

15th June 2016.

Mr. Seamus Grehan
Employment Rights Policy Unit
Department of Jobs, Enterprise and Innovation
Davitt House
Adelaide Road
Dublin 2.

Re: **Consultation Document – Report by Nessa Cahill BL and Kevin Duffy, Chairman of the Labour Court “Expert Examination and review of laws on the protection of employee interests when assets are separated from the operating entity”.**

Dear Mr. Grehan,

On the 11th March 2016 the report by Nessa Cahill BL and Kevin Duffy, Chairman of the Labour Court was published. At that time Congress welcomed its publication and called for the full and immediate implementation of the recommendations.

The Cahill / Duffy report was commissioned following the closure of the Clery’s Department Store. The events leading up to the closure of Clery’s and the subsequent consequences for the workers involved have been the source of much public comment. It is almost universally accepted that the manner in which Clery’s was closed, although perfectly legal, was wrong. It is also almost universally accepted that the treatment of the workers involved was disgraceful. Therefore any analysis of the Cahill / Duffy report should be viewed from the perspective of ensuring what happened in Clery’s cannot happen again.

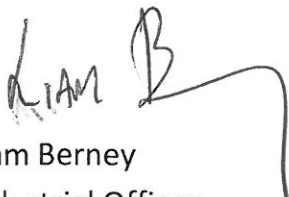
The terms of reference for the Cahill / Duffy investigation, the investigation itself and their subsequent recommendations are primarily concerned with the relevant provisions of employment law. They propose specific amendments to a number of pieces of employment protection legislation so that workers who may be losing their

employment as a result of the closure of a business have the right to be consulted about its closure and have adequate time to negotiate the terms on which the closure will take place. What Cahill / Duffy have recognised is that while the owners of a business are entirely at liberty to make whatever decision they wish about the future of their enterprise the legal code has failed to provide the adequate checks and balances so that the legitimate expectations of the workers can be realised. If the recommendations of Cahill / Duffy are implemented it would not prevent the owners of Clery's from closing the business however in doing so they would be required them to consult and negotiate the terms of the closure with the workers concerned and their representatives.

The Cahill / Duffy report must also be viewed in the context of the emerging political consensus. On the 31st May 2016 and the 1st June 2016, the Dáil debated and approved a motion on workers' rights. The motion made specific reference to the Cahill / Duffy report and called on Government to prioritise the preparation of legislation to ensure the speedy implementation of the report recommendations. Although the Government voted against the motion, their own counter motion ***"recognised the appalling manner in which employees were made redundant without notice on the same day that the Clerys operating company was sold"***.

Congress supports the recommendations contained in the Cahill / Duffy Report and calls for their urgent implementation. We regard them as entirely appropriate and necessary to ensure that what occurred on the 12th June 2015 in Clerys can never happen again.

Yours sincerely

A handwritten signature in black ink, appearing to read 'LIAM B', with a long horizontal stroke extending to the right.

Liam Berney
Industrial Officer.