



**To the All-Party Oireachtas Committee on the
Constitution in response to your advertisement
inviting written 'submissions.'**

10 February 2005

**Observations on the
Law of the Family**

National Men's Council of Ireland

APPENDICES: (also available to download from our website www.family-men.com)

1. Parental Rights and Marriage in Ireland & the Constitutional Review,
November 2004 - An Analysis.

National Men's Council of Ireland

2. Open letter to all TDs and Senators sent 18 July 2004 outlining the
Marriage Crisis and enclosing copy of 'Brides of the State' and the
Family Man

National Men's Council of Ireland

3. The Family - Marriage and Children – *Some Observations*

National Men's Council of Ireland

Considering your advertisement

Upon considering the matter and with the benefit of examining the Briefing Documents produced by the Committee but not made generally available to the citizens through your advertisement, we make the following observations.

1. Under the Constitution of Ireland, 1937 it is the responsibility of the elected representatives to submit their proposals for amendments to the Constitution to the people who are the Sovereign power. Article 46.2

ARTICLE 46

1 Any provision of this Constitution may be amended, whether by way of variation, addition, or repeal, in the manner provided by this Article.

2 Every proposal for an amendment of this Constitution shall be initiated in Dáil Éireann as a Bill, and shall upon having been passed or deemed to have been passed by both Houses of the Oireachtas, be submitted by Referendum to the decision of the people in accordance with the law for the time being in force relating to the Referendum.

Your request for 'submissions' from the people, the Sovereign power, to yourselves, an informal committee of Deputies that holds no statutory power would appear to be a USURPATION OF SOVEREIGNTY.

2. You appear to have failed to properly inform the citizens of Ireland of the true agenda of your committee. The advertisement placed in national newspapers omitted the following paragraph.

"The committee's concern will be to analyse the issues to determine whether or not legislative provision has been constrained by the Constitution so as to prevent a proper balance being achieved between the rights of the individual and the good of the community; and if it has, TO MAKE RECOMMENDATIONS FOR CONSTITUTIONAL CHANGE."

Of all the documentation that you have provided only this paragraph describes precisely the whole purpose of your activities. THEREFORE ANY GROUP OR INDIVIDUAL WHO RESPONDED TO YOUR ADVERTISEMENT WITHOUT KNOWLEDGE OF YOUR PURPOSE WAS DECEIVED.

It is plain from this paragraph that your committee intends to entirely disregard any public concerns that their Constitutional Protections should be retained, protected or strengthened and that your intention is simply to filter out material that does not support your own agenda and to only consider **change to the constitution which would act, by definition, contrary to the current common good.**

This is not declared in the advertisement.

3. It would appear from the following paragraph that does appear in your advertisement

The All-Party Oireachtas Committee on the Constitution, which is charged with reviewing the Constitution in its entirety, is now examining these Articles to ascertain the extent to which they are serving the good of individuals and the community, with a view to deciding whether changes in them would bring about a greater balance between the two.

that you have failed to comprehend the purpose of these Articles [41,42].

The Preamble to the Constitution will assist you to a proper understanding.

Preamble to the Constitution

And seeking to promote the common good, with due observance of Prudence, Justice and Charity, so that the dignity and freedom of the individual may be assured, true social order attained, the unity of our country restored, and concord established with other nations ...

The Articles of the Constitution, as you can see, and in particular the Family articles exist to serve only “the Common Good” from which the dignity and freedom of the individual will be assured. Your stated purpose therefore is obviously futile since the balance you seek to ascertain is neither intended nor given effect by these Articles.

4. The concern of your Committee, as you have stated in your Briefing Document No. 2, is to determine if a ‘PROPER BALANCE’ has been achieved between the RIGHTS OF THE INDIVIDUAL and the COMMON GOOD and IF BY YOUR EVALUATION IT HAS NOT YOU INTEND TO RECOMMEND CHANGE TO THE CONSTITUTION.

Your concerns appear to be almost identical to the agenda of the Irish Human Rights Commission stated to us in a letter dated 8 December 2004, where the Chairman Mr Manning wrote

“Our job is to examine the law and practice to ensure that it does comply with all human rights law, both in the Constitution and International Covenants and if we are not happy that it is so, to ask that the law be changed”

However it would appear to us that your proper job in this instance of the matter of Constitutional amendment is laid out for you in Article 46.2 which states,

ARTICLE 46

1 Any provision of this Constitution may be amended, whether by way of variation, addition, or repeal, in the manner provided by this Article.

2 Every proposal for an amendment of this Constitution shall be initiated in Dáil Éireann as a Bill, and shall upon having been passed or deemed to have been passed by both Houses of the Oireachtas, be submitted by Referendum to the decision of the

people in accordance with the law for the time being in force relating to the Referendum.

and

ARTICLE 6

1 All powers of government, legislative, executive and judicial, derive, under God, from the people, whose right it is to designate the rulers of the State and, in final appeal, to decide all questions of national policy, according to the requirements of the common good.

It is quite clear from this that your job as TDs is, if you feel it is necessary, to propose to the citizens by way of a Bill any amendment “according to the requirements of the common good”, and obviously you must present argument in favour of your own proposal to explain clearly to the people how this amendment will benefit the Common Good.

Your job is not to determine “a proper balance” between individual rights and the Common Good. Your job is to co-ordinate these factors.

President de Valera: “The position of a Legislature, ... for the future as in the present must be that it will be free to co-ordinate the public good, the individual good and the individual right. That is its prime, main duty.”

{Debates on the Constitution, 4 June 1937}

It would appear therefore,

- i. That you have attempted to usurp the Sovereign Power of the people.
- ii. That you have misinformed and deceived the people of your true purpose and in doing that have wasted the public’s time and abused their genuine concern for the Family and the well-being of the nation.
- iii. That you have misused public funding in that you are undertaking a job that the Constitution does not require you to do and which can serve no purpose.

Development of the legislation

We are particularly concerned by the second paragraph of your advertisement and your claim that,

“Following the enactment of the Constitution, legislation relating to the family has been developed in line with those Articles [41, 42 and 40.3] and elucidated by the courts in a substantial body of case law. ”

Professor Delaney in his work, “The Administration of Justice in Ireland” describes this process of ‘elucidation’ and the technique of statutory interpretation that has developed.

“The interpretation of a piece of enacted law requires not only a familiarity with the meaning of technical legal terms, but also with the whole branch of the law of which the statute forms a part; in particular, it requires a knowledge of the rules of interpretation which are themselves rules of law. Thus there is a rule against taking into account anything said or done while the statute is passing through parliament; and there are certain statutory rules with regard to the construction to be placed on words importing number and gender. If a question as to the meaning of a statute arises in an action at law, the judge will have to decide the meaning, and his decision will be binding for all future cases in which the same question arises”

If we compare the will of the legislature and the way that eminent judges have interpreted their legislation we can see immediately how the will of the people, the Sovereign Power in Ireland, can never be safely implemented through the courts.

In the lead up to the vote on Article 41 of the Constitution, on 4 June 1937, Eamon de Valera is asked to clarify the meaning of “inalienable and imprescriptible rights” so that the legislators would understand clearly what they were voting for.

Professor O'Sullivan: That is all I want to know. The court will then be in the position of deciding what “inalienable and imprescriptible rights” are, ...

President [Eamon de Valera]: ...The inalienable and imprescriptible rights are the rights [of parents] to look after the maintenance and control of the children. ...We want to stress the fact that these inalienable and imprescriptible rights cannot be invaded by the State.

Article 41 put and agreed to.

Compare this with the interpretation of these “inalienable and imprescriptible rights” by Barrington J. in the Supreme Court in O'R. (W.) v H. (E.) [1996] IESC 4 (23rd July 1996)

“Article 42 of the Constitution is an extension of Article 41 and refers to parents and children within a Family context. It refers to the inalienable rights and duties of parents and to the imprescriptible rights of the child.

It clearly does not according to the will of the legislature. Barrington then continues,

In other words it refers to a relationship between three people which carries with it reciprocal rights and duties which the positive law is enjoined to respect. The rights of the child are clearly predominant. They alone are described as being imprescriptible ...

Again reference to the debates and the meaning specified and agreed to by the Oireachtas clearly shows that parents rights are also imprescriptible and clearly predominate. Barrington’s interpretation is fallacious. De Valera explained to the Oireachtas that the parents needed their inalienable and imprescriptible rights so they could look after and control their children.

Again Barrington opined,

Article 42 is concerned primarily with the relative rights and duties of parents and children. Article 41, by contrast, is concerned with the Family as a group or institution and with its rights vis-a-vis other groups or institutions in society”

As we have seen this is plainly not true because De Valera explained to the Oireachtas that the inalienable and imprescriptible rights are the rights of parents to look after the maintenance and control of the children and the Article was passed on that basis.

If no account is taken by Judges, in the interpretation of the Constitution, of the debates where the true meaning of provisions are explained and the legislation passed on that basis then democracy is seriously at risk and the morals of the nation are prey to the sort of Judicial Activism perpetrated by Barrington J in the example given.

We must note here that despite the accepted rules of interpretation, it appears judges are free to ignore them when it suits and even second guess so-called ‘intentions of parliament’. As an example Murray J., presently Chief Justice and Chairman of the Courts Service, in the Supreme Court, R.v R. and the State, April 2 2004, 436SS., who apparently felt able to,

“know the clear INTENTION OF PARLIAMENT that the courts should have a discretion to award custody to either separated parent according to what was in the best interests of the children”.

The Constitution protects the People

Fundamentally, the 1937 Constitution of Ireland recognises that the greatest possible danger to the freedom and well-being of its people lies in interference by the State in the Family.

By observation of the breakdown of social structure by other Nations the People of Ireland were able to identify the root cause of the problem was founded in the unfettered authority of the State.

It can come as no surprise, therefore, that Ireland's Constitution is incompatible with many of the international Conventions at present in existence. This was the deliberate intention of the Family provisions of the Constitution and their sole purpose is to protect the Irish people from descending into the pit of moral and social chaos that has engulfed many other nations.

Successive Irish governments over the past forty years have betrayed the Irish people through the introduction of legislation repugnant to the Constitution and through signing, ratifying and implementing International Conventions which are in conflict with the fundamental rights of Irish people.

“First of all, the Family stands as a bulwark against the State.

It has been described as the greatest fortress of human liberty.

All serious tyrannies have tried to undermine it”.

– Baroness Young, “Standing Up For The Family”“

Fundamental principles relating to the Family brought about by the enactment of the Constitution.

1. The State no longer has the authority of the Crown of England. The people are no longer subjects of the King and are FREE PERSONS AND AS CITIZENS HOLD THE SOVEREIGNTY OF THE NATION.

2. The Family is an institution with its own Constitution and Authority.

From the debates on the Constitution 2 June 1937

“Mr. McDermot: There is one question I would like to put to the President: what is the meaning of sub-section 2° of Section 1: “The State, therefore, guarantees to protect the Family in its constitution and authority...” What does “authority” mean? Does it mean the authority of the head of the Family over the Family? If it does not mean that, what alternative meaning is there?”

The President de Valera: The President: It is the authority of the heads of the Family over their children, their right to look after their education and not to be interfered with by another authority in the State except for reasons that would be mentioned; that is to say where there was failure or neglect on their part to provide for the children, or, from the social point of view, failure to see that the children received a proper education. The Family have rights antecedent to and superior to all positive law, and any interference with the authority of the head of the Family will have to be justified on certain grounds. That is the authority that is referred to there.”

3. The only grounds on which the State can interfere with the Authority of the Family are stated in and controlled by Article 42.5.

42.5 In exceptional cases, where the parents for physical or moral reasons fail in their duty towards their children, the State as guardian of the common good, by appropriate means shall endeavour to supply the place of the parents, but always with due regard for the natural and imprescriptible rights of the child.

The Family has inalienable and imprescriptible rights derived from God which can not be invaded by the State.

From the debates on the Constitution 2 June 1937

The President: ... The inalienable and imprescriptible rights are the rights to look after the maintenance and control of the children We want to stress the fact that these inalienable and imprescriptible rights cannot be invaded by the State.

Article 41 put and agreed to.

4. The Family's Constitution is hierarchical - this is essential for the protection of the Family from external forces . It has by necessity, like all institutions, a hierarchical structure for its efficient management, its safety in emergencies and for its general well-being.

In England in 1925 the Lord Chancellor made clear the opposition to the idea of joint equal guardianship, which the promoters of a Bill had put forward, and the English Parliament rejected the idea as being detrimental to Married Family harmony

Objections to equal guardianship by parents were that the,

“net result of the Bill would be to substitute a legal for a domestic forum in every household ...'that to put Mothers on an equal footing with Fathers in all matters concerning their children would simply produce deadlock'; that although woman 'has almost the same status as man, she has not altogether the same status because it is necessary to preserve the Family as a unit and if you have a unit you must have a head.”

In 1937 the head of the Family institution was acknowledged to be the Father. His Authority and position was recognised by the courts in the matter of N.P. an infant [1943] 78 I.L.T.R. 32[HE]

“the Father is the head of the household and is liable to contribute to the cost of maintenance of his Wife and Family. [and in the matter of custody] if the circumstances show that he has not disentitled himself I rather lean in favour of conceding to him a greater claim than to the Mother”

The Constitution of the Family has not changed and can only be changed by referendum of the people. AT THE PRESENT DAY THE FATHER IS HELD TO BE HEAD OF THE FAMILY.

5. In exercising his Authority in his position as head of the Family he must respect his Wife's rights and implement any agreement he makes with her regarding the children's education.

6. Authority within the Family is transferred hierarchically, under certain circumstances (such as death or failure), from the Father to the Mother and so on through the available relatives.

7. Despite the father being recognised in the Constitution as head of the family and as having authority this is not made explicit in the Guardianship of Infants Act, 1964 so that it might assist him to exercise his duty to maintain and protect his Family. Instead the courts use this position against him.

Legislation under the English Crown

Prior to the enactment of the Constitution the Irish people were subjects of the English monarchs. Under English Law the Father's authority had become almost absolute over the centuries and Mothers had very little, if any, rights with regard to their children. The Father's position was such that even the royal courts of chancery could not override his authority unless he had disentitled himself.

The Equity jurisdiction of the Royal Courts of Chancery was derived from the prerogative of the Crown to act as 'supreme parent' to all children. This position permitted the King's court to interfere with the Father's authority to resolve Family disputes. It evolved solely and only out of the absence of Mothers' rights under English law.

Even under the Equity jurisdiction the Royal Court could not supersede the Father's authority without him first disentitling himself to his children and a set of grounds for disentanglement were established. (*see discussion of these on page 18*)

Hence the Equity Jurisdiction in Custody and Guardianship matters has three requirements.

1. That the court has a Crown prerogative as 'super parent' to its child subjects.
2. That the Mother has no rights in Law.
3. That the court first find the Father has disentitled himself to his absolute authority.

In 1937 this entire situation ended with the enactment of Bunreacht Na hÉireann.

The Implications of the new situation were:

1. The State was released from its Crown jurisdiction and could henceforth serve the people, the new Sovereign Power, in place of the monarchy and was obliged to promote the common good by vindicating the rights of its new Irish citizens.
2. Such was the authority of the new Family as recognised in the Constitution that the State was henceforth made to pledge itself not to interfere with the Family and to protect it from attack.
3. Only under exceptional circumstances as laid down in the Constitution would the State be called upon to endeavour to replace the position of the parents in a child's life.
4. Under the Constitution Irish Mothers, in contrast with Mothers in the past, are now entitled to extensive rights.

Under this new system of government and Sovereignty it would be reasonable to expect that legislation relating to the law of the Family would develop on the basis of provisions enabling the vindication of parental rights. For example it would be reasonable to assume that a Mother's rights could be easily vindicated in a marital dispute by simply regulating the Father's authority by way of injunction. It would very rarely appear to be necessary for the State to entirely supersede a Father's authority in order to resolve a dispute.

Similarly a Father's authority could be protected by injunctions where necessary against his Wife.

A system such as this would ensure that justice prevailed and that the welfare of the children would continue to be found within the Family and that the common good would be preserved and protected.

Development of the Law of the Family 1937 - 1963

In dramatic contrast to the aforementioned position the published case law reveals that the Irish courts dealt with the new arrangement very tentatively, perhaps due to the precariousness and uncertainty of the prevailing political situation.

The Courts appear to have been preoccupied with establishing the grounds on which Parental Authority could be superseded and case law slowly established the circumstances under which the State could interfere with the Family. But the vindication of rights of parents to protect their children is extremely low on the agenda and is in fact, as a concept, almost absent.

The courts established the circumstances under which a Father's authority ought be transferred to the Mother, or in the case where there was only one parent living, where the State might supersede that parent's authority and place the children under the authority of a third party.

All these decisions had been grounded upon the exceptional circumstances laid down by article 42.5 of the Constitution.

“where special disturbing elements exist, which involve the risk of moral or material injury to the child, such as the disturbance of religious convictions or of settled affections, or the endurance of hardship or destitution with a parent, as contrasted with solid advantages offered elsewhere.” O'Hara, 1900 Fitzgibbon L.J.

The TEST applied for intervention in all these cases was not, as has been claimed, that 'differences' between the Father and Mother had developed which jeopardised the child's welfare. This is just a statement of the facts.

The Test applied was – whether or not the parent entitled to exercise authority over the child (that it is the head of the Family) had conducted themselves in such a manner so as to satisfy the court that this was an exceptional case that required the transfer of that authority to the other parent or a third party.

Such exceptional case includes a violation of an agreement with the other parent regarding the religious education of the child – such a violation would be held to disturb the convictions of the child and would be judged to be a moral failure on behalf of the parents.

The law certainly did not develop on the basis of injunctions against parents who have violated the rights of the other spouse which accounts for almost all private Family Law cases today.

In our opinion, in Custody cases involving parents and their minor children, the State's proper concern can only be - firstly to establish whether or not the case is an exceptional one that requires {for reasons of the child's welfare laid down in Article 42.5} the transfer of authority away from the parent entitled to exercise authority over the children.

Where those grounds are found not to exist the State is not entitled to act in opposition to the parental right so it must next consider if it is necessary to

vindicate the rights of one of the parents if the other parent is violating those rights.

This appears to us to be the settled position prior to the enactment of the Guardianship of Infants Act, 1964.

The Guardianship of Infants Act

In 1963 something went terribly wrong.

Charles Haughey, then Minister for Justice, introduced a new Bill called the Guardianship of Infants Bill.

The first and inexplicable feature of this bill is that it was introduced as a consolidation of the five British statutes that amended the English Law of Custody and Guardianship that had developed under the English monarchy in the previous three hundred years prior to the creation of the Republic.

The English Law had developed on the principle that Mothers had no rights and on the principal that the people were subject to the authority of a reigning monarch. These principles are obviously redundant in the modern Republic of Ireland.

An analysis of the Act and debates reveals that it promotes itself by claiming to deal with two burning feminist issues of the time.

1. The demand from women for 'equality' with men in every aspect of life. In this case the framers of the Act sought to appease women by pretending to provide equality between Husbands and Wives. Minister Haughey claimed in introducing the Act that,

“the Bill proposes to give statutory effect to the legal principle that the Mother and Father of a child shall have equal rights to Guardianship and Custody”.

In fact it does not do this at all.

2. The problem of illegitimate children, their mothers and the scandal of children held in State-approved institutions or disposed of by those institutions.

The Act relieved the State of their own problem by placing these children in the sole unmonitored care of their unmarried mothers and provided a mechanism by which these women might reclaim their children from the institutions. These measures, which were intended at the time to get the State 'off the hook' of guilt, in fact, whether on purpose or not, established the female-headed household in Ireland and created the enormous problems we are faced with today.

Apart from these provisions to look after unmarried women this Act provides no mechanism for Married parents to vindicate their rights no matter what their circumstances. Nor is there any reference to Article 42.5 that controls the State's Jurisdiction in Family matters whereas the Oireachtas had a clear expectation that the Act would, not only be implemented in the High Court only, but that it would also be implemented according to Constitutional Law.

Mr. M.J. O'Higgins: “The Minister has expressed the fear that this Bill might be accused of being legislation for the abnormal situation or the broken home. That might be but in some respects it is the kind of legislation which is possibly likely to give rise to Family disputes rather than to settle them. This is a subject in respect of which the Minister and the House generally must step

rather gingerly having regard to the constitutional provisions which are there. The Minister has referred to some of those constitutional provisions and I am glad he has because it shows that the matter has been under examination in his Department.

The difficulty I see with regard to this Bill and with regard to any law on this subject, having regard to the provisions of the Constitution, is that it is difficult to see that we can unequivocally declare that the welfare of the child must be of first and paramount importance. I am not saying that that should not be the position but what I have in mind is that there are very definite provisions in the Constitution which seem to me to provide that the Family unit as a whole, not the individual component parts of that unit, must be regarded as of first and paramount importance.

The Minister has referred to Article 42 of the Constitution. He quoted Article 42.1 which states:

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.

In dealing with the Bill and, it seems to me to be clear from the terms of the Bill itself, the emphasis is laid rather on trying to secure in the case of children that the parents will do their duty but this Article of the Constitution which was quoted by the Minister refers not only to the duty of the parents but also to their inalienable right. I would suggest to the Minister that he must be very careful to see in relation to this Bill whether or not it is open to challenge on the grounds of the very Article of the Constitution which he himself quoted ...

I do, as I say, recognise that there is certain authority being vested in the courts under this Bill but Article 42. 5 of the Constitution does provide that only in exceptional cases can the State step in. It reads:

In exceptional cases, where the parents for physical or moral reasons fail in their duty towards their children, the State as guardian of the common good, by appropriate means shall endeavour to supply the place of the parents, but always with due regard for the natural and imprescriptible rights of the child

In other words, the degree of failure under that article of the Constitution is clearly defined and very limited and restrictive in character. Where the parents for physical or moral reasons, and only for physical or moral reasons, fail in their duty towards their children, the State as guardian of the common good, by

appropriate means shall endeavour to supply the place of the parents, but always with due regard to the natural and imprescriptible rights of the child. As I say, the class of cases in which the State can step in, as it is to some degree stepping in under this Bill, is very limited and confined in character.
Debates of Guardianship of Infants Bill, 1963, 11 July, 1963

The section of the Guardianship of Infants Act, 1964 that is used almost exclusively since its implementation has been Section 11. Inexplicably there is no record of any debate on the significance of this section in the Oireachtas records.

Combined with the rest of the Act this section re-enacts the Equity law of England that was in existence before the Constitution superseded it. This unthinkable retrogressive step ignores the whole existence of Mother's rights, Father's rights, the restrictions on State interference, the State's obligation to vindicate parental rights recognised in the Constitution and all of the established principles that had developed in case law over the previous quarter century!

Far from giving equal rights of Custody to Mothers, as claimed by Mr Haughey,
SECTION 11.2 A IS A PROVISION SOLELY FOR MARRIED MOTHERS TO APPLY FOR CUSTODY.

This subsection from the 1886 Guardianship of Infants Act is founded on the principle that Mothers have no rights of Custody and that the State has a Crown prerogative to grant and regulate Custody rights to Irish Married Mothers.

It gives statutory effect to the legal principle that Fathers hold the custody of the children of the Marriage by re-enacting Section 5 of the 1886 Act which **also has the effect of enacting the entire rules of equity which require that the Father be disentitled to his children before the State can resolve any Family disputes.**

The Equity rules of the Royal Courts of England enacted in this subsection of the Act were declared as marginal notes in the published Bill and it is apparent from the Explanatory Memorandum that Mothers and Fathers do not have Joint Custody as is often claimed.

However the published Act omits these marginal notes which are essential for any interpretation of the Act by the Courts or court users. As a result the people have been kept in ignorance by this concealment of the true nature of this foundation stone of the so-called Family Law Acts.

The whole legal system has become embroiled in Mr Haughey's deception and to this day Family Law textbooks, the Legal Aid Board's explanatory leaflets and the government information website continue to attempt to deceive the public even though everyone knows that there is something terribly wrong going on in the secret Family Law courts.

In an attempt to hide what would have by now become glaringly obvious as a fraud and a flagrant violation of Constitutional rights if the Act was used in isolation, the Guardianship of Infants Act, 1964 has been incorporated into

many other Family Law acts that deal with the welfare of children, such as Judicial Separation Act, Divorce Act and Domestic Violence act.

Where custody issues arise under section 11, which accounts for almost every case, this dispute resolution mechanism is only available to married Mothers.

MARRIED FATHERS CAN NOT USE THIS PROVISION AND HAVE NO ALTERNATIVE PROCESS AVAILABLE TO THEM.

Under section 11 the Officers of the Court set out to 'establish' the grounds that the Judge requires to make a finding that the Father is disentitled and so set in motion his Crown jurisdiction (authorised by Mr Haughey's government in 1963) to regulate the whole Family's affairs.

The Victorian grounds under Equity that 'disentitle' a Father appear to be as follows:

1. Unfitness in character or conduct
2. Failure to provide support for his children. Fathers are advised to pay 'maintenance' even where their Wives have deserted them and removed the children from the family home without his consent and this payment, by way of his continuation to perform his Constitutional duty, is taken as a 'confession' by the court that the father has 'failed' to provide support.
3. Lack of means to support his children. Being unemployed disentitles a father or even having inadvertently 'failed' to provide a deserting Wife with what she claims for herself and for the children.
4. By agreement between the Father and third parties if the third parties have acted so that revocation would prejudice the child. This means that a deserted Father asking for assistance risks permanently losing his children.
5. If the Father intended to leave the jurisdiction with the child. Possession of a passport or passports for the children will be construed as intention to leave the jurisdiction.

The secret effect of the Rules of Equity

A study of current Family Law legislation will reveal that it is enacted in apparently gender-neutral terms. For example the Non-fatal Offences Against the Person Act; 1997, The Domestic Violence Act, 1996; The Family Law (Maintenance of Spouses and Children Act), 1976; The Lone Parent Allowance Scheme.

Although these appear on the face of it to be equally applicable to men and women, when a married Father becomes involved with any of these pieces of legislation, and they interact with the secret laws of Equity used in the Family Courts, it will be seen that this automatically triggers the empowerment of the State to acquire jurisdiction and over-ride his authority.

The vast structure of Irish Family Law is based almost solely on Section 11 of the Guardianship of Infants Act, 1964.

We have noted that although the Father is recognised in the Constitution as head of the Family and as having authority this is not made explicit in the Guardianship of Infants Act, 1964 so that it might assist him to exercise his duty to maintain and protect his Family.

Instead the courts use this position against him.

Thus the position of a Married Father vested with the authority to protect his Family from the State puts him in the front line of attack from the very State that is pledged in the Constitution to not interfere with his Family and protect his Marriage from attack.

The result of these secret laws implemented in secret courts, which persecute good men and deprive honest women of their real rights, is that thousands upon thousands of Families have been dismantled without any regard to their Constitutional rights, thousands of children have been deprived of the love, protection and guidance of their Fathers, who themselves have been stripped of their children, their homes, condemned to destitution, debt-bonded slavery and driven to desperate acts – many taking their own lives in utter despair.

This is an incalculable atrocity perpetrated upon the Irish nation.

The People must act

Whereas in the USA and most other republics where the State education system ensures that every child studies their Constitution and in fact can recite chunks of it off by heart, the State in Ireland has ensured its citizens have been kept in the dark about the content and purpose of the Constitution.

By this neglect of the State's duty the people are unaware that they hold the Sovereign Power and that the Constitution is specifically in place to protect their freedom and to keep in check the otherwise unfettered tyranny of a totalitarian State.

Furthermore the State broadcasting station, Radio Telefis Éireann refuses to acknowledge its Constitutional commitments to the Common Good and continues to spread its anti-Family, anti-faith and anti-freedom propaganda unabated by the mounting complaints from the people.

Cloaked by the cover of the in-camera rule parents are not being permitted in the courts to vindicate their Constitutional rights and prevent interference by the State into their Families and private lives.

On the basis of the overwhelming evidence it can not be denied that the State machine detests the Constitution.

It hates the protections that it gives the people.

It vehemently resents the restrictions and obligations that the Constitution imposes upon it .

The conclusion that must be drawn from the evidence is that the State is hell-bent on destroying the very Constitution that created it.

The people must resist this by working together, by educating themselves as to the power that the Constitution gives them and by standing up against the State machine when their conscience guides them to do what is right.

In these harsh times we need to remind ourselves of and find solace in the preamble to the Constitution

“In the Name of the Most Holy Trinity, from Whom is all authority and to Whom, as our final end, all actions both of men and States must be referred,

We, the people of Éire, Humbly acknowledging all our obligations to our Divine Lord, Jesus Christ,

Who sustained our Fathers through centuries of trial,

Gratefully remembering their heroic and unremitting struggle to regain the rightful independence of our Nation,

And seeking to promote the common good, with due observance of Prudence, Justice and Charity, so that the dignity and freedom of the individual may be assured, true social order attained, the unity

of our country restored, and concord established with other nations,

Do hereby adopt, enact, and give to ourselves this Constitution.”

Our rallying cry must be

“We shall not permit our Constitution to be stolen from us!”