The Senator can speak to it when we get to the section.

Amendment No. 11 not moved.

SECTION 13

Amendment No. 12 not moved.

Question proposed: “That section 13 stand part of the Bill.”

An Leas-Chathaoirleach: Does Senator Fintan Warfield want to speak to the section?

Senator Fintan Warfield: I want to say something about amendment No. 11.

An Leas-Chathaoirleach: Unfortunately, amendment No. 11 has been ruled out of order. However, the Senator can speak to it on the section.

Senator Fintan Warfield: On Second Stage I referred to some of the shortcomings of the Bill. One major flaw in the adoption process is the financial barrier. It impacts on many, with legal fees as high as €15,000. It prevents adoptions and prevents children from having a caring and loving home. It prevents prospective adopters from becoming loving parents. Where people can afford the high cost, the burden stifles them from providing a nurturing start for the child, since money that could be spent on providing for the care and future of the child goes instead towards the cost of legal administration. I hope the Minister shares these concerns and agrees that this is one of the most notable outstanding barriers to adoption that remains for prospective parents. I hope she will amend the legislation to that effect on Report Stage.

Deputy Katherine Zappone: I thank the Senator. I do, of course, share the concerns

expressed. I am also aware of the fact that section 22 of the Adoption Act 2010 provides that Tusla, at its discretion, may contribute towards the expenses incurred by any person in connection with an application for the adoption of a child. We already have that provision in law. In the light of this, protections are in place. Certainly, I am willing to continue to look at this, even in the context of the work of Tusla. For example, it would be helpful to know when this happens and in what circumstances. It would be helpful to conduct some analysis that could put us in a position that is different from where we are now. I am unsure of the experience of Tusla in doing so, but I am happy to do it.

Question put and agreed to.

An Leas-Chathaoirleach: Amendments Nos. 13 and 14 are out of order because they involve a potential charge on the Exchequer.

Amendments Nos. 13 and 14 not moved.

Section 14 agreed to.

Sections 15 to 17, inclusive, agreed to.

Amendment No. 15 not moved.

Section 18 agreed to.

Sections 19 to 23, inclusive, agreed to.

SECTION 24

Senator Lynn Ruane: I move amendment No. 16:

In page 20, between lines 6 and 7, to insert the following:

“(a) by the insertion of the following paragraph in subsection (1):

“(a) if the Child and Family Agency is satisfied that every reasonable effort has been made to support the parents of the child to whom the declaration under section 53(1) relates,”.”.

I am conscious of the sensitive nature of the area that the Bill seeks to regulate. I am aware of the competing rights and obligations and the difficult task of the Minister when it comes to balancing these rights and obligations. As issue of concern for me is the potential position in which some families might find themselves, especially those on low incomes or vulnerable parents. Let us consider the children in the care of the State, a large majority of whom were born during a time of rapid boom and bust. Consecutive cuts to family support services, social welfare community projects and employment were matched by an increase in the number of children in care. There is a direct correlation between austerity and the number of children who went into care during that time. This is something we need to consider when discussing the removal of parental consent. We have a long history of doing the wrong thing for parents and children. My amendment is perfectly reasonable. It provides for the Child and Family Agency to be satisfied that all possible supports are offered to the parents before consent is removed.

I have sat in at many case conferences supporting and advocating on behalf of parents throughout my years working in the addiction sector. I can hone in on my experience in that

regard. The problem also affects people suffering with mental health problems or a disability and those who have experienced domestic violence, following which a child has been removed from the home for safety. I will offer one example. I remember a child being taken from the mother and her pleading with social services to find her a place in Ashleigh House in Coolmine, a centre for mothers who are addicts. It allows them to look after their children and receive treatment. At the time there was a two-year waiting list. The child was taken. As soon as the child was removed from the family, the offers of support from social services stopped. When a child is still in the home and the parents are trying to maintain the child in it, there are offers of support, parenting courses and so on. However, when the child goes into foster care, the position changes. If we are telling a parent to meet certain needs, for example, the provision of adequate housing or income or removing a violent partner from the household, we cannot tell her to do these things alone. We need to be sure adequate supports and resources are offered to parents to meet these needs.

In no sense, would I ever wish to get in the way of having a child moved towards a stable home or family. However, it should be a requirement for the Child and Family Agency to be satisfied that all reasonable offers of support are made to the parents. If that is the case, it is up to the parents to accept these supports. However, if the supports and resources are never put in place, it will be a problem. If we fail to work with the parents to enable them to meet what is required to care for the child, it is not a failure on their part but a failure on the part of the State. I am keen for it to take some responsibility in advocating for parents to offer them some assistance in meeting the needs that are required to be met.

Senator Alice-Mary Higgins: I will speak briefly in support of the amendment. I urge the Minister to consider taking it on board as it strikes a clear balance.

I recognise the importance of security and stability. I also recognise the importance of a timeline being set in order that we do not have children in limbo for long periods. I realise much of the positive intent of this section in ensuring we will have mechanisms by which children in foster care can move towards adoption. It is important to recognise that there are many situations that may cause difficulty for particular periods. The given period of three years needs to be seen not simply as a waiting period but as a period in which there will be active engagement and work to see what opportunities may come about. It may be that a parent may move back to being the main carer or it may be that the parent will never return to that role and foster care with an ongoing contact programme might be the more appropriate option. Others have referred to the importance of the judges making these decisions being appropriately trained and informed to enable them to make nuanced decisions on what is the best option.

We have heard about the circumstances of addiction. Such situations can span three years, but they can also change. Others may also arise, for example, those which involve a mental illness. We know that in many cases it may take three, four or five years for people to find a balance of care and support to allow them to deal with such a situation and find a balance in medication.

I am also particularly concerned about cases of domestic violence. There are situations where people may be trapped in an abusive relationship and may not be in a position to engage. My colleague referred to the need for the Child and Family Agency to be satisfied that every reasonable effort is being made. I reserve the right to put forward amendments to tease out this issue more. The Child and Family Agency should be able to give that message of reassurance and satisfaction. However, some of the reasonable supports may be forthcoming or may need to

come from other services. Accordingly, there may be a responsibility, not simply to ensure the formal letter of the law is adhered to and the opportunity is given, but that there is meaningful engagement and support and other services are given too. For example, we know that a number of children have entered care following a period of homelessness. We know that in itself can lead to severe family problems and people moving into situations which they may believe are unsafe for themselves or a child. There is a need for active engagement to see if there is a feasible or appropriate pathway out, either through becoming a primary care giver again or having a contact relationship and a constructive ongoing long-term relationship with fostering. Will the Minister take this amendment on board?

The issue of guardian *ad litem* was also mentioned. We may need to come back to it on Report Stage.

Deputy Katherine Zappone: I have worked with my officials and the Parliamentary Counsel on the issues raised by Senators Lynn Ruane, Frances Black and Aliuce-Mary Higgins. We took quite a bit of time in taking a look at the amendment. I know that it was proposed in the context about which Senator Lynn Ruane spoke. Senator Frances Black also has significant experience in that regard. It is so much what it means to be a lawmaker to draw on that experience. One's way of analysing it and marshalling various pieces of evidence for the law-making process ensures it should and does make a difference.

It troubles me that what was described as having gone on may still be going on. I do not know if it is still going on in a significant way and if we may need to attend to it. I am not sure it would be possible to deal with it the way Senator Lynn Ruane recommended. However, there may be some scope in that regard.

Section 53 of the Adoption Act 2010 provides that the Adoption Authority of Ireland will adjourn an application for an adoption order made to it and declare that it will make the adoption order if the High Court, by order under section 54(2), authorises it to do so, if the authority has heard from the Child and Family Agency and any person who is entitled to be heard at such a hearing. Such persons include the mother and the father of the child. The authority, at its discretion, may also decide to hear from any other person in that regard. It must also be satisfied that if an order of the High Court, under section 54(2), were made in favour of the applicants in respect of the child concerned, it would be in accordance with the Adoption Act 2010 to make the adoption order. If on hearing from a birth parent, or any other person, who raises a concern about the support the birth parent might have received from the Child and Family Agency, I am advised by the authority that it would adjourn the case and seek a comprehensive report from the agency. The Adoption Authority of Ireland has also advised me that in the past where reports were requested and received, they outlined in detail the various case meetings held during the years, including any offer of support offered to the birth parents at the time of or subsequent to the birth of the child.

Section 54 of the Adoption Act provides that the High Court may authorise the Adoption Authority of Ireland to make an adoption order for a child and dispense with the consent of anyone whose consent is necessary to the making of the order. This is the issue about which Senators are concerned. Section 24 of the Adoption (Amendment) Bill amends section 54 of the 2010 Act to provide for revised criteria under which the High Court may authorise the making of an adoption order without parental consent where a child's parents have failed in their duty towards the child. There is some revision of criteria within the Bill. The revised criteria are that the High Court be satisfied that the parents of the child have failed in their duty towards

the child for a period of 36 months and that there is no reasonable prospect that the parents will be able to care for the child in a manner that will not prejudicially affect his or her safety or welfare. The failure constitutes abandonment on the part of the parents of all parental rights and by reason of this failure, the State, as guardian, should supply the place of the parents. The child must be in the custody of and have a home with the applicants for a continuous period of not less than 18 months and the adoption of the child by the applicants must be a proportionate means by which to supply the place of the parents.

In considering an application for an order under this section the High Court will have regard to the rights, whether under the Constitution or otherwise, of the person concerned, including the natural and imprescriptible rights of the child, as well as any other matter which the High Court considers relevant to the application. The High Court shall also, in so far as practicable, in a case where the child concerned is capable of forming his or her own views, give due weight to the views of the child, having regard to his or her age and maturity. In the resolution of any such application, the best interests of the child will be the paramount consideration. This may address some of the concerns expressed by the Senators.

The court provides a significant safeguard in this process. It should be noted that applications to dispense with consent due to parental failure are uncommon. They are only made after significant engagement with the child and parents and the child has been in foster care for at least 36 months. The Child and Family Agency has advised me that, once every effort made to keep a child at home has been unsuccessful and the parents have consistently failed to provide adequate care and protection to the point where the child's welfare is at risk, the child will be received into care. A child will only be put forward for adoption when all other options have been explored and ruled out. I am advised that the issue of supporting parents will have been adequately addressed by then, long before adoption has been considered as a proportionate means to meet the needs of the child.

How do we know that is the case? In that regard, the Child and Family Agency undertakes its functions related to child welfare and protection under the Child Care Act 1991. I am consistently referring to other legislation which ensures in a reasonable manner the protections and supports to which the Senators refer in their amendment. They are present in the current legislation. Section 3 of the Child Care Act 1991 provides that the agency in carrying out its functions will: "(i) regard the welfare of the child as the first and paramount consideration, and (ii) in so far as is practicable, give due consideration, having regard to his age and understanding, to the wishes of the child;". It will also have regard to the rights and duties of the parents and the principle that it is generally in the best interests of a child to be brought up in his or her own family.

The agency has also advised me that where there are concerns about the welfare of a child, it carries out a comprehensive assessment, including a parental capacity assessment, and this assessment includes the development of danger statements, child protection plans and safety plans. Additionally, child protection case conferences and family welfare conferences, to which the Senators referred, are convened to ensure all parties are fully aware of the issues and concerns and that there will be an agreed plan of action to ensure the welfare and protection of the child.

The parents are included in all aspects of the plan and given clear guidance on how to adequately care for their child in order to meet the threshold for adequate care and protection. They are encouraged to receive support via support workers and parenting courses, invited to

participate in all planning meetings and supported and encouraged to have their views heard. I have no evidence to indicate that the issues raised by the Senator are not adequately addressed in current legislation and practice. In addition, I am concerned, on advice received, that the proposed amendment could give rise to significant anomalies or operational inequalities. For these reasons, I am not accepting the amendment.

Senator Victor Boyhan: I thank the Minister for her comprehensive response to the amendment. I also thank Senators Lynn Ruane and Frances Black for bringing forward this critical amendment. The abandonment of children and their best interests are very contentious issues. The last time the Minister was in the House we talked about the complexities of family. There are many reasons and circumstances for the situations where parents sometimes have to walk away or children are taken away from them. I have no doubt that this is one of the most controversial aspects of the Bill. The Minister does not want it to be struck down by a constitutional challenge. There is always the potential with something so contentious that it will be challenged. That is everyone's right. I always support people who are prepared to challenge anything. I know that the Minister is mindful of this and has her own legal advice and support. I am reassured, as much as I can be, by what she said. She has given a comprehensive response. The issue the two Senators have raised is important and we need to tease it out. I thank the Minister for her response.

Senator Lynn Ruane: I looked back through several parts of the Bill to find the safeguards for parents. The safeguards are timeframes, for example, in sections 14, 24 and 54, as well as some subsections. My amendment in respect of parts of section 14 lays out the occasions where a parent can intervene to stop an order being made. At no point anywhere in the Bill does it state there is an obligation to provide support in respect of offers of placement. I have been in Cherry Orchard on many occasions and had social workers ask me to where the parent should go for help such as for detox, or where is there a women's refuge if domestic violence is the problem. There is a serious lack of information in social services. There is also a lack of connection to projects which social workers could suggest parents undertake. They do not intervene to make these things happen. If there is a two or three-year waiting list for help, the person is almost at the end of the three-year court order period and the child is gone. I am not satisfied with the Bill.

My amendment proposes that in circumstances where an application for a High Court order is sought, the Child and Family Agency be satisfied that a reasonable effort was made to support the parents. If the Department is stating these supports are available, I do not understand why that cannot be cemented into the Bill.

In respect of section 4, my amendment clarifies the obligation on the Child and Family Agency in respect of an order and the standard required - that "every reasonable effort" be made in support of the parents of a child who is subject to adoption. When it goes to the High Court, the children are in the care of the State and the power lies with it. Children from poor backgrounds are over-represented in the care system. They come from under-educated families who lack capacity to advocate for themselves in the High Court or even to intervene. If adequate supports have not been provided for them throughout the three years to get help, they will not have the capacity to advocate and intervene at High Court level. The Child and Family Agency should be satisfied that they did receive that support and are in a position to say they asked for help and did not get it. In all the years I have worked in the areas of addiction and homelessness I have met very few people on the ground who have children and are able to stand up to the State and the High Court. The Child and Family Agency owes it to them to ensure they will

receive adequate support to advocate on their own behalf and that of their children.

Deputy Katherine Zappone: I hear very clearly what Senator Lynn Ruane is saying and deeply respect the experience and context from which she speaks, which adds power to her words. I cannot accept the amendment in its current form, but there may be ways to see if we can ensure her concerns will be met. I do not yet know.

“Supports” is a very broad term and could cover a wide range of services, the majority of which are outside the remit of Tusla. Supports could include mental health services, addiction services, financial support, housing, transport, disability services, education and employment, which identifies the difficulty. It is also not clear in the language what is meant by “reasonable effort” and how the Child and Family Agency will ascertain if that threshold has been met. At another less practical level but taking into account the policy intention of the Bill, the best interests of the child are the paramount consideration in adoption proceedings. The Bill strengthens the provisions surrounding the best interests of the child and hearing his or her voice. The Senators’ proposed amendment could be perceived to move from the current child-centred focus to a parent-adult-centred focus which is inconsistent with the policy intention of the Bill.

There is also a risk that the amendment could be providing a statutory right to services for a limited cohort of parents, which would be inequitable. In addition, in that regard and in the light of some of the other points I have made, the amendment raises some legal and constitutional concerns. Therefore, consultation with and formal legal advice from the Attorney General will be required.

Amendment put:

The Committee divided: Tá, 21; Níl, 18.	
Tá	Níl
Bacik, Ivana.	Burke, Colm.
Black, Frances.	Burke, Paddy.
Boyhan, Victor.	Buttimer, Jerry.
Conway-Walsh, Rose.	Byrne, Maria.
Craughwell, Gerard P.	Coffey, Paudie.
Daly, Mark.	Coghlan, Paul.
Daly, Paul.	Conway, Martin.
Devine, Máire.	Hopkins, Maura.
Dolan, John.	Lawless, Billy.
Gallagher, Robbie.	Lombard, Tim.
Gavan, Paul.	McFadden, Gabrielle.
Higgins, Alice-Mary.	Noone, Catherine.
Horkan, Gerry.	O'Donnell, Kieran.
Landy, Denis.	O'Donnell, Marie-Louise.
Mac Lochlainn, Pádraig.	O'Mahony, John.
Nash, Gerald.	O'Reilly, Joe.
Ó Clochartaigh, Trevor.	Reilly, James.
Ó Donnghaile, Niall.	Richmond, Neale.

O'Sullivan, Grace.	
Ruane, Lynn.	
Warfield, Fintan.	

Tellers: Tá, Senators Frances Black and Lynn Ruane; Níl, Senators Gabrielle McFadden and John O'Mahony.

Amendment declared carried.

An Cathaoirleach: Amendments Nos. 17 and 18 in the name of Senator Fintan Warfield have been ruled out of order.

Amendments Nos. 17 and 18 not moved.

Section 24, as amended, agreed to.

Sections 25 and 26 agreed to.

Amendment No. 19 not moved.

Section 27 agreed to.

Sections 28 to 36, inclusive, agreed to.

An Cathaoirleach: Amendment No. 20 in the names of Senators Ivana Bacik and Kevin Humphreys has been ruled out of order as it involves a potential charge on the Exchequer.

Amendment No. 20 not moved.

Sections 37 to 41, inclusive, agreed to.

An Cathaoirleach: Amendment No. 21 in the name of Senator Fintan Warfield has been ruled out of order.

Amendment No. 21 not moved.

Section 42 agreed to.

TITLE

Question proposed: "That the Title be the Title to the Bill."

Deputy Katherine Zappone: I reserve the right to table a Government amendment in the light of amendment No. 16 having been agreed to.

An Cathaoirleach: Certainly. That can be done on Report Stage, if the Minister wishes to do so.

Question put and agreed to.

Bill reported with amendment.

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

Senator Catherine Noone: Next Tuesday.

31 January 2017

An Cathaoirleach: Is that agreed? Agreed.

Report Stage ordered for Tuesday, 7 February 2017.

An Cathaoirleach: When is it proposed to sit again?

Senator Catherine Noone: Amárach ar 10.30 a.m.

The Seanad adjourned at 6.20 p.m. until 10.30 a.m. on Wednesday, 1 February 2017.