



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES
SEANAD ÉIREANN

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

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SEANAD ÉIREANN

Dé Máirt, 23 Eanáir 2024

Tuesday, 23 January 2024

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

Machnamh agus Paidir.
Reflection and Prayer.

Gnó an tSeanaid - Business of Seanad

An Cathaoirleach: I have received notice from the following Senators that they propose to raise the following matters:

Senator Mary Seery Kearney - The need for the Tánaiste and Minister for Foreign Affairs to make a statement on the timelines for processing and registering foreign births on the foreign births register.

Senator Victor Boyhan - The need for the Minister for Rural and Community Development to make a statement on the purpose, and allocation on a county-by-county basis, of the community recognition fund.

Senator Micheál Carrigy - The need for the Minister for Children, Equality, Disability, Integration and Youth to provide funding for the establishment of one-stop shops in each county to support persons on the autism spectrum.

Senator Malcolm Byrne - The need for the Minister for Enterprise, Trade and Employment to make a statement on the Government's intention to hold a referendum on Ireland's membership of the unitary patent system in June 2024.

Senator Erin McGreehan - The need for the Minister for Rural and Community Development to make a statement on the allocation of funding to support the rural communities in north Louth which had their roads destroyed by flooding in October 2023.

Senator Martin Conway - The need for the Minister for Health to agree and implement strict protocols between the HSE and Tusla on the provision of timely and appropriate services and care to vulnerable children and young adults and those with complex needs.

Senator Garret Ahearn - The need for the Minister for Further and Higher Education, Research, Innovation and Science to make a statement on the financial supports available to students studying abroad.

23 January 2024

The matters raised by the Senators are suitable for discussion. I have selected those raised by Senators Mary Seery Kearney, Victor Boyhan, Micheál Carrigy and Malcolm Byrne and they will be taken now. The other Senators may give notice on another day of the matters they wish to raise.

Nithe i dtosach suíonna - Commencement Matters

Foreign Birth Registration

Senator Mary Seery Kearney: I thank the Minister of State, Deputy Jack Chambers, for attending. The foreign births register is a particular register held by the Department of Foreign Affairs and is also known as the citizenship by descent register. Its normal use is in the context of passports being claimed by people who are perhaps the children of Irish citizens living abroad, and it is the method by which they obtain an Irish passport. However, it also has particular uses and requirements within Ireland. For example, if an individual becomes a naturalised Irish citizen and their child is born abroad, that child needs to go on the foreign births register.

There is a particular issue in regard to surrogacy, given that children born by international surrogacy, by virtue of the way it is, are born abroad. DNA is taken at the time of the birth. That is matched to the Irish citizen biological father and the child obtains an emergency travel document to come home to Ireland with the family. The entitlement is the fact that this is the biological child of an Irish citizen. If that Irish citizen happens to be a naturalised Irish citizen, the child, in order to obtain a passport, must then be entered onto the foreign births register.

By the time the family get to make that application, they have already had judicial oversight of all of their documentation because that father has had to apply to the courts for a parental order for the setting aside of consent of the surrogate in order to proceed. In itself, that is a process that can take anything from a couple of months to 18 months or a couple of years. The particular cases that I am concerned about are ones where the application has been made for the child to be entered onto the foreign births register, but well over a year later, there is no sign of that child being issued with a passport.

The website itself states that it is going to take a nine-month process, and I understand there are legalities. If I am applying from a foreign country with regard to my father, my grandfather, my mother or my grandmother, I understand that all of that needs to be verified. However, we have a situation where there are children for whom all of the documentation has already received judicial oversight in the country, and they are just slotted onto the list. They are living here but they cannot visit relations abroad or go abroad. I know of one particular case where a father had applied, and I am not even mentioning second fathers and mothers because we do not have legal standing in Ireland at the moment, although we will soon, hopefully. In the case of that one child in particular, the couple were desperate to get home to Lithuania to visit a dying great-grandmother of the baby. She died, but there was no way of expediting the process and no way of pushing them up the list, even though everything that is before the Department of Foreign Affairs has already had judicial oversight.

There is an appallingly long delay in the Department of Foreign Affairs. In instances like that, it is an unwarranted delay. It is a very straightforward system. The people are living here

in the country and could go in to give oaths or do whatever is needed. There is no problem with the documentation but they are not getting anywhere fast. In one case, we are now 13 months down the road and no one will even answer a phone to this guy, send him an email or do anything. Either there is a lack of staffing or a lack of willingness - one of the two - and it needs to be addressed as a matter of urgency.

Minister of State at the Department of Transport (Deputy Jack Chambers): I thank Senator Seery Kearney for raising this issue, which I am taking on behalf of the Tánaiste and Minister for Foreign Affairs.

The Passport Service of the Department of Foreign Affairs is responsible for processing applications for citizenship by descent through the foreign births register under the Irish Nationality and Citizenship Act 1956, as amended. As the Senator will be aware, people born abroad may apply for Irish citizenship through foreign birth registration, FBR, if one of their grandparents was born in Ireland or if one of their parents acquired citizenship through FBR or naturalisation. Once a person is entered onto the foreign births register, they are an Irish citizen and are entitled to apply for an Irish passport. Foreign birth registration, by its nature, is a detailed and complex process. It can involve official documentation relating to three generations and issued by several different jurisdictions. To protect the integrity of the citizenship process, these applications require careful processing in order to validate the identity of the applicant, the documents they have submitted and their entitlement to Irish citizenship. Accordingly, all applications undergo rigorous and detailed checking by experienced officers of the Passport Service.

Demand for foreign birth registration services reached unprecedented levels following the Brexit referendum in 2016. Prior to that referendum, FBR applications averaged 5,000 to 6,000 per year. However, post referendum, demand for citizenship via foreign birth registration has increased significantly. The most recent full-year figures saw over 35,000 applications received by the Passport Service in 2023. Prior to the Covid-19 pandemic, the processing time for foreign birth registration applications stood at 18 months due to the dramatic increase in applications as a result of Brexit. The FBR service was also impacted by necessary Covid-19 restrictions in 2020 and 2021, as well as the unprecedented demand seen in 2022. The service was paused for 15 months across the 2020 to 2021 period, after which the turnaround time was over two years.

Since September 2022, significant extra resources have been deployed. I am pleased to inform the Senator that as a result of the deployment of these resources, the processing time has been reduced to the normal turnaround time of between eight and nine months, which is a 75% reduction in processing time since 2022.

In the medium term, changes to the foreign birth registration process to increase efficiencies and improve the customer experience will be delivered under the next phase of the Department's passport reform programme. I assure the Seanad that the Department of Foreign Affairs is fully committed to maintaining the necessary resources needed to assist with dealing with the high volume of applications. I recognise the specific context of the case the Senator has outlined, which should receive the attention of officials in the Department of Foreign Affairs. We will ask for that engagement and that the matter be reflected on based on what she has set out today.

Senator Mary Seery Kearney: I really appreciate the Minister of State's reply. An Irish

passport is a precious document and there should be no shortcuts in applying for it for people who are abroad and probably already have a passport of the country in which they live. Where a British citizen is seeking an Irish passport on the basis of descent, for example, that is a reasonable proposition. The case I have outlined is not the same. These are children who have no other state. It has been adjudicated on by the High Court that they are Irish citizens. There are orders and documentation from the court to that effect. DNA has been produced. All of that evidence was put before the court and the latter has issued orders.

My argument is that there should be a red-circled group of applicants and an expedited list. The persons I referred to should jump to the top because they do not have another passport. The family to which I referred is prohibited from travelling, full stop, because the parents will not travel without their baby. It is unreasonable that an Irish citizen child resident in this country is denied a passport or the issuing of a passport is delayed because of this issue. I completely respect that the process needs to be robust but I am referring to a special group. I am asking for a red-circling of that group and special treatment for it.

Deputy Jack Chambers: I thank the Senator again for the opportunity to update the Seanad on the foreign birth registration process. The passport service is fully committed to ensuring the timeframe of eight to nine months as we go forward. An average of 900 applications are approved each week, with 29,000 applications currently awaiting processing. The FBR team provides an emergency service for foreign birth registration in cases of exceptional urgency such as for expectant parents or stateless persons. The passport service continues to work closely with the HR division and the Public Appointments Service to recruit additional staff to meet the current and forecast demand for both passports and foreign birth registration.

In the context of the national development plan, the Government is making a major investment in the future of the passport service. Over the next couple of years, the Department will replace the core technology underpinning the service, which will deliver efficiencies to the foreign birth registration and passport services. I assure the Seanad of the importance the Government attaches to the integrity of the FBR process, which processes these applications for Irish citizenship in a timely manner. We will reflect on the Senator's wider point regarding the sensitivity around cases involving children. I thank her for raising the issue.

Senator Mary Seery Kearney: I thank the Minister of State.

Community Development Projects

Senator Victor Boyhan: I welcome the Minister of State, Deputy Joe O'Brien. I thank the Cathaoirleach for selecting this matter. It relates to the community recognition fund, to which €50 million has been given. At first glance, it seems to be covering a lot of areas that should be covered in any case because they are not solely and exclusively to do with community integration. Allocations include €50,000 and €60,000 to private rugby clubs across the State and a whole range of other projects. I am delighted that funding is being given to sport and I recognise the importance of it. However, this scheme is being dressed up as some sort of community recognition fund. On 16 January 2024, the Taoiseach said in an interview broadcast on an RTE news bulletin in which he referenced the fund - I double-checked it before coming here - that more needs to be done to support health and education. I fully agree with him because they are the key pressure points for people. He was speaking in response to some of the unseemly things that have been going on in this country in regard to new people coming here and looking

to establish themselves. In many cases, they have general support from communities and from local and national politicians.

Having listened to the interview with the Taoiseach, I decided to take it upon myself to look into the community recognition fund. The Department of Rural and Community Development issued a memorandum in 2023 outlining the purpose of the scheme. I commend the scheme and am very supportive of it. I took a further look because I wanted to see the county-by-county allocations. Thanks to the Department, I obtained a printout of every project that was listed as being a successful application under the fund. When I totted up the numbers, they told me an interesting story - first, about the geographical spread and how open and transparent that was or was not and, second, about how much money was drawn down. The initial memorandum referred to €30 million being drawn down in 2023 and €20 million this year.

I support the Taoiseach's call for greater additional focus on and support for education and health, which are two areas that are showing pressure points in many cases. I endorse that. I support the community recognition fund and the amazing work going on right across the Minister of State's Department. It is an exemplary Department that is doing really important work in recognising the enormous pressures on communities. The information on the fund refers to engaging with local authorities. The latter may make submissions for funding but will not necessarily get all of it. Given the restraints on resources at this time, the system needs to be more open and transparent. It may very well be all of that but I refer specifically to the need for more openness and transparency in terms of how the Department communicates its allocations.

The Minister of State will be familiar with the county-by-county ledger that sets out the allocations under the fund. He may not be in a position to provide the information today but I would like to know how much of the fund has been drawn for particular identified projects that are fully compliant with the terms and conditions of the scheme and how much remains to be drawn down. From reading all the correspondence, press releases and memorandums, I understand €30 million was to be given in 2023. Will he confirm whether that money has been allocated? I acknowledge that it may not all have been drawn down because there are difficulties in getting projects up and running. How can the scheme be improved? I call for a greater focus on education and health, in line with the Taoiseach's statement. Will the Minister of State set out his plans to do that?

Minister of State at the Department of Rural and Community Development (Deputy Joe O'Brien): I thank the Senator for raising this matter. I will give an initial response and then follow up with further information in my second reply.

The community recognition fund is managed by the Department of Rural and Community Development and delivered locally by each of the local authorities around the country. The €50 million fund was introduced this time last year and I was delighted, together with the Taoiseach and the Minister, Deputy Humphreys, to be able to announce the details of the successful projects last May. The scheme recognises the contribution being made by communities that have welcomed significant numbers of new arrivals from Ukraine and other countries. It is important to note that this funding is separate from other public funding streams that aim to support the development of public services arising from the significant number of new arrivals into Ireland. The community recognition fund is specifically designed to support the development of community facilities that will be used in the future by all members of the community.

Through this initiative, communities are being assisted to develop a wide range of projects

in terms of both their scale and their scope. They include large-scale multipurpose sports facilities, walkways, cycle paths and playgrounds, with smaller amounts given for equipment for sports clubs and funding for community festivals. The fund has been allocated across all local authorities based on the number of new arrivals located there. The projects were selected following an extensive community consultation process undertaken by local authorities, which submitted individual lists of projects for approval. The focus was very much on funding projects in the towns and villages most impacted. More than 880 projects were approved for funding through the €50 million allocation and they are due to be completed by the end of this year.

Details of the allocation provided to each local authority and the projects approved for funding are available on my Department's website. The allocations varied across local authorities depending on the numbers of new arrivals located there, including both people from Ukraine and international protection applicants. The largest allocation was just over €4.4 million for County Kerry. The next highest was €3.1 million for County Donegal. The smallest allocation was €653,000 for County Longford.

The fund was established to be as user-friendly as possible, with significant flexibility provided as regards the types of projects that can be supported. In addition, funding of up to 100% of the project costs was available, with no matching funding required from local communities. The Department is also committed to providing every assistance to groups to facilitate project delivery, including with regard to managing funding drawdown in a way that facilitates community groups managing their cash flow.

The Department is in ongoing contact with local authorities in relation to progressing the delivery of projects under the fund. Local authorities are submitting funding draw-down requests to the Department in respect of these projects as they are completed.

Of the over 880 projects approved for funding, 185 have been completed and €11.5 million has been drawn down from the fund. A total of 333 projects have submitted a partial or final draw-down claim.

I agree with the Senator on the importance of health and education. Health, in particular, comes up when we are engaging with communities around the need for increased GP services. I wrote to the Minister, Deputy Stephen Donnelly, on this matter recently. In his response, the Minister explained that the Department implemented a number of measures last year in consultation with the Irish College of General Practitioners, which allowed the ICGP to increase the number of places in the training colleges and create a programme to upskill people coming from abroad to work as GPs in Ireland. This programme successfully brought 100 people into the system last year. This year, it is planned to add another 250 people through the programme. There is, therefore, responsiveness in this regard.

I will address some of the Senator's other points in my closing statement.

Senator Victor Boyhan: I thank the Minister of State for his detailed response. He indicated that more than 880 projects have been approved for funding, 185 have been completed and €11.5 million has been partly drawn down from the fund. I presume the full €50 million will be spent given that it has been ring-fenced and earmarked. Based on the Minister of State's response, there is a hell of a lot of money in the pot. If it is not to be drawn down, I suggest we go back to the local authorities and see what is the reality of drawing down the funds. Some of projects are very simple, for example, multi-user sports facilities. All of them are critically im-

portant. I am glad the Minister of State clarified that these projects are for the benefit of broader society and the broader community.

We talk so much about central government devolving more powers, yet we have central government allocating €1,500 to a local authority for a local playground. That begs the question as to who should be doing this.

This programme is positive and I am particularly delighted the Minister of State touched on the point I made about health and education. That is what the Taoiseach has committed himself to. When one goes through each project funded under the scheme, one sees very few education or health interventions, which are critically important for the integration of people into our community. I thank the Minister of State for his detailed response.

Deputy Joe O'Brien: To clarify, the Government is looking at how we can further support impacted towns and villages across a range of different public services. I look forward to seeing the proposals that emerge on that in the coming weeks. For now, specifically in relation to community recognition, the focus is very much on getting the approved projects delivered on the ground. These projects can only make a difference when they are operational and my Department is committed to working with all parties to ensure that happens as quickly as possible. I am confident that these projects will deliver real and lasting benefits to many communities which have been awarded funding under the community recognition fund.

My experience in the Department has been that it has a strong focus and record of working with local authorities to get capital projects done. These have a fairly predictable trajectory. When a timeline is open to get something done, the number of completions tends to increase. I think the Senator will see the number of completions accelerate as we work through the year.

Local authorities did not see this coming, which meant they had to start from a standstill. We asked them to look at available projects on which they could move fast. They were not expecting the fund, so it took off slowly but the allocations being drawn down on the ground are increasing.

EU Bodies

Senator Malcolm Byrne: I thank the Minister of State, Deputy Richmond, for coming to the House to discuss the unified patent system and Unified Patent Court. While I appreciate that this issue may not necessarily knock other issues off the front pages, for those involved in developing patents and intellectual property creation, ensuring that those rights can be protected and vindicated right across the European Union is critical. We should make that process as streamlined and easy as possible.

As the Minister of State will be aware, Ireland signed up to the unified patent system and as a creative, entrepreneurial country, it is critical that we are part of it. The system has now commenced and 17 of the 27 EU member states are taking part in it. Ireland has indicated its clear intention to do so but, as the Minister of State will be aware, a referendum is required because of the establishment of the Unified Patent Court.

I have been raising the importance of Ireland joining the system for over three years. I understand the Minister, Deputy Coveney, is going to Cabinet today. I ask the Minister of State to

indicate whether the referendum will take place in June along with the local and European elections. It is critical that it take place on that date. If we have a stand-alone referendum, it will be difficult to get sufficient enthusiasm around this issue, so holding it on that date is crucial.

It is essential that we start a campaign at an early date to explain exactly what is involved. One of the concerns we often have in Ireland is that referendums end up being about topics that are nothing to do with what is on the ballot paper. For Irish industry and, in particular, people who are developing new ideas or creations, it is important to ensure that patents are protected and recognised and the system is streamlined throughout Europe.

It is essential that there is a Government campaign to explain what is involved and that we also make sure the debate is not diluted in the context of a European election when all sorts of issues are likely to be raised. It is also essential to build a campaign among relevant organisations which have an interest in this area to ensure we get this referendum over the line and Ireland becomes an active member of this system.

I had tabled this Commencement matter in advance of hearing that the matter would go to Cabinet. I hope the Minister of State can confirm the arrangements.

Acting Chairperson (Senator Mary Seery Kearney): As someone about to undergo my patent examinations, I am interested in the Minister of State's answer.

Minister of State at the Department of Enterprise, Trade and Employment (Deputy Neale Richmond): The Cathaoirleach Gníomhach, Senator Seery Kearney, can share her notes with me if she likes.

I thank Senator Malcolm Byrne, not only for raising this issue this morning but also for doing so consistently throughout his time in the Upper House. The Senator is dead right. This is a really important issue for Irish businesses and inventors and so many people in Ireland and beyond who will benefit from all these new creations and inventions and the business and commerce that will flow from them.

I can confirm that the Minister, Deputy Coveney, is bringing a proposal to Cabinet this morning to agree a date for the referendum alongside the local and European elections, which are due to take place on the first weekend of June. The Minister will seek approval for the priority drafting of a Bill to give effect to the proposed constitutional amendment.

In May, I attended the inauguration of the Unified Patent Court in Luxembourg and I was able to clearly see the benefits that this system will bring to Ireland, our businesses of all sizes and individuals. Put simply, this system will allow businesses to avail of a single patent that will take effect across 17 EU member states, rather than purchasing a patent in each of these countries. The savings for businesses speak for themselves. If a company holds a patent for ten years, the average lifetime, it will cost it less than €4,700. If the company were to buy these patents in these individual countries, it would cost it over €30,000. This is an incredible opportunity for Irish businesses.

Many people have asked why this system requires a referendum here in Ireland when other member states have simply been able to join. Many of them were from other member states. In order to solve any disputes that may arise, members will join a unified patent court, which requires an amendment to Article 29 of the Constitution. For this reason, we must have a referendum. If Ireland ratifies the international agreement, which I very much hope we will, we will

become the 18th participant in the Unified Patent Court.

The benefits of this system go far beyond the cost savings to our businesses, although this is crucially important. We are lucky in Ireland that we have a strong pro-business reputation around the world and in the European Union.

11 o'clock

We are attractive to multinationals and for investment in this light, membership of the UPC would certainly add to this. Should Ireland not join the UPC, we risk reputational damage. We do not want to see investment go elsewhere due to our non-participation in the court. The protection of international intellectual property is vital if we are to encourage innovation and invention in Ireland. If we want people to spend many years at the cutting edge of their field, they must know that their work is protected. Membership of the UPC is another string to our bow to protect this.

Regarding a dedicated information campaign from the Government, that can be taken as a given. Intellectual property falls under my brief in the Department of Enterprise, Trade and Employment. I intend to play a fully central role to ensure that we get this information out as widely as possible. The Senator mentioned the relevant organisations. There is already the starting of a relevant organisation bringing together legal practitioners, inventors and business people, many of them under the aegis of Enterprise Ireland and IBEC. They are already in place and chomping at the bit to get out a campaign. They have been knocking on my door for just over a year to get this to course.

There will need to be – this is unfortunately where politics kicks in – a dedicated political campaign. Senator Byrne and I have been involved in a heck of a lot of referenda over the years in all different matters but particularly European referenda. We know the importance of clear facts. We often hear buzz words such as “misinformation” and “disinformation”, and this referendum is ripe for that. We know the same old tropes. The same people, who are not in the Chamber today, who said “No” to an EU army and all these other things to stop the Nice and Lisbon treaties, and even used it in their European election campaign, will be at it again, although I have noticed in the past couple of days that some of them are suddenly converts to the cause of Europe.

This will require a strong political campaign. I hope politicians of all parties and those in these Houses and local authorities will be able to work with local businesses and legal practitioners. More importantly, I hope people will benefit from these patents in due course – the people who will possibly need those patents for new treatments and new drugs down the line. We will come together and get this over the line in June. I look forward to returning to Luxembourg as a full member of the court at the end of the summer.

Senator Malcolm Byrne: I welcome that. I think we should work together and look in a cross-party way to try to generate support for this referendum. It will require a bit of explaining. Having been asked about it on local radio, it is not always the easiest thing to explain. It is important for those creating intellectual property that we are able to vindicate and respect that right across Europe and it is important for the opportunity for enterprise in Ireland as well. I have the fear that during the referendum, people will use it as a soapbox and talk about issues that do not have anything to do with it. That is why it is critical that a campaign gets up and running early and does not start to be confused with other issues. I welcome the Minister of

State's commitment in that regard.

Deputy Neale Richmond: I think we were both involved in canvassing for the fiscal stability treaty in 2012 when we were fresh-faced councillors. I remember the research from that referendum. The two biggest issues of concern that came up in respect of the fiscal compact treaty were abortion and conscription into an EU army. Those were of absolutely no relevance to the question being put to the people but that is what happens when you allow disinformation and misinformation to fill the gap of silence. We cannot let that happen.

Following the passing of the legislation through the Houses of the Oireachtas, the Electoral Commission will be responsible for explaining the referendum proposal in an independent and impartial way. It also has a role to promote public awareness of referenda and encourage people to vote. I look forward to it playing its part; however, we also have to take that political responsibility seriously.

In conclusion, we all know that referenda can become convoluted, but the case for the Unified Patent Court is absolutely obvious. If Ireland wants to continue being a hub for investment and research and if we want to support our researchers, inventors, entrepreneurs and businesses of all sizes, involvement in the UPC is how we go about that. It is absolutely vital to the future economic and societal stability of this State that we sign up to the UPC and pass this referendum, hopefully by a massive margin.

Disability Services

Acting Chairperson (Senator Mary Seery Kearney): I welcome the students from Dalkey School Project in Dún Laoghaire. They are guests of Senator Barry Ward and they are very welcome to the Seanad.

I welcome the Minister of State to the House.

Senator Micheál Carrigy: I welcome the students and I welcome the Minister of State, Deputy Rabbitte, to the Chamber to take this Commencement matter about setting up one-stop shops in Ireland to provide for all those on the autism spectrum.

One may ask what one-stop shops are. They are basically community-based supports for young children and adults on the autism spectrum. They were first introduced in Scotland as part of its autism strategy. The services provide barrier-free supports to individuals and families created by autistic persons and are responsive to the needs in each individual locality. Some of the services and supports they provide are advice and information services, drop-in sessions, one-to-one appointments, peer support groups, support for transitions, social activities, support and advice to access services within the community, parent groups, information and advice for professionals and supports developed in partnership with other local organisations and public services.

It is a community-based model that will be collocated with existing support services and staffed by a range of non-clinical professionals providing complementary, rather than competing, services to the CDNTs and disability services, which is a key point. It also provides important opportunities for promoting autistic self-advocacy and providing employment within the community.

A number of members of the joint committee, of which I was Chair, visited Scotland in October. We met with the Scottish health minister, department of health officials and a significant number of autism advocates who work with the Scottish health department developing legislation. One of the key points we brought back from Scotland was the success of the model as it is there. We strongly believe it needs to be implemented here.

To give background, AsIAm, a significant organisation supporting those on the autistic spectrum, recently produced its Same Chance report. Less than one third of those represented in the report, in which 1,603 took part, reported receiving support from their local CDNT. Of those not receiving supports, the vast majority, some 68%, were on waiting lists, whereas others were simply outside of the system. That cannot continue. Over a quarter, some 26%, of those on the waiting lists were reported to be expecting to wait more than four years to access the services they need. More than 15,000 are waiting for first-time assessments for occupational therapy, 15,000 are waiting for speech and language assessments, more than 8,000 are waiting for further SLT therapy and 16,000 are waiting for psychology treatment. These are significant challenges. The waiting lists for assessments remain extensive and there is a recruitment crisis within disability services.

While there is an urgent need to reduce waiting times and improve pathways to the multi-disciplinary supports for autistic children and adults, there is an important opportunity to build on the complementary – “complementary” is a key word – supports within the community to provide timely support to families in the current context.

I know the Minister of State read our report and was very supportive of the committee. This is one point that has come up from a number of organisations we met with that gave testimony to the committee and was key to our report. The NDA was very supportive of the one-stop shop. Indeed, Áine Lawlor of the IASLT spoke to the committee and highlighted the positivity of a one-stop shop, highlighting the fact that there were pockets of services that work very well and that we have excellent skills and clinicians who can provide support, but what about the families and the people involved? What about the other supports for them? That is a significant challenge for us but this can be the answer. Will the Government support the piloting of a model of a one-stop shop which has been successful in our neighbouring country with a similar sized population? Scotland had an autism innovation strategy from 2011 to 2021. They have reviewed it and are moving forward but this is one thing that has proven successful. It can be successful in this country. I want the Government to introduce a pilot and recognise the opportunities it will provide, including in the context of the HSE children’s disability grant round and the forthcoming autism innovation strategy, on which I know the Minister is working and which we are waiting to see shortly.

Minister of State at the Department of Children, Equality, Disability, Integration and Youth (Deputy Anne Rabbitte): At the outset, I acknowledge the interest of Members of this House in issues surrounding autism. In particular, I thank Senator Carrigy for raising the important issue of the provision of information and services for autistic people. As Minister of State with responsibility for disability, I have consistently sought to advance a national action on autism to address the bespoke challenges that autistic people face today in Ireland. These challenges occur at all stages and in all facets of life, from healthcare and education to employment, among other areas. Some of these challenges relate to access to services as the Senator quite rightly outlined. Some relate to access to information about the services. As Minister of State for disability, I often speak to people who are wondering if they or a loved one might be autistic, along with people who have been diagnosed or self-identify as autistic, and who are

asking themselves what they should do and where they can access supports. In those cases, we need to make sure we are giving people the information they need on the supports available. On World Autism Awareness Day in 2021, I announced the Government's intention to develop a national strategy on autism. If the Senator will bear with me, I will bring him up to speed on that. This has taken the form of an autism innovation strategy, which I intend to launch later this year following a final round of public consultation which will commence later this month. The Government is committed to better meeting the needs of autistic people and their families. In the context of the development of this strategy, work is under way to explore methods of providing enhanced information, signposting of information, and supports regarding autism for autistic people and their families. I want to deliver a shift in the mainstream provision of services which will focus on clear functional actions to identify gaps and bespoke needs related to autism that are not accounted for in existing mainstream measures, and to make sure that after the autism innovation strategy, mainstream provision better understands and better meets the needs of autistic people. While I am not yet in a position to outline the specific action plan that will be launched within the strategy, I will shortly be in a position to launch the final round of consultation and to set out the programme of work the whole of government will undertake.

To be very clear to the Senator, I have done some individual research on the one-stop shop. I heard members of the committee had travelled to Scotland. When in opposition, I set about looking at dementia, as did the Minister of State, Deputy Butler, and the Scottish model. Hence, she has opened 45 day care centres relating specifically to dementia and that all come from the Scottish model. Therefore, I have looked towards Scotland as well and believe in the piloting of the one-stop shop to see how it would work. I have no doubt it would be a success. It would be a success in an area in which there is a gap that the CDNTs cannot fill, that is, the information piece around the questions people have, such as "Am I autistic?", "Where can I go?" and "How can I be assisted?", and proper correct signposting of this. Our CDNTs are under phenomenal pressure and need additional support. Our educational system is also under huge pressure. I am talking about the people under 18 here, never mind how the autistic child or young person who is transitioning at 18 years of age into education or adult education can be supported within third level or as they transition into employment. Therefore, the one-stop shop would be able to signpost and address this, and colocated within the community, to best meet the individual needs. It would have the peer-to-peer leadership piece. At the moment, people in Galway or Longford who are autistic are travelling to one side of the country to be able to participate in that. We need to have a more community-balanced regional development when it comes to supporting young and not so young people who have identified as autistic or who have autistic needs. The only way to do that is through mirroring the Scottish model.

I thank the Senator and the committee for the time and effort they put in to develop a consultation booklet at the close of the committee, within which the need for the community-based approach is also identified. I am hoping there will be the opportunity in this round of HSE grants to identify and work to that piece and take on board the recommendations made by the committee, in consultation with the main stakeholders and partners who all came before the committee. I will be impressing upon the HSE that it is a desire of the Government to see a community pathway developed outside the Dublin commuter belt out into the rest of the country. I will come back in and answer the rest of the questions as to how this will be done.

Senator Micheál Carrigy: I thank the Minister of State. First, I must highlight the fact of the funding she made available to AsIAm for the information line for parents. There is an access point there which must be complimented because as a parent, on hearing those words, you

do not know where to go or where to turn. It is important that these supports were put in place. The Minister of State has highlighted the fact that support is colocated within the community. There is a model there and it works. We have met the officials, as has the Minister of State. We need to put the funding in place to deliver it.

Deputy Anne Rabbitte: It was remiss of me not to mention AsIAM and the telephone line which we launched 18 months or two years ago at this stage. In the first year of operation, it had over 5,500 calls from callers wondering how to assist their children or teenagers and from young adults themselves asking how to access a diagnosis and engage in education. That telephone line has proved its worth in spades. That is why I am saying we need that personal face as well. We need to have the peer-to-peer support groups, the parental group, and the community-based model given that one in 27 within education is now identifying as being on the autism spectrum. With one in 27 people in any community space, we need to have a more accessible, inclusive, integrated community-based model of support. I support, as does the Government, the Senator's ask today.

Cuireadh an Seanad ar fionraí ar 11.17 a.m. agus cuireadh tús leis arís ar 11.30 a.m.

Sitting suspended at 11.17 a.m. and resumed at 11.30 a.m.

Resignation of Member

An Cathaoirleach: Before I call on the Leader to announce today's Order of Business, I inform the House that I have received notification in writing from Senator David Norris of his resignation as a Member of Seanad Éireann. Consequently, a casual vacancy has occurred in the membership of the Seanad.

Gnó an tSeanaid - Business of Seanad

An Cathaoirleach: Members will recall that at the beginning of the day yesterday, I informed Members of the death over the weekend of the former Minister of State, county councillor and Senator, Mr. Tom Hussey. He was a native of Patch, Glenamaddy, County Galway, a place he loved dearly. He had a long and distinguished career in public service at both national and local levels. He was first elected to Dáil Éireann in 1969 to represent the people of Galway North-East. During his time in the Lower House, he served as a Minister of State in the Departments of Health, Social Welfare and Agriculture. In 1981, he was elected to Seanad Éireann on the agricultural panel and served in this House five times, remaining a Senator until 1993. After leaving Seanad Éireann, he remained active in politics and was a valued member of his party, Fianna Fáil.

Mr. Hussey was deeply committed to his area, people and family, but above all to helping the people he served. He was passionate about agriculture and, as a dedicated farmer, strived tirelessly to improve the lives of farmers all over the country.

At this sad time for his family, my thoughts are with his wife, Bridie; his sons, James, Thomas, Paul and Ciarán; his daughters, Sinéad and Triona; his sisters, Annie and Rosaleen; his grandchildren; extended family and friends; members of the Fianna Fáil Party; and all those who will mourn his loss. On my behalf and that of Senators, I express my condolences and

sympathy to his family.

I ask the Leader to propose the Order of Business, at the end of which she will move a motion expressing our sympathy and sadness on the passing of our colleague and friend, former Senator Tom Hussey.

An tOrd Gnó - Order of Business

Senator Regina Doherty: The Order of Business is No. 1, the Thirty-ninth Amendment of the Constitution (The Family) Bill 2023 - Committee and Remaining Stages, to be taken today at 12.45 p.m. and the proceedings thereon shall, if not previously concluded, be brought to a conclusion after three hours by the putting of one question from the Chair, which shall, in relation to amendments, include only those set down or accepted by the Government; No. 2, motion regarding statement for the information of voters in relation to the Thirty-ninth Amendment of the Constitution (The Family) Bill 2023, to be taken on the conclusion of No. 1 without debate; No. 3, the Fortieth Amendment of the Constitution (Care) Bill 2023 - Committee and Remaining Stages, to be taken at 4 p.m. and the proceedings thereon shall, if not previously concluded, be brought to a conclusion after three hours by the putting of one question from the Chair, which shall, in relation to amendments, include only those set down or accepted by the Government; No. 4, motion regarding the statement for the information of voters in respect of the Fortieth Amendment of the Constitution (Care) Bill 2023, to be taken on conclusion of No. 3, without debate; No. 130, motion 7, our Private Members' business, which is a motion on China, to be taken at 7.30 p.m. or on conclusion of No. 4, whichever is the later, and the time allocated for this debate is not to exceed two hours.

Senator Pat Casey: I wish to be associated with the Cathaoirleach's comments about former Member Mr. Tom Hussey. Senator Murphy will speak later and will second the Cathaoirleach's motion, if that is all right.

I wish to raise two issues. I am a broken record on the first issue, which relates to the hospitality sector. I am calling again for a holistic debate on the value of the hospitality sector in Ireland. There have been significant closures in the Cathaoirleach's constituency in the recent period. The heart and soul of the hospitality industry is gradually coming apart. A number of hotels are providing emergency accommodation but there is a reason for that, which is that hotels are not financially viable. We are only now starting to see the impact on restaurants. That is happening despite the enormous support the Government gave the sector during the Covid-19 pandemic, which did untold damage to the industry. There was fundamental damage done to the structure of the sector during that period. Just as we came out of that period, we hit the highest inflation costs the country has seen in decades. It is not just one factor but multiple factors that are causing these issues. An increase of €1.40 to the minimum wage has been introduced. By the time you add holidays, PRSI, the new pension enrolment and the additional sick days that can be taken, that €1.40 quickly rises to €2.37. That is a 20% increase on the minimum wage in one year, following a 10% increase last year. Hospitality is built on staff. It is the one thing that makes us unique. We cannot afford that cost. On top of that, we are the country with the highest insurance costs. We also have the highest utility costs. Our food costs went up in the same way that domestic food costs went up. We have seen the cost of chickens rise by 100%. It is doing untold damage to communities, especially the more rural communities where the hotel is the heart of the community. There is a spin-off from the hotel to restaurants and the

whole tourism sector. The sector is being damaged. The majority of beds being taken out of the hospitality sector are from low-market, budget hotels. In excess of 40,000 of the beds in the sector are now taken up by refugees. There are, therefore, price increases.

I wish to organise a meeting with the Minister for Transport about the main scheme projects that have been paused or stopped. I would like to discuss, relating to my own constituency, the main N11-M11 scheme at junctions 4 to 14. The scheme must be put back on the table. A bus priority scheme is currently proposed. We are wasting millions of euro and throwing it down the tube because at the end of the day, the main scheme must happen.

An Cathaoirleach: The Senator made good points about the hospitality sector, especially as they apply to Cork.

Senator Seán Kyne: I join the tributes to former Senator, county councillor, Minister of State and TD, Mr. Tom Hussey from Galway. I did not know him personally but I know of him and of the positive reputation around his role in the county. I express my sympathies to his wife, Bridie, and his children, James, Thomas, Paul, Ciarán, Sinéad and Triona.

I also join the tributes to, unfortunately, the now former Senator David Norris, former father of the House, and his extraordinary role and positivity in his advocacy over a long career. I wish him well in his retirement. I also wish former Senator Niall Ó Donnghaile well in the next stages of his career.

I call for a debate on a matter pertaining to Inland Fisheries Ireland. I have raised the matter on numerous occasions in this House. Before Christmas, the Workplace Relations Commission adjudicated on a case which is now on the public record - anything I say now is on the public record - of Pat Gorman, to whom I have spoken and who I know is the complainant. Inland Fisheries Ireland is the respondent. A case of unfair dismissal was taken. It was based on an anonymous letter that was received by the Department of the Environment, Climate and Communications. Four days later Mr. Gorman was met, personally, by the chief executive officer and by the director of operations of Inland Fisheries Ireland at the hatchery in Cong and suspended. The Workplace Relations Commission decision states:

That potentially any member of the public could secure the immediate suspension of a member of staff by writing an anonymous letter without providing any evidence is quite shocking ... In the circumstances I conclude that from the outset of this process the Complainant [that is, Mr. Gorman] was not being treated fairly or reasonably by the Respondent [that is Inland Fisheries Ireland].

It goes on to talk about the role of the chief executive officer, and again this is on the public record:

The Respondent's CEO [Mr. Francis O'Donnell] did not attend the hearing or give evidence. This has left large gaps in the Respondent's case.

As outlined above I do not have the CEO's account of why he suspended the Complainant. I can see no reason why this step was necessary. I am satisfied from the Complainant's evidence and the evidence of Ms Campion and Ms Bradley [of Inland Fisheries Ireland] that the impact of the suspension on ... [Mr. Gorman], his family and their standing in the community were likely foreseeable to the ... [chief executive officer Mr. O'Donnell].

From the Respondent's own investigative report, it is clear that the CEO [that is, Mr. Francis O'Donnell] sought to influence the investigation off the record. He explicitly asked to speak with the investigator privately. The investigator is to be commended for refusing to facilitate this and in recording the request in his report. I do not know whether the CEO's attempt to influence the disciplinary process surreptitiously was an isolated event or not.

The CEO also took it upon himself to find and review the CCTV footage of the Complainant returning the tractor to the Cong Hatchery. Out of context this action [by the CEO] would just appear unusual, but alongside these other issues-----

An Cathaoirleach: Go raibh maith agat.

Senator Seán Kyne: -----it does seem like the CEO was targeting the Complainant for some reason.

An Cathaoirleach: The Senator's time is up.

Senator Seán Kyne: The decision also states that:

Having regard to all of the evidence, I am not satisfied that this decision was arrived fairly or that it fell within the band of reasonableness...Having regard to all the circumstances I do not accept that a lesser sanction and the context surrounding the Complainant's error were seriously considered by ... [Inland Fisheries Ireland]. The dismissal was unfair.

On behalf of Mr. Pat Gorman I thank Marie O'Connor of SIPTU for her diligence in bringing this case forward and going above and beyond to support Mr. Gorman in this very important matter. I also acknowledge the work of the Workplace Relations Commission.

Senator Gerard P. Craughwell: As we move through the period up to the referendum on 8 March for the thirty-ninth and fortieth amendments to the Constitution, it is vital and important that the public be protected from misinformation or disinformation. The women of Ireland can thank the Irish Countrywomen's Association and several other women's associations that led change in Ireland over the years. Many of those associations are now covered by the National Women's Council. It is a matter of grave concern to me that Orla O'Connor, director of the National Women's Council, writing in *The Irish Times* on 6 January stated the following:

Moving to the referendum on a woman's place in society: a No vote here would be a truly retrograde step. It would say that we accept a Constitution that says a woman's place is in the home. Article 41.2 may not hurt women directly-----

An Cathaoirleach: Can I remind the Senator that there will be debate on the referendums later this afternoon?

Senator Gerard P. Craughwell: I appreciate that this is not the debate. She wrote:

Article 41.2 may not hurt women directly, but it frames our lives, our society and our value. It gives the State the oppressive role of keeping women from careers or employment of our own, ensuring "that mothers shall not be obliged by economic necessity to engage in labour to the neglect of their duties in the home".

Ms Justice Denham addressed Article 41.2 in a ruling and she said that "... 41.2 does not assign women to a domestic role. Article 41.2 recognises the significant role-----"

An Cathaoirleach: The Senator is moving into the substantive debate and I do not want to have a row with him but, to be fair-----

Senator Gerard P. Craughwell: No, no. It is important-----

An Cathaoirleach: I thank the Senator, hear me out.

Senator Gerard P. Craughwell: Fire away.

An Cathaoirleach: There will be debate on the two referendum Bills later in the afternoon. This is the Order of Business. The Senator is straying into the substantive debate on the referendum and on the Bill.

Senator Gerard P. Craughwell: I understand the Cathaoirleach's perception there-----

An Cathaoirleach: It is not a perception; it is the fact.

Senator Gerard P. Craughwell: No, the fact here is that disinformation and misinformation are being spread by one of the agencies funded by this State, that is, the National Women's Council. She is directly-----

An Cathaoirleach: That is the Senator's opinion.

Senator Gerard P. Craughwell: No. She is directly opposing what Ms Justice Denham said. Ms Justice Denham stated the recognition and acknowledgment does not exclude women and mothers from other roles and activities. We must be very straight. It is no secret I am opposed to the referendums.

An Cathaoirleach: That is fine.

Senator Gerard P. Craughwell: We have to be very clear in the information we put into the public domain. Of all agencies, the National Women's Council that was founded-----

An Cathaoirleach: What is the Senator actually seeking in the Order of Business?

Senator Gerard P. Craughwell: I am seeking a retraction by the National Women's Council of this scurrilous statement.

An Cathaoirleach: That is not a matter for the Order of Business, to be fair.

Senator Gerard P. Craughwell: It is a matter for this House-----

An Cathaoirleach: Okay.

Senator Gerard P. Craughwell: -----and the National Women's Council can hear it from here.

An Cathaoirleach: I thank the Senator. His time is up anyway.

Senator Gerard P. Craughwell: Hang on a minute. The Cathaoirleach cut me off several times. Give a guy a break here.

An Cathaoirleach: In fairness, the Senator has been given a lot of latitude this morning.

(Interruptions).

Senator Gerard P. Craughwell: Listen now. The year 1973, more than 50 years ago, was when the marriage ban disappeared, so let us be honest with people. Let us be straight. The judgment in the Supreme Court yesterday-----

An Cathaoirleach: I thank the Senator.

Senator Gerard P. Craughwell: -----changed the rules regarding children. I will speak more this afternoon.

An Cathaoirleach: I appreciate that.

Senator Gerard P. Craughwell: I love the way the Cathaoirleach cut me off, I really do, but these things are important. Accurate, clear information for the public is what is needed, not rhetoric.

An Cathaoirleach: I thank the Senator. I did not cut him off and I have no issue with his position on anything, as the Senator knows quite well. As for the rules of the House, he has been here for a long time now and I remind all Members that the time allotted is not to be necessarily aspired to. Members can reduce their contribution time as well, in some cases to get their videos in, but I appreciate Senator Craughwell's sincerity.

Senator Vincent P. Martin: Yesterday's Order of Business was a special occasion. It was fitting, appropriate and a dignified occasion. I commend the Cathaoirleach, the Leader and all Senators on making it a very special moment for any Senator to be present for. I hope and do not doubt that Senator Norris appreciated it. Yesterday reminded us all of the importance of public service and that public service to the people and to your communities matters and of how one individual, in 26 years of unbroken continuous service, could make such a big impact and did so as an independent. He was probably the sole or biggest reason the House was retained at the time the Government of the day tried to abolish it. People looked to the likes of David Norris as a fine ambassador for this House.

I had intended today to seek leave from this House to introduce my Bill, the Domestic Violence (Amendment) Bill 2024, but realising that, under Standing Orders, Senator Norris would be gone as soon as it was announced by the Cathaoirleach I took the decision to move the Bill yesterday so I would not have to remove his name as a co-sponsor. He kindly agreed to do that. I thank the House for facilitating this and for granting me leave to introduce that Bill yesterday on that very special occasion. It was important and an honour to have David Norris as a co-sponsor of the Bill.

What I did not have time to say yesterday, which was rightly devoted to Senator Norris, was that on behalf of the Green Party grouping I also wanted to wish Niall Ó Donnghaile well. I always found him to be a most courteous, articulate Senator and he was a passionate republican. He might be described as a new brand of a younger Sinn Féin. Many parties in the Republic came from a dark past. Sinn Féin probably rightly gets the spotlight because its association with violence to achieve political aims is of a more recent type. Whenever I heard the former Senator, Niall Ó Donnghaile, speak here, he held firm on the future. He never looked back and he always had a constructive role. He was a huge advocate of the Good Friday Agreement and the new Ireland we want to see. It would be churlish of me not to mention the former Senator's contribution. It is also great to have a northern voice from Belfast in this Chamber. It is not for today but I hope that is brought into consideration when a replacement is considered for this House so that we do not lose that northern voice.

When we talk about the Good Friday Agreement, it would also be slightly churlish not to mention a guy called Gerry Adams who had something to do with that. We need to be generous and acknowledge Gerry Adams. Sometimes he can be airbrushed out of the history of that fantastic peace deal. I am delighted Senator Warfield is here today. I did not have time yesterday on behalf of the Green Party group to pass on our very best regards to our former colleague Niall Ó Donnghaile. I hope he is keeping well.

Senator Fintan Warfield: I thank the Green Party for those very kind remarks and I will be sure to pass them on to Niall Ó Donnghaile. It was very generous of Senator Martin.

I call for a debate on emigration. Between July 2022 and July 2023, some 21,000 visas were issued to Irish citizens going to Australia. That is double the number the previous year and it makes Ireland the highest recipient of those visas *per capita*. It is no surprise that people are leaving because housing consumes absolutely everything, affecting the ability to live and work in our cities and the ability to work in our health service as well. A banner that was unfurled on the steps of the Sydney Opera House stated, “Give us a reason to come home”. Those 21,000 people did not leave as a result of some spontaneous collective sense of adventure. They left because the vast majority could not afford to live in a country they love. I have been a wild rover. That is the Irish dilemma. That is the Irish blues and some things do not change.

That is a direct result of Government policies that mean the average house price rose to €320,000 last year. The average price of a new home is €433,000 and rents have doubled since 2010. All of that sees nurses, doctors and other healthcare professionals working in overcrowded, underfunded hospitals going abroad. We need to give them a reason to come home. At what point do we say that emigration is not just a result of Government policy but is actually Government policy? How many more people have to get on a plane? How many of our friend groups and families have to be broken up before the Government will even acknowledge that people are leaving because they see no future here? What hope do we have of addressing this issue if the Government will not even acknowledge that it exists? Sinn Féin would, therefore, like a debate on emigration.

Senator Eugene Murphy: I second the amendment to the Order of Business. I also pay tribute to former Senator Niall Ó Donnghaile. He was always a nice guy. He made many good suggestions and statements in this House. He was certainly very friendly to all of us. I wish to send my good wishes to him.

I wish to speak about the late Tom Hussey, a former councillor, Senator, TD, Minister of State and Parliamentary Secretary. In 1977 and 1978, he was Parliamentary Secretary and, from 1978 to 1980, he was Minister of State in the Department of Agriculture. In 1980 and 1981, he served in the Department of Social Welfare and also in the Department of Health. He certainly had a very distinguished political career. He came from Patch, Glenamaddy, County Galway, not too far from the Roscommon border. It would be fair to say that he was a really helpful politician to all who came his way. He was a very calm and cool man. I would say he never turned anybody away and listened to everybody’s story. He had many political achievements in his life.

Even though he had reached a good age, this is a very sad time for his wife, Bridie, and their six children, Sinéad, Triona, James, Thomas, Paul and Ciarán, and his sisters, nephews, nieces, grandchildren and all the other family relations. Tom Hussey was steeped in agriculture. When I went to his house a few years ago, I noticed the lovely little layout he had for three or

four horses he had. In his junior ministries, agriculture was certainly very important to him. He was also a great fighter for the west of Ireland and for communities in the west. Along with many others, I will lament his passing. He will lie in repose this evening and will be laid to rest tomorrow. I am sure everyone will join me in expressing my sympathy to his wife and family at this time. May his soul rest in peace.

An Cathaoirleach: I thank Senator Murphy for that lovely tribute.

Senator Aisling Dolan: I join Senator Murphy in paying tribute to Tom Hussey. He gave many years of service in many different Departments, including the Departments of agriculture and Health. I wish to acknowledge his family because we all know how much families give when a family member is involved in public service. I am sure the people of Glenamaddy are also of great support.

I wish to expand on what Senator Casey said about hospitality. It is really important that we acknowledge the workers' rights. In previous years, the Taoiseach has spoken many times about the five workers' rights that we were fighting for, including benefits relating to sick pay and redundancy. We acknowledged the absolute difficulties and challenges over the two years of the Covid pandemic. Tribute was paid through the national holiday that we are looking forward to in remembrance of everything we went through those two years. The challenge we have now is that those in hospitality, in particular restaurants, are struggling. We need to see these rights expanded and we need to see a minimum wage. I am very proud that past Governments involving Fine Gael have sought to increase the minimum wage, which has to match a living wage.

However, we also need to consider how we support our entrepreneurs and small businesses. I know the Minister, Deputy Coveney, is looking closely at the increased cost of business, the ICOB grant. That will come forward in the coming months and will be crucial for businesses. We have taken on board feedback last year to ensure it is simplified. I hope it will be an automatic support for businesses, particularly targeting small and medium-sized businesses. I have heard from restaurant owners in Ballinasloe, Castlerea and Roscommon, who are all struggling. It is a difficult time of the year but I was hearing this before Christmas. What additional supports can the Minister provide particularly for the hospitality sector?

Senator Sharon Keogan: I am calling for a debate on the children of Ireland who are failed egregiously by the State. A full debate will be needed to even touch upon all the failings of the Government and the Minister for children. Since 2017, 62 migrant children have disappeared from State care after arriving in Ireland alone. Twenty of those disappearances were in 2023. These children left, or more likely were taken from, Tusla accommodation. We do not know where they are. We do not know who they are with and what is being done to them, and no one seems to care. Three quarters of the time, the Garda does not even put out an appeal for information on missing children.

Had these children remained in Tusla care, they might not have fared much better. We learned last year that Tusla care homes have become hotbeds for organised sexual exploitation, with lines of cars outside containing men waiting to pick up their 14- and 15-year-old victims. Front-line workers attest to the fact that the authorities know that this happens and they have become desensitised, meaning this is allowed to continue. More than 4,000 kids are on the CAMHS waiting while more than 100,000 on hospital waiting lists. One in five, that is, 20,600 children, have been waiting longer than a year for treatment or assessment by a hospital con-

sultant. In Roscrea recently, the Minister chose to send migrant women and children into the middle of an ongoing protest, presumably to send some sort of political message that protests will not stop him from enforcing his plans for every town he sets his sights on with no consultation with locals as yet.

12 o'clock

Yesterday, it was reported that unvetted persons subcontracted by Tusla were given access to children at risk.

Any one of these scandals or crises would lead to a resignation in a serious government, but Ireland has long ceased to be governed by serious people who are serious about governance. Instead the Government circles the wagons around Ministers every time and, with the complicity of the media, works tirelessly to insulate itself from the criticism of the people it is supposed to serve. Therefore, while what we really need is an election, I will settle for a debate on the State's constant failure of the children.

Senator Malcolm Byrne: The Deputy Leader may have seen the documentary “Jackie & Coco” on RTÉ last night but she will be very familiar with the very moving story. It was a beautifully put together documentary by the filmmaker Ger Walsh and Atom Films for RTÉ. This is the sixth anniversary of Nicole Fox's death. She died, as people know, as a result primarily of online bullying. Her mother describes herself as very much an ordinary person - she never anticipated what she had to do - but she is an extraordinary woman. She fought to ensure we had what has become Coco's Law. As politicians, we meet many people, but what a towering bundle of energy Jackie is. She is certainly hurting because she knows she will never be able to get her daughter back. I pay tribute to Brendan Howlin, my Wexford colleague, who took this initiative early on. It got cross-party support and Helen McEntee, as Minister, was determined that it would come through. The online space, however, is still not a safe space and, unfortunately, we know that there continue to be dangers out there and a lot of online harms. I think our message today is that we should encourage as many people as possible to watch that documentary and for that story to be shared in schools around the country. We should also say that our first duty as legislators is the safety of our citizens and people living here. That is as crucial in the online space as it is in the real world. Also, the message we need to send out to Jackie Fox is that she has made a real difference and continues to make a difference.

Senator Mary Seery Kearney: I have come in here on many occasions and advocated for access to fertility. I speak *ad nauseam*, probably, about surrogacy, but also noting the fact that people with disabilities need access to surrogacy. It has been the consistent theme I have had with the Minister, Deputy Donnelly, as we bring through the AHR Bill. That comes from and is prompted in me by the extraordinary work of Selina Bonnie, a disability activist and changemaker. Sadly, Selina passed away last week. I want to pay tribute to her on the record of this House. I first met her on my very first International Women's Day as a Member of this House. She addressed the Committee on Disability Matters and spoke about her experience as a disabled woman in wanting to have fertility support. A practitioner told her she could have it only if she could guarantee that the child she would have would not be disabled, an appalling discrimination as regards her rights as a woman and a disabled woman to pursue her motherhood. Thankfully, she went on to have a beautiful daughter, and it was one of her proudest moments. She was the vice chair of Independent Living Movement Ireland and was an extraordinary advocate.

Once I met her on International Women's Day, I followed up because I was so moved, struck and challenged by her experience. We went on to have a friendship outside of politics in which we championed each other. I often got messages on particularly difficult days. She would send me a cheery message and was just an incredibly thoughtful person. She worked for South Dublin County Council advocating for disability rights there and was extraordinary. She was part of the Reproductive Justice campaign and an advocate for that. The best tribute we can give to her is to ensure that, as the AHR legislation comes through, persons with disabilities have absolute access to fertility treatments. When we guarantee that and I hear the Minister in this House guarantee that, I will pay tribute to Selina then. I just want her remembered by the Seanad.

Senator Victor Boyhan: I want to say how pleased I am and how much I welcome the news that the Minister for Education, Norma Foley, is this morning updating her Government colleagues on the implementation of the landmark Louise O'Keeffe judgment. What a brave and courageous woman she was against all the odds in terms of how she had to go public time and time again about her abuse. I commend Norma Foley on her work on this and, from that, as she herself said, the learning. We can have all these tribunals of inquiry and judgments, but the reality is that the European Court of Human Rights found in favour of Louise O'Keeffe in its judgment and found that the Irish State was liable for sexual abuse she suffered while in her primary school - her primary school. What a job she had to convince people and what a road she had to take. I understand that the action plan is to be published by the Minister, subject to Cabinet approval, and the details of that action plan will include child protection procedures in schools and update the State on related compensation schemes. As I said, I salute Louise O'Keeffe but I also thank the Minister because she did something about this, unlike so many people in the past.

Finally, the European Court of Human Rights decided that there has to be a framework of laws in this State that will cover the issues and protect our children in our schools against the risks of sexual abuse, the material effect of which authorities knew of, or ought to have known of, at that time. I thank the Government for being proactive and thank in particular the Minister, Deputy Foley. More important than anyone, however, I thank Louise O'Keeffe, a brave and courageous woman who told her story. As a result, hopefully, we will have legislation stemming from this, and that is all very positive.

Senator Timmy Dooley: Like others, I welcome the decision of the Supreme Court yesterday in the case of Johnny O'Meara and his family, who took what was a very difficult case for them, I am sure, Mr. O'Meara having lost his life partner and the mother of his three children. Unfortunately, the State challenged the case every step of the way and did so again in the Supreme Court at a time when we are preparing to go out to campaign to change what we understand to be the conventional notion of what a family is. I know there is potential for moral hazard and there are other consequences that may flow from this, but it should not be beyond the capacity of the State to ensure that where the loving embrace of a family existed, regardless of whether or not the parents were married, had signed a piece of paper, etc., there could have been a way that would have dealt with that without putting them through what they had to go through. Thankfully, however, they have found justice, and let us hope that others like them will be facilitated. I hope the State does not take the view that the widow's pension should now kick in only from the next point of application, that it should go right back to the beginning in this case. It is not easy for one person on his or her own to raise a family in the struggles and the issues that arise, not just the loss of the other partner.

I also call for a debate in this House, as I have done on a number of occasions, on the issue

of immigration and migration. It is the right Chamber for it. I hope we can do so in an open and fair manner. There are real, significant issues out there. The debate is being infiltrated by the hard right, but there are also genuine and real concerns among people that need to be addressed and, unfortunately, some people are jumping to conclusions based on sound bites they are hearing. We have it in this House nearly every week.

Senator Martin Conway: Well said.

Senator Timmy Dooley: There are one or two or three Senators who will trot in here and make some outrageous comment and it is gone, and we do not get a chance to challenge it. I would therefore like an open and frank debate here in which those who clearly have a different view from me get an opportunity to debate it and to challenge the Minister on their 30-second sound bites. It gives all of us an opportunity to broaden the debate so that at least the reportage of what happens here then has all of the facts laid out rather than a carefully crafted 30-second sound bite that engenders, instils and creates fear in the minds of so many. Can we please try to arrange that at the earliest opportunity? I know the Deputy Leader wants to do that, and I am sure it takes others to help.

Senator Emer Currie: I wish to show my appreciation to An Garda Síochána in Blanchardstown village on Christmas Eve, which is supposed to be the most special and magical night of the year. What became a double murder unfolded like a horror film on our main street in a very popular family restaurant. This morning, a seventh person was arrested by gardaí. Four people have been charged over the past few weeks, and I want to thank the Garda for the way it is managing this case.

I know full well the fears that have been in communities about retaliations and reprisals. I know the work that went into the policing plan around the funerals. I am incredibly proud of our gardaí in the K district. They are acting decisively and swiftly. Some 45 people came in on Christmas morning to assist after what happened. During the Dublin riots, 65 police volunteered to support their colleagues, and by extension us, going in to help on that evening. That does not say to me that morale is where it is reported to be.

The K district has one of the highest workloads in the country, covering Finglas, Cabra and the wider and growing area of Blanchardstown, gangland crime, antisocial behaviour and issues like everywhere else. It also manages Áras an Uachtaráin. It managed the visit of the Chinese Premier last week effortlessly, as it seems to us. I am delighted that five community gardaí are starting this week, two in Blanchardstown, two in Finglas and one in Cabra. It is hoped there will be another two in February - one in Blanchardstown and one in Cabra. They are among the recruits who came through Templemore in December. It is hoped there will be more in March. Resources to support our gardaí and communities are our top priority, and safer streets. Let us remember to appreciate the people who put themselves on the line for us every day.

Senator John McGahon: I would like to follow up on the call by Senator Warfield for a debate on emigration. The Senator and I are of a similar age. When we were maybe 18 or 19, people were emigrating from this country in their droves. They were doing that because there was no employment in this country. There were physically no jobs in this country. Today in Ireland, we are at full employment. People emigrate for a variety of reasons. With all due respect to Senator Warfield, he outlined that housing was one of the biggest reasons people were leaving Ireland to go to Australia.

I have had a quick glance at some Australian headlines in the past six months. “No-one can escape the housing crisis” in Australia, said ABC News in November 2023. “Australia property crisis deepens with soaring house prices” and people forced into poverty, said Bloomberg in December 2023. The housing crisis is pushing “more and more Australians into deep poverty,” *The Guardian* said in July 2023. “Australia’s housing crisis is a warning for the world,” said Bloomberg in September 2023. Within those articles, one finds that 90% of first-time buyers are unable to buy a home in Australia. Let us compare that to the 400 first-time buyers in Ireland who are buying homes today under this Government. There was a 22% increase in Australian house prices between April 2021 and April 2022. Let us compare that to an increase in prices here in this country. Renting a one-bed in Sydney costs AUD3,000, which is €1,800. In Melbourne, it is AUD2,500, which is €1,513. In Perth, it is AUD2,000, which is €1,211. Let us compare that to my county of Louth. In the past year, we have built 1,118 units, the year before, it was 809 while the year before that, when half the country was closed down with Covid, it was 1,002. We are building homes in this country, and my God, things are not greener on the other side when one talks about Australia and housing prices there.

An Cathaoirleach: I thank Senator McGahon for being on time as well. Anois, an Se-anadóir Garret Ahearn.

Senator Garret Ahearn: It is good to see such a factual contribution. When we talk about having contributions on other things, it just shows that when the facts are there, we can actually have a reasonable debate.

I ask that we have a debate with the Minister for Enterprise, Trade and Employment, Deputy Simon Coveney, regarding business closures in the hospitality sector. Two restaurants in Tipperary town have closed in the past number of days. Prime74 and Flanagan’s were two fantastic restaurants with huge reputations built up over a number of years. It is a devastating blow for the town.

We have other restaurants opening up in other towns. There is one opening up in Cahir. Two opened up recently in Clonmel, and Cashel is doing really well. However, we have a problem with Tipperary town and with certain restaurants and hospitality sectors that are struggling. When one listens to noise from the Opposition, one would swear it is the Government’s fault but if one actually goes through the detail of it, and listens to people like Adrian Cummins from the Restaurants Association of Ireland, one notes they do not actually criticise any of the measures Government has brought in, including increasing the minimum wage, auto-enrolment and sick pay legislation. These are all the right things to do. The problem we have is that they have all come in extremely quickly, and they all came in on the back of unexpected inflation. This has been very difficult for those businesses and we need to recognise that. While we have goals to get to certain stages, such as a living wage by 2026 and ten days’ sick pay in just over two years, we need to recognise that is very challenging. We need to look at broadening out our timeframe on when we can deliver these things. We need to understand the challenges that businesses have and to recognise that there are things we can do.

Something I said on the radio yesterday, and we really need to focus on it, is that in the long term - and there are short-term things we can do - we need to be realistic about our VAT rate and recognise that there are different areas. We cannot justify having a 9% VAT rate for hotels in Dublin that are making thousands upon thousands of euro in profit while restaurants and pubs in my county are really struggling and would benefit. In the long term, we really need to be looking at a separate VAT rate for restaurants and pubs, of 9%, and a rate of 13.5% for big

hotels in Dublin.

Senator John Cummins: We are all experiencing difficulties with HSE responses to queries at the moment, especially parliamentary question responses. One of those a colleague of mine submitted regarded the costs associated with reviews of medical cards for those over 70 years of age. The reason I am looking for the cost of doing those reviews for over-70s is that I estimate that more than 100,000 of those reviews are done every year, and by their nature people who are over 70 are on fixed incomes. Barring winning the lotto or starting a new job in their eighth decade, it is the same but it adds huge stress on those people in gathering all of the information together in order to submit for it to be reviewed, only for their medical card to be renewed again.

We all deal with those queries from people who are over 70 and, of course, reviews have to be done to ensure eligibility is still there. However, for that cohort of people over 70, I would seriously question the cost-benefit of doing so. Even if there are a few people - and I have never found one - who are over 70 and who have a medical card, and who lose it on review, one really has to question the cost of doing all of those reviews in the course of a year versus the savings that are made. As we cannot get the answers to those questions at the moment, I would like a debate in this House on other health matters, where I can raise this matter with the Minister and get the exact figures and costs that are involved in carrying out those reviews versus the savings that are actually made by the State. There are significant savings to be made that would assist in not putting older people under the pressure and stress that we do.

Senator Martin Conway: I agree with and support Senator Dooley and others on having a debate on the immigration and asylum seeker issue. I would call out some of the people who speak unfounded nonsense and make unfounded comments, not just in this House but also in the Dáil, and some not too far away from Senator Dooley and myself, who are gaslighting difficult and tricky situations and gaslighting situations where we are dealing with fake information and unfounded allegations. It would be useful if we could have that in the near future.

I welcome the proposal by the Minister, Deputy McGrath, to introduce legislation to ensure there is the required number of ATMs in the country to meet a critical mass. Many people still deal in cash. I remind the House that cash is still legal tender and if people wish to deal in cash, they should be allowed to. Many small businesses are still paying staff in cash, and while that might be unbelievable to certain people, it is a fact. State agencies should be obliged to accept payments in cash, for example, when somebody books a driver's test. All State agencies should accept cash, whether it is in regard to car tax, paying fines or any other State service.

It is legal tender and it should happen. I commend the councillors on Clare County Council who passed a motion calling on the driver test centres to continue to accept cash, or to reintroduce the accepting of cash where they do not. We need a reality check. Not everybody has a laser card on their phone and not everybody is comfortable or has confidence when tapping. I admire the Minister, Deputy McGrath, for dealing with the availability of cash but this debate needs to go further. People need to be able to transact in what is the legal tender of the State.

An Cathaoirleach: Before I call the Deputy Leader to reply, I welcome her back and sympathise with her and her family on the sad loss of her dad, Paddy, who was a wonderful gentleman. It is good that the Deputy Leader is back with us. We remember her dad with great affection.

Senator Regina Doherty: I thank the Chair and everybody here. I did not realise until recently the value of kindness and how much it means to people when they are distressed, so thank you.

Senators Conway, Ahearn and Dolan, led by Senator Casey, are looking for a debate on the hospitality sector. We hear daily of the struggles, not just from Adrian Cummins, who is famous in nearly every household at this stage, but also from so many hard-working people who are supplying not only jobs but also the services that most of us rely on in our towns and villages. If we did not have somewhere to go for a cup of coffee or a pizza on a Friday evening, we would certainly know all about it. Senator Ahearn made a very valuable contribution, noting that any of the employment rights that we have introduced during the term of this Government, whether increased sick leave or the increased minimum wage, are not something that anybody would give out about. More employment rights mean a healthier and better workforce. Every one of us has a pension and I do not think we would begrudge the people in that sector, the 30% who go out to work, a pension. However, the speed and frequency at which it has all come together have posed major problems. I am conscious that the Minister for Enterprise, Trade and Employment, Deputy Coveney, is looking at how he can best provide support. The VAT issue is obviously going to raise its head again. A debate would be very valuable to see what our contribution and our twopenceworth might be regarding how we can support that industry. I thank the Senators for that.

Senator Cummins raised the delays in responses from the HSE and sought a debate so he can get answers. I concur with that and will organise a debate as quickly as I can.

Senators McGahon, Conway, Dooley and, probably for other reasons, Senator Warfield are looking for a debate on immigration. It is something that we need to have. If I am to be very honest, and I will not speak for others, it is a debate that I was probably fearful of for a long time because if you say the wrong thing, even when not meaning to say the wrong thing, either you are suddenly cancelled or you have the legs cut off you. It is probably beyond time that we all need to have that conversation. The one thing I know is that the vast majority of people in this country, 99.9%, are warm, hospitable, compassionate and empathetic. We have known for generations the value of emigration and immigration, and we want to be wholeheartedly welcoming to the people who are coming to our shores, who are less well-off and more distressed than we are lucky to be. I am flabbergasted at the volume of such a small number of people and how they seem to attract attention. There is also, as Senator Dooley said, the misinformation that is so easy to believe and is being believed by normal, decent, hard-working, generous and supportive people.

Fearful or not, it is our responsibility to make sure we make the truth known. Sometimes the truth is not exactly honourable. Sometimes there are flaws in a system that we know can be improved. However, hiding behind not having a conversation is not helping any of us and is certainly not helping the people who come here, who must be fearful of the responses they see on television and in some of our towns and villages. It is responsible for all of us to help. I will certainly organise that with the Leader as quickly as I can.

Senator Currie spoke of her pride in the local Garda Síochána force in Blanchardstown, and we can all relate to that. They had an horrendous Christmas but the response was phenomenal. Some of us have seen the photographs of the scene on that awful night, and it looked horrendous. It is only right and proper that seven people have been arrested and four people charged, and, hopefully, there are more charges to come. I acknowledge her support for local gardaí.

Senator Dooley spoke of Johnny O'Meara. The State sometimes does really ridiculous things. I say that because when I was Minister for Social Protection, we did something equally stupid in trying to take a pension off a man who happened to be in prison. We did it and we do it because of the law and the legal position, and we say it cannot be tested, although all of that is nonsense, to be honest. I am so pleased for Johnny and his family that he won yesterday. It is easy to see, however, that he did not win in the High Court, so it is very important that people have the bravery, even in sad times, to be able to tackle the State. Hopefully, he has led the way for many more families. Notwithstanding Senator Craughwell's comments earlier on the two referendums that are coming up, families come in all shapes and sizes, and Johnny's family is no different from my own or anyone else's. I congratulate him and say, "Fair play".

Senator Boyhan spoke of another courageous lady, Louise O'Keeffe. I am very glad that the Minister for Education, Deputy Foley, has taken the initiative because, to be fair, others before her may have delayed and did not work to bring it to fruition. The action plan, when it is published, will show us all leadership. I offer praise to Louise for her tenacity over many years and for doing what she has done.

Senator Seery Kearney spoke about another leading lady, Selina Bonnie, who passed away last week. The Senator made a lovely tribute to her.

Senator Malcolm Byrne spoke about Jackie Fox. We are praising a lot of ladies today but Jackie Fox is a particularly impressive, tenacious and dogged lady. I know it arose from an awful tragedy and loss, and I cannot even imagine what she must have gone through but, my goodness, she has so much to be proud of and her daughter's legacy is a real testament. We all have a law. I know everybody is associated with success and takes credit for it, but we would not have that law without Jackie Fox. I am so pleased when I see her going to the European Parliament and being welcomed by member states that do not even know the history and only learn it from her. I genuinely think that law will become a European law sooner rather than later. I thank Senator Byrne for that.

Senator Keogan sought a debate on the children of Ireland, which I will ask for. I dealt earlier with the issue raised by Senator Warfield.

Although I missed the tribute to him yesterday, David Norris is a living legend. I have had some really lovely experiences with him over the years, one where he absolutely cut the legs off me, which was interesting. You could not have anything but an enormous grá for him. The Cathaoirleach's speech yesterday was lovely and I watched it online from Brussels. I hope Senator Norris has a long, happy and sunshine-filled retirement when he moves abroad. I wish him well.

I am sure Niall Ó Donnghaile is at home, laughing at the lovely things that have been said about him here this morning. It is all good.

Senator Craughwell sought the retraction of the National Women's Council of Ireland statement. The only thing I can suggest is that he write directly to the chair herself. I am sure many people would disagree with many statements. The one thing that is important is whether you agree with the current Constitution and whether you want change or do not want change. It is that the Irish people's opinion matters. We can all tell you what is right or wrong for you but the Irish people's opinion is the one that should be the most important to us. Once we have passed this legislation today, the Electoral Commission will have a body of work to do to give people

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factual information, not my opinion or the opinion of the Senator or the National Women's Council of Ireland. They will then make up their own minds and we will respect the outcome, whatever it is.

Senator Kyne requested, as he has many times previously, a debate on Inland Fisheries Ireland. He also spoke about the recent WRC judgment.

Senator Casey requested a debate on hospitality and a meeting with the Minister for Transport, which I will request in writing today, specifically about the projects the Senator highlighted.

Order of Business agreed to.

Death of Former Member: Motion

Senator Regina Doherty: I move:

That Seanad Éireann -

- expresses its deep sadness on the death of former Senator Tom Hussey;
- conveys its sincere condolences to his family; and
- expresses its gratitude for his notable contribution, as a member of Seanad Éireann, to Irish public life and for his dedicated service to his locality and the entire Irish people.

Question put and agreed to.

An Cathaoirleach: I ask Members to be upstanding for one minute's silence.

Members rose.

An Cathaoirleach: May his soul rest in peace. Amen.

Cuireadh an Seanad ar fionraí ar 12.33 p.m. agus cuireadh tús leis arís ar 12.45 p.m.

Sitting suspended at 12.33 p.m. and resumed at 12.45 p.m.

An Bille um an Naoú Leasú is Tríocha ar an mBunreacht (An Teaghlach), 2023: Céim an Choiste agus na Céimeanna a bheidh Fágtha

Thirty-ninth Amendment of the Constitution (The Family) Bill 2023: Committee and Remaining Stages

Acting Chairperson (Senator Diarmuid Wilson): The debate will conclude after three hours if not previously concluded. As this is a Bill to amend the Constitution, in accordance with precedent and Standing Order 152, the Schedule to the Bill will be taken out of sequence, given that it contains substantive elements of the proposed amendment to the Constitution. The proposed sequence of the elements of the Bill is as follows: section 1, Schedule, section 2,

Preamble and Title. Accordingly, immediately following the disposal of the first section of the Bill, I will ask the Leader to formally move that consideration of section 2 be postponed until the Schedule shall have been disposed of.

ALT 1

SECTION 1

Acting Chairperson (Senator Diarmuid Wilson): Amendment No. 1 has been ruled out of order, in accordance with Article 40.6.2° of the Constitution. Amendment No. 2 has been ruled out of order because it is in conflict with the principle of the Bill as read a Second Time.

Níor tairgeadh leasuithe Uimh. 1 agus 2.

Amendments Nos. 1 and 2 not moved.

Acting Chairperson (Senator Diarmuid Wilson): Amendments Nos. 3 to 9, inclusive, are related.

Senator Michael McDowell: Are you suggesting that amendments Nos. 3 to 9, inclusive, should be debated together, Acting Chair?

Acting Chairperson (Senator Diarmuid Wilson): Yes.

Senator Michael McDowell: That is fine. I just want to be clear about that.

Acting Chairperson (Senator Diarmuid Wilson): Is that agreed? Agreed.

Senator Annie Hoey: Tairgim leasú a 3:

I leathanach 4, línte 11 go 14 a scriosadh agus an méid seo a leanas a chur ina n-ionad:

“(a) in subsection 1° of section 3 of the Irish text, by the deletion of “Ós ar an bPósadh atá an Teaghlach bunaithe gabhann” and the substitution of “Gabhann”;

(b) in subsection 1° of section 3 of the English text, by the deletion of “, on which the Family is founded;”,

agus

I leathanach 5, línte 12 go 15 a scriosadh agus an méid seo a leanas a chur ina n-ionad:

“(a) o-alt 1° d’alt 3 den téacs Gaeilge, trí “Ós ar an bPósadh atá an Teaghlach bunaithe gabhann” a scriosadh agus “Gabhann” a chur ina ionad;

(b) i bhfo-alt 1° d’alt 3 den téacs Sacs-Bhéarla, trí “, on which the Family is founded,” a scriosadh;”.

I move amendment No. 3:

In page 4, to delete lines 11 to 14 and substitute the following:

“(a) in subsection 1° of section 3 of the Irish text, by the deletion of “Ós ar an bPósadh atá an Teaghlach bunaithe gabhann” and the substitution of “Gabhann”;

(b) in subsection 1° of section 3 of the English text, by the deletion of “, on which the Family is founded;”,

and

In page 5, to delete lines 12 to 15 and substitute the following:

“(a) i bhfo-alt 1° d’alt 3 den téacs Gaeilge, trí “Ós ar an bPósadh atá an Teaghlach bunaithe gabhann” a scriosadh agus “Gabhann” a chur ina ionad;

(b) i bhfo-alt 1° d’alt 3 den téacs Sacs-Bhéarla, trí “, on which the Family is founded,” a scriosadh;”.

If it is all right I will remain seated because I cannot stand.

Acting Chairperson (Senator Diarmuid Wilson): That is fine.

Senator Annie Hoey: I feel like I have to explain that every time I speak here. As my Labour Party colleagues and I said yesterday, we welcome the proposed changes to the definition of “family” in Bunreacht na hÉireann. If it is all right, I would like to take a moment to make the connection here and to applaud the ruling in the Supreme Court case yesterday, and to thank Johnny O’Meara for taking the case. I also thank Treoir and FLAC for their involvement. It is a moment of real significance in the State’s history. We now call on the Minister with responsibility to immediately act on the judgment.

I believe that these two issues are linked together and they were referenced in the case. It appears that the argument is all the stronger now for the constitutional broadening of the definition of a family to include all durable relationships. We cannot leave it to chance that there will be some other part of the social welfare or tax codes that will require somebody to go to court to prove their family rights. We must recognise the treatment legacy within the State of families who do not conform to this constitutional model. That is what our amendment is about, namely, the model of a family based on marriage. It is the opinion of many that the definition of Article 41 in no way reflects the current and wonderful diversity of family life in Ireland. The wording that we have been presented by the Government speaks of “durable relationships”. The Minister has spoken on this before, but the question still remains as to what “durability” is and what defines a “durable relationship” between adults. We very much believe that the definition must include comfort for cohabiting couples and those both with and without children, and it must also address issues for disabled people in the area of kinship for carers. The Committee Stage amendment we tabled states:

In page 4, to delete lines 11 to 14 and substitute the following:

“(a) in subsection 1° of section 3 of the Irish text, by the deletion of “Ós ar an bPósadh atá an Teaghlach bunaithe gabhann” and the substitution of “Gabhann”;

(b) in subsection 1° of section 3 of the English text, by the deletion of “, on which the Family is founded;”,

I urge other Senators to support this amendment, which will simply remove the phrase “on which the Family is founded” from Bunreacht na hÉireann and remove the constitutional concept that a family is confined only to those based on marriage and it would expand that definition. We cannot overestimate the hurt that has been inflicted on individuals and families for

decades because they did not conform to that very narrow definition of a family based on marriage. This is personal for many people, including thousands of women who found themselves pregnant and parented alone; women who were abandoned by the fathers of their children and left to parent alone; and men who raised children on their own; as well as grandparents and those who choose to have children on their own. There are loads of other different types of families in this country. I and the Labour Party think the symbolism of change in this Constitution would have a profound impact on those families, as they would feel recognised.

Senator Michael McDowell: These amendments, as the Acting Chair has pointed out, all relate to the same basic matter, which is what precisely is to be inserted into the Constitution, consistent with the overall scheme of the proposed amendment.

Yesterday, we had a somewhat fraught discussion in which some people said that their own arrangements were under attack from anybody who opposed the making of this amendment. Nothing could be further from the truth. I fully respect the personal lives and arrangements that everybody in this House has made. Nothing I say is intended to cause any offence or hurt to anybody. I would not do so willingly, and I do not think I am doing so at all.

I was interested in what Senator Hoey said about the O'Meara case. The argument was made that the O'Meara case strengthens the need for this constitutional amendment. For my part, I take the exact opposite view. In my view the O'Meara case, which was decided yesterday, demonstrates the absence of a need for the amendment with which we are dealing.

First, we should remember that the majority decision in the O'Meara case upholds the proposition that the family under the Constitution is based on marriage. That is what the decision of Mr. Justice O'Donnell and his colleagues upholds, and it is the majority decision. Mr. Justice O'Donnell says that is the plain meaning of the existing Constitution, so we start from that point.

I o'clock

Even though the Constitution states that the family is based on marriage and even though the majority in the O'Meara case proceeded on the basis that that was the Constitution, and the clear meaning of the Constitution, the Supreme Court nonetheless looked to the situation of the O'Meara family and concluded that the provisions of the social welfare legislation in respect of the widow's and widower's pension arrangements were unconstitutional insofar as they infringed the equality rights of Mr. O'Meara and his children under the Constitution, holding that their social need, looked at objectively, was indistinguishable from the social need of somebody in his position who had married the children's late mother. It seems to me on that account that the O'Meara decision shows two things. It puts the ball in the Government's court to bring in legislation amending the Social Welfare Acts to provide for people in the O'Meara situation.

It also states for the first time that the special position of marriage in the Constitution does not warrant an invidious discrimination against persons who are in a domestic situation indistinguishable except for the fact of marriage from people who are married. The present wording of the Constitution does not in any shape or form prevent this House from passing the legislation that will be necessary, consequent on the Supreme Court's decision. The majority in the Supreme Court has explicitly held that the present provisions in the Constitution do not prevent this House from doing justice to the O'Meara family. It is important to grasp that point.

People might have thought the injustice was incapable of being remedied because of the special position of the family based on marriage. The truth is the opposite. Nothing in the Constitution at the moment prevents the Oireachtas from enacting social welfare laws that are just not discriminatory to people who are in domestic situations that are differentiated by the fact there is not a marriage underlying them. The argument that being fair and equitable to the O'Meara family and people in their position somehow depends on changing the Constitution simply does not stand up. On the contrary, the majority decision indicates clearly that notwithstanding the family, for constitutional purposes, continues to be based on marriage, it is not merely the right of the Legislature to do justice to the O'Meara family, it is its constitutional duty to do so.

From that point of view, one has to ask oneself what are the other implications of the O'Meara decision. One of them, for instance, is that, as mentioned by Senator Hoey, there are knock-on consequences - and one does not need a degree in law, jurisprudence or anything else to see this - for the taxation system. If somebody in Mr. O'Meara's position can point to a family based on matrimony and say that such families are given an income tax regime that is far more favourable than his situation, being a single father with dependent children, any resourceful lawyers on his part will go back to 1980 and look at the Murphy decision and ask what the criteria are that state the O'Meara family must have a much heavier burden of taxation than it would if Mr. O'Meara had been able to marry his partner before her unfortunate death. It seems to follow that there will inevitably be challenges to the existing tax regime arising from the O'Meara decision. That is something we are not discussing today, in one sense, but it will happen. It is coming down the litigation tracks that people will look at the O'Meara case. It is bound to lead to other challenges not merely in the welfare code but also in the taxation code. Why should Mr. O'Meara and his children carry a much heavier tax burden than they would have done if he had been in a position to marry, and had married, his partner before her death? How can it be justified that he is in a position radically different from a taxpayer in a similar situation who did marry the mother of his or her children even after they were born? That is the first thing. A challenge is coming to our taxation system.

If we change the definition of the "family" to include other durable relations, parties to those other durable relations will have at least as strong a case as the O'Mearas to challenge the constitutionality of what they will allege are the unfair and discriminatory tax provisions that apply to them. It will, therefore, become a matter of considerable importance, socially and for a whole series of other reasons, what is or is not considered a durable relationship for the purposes of the Constitution if this amendment is made. As night follows day, parties who think they are in a durable relationship will challenge the tax code and changes will have to be made to accommodate them. That raises the issue the amendment in my name seeks to deal with fairly and squarely. Who defines a "durable relationship"? Is it this House and the Dáil? Do we have the right to say a relationship must have lasted at least two years or that it must at least have had a conjugal aspect to it?

With regard to cohabitation as recognised in law, the courts have held that the term "intimate", when used in the definition of a cohabiting couple, refers to a sexual relationship between them. Do we decide that or do we leave it to the courts to decide that in any individual case? There is nothing to stop us. The 2010 legislation deals with cohabitation and civil partnerships but I am more concerned now with cohabitation because civil partnerships are effectively historical because of the passage of the marriage equality referendum. If we concern ourselves with the legislation relating to cohabitation, anybody who looks at that legislation will see that the criteria for recognition are determined by the two Houses of the Oireachtas. It

is not up to a court to say that they are cohabiting and it is holding that they are cohabiting. The Houses of the Oireachtas have, by the terms of the 2010 Act, told the courts what is and, much more importantly, what is not cohabitation for the purposes of that statute.

The Minister has been frank enough in his informal briefings with the leader of my group to indicate that it is a deliberate choice on the part of the Government, in the phraseology of its proposed amendment, to leave the definition of “durable relationship” to be decided on by the courts. I ask in that context why we did not do that with cohabitation rights. The courts are unelected and, once they decide something, one cannot reverse out of it. If the Supreme Court says it means a certain thing, it means that certain thing because it is in the Constitution. If that is to be the means by which one determines what is or is not a durable relationship, why did we bother, with cohabitation rights, to set out all the criteria about who is and who is not entitled to be regarded in law as a party to cohabitation? In the 2010 Act, we see the people who are not entitled to it. They are people who are parties to marriages and would be excluded by consanguinity rules from having their relationship recognised. All of those things are provided for in law. Much more than that is provided in law. The entitlement of cohabitants, in the event of the termination of the relationship, to seek from each other assistance in the form of financial support and the like, and the division of property, is very strictly limited. The mere fact that one has cohabited, unless one satisfies the criteria laid down in that Act, does not entitle one to invoke the provisions of the 2010 Act.

My amendment proposes two things. One is that an enduring relationship would have to be one that was between two persons. It could be parent-child, but it would at least have to be between two persons. It would also have to be as prescribed by law, so that these Houses could say that six months together is not enough, or that three years together is enough, and, much more importantly, that the presence or absence of children, which is one of the criteria under the 2010 Act for recognising cohabitation, is or is not to be a criterion in determining what a durable relationship is. If two people move in together for a number of years - while I do not claim to be a family law expert, I was reading the case law today in *Family Law in Context*, which deals with this in great detail - case law clearly lays down the criteria and factors that, by statute, a court is obliged to consider in deciding that people are cohabitants for the purpose of deciding whether they have any remedy against each other in the event of their relationship breaking up. All of that will be swept away by this amendment because, in future, presumably, the average cohabitant will be deemed to be a party to a durable relationship. The right of the Oireachtas to say these are the criteria by which a court must judge the matter is not recognised in the Government’s proposed amendment. That is a serious matter.

For instance, let us pose this question to ourselves. If a durable relationship does not necessarily involve having children, and I presume from everything that has been said here that it does not, does the fact that there are children in any particular case lend weight to the entitlement of people to have their relationship be considered durable? Are the courts free to define a durable relationship without regard to whether children are or are not present as a result of the relationship? When I say “as a result of the relationship”, I am sure there are many cases where effectively stepparents move into a situation where children are not their own natural children but they are nonetheless something that the court might take into account in determining whether this was to be defined as cohabitation for the purpose of the 2010 Act.

The point that I make is this: how does it make any sense to take away from the Houses of the Oireachtas the right to set out the criteria for recognition? We can do it and if we get it wrong, we can change it. If we did so in an impermissible way, the Supreme Court could tell

us we had done it in an impermissible way. If we actually say that it is entirely a matter for the courts to decide and not a matter for the Oireachtas to prescribe, we are in fact robbing ourselves of flexibility in this area.

I will give two examples that may be of interest to some people. Cohabitants can obviously end their relationship in various ways. One way can be where one party to the cohabitation unilaterally decides to end it and to move out. There is a difference between that and separation and divorce because the marriage that exists in a married situation subsists and the duties, obligations, and entitlements under it all subsist after one party moves out of the marriage home. If there is a divorce or separation, under the family law legislation that we have at the moment it is open to a court, in the interests of the children or, to use a phrase that is possibly a bit old-fashioned, the abandoned spouse, or person left by the other partner to divide the assets of both parties to the marriage so as to provide for the partner or offspring of a marriage. Before any divorce is permissible and before a marriage ends under the Constitution, as it is currently framed, a court must ensure that there has been adequate provision for the children of the marriage. If somebody wants, perhaps for good reason, to remarry a different person they will not get the right to remarry unless they ensure that the partner and children, if there are such, of the first marriage have been adequately provided for.

That does not exist in cohabitation. People can move out of one home and into another. In fact, one can move out of a home and marry, having cohabited. There is no impediment to a person forming a marriage and becoming a constitutionally recognised party to a marriage arising simply from the fact that one has previously cohabited with somebody else. This is serious stuff.

If we say that people can, in effect, move in and out of durable relationships and form new ones without providing for the offspring of their first marriage, which is required by the Constitution, we are in fact saying something very serious and fundamental about family breakdown, its consequences and the behaviour of parties to unhappy marriages who may wish to find a happy marriage for themselves. A cohabitant is under no inhibition from moving out and marrying another marriageable person and forming a constitutionally recognised partnership with that person, as things stand.

All of those things are important from the point of view of protecting people who are party to relationships, whether they are called durable, fleeting, semi-durable, short-term or whatever. If a man and a woman cohabit and there is a child, there is no inhibition on the man marrying another woman as there would be if he was originally married to the first mother of his child where he would have to, as a precondition to marrying again, establish that he had properly looked after the parties to his first marriage. We are getting rid of that.

We are saying that durable relations are to be given the same status as a family based on marriage. The provisions of the Constitution which refer to divorce and the precondition of looking after the people in the first marriage before one embarks on a second constitutionally recognised marriage become awfully redundant if people do not get married in the first place. If I do not marry a woman and have two children with her in a three to five-year relationship, I am free and not bound by the provisions of the Constitution which say that I cannot marry a different woman and start a family which is recognised under the Constitution as a constitutional family.

If I had to divorce in order to form a second constitutionally recognised marriage, I would

have to prove to a court that I had made proper provision for the children of the first marriage. Nobody should try to paper this over. This is a fundamental consequence of what we are doing. It is important that we look at the Constitution. We are leaving in it the provision that the State pledges to guard with special care the institution of marriage and to protect it against attack. That does not deal with the situation I am talking about because such a person was not party to a marriage. We are leaving in the Constitution the second section part of that section of the Constitution which states that:

A Court designated by law may grant a dissolution of marriage where, but only where, it is satisfied that –

- i there is no reasonable prospect of a reconciliation between the spouses,
- ii such provision as the Court considers proper having regard to the circumstances exists or will be made for the spouses, any children of either or both of them and any other person prescribed by law, and
- iii any further conditions prescribed by law are complied with.

That is what we say about marriages. This House has kept control of the circumstances in which a marriage can be terminated. One of them is if and only if a person satisfies the court that he or she has looked after the parties to the first marriage can that person have a marriage dissolved so as to enable him or her to establish a second constitutionally recognised family. We are scrapping that for non-marital durable relationships.

We are saying that the only people to whom this will apply are people who got married in the first place. They are the only people who will have to get divorced. They are the only people who will have to satisfy a court that they have looked after the parties to the first marriage and their offspring in a manner that the court considers satisfactory. A party to a durable relationship can walk out the door and marry a man or woman within six months, as one has to give notice. That is about it. People can marry because they are free to marry.

There is no point in pretending we are not doing this because people are not reading this Constitution. Durable relationships will not be covered by the provisions relating to the dissolution of a marriage. The dissolution of a durable relationship will not be provided for in law. The duties of somebody to tidy up the situation they are leaving and provide for all of the people adequately out of their means will not exist as an obstacle to forming a second constitutionally recognised family and becoming a party to it. We cannot cod ourselves as to what we are doing.

I had an uncle who tried to persuade me years ago that there should be no reference at all in the Constitution to marriage, and that it should be left to churches and people who want to enter into legal deeds or whatever they wanted to do. He wanted to take it all out of the Constitution. We are leaving in the Constitution very serious obstacles to the dissolution of a family relationship based on marriage. We are saying that will not apply to durable relationships.

In the period since I was Minister for Justice, I did one family law case and I regretted it instantly because it is the toughest law you can do. It is the most harrowing, the most difficult and the most important to the people involved, but it takes it out of you. I think Senator Martin will agree with me on that.

Senator Vincent P. Martin: Yes.

Senator Michael McDowell: If you can avoid being involved in family law and make a few shillings as a barrister, you are well off. I admire family lawyers hugely. Family lawyers will tell you, for instance, that farmers - and I have seen it - with 300 acres have been told that they must set aside 150 acres for their spouse and children for the proper provision of the children. The property of the family and shares in businesses are frequently divided between parties separating or divorcing couples. As I read in family law books, it only happens in cohabitation cases in respect of shared property in which they have resided, but neither party effectively gets their hands on half of the other party's private wealth. However, we are going for that. If this happens, people who are not married will, on O'Meara's logic and on the fact that their relationship has the same status in law as a family based on marriage, I think be entitled to ask for a share in the other partner's private wealth. I am not trying to run scare stories here but I have seen a farm being physically divided. That is what we are dealing with in family law as it exists at the moment because you have to go to court to get your marriage dissolved and prove that you have done the needful by your spouse and children before the marriage will be dissolved. However, none of that will exist if we go down this road.

I do not see what was wrong in the 2010 Act, which provided criteria for recognising cohabitation, as determined by these Houses, as to who is and is not to be regarded as a cohabitant, what a court is or is not obliged to take into account and what a court should not take into a count. Why is that not to be provided for by law in the case of a durable relationship when it is already provided in respect of family law separations and divorces where the family is based on marriage?

I find a huge lacuna - a gaping hole - in saying that the Oireachtas will not have a function in determining what a durable relationship is but the courts will ultimately decide that. We are effectively handing over an essentially legislative power to the Judiciary. Is six months enough? Is nine months enough? Does it depend on the judge's attitude to the two people that he or she sees before them before they are recognised as a family? That is without even considering the question of a break-up of a durable relationship. Who is to be recognised and who is not? These Houses provided in a liberal and an imaginative way for cohabitants to be protected but said that if we are going to do that, we will remain the masters of who is entitled to all of these privileges, rights and duties in respect of each other arising out of cohabitation. However, we are not doing that now.

I will make a second point arising out of yesterday's discussion. Some people said that the points I made, I presume in an article in *The Irish Times* because they were speaking before I spoke, were disgusting in that I was relegating what are obviously family relations in a colloquial sense to a two-tier hierarchy where some of them are given recognition and others are not. All I can say about that is if we are going to have protection of the family and the institution of marriage with special care and protection from attack for it, why are we not doing that for durable relations? Sometimes I am reminded of Woody Allen's phrase that if marriage is an institution, I am not keen on it - who wants to live in an institution? However, if you call it an institution in the technical sense that it is instituted by law, which is what it actually means, why is it that it needs special care but durable relations do not? It can be dissolved only in limited circumstances but durable relations can be ended by the unilateral act of one party. I do not understand this.

Senator Higgins said yesterday that somehow implicit in this was an analogue of the argument that was used in the marriage equality referendum that heterosexual people's marriages were somehow devalued by the existence of marriage among homosexual people. I do not see

that at all here. I am not arguing that marriage is devalued; rather, I am saying that we are creating a two-tier situation where one can be dissolved only by divorce whereas the other can be dissolved by walking out the door and simply closing it behind you. That is not in any sense offensive; rather, it is the legal reality. You can walk out the door. One is different from the other. One is part of the constitutional fabric saying that it cannot be dissolved except in very limited circumstances and it cannot be dissolved unless you have looked after the parties to it.

There is a broader social issue as well. I wish to put this to the Government. I know that probably all of this is futile but I am determined to put it on the record. I and others advocated for the marriage equality referendum. We were confronted with Frances Fitzgerald, the then Minister, sponsoring it, saying that marriage was a fundamental institution of the State and it was wrong to deny it. I agreed with this in respect of a gay or lesbian couple, especially those who wanted to look after each other, those who wanted to have spousal status in regard to each other's affairs and those who wanted to adopt children and bring them up without any discrimination. We changed the law and I was an enthusiastic supporter of doing so. I believed that to deny gay and lesbian couples the entitlement to form families was profoundly unjust in the world we were in.

I should say, lest anybody doubts where I am coming from, when I was Minister for Justice, the Gay and Lesbian Equality Network, GLEN, came to my Department. This was in 2003, I would say. I told GLEN I could not give it a referendum, because it would be defeated and because I did not think my partners in government would be interested in such a referendum, but I would go along the lines of civil partnership. The group under former Deputy Anne Colley reported and that turned into the civil partnership aspect of the 2010 Act. If the argument by gay couples that they were being unfairly kept out of marriage means anything, it cannot be that durable relations, which they could always form, were an adequate substitute for them. They would not have accepted it at the time that amendment was made, and rightly not. But looking now to what is to be the future if this amendment is passed, I do have to ask a broader social question. Figures were quoted here and they were interesting, namely, that 40% of children are born out of wedlock at the moment and that roughly 20% of families are single-parent families. If you mine down into those figures, I think an awful lot of children born out of wedlock are later the subject of a marriage between their parents. I think that probably happens in a lot of cases because the 40% and the 20% do not seem to correspond as figures. But even if there is a very significant cohabiting community who are not interested in getting married for one reason or another, we do have to ask the wider social question: is the State indifferent to whether cohabiting couples with or without children are married or not? Is it a matter of complete indifference to the State or does the State actually favour marriage? Does the State believe that marriage is in some sense preferable to mere cohabitation? I do not see the answer to that question being proffered by anyone. I totally accept the proposition that Senator McGreehan advanced yesterday that people are free to marry or not to marry and it is none of my business whether they do or not. Personally, it is none of my business - I follow that and I do not go around tut-tutting - but is the State indifferent to that choice and should it be indifferent to that choice? Especially if it is saying that it will guard with special care the institution of marriage, then why are you bothering to guard with special care if you do not really care whether people enter into it in the first place? Why do you say to parties to it that you cannot dissolve it unless you make adequate provision for children but if you remain unmarried, those rules do not apply to you? I wonder. Of course things have changed from holy Catholic Ireland, for which I am not a spokesman and never have been, but we have scrapped the concept of illegitimacy. We have instituted cohabitation. There was reference yesterday to John Charles McQuaid. He would

be spinning in his grave if he thought that any of these things would have been done so shortly after his departure from the religious stage. But when we have a Supreme Court which says to Mr. O'Meara "Your equality rights trump the right of the Legislature to provide welfare contingent on there having been a marriage at some stage", we have moved an awfully long way from the society which was described here so vividly by some of the speakers yesterday: de Valera's Ireland. We have moved an awful long way from that but we still have to ask ourselves this fundamental question: does the State put a value on marriage and, if so, why? Is it saying "We recognise that you are entering into a legal commitment which cannot be dissolved except by a court order in the limited circumstances provided for in the Constitution"? Are we saying that matters and that some value or some social good is alleged to exist in the semi-permanence of marriage? I refer to the social good that was alleged, for instance, to exist in relation to the marriage equality debate and decision of the Irish people.

Those are the questions that I said yesterday that I believe we have to answer. The amendment in my name keeps for this House the control of what is a durable relationship. If we hand it away and lose control of that concept, we effectively hand over to the Judiciary a vital part of the legislative power of the Irish State.

Senator Lynn Ruane: Amendments Nos. 6 to 9, inclusive, are similar in nature but they feature different wording as compromises. Sometimes you do not realise how personal a situation is until you have to engage with it in the moment. Although you know it is in the background, you are just trying to move through it. Our first amendment changes the phrasing to "including but not limited to Families founded on marriage". I was about eight years when I first found out my mam and dad were not married. I stand here and here people talk about protection and the law but it is far from only about protection. The Constitution, as fundamental law underpinning Ireland's legislation, which develops from it, is a fundamental principle that also underlines both the legislative changes that are needed and how a society views individuals and their situations and family set-ups - whether they are married or live with someone and they do not marry them - whatever it may be. I remember being eight years old and my friend went into the shop to buy an anniversary card for her mam and dad and I remember feeling a bit silly because I did not know what it was and asked her, "What's an anniversary card?" She said that an anniversary card was how long her mam and dad were married and I said it was interesting. I was not sure I recognised that as a thing in the house. My mind began to turn and turn. I used to go into other houses and see the pictures on the wall of people's mams and dads getting married with wedding dresses and so on. Then I started to ask questions. I went to church a lot at the time, whether people want to believe it or not. I sang in the choir and played the tin whistle. I was an altar girl and got up every Sunday morning and went to church. That narrative seeped in about what a family was and I was thinking about this when I was eight years old. Whether we like it or not, Catholicism is intertwined with the Constitution and always has been. That is okay if people live a life of Catholicism but if they do not, parts of this Constitution do not represent or recognise them. Whatever about legal protections that flow from it, those parts do not even recognise me as a child and my relationship to my mother and my father. My mother, from that moment, I realised looking back, was afraid to tell me they were not married. She was ashamed. We lived in a situation where people would judge them and not talk to them for not being married. I also listened in religion class as to what the idea of a family was, what marriage was and what sin was, so all of that was in me. At eight years old, when I learned my Mam and Dad were not married, my world fell apart. Imagine being eight and your world falling apart. Your parents do not love you any less. They reared me well, put me into every club and everything I wanted to join. They did my homework with me, taught me how to read, and

now something in society had seeped into me that told me that my family was all of a sudden different from every other family on the street and I was less than their families. On top of that, I believed we should not be together and in that I damaged the relationships as I got older with my Mam and Dad because the society that shames seeped in on me as a child. Therefore, this is more than about protection. It is about recognition that there was nothing different about me growing up with my Mam and Dad. Nothing. She should not have had to wear a wedding ring to pretend or go to court to change our names. My name was not always Ruane. I found that out at some stage as well. I was actually a Losty - my name was Lynn Losty - which was my mother's name but my Mam wanted us to feel like a unit, to not feel any different than anybody else and we should have never been made feel like so.

The Constitution's definition of family is what set the framework in Irish thinking on how we morally judge other families who do not get married or who do not want to be married. Then as you go on, my situation is captured in the other amendments regarding the parent-child relationship. I had my first daughter at 15 years old. Obviously, I knew at that stage that she was my daughter and we had other rights outside of the Constitution but then I had to place it again within this. I do not even want to say the word but I remember being in school, or it may have been on trip somewhere, and the "b" word being used for kids that were not from a marriage. Members will all know what word I am referring to. It is obviously a very derogatory term for an illegitimate child. Not only, because of the Constitution and the laws that flow from it, was I not feeling like our family was as good or as valued as everyone else's, I am also taking on some sort of a label as illegitimate. I am not legitimate. The State and Constitution is telling me, as a child, that I am not legitimate. The Constitution is important to change. I know Senator McDowell spoke about the laws we can change in the interim but it is the Constitution that set the mindset that allowed families such as mine be mistreated, misjudged, ostracised, and ashamed, so much so that it affected our interpersonal relationships because I did not know what to do with that shame as a child. This is why it is important to change the Constitution and to not only recognise marriage as the family unit. Senator McDowell asked why should we not protect durable relationships with the same vigour that marriage is protected. Exactly. Why not? We could have put forward an amendment that put them on an equal footing and so could Senator McDowell. However, just as Senator McDowell is saying that legislation could be introduced on pensions and taxation, the State can also introduce legislation after the referendum to make sure there is a legal framework around cohabitantes and the separation of assets and all of those. If the legislation can flow for the O'Meara situation, it can flow on the alternative in terms of what is set out in the changes in the Constitution.

Going on and having my children, I am obviously a little bit wiser and older now and have shaken off some of that Catholic shame regarding what I feel about my family, whether it is a sinful or valued family or whether the State wants to recognise us as a family. I have my two daughters but in the Constitution, we are not considered a family. My daughter is in the Public Gallery with me today. We are not a family. For the past hour, I have had to listen to the talk about protection of marriage and assets and all of this and all I say is my daughter is my asset. Jordanne is my asset. They are my family. They are who I am and nothing can change that in my mind but the Constitution of this State states we are not a family. How would anyone would want to stand over that? She has rights outside of that constitutional wording but given the fact that the blueprint for what Ireland says it wants to be and from where all law should flow says we are not a family, of course we need to change that so all families are included. My daughters have two different Dads. Their Dads have other children from later relationships and my daughter's siblings are also their family but the Constitution does not recognise that as

so. Jaelynn and Jordanne each have their siblings. The family is wider. Do I want us all to move in together and start saying we are all a family? No, we are not, but through the bonds they have to each other, they are family and we are family. I then felt the need to make sure the kids each has their Da's names so that they knew there was a connection to their Dads even if the Constitution did not recognise them as family because relationships and identity are so important. I was young and thought if the Constitution did not recognise them, I would make sure, even though we are not married and I have ended up being a single mother very early on with both kids, that they have their Dads' names. I would make sure, even if the Constitution refused to recognise it, they understood that I recognised that relationship with their Dads and that it was sacred to us no matter what the make-up of our family was.

Within that then, what we have is the idea that we do not have to dissolve a situation of cohabiting to move on to be with someone else and cohabit. However, the thing is if you share assets, you still have to split those assets. There is also children's rights. There is still article 42A which sets out children's rights. It is what the O'Meara case was won on yesterday. Therefore, even if somebody is with me and I have two children with them, the children's rights still exist within that in ensuring the provisions are introduced to protect those children whether that be with child maintenance or something else. That is another area where we can protect regarding cohabitants. The child maintenance legislation that I have been drafting, with which Senator Seery Kearney and others have been helping, takes into account all parents whether a one- or two-parent family and sets it out in the same way. Therefore, there are other structures we can build afterwards for the legislative tools that are needed to ensure children are always protected regardless of the relationship status of their parents. Whether parents are married or not should never determine whether a child is catered for or is at risk of experiencing any sort of poverty because of the breakdown of a relationship. Children will always remain in the centre of that, including constitutionally. The problem is, if we do not recognise them as a family, we create a situation where we are still saying that if your parents are married, you are of more value or recognised to a greater degree.

Senator Sharon Keogan: No.

Senator Lynn Ruane: It is, Sharon. There is no point saying "No"; I lived it.

Senator Sharon Keogan: It does not discriminate.

Senator Lynn Ruane: Sorry, it does discriminate.

Senator Sharon Keogan: Against-----

Acting Chairperson (Senator Seán Kyne): Senator Ruane, without interruption.

Senator Lynn Ruane: All laws, at the end of the day, are tested against constitutionality. Do you think that when pensions such as the widow's pension were first considered, marriage was not put in as a criterion based on the fact that we placed so much importance on marriage? We might look at it in less narrow terms now but it mattered then. When it came to my Mam and Dad, she looked after him to the day that he died. She was responsible for him, had to repay the mortgage which she continues to pay, was responsible for converting the room when his Parkinson's disease progressed, and was responsible for him in every other way that a married couple would be until the moment he died, and then she was not entitled to a widow's pension.

2 o'clock

She was not considered for that. However, while he was alive, they were considered to be in a partnership, taking care of children in every other way until that. Therefore, it does discriminate. Our policies have existed based on the ideals the country set out all those years ago, of how we want to live together, how we want to be together, what we value and what we do not value.

My concern here is that we are beginning to muddy the water. There are over 1 million one-parent households. It would be really sad to make those women think that their rights are being taken away by changing the Constitution. I have to tell all my friends and people who come to me who are not married that they are already not recognised in it. That is what people are failing to tell everybody. When they go out and campaign, they say “Oh, your rights as a woman in the Constitution are being taken away”, without saying, “Oh, sorry, if you’re actually a one-parent household, you didn’t have them anyway.” Nobody is giving the full context here.

Women are afraid they are actually losing something because of this amendment instead of gaining something from it in terms of recognition of who they are as a family and what they are to their children, their loved ones and the people they decide to spend the rest of their lives with. That is why it is important to really focus on durable relationships and what that means. Was that something I was enthused about? No, because it is a conversation we need to have as to what it means. I agree with Senator McDowell that we should not rely on the courts. I believe the Government should set out what a durable relationship is. Obviously, we do not want it to be too wide, but we do not want it to be too narrow either.

Not everybody can just access the courts. We do not want to make it a system based on people who have the ability, energy and perhaps the money to take a case. We do not want to create that situation. The Government needs to lay out what durable relationships are. That is why our amendments deal with durable relationships, not only in respect of people who cohabit but also the relationship between parents and child, which is very important.

We also need to consider kinship situations. I do not know if that has come up in the debates in the Dáil or in this Chamber yesterday. There are other situations that need to be determined as family. Some people have to raise younger siblings because a parent died. There may have been addiction or some other hardship within the family. Does a durable relationship take in that it will not necessarily be adult to adult or parent to child but also child to child – for example, sister to sister? If, God forbid, anything happened to me, would my girls be considered family within a durable relationship in the Constitution in terms of how they are supported and recognised? We need to figure out what durable relationships are.

Alongside the referendum, we also need to consider how we recognise one-parent households in general to make sure they have those protections in this. We should not be forcing women onto jobseeker’s transitional payment when their kids are 14 because they should be protected under durable relationships in the same way that married people are. If they choose to stay at home or they choose to go out to work, they need to be supported in both scenarios. If they choose to stay at home, social welfare policy needs to be joined up with that to ensure that an unmarried woman who decides to stay at home is financially supported and not forced onto jobseeker’s transitional payment when the child turns 14.

There are many policy intentions that can and should change along with this. However, this is not only about protection, although that is a huge part of it. It is also about recognising that Ireland has many different types of families and that marriage will not always be the choice

of some people. Perhaps they do not believe in the institution of marriage or it just did not work out or perhaps they just did not get married but they have children - whatever the case may be. In each of our amendments relating to durable relationship, we need a caveat that recognises that a durable relationship in those senses is recognised as parent to child - that my daughter and I are recognised as family.

I did a quick search of the Constitution to find how many times the words “woman” and “women” are used. There is a whole narrative out there that women’s rights are being taken out of the Constitution. The word “women” is mentioned twice and the word “woman” is mentioned once. Where “woman” is mentioned, it is only in relation to her place within the home and that is the only reference that is being taken out. On the other two occasions where “women” are mentioned, they are mentioned in respect of their rights as equal to men. I think one is in the workplace and I would need to double-check where the other one is. Women and woman are only mentioned three times. It is an absolute lie to create this confusion or illusion for women that everything protecting them within the Constitution is all of a sudden being eroded away. It is an absolute lie because it is not in there. The only provision being removed is the one that tells them where their place is.

Senator Sharon Keogan: No, it does not.

Senator Lynn Ruane: It does tell them where their place is. I did not interrupt Senator McDowell’s hour-long lecture. I felt like I was in a law lecture in UCD or something. However, Senator Keogan has twice intervened in my contribution. I ask her to show respect and to not intervene anymore.

The Constitution says that a woman’s place is in the home because it seeks to protect it with full force, nearly because it provides that she will be supported to maintain her place within the home. Why does it not refer to a parent’s place within a home? It is, therefore, telling the woman her place. If it were only protecting someone’s ability to stay at home and care for their children, it would refer to both mother and father. It would say that we will protect the parents’ right to stay in the home. However, it does not say that; it says woman. Therefore, it is making a differentiation. It is saying that, by the fact of being the mother, the woman’s place is in the home.

As I said, there are only three references to woman or women and the one to come out is the one saying that her place is in the home, and rightly so. If people want to strengthen the Constitution to protect women’s rights, they have had a very long time in politics to do that. We could be doing that through lone parent legislation. We could be doing that through the widow’s pension legislation. We could be doing that in every other aspect where women are treated as less equal, but we do not.

Within the child maintenance system, there is this idea that married people have to take on all these extra layers before they move on. I have seen many people just walk out of the home. They do not say they are going to stay and make sure they do it right by paying all the maintenance. I have watched people delay divorce proceedings on purpose for years and not pay maintenance to their children. For five years, I have been working on child maintenance stuff. Many affected married women receive absolutely nothing from their husbands in child maintenance. It is not true that there is some extra protection and that just because people have to go through the courts, they are biased by it. There are plenty of women who are worse off after their husbands have left the home. In some cases, it may be *vice versa* if the woman has

left the home.

Even with child maintenance, people go to court and are told how much maintenance they have to pay. Nobody follows the person around to make sure they pay it. It is not deducted by Revenue or added as a tax credit. None of that is done. Plenty of people have gone through divorces and are not abiding by the court ruling. That needs to be fixed. When we are doing that, we need to ensure that protections available for married people are also available for cohabiting families so that they are also protected. Someone cannot just walk away if they have children in a house with somebody or both names are on a mortgage application or car loan. Surely the law already exists to protect people who share assets regardless. Siblings can take each other to court over assets. It is not something that is only carved out for married couples. That might happen through divorce proceedings.

People might have to take other types of actions. At the end of the day, we should be protecting the families of cohabiting couples in the same way that we protect the families of married couples. On top of that, we need to make sure we are recognising people and not standing over the idea that family is only going to be recognised by the Constitution for those who are married. The Constitution does not represent me or reflect my family. It did not reflect me when I was a child and now it does not reflect me as a mother, and I am one of many people. At the end of the day, why would we care about how anybody else lives or chooses to live? It actually benefits everyone. Equality and equity benefit the whole of society. If we can view everyone through the prism of being the same regardless of how they choose to live, then that benefits everyone. It does not take away anything from anyone, and we build in the legal structures to make sure that if there are any disagreements or separations that kids are always protected, their rights are protected and they are financially protected, and that any other legal issues can be done in legislation.

I will wrap up now but for me, it has been really confusing to watch the advocacy of some people against changing the definition of family. They will ground it in some red herrings, and also this idea that it is only about protection and people are still protected elsewhere. In advocating against changing how we view, recognise and value family systems and relationships, they are actually working to exclude many people in our society from being recognised in the same way as married couples. How people can make that make sense in their heads, and to try to sit it in a legal or political framework, is dishonest. It is deeper than that, and I think it is not about legal changes. It is that they actually believe marriage is protected above all else and other types of families do not matter in the same way that a married couple does. If they are going to say that is what family is and that is what they are going to fight for, then they are actually saying that. They can wrap it up in as many different campaign slogans or legal, political and social arguments as they want but when they get right down into the heart of it, what they are saying is, “We do not want our Constitution to recognise you and your family”, and that is it. That has to change.

Senator Alice-Mary Higgins: We have heard quite lengthy journeys through different aspects of the law across the course of the debate. One part of the summary of what we have heard is that families are complicated, and that it is possible to legislate. It is possible to legislate before the referendum and it will be possible to legislate after the referendum. We could improve a lot of our legislation with regard to how different families are treated. We should improve a lot of our social protection codes with regard to how different families are treated. Fundamentally, the question is, given that families are complicated, do we recognise that or not? The question is not a matter of, if people vote “No”, somehow we will be back to every-

one being in married families. The reality that there are complicated families will still be here. The reality will still be here that our legislation needs to be improved and made more equal in lots of ways. What we will be doing is pretending, and saying that we still want to pretend that “family” is only the married couple. We still want that illusion that there is only one version of family. We want married people to get that because there is already a special line that is still going to be in the Constitution after this referendum, no matter what the result, which will say that marriage gets special protection and recognition, that married people should also be the only ones who get to be called “family”, and no one else should be called “family”.

There is complexity, and the question is, are we going to acknowledge it? Do we want a Constitution that reflects the reality? It is not a matter of asking if the State is indifferent and whether we would prefer if everybody was married. By putting it in the Constitution, is it meant to be there as a motivation to encourage everybody to ensure they get into a neat, married family unit? That is what it was seen as, for a long time. Some of the motivation, and some of the actions that were taken to make sure we motivated everybody to get themselves into a neat, married family unit included disappearing those who did not fit the model. When we talk about not recognising them in the Constitution, we also made sure they were invisible. Sometimes we made sure they were invisible in mother and baby homes. Sometimes we made them invisible by adoption laws that were shrouded in secrecy because one could get into a good married family and one’s other family could disappear. For example, those are clauses that were used when we discussed the idea of open adoption, something I brought through this Chamber before for discussion. However, there is only one family unit.

This idea has been doing damage with regard to the effect it has had on social policy. The O’Meara ruling and the widower’s pension comprise one example of the damage it has done but there are plenty more. There are plenty more in the different treatment that one-parent families have had within our social welfare system. To be absolutely clear, it did damage in the O’Meara case at the High Court. It was that clause regarding the family that was used to deny the widower’s pension. It was the other clause, a completely different and recent one - Article 42A, on the rights of the child - that was used in order to combat that and say that actually, the Constitution has changed. We now have the rights of the child as well, and they have to be considered. That was the basis on which the pension was granted.

The rights of the child referendum, the rights of the child clause and the child and family relationship Bill, and all of that work that was complemented here by the detailed work on cohabitation, have tried to work around the big elephant in the room, which is that we have a definition of family in the Constitution that is not true or fair. We have had to work around it. Yes, we can legislate to try and work around it but we are still, at the top tier of our legislation or law in this State, coming up against the fact that the constitutional law permits a discrimination and different treatment. That is fundamentally there.

We can work all around it, and we can produce legislation. Yes, we want the Government to come back - that is why we have amendments here - and make really clear to us how it is going to interpret “durable relationships”. What I know is that we will be able to legislate if we need to but what I want to know is how the Government will take action. I want to hear that it is not going to force, for example, one-parent families to have to take cases to vindicate that they are in a durable relationship but that the State will take that interpretation and immediately act on it. It will be for the State and the Government, initially, to interpret this new clause in the Constitution and to put it into effect. For example, in this year’s social protection legislation, will we see an overhaul of those measures that treated some families unequally, making sure that we

are in fact levelling up the protection for families in Ireland?

Again, we hear about concerns about what might happen with regard to durable relationships. It has been open to any persons concerned about the unequal treatment of families in Ireland to take actions in respect of that. If people are concerned around what happens with regard to cohabitees, they can bring legislation on the proposals. I know with regard to one-parent families, for example, when I sat on the social protection committee in the last Oireachtas, that we brought forward concrete proposals that would have improved the treatment of one-parent families in Ireland. Some of those who are most passionate about the family and mothers, and what they might they do and their care role, did not participate in or contribute to that debate. They were not that interested, apparently, in that topic at the time.

When we talk about wanting to improve and give better protections and supports, yes, that is the work of the Legislature and that is something we should all be doing. When it comes to the fundamental message and signal we send, we heard from my colleague Senator Ruane about the message it sends to families. Let us also look to the message it sends to everybody about the Constitution. I want a Constitution that feels true, that feels real. We are losing something. I spoke yesterday about the idea of the fundamental unit of society, those who are contributing to society and shaping it. The family does work in the Constitution. It is not merely about receiving benefits. It is about doing work and contributing. On that idea of contributing, it is important to recognise the contribution of everybody. The State needs everybody who considers themselves to be in a family to also feel that moral role of contributing to the State that is outlined in the vision for the family.

There are other areas also where there are unequal rights that flow. Article 42 refers to “the Family” - with a capital F - as primary educator. Actually in our Constitution only married families are the primary educators. We saw how one-parent families had their children taken from them and put into industrial schools. There are consequences from having an inequality bang in the middle of our Constitution. We can work around it and try to alleviate the negative impacts. We can take advantage of it, if we want to promote some inequalities or if we want to find a group or two that are going to be a little bit easier to kick because they do not have that same protection. Fundamentally, what we are discussing here and what the referendum is going to be about is whether we are okay with pretending that only married people are family. Are we okay with telling one-parent families - the people we talk about when we talk about the parent-child relationship - and cohabiting couples that they are not family? We can shroud it in as many complications as we like but that is the fundamental message. If this referendum does not pass, the message will be that only married people are family. We will be saying that even louder and we will not be able to blame it on the 1930s or John Charles McQuaid.

I will quickly go through our amendments. I preferred the wording we had from the Joint Committee on Gender Equality. The committee produced an action plan and I want to hear the Minister will take it forward. The plan set out how, if we put equality of families into the Constitution, that has to be followed through. It states the Minister must start to fix the social welfare code in many ways and ensure better protections and supports are given to all families. The Minister needs to follow through if we have that equality of family. He needs to show us he will do all of that legislative work, which is always complicated. That is fine because that is our job. We want to know the Minister will do that. I want to hear that he is not going to make individuals, particularly one-parent families, take cases to say that the term “durable relationships” applies to them, but that the State will be acting on the assumption that the term covers one-parent families from the beginning and will take actions immediately in respect of that. I

want the State effectively to bring that wide, strong interpretation into effect. I want to hear the State will fight for a definition of durable family to include one-parent families if it is put upon to fight for that. That is really important.

We have the European law in respect of durable families. As is its prerogative, it seems to be the intention of the Irish State to have a wider interpretation of “durable” that goes beyond the limits within that European law. I would like to be assured that parent-child relationships will be included. We also have an amendment in which we seek to be specific about cohabitantes. That is a huge cohort of persons and families. There is a gap between the 40% and 20% figures. Many couples in Ireland who have been together for decades are not married and have children in their relationships.

As I said, I preferred the wording we had. “Marital family” was the wording used by the committee. I understand that the concern was that marital family would be a new version of the family. I have suggested in our amendment the term “the family based on marriage” because “family” and “marriage” are both terms that have precedent in the Constitution. Our amendment would include but would not be limited to families founded on marriage. The Minister might indicate why that approach was not taken. It might have avoided some of the confusion that has been created around the term “durable relationships”. Either way, durable relationship at least is the possibility for a more equal family to be recognised versus the closing of the door yet again on so many families in Ireland.

Senator Gerard P. Craughwell: What a lesson I have had today in understanding what has been confusing for years. I am looking at the old wording of the Constitution, which states “The State shall, therefore, endeavour to ensure that mothers shall not be obliged by economic necessity to engage in labour to the neglect of their duties in the home.”

Senator Erin McGreehan: That is the next Bill.

Senator Gerard P. Craughwell: Senator Ruane remarked on the social welfare changes that forced single mothers to declare that they were available for work once their children turned 14. Was that complying with the Constitution as it stood at the time? I doubt it very much.

Senator Lynn Ruane: Yes, it was because they are not married.

Senator Alice-Mary Higgins: It does not relate to the amendments.

Acting Chairperson (Senator Seán Kyne): We cannot have engagements across the House.

Senator Gerard P. Craughwell: I understand exactly where the Senator is coming from. Speaking of being married or not married, a friend of my father for 33 years was married for seven years. When he separated from his wife, he moved in and lived with another woman. When he died 26 years later his pension was paid to his former wife, not to the woman he lived with. That was an anomaly. What I see in this constitutional referendum is that lawyers will make money for decades as we try to battle our way to understand what is meant by this, that or the other.

Senator Ruane referred to the issue of marriage versus durable relationships. Senator McDowell highlighted the wording that the State pledges itself to guard with special care the institution of marriage and to protect it against attack, and then read out the remaining subsections of that article. Whether we like it or not, and Senator Ruane has referred to this, we have placed

marriage on a higher tier than a durable relationship. Senator Ruane said we can fix that with legislation. This is the Constitution. It should be fixed in the Constitution, not in some legislation that will follow at some stage in the future.

Senator Seery Kearney referred yesterday to the elasticity of the definition of the family. We should encompass the definition of the family so as not to exclude, which is done in the wording “durable relationships”. In one part of this, we talk about durable relationships. Why have the wording “whether founded on marriage or on other durable relationships” in Article 41.1 when the only thing taken out of the current Article 41.3 is the wording “on which the family is founded” and the word “marriage” is left in? Why is the word “marriage” in there and why was the term “durable relationship” not just put in there?

Both sides are right but I disagree with Senator Ruane’s view that we would have to enact legislation to correct what is missing from this wording. My view is that leaving it to the courts to decide what is and is not a durable relationship is wrong in every sense of the word. Yesterday, Senator Higgins referred to the constant drive in this country to force people into the courts to get explanations or answers. This morning when thinking about this I was thinking about Vicky Phelan, and that other poor woman from Kilkenny who was dragged to her deathbed while the State defended an indefensible position. Is that what we want out of this referendum? Do we want a situation where single mothers and those in durable relationships - or who believe they are in a durable relationship although the court believes they are not - are dragged through the courts? Do we want a situation where some guy walks out? Senator Ruane is 100% correct. I know of dozens of cases of men who walked out on their wives and children and left them penniless and never paid maintenance. Time and again they are not dragged back to the courts and they just ignore it. She is 100% right. If the State really cared it would deduct the maintenance straight out of your wages and send it straight to the woman who is looking after the children - or to the man, although there are fewer men caught that way than women. We leave it to those who are less able to fight their corner to fight their corner. It took extreme courage to stick with the case decided on yesterday in the Supreme Court, and get to the Supreme Court. I am really concerned.

The debate today is the most instructive debate I have heard for a long time in this House. What we needed was time to tease out all of these issues and to take on board the amendments being brought forward in good faith. They are good amendments. There are people here whom I do not agree with. There are people I like and people I do not like. However, at the end of the day, I have not seen anything in an amendment that I would not want to try to support as best I can. I really think that what we are going to do with this, if it passes, is create a field day for lawyers as we try to resolve the family law issues it will lead to.

I do not want to go on too long. Before I finish, I am extremely concerned that the word on the street is that the Government has threatened the NGOs that would be directly impacted by this legislation that if they do not support a “Yes” vote, their funding may be hit. One of the statements made on 6 January needs to be addressed by the Minister in this House. One of the statements made by the National Women’s Council of Ireland was that a “No” vote on Article 41 would see the State’s oppressive role in keeping women-----

Acting Chairperson (Senator Seán Kyne): I ask the Senator to speak to the amendments.

Senator Gerard P. Craughwell: This is an important part of the amendment.

Acting Chairperson (Senator Seán Kyne): The Minister can choose to address the overall point.

Senator Gerard P. Craughwell: That is fine. It says that it will keep women from careers and employment. The Minister needs to address that, because that is another important issue that is impacting the way this referendum will go. I am afraid the wording we have at the moment is flawed. My colleagues on both sides this morning have shown the flaws. The Civil Engagement Group and Senator McDowell have shown the flaws, and the flaws lie in a failure to define the durable relationship.

I will leave it at that. There has been plenty of talk and I am sure other people want to get their spoke in.

Senator Rónán Mullen: Senator McDowell earlier referred to Woody Allen. I know Woody Allen also said that 90% of success is showing up. Would that it were the case that our presence here today could actually get the Government to think again about what it is doing. I will have to see, but I have my doubts. Senator McDowell and I may have different views on what precisely marriage is. We certainly were not on the same side of the marriage referendum. He would probably disagree with me, to some degree and in some ways, that referendum was the first step in the deconstruction of marriage and what it means in our society. Whether I am right or wrong in that, I think we can both agree - I do not want to put words in his mouth - that marriage is certainly being deconstructed here. It is a bizarre situation that the Minister can come into this Chamber and tell us not to worry because they are not taking out the State's pledge to guard the institution of marriage and protect it from attack. In fact, the only protection being left to marriage after they are finished with their work with this amendment is to create a disincentive for anybody to get into it because of the difficulty of getting out of it. Gone will be any discussion of what marriage might convey and deliver for society as an institution.

I have heard a lot of talk from friends and colleagues today and in the past couple of days about the past. There is a desire to use the stigmatising behaviour that went on in the past and the character and colour of our society in the past to somehow create momentum about the need to change our Constitution. I say the following with great respect to my friends Senators McGreehan and Ruane. I think there is a misunderstanding of the past going on here when people are overly inclined to excoriate every aspect of it. The truth is that while Christian ideas certainly contributed to the State's understanding of marriage, the definition of marriage and the provisions made for marriage in the Constitution, those ideas went far beyond marriage. People take many values for granted today, such as looking out for the vulnerable in our society and caring for the migrant, the most dispossessed and the least among us. Though people may or may not have religious faith, so many of those ideas are effectively rooted in Christian culture in the western world. That the idea of marriage was recognised by the State as an institution because of what it could deliver for the upbringing of children is no different. Certainly, at a time when there were no laws in the State, there were canon laws centuries ago the Christian church was involved in articulating in terms of the common good. People should be careful what they wish for if they want to excise any Christian remnant from the values of our Constitution and society, because they might lose an awful lot of things they cherish.

Another thing to say is that it is easy to excoriate every aspect of the past. However, when you look in finer detail, you see quite a degree of enlightenment and goodness in the way many things were viewed. I will give one example. The late Judge Rory O'Hanlon became a *bête noire* for those who disliked his philosophical conservatism, not so much off the Bench but after

his life on the Bench. I hope I recall correctly from my law studies. Senator McDowell will confirm whether it is true or not. What was interesting about him was that he had enlightened views about the wrongness of illegitimacy and about the rights of children in those situations. Too much appeal to our personal situation and too much excoriation of the past in broad brush strokes misses a lot of the detail that can perhaps help us to make wise decisions now. I could talk about my own personal experience of growing up in a marital family and seeing a relationship that was not perfect, but by its aspiration to permanence and the presence of both my father and mother I found myself to be extremely lucky. I would want that for as many people as possible. In saying that I am not judging any other person's experience.

When we talk about the Constitution and what it might promote as an ideal, it is wrong to suggest that is some kind of judgment on those whose situations are different from what the Constitution traditionally viewed as normative. This is the other misunderstanding, not just of the past but also of the genius of Bunreacht na hÉireann. It did and does set an ideal. It sets a direction for things. It seeks to link the understanding of family with marriage. The genius of our Constitution is that it has space, and always did have space, for the provision of social protection outside of that. Provision in law for *de facto* families - the very understanding in the courts of *de facto* families - was never undermined by the provisions of the Constitution. That is the genius and generosity of our Constitution. It may very well set a direction or set forth an ideal - and, as I showed yesterday and will, I hope, show again today, it is an evidence-based ideal when talking about the value of marriage for society but it does not denigrate. People need not feel judged by the constitutional ideal of things, particularly when it has always been clear that the Constitution is capable of being interpreted and legislation is possible and did, and does, happen to vindicate the rights of people in their individual situations. We saw that as late as yesterday in the O'Meara decision. Therefore, we need a greater degree of honesty as to what the Constitution is and is not.

I will submit something else. The Constitution at present "pledges ... to guard with special care the institution of Marriage, on which the Family [with a capital F] is founded, and to protect it against attack". I disagree with Senator Ruane when she says the Constitution does not recognise anything else as a family. The proper interpretation of that clause is that, institutionally speaking, the Constitution recognises the link between marriage and family in broad, general and societal terms, but it was never unconstitutional to see situations that were not in their individual cases founded on marriage as not being families. That is, I think, the true meaning of the Constitution, that, institutionally, yes, the family is founded on marriage, but that does not deny the existence of many different types of families. I do not think anybody ever seriously understood it to do so. Over time, there were distinctions in certain times and places, in particular cases, distinctions that were justified or, when they were not justified, repealed. If, however, the House thinks about whether in fact it was necessary to amend the Constitution to secure any of the benefits for, for want of a better phrase, extramarital children, it will immediately see what I am talking about, that is, that the Constitution has flexibility. There needs to be more generosity towards what our Constitution is and what it seeks to achieve. I use the word "deconstructing" because, notwithstanding the comprehensive nature of what the Constitution is and can be, the Government and the Minister today are proposing to deconstruct and to decouple. This is a referendum proposal that would decouple the family from marriage and decouple marriage from couples because it is not even clear that more than two people may be the basis for founding a family. We have heard from other speakers about the chaotic unpredictability of the phrase "durable relationships" and what it may or may not mean now and into the future. Maybe more relevant to what I will say later on the other referendum proposal,

the Government is seeking to decouple care from that given by fathers and mothers within the home specifically and to take away the specific honouring of that.

Senator Ruane does not need to convince me that men should be made to meet their obligations to provide maintenance and to provide for their children. I would probably go further than many Members and say that anybody who fathers a child in any circumstance, donor or otherwise, should have a legal responsibility for the provision for his genetic children. We will talk about that, no doubt, another day, but let us not excoriate arguments simply because they do not chime with people's personal experiences and preferences. Let us look at things in an evidential way.

My amendments seek to get rid of the addition of a proposed strange wording to the Constitution, that of "durable relationships", and to provide for an alternative using the wording of the Committee on Gender Equality, a committee which, by the way, refused to take the help of my colleague Senator Keogan when offered. My amendments seek to remove the Government's intention to delink marriage from family and from the concept of family. We should not underestimate the extent of the Government's plan to undermine the definition of "family". If it really wanted simply to include what we can generally describe as non-marital families, it could have done so just as my amendment proposes, but it went for the all-embracing option by which a family will mean almost any durable grouping, as marriage likely fits this new category as well, and thus, as a concept, becomes empty of meaning.

That is not an accident. It may have seemed strange to people yesterday that I referred to communism but the truth is that there is an intellectual movement behind the changes proposed here, and I say that with great respect personally for those who are in the vanguard of it but with no fear of naming it and naming precisely what is going on. For neo-communists and the far-left, families are and always have been institutions that perpetuate inequalities, re-enforce gender roles, reproduce class distinctions and re-enforce so-called patriarchal norms. That is their perspective, so modern communists, or indeed progressives, emphasise instead of family the importance of community and collective responsibility in raising and caring for children. This is what I was saying yesterday. What is really at the back of this, in part at the very least, is a desire to supplement or for the State and statism to supplant true respect for families in their constitution and autonomy. The idea is to move away from the nuclear family model and promote a more communal approach to childcare and support. Much of this overlaps with the progressive model of family espoused by An Taoiseach recently, a model which, to quote him, respects "fluidity, diversity and personal freedom". In short, despite the apparent attractiveness of some of those words, what is on offer here is that any grouping is to be a family, and that is exactly what the term "durable relationships" captures. There is no mention of binary and no mention of what durable might mean, other than we know our Supreme Court does not take it to mean lasting, and "lasting" is the word the Taoiseach used in explaining the referendum. Family is to be shorn of its definitional link to marriage. Marriage can give rise to a family, fair enough, but so can any grouping involving any number of adults, it seems, that is, whatever our Supreme Court can tolerate whenever the test cases are brought. This is the pig in the poke that the public are being asked to vote for. The far-left fringe of this Government - it does exist and, though they may be very nice people, their ideology should be clearly named and identified - does not want any legal recognition of gender difference. They want to abolish the word "woman" as far as they can from the Constitution. I take Senator Ruane's point that it is there in some residual form, but it is being taken away where it matters, it could be argued.

(Interruptions).

Senator Rónán Mullen: No. You can check the record, Senator Ruane.

An Cathaoirleach: Will you speak through the Chair, please?

Senator Rónán Mullen: They do not want anything like family to cut across their idea of radical equality. They see men's and women's roles in society as indistinguishable, and to achieve that they will use the Trojan Horse of undefined "durable relationships" to now form the fundamental unit of society. Let us think about that. Any anarchic relationship, once it is durable, which does not mean duration, as we know, can form the unit group of society - a relationship in which no duties or responsibilities are spelled out but which is now to have any privilege to which a married couple might be entitled. Again I ask the question I asked yesterday. Where are the mainstream people in Fianna Fáil and Fine Gael in this? Are they blind? Is this why we had no pre-legislative scrutiny? If we do not ask, we will not be told, and that is a shameful dereliction.

My amendments seek to continue to anchor the family in marriage while extending the cover of family to non-marital, understood as similar to married, relationships. At a minimum, they will protect the binary adult relationship. The wording of my amendment is certainly a reasonable attempt to hit a middle ground here if what the Government says it values it actually does value. As I said, at a minimum, it will protect the binary adult relationship and it will avoid the setting up of new groupings based on durable relationships that will have no responsibilities to one another. Imagine that: relationships that have no responsibility to one another but that can be said on the basis of some vague definition of "durability", non-existent at the moment, to form the unit group of society. The wording proposed by the Government is a classic modern leftist tactic to enshrine in the Constitution something that is essentially meaningless - a durable relationship - so that later it can be invested with any meaning that advances the political progressive cause. In this case, families will mean what you want them to mean. As Humpty Dumpty told Alice - not our friend Senator Alice but a different Alice - "when I use a word, it means just what I choose it to mean - neither more nor less." The Minister might express a view that he does not have throuples, polygamy, strange sects or immigration challenges in mind but that is just his view. If his definition of family is inserted into the Constitution, we have no idea where it can lead. The Minister can reassure us all he wants that the Attorney General sees no issues here with regard to, for example, aspects of immigration and family reunification but we are all wise enough to know that Attorneys General do not possess tablets of stone or fortune-telling crystal balls any more than the rest of us do.

An Cathaoirleach: Is the Senator including Senator McDowell in that?

Senator Rónán Mullen: There is no doubt that some former Attorneys General accede to places of great wisdom and insight but we are all wise enough to know that Attorneys General do not possess these crystal balls. The Minister is not willing to show us the small print.

Continuing to anchor the family to marriage gives us a reference point for what we understand a family to be in principle - a nuclear family and relationships based on kinship. It does not exclude other relationships and, as we have seen, our laws and court decisions are inclusive. When we then talk about non-marital families, it is clear what we mean - that the relationship between members, especially adults and children, includes kinship and is not arbitrary, thus allowing the State to trust generally in family members caring for each other, especially for the children, although that cannot be guaranteed-----

Senator Michael McDowell: As O'Meara did.

Senator Rónán Mullen: -----to always happen, as the O'Meara judgment shows. My amendments are being proposed because as an increasingly troubled society, we should be promoting marriage and not demoting it.

I will go back to the invocation of personal experience, and I respect everybody's personal experience here, including my own. If I say that marriage breakdown and divorce cause a lot of pain to children, am I judging those people who have had to go through that experience? Of course, I am not. I am not denying for an instant people's desire to do the best they can and their best efforts in their individual situation but unless we can talk about what institutions work well and can, on the evidence, be to the benefit of children, we are only really caring about what adults want. Sadly, I see so much of that in legislative and policy initiatives these days where it really seems that the bottom line is children's rights get the lip service but what the adults ultimately want gets the power.

As I said, these amendments are being proposed because as an increasingly troubled society, we should be promoting marriage and not demoting it. Our Government and many NGOs show little appreciation for the value of marriage. Regarding the point made by Senator Craughwell, if any NGO in receipt of any amount of Government money campaigns on one side or the other of this referendum, the first question it should be asked by the media is whether its receipt of Government funding compromises its ability to be a fully honest and independent broker in the assessment of this referendum proposal. Every time the NGO shows up in the media, it should be asked that question because we should always declare our agenda. In business, you declare a conflict of interest-----

Senator Mary Seery Kearney: We should all declare our agenda.

Senator Rónán Mullen: I will always declare mine. If you are a councillor pushing for planning permission, for example, and you have an agenda to declare, you had better show it.

An Cathaoirleach: The Senator is straying from the point.

Senator Rónán Mullen: I accept that and I will not linger on the point except to say that the principles of the McKenna judgment were clear - the Government may not spend public money promoting one side or the other of a referendum. It follows from that in spirit, if not in law, that those receiving public money should be very careful about getting involved in a referendum and must certainly be asked the question each time they show up as to whether their bias has an aspect of self-interest because the Government and many NGOs show little appreciation for the value of marriage.

Marriage is a social good. It has a causal impact on outcomes for adults and children with regard to completing college, earnings in life, social and emotional adjustment, employment prospects and future marriage and mental health prospects. As I said yesterday, the two-parent married home has no competition when it comes to delivering the goods for families. There is a mysterious dearth of studies in this country but the Americans are not slow in evaluating what is good. I make this point because a question has to be asked before we proceed further in this debate. Are we allowed to say what is objectively true and evidence-based or are we to be faulted for finding apparent distinctions in the evidence between what works better or what does not work as well simply because that does not endorse every single person's individual choice, which is always to be respected by me, the State, the courts and everyone else? Are we allowed

to point to what the evidence shows? There has been no research on or promotion of marriage in this country. We wonder aloud why we have high crime in disadvantaged communities where there uncontrolled groups of young people controlling the streets in places, yet we do nothing to harness the value of marriage as a factor while supporting all sorts of other situations where people do great work in giving extra support to those who go it alone in parenting. Can we not look at what the evidence supports to see if there is an argument for honouring marriage? Why else would the Minister want to leave in the Constitution that the State guards the institution of marriage and will protect it from attack? There is an unwillingness to acknowledge what marriage does, there is lip service to continuing to respect it and there is a stripping away of any proposed theoretically and socially ideal link for marriage with the establishments of family in our society in general, with due regard and support for the widest range of situations.

A person in the least affluent social grouping in Ireland is only half as likely to be married as someone in the most affluent group and is three times more likely to have suffered a broken marriage. Does that mean that marriage is just some kind of bourgeois middle-class institution or is it something we should wonder about as to whether marriage has something to contribute to our society?

An Cathaoirleach: I remind Members that we are dealing with amendments and a Bill. Could they keep their points within-----

Senator Rónán Mullen: I will conclude. What I see in this Government proposal is actually an attack on disadvantaged communities more than on anybody else. I have no vested interest in promoting something for some kind of theoretical reason. I call on myself and everybody else to look at the evidence and to see whether there is a reason the State should have some respect for marriage between men and women. Is it just another option in terms of people who want to express their love publicly or does it have some kind of social benefit? That is the question I ask people to interrogate. Do not take my assertions. Do the research. Then, in light of that, can we have a discussion about whether a particular value should be placed on marriage in the Constitution as some kind of ideal or proposed basis for the foundation of families in general terms?

That is what is at issue here because this Government is decoupling family from marriage and decoupling marriage from couples. It can give no good reason except vague assertions about the past. There is a complete failure to give any specific injustice that this referendum change would remedy because we see in our laws and court decisions that people's situations get the respect they deserve. This Government is unable to give any reason for what it is doing outside of an ideological distaste for marriage. That is something it should have to confront in the debate that will lead up to this referendum day.

3 o'clock

Senator Erin McGreehan: This is an exhausting debate, and it is frustrating in many ways. If we go back to what we want to achieve in this referendum, it is quite simple. It is quite clear. It is whether this country and its people want our Constitution - all our Constitution - to catch up with the society that we live in. Those who advocate for a "No" vote have to ask themselves whether they are happy that the Constitution leaves out so many homes. I say "homes" because under the Constitution, they are not families; they are homes. Many homes are left outside and not acknowledged in the Constitution. What I and, I think, this referendum want to say is that those homes that are made up of durable relationships, of people who are not

married, lone parents or a grandmother to her grandson or granddaughter involve families. It is really simple.

Even before this Constitution and all through the years, there have been different sorts of families. We always have had complicated families. It is not new that we have had complicated families. If one looks back to the census of 1911 and those years, one sees complicated families. I might have asked my grandmother who a certain person was who was living with such a person, to be told that he was whoever's son and he lived with us because his parents had died or were living abroad working or whatever. They lived with us but that little part, that unit, was not recognised as a family.

Change can be difficult. There is a fear of change. Sometimes modernity is fearful. The change and that fear is striking in the debate here. I hear talk about how the past should not be talked about. I am sorry but the past shapes our present. It shapes what we do next. It is not a misunderstanding of or not understanding the small context of how the past was experienced by you or by someone else. It is about the misunderstanding or non-acceptance of what the past has done unto people other than you and an acceptance of what the past has done to people.

We talk about intergenerational harm. We talk about the intergenerational legacy in many other ways but there is the effect of what the past has done unto the present. The past is highly relevant in this discussion because what we are trying to do is to bring our Constitution forward. Our legislation has brought us forward but our Constitution has stayed steady.

I got a phone call last night on my way home from Dublin. It was from a lady who is in her 70s. She reminded me of when she was younger and there were great discussions about the lone-parent payment. The talk about town was that they all would be going out and getting pregnant to get the few pounds and they would all want it. Where was that discussion coming from? It was coming from people thinking that it would be just to get the few pounds. That was the argument against that measure, because all young ones would be going out to get themselves pregnant. We have come a long way from that, thank goodness.

Now we have to move a little bit further to say families are different. I was entertained by Senator McDowell's contribution and the view that this referendum is not a push for an acceptance of promiscuity and that you cannot just jump into one cohabiting relationship or one durable relationship and jump out. We are not in Lanigan's Ball here. Just because we pass this referendum does not mean you can run out and leave responsibilities behind. We should have more faith in people. People should have had more faith in young women in the 1970s when they were saying that payments should not be given to single mothers because other ones will just follow suit and get the payment, whatever measly payment it was back then.

There is talk about deconstructing marriage and a demoting of marriage. It is quite the opposite in this referendum because marriage clearly is still there. A valid argument on deconstruction of marriage would be if marriage were taken out of the Constitution. That would validate Senator Mullen's argument.

It does not affect the institution of marriage. Marriage is sacred. It is lovely. It is an acknowledgement, a signed contract. I would say that Senator McDowell, as a senior counsel, loves a good contract. That is what marriage is. Acknowledging a family and its difference in no way downgrades a civil contract, a contract of marriage, and for our Constitution to acknowledge the diversity of people and the diversity of family does not either.

On denying that opportunity, I was struck by Senator Higgins's comment that we will not be able to blame de Valera and Archbishop McQuaid if this referendum is not passed. We will only be able to blame modern Ireland. We will only be able to blame the naysayers. That would be a sad indictment of this country, when it has come so far in the past few decades.

To accept change, you can be fearful of change but should not persecute and downgrade people and their family in their choice of how they run their lives. You can still have your ideal of the family unit under marriage. You can still have that and can still live by that; the constitutional amendment will not affect that.

As a modern and changing country, we should trust people, couples and families and should modernise our Constitution to accept that the ideal never really existed and that the Constitution should reflect our State and reflect that families are made up of difference.

An Cathaoirleach: I note for the benefit of Senator Keogan that I am going by the list I had before me here when I came into the Chair. The list had Senator McGreehan, who has just concluded, and then Senators Martin, Seery Kearney, Ruane, Higgins and Conway. I can include Senator Keogan, if she wishes.

Senator Sharon Keogan: Thank you. I thought he had seen me but that is all right.

An Cathaoirleach: I am just clarifying that when I came in, that was the list I had. I will add Senator Keogan to the list now.

Senator Sharon Keogan: Thank you.

An Cathaoirleach: In order that there is no confusion and that no comments will be passed, I make that clear to everybody.

Senator Vincent P. Martin: As was stated, in the past so-called non-marital families, especially single mothers, were discriminated against and made feel like they were not a full part of society. In this House, which is reflective of society, we have had a number of passionate contributions. We heard from Senator Ruane today, who feels in her experiences she was treated like a second-class citizen. We heard from Senator Garvey yesterday. It is difficult to completely forget about the past but we have to look to the future. Thankfully, this country has grown and travelled in a fairly good direction in recent times. The amendment makes it clear in our Constitution that the family extends beyond the marital family and includes one-parent families and cohabiting couples and their children. By making it clear that it extends beyond what we would call the "traditional" family, it is a recognition of reality. It would be easier for the Minister, his party and, indeed, the three parties in government to park this because that is what happened for generations: "Just do not deal with this one, it is a difficult one and let it go for another generation." It presents challenges. Those challenges must be considered and contested where appropriate. I would expect nothing less than a robust debate. That is the beauty of life - we do not all agree. As someone who has worked with Senator McDowell for over a quarter of a century, I assure the House that I am not personally disgusted and no one should be because he has a genuine viewpoint. He said that at the outset. We should not question people's motivations when they put their coherent views from their perspective forward. It does not help to personalise it.

It is not so much a time to be generous but a time to be fair and inclusive. The language of Article 41 of the Constitution currently serves to limit the concept of the family to the marital

family only and does not reflect the reality of our modern society. The proposed amendment updates our Constitution in this regard to reflect and recognise families in Ireland in a more holistic, inclusive and modern way. In doing so, it responds to the recommendations of the citizens' assembly.

Let us not forget the overriding focus and purpose of the proposed wording is to be more inclusive to reflect the values of equality. It has been said but is worth repeating that the amendment reaffirms the family as a fundamental unit of society but in doing so recognises families beyond those based on marriage. If we think of the O'Meara judgment yesterday, it was exceptionally brave for a plaintiff to come forward and lose in the High Court. I do not have the facts behind that case but the State might say, "Leave it here and there is no cost involved". The plaintiff went again and the Supreme Court gave him a judgment. I believe the judgment yesterday was fair but had this proposed constitutional referendum been enacted before that judgment, that plaintiff would have had fewer sleepless nights waiting on the judgment. Of course, we do not overly prescribe in our Constitution. It is not supposed to be forensic. It is not the Legislature. It sets out the fundamental rules.

An Cathaoirleach: I apologise to the Senator. I will cut across him for one second. I acknowledge the presence in the Gallery of the iar-Chathaoirleach and former Senator Denis O'Donovan, who is here with guests from the wonderful towns of Ballincollig and Skibbereen. They are all welcome to Leinster House today. I hope they have a pleasant visit.

Senator Vincent P. Martin: I welcome former Senator O'Donovan and his visitors to the Gallery. It is a good day to be here because they will see our Chamber in action. Yesterday, we were all on the one page paying tribute to a Member who gave 36 continuous years of unbroken service. As an Independent, Senator Norris made a huge impact. Today, we agree to disagree and that is part of democracy. The visitors, who may be going back to County Cork this evening, are witnessing that at first hand today. It is good for democracy to see the workings of our democratic system in progress.

I referred to the O'Meara judgment. We are talking about the separation of powers. The court quite often leads the way and tells the Legislature what to do. It is up to the Legislature to lead and for the court to adjudicate, perhaps, or to give guidance. Once again, yesterday, the Supreme Court told us that our current legislation is not in keeping with fairness, thankfully, due to the children's referendum that won the day, about all our children being treated equally. We should also remember the constitutional clause of all being equal before the law.

I support and agree with the findings of McKenna judgments one and two. It is a big leap of faith with which I do not agree to extend those to expert stakeholders in advocacy groups in this area and to question their motives when their very foundation stone is to advocate for people who often have no voice. While I am delighted with the McKenna judgment that the Government should stay well clear of ever financing one side of a referendum, I would hate to think that advocacy groups on either side of any referendum would not share their views. I am not saying Senator Mullen said that but he thinks they should verbally declare where they are coming from at the outset of a press conference.

Senator Rónán Mullen: And be asked the question.

Senator Vincent P. Martin: And be asked the question. I respectfully agree to disagree.

An Cathaoirleach: Can we all stick to the groupings of amendments before us?

Senator Vincent P. Martin: I will read into the record of the House the view of One Family Ireland, the national organisation for one-parent families and people sharing parenting or separating. It has come out for a “Yes” vote. I respect its view because it is on the front line. I do not question that there are some ulterior motives behind what they say. They should give guidance and be respected because they are experts who are stakeholders in this area. It has said:

The Family Referendum presents a unique opportunity to end the exclusion of children, parents, and couples in unmarried families from our Constitution and acknowledge their importance. It represents a significant step [forward] towards addressing the injustices faced by single and unmarried parents throughout Irish history, including societal discrimination and institutionalisation. This referendum symbolises reparation and recognition for those who have long been shamed. Through this referendum, the Constitution will extend its protection to various types of families, such as unmarried parents and their children, one-parent families and unmarried couples.

It seems to be put forward by those opposed to the referendum that if we pass this, the family unit will be collaterally attacked or damaged by facilitating people who want to catch up and enjoy some of the same rights which they have been abysmally neglected for so long. We have seen the interpretation of Bunreacht na hÉireann in operation as recently as yesterday. Many people, including retired Chief Justice Susan Denham, often refer to the Constitution as a living document. It will live better when we pass these referendums. It will be easier to give guidance. We are duty-bound as legislators not to leave it to the courts but to lead the way. We have a vibrant court but I would say no to putting something in the Constitution that is overly prescriptive and forensic. Yes, some contributors said there will be knock-on consequences both from yesterday’s judgment and the outcome of these referendums if they are passed.

However, that is no reason to not do them. Those challenges are not insurmountable. They will be challenging but, unfortunately, when it comes to constitutional law in the courts, litigation plays an important role. People who are bona fide *locus standi* and have a proper case, with help and guidance on the finer points, even if the plaintiffs go down in the Supreme Court, should not be followed for costs by the State. Indeed, there are times when an application for costs for that vital clarification, even if it is in favour of the State when it is delivered, should be an exception to the rule of costs. In conclusion, there is no diminution to the family unit but we are helping tens of thousands of other members of society and giving them some recognition for once. In doing so, we are reflecting our values in terms of equality in a more inclusive and updated way.

An Cathaoirleach: I will take Senator Keogan next. I thank Senator Seery Kearney for yielding to the Senator.

Senator Sharon Keogan: I thank the Senator very much. We heard yesterday and today tones and speeches on the referendums to the effect that this has got nothing to do with men. People are speaking very-----

An Cathaoirleach: I am sorry; before the Senator starts, I remind all Members that we have 30 minutes remaining.

Senator Sharon Keogan: Okay, I will only use a few minutes.

An Cathaoirleach: I was not referring to the Senator at all, just in case she thinks I was.

Senator Sharon Keogan: This has nothing to do with men-----

(Interruptions).

Senator Sharon Keogan: I will not take too long. It has nothing to do with men. We are talking down-----

Senator Lynn Ruane: Nobody here has said anything-----

An Cathaoirleach: I am sorry; Senator Keogan without interruption, please.

Senator Lynn Ruane: I have listened to this whole debate and nobody-----

An Cathaoirleach: I am sorry, Senator.

Senator Lynn Ruane: No, I just think it is misrepresentative. Nobody is here today saying-----

An Cathaoirleach: I am sorry, Senator. Through the Chair, please.

Senator Lynn Ruane: -----it has nothing to do with men.

An Cathaoirleach: Senator Keogan without interruption, please.

Senator Sharon Keogan: I apologise for interrupting Senator Ruane earlier.

Senator Lynn Ruane: It has everything to do with men.

An Cathaoirleach: Senator Keogan without interruption, please.

Senator Sharon Keogan: Absolutely. I want to remind the women in this Chamber that they are going to face the electorate of the Seanad and Dáil and the European elections. They will be seeking votes from half the population who are men.

Senator Lynn Ruane: I am sorry-----

An Cathaoirleach: That is irrelevant to the Bill.

Senator Lynn Ruane: I am sorry; the Senator is completely misrepresenting-----

An Cathaoirleach: Is the Senator making a point of order?

Senator Lynn Ruane: Has Senator Keogan been listening to the debate? On a point of order, she is misleading the Chamber.

Senator Sharon Keogan: The family-----

An Cathaoirleach: The Senator may make the point of order where she stands, please.

Senator Lynn Ruane: On a point of order, I feel that Senator Keogan is-----

An Cathaoirleach: I am sorry-----

Senator Lynn Ruane: On a point of order-----

Senator Sharon Keogan: You know, I-----

An Cathaoirleach: One second, Senator Keogan. I am sorry; a point of order has been raised. I want to hear the point of order.

Senator Sharon Keogan: I am not giving way.

An Cathaoirleach: The Senator has no choice.

Senator Sharon Keogan: Okay.

An Cathaoirleach: A point of order has been raised.

Senator Lynn Ruane: On a point of order, I have sat through the debate today. I watched the debate yesterday.

An Cathaoirleach: What is the point of order?

Senator Lynn Ruane: The point of order is that the Senator is misleading the Chamber and giving the impression-----

An Cathaoirleach: That is not a point of order. She is making-----

Senator Lynn Ruane: It is a point of order. She is misleading the Chamber.

An Cathaoirleach: Senator Keogan is entitled to make her contribution. Senator Ruane may disagree with what she is saying-----

Senator Lynn Ruane: She is misleading the Chamber. I do not disagree.

An Cathaoirleach: I do not think she-----

Senator Lynn Ruane: It is an actual lie if we are going to be honest.

An Cathaoirleach: The Senator cannot use that term. Withdraw that remark, please.

Senator Lynn Ruane: I am sorry; Senator Keogan is lying on the Seanad record-----

An Cathaoirleach: The Senator cannot use that term.

Senator Lynn Ruane: -----and making the impression that some people here-----

An Cathaoirleach: The Senator has to withdraw that-----

Senator Lynn Ruane: -----have not included men in the conversation.

An Cathaoirleach: I ask Senator Ruane to withdraw the remark, please.

Senator Lynn Ruane: I will not.

An Cathaoirleach: The Senator is accusing a Member of-----

Senator Sharon Keogan: I am sorry-----

An Cathaoirleach: She has made a charge. That is not-----

Senator Lynn Ruane: I will not.

An Cathaoirleach: She cannot do that.

Senator Lynn Ruane: Nobody here-----

An Cathaoirleach: The Senator cannot do that.

Senator Lynn Ruane: I spoke about my daughter's fathers here today-----

An Cathaoirleach: Senator Ruane-----

Senator Lynn Ruane: -----and the importance of their role in her life. I am not having this woman sit here and make out-----

An Cathaoirleach: Senator Ruane-----

Senator Lynn Ruane: -----that some conversation has happened that has not happened.

An Cathaoirleach: Senator, I am just trying to be fair to everybody. You cannot use that terminology in the Chamber. Senator Keogan or any other Member is entitled, as you are, to put his or her case in the Chamber, as Senators have all done today. I have heard most of the debate here and in my office.

Senator Lynn Ruane: There is a difference between putting your case-----

An Cathaoirleach: I understand-----

Senator Lynn Ruane: -----and misrepresenting people's contributions in the Chamber. They are very different.

An Cathaoirleach: I ask Senator Ruane to please withdraw the charge.

Senator Lynn Ruane: I will not. If Senator Keogan withdraws her misrepresentation of Members' comments, I will withdraw it, but she is making out that people have said things that they have not said. It is not fair because we all have families. We all have people invested in this and we all have men in our lives. It is so dishonest. It is actually unethical, and I would plead with-----

An Cathaoirleach: Please, Senator Ruane.

Senator Lynn Ruane: I would plead with my colleague, Senator Keogan, to actually re-think what she just said.

An Cathaoirleach: Senator Keogan may resume her contribution.

Senator Sharon Keogan: I thank the Cathaoirleach very much.

Senator Rónán Mullen: On a point of order-----

An Cathaoirleach: I will let Senator Keogan speak for one second. Does Senator Mullen want to make a point of order now?

Senator Rónán Mullen: Yes. What is the rule if somebody accuses somebody?

An Cathaoirleach: I will consult on the rules.

Senator Rónán Mullen: It has to apply equally across the House. That is all. I know the Cathaoirleach would want that.

Senator Sharon Keogan: Shall I continue?

An Cathaoirleach: Yes, please.

Senator Sharon Keogan: I will never disrespect anybody's lived experience. I will not do that. However, I hear women from the Government side who seek to invoke women's experiences in the Magdalen laundries or mother and baby homes. What did they do to help those women all those months ago when they were emailing in their thousands about problems with the still undelivered redress scheme? They did nothing; absolutely nothing. They were silent when the chips were down, but those women are useful to them now again when they use their names in vain for their own purposes during this debate. They know in their hearts and souls that those women's experience did not come from the Constitution, nor were they prescribed by it.

The family enjoys special status within the Constitution, but what discrimination does a child in an unmarried family face now? We are trying this afternoon to fix attitudes from the bad old days that no longer exist in 2024. My only problem is with the phrase "durable relationships". Marriage is a legal document. What happens when durable relationships end? There is no legal document. If non-married couples break up, will they need to pay maintenance for members of their durable relationship even if they are not biologically related? Is this possible? The problem is that we do not know.

I have a family. I might be divorced, but I still consider my family to be called a family, just like Senator McGreehan, who is not married, and, indeed, Senator Ruane. They consider their families to be a family unit. We should be strengthening that family unit. We should be supporting people who are on their own and giving them more supports. Maybe if we did, we would not have the mental health issues this country is facing with its children and teenagers today. For me, therefore, the issue is durable relationships. We do not know what it is. The Judiciary does not know what it is. Before it leave these gates, we should know what that phrase means. Unfortunately, this amendment to the Constitution does not define that and for me it is a big "No".

An Cathaoirleach: Go raibh maith agat. I call Senator Seery Kearney.

Senator Mary Seery Kearney: I thank the Cathaoirleach. I thought for a horrible moment I would not get a chance. I have heard both men and women represented here today.

When we look at the Constitution, we must consider that it is the overarching document by which the Supreme Court has to make decisions in the interpretation of legislation. Therefore, any legislation that goes through this House gets the presumption of constitutionality. However, that presumption has to be tested in the court and yesterday we saw that. We saw a situation where a piece of it was tested and found to be wanting in its scope. The Supreme Court has to view things through the confines of the Constitution in whatever way the Constitution sets out and within the parameters as set out and voted on by the people of Ireland. Therefore, what it says is really important because anything that we put through this House could ultimately have its constitutionality tested in the Supreme Court. We have had situations like yesterday's decision where a blatant injustice is tested and articulated to the Supreme Court, and the Supreme Court made a very good and comprehensive decision in that regard. However, it did not do it

with the definition of family and marriage because it is not there. It had to be creative. It had to find another route to justice.

The Supreme Court should not have to do that. Any of us looking at that case yesterday would have said that man should have had the financial support of the State, and we will still have to legislate for him to have it because yesterday did not mean he is a cent richer today - he is not. The Supreme Court had to look at it through the lens of the equality of children, which is a recent amendment to the Constitution, and the rights of a parent or the obligations and duties of a parent. It looked at it through that relationship, not through the horizontal relationship of him to his partner of 20 years. We have to think about the fact the Constitution sets the boundaries upon which the Supreme Court can make decisions. Yes, it does point to where there are lacunae and gaps and it will challenge the Legislature to say that it needs to take action, but it is still confined and does not have the latitude to speak justly to a situation if it is not there in the Constitution.

What we have never had, to my knowledge, although I stand to be corrected, is somebody who goes on and says that the corollary of yesterday's decision is along the lines of "I am married and, therefore, I should have this right and nobody else should." That would just not be something that would go to the Supreme Court. However, we stand at risk of something like that happening if we do not amend the Constitution. If we do not broaden the definition of family, we stand to have that elevated hierarchy of the institution of marriage standing and being the reason for injustice to other families.

That does happen. The State does go in and argue that particular instances in front of it are not deserving of the constitutional protections of the family. The unenumerated rights within the Constitution require that kind of interpretation. With regard to a family's right to privacy, they do not have it if they are not a constitutional family. We need to address this. We need to ensure that the Supreme Court has that scope to include all permutations of family.

While, in 1937, it was perhaps unimaginable to have families not founded on marriage, the fact is that, today, a lot of children are born without their parents being married, and we heard yesterday the percentage is 42%. They have enduring relationships. Mr. O'Meara was in a relationship for 20 years. There is no less of a commitment and people do not necessarily feel they have to be married in order to have committed and durable relationships. If we look at the implications of what we mean by durable relationships and if we look back to the Children and Family Relationships Act, we see that it contains criteria on living together for guardianship and on circumstances of cohabitation. There are signposts there as to what we mean by durable relationships. It is to be obtuse to say that it can be stretched beyond possibility. I stand as a mother of a child, and even when this comes in, we will not be considered a constitutional family, and we will require legislation to do that.

We need to consider the consequences that flow from making this change. The first one that strikes me concerns the Family Home Protection Act 1976, which defines the family home as a dwelling in which a married couple resides. Where two people buy a home together or have a home together, where one contributes and it might be in the other's name, we need to ensure that that family home is protected whether it is founded on marriage or not. On that note, being married does not guarantee someone the assets out of the marriage in the situation of the dissolution of that marriage. There are many circumstances, which were well articulated by Senator Ruane, where no maintenance is paid, where access orders are not honoured and where people blatantly give up jobs. Through counselling over the years, counselling of women in particular,

I know of situations where men gave up their jobs to be assured they would not be found to have to contribute towards the mortgage and where families found themselves destitute due to deliberate acts of badness. They were married but it did not protect them from that at all.

I do not do family law because the immorality of some of the actions by people in the break-up of relationships is just so horrific. I think I was briefed once, and I shouted at my client because I found him abhorrent. It was not for me.

There are decisions that have to be made. We need to consider the scope and amend social welfare and a whole heap of things regarding pensions, access and assets. All of that needs to be done. If we look at the pure definition of durability, it is to be able to withstand wear and pressure and to be hard-wearing. There is a longitudinal view of it. We cannot be casual about it. We need to interpret it with sensibility. There are things there that give us all the signposts we need for how this will be interpreted but any clarification from the Minister would be useful and good.

I am old enough, just about, to remember when the Berlin Wall came down - that is how old I am. It was 30 June 1991 and that day has been a national holiday in Hungary since then. It was the day the last member of the Soviet army left Hungary and went back to Russia. That day is a national holiday in Hungary because it was such a significant day in their history. It would have been unthinkable at that time to imagine that the day would come when the Prime Minister of Hungary would block aid to Ukraine in the face of Russian hostilities against that country. It would have been unthinkable over the years, given the progress there, that Poland would start moving against LGBT people. It would have been unthinkable that a member state of the European Union would undermine its own Supreme Court and the rule of law. All of these things in Hungary and Poland were utterly unthinkable and we do not know what the future holds.

The worst-case scenario for me, as a member of Fine Gael, is not necessarily a Sinn Féin government; it is a right-wing government in this country. It is all of those prospects and possibilities that come around through the manipulation of people through social media. There are unthinkable sites of arson around our country. Having a Constitution that is robust and reflects the values of our people at a time when we are inclusive, generous and progressive is very important and it means the undoing of that cannot be simply done by any permutation of a future government in our country. The fact that it has to go to the people to change the definition of family is very important and it would have to go to the people again if ever we were to take an extreme right or left turn.

This is something that we need to do and we need to do it urgently. We need to reflect family as we know it in our country. It needs to be elastic. The durability needs to be elastic to reflect family as we know it to be and as is the lived experience across all of our society. I support this absolutely.

As regards NGOs, I do not know what sort of committees Senator Mullen sits on.

Senator Rónán Mullen: Too many of them.

Senator Mary Seery Kearney: Too many for all of us. I sit on the housing committee and the children committee. I can tell the Senator that many an NGO has come in and absolutely torn the Government apart because that is democracy. In fact, we fund them to do it at times in order to point out where our deficiencies are. The idea that their loyalty or “Yes” votes can be bought or coerced is one that I find objectionable - it is obscene, to be perfectly honest.

Senator Rónán Mullen: I was-----

An Cathaoirleach: We are pressed for time so I ask for Members' co-operation. I dispute that and I also honour the agency of the NGOs in this regard. I have nothing more to say. Everything has been said at this stage.

An Cathaoirleach: Senator Conway is next. We are running out of time and I am conscious that we have not heard from the Minister yet. Will Members be precise and brief so we can get everybody in before the end of the time, which is fast approaching?

Senator Martin Conway: I will not delay the House at all. Senator Seery Kearney has eloquently articulated a lot of my viewpoints. I think this referendum is important. My only regret in many ways is that it is happening so late in the cycle of the Government. It should have happened earlier, two or three years ago had it been possible. As a matter of fact, this referendum should have happened a long time ago. We must bear in mind that the Constitution we are working from was drafted in 1937. The world we now live in, compared to the world in 1937, is fundamentally different. There are fundamentally different values. There is a fundamentally different respect structure out there that did not exist. I have listened to a lot of the contributions today and I listened to Senator Ruane's contribution earlier this afternoon. A lot of what she said I very much agree with. There is a notion that this referendum will go against women. She rightly pointed out how many times women are mentioned in the Constitution. I think twice is correct. I think it is abhorrent to a large extent. The Constitution does not respect equality at all. If I had my way, we would tear up the Constitution and write a new one, but that is not going to happen.

Senator Rónán Mullen: I would not bet against it.

Senator Martin Conway: We would just write a completely new Constitution that is fair and respectful to everybody. However, the people will ultimately decide this. What better way to demonstrate democracy than to have a referendum and let people decide it. In my closing comment I will say one thing, which is let us have a respectful engagement and debate. That is what the people deserve. I sincerely hope the Minister will lead the way in articulating the case for a "Yes" vote.

An Cathaoirleach: On a point of order, I ask Senator Ruane to reflect and withdraw her comment.

Senator Lynn Ruane: I withdraw the comment calling Senator Keogan a liar. What I do stand over-----

An Cathaoirleach: She should not repeat it again, but I thank her for withdrawing.

(Interruptions).

Senator Lynn Ruane: I want to emphasis the inaccuracy. It is unfortunate because, whether or not you are on the opposition side of this referendum-----

An Cathaoirleach: Can I-----

Senator Lynn Ruane: Yes, this relates to the amendment.

An Cathaoirleach: I want to get the Minister to come in as well. I will call him by 3.45

p.m. at the latest.

Senator Lynn Ruane: On the amendments and discussions today, it was a conversation that did nothing but include men. I spoke about my father and wanting to be associated directly with him as my father. I spoke about my children's fathers and in the absence of something happening to me I want them to be directly recognised in our Constitution, as they should be, as their family. All the conversation around unmarried couples is inclusive of men. They are literally part of the conversation. What was said was inaccurate because it is unfair to the actual amendments. Our amendment states, "between parent and child". It does not state, "between mother and child". If this were about removing men from any conversation these amendments would say mother and child. They clearly say that durable relationship should explicitly state, "parent and child". The relationship is about durable relationships regardless of the gender of the parent. We need to emphasis that is what it is about.

I pick up on the point about the deconstruction of marriage. I do not believe we should deconstruct marriage at all. I am happy it is still there. I am fine with that. I think a large portion of society believes in marriage and wants to get married. I think it only right they are also represented within the Constitution. However, I suppose I take issue with comments that are also shameful in nature – throwaway comments about criminality and marriage. I have just spoken about the shame we felt growing up in unmarried families. There is now a connection made, saying that you are more likely to be involved in criminality if you come from a single-parent household. That was the assertion made today. It is very unfortunate-----

Senator Rónán Mullen: That was not the assertion. Now, who is misrepresenting?

An Cathaoirleach: Senator Ruane, without interruption.

Senator Lynn Ruane: Criminality is directly related to poverty-----

Senator Eileen Flynn: Hear, hear.

Senator Lynn Ruane: -----and poverty in one-parent households is directly related to the failure of the State and to the lack of recognition within the Constitution. Criminality is related to poverty. Poverty has been a failure of the State in terms of supporting single-parent households for generations. If you want to make the real connections, you can.

Senator Rónán Mullen: All true, but marriage-----

An Cathaoirleach: Go raibh maith agat.

Senator Lynn Ruane: It is not about marriage.

An Cathaoirleach: I thank Members. Senator Conway's final remarks were about a debate that is respectful and tolerant. Can we keep that in mind?

Senator Martin Conway: The people would expect that we have a respectful debate.

An Cathaoirleach: We conclude in six minutes.

Deputy Roderic O'Gorman: I thank the Senators for their amendments and for their detailed contributions this afternoon. The majority of the amendments put forward relate to the section of the Bill that deals with the proposals in Article 41.1.1° of the Constitution. I will restate the amendment being proposed by the Government: "The State recognises the Fam-

ily, whether founded on marriage or on other durable relationships, as the natural primary and fundamental unit group of Society, and as a moral institution possessing inalienable and imprescriptible rights, antecedent and superior to all positive law.” In this new restatement of Article 41.1.1°, a married family is a constitutional family, but a durable relationship represents a constitutional family too. The reason for this proposal is to expand that definition of family under the Constitution solely beyond the marital family to include cohabitants with or without children, and to include one-parent families. The approach proposed by the Government will acknowledge a broader and more inclusive definition of the family. However, we want to do that up front. We want to do it at the very start of the article on the family - Article 41.1.1° - where that specific recognition of the family is set out. This is a deliberate choice. We know, and it has just been spoken about, that some of the most marginalised families in our country’s past and present are one-parent families. The Government thinks it is important to have this positive and upfront recognition of the concept of family in Article 41, and states that it is no longer limited to the marital family but also encompasses other durable and committed relationships - namely, one-parent families, cohabiting couples, and any children they have.

This broadening of the definition of the family also requires an amendment to Article 41.3.1°. Section 1(1)(c) of the Bill proposes inserting an amended version of Article 41.3.1° that omits the words “on which the family is founded”. That article will read that “The State pledges itself to guard with special care the institution of Marriage and to protect it against attack.” The reason for this is that, to date, that article has always been read by the courts as saying that the constitutionally protected family can only be the marital family. That is why we need to delink those two concepts. However, it is to delink and not deconstruct. I will come back to the issue of deconstruct.

The proposed amendments from Senator Hoey and her colleagues have much the same effect, but they have a slightly different take in drafting. I again appreciate the agreement in intent. I do not propose to accept this particular amendment because I believe that clear statement up front in Article 41.1.1° is important in terms of recognition. A number of Senators have proposed formulations involving the words, “including, but not limited to”. I think they were Senator Higgins and Senator Ruane and her group, and separately Senator Mullen. I understand some of the amendments in that particular group reflect a concern about the term “durable relationships”, and in particular whether it covers the parent-child relationship. I make it clear that the clear intention of the term “durable relationship” is that it covers the parent-child relationship. That is clearly supported by the fact that the term “family” used in Article 41 is also used in Article 42.1, again in a context where it clearly encapsulates a parent-child relationship.

As such, this definition is far more expansive than a definition from EU law of a similar term relevant to the EU citizenship directive. The Government’s proposed wording of “durable relationships” would expand the constitutional concept of a family to cohabitants, with or without children, as well as to one-parent families. I appreciate that some Senators may have wanted to go even further, to open some more non-exhaustive wording in terms of the proposed amendment. While this may be the intention of the proposed amendments, it is the case that Article 41 already sets out clear guardrails which describe and delimit the concept of the Constitution within the family. These describe the family as a fundamental unit group of society, as a moral institution and as a necessary basis for social order. These existing guardrails within Article 41 are powerful concepts.

Senator Rónán Mullen: They are not guardrails; they are descriptions.

Deputy Roderic O’Gorman: With respect, they are.

The inclusion of the term “durable relationships” builds in a consistent way on those current guardrails. Rather than taking the approach of solely deleting the words on which the family is founded from Article 41.3.1° or using a formulation of “including but not limited to”, the approach further reinforces that concept of the family as a fundamental unit group in society. It is one that is founded on strength, stability and commitment.

I note that Senator McDowell’s amendment seeks to further qualify the term “durable relationships” in terms of introducing the term “between two persons as may be prescribed by law”. In respect of durable relationships being prescribed by law, the concern is that this approach would involve differential treatment between families founded on marriage and those not founded on marriage. The former would automatically fall within the constitutional definition and protection. The latter would only do so if they satisfied relevant statutory provisions.

Senator Michael McDowell: Exactly. That was the intention.

Deputy Roderic O’Gorman: Respectfully, we disagree with that approach.

Importantly, the second element of the Senator’s proposal is the restriction of the term “durable relationships” to one that only arises between two people. We have a real concern with that in the situation where there is a one-parent family with more than one child or there is a cohabiting couple with children. We have always been clear that those family relationships have to be protected within what we are trying to propose here. I feel that the outcome of the Senator’s particular proposal limiting to two-parent families would completely undermine that effort to make sure-----

Senator Rónán Mullen: It would run the risk of excluding-----

An Cathaoirleach: Senator Mullen, the Minister did not interrupt you. You had plenty of time. You know the rules of the House better than most.

Deputy Roderic O’Gorman: That would fundamentally undermine efforts to protect families where there is a parent and two children

An Cathaoirleach: I ask the Minister to please conclude.

Deputy Roderic O’Gorman: I want to speak on the point about the special protection of marriage, one that remains constitutionally recognised if this amendment is passed. That special protection remains there. It remains the basis for the State to make distinctions in the areas of inheritance and taxation. I would like to quote from what the Chief Justice said yesterday.

An Cathaoirleach: Please conclude. I appreciate the Minister having been perhaps the most patient person in the Chamber.

Senator Rónán Mullen: I can assure the Minister we do not like the guillotine either.

Deputy Roderic O’Gorman: I have listened patiently to the Senator and to everybody else and I would expect the same courtesy in return.

The Chief Justice stated yesterday “It seems clear that it is not constitutionally impermissible to distinguish *per se* between marriage and a long-term relationship, not least because the Constitution makes that distinction itself.” Contrary to what Senator Mullen said, marriage is

not being deconstructed. That was a statement of our superior courts yesterday in terms of the existing distinction that can be made. As to whether what we are proposing, in terms of the amendment to the definition of “Family”, will change that, I do not believe it will. What the family amendment is doing is fundamentally broadening the definition of the constitutional family. It does not take away from the special protection of marriage that exists in the Constitution. I think it is fundamentally important to say that.

To conclude, Senator McDowell stated that the O’Meara case shows why this referendum is not needed. Yes, the O’Mearas won on the basis of an inconsistency in terms of the application of the social welfare legislation. However, the Supreme Court was clear in the case that the definition of the family in the Irish constitution is only one based on marriage. It took a differential approach and said it would not redefine it. It stated it was up to the Irish people, to us the electorate, to make that change. On 8 March, we have the opportunity to make the change. We have the opportunity to include cohabitees and one-parent families within the protection of our Constitution, but just as importantly within the recognition of our Constitution. This is an important and meaningful change and one that is long overdue.

4 o’clock

An Cathaoirleach: Ó tharla an t-am a cheadaítear le haghaidh na díospóireachta seo a bheith caite, ní foláir dom an cheist seo a leanas a chur de réir ordú an lae seo ón Seanad: “Go bhfuil leasú Uimh. 3 arna chur ar neamhní leis seo i gcoiste; go bhfuil ailt 1 agus 2 arna chomhaontú leis seo i gcoiste; go n-aontaítear leis seo leis an Sceideal i gcoiste; go n-aontaítear leis an Réamhrá agus leis an Teideal leis seo i gcoiste; go dtuairiscítear an Bille gan leasú dá réir sin don Teach; go ndéantar leis seo an Ceathrú Céim a chríochnú; go ndéantar leis seo an Bille a ghlacadh chun an breithniú deiridh a dhéanamh air; agus go ndéantar leis seo an Bille a rith.”

The time permitted for this debate having expired, I am required to put the following question in accordance with the order of the Seanad of this day: “That amendment No. 3 is hereby negatived in committee; that sections 1 and 2 are hereby agreed to in committee; that the Schedule is hereby agreed to in committee; that the Preamble and the Title are hereby agreed to in committee; that the Bill is accordingly reported to the House without amendment; that Fourth Stage is hereby completed; that the Bill is hereby received for final consideration; and that the Bill is hereby passed.”

Cuireadh an cheist.

Question put.

An Cathaoirleach: Will the Senators who are claiming a division please rise?

Sheas na Seanadóirí Craughwell, Keogan, McDowell agus Mullen.

Senators Craughwell, Keogan, McDowell and Mullen rose.

An Cathaoirleach: As there are fewer than five Senators, I declare the question carried. The names of the Senators who rose will be recorded in the Official Report and Journal of Proceedings of the Seanad.

Ráiteas mar Eolas do Vótálaithe i ndáil leis an mBille um an Naoú Leasú is Tríocha ar an mBunreacht (An Teaghlach), 2023: Tairiscint

Statement for Information of Voters in relation to the Thirty-ninth Amendment of the Constitution (The Family) Bill 2023: Motion

An Cathaoirleach: The motion was debated yesterday in conjunction with the Second Stage of the Bill. I ask the Deputy Leader to move the motion.

Senator Pauline O'Reilly: Tairgim:

“GO ndéanfar an ráiteas atá leagtha amach sa Sceideal a ghabhann leis an Rún seo a fhorordú mar eolas do vótálaithe, de bhun alt 23 d’Acht an Reifrinn, 1994 (Uimh. 12 de 1994), i ndáil leis an togra chun an Bunreacht a leasú, atá ar áireamh sa Bhille um an Naoú Leasú is Tríocha ar an mBunreacht (An Teaghlach), 2023, agus is ábhar do reifreann bunreacht.

An Sceideal

An Bille um an Naoú Leasú is Tríocha ar an mBunreacht (An Teaghlach), 2023 –
Páipéar Ballóide Bán

Ráiteas mar Eolas do Vótálaithe

Fiafraítear díot sa reifreann seo an aontaíonn tú leis an togra—

(a) chun fo-alt 1^o d’Airteagal 41.1 den Bhunreacht a leasú trí “, bíodh sé bunaithe ar an bpósadh nó ar chóngais bhuanfasacha eile,” a chur isteach i ndiaidh “an Teaghlach”, ionas go bhforálfaí leis an bhfo-alt mar a leanas:

“1^o Admhaíonn an Stát gurb é an Teaghlach, bíodh sé bunaithe ar an bpósadh nó ar chóngais bhuanfasacha eile, is buíon-aonad príomha bunaidh don chomhdhaonnacht de réir nádúir, agus gur foras morálta é ag a bhfuil cearta doshannta dochloíte is ársa agus is airde ná aon reacht daonna.”

agus

(b) chun an fo-alt seo a leanas a scríosadh as Airteagal 41.3 den Bhunreacht:

“1^o Ós ar an bPósadh atá an Teaghlach bunaithe gabhann an Stát air féin coimirce faoi leith a dhéanamh ar ord an phósta agus é a chosaint ar ionsaí.”

agus an méid seo a leanas a chur in ionad an fho-ailt sin:

“1^o Gabhann an Stát air féin coimirce faoi leith a dhéanamh ar ord an Phósta agus é a chosaint ar ionsaí.”

Má thoilíonn tú leis an togra, cuir X os coinne an fhocail **Tá** ar an bpáipéar ballóide.

Mura dtoilíonn tú leis an togra, cuir X os coinne an fhocail **Níl** ar an bpáipéar ballóide.

Is féidir féachaint ar chóip den Bhille ar an idirlíon ag www.oireachtas.ie

I move:

THAT the statement set out in the Schedule to this Resolution be prescribed for the information of voters, pursuant to section 23 of the Referendum Act 1994 (No. 12 of 1994), in relation to the proposal to amend the Constitution which is contained in the Thirty-ninth Amendment of the Constitution (The Family) Bill 2023 and is the subject of a constitutional referendum.

Schedule

Thirty-ninth Amendment of the Constitution (The Family) Bill 2023 – White Ballot Paper

Statement for the Information of Voters

You are being asked, in this referendum, if you agree with the proposal –

(a) to amend subsection 1° of Article 41.1 of the Constitution by the insertion of “, whether founded on marriage or on other durable relationships,” after “the Family”, so that the subsection would provide as follows:

“1° The State recognises the Family, whether founded on marriage or on other durable relationships, as the natural primary and fundamental unit group of Society, and as a moral institution possessing inalienable and imprescriptible rights, antecedent and superior to all positive law.”

and

(b) to delete the following subsection from Article 41.3 of the Constitution:

“1° The State pledges itself to guard with special care the institution of Marriage, on which the Family is founded, and to protect it against attack.”

and to substitute that subsection with the following:

“1° The State pledges itself to guard with special care the institution of Marriage and to protect it against attack.”

If you **approve** of the proposal, mark X opposite the word **Yes** on the ballot paper.

If you do **not approve** of the proposal, mark X opposite the word **No** on the ballot paper.

A copy of the Bill may be viewed on the internet at www.oireachtas.ie”

Cuireadh agus aontaíodh an cheist.

Question put and agreed to.

An Bille um an Daicheadú Leasú ar an mBunreacht (Cúram), 2023: Céim an Choiste (Atógáil) agus na Céimeanna a bheidh Fágtha

**Fortieth Amendment of the Constitution (Care) Bill 2023: Committee Stage (Resumed)
and Remaining Stages**

Acting Chairperson (Senator Gerry Horkan): I welcome the Minister, Deputy O’Gorman, back to the House once again.

Before Committee Stage commences, I would like to deal with a procedural matter relating to Bills to amend the Constitution. The substance of the debate on Committee Stage relates to the wording of the proposed constitutional amendment, which is contained in the Schedule to the Bill. The sections of the Bill are merely technical. Therefore, in accordance with long-standing practice, the sections are postponed until consideration of the Schedule has been completed. I ask the Acting Leader, Senator O’Reilly, to formally move, in accordance with precedent and Standing Order 152, that consideration of sections 1 and 2 of the Bill be postponed until the Schedule shall have been disposed of.

Senator Pauline O’Reilly: I move:

That, in accordance with precedent and Standing Order 152, consideration of sections 1 and 2 of the Bill be postponed until the Schedule shall have been disposed of.

Question put and agreed to.

AN SCEIDEAL

SCHEDULE

Acting Chairperson (Senator Gerry Horkan): Amendment No. 2, in the name of Senator Clonan. Amendments Nos. 2 to 16, inclusive, are related. Amendments Nos. 3 to 16, inclusive, are physical alternatives to amendment No. 2. Amendments Nos. 2 to 16, inclusive, may be discussed together by agreement. Is that agreed? Agreed.

Senator Tom Clonan: Tairgim leasú a 2:

I gCuid 1, I leathanach 7, línte 5 go 8 a scriosadh agus an méid seo a leanas a chur ina n-ionad:

“Admhaíonn an Stát go dtugtar taca don Stát, ar taca é nach bhféadfaí leas an phobail a ghnóthú dá éagmais, de bhíthin cúram laistigh den bhaile agus lasmuigh de agus laistigh

den Teaghlach agus lasmuigh de. Uime sin, déanfaidh an Stát bearta réasúnacha chun tacú le cúram laistigh den bhaile agus lasmuigh de agus laistigh den Teaghlach agus lasmuigh de,”

agus

I gCuid 2, I leathanach 7, línte 12 go 14 a scriosadh agus an méid seo a leanas a chur ina n-ionad:

“The State recognises that the provision of care by members of a family, and within the wider community, gives society a support without which the common good cannot be achieved. The State shall, therefore, endeavour to ensure that those who provide re-

quired care shall not be obliged by economic necessity to engage in labour to the neglect of their essential caring duties.”.

I move amendment No. 2:

In Part 1, page 6, to delete lines 5 to 8 and substitute the following:

“Admhaíonn an Stát go dtugtar taca don Stát, ar taca é nach bhféadfaí leas an phobail a ghnóthú dá éagmais, de bhíthin cúram laistigh den bhaile agus lasmuigh de agus laistigh den Teaghlach agus lasmuigh de. Uime sin, déanfaidh an Stát bearta réasúnacha chun tacú le cúram laistigh den bhaile agus lasmuigh de agus laistigh den Teaghlach agus lasmuigh de,”

and

In Part 2, page 6, to delete lines 12 to 14 and substitute the following:

“The State recognises that the provision of care by members of a family, and within the wider community, gives society a support without which the common good cannot be achieved. The State shall, therefore, endeavour to ensure that those who provide required care shall not be obliged by economic necessity to engage in labour to the neglect of their essential caring duties.”.

Acting Chairperson (Senator Gerry Horkan): Will Senator Clonan speak to the grouping of amendments Nos. 2 to 16, inclusive, as much or as little as he wants to? He obviously wants to speak to amendment No. 2. but he can speak to amendments Nos. 2 to 16 inasmuch as he wants.

Senator Tom Clonan: Yes. I thank the Acting Chair. I am conscious of the time pressure for other Senators who wish to speak to other aspects of this care Bill. I reiterate what I said during last night’s debate. The wording is, as proposed by the State on Article 42B:

The State recognises that the provision of care, by members of a family to one another by reason of the bonds that exist among them, gives to Society a support without which the common good cannot be achieved, and shall strive [this is the word that has been used] to support such provision.

I know that this is to propose the constitutional expression of a paternalistic and passive view of care as being exclusively the burden - and I use the word “burden” in inverted commas - of the family and for the majority of unpaid carers in this republic, who are women and girls. It is consistent with my direct, lived experience as a parent and a carer that the State and its agencies oftentimes have quite a hostile attitude and orientation towards carers, subjecting us to hostile scrutiny, and are at best indifferent to the care needs.

For example, in the past 20 years with my son I have not had one day’s respite. Not one day. Nothing. There are thousands of families across the republic who find themselves in this position. Disabled citizens are a category of Irish citizens who are subjected to cruel, casual and routine discrimination in a way that does not apply to other protected categories of citizens. What are we being asked to do with this wording, which lacks ambition for families, carers and disabled citizens? The recommendation of the Oireachtas Joint Committee on Gender Equality and of the Citizens’ Assembly on Gender Equality was that Article 42B also include “supports in the community”. They stated it as “in the community” or “outside the home”. I mentioned

inflection points yesterday where there are illustrative experiences of this kind of paternalistic view of care as being the burden of the family. I am particularly struck by that formula of words, “by the bonds that exist among them”.

I will refer to a conversation I had with one of the highest officeholders of the State, whom I challenged on the imposition of austerity measures on disabled citizens and carers by way of cuts to their therapies, supports and surgeries. This was unlike the financial crash, which out of charity I can only assume was an unanticipated outcome and not an intended outcome of the ethical and intellectual failures of the Celtic tiger. The imposition of austerity cuts from 2010, 2011 and onwards, was a premeditated and calculated process that was and still is presented to us as a series of virtuous acts consciously inflicting harm and pain on the most vulnerable in Irish society. I have had ten years of prim economists, who are the new high priests of Ireland, espousing the virtues of inflicting austerity measures on people. I am confident they will be brought fully and completely into disrepute. That is one of the problems and one of the predictive factors in some of the issues we have around infrastructure, GP care and proper provision for vulnerable members of society. Austerity always breeds conflict. Austerity always provides fuel or oxygen to the far right.

This wording in 42B is a lost opportunity because it is not consistent with the UN Convention on the Rights of Persons with Disabilities and the rights-based aspirations contained within that convention for disabled citizens. By including care in the community and care outside the home it could have vindicated those aspirations. For the want of a few short words we now have a wording that gives constitutional expression to what I believe is a very retrograde, charity-based view of carers and caring as something that happens as it was put to me by an officeholder who was one of the highest in the land in 2011: “What you do for your son, you do it because you love him and you are to be commended.” I do not want commendation, admiration or, more likely, pity. I am conscious I want the absolute fundamental human rights of my child - my adult son - and other disabled citizens and adults throughout the State to be fully vindicated and I want that expressed in the Constitution.

I am conscious that it is unlikely that any of my amendments as tabled will be accepted. I understand that is the *realpolitik* of this House. I share the concerns of other Senators that the manner in which this is being guillotined and the manner in which it was progressed without pre-legislative scrutiny, PLS, on Committee Stage, is not an affront to us personally as Senators but it is an affront to the Houses and to the democratic processes we must cleave to. There is a phrase “interpellation”, meaning one accepts one’s place in a discourse. I reject this discourse. I reject the use of the word “strive” and I have no confidence the word “strive” will ever come to mean anything other than it is at any point in the future. To suggest otherwise is Orwellian. It gives the State an out. It is consistent with resistance to the Disability (Miscellaneous Provisions) Bill 2023, and is consistent with resistance to the full ratification - including the optional protocol - of the UN convention. The State is trying to avoid compellability, or to provide any sort of legal framework or underpinning to the inalienable and fundamental human rights of disabled citizens - disabled children and adults.

What I want for my child and for disabled children is what everybody in this Chamber wants for every other child - freedom to live an autonomous and fulfilling self-actualised life and for the Constitution to not contain within it the assumption that disabled citizens will have a life exclusively within the boundaries of the home and with elderly parents going into crisis. It is precisely that philosophy and view - seeing disabled citizens as being somehow of less human value than other categories of citizens - that is the reason we have almost 2,000 young adults

inappropriately placed in nursing homes around the greater Dublin area. It is the reason we had a child left in a room off the emergency department, ED, for two months in a completely inappropriate condition. It is also the reason we have children on waiting lists for complex spinal surgery at Children's Health Ireland, Temple Street and Crumlin hospitals because they are disabled. It is because they are disabled and because, unlike other categories of citizen and in contradiction with the more general social contract, there is no vindication of their rights. We are the only jurisdiction where there is no obligation in law for the State, or its agents, to treat these children. This wording reinforces that, buttresses it and scaffolds it at the very nuts and bolts of our Constitution, Bunreacht na hÉireann. I, as a citizen and as a parent, reject that narrative. I reject that discourse. I know that in coming in here like yesterday and arguing on this, all I can do is make a point, but I cannot in conscience propose that anybody would vote "Yes" for this amendment to the Constitution on that basis, because of what it does and the negative impact it has on the fundamental and inalienable rights of disabled citizens. We are being presented with a kind of a binary proposition that we get rid of the concept of the woman in the home, which represents progress, but at the expense of children like my son, like that young person who was forced to exist in a windowless room off an emergency department for two months or like another child trapped upstairs in a care facility for over a year. What other protected category of citizens would be treated in this manner in this Republic? None. We would not accept it, and quite rightly not, but by this wording we are being asked to accept that disabled citizens, their families and carers are somehow of less value than other categories of citizens in the Republic and that their rights can be curbed in the interests of others. That is not democracy. That is tyranny and I reject it.

Coming in here and making this argument, I can imagine the type of language and rhetoric that will be used to justify it. However, I will conclude on this point, just to remind Members. I have four children and when I approached the Health Services Executive to inquire what the plan was for my adult son when he entered the adult services at the age of 18, I was told there was no plan for him. I was told by the disabilities services manager that my son was at home living with me and that was the plan. I asked what would happen when I died and that manager put me on to the social worker, who asked if my son had a sister and when told he did, said she would look after him after I died. That is the thinking, the logic, and the paternalistic mindset, ideology, philosophy that underpins the constitutional expression to be found in Article 42B, as set out by the Government. That is the way it is. I am calling it as it is. I ask the House to take this opportunity to amend that wording because otherwise it is pitiful. Disabled citizens in Ireland appear before committees of these Houses repeatedly. Ireland is one of the worst places in the European Union in which to be disabled on almost every measure. We have the lowest participation rates in paid employment in the OECD; thousands of children on waiting lists for appointments that will never take place within the therapeutic window; children falling behind simply because they are disabled; and a disability Green Paper that is extraordinarily Dickensian and dystopian in its concept and design. At a time when the rights of disabled citizens are in freefall, this is the proposed wording. There is no ambition in it and I have been approached by a number of NGOs to ask if I could put my concerns on the back burner. That is interpolation. It is accepting oneself and one's status and role in a given narrative and I reject it.

I know other people are anxious to speak but I cannot express this strongly enough. This wording is such a lost opportunity and it adds insult to injury. It is a slap in the face for disabled citizens and the huge community and network of carers. I believe these proposed changes are going to fail and what a waste of an opportunity, apart from the waste of millions of taxpayers' euro. To reference the view of a former Taoiseach, after getting a slap from the electorate in a

previous referendum to do with this House, why are we repeating this mistake? This is such a poorly-worded proposal. I have been in this House for almost two years and I cannot get my head around this. I do not understand why the Government would persist. Is it because senior civil servants have advised that this is a way of insulating the State against the cost or the burden of providing proper care, such as they do in other jurisdictions? That is the only cynical rationale I can think of. Surely we are better than that. Surely we can do better than that for our disabled citizens and carers.

I will rest it at that but I am very disappointed that this is what is being put forward. It is completely at variance with all of the recommendations that were given. It is at variance with everything we are hearing from the DPOs. It is just sad. This is something over which we have control. We talk about international crises and awful human suffering but this is something over which we have control and could do something about. We could put down something positive in our Constitution for disabled citizens and it does not seem to be on the Government's agenda. What a pity that is. It is something we could do and what a legacy it would be to have. It is this idea that we do not have the resources to vindicate the fundamental human rights of disabled citizens. Would you say about any other category of citizens that we did not have the resources for them? No you would not, because that is the usurpation of everything in which we believe.

Senator Pauline O'Reilly: As there are a lot of amendments in this grouping, I will speak to them broadly. It is really significant and important during the lifetime of this Government that we have done what many Governments have failed to do in the past, that is, to take out the sexist language, which is what the proposal is here. We take out the sexist language while still recognising the importance of family care. It is important here to state what my background is. I have heard many people make a lot of assumptions about the kind of conversations that have or have not happened. Before I became a politician, I was a witness at an Oireachtas joint committee examining this issue. At that time, very few politicians wanted to do anything more than remove the wording that was in the section. What Family Carers Ireland, many others including the National Women's Council of Ireland and I, being involved with Stay-At-Home Parents Association Ireland, wanted was to remove the sexist language and to still ensure we inserted something that would continue to support carers in a more meaningful way. That was in 2018 and, as I say, most politicians would have been simply happy with just removing it. We are now talking about care and the working around it which is good and really positive but let us not forget that this is significantly more than almost every political party wanted to do.

We then had a citizens' assembly in the middle of a pandemic and it could have come up with any suggestions during that process. I remember going to the presentation by Dr. Catherine Day on the findings of that citizens' assembly and how excited I was that they had put weight on care. Nobody expected it, and they could have done anything, but they said how important family caring was. Following that, I was the Vice Chair of the Oireachtas Joint Committee on Gender Equality looking at the recommendations and it was made quite clear to us by Dr. Catherine Day that the citizens did not want to present us with legal definitions or drafts for a Constitution. They said that was not their role, so they did not do that. They stated in general terms what they wanted to achieve. As members of the Oireachtas joint committee, we had many private and public sessions around the citizens' assembly. In total, it took 11 months. At one point, we were discussing whether we would just leave it to the Department because it is so challenging to come up with wording, as everyone can see. When you change a Constitution instead of starting again, as someone said earlier, you are changing what is there. People will say we have left out some bits but we have gone further than the joint committee suggested

in other parts. The point can be argued both ways and it is important to put it in context. I am reading contributions from experts who claim to understand the issue but I did not see them getting involved in the debate before the past couple of weeks, which is disappointing.

We are doing something for which women have been calling for a long time. Family Carers Ireland has stated this is its referendum and this is what it wants. It is important to look back at history and be critical of the influences at the time. It is also important to recognise that times were different and times have changed. We must look back at history and ask what are the things we still value. Something we still value and that was also important in 1937 is care. I was a stay-at-home parent for nearly ten years. I have also been a family law solicitor. I know there are many people whose voices are not heard in the corridors of power because everybody here is working outside of the home right now, even though we have different histories. That means debates often take on a particular colour based on the very fact that we are working for a salary when so many people are doing something else. We were careful at the time to talk about the fact that it is not just those who are caring but also those who are cared for who must be considered. That must be part of the narrative.

This is one piece of the Constitution. It is not about taking away somebody's rights. There is no part of this that is taking away somebody's rights. It is about giving people rights. One could argue that other parts of the Constitution and other things should bring in more people's rights, and I do not disagree, but this referendum has nothing negative in it. This is positive. Many organisations and people who have played these roles are behind it. Listening to those stories is powerful.

I did not get the opportunity to speak at the earlier debate. Senator McGreehan made the point well that to deny other people's experiences because you do not have the same experience is deeply unfair. Some 42% of children are born outside marriage and the Constitution is every bit as much theirs as it is anybody's in this Chamber. People are coming from a couple of different perspectives. Some simply do not believe in the premise of removing the reference to the woman in the home. They do not even believe in the premise of ensuring that family carers are supported or that families other than those based on marriage should be in the Constitution. They should be honest about that. It is not the minutiae of the wording with which they have an issue. Perhaps they can find other ways to argue the point. There are also those who agree with what the Government is trying to do and who know the Government is trying to do the best it can with the Constitution. The Minister has a copy of the Constitution to hand. It is a small book. I love the Constitution, which is an amazing document. However, if we look at the amount of legislation we pass, day in and day out, that is the minutiae of law. The Constitution is not that. It is about setting out values. This legislation sets out our values and states that we are not sexist, that we appreciate that women and men can do roles if they so choose. It states that we appreciate that even where someone does not earn a salary, he or she is doing something for the common good by caring for others, including older people, vulnerable adults, those living with disabilities and children. That is valuable. The reason it must be recognised is because it is unpaid. There is State support to a certain extent. It does not support stay-at-home parents but it does give allowances in some circumstances. Should it do more? My God, yes. It absolutely should. However, that is not what this is about; it is about laying down our values.

It is highly cynical of some people to look at the wording, pull it apart and tell us what they would have done. I did not see people helping to come up with this wording over the past decade and over the past number of years when I have been discussing the issue. That is the group of people who are talking about the law as if the wording is their real issue when the

premise is actually their issue. Such people are coming here to say they totally agree that this is what we have to do but who are recommending different wording. That is an essential part of the democratic process and I am in agreement with it. It is for the Minister to come back and explain why certain wording was chosen. I have gone through the process in many situations, including at two Oireachtas committees. I was called as a witness to the citizens' assembly but recused myself because I was running as a Senator. I can tell the Seanad that nobody, including constitutional lawyers, has found this to be an easy process, although if you find two lawyers, you will always get two different opinions. This is not an easy task but I believe this is the correct wording. I believe it will be tested in the courts, as everything in the Constitution is, and we should not shy away from that. It is not a reason to vote "No". We must vote "Yes" to something that will make people's lives better and that will be more representative of all of us. It would be shameful to vote "No" in those circumstances and leave what we have in the Constitution, which is sexist and does not go as far to support stay-at-home parents or as far as the new amendment does to support family carers.

I thank all Senators for thinking about alternative wording because it is important to have those conversations.

Senator Annie Hoey: I will remain seated, if that is all right. I will not go over all of the things that were said yesterday. On behalf of the Labour Party grouping, I am proposing an amendment to Part 2 on page 6 to delete the lines 12 to 14, inclusive, and substitute the following:

The State recognises that care within and outside the home and Family gives to the State a support without which the common good cannot be achieved. The State shall, therefore, take reasonable measures to support care within and outside the home and Family.

The amendment is self-explanatory. As was said yesterday and has been said a number of times today, the current wording in the Constitution is based on gender stereotypes that have no place in a contemporary constitutional text. I do not believe we should confine women and mothers to lives of duty within the home and not refer at all, for example, to fathers having a role or responsibility in the home and all sorts of other things. This amendment intends to broaden the Government proposal and to recognise care outside the home and not just within it.

We are supportive of the Government's proposal for a referendum but we would like to see it broadened, particularly because when we reflect on the citizens' assembly and the Oireachtas Joint Committee on Gender Quality, chaired by my colleague, Deputy Bacik, there was a strong view that the sexist language relating to women and mothers should be deleted but it should be replaced with recognition of the role of care. The care role within the home and in the wider community should be recognised and valued. The Oireachtas Joint Committee on Gender Quality had extensive engagement with carers, women's groups and groups representing disabled people. Out of that consultation came cross-party support for wording that was regarded as effective in expressing the wishes of the citizens' assembly and which it was felt would give a meaningful recognition of care in the Constitution on, as I said yesterday, a gender neutral basis. We feel the Government wording falls a little short of what the citizens' assembly and the Oireachtas joint committee recommended. We feel the wording is somewhat more restrictive. The Government's definition would confine constitutionally recognised care to the care given by members of a family to one another by reason of the bonds that exist between them. We would like a more meaningful definition. I said yesterday that over 200,000 carers were recorded in the 2022 census. The figure was 299,128. I kept saying it was over 200,000

but the figure was actually 72 short of 300,000. That is an enormous number.

Much of this has already been said so I do not need to go around in circles but yesterday, as I was speaking, it occurred to me that it was as if we were discussing the concept of care as part of a family structure. As many of us know, care is much broader than that. I know there is a difference between care provided by a family member and care provided because the carer is paid. We know the difference but we would like all types of care to be recognised in the Constitution. While I appreciate that may come with all sorts of complications, including with regard to workers' rights, we would still like to see it, which is why we provided for it in our amendment. The amendment seeks to reflect the position taken by the citizens' assembly and the gender equality committee that care should be recognised both within the home and outside the home.

Senator Alice-Mary Higgins: To follow up on a point made by an earlier speaker, we need to do this but the wording should be better. We have been waiting for it for a long time and it has been coming for a long time. I started campaigning for this change in the Constitution long before I entered the Oireachtas. It has been campaigned for and pushed for a very long time. During that journey, the understanding of what we want to have in the Constitution has been evolving. There was a conversation about straight deletion. I always favoured having a recognition of care. We should bear in mind that it was not just the citizens' assembly but also the constitutional convention that made very clear that it wanted to see care properly recognised in the Constitution. We have an increased understanding, which has been slow in dawning, of the receipt as well as the provision of care. There is also a recognition that care in itself is an inadequate word in terms of the autonomy, independence and rights of persons with a disability in the State. It is a pity we are only moving a small step forward when we should be taking a leap forward.

The reason I believe we need to change the clauses in the Constitution is that they are doing, and have done, much harm in terms of equality in the State. The context of the 1937 Constitution, as I mentioned previously, was a roll-back of women's rights. It is not simply that this was how it was at the time. The Constitution was a conscious shift away from the vision of equality we had in the Proclamation. It was no coincidence that many of those who fought and campaigned for independence opposed the 1937 Constitution. Cumann na mBan stated that the Constitution, particularly these clauses, did not satisfy the aspiration of the Irish people set out in the Proclamation. Louie Bennett from the Irish Women Workers Union said: "Abolish poverty ... and the need to protect mothers disappears." This again points to the deep impact of austerity and poverty that has so often been visited upon those who care and those who receive and need care. Kathleen Lynn talked about restoring the Republic in a meaningful way. These are persons who were part of shaping the State but in the Constitution they were being told that the way for them to contribute was by their life in the home. There was a very clear attempt to put women back into the home and to have that as the way they contribute. That was to be women's role and where they belonged. The State relied on them as of course the State has always relied on those who deliver care. It was very much narrowly placing women in that vision at the time and that vision was one of only women in the home and women only in the home. In practice, people have lived lots of different lives - true lives - and women have had all kinds of achievements, have worked and so forth, but flowing from these provisions was a mandate for some of the discriminatory measures.

The Constitution was framed in the same decade as the measures to remove women from juries because they should not be on juries but at home and to remove them from the workplace

when they got married because they had to serve their function within the family in the home. These were all decisions the State took and signals it sent. The impact is still felt because they affect women now in their pensions and in the State's failure to recognise them.

On the idea of the State giving support, which it has consistently failed to do, even under these provisions, in the social policy supports that have a connection to this, there was a very clear exclusion of one-parent families who would not get such supports. A question was asked earlier about women in the home and one-parent families. The women heading up one-parent households got no recognition in the clause we discussed earlier and no protection of any kind. The State spoke of "endeavouring to ensure" but that did not apply to any families that were not married families and the State fell absolutely short when it came to the idea of endeavouring to ensure to protect and give supports.

That is the context of what we need to remove. This was an opportunity to put something brilliant in place. Instead, we are putting something slightly more inclusive and slightly less discriminatory in place. I am hoping the Minister will convince me it is slightly more effective, through the use of the phrase "strive to support" versus "endeavour to ensure" because that is the test. These are both very interpretable phrases. It will be a similar battle, I imagine, for us to ensure that "strive to support" is interpreted in a strong way. It is still a step forward in that, at least now, striving to support will apply to all families and all those who deliver care within families.

I regret that we are rushing this legislation because these amendments would improve it significantly and would be truer to what the citizens' assembly and committee asked for. Our amendments seek to widen the frame by talking about, as the citizens and the committee did, the wider community. Senator Clonan made this point very well. The State is not abdicating its responsibilities and telling families "Here you are; you deliver care". Families are giving support to the State and society without there being a recognition that society needs to give support back to those who care and directly to those who rely on care or have a disability. I will come to that later. There was scope for that and our amendments refer to the wider community. We have amendments which reflect the language of the committee by adding the words "within the wider community".

5 o'clock

The amendment refers to care between members of the family and within the wider community. We do something really important in some of our amendments, however. In our amendments Nos. 2, 5 and 10, we recognise the language the State has used. We take that language of the bonds between them. I wondered about that phrase when I first saw it. However, we take that phrase and say that actually the bonds between us are not just bonds within families. There are bonds within and between us as a community. We believe we should be able to expand the language here and say that "The State recognises that care, between members of a family or community by reason of the bonds that exist among them, gives to Society a support without which the common good cannot be achieved, and shall take reasonable measures [or strive] to support ..." or endeavour to ensure, according to which phrase it might be. The key point, however, is that the bonds between us as a community do exist and are crucial. Something like that would address the concern that was raised in terms of private actors and companies. We talk about the bond between us as a community, which is that I, as a citizen, care and have concern for my other fellow citizens and because I share the community with them, it is my wish that our common resources and common public services would be directed to give support in terms

of care. It would be stronger. Again, I am saying this in the context that this would be truer to where we need to be.

As it is, we are looking at an amendment that does recognise the care within family and that does commit. I acknowledge that it states “shall strive to support” that care, which is something. However, the wraparound bit about the community that we do collectively and as a State through our public services is kind of in that second commitment. The Minister mentioned, and it was important to say, that there are two parts to this. One part is that recognition and the other part is the responsibilities of the State. It is really important to communicate that there are two pieces to this. We have missed the opportunity to recognise the State’s role in that first part, which is recognising that the State gives and is responsible for giving support to our society, as well as receiving support.

We have also missed the opportunity, and we will come to this in some of our other amendments, to be really clear when we say “strive to support” and to put some meat on what we mean by that. We talk, for example, about striving to support in taking reasonable measures, and we have tabled a number of amendments in that regard. We use the phrase “take reasonable measures”, which was one of the phrases recommended by the committee, including economic measures. We talk about striving to support such provision and about endeavouring to ensure that such care is supported, including through economic supports. We have another amendment where we add to “strive to support” the phrase “through measures including but not limited to economic measures”. This is fundamental. That reference to “economic” is important. It matters to people. Again, it is not that the State has not fallen short on it in the past. It is important, however, that the Minister indicates to us that the understanding of “strive to support” includes concrete economic measures. The Minister mentioned some in the Second Stage debate. That needs to be part of it if the Minister is supporting this.

If our common good depends, as it does, on care, and if care really is the lifeblood of society and gives that essential support, then the State needs to be clear on how it is not just going to recognise it in a loose way here symbolically but that it will recognise and strive to support it through measures that will include economic measures. That means really looking properly at some of the issues in terms of income supports and pensions in order that those who, for example, deliver care do not find themselves in poverty in later life. It is about ensuring that we have concrete, proper reform because now, of course, if the first referendum is successful, we will be looking at a levelling up for all families to ensure that one-parent families will get proper and full supports rather than a second-tier support through our social protection system. It is to reform our social welfare system in a meaningful way. That is in the economic piece. That is why there are a number of amendments in that regard, namely, amendments Nos. 11, 14 and 16.

The other thing we need to look at in terms of “strive to support” is that idea that if we have not included the language about the community and the bonds between it, and the language proposed by others of inside and outside the home, although I know the Minister argues that the phrasing encompasses that, and if we have not included “the wider community” alongside the family because of the bonds between them, then much is work falling on the phrase “strive to support”. That wraparound of the community role and the role of the State and society and community all needs to happen around this referendum and around this constitutional provision if it is not built into it. That is why it is reasonable that the public asks that the Minister shows he is sincere about this by bringing forward a real roadmap. That was our first amendment, which was ruled out of order. We tried to set out the roadmap. The Minister will be aware that the Joint Committee on Gender Equality provided an action plan. I say this again. There is

scope to convince the public and make it clear that the Minister is going to follow through on “strive to support” and make it meaningful. One of the ways he can start, however, is by really listing, not just about what has been done in terms of parental leave and so forth in the past but what comes next. Is it going to be, for example, with regard to personal needs assistance? Is it going to be finally delivering long overdue statutory entitlement to home care, for which we have been waiting for decades? Is it going to be around, crucially, and this is an issue I raised yesterday, the ratification?

This comes to the other part of the problem with this provision, which is that the language is narrow and lacks generosity. It goes a little bit wider; it is everybody now. It is not just the women or married women. It lacks generosity in going as far as it should, however, in terms of really improving and strengthening the rights of persons with a disability who, again, are one part of care. We must remember that this provision relates to the care of children and older people. There is a wide spectrum. It is important to remember that. However, a really important and crucial cohort of people who have been frustrated by the failure to have an ambitious wording here are persons with a disability. The fact is that the language is still this provision of “care to” rather than “care between”. In our amendments, we prefer and think it would be better to have the language of care between family members and a community, much as we have the bonds between family members and a community. That would do better in terms of ensuring that we really are recognising equally the rights of persons who may be in receipt of care as well as those who are providing care, and that we do not have a sense of an imbalance and that we may have one cohort of persons. The Minister mentioned supporting the families who are delivering care, but we need to be looking directly to the person with a disability and his or her direct rights and autonomy.

As I said, I regret the absence of language we have seen in a constitutional change that Spain is making this week, which commits specifically to work for the social inclusion of persons with a disability and to work for their autonomy. That would be more ambitious language. I certainly will be going on after this referendum to join with others who are campaigning for that kind of language to be added in and specific clauses, as we have seen in Spain, around the rights of persons with a disability to be reflected in the Constitution. In the absence of that ambitious language, however, the Minister needs to point to the other parts of the law and other serious instruments that are and should be available to persons with a disability in respect of vindicating their rights.

Ireland has ratified the UN Convention on the Rights of Persons with Disabilities and it now needs to go on to ratify the optional protocol that will ensure that every individual can vindicate his or her rights under the UNCRPD. If the State delivers, promises and gives us a date for the ratification of the optional protocol – we have been waiting a long time for this – we will then at least know that the UNCRPD, as a strong legal instrument that is justiciable by the individual, will be sitting alongside this new constitutional provision and persons with a disability will know that they have something they can use and bring to the courts to vindicate their rights, much as persons who are providing care will be able, I hope, to vindicate their rights, although I hope they do not have to go to the courts to vindicate them in respect of this recognition of care.

I apologise that this is so detailed but there are a number of ways it could be better. I will conclude by recapping. It would be better if the article recognised community, the bonds between us as a community and society, and that care is a responsibility, collectively, both inside and outside the home and family. It would be better if we were assured of what “strive to support” will mean and that it will be stronger than “endeavour to ensure”. I hope the Minister can

convince me because “endeavour to ensure” is quite weak in itself. Can the wording be made stronger? It would be better if it specifically spoke about care and not just the provision of care. It would be better if it specified that the measures of support the State will take will specifically include economic measures.

These are all genuine, constructive amendments that have been brought forward in a spirit of wanting this to be the leap forward we need as a society rather than a baby step forward. It is indeed a step forward. It is a step away from something that was designed and had the effect of ensuring and supporting discrimination, not just against women but against men. Bear in mind, when we discussed the mother and baby homes, a number of cases were brought to my attention where a woman died and her husband was encouraged to give the children up because a man should not and could not take on those responsibilities in the home. I know of men who had to battle to keep their children because their role in caring was not recognised and they were not recognised as having that particular life in the home and that particular relationship of care. We have heard from extraordinary male carers as well. This is an improvement because it moves towards recognising that other half of the population, namely, men. It moves towards recognising the other 40% of families that are delivering and involved in care with regard to that wider space rather than the narrow frame it is now. However, it does not go as far as we should go.

Sadly, I feel that because we are only taking a baby step, we will have to point strong arrows as to where the next step will be and the step after that. I ask the Minister to show us how we will move forward after this referendum and around this referendum.

Senator Rónán Mullen: Listening to my friend and colleague Senator Higgins, asking the Minister to convince her and give her a reason, I wondered what incentive there is for the Minister to give people a reason to believe when they are quite ready to go ahead and vote for a Bill that is being guillotined in the House, as the last one, on the 39th amendment, was. Provided this debate continues to the scheduled time, there will be another guillotine when it will all be wrapped up again and put as one question.

It is scandalous that a Government would do business on that basis, especially in the context of a proposed amendment to the Constitution. It is scandalous that any Senator would go along with that, however he or she feels about the principles of the Bill. No democrat should vote for guillotined legislation except in emergency situations. We have argued that case up and down here over the years. We have had promises that legislation would not be guillotined and then the day comes when legislation is guillotined for no good reason. The people on the Government’s side - the faithful electoral minions - go along with it, allowing the Government to disrespect the Oireachtas of the people in so doing.

I find it sad because the colleagues here, for whom I have great respect, are intellectually stimulating and sparkling, the best of company and full of intellectual curiosity, but generally only outside of this Chamber. Once the Government has expressed its will, they just go along with things. It is a pity that anybody who is not bound by a Government Whip would go along with voting for guillotined legislation. I do not deny that they have an absolute right to be in favour of the legislation overall. That is not the point. The guillotining of legislation corrupts the process. A rejection of legislation that is being pushed through by guillotine would push and force the Government to do things in the proper way; it would not end this referendum journey.

I call on my colleagues to reflect on that point because there will be another time – who knows when? – when they will object to legislation and no doubt feel much more strongly about

its being guillotined through. Whether a person is for or against it should not matter. No democrat should vote for the guillotining of legislation except in emergency situations.

I have heard the many interesting things said. I always listen to my colleague, Senator Higgins, with great interest. However, I noticed that she, among others, mentioned the views of certain prominent women at the time of the 1937 referendum who did not like the provision that relates not to women's place within the home but the privileging of mothers and their duties within the home. That was the precise reference.

Senator Lynn Ruane: Life and duties.

Senator Rónán Mullen: Life within the home and their duties, not anybody's "place" in the home. If you go to the leagan Gaeilge, táimid ag caint faoi dhualgais a bhaineann le máithreachas, with motherhood.

Senator Michael McDowell: Sa teaghlach.

Senator Rónán Mullen: Sa teaghlach, in the family; motherhood in the family. Whether people like it or not, there are many mothers who value their duties within the family. I could be wrong, and ultimately it is not the critical point, but if there was an honest analysis of the views of Irish women and their representatives in the Oireachtas back then on that provision, I suspect it was a minority viewpoint that held that it was in some way oppressive and limiting. I am entirely open to being corrected by the historians in this matter but I know that there is often a lot of selective quotation that goes on in these matters.

I do not know whether Senator Keogan wants me to move her amendment, which I am supporting. May I do so if it is called for at this point?

Acting Chairperson (Senator Pat Casey): It cannot be moved yet. We take one amendment at a time.

Senator Rónán Mullen: I understand. My apologies. I do not want to interfere with anybody's duties, whether in the home, sa teaghlach, nó in aon áit eile. That is the first point. It would be interesting to hear what the views were.

I am supporting Senator Keogan's amendment because it is a generous amendment and it is one way to address the issue. I have absolutely no problem saying that the privileging of a mother's duties in the home should be widened to a less gender-specific reference to the duties of parents within the home. I have always said that. I note in passing that the reference to "mháithreacha ... ina ndualgais sa teaghlach" does not appear to my reading of the Constitution to confine itself to a marriage-based family. It refers to "mháithreacha ... sa teaghlach" which is an interesting point in itself.

Senator O'Reilly suggested that people were being perhaps being less than upfront about what they were really opposing. She had no problem at all if people's only problem was with the wording. If deep down people had a problem with the premise, she said they should say so. Some of us have been in the Oireachtas a long time before Senator O'Reilly. I was in the Oireachtas before she was. I am open to correction, but on more than one occasion I stated clearly that I would favour a change that would recognise the role of parents, be they men or women or fathers or mothers.

What we are seeing here is a very reductionist approach by the Government. There is a fail-

ure to distinguish between parenting and care. Parenting is about more than care. The duties of a mother or father in the home are about more than care. They are about education.

Senator Erin McGreehan: We know that.

Senator Rónán Mullen: Senators have told me that they know this, but the fact is that the Government is getting rid of a reference to duties within the home which extend to more than care, although care is a very important aspect. It is replacing it with, as I have said, a rather watery tribute to care being given by family members in a home by reason of the bonds between them. There is the removal of even a nod of constitutional respect to all of those aspects of male and female parenting that cannot be characterised by the term “care”. We then have a slap in the face to so many other kinds of carers because the only care to be given even a watery constitutional recognition is that element of care that takes place within the family relationships.

To be clear, there ought to be a reference in the Constitution that does not privilege the duties of mothers in the home. Duties are not something to be stigmatised or disrespected. Every parent recognises that they have duties within the home. The question is whether they are to get any help or particular respect from the State for the value of what they do in the home.

Senator Higgins may be perfectly right in saying that there were many failures to give support to women doing their duty of caring within the home in, for example, non-marital families. I do not think anybody would dispute that. The fault for that cannot be laid at the door of the Constitution or this particular clause. The problem with this clause in the Constitution is not the harm it did; rather, it is the fact that it did not go far enough to include the duty of fathers in the home and was never given sufficient impact in practice in the way in which it was implemented. It was treated as though it was one of the directive principles of social policy, I think it is fair to say, as opposed to an active, vibrant, causative and effective clause in the Constitution. When we attack the clause for being allegedly sexist or out of date, we are actually attacking the wrong target. We ought to attack the fact that the clause did not include enough and was not implemented enough.

Regarding the amendment I am supporting, it does not refer to men. In other circumstances, and if Report Stage was taken separately from Committee Stage, I might very well put down an amendment that referenced men, as well as fathers and-or mothers, within the home. As everybody knows, because of this crazy legislative timetable we had to put in our amendments last Friday before we even had a Second Stage debate and the Minister had a chance to consider the wisdom of what we might be saying.

Senator Keogan’s amendment is a welcome attempt to undo the damage that will be done by the Government’s proposal, should it be accepted. I find that the proposal is not targeted. It does not simply seek to insert gender-neutral language in the way I am saying would be desirable, with references to the duties of fathers and mothers and parenting duties, going beyond care duties *per se*, as important as they are, whether by fathers, mothers, other families members or outside the home. Instead, as I said in another context, the Government is seeking to remove all language that is offensive to our new elite. In effect, apart from the two references mentioned by Senator Ruane, gone will be the word “woman” from the Constitution, a word which the National Women’s Council of Ireland and the Minister’s governmental colleagues refused to define.

Gone will be the word “mother” from the Constitution, motherhood being seen by some

in the Green and wider movement as setting sister against sister. Gone will be the idea of a privileged home-maker, be it man or woman, because the basis for economic support for family duties will be removed. Gone, even, will be the idea of home, a community within which there are mutual responsibilities arising from natural relationships, especially, but not exclusively, those of adults towards children. Gone will be a reason why the State could have any particular support for marriage. Gone, too, will be the grounds on which one might expect the State to support work in the home, the duty to support home-makers to be replaced by simply striving to support carers. We can contrast the term “striving” with the State’s unimplemented endeavouring to ensure wording which did not get any practical teeth. Good luck with getting anywhere with the term “striving”.

The amendment, which I wholeheartedly support, seeks to undo most of the damage the Government proposes to do while placing an additional onus on the State to support carers within a caring role in the family. It grieves me that Family Carers Ireland would support a vague promise by the State to strive to support family carers at the expense of undermining the only support and acknowledgement 300,000 stay-at-home parents have in the Constitution. Reducing the role of work in the home to caring will do nothing to provide more support for families. Of course, we have no understanding of how parents who work full time in the home might be affected as we have had no pre-legislative scrutiny of the Bill.

I am with Deputy Catherine Connelly on this one from the perspective of possible supports I would prefer if we stick with what we have. Surely it would have made much more sense for Family Carers Ireland to hold out for a proper, separate constitutional statement in support of all carers, separate from, and in addition to, a recognition of the duties of fathers and mothers in the home and the State’s undertaking to support them in those duties for all of the reasons I have discussed regarding why fathers and mothers matter to their children and their children’s lives.

So much for an inclusive Constitution. The work of mothers within their families is to be set at naught. All mothers in the home are, in effect, being thrown out of the Constitution. More than 250,000 people are performing unpaid caring duties in Ireland. This provides the hidden underpinning of our health service. We have found ways to develop schemes to reward artists and their contribution to society, but we cannot find wording to constitutionally recognise the importance of non-home-based care or to reward it. Senator Keogan’s amendment at least proposes that care in the home be recognised and supported without undermining mothers, although we would all have preferred a proper stand-alone provision of care which goes much further than the one being proposed by the Government.

As to the valuable work of carers, their work is often different from that of mothers and fathers in that the father-child or mother-child relationship is different from the carer-cared-for relationship. As we know, much of the caring needs in reality, and on a day-to-day basis, are carried out by mothers and women who give so much of their time to the home. The Minister has chosen to ignore carers outside the home, making a virtue of providing for caring within the home, but only in a very watery way, while at the same time taking away valuable legal recognition from homemakers.

At another committee, we have heard of people with disabilities or suffering impairments seeking more support so they can live their lives more fully. This so-called “care” amendment is a lost opportunity. I cannot understand how carers or their organisations can swallow this sleight of hand, allowing their needs to be manipulated in this way. A stand-alone carers constitutional clause was the way forward, as I have said.

In conclusion, this is the politics of bait and switch, as I have said previously. The Minister has held out to people the apparently inclusive approach to de-linking or decoupling marriage from family and, again, he has held out the apparently enlightened approach to departing from a mothers-only reference to duties within the home. That is the bait. The switch is this: the Minister did not give people what would have been generous and inclusive in response; in other words, a clause that recognised both men and women in the home and their duties - both fathers and mothers. He did not give carers a clause that would recognise all care being done, whether within or out of the home. He has taken advantage of the apparent attractiveness of the initial complaint about the existing constitutional arrangement but he has departed very dramatically from what was discussed or proposed, even by the citizens' assembly, and he has put something on the table that does not actually extend to include fathers and mothers, does not extend to other carers and simply promotes the narrow ideological agenda of a particular wing within the Government. That is very much to be regretted.

Senator Michael McDowell: I do not want to waste too much time. However, first, I have to totally endorse what Senator Mullen has said about the guillotining of the Bill. It is disgraceful that it is being shoehorned through in the manner that it is. What was the hurry? I will tell the House what the hurry was. Some eejit in Government Buildings said there would be a better chance of getting this through if we say it is going to be held on International Women's Day, 8 March. That is what happened. We got stuck with the ridiculous notion that this would help the Bill to go through and that we would be seen to be "pro-woman" and doing something on International Women's Day if we selected that day for the vote on a referendum. As I said yesterday, that is a gimmick but it is a crude little gimmick. It is not the way a Constitution should be changed. It is shameful that that stunt was allowed to become a backstop in terms of time for considering change to our Constitution.

The ludicrous thing is that the commission which is, by law, required to function in respect of referenda indicated to the Government that it needed this Bill to be passed this evening and to go to the President so the Minister, Deputy Darragh O'Brien, can fix 8 March as the date for the referenda to be held, and the commission can carry out its statutory duties to inform the public and do all the things it has to do as a matter of law. That is what this is all about. These are shabby, stupid, silly and idiotic tactics.

Like Senator Mullen, I would love to have had the opportunity to examine the issues that Senator Clonan has raised in far greater detail, rather than have this thing flung at us and this House convened as a kind of a gesture. The timetable that we have been given does not permit any amendment in this House. No matter what we did, it was always intended to just rush it through, to use the Whip and get it through.

Acting Chairperson (Senator Pat Casey): I ask the Senator to speak to the amendment. I understand his frustrations in this regard.

Senator Michael McDowell: I am speaking to the circumstances in which this amendment is being put through. I have to protest about it. I will be saying in public that the Minister shoved it through for those particular reasons in that particular way and that he curtailed discussion on it. He cannot deny it because everything I have just said is the God's honest truth.

Senator Gerard P. Craughwell: Hear, hear.

Senator Michael McDowell: That is why we are sitting here on Tuesday and that is why

this commission has demanded that it be in its hands within 48 hours or 24 hours. In any case, I have made my protest. I could have called more votes on the Order of Business, and all the rest of it, to make the same point but that would have chewed up the time that is available.

Second, the amendment that we are considering has two functions. First, it amends Article 41.2, and, second, it introduces an entirely new article, Article 42B. Just as Article 41 has “An Teaghlach” or “The Family” as its heading and Article 42A has “Children” as its heading, we are now inserting not merely Article 42A but a heading into our Constitution, “Care”. The provisions of the Constitution that deal with care will be the provisions set out in Article 42B. It is in that context that I want to echo everything that Senator Clonan has said. As a mature democracy, we are providing wording to deal with the whole question of care in a new Article 42B in language which is patronising and demeaning for people who have disabilities and need care, and we have heard that phrase used in respect of the existing Article 41.2. This is not a family provision because, as I said, it is taken out of the “The Family” chapter of the Constitution and put into the “Care” chapter of the Constitution. It states: “The State recognises that the provision of care, by members of a family to one another by reason of the bonds that exist among them, gives to Society a support without which the common good cannot be achieved, and shall strive to support such provision.” It is effectively saying that families have a particular duty because of the bonds they have between them; we do not use the term “duty” as that is unfashionable now but they give support by reason of the bonds that exist among them. Of course, the bonds that do exist among the members of a family are ones of duty. That is what it is; it is duty. It is a different term. They are saying that care is to be given by members of a family to one another by reason of the bonds that exist among them. How can it be that we now reform our Constitution to provide a new chapter called “Care” and say that it is all to do with what family members give to each other by virtue of the bonds that exist between them?

Senator Gerard P. Craughwell: Assuming there are bonds.

Senator Michael McDowell: Where is the State’s obligation in this? Where is the community’s obligation in all of this? Where is the social responsibility for people who have disability, to vindicate their rights? Senator Clonan talked about people with disability, and for him, this will be the only constitutional provision for people with disability. It is being sold on that basis. It is a kind of a mishmash that is being sold on the basis that this is where the State provides, in its fundamental law, for the whole issue of care. It restricts care to that kind of care that is given by one member of a family to another by reason of their bonds of loyalty.

The arguments Senator Clonan has advanced are not met in any way by this particular few lines. It does not even commit the State to much. The provision states it will assist members of families who provide care to each other. It does not even say it will assist them; it says it will “strive” to do so. It is, therefore, virtually unenforceable in any shape or form. One cannot go down to court and say, “You are not striving hard enough”, or, “You are giving too many funds to the Arts Council; you should be giving it to home care”, or, “You are giving too much money to acute hospitals when home care needs more”. Nobody can go down to the Four Courts and say to a judge, “Tell the Government to shift that money from A to B”. We have €20 million to waste on a referendum, and not even that can be appropriated for care by a High Court judge.

I entirely agree with Senator Clonan. This is the only provision in the Constitution to deal with care. It has no social dimension to it other than the family dimension. It has no wider application other than the kind of care that family members give to each other. Senator Clonan told us of his apprehension about what happens when he and his wife pass on and their son will

be dependent on the community for care. He was told by a HSE person that his son has a sister. How bad is that? That is the type of care that we are putting into our Constitution, family to family, and we are saying that is the sum total of the Constitution's provision for care.

That is what we are putting in this new chapter. I wish to make a few comments on what we are taking out. I accept that the gender-specific reference to mothers of children, “máithreacha clainne”, is probably reflective of other days. If it had simply been “tuismitheoirí” or “tuiste”, who could have argued with it? Who would have argued that the life of parents in the home and - I want to use the language carefully - that the duties of mothers could be argued with if they referred to the duties of parents in the home? However, we have now a sort of rights-based culture where everybody believes in rights and very few people like to even use the term “duty” anymore, except to apply it to the State or to society in general. The Constitution, as Senator Mullen said, provides that the duties of parents under Article 42 are not just simply to care for their children but to develop their children's personalities, to educate them and to develop their social and moral formation. It is not just care. It is not just somebody coming in to care in the house, like a professional childminder or something. This is much more substantial than that.

If we were really worried about removing something demeaning, or allegedly demeaning, to women from the language of Articles 41 and 42, three words would have been enough to change it – that is, “parents”, and “parents of children”, where they appear in the text. We are dealing with something more than that. We are dealing with virtue signalling and we are saying that we reject the closed Catholic ethos of the 1930s, which had so many negative consequences for many people in terms of social policy. We have to remember that when we are talking about “máithreacha clainne”, this was a society in which the Catholic Church had 96% dominance, and it was telling every mother, poor or rich, that it was her duty to have as many children as she could. I am talking about women in the slums of Henrietta Street, Dorset Street and the like. They were lectured from the pulpit to keep producing children. Where their husbands were insufficiently involved in the home, those women had to leave tenements, where the whole family was in one room, and go out and act as charladies and so on or do other work, leaving the eldest children in charge of the younger children. In those days, it was considered that there was a great moral danger to children, especially poor children who were left in those circumstances. This guaranteed that mothers would not be forced out by economic necessity. It had a very different context. It was not aimed at the middle classes or at people who had career choices. It was aimed at people who had no choice.

This document does not say anywhere that a woman's place is in the home. One of the things I find fascinating is that people ignore other bits of it. Article 45.2.(i) obliges the State “to direct its policy towards securing -

That the citizens (all of whom, men and women equally, have the right to an adequate means of livelihood) may through their occupations find the means of making reasonable provision for their domestic means.

Anybody who says that the Constitution states women should not work ignores what is written in it, which is that men and women were equally guaranteed the right to make provision for themselves by way of their work.

Senator Lynn Ruane: That does not relate to mothers.

Acting Chairperson (Senator Pat Casey): Without interruption please.

Senator Rónán Mullen: Mothers are women too.

Senator Lynn Ruane: No, Senator Mullen knows what I mean. The Constitution-----

Senator Rónán Mullen: I know you do not all agree with that now.

Acting Chairperson (Senator Pat Casey): Senators, please. Without interruption.

Senator Lynn Ruane: I am saying it is about women.

Senator Michael McDowell: Calm down.

Senator Lynn Ruane: Sorry, do not tell me to calm down.

Acting Chairperson (Senator Pat Casey): Sorry Senator, do not interrupt Senator McDowell.

Senator Lynn Ruane: Hang on. That is a very gendered comment to make. All I said was that is not about mothers but that it is about women, and he told me to calm down.

Acting Chairperson (Senator Pat Casey): I ask the Senator to refrain from speaking while Senator McDowell has the floor. She will have her time in a few minutes.

Senator Michael McDowell: I am saying that anybody who says that the Constitution did not want women to work or to have occupations or to be able to earn their livelihoods is wrong. It never said anything of the sort. People quote selectively from this document but it has to be read as a whole. It was not the case that Ireland said women should not work.

Having said that, I take Senator Higgins's point that there certainly was a general attitude that men were more suited for work and women were better suited for domestic existence. That was undoubtedly a general attitude in the early 20th century. That was undoubtedly the case. However, it was not just Ireland. People talk about the marriage ban in our Civil Service but it was rife across the English-speaking and German-speaking worlds for women to be treated in that way. The Constitution was not the origin of the grossly unfair rule that women had to give up their jobs in the Civil Service once they married. Even if, in the most appalling cases, they, for one reason or another, did not have children, they had to get out of the Civil Service because they were married. Those were awful rules but they were general across Europe.

I noted an article that referred to the subject to which Senator Higgins referred, that is, Kevin O'Higgins telling the Dáil in 1927 that women should be in the home rather than serving on juries. There was the mother and father of a row about that. This House objected to the removal of women from the role of jurors. A compromise was struck. Former Senator Jane Wyse Power and another Senator worked out a compromise that meant women would not be on the jury list automatically but were free to act as jurors if they wanted to do so and could put their names on the jury roll. It is interesting that the views of Kevin O'Higgins were of the kind that Senator Higgins has talked about but there were women in this House who kicked up an almighty fuss about that, stopped him in his tracks and forced him to back down to an amendment.

I talked about women being forced by economic necessity to work outside the home. Since everybody has taken to giving their own particular memories of earlier lives in this regard, I will say of my own mother, who was a qualified architect and opted to work only in our household,

that with a friend of hers who was also a qualified architect, she became involved in the Civics Institute of Ireland in Dublin. The institute was a do-good, philanthropic body. It was an NGO, if you like. It ran crèches in the city centre of Dublin for working mothers. I remember going to see those crèches on occasion with my mother. Senator Mullen might not like me saying this but the strange thing was that they got a very cold shoulder from the Catholic Church-----

Senator Rónán Mullen: The truth will set us free.

Senator Michael McDowell: -----because they were not denominationally Catholic. They were non-denominational crèches for children.

Senator Rónán Mullen: It was not because they were helping women to work outside the home.

Senator Lynn Ruane: Calm down.

Senator Rónán Mullen: That is a great relief to me. They were on the side of the angels.

Senator Michael McDowell: The point I am making is that Ireland was a very different place.

Acting Chairperson (Senator Pat Casey): I ask the Senator to speak to the amendment.

Senator Michael McDowell: I am just saying that those who actually did something in the 1930s, 1940s and 1950s to assist women to work outside the home while giving them assistance in the care of their infant children ran into cold winds based on the most ridiculous grounds that the crèches were not Catholic but non-denominational and interdenominational.

That is all I want to say but I wanted to say those things. The provision we are supposed to be taking out of Article 41.2 was well-intentioned and pro-woman, and was not intended to force women to remain in the home. It merely obliged the State. It is not a directive principle of social policy to be found in Article 45. It is a direct obligation, just as much as the provision of aid to private education is a direct obligation of the State in Article 42. The provision in this case found expression in measures such as children's allowance, which was payable to the mother. It also found expression in the Murphy decision in 1980. The Supreme Court looked at Article 41.2 and specifically relied on the protection that women should not be obliged by economic necessity to work outside the home to the neglect of their duty in the home as part of its reasoning in forcing the State to introduce a pro-family tax regime. It is not a dead letter and was not one in 1980 when Francis and Mary Murphy successfully relied on it in the Supreme Court to stop themselves being taxed unfairly. We had a discussion about taxation this morning. The Murphys relied on the provisions of the Constitution to do that.

If we get to the point where there is a legislative basis for working from home, the present wording of Article 41.2 will give a strong argument to anybody who says they are being forced by their employer, and particularly by the State, to work in an office unreasonably when economic difficulty is imposed on them in looking after the children of the family. That is all I have to say.

Senator Sharon Keogan: I feel at times that I am alone in this Chamber as a female. I take solace from some of the emails I receive from the women and mothers of Ireland. Hundreds of women have written to the national newspapers and their voices never get heard in this Chamber. I am going to read a couple of those letters to the Minister so he can hear their voices. The

first letter is from-----

Acting Chairperson (Senator Pat Casey): The Senator can do so as long as they are relevant to the amendment.

Senator Sharon Keogan: They are relevant to my two amendments. The first letter is from Catherine Monaghan from Ashford, County Wicklow, who states:

Sir, – I will be voting No in the upcoming referendum.

I do not want the very small acknowledgement of my role and my work in the home to be removed from our Constitution.

The article in question is symbolic, a token, at best; we all know that the State does not actually do much to enable women who would like to give up work outside the home in order to raise their children. In the current economic climate, most parents cannot afford to sacrifice an income if they want to own, or even rent, a house.

Neither do I want the article to be replaced with gender-neutral waffle so that we can all pretend to be living in a perfect world where domestic work, the bearing, feeding and care of children, and the care when it's needed of family elders and other dependents is shared equally between men and women. It isn't! We all know it isn't; the 2022 census showed that 90 per cent of people filling this role were women.

Let's be open and honest about the differences between the sexes. Men are not women. Fathers are not mothers (ask the vast majority of parents who their child wants when they are feeling sick? Mum, of course!).

Women are in no way constrained by our Constitution (I was raised by a mother who worked full time in a fulfilling career). It simply states that we have a right, not an obligation, to stay home with our children if we wish.

Instead of abolishing or amending this article, why don't we hold the State to it?

Think of the benefit to the children of Ireland, and thus to Ireland itself, if family and home were prioritised. A stable foundation at home leads to happy, healthy, and well-adjusted adults.

6 o'clock

The next letter, from Anne Harbison, Aughrim, County Wicklow, states:

Sir, – Justine McCarthy needs to get out more (“Vote Yes to lose the patronising pat on the head to women”, *Opinion & Analysis*, January 19th). Contrary to her assertions, it is not “mansplainers” who are leading the charge for a No vote in the upcoming referendum on amending Article 41.2 of the Constitution. Leaving aside the opinions of representatives of NGO groups, whose impartiality cannot be depended upon as they are the recipients of Government funding, several prominent women have spoken up against the proposed amendment, including the Leas-Cheann Comhairle, Catherine Connolly TD.

Last year, the Government set up a scheme – the “Basic Income for the Arts” scheme – whereby workers in that sector receive a basic income paid from the public purse. Micheál Martin said at its launch that “We need to invest in that which sustains us”. I am baffled as

to why women's groups – and women journalists – are not calling on the Government to make good the Constitution's declaration that women who choose to work in the home give to the State "a support without which the common good cannot be achieved" and demand that the Government pay women in the home a similar basic income.

I could read out more. I have loads of them here but I will move on to my amendment.

My amendment is a simple one. It addresses the two main flaws in the Government's proposed wording in Article 42B. First, it rectifies the removal of the word "woman" from the article and, second, it strengthens the onus on the State to support home care. While I often criticise the Government, I must congratulate it on its unparalleled ability to engage in that most essential act of modern politics - the spinning of a narrative. That it has apparently managed to convince women up and down the country that erasing them from the Constitution is a win for women's rights is an act of propaganda that would make even the most scheming dictator blush. The State-sponsored gaslighting of the women of Ireland has told the usual worn-thin tale of escaping from the sceptre of the Catholic Church and moving on from the dark ages, labelling Article 41.2 backward and archaic and painting the Government of the day as warriors of social justice marching ever onwards to a brave new world. Yesterday's debate saw many Members doing their best impression of a calendar, loudly reminding us that it is 2024, as if it being the current year lent weight to their arguments and perversely weakened those of the Opposition.

Women who chose to work in their own homes, raising their children and looking after their families, were worthy and deserving of protection in 1937, and they are worthy and deserving of protection and mention in 2024. The notion that the merit of an idea can be wholly eroded merely by the passage of time is so absurd that only a politician could espouse it. Yes, it may be the case that the Catholic Church no longer holds sway over the social and political realms it once did. However, its receding has merely made way for a new church - that of progressivism, which has its own dogma, creed and sins. Chief among them is recognising the innate differences between men and women. The church of progressivism teaches it is not enough to simply value and treat men and women equally. Their equality must be universal and absolute, such that there are no differences between them. To this end, differences must be eliminated, where possible, and, where impossible, they must be dogmatically ignored. To recognise them is to sin and to speak about them is to risk excommunication, being cancelled, and being labelled a heretic and far-right. The fact that women voluntarily take on more care roles as mothers or otherwise becomes a problem to solve, rather than a reality to accept. Rather than being celebrated and praised, their kind, compassionate, nurturing and caring natures become unmentionable aspects of their characters. After all, women are just like men. All language must be gender neutral for fear of giving offence to any hypothetical third party. The recognition of any one is taken to be the exclusion of every other. This is what has led us here where the recognition of the uniqueness of motherhood is deemed politically inconvenient. The word "woman" must be struck out from the Constitution by the people who cannot even define what a woman is. It is a perfect encapsulation of the absurdity of this Government. I hope the people of Ireland see it for what it is.

Of course, this amendment will not be accepted. No amendment will be. As we have been told, this is because the Government wanted to play political astrology and put the referendums on a special date and because the separation of powers is dead and gone in Ireland, given the Executive absolute control of the Legislature. I commend my amendment to the House and I recommend the public gets out and votes on 8 March against both these amendments. Vote "No" and "No".

Senator Lynn Ruane: It is hard to know where to begin but I would like to make a comment. It is regrettable that Senator McDowell turned around and told me to “Calm down” for making a comment on a section of the Constitution. I watched his engagement back and forth with other male Senators. I watched him interrupt the Minister. It was extremely gendered to turn around and say that, whether he wants to admit it or not. I have never once seen it. The fact that nobody intervened and the Chair continued to allow him to turn around to say “Calm down” was demeaning and disrespectful. I put on the record that it is wrong for him to turn around to say that to me. He could tell me not to interrupt him as he would with anybody else, but he did not. He chose very specific wording. I was not shouting. I was saying that the provision he was referencing in the Constitution does not reference mothers. That is all I said and he told me to calm down. He should reflect on that, because it was quite misogynistic.

I turn to our amendment and the removal of the reference to a woman’s duties in the home. This is setting out that women and men have different roles to play in their children’s lives that are somehow completely distinct from one another and that there is some sort of functionality to a mother being at home that a father cannot provide, whether that is when the children are sick or need help or maybe there is a parent-teacher meeting they need to attend. When I went to college and when I started out working in the drugs sector, it was not me the school rang; it was my daughter’s father or my dad. My dad was at the school gates every day. He was the one who got the phone calls when my daughter was sick, and he was the one she looked for. Why? Because he was providing the care in the mornings and in the afternoons. She had that bond with him. That bond was special and they cared for each other. She cared for him later on as he got older. That is the wider situation we are trying to capture here, that is, that the duties we have to one another are not only the duties of a mother to a child. I would like the Minister to be really clear that when we talk about capturing care - I will turn to the term “provision of care” in a few minutes - it does not remove the role of a mother and a child in terms of their care for each other but expands it to dads and maybe granddads or nannies - whoever it may be. As regards the idea that somehow that is not pro-woman and that somehow what is there is pro-woman, what is pro-woman to me, as a single mother who is not recognised within the Constitution, is for the men in my children’s lives to be recognised for the care they give in order that they can support me and are valued in the same way in which I am in their relationship to one another, to their children and to their siblings.

As regards the idea that we throw all mothers out with this, we are, in fact, trying to bring in more mothers. As regards the amendments we spoke to in the previous session, where we redefine what a family is, the Government does not want to redefine what a family is in the Constitution and then wants to say that this throws women or mothers out of the Constitution, but it has already decided that “the Family”, with a capital F, remains the same. It is family that is based on marriage. Then that spills over into this article, which means that the women who are supposedly supported to stay at home are those on whom the previous section is based, which is the capital F Family, that is, the nuclear family. Single mothers are therefore not captured in this whatsoever in terms of the current Constitution. In the current Constitution, we see only a narrow definition of what type of mother is supported. We want to move to changing that definition of family and allowing that impact, the new definition here, as to who is considered in this.

Care incorporates many things. It incorporates, hopefully, not only siblings but also child-to-parent care. It ties in with disability as well in some sense because there are children who before they have even become adults are providing in many cases lots of care for their parents, even though their parents are the ones who, legally, are responsible for them. Where there is

a deaf parent, there will be a child who must communicate on behalf of the parent sometimes. There are so many different situations in which children end up providing not full-time care but various forms of care. With these amendments, I want to remove that from the Constitution. I want one-parent families to be recognised in the same way in terms of the care they provide such that this new care amendment would include them, but I do not want it to exclude those who need additional care. My concern is that something I want to be inclusive of a wider situation does not go far enough to be inclusive in terms of the rights of the person who requires care. As regards the provision of care in this situation, provision then allows the person providing the care to be the rights holder. A person who may need care, especially additional care, such as a young person with a disability or likewise, does not gain that same provision here. Provision is not about the giving and taking of care; it is only about the providing of care.

If, however, you have a disability and are the one who requires care, even if it is narrow in being within the household or the wider family, you do not have any rights under this wording because it is provision. What if that is changed and “provision of” is removed and it is just left as “care”? The one I prefer involves community. Senator Clonan hit on this. It is maybe the apprehension around putting in the Constitution something that results in a rights-based approach for persons with a disability, creating an obligation on the State to provide care of a particular kind. Right now, this provision looks after only the person who is providing care, not the person receiving it, which means we are not looking at the care someone requires in a sense. Our amendment seeks to insert “community” into that to take it wider than the family, while taking into account the potential concerns to the effect that the inclusion of the wider community may result in commercial or private actors saying, “There is an obligation for us in that because we are part of the wider community or are placed within the community.” As regards the wording I would prefer to be put in, when the word “community” is added, the rest of it should be left in terms of the bonds between us.

As regards the bonds between us, if it is any sort of private obligation or involves commercial people, such as asserting any sorts of rights in this Constitution, this wording creates a much more personal aspect to the bonds between us, which means someone does not have a bond with the respite care centre or the nursing home. When the wider community is included, it potentially allows for the involvement of neighbours, local community services, State-led services, family resource centres, community development centres or the person who has no family. All the neighbours chip in and help the person. In ageing communities such as mine, that happens a lot. There have often been families where there have been no children or where the children have moved on. Maybe one partner has died and the other lives in the house alone. When this is kept within the home or within the family, that does not take into account the fact that some people do not have that. If the community is not included, its role either in giving care to someone else or receiving care is not captured in that. If the community piece is added but the bonds piece is kept, it is kept on that much smaller, localised scale rather than this commercial idea of a commercial entity saying it fits into this or is covered by this in terms of the provision of care.

I mentioned kinship care in the previous session, and it is something to maybe look at. This involves State care, so familial arrangements are made. In most cases, the State is aware of them, but there are lots of things that do not flow from that in terms of the supports to which a person who is in a kinship care arrangement has access, such as extra educational stuff. Kinship Care Ireland said that it is estimated that between 10,000 and 12,000 children are living in informal kinship care in Ireland and that the guardian’s payment is the only social welfare payment

for which kinship carers can apply. I refer to their having to apply adequate care to situations in which kids may have been in situations involving turmoil. Maybe there is grief, loss or trauma, or maybe there are extra layers of need that require support. We may not recognise the care they provide in keeping children within that familial situation and the importance of that care. We may not match that then with an obligation in terms of policy and legislation as to how we value their care situations. Many kinship carers are grandparents taking on the full-time care of grandchildren on small fixed pensions. Many are aunts or uncles who have reduced or stepped away from their work to provide full-time care. Other kinship carers are adult siblings deferring their education and their life plans because their life trajectories have changed overnight as a result of the needs of, say, their younger siblings. Some kinship carers are family friends or neighbours who, despite not being related, step forward to ensure that the child they know and love does not have to enter formal foster or State care. I wonder where they fit in within the proposals as to how we define care with the suggested wording in the referendum. We know that rights do not naturally flow from the change. I want to vote to remove the article regarding a woman's place but I then have to think about that in conjunction with not being too happy about the care piece, how the provision of care is defined, the lack of a community reference and, as Senator Clonan said, the fact that it is still very focused on the paternalistic style of care. We have to be able to discuss the Government plan to be able to meet the needs of those people who will be captured within that and what that looks like. A really easy measure for me is a Government commitment to ratifying the UNCPRD optional protocol. If the person receiving care or the person with a disability who may need care at various stages of his or her life does not have a legal basis within this because it is about the provision of care, where else are this person's legal rights exercised? If his or her legal rights were exercised in terms of the optional protocol, we could see a clear commitment to people with disabilities being able to exercise their rights under that treaty.

I will not go into the individual amendments. I think I said that the one I preferred was the one that adds in community but keeps the bonds between us or else the one that removes "the provision of" so then it includes carers' care in the widest possible sense. Senator McDowell referenced the fact that care is in the new Title of the Bill but then the actual amendment says "provision of care" so the provision of care and care in the Title do not seem to be lined up. The Minister would definitely get far more people on board because, as I said, I want to go out and advocate that all mothers and all families are captured under this referendum and that their duties and functions as mothers are recognised beyond the home but I also want to make sure that those who need or provide care have wider access to State supports in making sure this care is provided. The stuff about "shall strive" can be argued out. I am more worried about the provision of care piece because I feel the provision of care is a one-way thing rather than a between thing. We could go a long way in fixing that.

Senator Gerard P. Craughwell: I wish to put on the record that I have been a carer for both of my children. I have been a carer for my grandchildren. In fact they play hell with me when I am on my own with them. They stay up late and convince me that I do not have put them to bed early. They do all sorts of things. My two children ring me constantly when they have problems. They do not seem to feel that they have to talk only to their mother when there is a crisis. They talk to me. I collected my children from school and dropped them to school. I was not a great dad when it came to changing nappies and things like that but I learned as time went on so I favour the term "parent" rather than "mother" or "father" when we are talking about things.

I am also mindful of people like Senator Clonan, who is a carer. Many fathers like him with disabled children have to play a full part in caring for their children. I hope Senator Clonan does not mind me saying this but only yesterday, he told me that he did not think he or his wife had ever had a night alone. One of them always had to be there caring all the time. That is what care is about. When you look at what Senator Ruane was talking about, you see that in some communities around the country, Senator Clonan and his wife would be able to get a weekend away because the community would take over. That happens in parts of rural Ireland. It happens all over the place so I favour the amendment that includes community. It is a brilliant amendment and it is sad that we find ourselves up against the clock here and it cannot be taken.

I wish to talk about the word “strive”. I accept the Minister’s bona fides that when he put in this wording, he meant that the State would do everything in its power to support care. However, let us talk about the other side of striving within the State. Let us talk about Brigid McCole, Vicky Phelan, mother and baby homes and all of the cruel things the heartless State has done and how hard it has striven to drive people who take on the State into the ground. If some poor unfortunate family finds itself in a situation in five or ten years’ time because of this amendment to the Constitution where it feels it has not been taken care of and the State has not striven to give it the support it needs, it will be driven to hell and back to try to find and prove its case in court. I am shocked that Family Carers Ireland has come out in full support of this - the very people who depend on the State. How many people come in here day in and day out to tell us about their struggles to get supports for their children? Senator Clonan has spoken several times about the children with disabilities who are being refused basic services. Right now this State does not strive and I am not so sure that putting this amendment into the Constitution will change the welfare of those who depend on the State. This is why when I think about the amendment to bring the community in on the care side of things, if a family has an entire community behind it, it is much easier to convince those who hold the purse strings to make sure that family gets the supports it needs.

I am really sorry. I said it to the Minister yesterday and I meant it. Today I am confirming it. While the word “strive” remains in this amendment to the Constitution, I cannot support it and I would ask people not to support it. I have nothing against the Minister and his efforts. I commend him on what he is trying to do. However, the wording is wrong. Regarding those who were supportive of the two changes to the amendment, we just heard Senator Ruane say that she had difficulty with the word “strive” and is struggling to find a way to sell this to her community. The Minister has not met the needs of those who are involved in care all day every day. He has not met the needs of the countless mothers and fathers who are there looking after a disabled child and whose lives have been controlled by virtue of the fact that they have a child they need to care for. I cannot go into details but I have seen cases where an entire family was tied down with the care of children. One family had to have nurses 24 hours per day, seven days per week and 365 days per year in its home. Its sitting room was turned into a hospital ward. Regarding the term “strive”, I have seen how this State can strive and how cruel it can be to those who were most in need so I am afraid that with the word “strive”, the Minister is not convincing me that we would truly go the extra mile when we needed to.

Senator Mary Seery Kearney: I will be voting a very strong “Yes” to this amendment to the Constitution and will do so with a very glad heart. I believe that the description of women as set out is dated and is not reflective of an inclusive modern Ireland and of how care and duties in families are reflected in a modern Ireland.

Let us look at what a “No” vote would do. A “No” vote would leave it in there - a piece of

the Constitution that has no material effect on people's lives. We will have a redundant article in the Constitution that is not fit for purpose. I have read constitutions from different countries to adjudicate how their supreme courts and governments administer them. We can contrast between countries. A person looking in on Ireland would think that for all its pronouncements, it is not a particularly modern state in that it believes that women have duties that are particular and need to be preserved and red-circled for being in the home, and that women would not fulfil those duties were they, God forbid, actually to come out and work for a living or contribute other than in the home.

The second issue is that care as a concept will not go into the Constitution. It will be left out of it. A "No" vote does not do anything for the delivery of services for disabilities. It does nothing to enhance anything that is espoused by the opposition to this Bill. It will not advance a single thing. A "No" vote therefore is merely a protest; it is opposition politics for its own sake. It does not constructively add to this in any way. The problem is that the chances of it coming round to another referendum are fairly slim as we move on. All of the work of the citizens' assembly and the gender equality committee will be for nothing. It is not an option to have a "No" vote. We need a "Yes" vote. We need to figure out what that "Yes" vote actually means.

The Constitution is not the place for particularising what exactly that should look at. The Constitution is the place for concepts and aspirations that we subscribe to as a people from which rights can be promoted, drawn and naturally flow. The proposed wording is that the State recognises the provision of care. Care is an action word. Care is an interaction that happens. We are saying that this happens as a provision. We have a comma there deliberately. Commas are there to separate different distinguished groups within a sentence. They are there for that purpose, so it is the provision of care. I have listened to the concerns of disability representatives and advocates, as I know the Minister has. Yesterday, on Second Stage, I addressed, in particular, groups such as the Independent Living Movement that say that people with disabilities are not merely passive recipients of care. I did it wholeheartedly. Then the Minister spoke and I went home and absorbed and processed all of Second Stage and thought, "Hold on a minute, what we are talking about here is not merely care for people with disabilities." If we confine it to such, we are reducing what this provision in our Constitution is actually all about. I stand by the view that people with disabilities are not mere passive recipients of care; they are people who also give care. This morning I think of Selina Bonnie, to whom I paid tribute on the Order of Business for her extraordinary work and on whose passing I outlined my regret. She was a giver of care. She was a standard setter and a changemaker. She was all of those things and she was a disabled person. She was not a passive recipient of anything. In fact, she was a person who put it up to everybody else to make changes. One of the biggest tributes I will give to her is that in the passage of the assisted human reproduction, AHR, legislation, she made sure that people with disabilities had a right and access to fertility treatment in this country. I will insist on that in her name as we clarify that Bill coming through the House. People who have disabilities also care and love. They also can be parents and people who give care. Let us not be reductivist in our assumptions in this debate.

We qualify the aspiration within the Constitution by saying a family to one another and there is a mutuality of care within that concept. Within the wording that we put here it is a mutuality, a giving of care as equals to one another. I have an eight-year-old child. She can be sassy. I like to think she takes after me. She gives care and love. Every day I am challenged by her unfiltered comments on things and the fact that I have to be so filtered about my life. Even in parent-to-child relationships, there is mutual respect and care. Yes, I do things; I obviously am

providing and doing a whole heap of things with regard to her, as my husband does also. That said, there is a mutual exchange. The recognition of that care and love from a toddler of two is such that if I climbed up on a stool to get something, she would say, “Be careful”. It is all of those things. Care is an instinct and we are recognising that mutuality in the wording of this. We are saying “without which the common good cannot be achieved”. That is a very powerful statement. We cannot achieve what we need in our State without the provision of care to each other, particularly within the family, and we are saying that we will strive to support such a position. “Strive” is an important word there because we are saying there is no limit to the aspiration of what the State envisages but there may be a limit to what we can actually finance. We will strive to support it. It may be that we support it in mechanisms other than direct funding. It may be in ensuring hearings in courts or child maintenance. It may be in a number of different ways that are not necessarily on the purse of the State. The fact is this is such a strong statement for our people. We need to have “strive” there as a little qualifier to say we will strive but some of the aspirations that will flow from this may be too big for us. We will try, we will wrestle with it and we will actively engage with what we can do to make sure that we are respecting care.

Senator Mullen referred to the duties of care and caring and said that we are reducing what caring is. I remind him that Article 42 begins: “The State acknowledges that the primary and natural educator of the child is the Family and guarantees to respect the inalienable right and duty of parents to provide, according to their means, for the religious and moral, intellectual, physical and social education of their children.” I wonder what duties actually stands for in the previous article because that is a really comprehensive provision. The description of the relationship is found within the new article and that provision in Article 42. It is important to remember that. We are not being reductive in any way.

While I disagree with the interpretation, with due respect to Senator Clonan, and how far he is taking it, I completely agree on the plight of parents and family carers. I was on Newstalk’s “Lunchtime Live With Andrea Gilligan”. She has been very good in highlighting, promoting and campaigning for family carers. I listened to the story today of Gayle and her son Luca and the fact that she is a prisoner in her own home. She has no respite and none of the things she should have. The family changed its CHO area last year by moving house and Luca’s care package did not transfer across, despite the HSE being advocated to repeatedly. Until Andrea Gilligan sent it an email today, the HSE failed to engage. It said that after today it would. There is a truth that there is an appalling failing in the culture of the HSE with regard to the manner and approach to families who have members with disabilities. That it had the gall to go into court and defend that child spending 60 days off an emergency department room and say it did not cause her any harm is shocking. Whoever gave that instruction should be sacked. It is a shocking position for the HSE to take.

However, voting “No” will not advance that situation. Reviewing the disability Act to make sure it includes access to services and not merely assess to assessment will. Presumably, the Minister is the one who had to go in and do the arm-wrestling with the Minister for Finance to allow the Minister of State, Deputy Rabbitte, to deliver €15 million for respite care and her three-pronged plan, which will also change that situation. It requires political pressure. The aspiration in the Constitution will not change that. The steps the Government is taking will and are already bringing about change and doing what needs to be done. Concerning the stories like those of Gail, Luca and others, unfortunately, it is the way of things that we must share some of our most difficult moments to stimulate change. Those situations are the ones for which we

need campaigns and to keep pressure going. The change in the Constitution, the recognition of care and the State striving to support such provision is what we need to support and drive home. Voting “No” is not an option. It does not get us any further and does nothing productive. It sets us back and sets back the work of NGOs in advocating and has set back women’s rights over the past number of years. It is a slap in the face to the women of Ireland who have said we do not want this in our Constitution and we do not want to be defined. The Constitution is not a place to label individuals; it is about setting out a provision for all our people equally.

I support this. A lot has been said. I am just checking my notes to make sure I covered everything I wanted to. It is a good provision. Some are being disingenuous. Some of the debate has been to approach it in a mean-spirited way rather than seeing the provision as opening up a vista of care, putting it on a standing in the Constitution, ensuring it has that place and is at the centre of the Constitution. It is part of the rights between Articles 1 and 44. We are putting it at the heart of that. We recognise the fundamental position of care, not in a reductive way but in a way that aspires to much more than we can imagine. The wording of this provision does that. It even provides for concepts we have not even thought about yet and may arise. I congratulate the Minister. A lot of hard work went into this. I say, “Well done”. I urge people to vote “Yes”. We need this. We need to get rid of the old wording.

Senator Erin McGreehan: As I said yesterday, I welcome this opportunity to change our Constitution. We have listened patiently - perhaps a little impatiently at some stages - to today’s debate. I was glad there was at least an acknowledgement that the Article is not reflective of reality and not to include more - the parents - was unfair and unrealistic. However, going back to the previous debate, we have to acknowledge what the family is, what it has become and what it actually always was and have that acknowledged in our Constitution. We must also acknowledge that the mother - the woman - is not the only person involved or the only one with the responsibility or duty. We need that change. I also find bizarre the argument that this was some sort of social good that the Constitution gave to lower class people - as Senator McDowell said, it was there to protect poor people. It did not. What good did that Article about life within the home and “not to neglect their duties in the home” do? It did not help anybody. It did not help me, nor did it hinder me but it did not help my granny, mother or aunt. No positive actions were taken from that Article to support women. It is no good to them. It is perverse how some have twisted it. Earlier in this debate and in the previous debate, it was said it was a disgrace that some were taking men out of the argument and that they were deleting men. We have moved on to this debate and we hear the rambling that it is a disgrace that we are deleting women from the Constitution. It is ludicrous. You cannot say one and the other and mean both. It is singing to the choir. There was a lovely clip for a Twitter post that will get loads of likes and follows, which is empty of any substance or progressive move for this country. It is infuriating.

I hope this referendum is passed because, as Senator Seery-Kearney said, it is a progressive move that sees care in itself as an action and a positive that will be acknowledged in the Constitution. There are many types of care which this can encompass. We have discussed this at length in many different types of debates. There is a huge failure of the State in supporting community care and care outside the home but this is a positive Article. It acknowledges the family and care. It includes the fathers, aunts, grannies, grandads and uncles who provide care because of their bonds and acknowledges that care is so important that the common good cannot be achieved without it. It is symbolic and important that our Constitution acknowledges care and deletes “duty”. I am not sure which Senator said it was not fashionable to have “duty” included but duty is there. We all have a duty but to put a perceived legal obligation in the

Constitution that a woman must fulfil or not neglect her duty is not appropriate. “Duty” is a very strong word. I will not miss my Constitution telling me, because of economic necessity, that I am neglecting my duties in the home. This country will not miss it. We do not need it. It did not help us. It did not hinder some. The Constitution might not have been the origin of discrimination against women but it was the origin of its support. When policies were enacted, there was a societal drive but also a constitutional stamp. Like Senator Seery Kearney, I congratulate the Minister and his officials on their work because this is a progressive, positive move that encompasses all people who do care because “of the bonds that exist among them”, which is a lovely phrase.

Acting Chairperson (Senator Maria Byrne): I thank the Senator and invite the Minister to speak.

Minister for Children, Equality, Disability, Integration and Youth (Deputy Roderic O’Gorman): I thank the Senators for their amendments and for their detailed consideration of the Bill before them today. Before I start, I would like to follow on from comments made by Senator Seery Kearney in terms of recognising Selina Bonnie. She was a colleague of mine and I regularly received a little text every now and then, usually prodding me on where the assisted human reproduction Bill was but also on a range of other issues. As it is an extremely difficult time for Robert, her daughter and all of her family, I am glad the Senator recognised her and would like to take the opportunity to do so also.

I will speak to the amendments first. All of the amendments relate to the section of the Bill concerned with the wording of the new Article 42B. In essence, these amendments can be divided into two parts, the first of which being that the Constitution should recognise care provided not only by families but also by the wider community. As there were nine months of discussion at the interdepartmental group, at the Cabinet subcommittee about these proposals, the concept of unpaid care beyond the family was given significant consideration by the Government. The Government does recognise those who volunteer their time to help others in their community. They undertake an important social good. However, it is important that we recognise that if we extend the constitutional recognition of care to community volunteers as well, that can have very significant consequences. There was a concern about the unintended consequences, particularly when we are dealing with the Constitution, dealing with a document that paints in those very broad brushstrokes.

Yesterday, I spoke to the issue of carers and a concern raised by some that we were not explicitly recognising carers within the context. I will come back to that later when I speak about why we chose the word “care”. As I said yesterday, carers are not named explicitly within the scope of Article 42B but supports for family care often include paid services, such as personal assistance hours, and as such in recognising and placing that onus on the State to support family care, the State will also have to support that robust care infrastructure around that. Through that express obligation on the State to support family care, there is a recognition of the importance of investing in those services, services that we all recognise are not getting the level of support right now.

With regard to the second part of the proposed new article and the amendments concerning that, which relate to the scale of the obligation placed on the State and the words that explain the extent of that particular obligation, we all know that any amendment to the Constitution is significant and what we propose here places an express obligation on the State to support care within the family. Of course, the courts - as the judicial arm of the State - will have the role of

interpreting that obligation and applying it in cases. Cases will follow from this where family care is an issue.

There is an issue about the use of the term “shall strive” and what it means. That phrase was picked deliberately because it most accurately reflects the clear policy objective of the Government, that is, an objective to support family care but also give the Oireachtas some latitude in how it chooses to do so. The Government’s intention is that the wording of the proposed article reflects a requirement on the State to make serious and sustained efforts to support family care. The use of the word “strive” is deliberate because it recognises this will be achieved on a progressive basis. It will not be achieved in one budget or in one electoral cycle. It will take time to fully achieve these objectives. That overarching aim of serious and sustained support for care, in all its myriad circumstances, must be put into the Constitution and it allows for a building and improvement of the services and supports. It is important to say the phrase is “shall strive” so “shall” is a mandatory word. It is a clear direction in terms of the level of obligation. We should contrast that with the term “endeavour to ensure”, which is currently used in Article 41.2, and I argue that “shall strive” is significantly more ambitious. Article 41.2, with its wording “shall ... endeavour”, has not delivered anything, ever, to any woman or mother. It has delivered nothing. Senator McDowell asked, with regard to the new article, Article 42B, “Where is the State’s obligation?” It is clearly expressed there. There is a clear obligation on the State. It is a justiciable obligation on the State and it will be tried and tested in the courts.

I am sorry that Senator Craughwell is not here right now but he listed many appalling circumstances where the State had forced individuals to litigation to vindicate their rights but had there been an obligation on the State to strive to better support care, we could have had different outcomes in many of those cases because of placing a constitutional obligation on the State in there. It is particularly important we recognise that when the discussions took place on what we would do, were we to remove the existing text of Article 41.2, there were options. One option considered in 2018 was straight deletion. Senator Higgins spoke about that earlier on. There was the idea of placing the recognition of care and the onus on the State in Article 45, the directive principles mentioned by Senator McDowell. This is non-justiciable. If we had not wanted to place an obligation on the State, we could have put it there. We could have recognised care but not put the onus in as well. The Government did not do any of those things. It clearly put in the recognition of care and it placed a clear obligation on the State with regard to “striving”.

Senator Seery Kearney is right and the difficulty-----

(Interruptions).

Senator Michael McDowell: Sorry about that.

Senator Lynn Ruane: Was that a baby cam?

Senator Mary Seery Kearney: The Minister should go back to the bit where I was right.

Deputy Roderic O’Gorman: Senator Seery Kearney was right about what we are trying to achieve in each budgetary cycle. Bearing in mind when we were looking to achieve improvements for care, and care is so fundamental to so many of the elements of my Department, in budget 2023 I wanted to do something on the foster care allowance but when we looked at it we did not have the money to go round that year. However, in budget 2024, we were able to advance it. That reflects the clear onus associated with “strive”. It will not deliver every single improvement on the first day and everyone recognises that. However it is that clear progressive

goal of improving the supports for care and for carers.

It is important to say there is a myriad of types of care. We focus, rightly, on the issue of disability but care is care for children, for those with a disability and for the elderly. There are diverse types of care and that care is provided by a diverse type of carer. It is provided by mams and dads, by sons and daughters, by the extended family. The “family” referred to in Article 42B is not the constitutional Family we spoke about earlier. It is not the marital family or the durable relationship. Because it is “family” with a small “f”, it is distinct from the Family referred to in Article 41. Linked to that, because Senator Ruane raised the specific point, on the issue of kinship care, my Department recognises there is a large lacuna right there with regard to the thousands of people who are in kinship care and for whom the current policy and supports do not do enough. The Department is doing a piece of work right now to bring together a policy paper on kinship care and to look to see what the next steps we can bring forward are.

7 o'clock

I hope that is one tangible example of a recognition that there are groups of carers who are not being properly supported right now and we know we need to do more. I cannot say what we are going to do yet because we are early in that process but there is recognition that change is needed there and clear policy mechanisms do need to be put in place.

I listened carefully to the points Senator Clonan made yesterday and today. I spoke on them yesterday and will try to do so today as well. We clearly identified the word to use in the new article 42B as “care”. That is because there is the understanding that there are two or more people in a care-based relationship. We did not use “carer” because that very much focuses on one element. We talked about the word “care”. I thought Senator Higgins put it very well when she said care was about receipt as well as provision. That is absolutely what we seek to achieve with this article. Both parties to that caring relationship are recognised. That is why the term “care” was chosen. I spoke earlier about how there was some criticism that carer is not specifically called out but we use the term “care” because we did not want to create asymmetry between the person receiving and the person providing care in the particular situation.

Particularly early in the debates today, many people referred to care in the home. It is really important to state that “care in the home” is not used anywhere in the new Article 42B. We were talking about the previous article and they get linked in but it is quite important and, again, it was a deliberate choice. It is care within the family. It is not linked to a physical or geographical location. Where a person who leaves the family home every single day to go to work and has a personal assistant with them, that is fully covered in the purpose here even though the vast majority of the time the personal assistant is with them they are outside the home. It is still encompassed in what we are addressing here.

It goes back to the point that the infrastructure of care is so important here and that family care cannot, in many circumstances, take place without that infrastructure of care. That is relevant in disability, elder care and child care too. We recognise that more needs to be done in that wider infrastructure. Yesterday, I spoke a little about some of the things the Government has done and that it is committing to in the short term. Senator Higgins spoke about the action plan for the implementation of all elements of the citizens’ assembly and the report of the joint committee. Across the Government, we are monitoring our progress on each of those. We have been able to do quite a lot in my Department on the childcare and leave side of things. There might be an opportunity for the Seanad to have a debate on where we are there. Much of it falls

within my Department, although not all of it, obviously. There is progress against much of the non-constitutional recommendations of the Citizens' Assembly on Gender Equality.

Ireland's ratification of the optional protocol of the UNCRPD is something we have discussed here in the past. Originally, we had a plan that we would do our first reporting cycle, get our first report and then look to ratify the optional protocol at that point. We have submitted that report. There are significant delays with the UN body. Myself and the Minister of State, Deputy Rabbitte, have said we are open to doing it sooner. We have commissioned a piece of work on the remaining blockages to ratification and the remaining areas where Irish law is clearly out of line with the UNCRPD that we need to address. We got rid of an important one with the assisted decision making legislation. We have commissioned the work and it is under way. I hope to receive the outcome of that in the coming weeks and I hope then I will be in a better position to outline the steps towards ratification. I am not able to give the Senator a date today but we are working to identify the final barriers towards that ratification.

On independence and the recognition of independence, particularly talking about persons with disabilities, the passing of the assisted decision making legislation, which had been sitting on the shelf since 2015, and the resourcing of the decision support service is, I hope, one example of the Government wanting to operate in the new regime that our ratification of the UNCRPD must recognise.

I think everybody who spoke on this today recognised that, at a minimum, the language of Article 41.2 is outdated. I think everyone had some qualms about the existing language. I know that some people had a much harsher view of the language but there was some common agreement there on it being outdated. It is language that has not delivered tangibly for women or mothers and we have an opportunity to replace that with a clear constitutional valuing of family care. It is an inclusive valuing of care; it values care, be it the care of parents for their children, of mums and dads for their children, of sons and daughters for their elderly parents, or of family members for a family member with a disability, but most importantly, for the first time, we will have that constitutional onus and obligation on the State to do more. We have heard so clearly from Senators here and from Deputies in the other House how the State does need to do better in terms of the delivery of care. What is being proposed here is a meaningful step. It is a step that is worth supporting and one we need to take. It will not finish these issues but it is a meaningful step forward to a better recognition and better support of care.

Senator Alice-Mary Higgins: I thank the Minister. It is good that hopefully before the referendum we should have the result of the roadmap and dates for the optional protocol. That would be something very substantial that would send a really positive signal. I look forward to the outcome in the next number of weeks. Perhaps this might accelerate it.

The Minister mentioned a number of areas in which the State needs to show its sincerity and show the spirit in which it is carrying this forward with "shall strive to support the provision of care". The Minister has given a number of examples and that is very useful to have. The roadmap forward is really important.

There are other Departments which are relevant. I am looking particularly at the Department of Social Protection and, indeed, the Department of Health. It would be useful and important if they would come forward and be very clear in what they believe are the additional measures they will have to take to strive to support care if we have this shift in the Constitution. It is striving to support care in all families and not taking a narrow remit - as the Minister noted,

it is rectifying families in the first referendum - and the unequal treatment within our social protection system. I am conscious that it is often the Minister out front but we will have to see all of the Government, because this is an all-of-government proposal, coming forward and being clear and strong about what it is offering.

I had a number of points that evolved during the debate. I will park some of them because I am sure that when the debate finishes here we will go out and have the debate in the public realm and we will continue to talk about these issues. It has been a really interesting debate. The language from everyone is around the inadequacy of what is there at the moment. However, it has also been clear that the idea of different functions for men and women and that there should be very distinct bounded roles is not something that solely existed in 1937. There are those who still believe that we should have a very separate role defined in terms of mothers and women in the Constitution that excludes others and that we would have a different function and shape in society rather than a society that recognises care for both men and women. It should also recognise working life for men and women and there is that equal piece. My colleague was completely correct in her observation earlier when she said that Article 45 in terms of the social policy only related to women, but was superseded by the stronger provision that was there in Article 41.1 around mothers in particular. It was the practice of the State for many years, right up to the 1970s, that a married mother was required to leave her job. That flowed from that same spirit. There are those now - and we see it in Hungary in some of the policies coming through there and elsewhere - who would like to see a reification of roles and a pushing back into separate function rather than something that recognises that care matters. It is not enough to leave it as an invisible support to society. It needs to be a visible, recognised, supported and rewarded contribution to society for everybody. Also, the individual choices of both men and women should be respected and valued in an equal way. This includes those men who choose to care full-time and those women who choose to work full-time and those families who share those responsibilities between them.

I had a number of points along the way. I am going to park them right now because I know there are others who want to come in and we are coming to the end of the debate. I had answers to different questions that came up but they have now really gone from me at this point. It is regrettable that we are probably not going to get a chance to vote on all of the very constructive amendments. The process has not been ideal in that it has been truncated. It was an unfortunate and unnecessary choice for us or for me because I believe this is so significant and because the question that will be put is as to whether the Bill should pass and whether there should be constitutional change. I am going to be put into a position of supporting the Bill, but I want to be very clear that it has been unfortunate that the process was not as it should have been. That is regrettable because I think a longer process would have allowed more opportunity to unpack why we need these changes and why change in our Constitution is a positive thing we need to move towards. I have to note that concern but I would be very clear that I do not think simply being frustrated at the process is enough to vote against something that is so significant. We have heard in the past the idea that if one is unsure, go for the *status quo*. The *status quo* is unequal and it is not satisfactory. Even if it is not going far enough, I think we do need to move in the right direction.

Senator Michael McDowell: Senator Clonan can talk about his own amendment. I am making that point.

Senator Tom Clonan: I just want to make a general observation to echo what Senator Higgins said. Notwithstanding the differences of views and notwithstanding the time constraints

and the compression of this process. I do appreciate the listening ear. I felt that we at least had the opportunity to raise those concerns here. I appreciate the Minister's bona fides in this regard. I know the debate may have become heated from time to time, but I hope he would not infer from that any personal criticism. I thank the Minister's colleagues as well for spending the time here sitting under the window, which I am sure is not comfortable.

Cuireadh an leasú agus faisnéiseadh go rabhthas tar éis diúltú do.

Amendment put and declared lost.

Senator Rónán Mullen: Tairgim leasú a 3:

In Part 1, page 6, to delete lines 5 to 8 and substitute the following:

“Admhaíonn an Stát, go sonrach, go dtugann mná agus cúramóirí teaghlaigh, a thugann cúram sa teaghlach, taca don Stát nach bhféadfaí leas an phobail a ghnóthú dá éagmais.

Déanfaidh an Stát a chur in áirithe nach mbeidh ar mháithreacha ná ar chúramóirí teaghlaigh, de dheasca uireasa, dul le saothar lasmuigh den teaghlach agus beidh ar an Stát tacú lena ndualgais chúraim.”,

I move amendment No. 3:

In Part 2, page 6, to delete lines 12 to 14 and substitute the following:

“In particular, the State recognises that women and family carers who provide care in the home give to the State a support without which the common good cannot be achieved.

The State shall ensure that mothers and family carers will not be obliged by economic necessity to engage in labour outside the home and the state shall be obliged to support their caring duties.”.

Cuireadh an leasú.

Amendment put.

An Cathaoirleach: Will the Senators who are claiming a division please rise?

Sheas na Seanadóirí Clonan, Keogan and McDowell.

Senators Clonan, Keogan and McDowell rose.

An Cathaoirleach: As fewer than five Members have risen, I declare the amendment lost. In accordance with Standing Order 61 the names of the Senators dissenting will be recorded in the Journal of the Proceedings of the Seanad.

An Cathaoirleach: Ó tharla an t-am a cheadaítear le haghaidh na díospóireachta seo a bheith caite, ní foláir dom an cheist seo a leanas a chur de réir ordú an lae seo ón Seanad: “Go n-aontaítear leis seo leis an Sceideal i gcoiste; go n-aontaítear leis seo le hailt 1 agus 2 i gcoiste; go n-aontaítear leis an Réamhrá agus leis an Teideal leis seo i gcoiste; go dtuairiscítear an Bille gan leasú dá réir sin don Teach; go ndéantar leis seo an Ceathrú Céim a chríochnú; go ndéantar leis seo an Bille a ghlacadh chun an breithniú deiridh a dhéanamh air; agus go ndéantar leis seo an Bille a rith”.

23 January 2024

The time permitted for this debate having expired, I am required to put the following question in accordance with the order of the Seanad of this day: “That the Schedule is hereby agreed to in committee; that sections 1 and 2 are hereby agreed to in committee; that the Preamble and the Title are hereby agreed to in committee; that the Bill is accordingly reported to the House without amendment; that Fourth Stage is hereby completed; that the Bill is hereby received for final consideration; and that the Bill is hereby passed”.

Faisnéiseadh go rabhthas tar éis glacadh leis an gceist.

Question put and declared carried.

Ráiteas mar Eolas do Vótálaithe i ndáil leis an mBille um an Daicheadú Leasú ar an mBunreacht (Cúram), 2023: Tairiscint

Statement of Information of Voters in relation to the Fortieth Amendment of the Constitution (Care) Bill 2023: Motion

Senator Regina Doherty: Tairgim:

GO ndéanfar an ráiteas atá leagtha amach sa Sceideal a ghabhann leis an Rún seo a fhorordú mar eolas do vótálaithe, de bhun alt 23 d’Acht an Reifrinn, 1994 (Uimh. 12 de 1994), i ndáil leis an togra chun an Bunreacht a leasú, atá ar áireamh sa Bhille um an Daicheadú Leasú ar an mBunreacht (Cúram), 2023, agus is ábhar do reifreann bunreachta.

An Sceideal

An Bille um an Daicheadú Leasú ar an mBunreacht (Cúram), 2023 – Páipéar Ballóide Uaine

Ráiteas mar Eolas do Vótálaithe

Fiafraítear díot sa reifreann seo an aontaíonn tú leis an togra—

(a) chun an t-alt seo a leanas a scríosadh as Airteagal 41 den Bhunreacht:

“2 1^o Go sonrach, admhaíonn an Stát go dtugann an bhean don Stát, trína saol sa teaghlach, cúnamh nach bhféadfaí leas an phobail a ghnóthú dá éagmais.

2^o Uime sin, féachfaidh an Stát lena chur in áirithe nach mbeidh ar mháithreacha clainne, de dheasca uireasa, dul le saothar agus faillí a thabhairt dá chionn sin ina ndualgais sa teaghlach.”

agus

(b) chun an tAirteagal seo a leanas a chur isteach i ndiaidh Airteagal 42A den Bhunreacht:

“Cúram

Airteagal 42B

Admhaíonn an Stát go dtugtar taca don Chomhdhaonnacht, ar taca é nach bhféadfaí leas an phobail a ghnóthú dá éagmais, de bhíthin cúram a bheith á thabhairt ag daoine de theaghlach dá chéile toisc na snaidhmeanna atá eatarthu, agus beidh an Stát ag dréim le tacú leis an gcúram sin a thabhairt.”

Má thoilíonn tú leis an togra, cuir X os coinne an fhocail **Tá** ar an bpáipéar ballóide.

Mura dtoilíonn tú leis an togra, cuir X os coinne an fhocail **Níl** ar an bpáipéar ballóide.

Is féidir féachaint ar chóip den Bhille ar an idirlíon ar www.oireachtas.ie

I move:

That the statement set out in the Schedule to this Resolution be prescribed for the information of voters, pursuant to section 23 of the Referendum Act 1994 (No. 12 of 1994), in relation to the proposal to amend the Constitution which is contained in the Fortieth Amendment of the Constitution (Care) Bill 2023 and is the subject of a constitutional referendum.

Schedule

Fortieth Amendment of the Constitution (Care) Bill 2023 – Green Ballot Paper

Statement for the Information of Voters

You are being asked, in this referendum, if you agree with the proposal –

(a) to delete the following section from Article 41 of the Constitution:

“2 1° In particular, the State recognises that by her life within the home, woman gives to the State a support without which the common good cannot be achieved.

2° The State shall, therefore, endeavour to ensure that mothers shall not be obliged by economic necessity to engage in labour to the neglect of their duties in the home.”

and

(b) to insert the following Article after Article 42A of the Constitution:

“Care

Article 42B

The State recognises that the provision of care, by members of a family to one another by reason of the bonds that exist among them, gives to Society a support without which the common good cannot be achieved, and shall strive to support such provision.”

If you **approve** of the proposal, mark X opposite the word **Yes** on the ballot paper.

If you do **not approve** of the proposal, mark X opposite the word **No** on the ballot paper.

A copy of the Bill may be viewed on the internet at www.oireachtas.ie

Cuireadh agus aontaíodh an cheist.

Question put and agreed to.

Human Rights in China: Motion

An Cathaoirleach: I welcome the Tánaiste and Minister for Foreign Affairs, Deputy Micheál Martin. It is good to see the Minister with responsibility in the House. I thank him for being here.

Senator Malcolm Byrne: I move:

“That Seanad Éireann:

notes:

- the hugely significant contribution of the Chinese people to the development of global culture and trade;

- the recent visit of Chinese Premier Li Qiang to Ireland;

- the increasingly authoritarian behaviour of the Chinese Communist Party and its oppression of minorities and repression of human rights;

supports:

- the desire for friendly relationships between the peoples of China and of Ireland and the European Union;

- the views expressed by the Tánaiste and Minister for Foreign Affairs in May 2023 at the Royal Irish Academy, Dublin, on Ireland’s relationship with China and in particular, his call for China, like every other United Nations member, to adhere to its human rights obligation;

expresses concern at and opposition to:

- the continued detention of Jimmy Lai, a peaceful pro-democracy campaigner and publisher, who has been falsely imprisoned for three years under charges brought under the Chinese National Security Law, whose provisions are inconsistent with international human rights law;

- the reported use of coerced testimony in cases relating to the National Security Law;

- the repression of independent media and democratic activists in Hong Kong;

- the ongoing efforts of the Chinese Communist Party to destroy the culture of the people of Tibet and the abuse of the rights of Tibetans;

- the genocide being perpetuated in Xinjiang against the Uyghur and other groups;

- the repression of religious minorities, including Christians and the Falun Gong;

- the use of new technologies to engage in widescale surveillance of citizens and the development of a surveillance society;

notes with alarm:

- the growing tensions in the South China Sea and affirms the right of the people of Taiwan to live in peace and free from ongoing threat;

calls on the Government to:

- continue to use bilateral and multilateral channels, including through the European Union and the United Nations, to support the protection of human rights in China, Hong Kong, Xinjiang and Tibet, and of Chinese citizens internationally;

- actively support the release of journalists and pro-democracy activists unlawfully detained under the Chinese National Security Law;

- oppose the misuse of Artificial Intelligence or any emerging technology for any purpose that undermines human rights; and

- conduct an economic analysis of the ownership of assets in Ireland by companies linked to the Chinese Government and the potential impact of various foreseeable scenarios in the Taiwan Strait upon the Irish economy.”

I propose to share time with Senator McGreehan.

To echo the points of the Cathaoirleach, I welcome the Tánaiste to the Chamber on this particular issue, which is a very serious one. It is an opportunity for this House and, indeed, the Government to stress how human rights should always underpin Ireland’s foreign policy and that we expect all members of the United Nations, regardless of size, to have respect for the dignity of the individual.

This motion stresses that this country has enormous respect for China and that we should always seek to build friendships and to co-operate, particularly in tackling some of the global challenges, including climate change. We should always look to promote cultural exchange in trade and, indeed, we should seek to promote greater understanding between the European Union and China. That said, we cannot and must not turn a blind eye to the evidence of continuing human rights abuses by Beijing and we need to continue to highlight values that are important to us and to other members of the European Union such as the rule of law, respect for minorities, due process and individual liberties.

The Tánaiste will be aware that China’s human rights record was examined by the UN Human Rights Council’s Universal Periodic Review working group in Geneva. I am particularly glad that Ireland played an active role in this discussion. Indeed, according to media reports, Ireland’s ambassador, H.E. Mr. Noel White, stated that Ireland was “deeply concerned about the continued repression of civil society in China, including harassment of human rights defenders, restrictions on freedom of expression ... and the treatment of ethnic and religious groups, including in Xinjiang and Tibet.” I strongly welcome the fact that Ireland is continuing to raise these issues at the United Nations and at European Union level as well as bilaterally.

It is important to acknowledge the Tánaiste’s speech last May at the Royal Irish Academy. It was a significant speech. It set out clearly that we want to have constructive relations with China but that we will always stress the importance of human rights in our foreign policy and we will call out where the repression of human rights is taking place, and that includes in China.

I welcome the fact that, certainly, in the statements last week during the visit of Li Qiang, the Chinese Premier, to Ireland that the Tánaiste and the Taoiseach made, human rights were central to those discussions. This has not always featured in statements from the Department of Foreign Affairs in the past. Indeed, I would argue that sometimes human rights almost appeared as an afterthought. In recent times, however, it is clear that human rights is front and centre in terms of some of the discussions.

The fact that Irish beef exports to China are to resume is welcome. The right of Irish citizens to be able to visit China for up to 15 days without a visa is welcome. Exchange and the opportunity to see another country is something that is welcome. I have had the pleasure of visiting a number of cities in China. It is an amazing country. These are welcome measures but it is clear that China does not come to visit Ireland or other countries on a goodwill mission. There will be an expectation that there will be some level of reciprocity. It is important for the Government to be transparent as to any requests that were made on the part of Chinese Government during the visit to Ireland last week and if there were any reciprocal arrangements sought and, indeed, any promises that may be given on behalf of the Government here.

Last April, I had the privilege of welcoming Sebastien Lai to these Houses. I had the opportunity to briefly introduce him to the Tánaiste. Sebastien is the son of Jimmy Lai, the founder of newspaper *Apple Daily* in Hong Kong. His is a story of somebody who went from rags to riches. He was a self-made businessman who cared passionately about people and cared passionately about Hong Kong, but he is currently being detained, as the Tánaiste will be aware, under China's national security law. This law has curtailed civil liberties and eroded judicial independence in Hong Kong. His arrest and ongoing detention are simply because he spoke out for democracy and for a free, fair and balanced press in Hong Kong.

I ask the Tánaiste, in his remarks this evening, to give a clear commitment that he will continue to raise this case and that of many others in Hong Kong who have been arrested, prosecuted or imprisoned by the Hong Kong Government for simply engaging in peaceful protest or, indeed, for expressing their international human rights. It is a case that the world is watching what is happening in Hong Kong. It was an amazing and great city but, clearly, we are seeing the deterioration of a once-great city and a lot of that is due to how the Chinese Communist Party is enforcing the national security law.

Indeed, while much of the world's focus may be on the ongoing horrors in the Middle East, we need to continue to also ensure that other conflicts and acts of repression and oppression around the world remain on the global agenda. That has been core to the work the Tánaiste has been doing. This, obviously, includes Russia's invasion of Ukraine and, indeed, Iran's ongoing campaign of repression and actions that are also happening in Africa, but at times we have not paid sufficient levels of attention to what has been happening in China. It is appalling how China has been treating some of its minorities. The treatment of the Uyghur people in Xinjiang and others in that province, and the repression of their culture, are not acceptable. When we are effectively seeing concentration camps being operated by the Chinese Communist Party and efforts to destroy a culture, that is something we cannot accept.

In this country, there has been a long appreciation of the Tibetan people and Tibetan culture. The way in which that very rich culture has been repressed and the Chinese Communist Party has sought to wipe out Tibetan culture continues to be of deep concern. I ask the Tánaiste, as our representatives have done in Geneva today, to continue to raise those concerns.

We know of ongoing attempts to crush minority religious beliefs. Various faiths have raised this concern. I value deeply the right of freedom of religion and expression and there are issues concerning how Christians are oppressed and members of Falun Gong have been treated. We have to ensure those issues remain very much on in the international agenda.

The motion also makes reference to Taiwan. It is crucial that we ensure there is respect for the right of the Taiwanese people to live in peace. I will not comment on some of the Taoiseach's remarks last week and I appreciate the difficulties that arise when we talk about the principle of the One China policy. We need to recognise that it is the right of the Taiwanese people to determine their future. We also need to recognise the contribution Taiwan has made on the global stage. Ireland should continue to develop positive relations with Taiwan.

An Cathaoirleach: Before he leaves, I want to welcome Deputy Cormac Devlin, the Deputy Government Whip, and his delegation and friends to the Seanad. They are very welcome and I thank them for being here. I am sorry, Senator.

Senator Malcolm Byrne: The Tánaiste will also be aware of the role artificial intelligence in playing in emerging technologies and in transforming all of our lives. There has to be concern that AI will be used in a way that is for the public good and that we will not see it misused. There has to be deep concern about evidence of China using technologies for the purposes of creating a surveillance society and stamping on the rights of its own people. At a multilateral level, when we take an active part in shaping global AI policy, we must ensure the principles rest on those human rights principles that are core to our foreign policy.

I am very appreciative and proud of the strong stance the Tánaiste has taken to ensure that Ireland's foreign policy remains human rights-led. In our continuing good relations with China, while we want to be friendly and engage in trade, it is critical that human rights remain at the top of the agenda.

Senator Erin McGreehan: I second the motion and thank Senator Byrne for moving it. The Tánaiste is very welcome to our debate, which is a good opportunity to speak about China, particularly after the recent visit.

There are so many things, as Senator Byrne said, that are wonderful about China. However, none of us can hide from the many things that need our attention and action. Our motion outlines the continued detention of Jimmy Lai, a peaceful pro-democracy campaigner; the reported use of coerced testimony in cases involving the national security law; the repression of independent media and democratic activists in Hong Kong; the ongoing efforts of the Chinese Communist Party to destroy the culture of the people of Tibet, and the abuse of the rights of Tibetans; the genocide being perpetuated against the Uyghur people; and the repression of religious minorities, including Christians and Falun Gong.

I will go back to the detention of Jimmy Lai. He is a prominent pro-democracy campaigner and an entrepreneur who has dedicated his life to advocating for democratic principles and standing up against authoritarian rule. His detention sends a chilling message to all the world with regard to how China is suppressing dissenting voices. As we all recognise, it is a clear violation of basic human rights and the right of freedom of expression, which should be protected and respected by all nations.

The implementation of the national security law in Hong Kong has sparked significant concerns. This law grants Beijing unprecedented powers to suppress political dissent and under-

mine the autonomy promised to Hong Kong under the one country, two systems principle. We need to look at the suppression of independent media and democratic activists in Hong Kong, which we all agree is deeply troubling. We have witnessed the closure of pro-democracy newspapers and media organisations, leaving citizens with limited access to unbiased information. This not only undermines freedom of the press but it also restricts the ability of individuals to make informed decisions and hold their government accountable.

These concerns regarding China should not be overlooked or dismissed as internal matters. They impact us all. China is such a powerful country. This suppression of democracy impacts our world. It undermines the global commitment to human rights and democracy, eroding trust and necessary stability in international relations. It also undermines what we do at the United Nations and our faith in the UN's ability to stop aggression against people's human rights. It is important that Ireland holds China to account for its actions. We have a strong record in upholding human rights and pushing for human rights across the world and, as Senator Byrne said, the Tánaiste is at the forefront of that on many different arguments. We must urge the protection of human rights, freedom of expression and democratic principles. We also need to explore what else we can do to engage with China, emphasising the importance of upholding these rights.

We need to acknowledge Taiwan as more than an economic trading partner. We should further our diplomatic links, as other countries have, and celebrate Taiwan's democracy. It is rare in that part of the world to have free, open and fair elections. Only two weeks ago, Taiwan held a very successful election.

We need to acknowledge the plight of the Uyghur people. A detailed report last year by the UN High Commissioner for Human Rights documented far-reaching, arbitrary and discriminatory restrictions on human rights and fundamental freedoms in violation of international norms and standards.

I only have a few seconds left. As we increase our trade with China, are we compromising our morality for better economic security? We must question our trade agreements with China because in spite of every single aggression against human rights, we are making China richer and supporting ourselves economically through trade but where is the cost-benefit for Irish people in upholding human rights?

Senator Rónán Mullen: Cuirim fáilte roimh an Tánaiste. There is a significant Uyghur population in Ireland, many of whom are Irish citizens. Almost all have seen family members impacted by China's extraordinary campaign that has seen over 1 million Uyghur people imprisoned without trial and subjected to extreme levels of abuse and torture. The Chinese Communist Party has not only detained one in ten of the Uyghur population but it is also seeking to wipe out and suppress the rich Uyghur culture through a campaign of coercive assimilation. This has been widely documented by human rights activists, journalists and scholars and through the harrowing testimony of men and women who have survived these camps and fled China.

The Irish Uyghur Cultural Association, which launches this week, aims to foster a sense of support and belonging for Uyghur people living in Ireland, and to share and celebrate Uyghur culture with the broader Irish population. Its aims are to protect and support Uyghur language and culture by providing a safe and embracing space for language learning and cultural performance, something which does not exist currently in Ireland, as well as sharing cultural ex-

change and forging relationships and friendships between Uyghurs and their fellow Irish.

I suspect many of the Uyghur people will regard this motion and the Tánaiste's presence here tonight with mixed feelings. There will be gratitude at one level on the basis that there is at least an attempt to raise issues of human rights - indeed, there is no doubt an acknowledgment that on occasions he does so - but the motion and the Tánaiste's approach in his work for the Government leave something to be desired.

I note there is no use of the words "condemn" and "unacceptable" in the motion. I suspect that when it comes to our dealings with the Chinese Government it is, as I said before, a nod to human rights but a very definite wink to trade. I take this opportunity to greet the representatives of the Chinese Government, who are no doubt monitoring us here tonight, as they are entitled to do. I have great respect for the Chinese people, but no respect for the Chinese Government or the Chinese Communist Party. I think we should all be unequivocal about that, but are we? When Premier Li Qiang came last week I noticed there were no questions allowed from the media. The Irish media seemed very complicit in that and there was no complaint. There was no opportunity for Ben Scallan or Gript to ask any hard questions, or indeed anyone else who might dare ask hard questions of governments these days.

The Chinese Premier's visit clearly demonstrates that the Irish Government regards trade as the main issue of importance when dealing with China. When the Taoiseach was asked about the human rights abuses of the Uyghurs, he said: "I think it's fair to say that they would have a very different view of the facts and would dispute a lot of what has been said about China in the media." I invite the Tánaiste to condemn those shoddy words here tonight. Here is the leader of the Government telling us that the Chinese Premier has a different view of what, for example, the US Government has deemed as genocide, as though this were a question of interpretation rather than of fundamental human rights. These are not just things that are said in the media. This is not fake news or a question of different interpretations; it is a question of whether the violation of human rights should be taken at least as seriously as a trade deal.

A 2022 United Nations report by the then UN High Commissioner for Human Rights, Michelle Bachelet, accused the People's Republic of China of committing serious human rights abuses against its Uyghur population and other minority groups. Will the Tánaiste use the word "condemn"? I do not hear it. I do not want to fall out with the proponents of this motion because it is good insofar as it goes, but I remind them that when I and others tabled a similar motion not that long ago we called on the Government to use its diplomatic and trade channels to put pressure on China. That is not in this motion. I got pushback from the Government at the time because I was encouraged to get rid of the idea that the trade channels should be involved. That is the danger of the nod to rights but wink to trade approach.

Despite the arbitrary detention, widespread torture, sexual violence, forced abortions and forced sterilisation of Uyghur women, the forced labour, and all that is going on, we do not get the language of condemnation from our Government. Yet, we claim to be putting human rights at the heart of domestic foreign policy. We claim to celebrate the UN Declaration of Human Rights, but in the face of one of the most serious human rights abuses of our time we welcome the perpetrator with red carpets and open arms. We delight in the win-win narratives of opportunity and co-operation, but for both sides to win here, we cannot have the Dublin Airport Authority wetting itself with enthusiasm on social media about the big aeroplane on the tarmac. That is not the way we normally welcome the abusers of human rights - the destroyers of human life and dignity. For both sides to win here, human rights cannot be taken off the table and the

Uyghurs and their culture deemed ultimately disposable.

I urge the Tánaiste to listen to people like Dr. David O'Brien, whose dad comes from my parish of Ahascragh, County Galway. He is a fantastic academic doing great work to highlight the plight of the Uyghur people, and he has personal experience of living among them. He is appalled at the lack of performance of the Irish Government.

We are important to China. We have TikTok, Huawei and other Chinese companies with close connections to the Chinese Communist Party employing ever greater numbers here. The Irish Council for Civil Liberties, ICCL, wrote last year to the Houses of the Oireachtas Commission, the Office of Public Works and political party leaders to raise urgent concerns about the use of HIKVision surveillance cameras in Leinster House and Government Buildings. The company, HIKVision, has been shown to provide facial recognition technology used in the surveillance and repression of the Uyghurs. The surveillance system operated by HIKVision targets them based on racial attributes and flags them for detention at mass internment camps. The Chinese Communist Party is a controlling stakeholder in HIKVision and investigations have discovered their devices reporting back to China, yet despite these concerns, nothing was done.

An Cathaoirleach: Míle buíochas.

Senator Rónán Mullen: I will conclude by making a reference to Jimmy Lai, whom I regard as a modern white martyr. If ever there was someone who deserves to get our human dignity award, if he ever gets out, it is he. This is a man who could be enjoying one of his many properties anywhere in the world but he chose to stay in Hong Kong to fight for democracy. Our Government, among many other governments, is letting people like him down.

Senator Barry Ward: Cuirim fáilte roimh an Tánaiste. Gabhaim buíochas leis as ucht a bheith anseo don díospóireacht thábhachtach seo. I want to respond to the last speech in which it was asserted that the approach in this motion is somehow not condemnatory of China. It is very clear from the words used, expressing concern and opposition and outlining a list of serious issues, including coerced testimony in the context of Jimmy Lai's trial, and referring to repression of the independent media, destruction of the culture in the context of Tibet, genocide being perpetrated in Xinjiang, and the repression of religious minorities, that this is not a mealy-mouthed motion. The motion and its intent are very clear in terms of what is said.

Senator Malcolm Byrne and I are co-chairs of the Inter-Parliamentary Alliance on China. These are issues we have been pursuing for a number of years now and feel very strongly about. However, it is important to distinguish, as other speakers have, between the Chinese people, for whom I have enormous respect, and their government, for whom I have very little respect.

The reality is that we sit in a Eurocentric world and we think that things started here. Most of the things here started in China - from games, through ideas, to all the other things we take for granted. The Chinese have given the world so much and it is a culture of such ancient calibre that it is almost difficult for us to understand it. It is their misfortune that they now find themselves governed by the Chinese Communist Party, which has little or no respect for their individuality, their innovation and their might. It is repressing its own people, to the detriment of the progress of China. That is what is really regrettable about this.

My colleagues in Lithuania have been incredibly strong in opposing China and the way it has behaved. It is, however, important to acknowledge that it is slightly easier for them because they do not have the same trade relationship with China. Whether we like it or not, we are the

only European Union country with a trade surplus with China. In 2023, that surplus was to the tune of some €24 million, so China is an important trade partner for us. Of course, it is right to point that out and identify the risks and difficulties it would potentially pose for us. If we create a dependency on Chinese trade, we are putting ourselves into a straitjacket in potentially being unable to challenge Chinese misbehaviour and disrespect for the rule of law and democracy.

It is important, therefore, as part of this motion, to recognise that we need to start to move back and diversify our trade relationship in Asia, but particularly in relation to China, so that we are not caught, for example, if the next US presidential election results in a change in our ability to export chips to China or *vice versa*. That could really compromise our economy in other ways. From an economic standpoint, which I acknowledge is a purely selfish one, we need to make sure we diversify our trade relationship with China and insulate ourselves from the risks that come with that, from the point of view of protecting this country.

My colleagues will talk about dairy and beef exports to China, which are hugely important to communities here. We need to safeguard those. If we truly respect China and the Chinese people, we also have to be willing to speak truth to them. This motion mentions a number of issues that are of global importance in terms of China treating its citizens in a way that we cannot possibly support or countenance.

There is a spectrum of misbehaviour and disrespect on the part of the Chinese Communist Party for its citizens. It ranges from the appalling genocide of the Uyghur people in Xinjiang, about which there can be no doubt. This is not merely speculation. The Chinese will tell us that it is and that they have alternative reports that tell us that it is not happening. In spite of the countless international reports, including by Michelle Bachelet and the UN, which have established as a matter of fact that there is a genocide happening there, they say that it is not happening but we know that it is. There is a real problem from Ireland's point of view in not calling that out and making sure we say it.

8 o'clock

A constituent of mine, Richard O'Halloran, was essentially imprisoned in China. I know, having worked with Deputy Coveney, the Minister's predecessor, the work he did with Wang Yi, the Foreign Minister, to get that man back. It was difficult and painstaking.

The difficulty is that the Chinese at a governmental level simply do not respect the norms that every other respectable member of the international community stands up to. On one end we have the Uighurs, but we can then go through the trial of Jimmy Lai, a man represented by an Irish citizen, Caoilfhionn Gallagher, a friend of mine who is doing incredible work as a barrister to defend him. She is swimming against the tide, however, because the national security law in Hong Kong and disrespect for the rule of law means that the Chinese government has not only trumped up a charge against him and fabricated a trial, but has also coerced testimony from people like Andy Li who worked with Senator Byrne and me in the context of the Inter-Parliamentary Alliance on China, IPAC. He was tortured to give testimony against Jimmy Lai. That is what we are dealing with. The problem is that we as a country need to make sure that we communicate to China how reprehensible and unacceptable that is.

The third thing mentioned in the motion is Taiwan. We are not a military power; we are militarily non-aligned and so it should be. Politically, we must support Taiwan, Lai Ching-te and the new government of the Democratic Progressive Party, which was re-elected in recent

weeks despite the greatest attempt at interference from Beijing. We must send out that message very clearly to Taiwan that we support it.

At the heart of the motion is a recognition that there are massive problems in our relationship with China because China refuses to play by the rules and to acknowledge the international rule of law and the human rights of its citizens. We have a trade surplus and have to safeguard our population and economic interests in China, but we must also speak truth to power and make sure that China hears Ireland does not abide by that and that we will not tolerate that in the long term.

An Cathaoirleach: The Minister has questions in the Dáil. I will ask him to make a contribution.

Tánaiste and Minister for Foreign Affairs (Deputy Micheál Martin): I have to go into the other House to take defence questions in about 20 minutes. I am pleased to join with those who contributed to the debate on the motion put forward by Senator Byrne, which raises a number of important issues, many of which are also of considerable interest to the Government.

I agree that it is timely to have this discussion now, following the visit to Ireland last week of Premier Li. Given the breadth of the motion before us, I want to highlight not just the Government's policy approach to China but also its actions, particularly with regard to human rights, Taiwan and economic security, all of which are referenced in the motion.

In October last year, I launched Ireland's updated Asia Pacific strategy. It reaffirms our commitment to deepen engagement in this dynamic region and sets out the parameters for how we want to grow our connections and strengthen our partnerships. We see the Ireland-China relationship as situated within the broader network of our relationships across the region. The areas of focus in that relationship reflect our areas of focus more broadly across the region and globally. This year will mark 45 years of Ireland-China diplomatic relations. As Senators will know, Ireland's relationship with China is broad and has expanded and evolved over the years. Alongside increased economic exchange, education, tourism and cultural exchanges are bringing our people closer together.

Last week, at the request of the Chinese authorities, the Taoiseach welcomed Chinese Premier, Li Qiang, to Dublin for a short visit. This was the first visit of a Chinese Premier since Li Keqiang in 2015. The visit of Premier Li was a welcome opportunity for an in-depth and constructive discussion. It is always very welcome to see in-person engagements resuming. Post Covid, we are witnessing that now.

I was one of four Government Ministers to travel to China in 2023. The Minister, Deputy Eamon Ryan, visited to mark St Patrick's Day, the Minister of State, Deputy Heydon, led an agrifood trade mission in April and the Minister, Deputy McConalogue, undertook a successful follow up-visit to China in May. In November, I undertook a three-day visit to Beijing and Shanghai for political meetings and engagements with the Irish business community and diaspora. There were also a number of high level Chinese visitors to Ireland during 2023.

Such person-to-person contacts have real value. They provide a basis for engagement with China on subjects on which we agree and on those where our perspectives differ. They offer opportunities for open and honest communication on things that matter to us and to the Irish people.

There is no doubt that our relationship with China is complex. While we share strong links in a number of areas, differences in our relationship remain. In May last year, I set out the Government's policy on China in a speech at the Royal Irish Academy. The speech reflected the strengths and opportunities in the bilateral relationship and Ireland's desire to strengthen engagement where it is in our interests to do so. It made clear the centrality of the multilateral order, with the UN Charter at its heart, to our approach to our relationship with China. I would ask Senator Mullen to read the speech because everything we do, globally in all of our relationships and in particular in our relationship with China, is shaped through the multilateral prism. It emphasised that partnership with China on critical global challenges, like climate change, the sustainable development goals and global health, is vital. There is no getting away from that; China plays a vital part in all three areas.

It is also important that we are able to have an open discussion on key regional and global issues, such as Russia's war in Ukraine and the conflict in the Middle East. The speech also acknowledged areas in which the views and priorities of China and Ireland diverge, including in regard to human rights. It underlined that Ireland must be clear-eyed about China's strategic objectives and how these may impact us. During my visit to Beijing last year, I used the opportunity to embed Ireland's policy approach to China within the framework of constructive dialogue.

In my meetings with Vice President Han Zheng and the foreign minister, Wang Yi, I was open and frank on Ireland's priorities for the relationship and emphasised the values which underpin our engagement. These messages were reinforced by the Taoiseach during his engagement with Premier Li last week.

Ireland has a proud history of supporting the protection of human rights around the world, including in China. I wish to assure Senator Byrne that is not an afterthought. It has been a consistent thread in Irish foreign policy for quite some time, to be fair to the Department of Foreign Affairs and others. We are committed to the universality, indivisibility and interrelatedness of all human rights and to accountability for human rights violations and abuses. This approach is anchored in our firm commitment to international law and agreed multilateral frameworks and bodies.

Ireland has been very clear that human rights need to remain on the agenda with China at bilateral and European Union level. The Government has consistently raised our concerns on specific issues directly with our counterparts in China. To those commenting, including Senator Mullen, I would say that it is not a case of a nod and a wink to trade. We have serious discussions on human rights. There are cynics who create the perception that we just mention these things and move on quickly. That is not the way it works. China does not want it to work that way either, by the way.

Senator Rónán Mullen: It would help if the media-----

Deputy Micheál Martin: I want to assure the Senator that I am making the point in engagements. He has raised these issues. China has no issue with discussing human rights because it takes its robust position, a position with which we do not agree. The idea that we do not mention these things is not how it works.

Last week, President Higgins and the Taoiseach availed of their meetings with Premier Li to formally set out Ireland's concerns on the human rights situation in China. Specifically, the

Taoiseach raised concerns about the treatment of minorities in Tibet and Xinjiang, as well as the national security law in Hong Kong. He also raised the case of Jimmy Lai, whose trial is ongoing. I take on board what has been said by Senator Byrne and others about justice in that case. He is facing a very difficult situation and there is a need for a fair trial and so forth. I raised our human rights concerns with my counterpart, the foreign minister, Wang Yi, during my visit to Beijing last November and at a more brief meeting in Munich at the UN security conference some months prior to that. This bilateral engagement is reinforced by Ireland's approach at the United Nations, including the Human Rights Council.

As Senator Byrne said, during China's universal periodic review, this week Ireland highlighted the continued repression of civil society in China, including harassment of human rights defenders; restrictions on freedom of expression, including in Hong Kong; and the treatment of ethnic and religious groups, including in Xinjiang and Tibet. We also raised the widespread discrimination against members of the LGBTQI+ community. The situation in Xinjiang resonates with the Irish public, the Government and the Oireachtas. Ireland has called on China to implement the recommendations of the assessment report from the former High Commissioner for Human Rights, Michelle Bachelet, on the situation in Xinjiang, the findings of which continue to be of grave concern to us. I have raised this twice with the Chinese foreign Minister, Wang Yi. The Chinese robustly respond in respect of Michelle Bachelet's report. That is an issue of ongoing disagreement and is contentious.

As Senators will be aware, the term "genocide" has a particular meaning under international law. Recognition of events definitively as genocide involves an analysis of both facts and law. Ireland follows the practice of recognising genocide only where this has been established by a final decision of a court in Ireland, or by a judgment of an international court, or where there is international consensus on the matter. Accordingly, while acknowledging the strength of feeling of the House on Xinjiang and recalling important debates held here on this issue, the Government is unable to share the characterisation of acts in Xinjiang as genocide. We want to ground them properly in terms of the international court system.

That does not apply just to China. We take international legal forums seriously. We have a case before the International Court of Justice at the moment in respect of Palestine and the occupied West Bank. We have made a legal submission. The Attorney General will present to an oral hearing in February on that. That took serious sustained work by our legal people. Likewise, we have made a very substantive submission on the legacy Bill. We take these forums and the basis on which these issues are decided seriously.

Senator Rónán Mullen: Does the Tánaiste condemn what they are doing?

An Cathaoirleach: Sorry, Senator Mullen, you had your chance.

Senator Rónán Mullen: Does he condemn it?.

Deputy Micheál Martin: I emphasise that this position does not detract, in any way, from our long-standing concerns about the situation in Xinjiang or our commitment to upholding human rights globally. We continue to work with our partners in the EU as to how we can best move this issue forward in respect of proper assessment from the EU on the ground, following up on Michelle Bachelet's work. We have no intention of stepping back from the consistent focus on the High Commissioner's findings. We will continue to pursue her work.

On 13 January, the people of Taiwan held democratic elections. Ireland, along with its EU

partners, adheres to, and will continue to adhere to, the one-China policy. This means that we do not have diplomatic relations with Taiwan. We recognise the People's Republic of China as the legal representative of China. This does not preclude the development of economic, cultural and people-to-people connections with Taiwan or the meaningful participation of Taiwan in relevant multilateral forums. We are concerned by increased tensions in the Taiwan Strait. Any instability in the strait has the potential for broad and devastating security, political and economic consequences. That is very real. In our interactions with Chinese authorities, Ireland is consistently clear that the maintenance of stability and the *status quo* in relation to Taiwan is critical.

We encourage restraint and strong communication channels, including between China and the United States. I welcome recent meetings between the two countries, particularly at military level where channels have been reopened and guardrails put around that relationship in the interest of global stability and security. Any attempt to change the *status quo* by force would not be acceptable.

Finally, I wish to address the question of economic security that has been raised. My speech in May also addressed the emerging process of “derisking”, framing Ireland and the European Union’s approach to this as building economic and systemic resilience. Senator Ward also raised this question. I made clear the Government’s obligation to assess areas of systemic vulnerability or risk in the relationship with China. I also underlined the importance of working with our EU partners to this end.

Ireland’s economy is remarkably open, as indeed is Europe’s economy. Our approaches to trade are anchored in global trading norms. Ireland and our EU partners want a balanced, reciprocal and mutually beneficial economic relationship with China, with a level playing field for Irish and EU businesses. There was recently an EU-China summit. Trade is a competency of the Commission. We can be sneering about trade, suggesting it is something like Yeats’s fumbling in the greasy till or whatever.

Senator Rónán Mullen: It is a consideration.

Deputy Micheál Martin: Trade is the lifeblood of the country. We trade with many countries all over the world. That is where the multilateralism comes in and that is why multilateral forums are very important to Ireland. We need to deal with issues in a proper and informed way. Trade is not the be-all and end-all but it is a fairly significant issue for many people living in this country. It relates to jobs and quality of life. It is bread and butter for many small and medium-sized companies as well as bigger companies in the country.

Senator Rónán Mullen: Derisk-----

An Cathaoirleach: Sorry, Senator Mullen-----

Deputy Micheál Martin: Our speech in May deals with that. We all need to get a bit real. Some 80% of pharmaceuticals consumed in America are made in China. Climate change will not happen without China’s manufacturing capacity. We cannot gear up in terms of the wind infrastructure or solar panels to give the manufacturing capacity in China. I have spoken to the European Chamber of Commerce in Beijing. I have spoken to the representatives of many Irish companies who have given us an illustration of the sheer capacity of what is happening. We can cut ourselves off and that is what some want us to do. It is very easy to do, but it has consequences. We engage with many countries in the world with whose political systems we

do not agree. I am a passionate believer in multilateralism, which requires engagement to try to bring about change. Many people in the global south, Africa and the middle East believe we in Europe hector too much. I am not saying China; I am saying generally. We need to engage in dialogue as much as we can. With the various disputes, I have been asked to expel three ambassadors, including the Russian ambassador, in the past year and a half. I do not see how that helps us in advancing the agendas, principles and values we have. I am digressing a bit.

Ireland's trade with China, and importantly our goods exports to China, have trebled in the past five years. There is an economic interdependence globally and globalisation is not going away. The Government will continue to support many of our businesses and our State agencies in their engagement with China and to work with Chinese companies established in Ireland to create jobs and build prosperity. Alongside this, we will also work with EU partners to strengthen our broader economic security. With our economic resilience in mind, the Government has put in place legislation on 5G vendors and more recently, on investment screening. These measures are country-agnostic and play an important part in addressing economic vulnerabilities wherever they may arise.

I thank you for your indulgence, a Chathaoirligh. This is an important debate and one I am pleased to participate in. I thank the Seanad for its continued engagement on Ireland's relationship with China. Senator Byrne has been engaged for a long time. I look forward to hearing the views of colleagues. I apologise that because of the way the other House works, parliamentary questions are taken late in the evening and I have to go and take questions on defence.

An Cathaoirleach: We do our business much better here, despite what people might write in the newspapers.

Senator Michael McDowell: I thank the Tánaiste for having come here and I wish him well in the Dáil. I also thank my Fianna Fáil colleagues for tabling this important motion for discussion this evening. It is remarkably courageous of you, a Chathaoirligh, to stay in the Chair following the recent torpedo you received from the Chinese Embassy in Dublin for congratulating the people of Taiwan on their election, but these things happen.

I want to talk about a small number of issues. I agree completely with what Senator Mullen said about that nature of the Chinese Government. I would go further. We should never forget that the Chinese Communist Party is a ruthless totalitarian dictatorship and nothing else. It suppresses all human rights on true Marxist-Leninist lines. They are inferior to the right of the party as the voice of the people to exercise whatever authority the party decides is necessary to remain in power in China. That involves ruthlessly suppressing any internal democracy or dissent, jailing people, executing people, re-educating people, taking on entire ethnic minorities such as the Tibetans and the Uyghur people of Xinjiang province and treating them in a manner which is barbaric, to put it mildly, breaking up families, forcing abortions on women, forcing men to take off their beards, and rounding up Uyghurs from education camps and sending them in trains to work in forced labour around China. This is China today. We can have respect for Chinese culture and the Chinese people themselves, as Senator Byrne said, but let us never, ever forget that this government is probably the most hostile to human rights of any government on the planet, and in the company of Putin and Kim Jong Un, that is saying something. They are ruthless in the extreme and nobody should ever lose sight of that fact.

Another thing that I want us to remember is that without any permission from the Irish State, the Chinese established a police station in Capel Street. The purpose of that police station was

to exercise effective *de facto* control over Chinese expatriates in Ireland. It was only when this accidentally came to the notice of the Irish authorities that it was closed down, but the fact that it was done without even a request to the Irish authorities for permission to do it shows how arrogant and overweening their attitude is.

Senator Mullen and I are NUI Senators. Like him, I am deeply suspicious of the Confucius Institute at UCD. I believe it is largely there to ensure political conformity among Chinese expatriate third level and postgraduate students, to keep an eye on them, to make sure they do not become infected with democratic, liberal or western values and to report back on them to Beijing. Sadly, I think they use the worst possible methods, including getting students to spy on each other, so living as a Chinese expatriate third level or postgraduate student in Ireland is by no means a liberating experience where you can kick off your shoes and enjoy the freedom of the West. It is none of those things. It is the subject of deep surveillance, full stop. Universities in Ireland are supposed to be institutions of freedom of thought, so how do they bring a cell into a university campus whose whole ethos, while pretending to be cultural and to be interested in Chinese culture, is in fact paid for, sponsored and operated as an agency of a tyrannical regime?

To conclude, it is very strange how in this country the left go silent on Chinese human rights. We never hear them in here and, whether it is soft left or hard left, they never come in to express any problems with this. They hardly even care about North Korea, they do not care very much about the suppression of human rights in Cuba and there is not a squeak out of them on the subject of the suppression of human rights and human liberty by the most totalitarian government on this planet.

I welcome and support the motion. I thank the Fianna Fáil Senators, in particular Senator Malcolm Byrne, for moving it.

An Cathaoirleach: Míle buíochas. Glaoimid an Seanadóir Malcolm Byrne to reply to the debate.

Senator Malcolm Byrne: I thank the Minister of State, Deputy Thomas Byrne, for standing in for the Tánaiste to conclude this debate. The Tánaiste set out very clearly what I think is the correct foreign policy for Ireland, which is our support for multilateralism where it is based very strongly on human rights. I agree with Senator McDowell that some of those who are most loudly calling for the expulsion of ambassadors from this country are remarkably silent when it comes to the totalitarian Chinese Communist Party. The Tánaiste is correct that that is not the way we should conduct diplomacy, although we need to have very frank conversations. I note the Tánaiste criticised me when I said that human rights sometimes appeared as an afterthought. Until fairly recently, when press releases came out from the Government about meetings with senior Chinese personnel, the last line was always “Oh, and human rights were mentioned.” Therefore, I welcome that human rights were very much front and centre at the meetings that took place last week. Given the developments in Geneva today, I compliment our ambassador on the statement that he made, which very much calls out China’s appalling human rights record.

There were a number of specific asks in the debate around continuing to raise specific cases, for example, what is happening with the Uyghur communities in Xinjiang, what is happening in Tibet, our concerns around Taiwan and, in particular, what is happening in Hong Kong at present. The case of Sebastien Lai and the cases of many others who have stood up for Hong Kong need to be highlighted at a bilateral and multilateral level. The European Union also needs to

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take a stronger stance on some of these issues. I ask that this be brought back to Government level and that, very clearly, it continue to be voiced in the weeks and months ahead, particularly while Jimmy Lai's trial is continuing.

It is very important that this House, as it has done on a number of issues, continues to hold debates on human rights around the world. That is not to say that Ireland is perfect as a country, and there is always more that we can do for our own citizens and to learn from our history. However, that does not mean that we should be silent or should in some way minimise our voice when it comes to human rights in other parts of the world. As Senator McDowell and others have said, we are now seeing an increasingly authoritarian Chinese Communist Party. I would argue that Xi Jinping has assumed dictatorial powers and he is effectively president for life. Within that, his oppression of minorities is of deep concern. I think this House speaks as one and expresses those concerns. I get Senator Mullen's point about not using the word "condemn", but in the contributions from Senator Ward and me in this House, at the Inter-Parliamentary Alliance on China, IPAC, level and in other areas, and, in fairness to the Tánaiste, in his remarks, it is very clear that we condemn those human rights abuses and that they will continue to be raised in international fora.

Question put and agreed to.

An Cathaoirleach: When is it proposed to sit again?

Senator Malcolm Byrne: Tomorrow at 10.30 a.m.

An Cathaoirleach: Is that agreed? Agreed.

Senator Rónán Mullen: I thought the Minister of State, Deputy Thomas Byrne, came in to give the condemnation that the Tánaiste did not give, but there you go.

Cuireadh an Seanad ar athló ar 8.29 p.m. go dtí 10.30 a.m., Dé Céadaoin, an 24 Eanáir 2024.

The Seanad adjourned at 8.29 p.m. until 10.30 a.m. on Wednesday, 24 January 2024.