



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

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

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DÁIL ÉIREANN

Dé Céadaoin, 3 Iúil 2013

Wednesday, 3 July 2013

Chuaigh an Ceann Comhairle i gceannas ar 10.30 a.m.

Paidir.

Prayer.

Leaders' Questions

Deputy Micheál Martin: Last night Ulster Bank confirmed that it would close 40 more branches and lay off additional staff. In that bank alone we are looking at the loss of between 1,400 and 1,800 jobs, which is a staggering blow to those employees and their families. In a presentation to investors, the chief risk officer went further and said that the bank is anxious to break even by 2014 and to make a profit again in three years' time. In that context, he very worryingly said that the bank would target distressed mortgage holders in arrears. In an extraordinary statement, he said that it was his view that up to 35% of those in arrears were strategic and that the bank was going after them. He blamed the Dunne judgment in the context of the Land and Conveyancing Law Reform Act.

It is interesting that the Government's response to the mindset and mood revealed in the presentation to investors yesterday was essentially to capitulate to the bank's agenda. It is clear that the banks are targeting those in arrears and the Government has facilitated this, first, by simply changing the legislation, bringing it through this House, to make it easier for banks to repossess family homes and, second, by unravelling the existing protections and code of conduct that existed for mortgage holders and those in arrears. The new code of conduct represents a significant rebalancing of powers towards the lender as against the borrower. What we saw yesterday was a revealing insight into the thinking within the bank boardrooms and the bank management across the board. It is their belief that it is legitimate to use legal action to go after people in arrears on the basis that they are all strategic defaulters anyway. It seems to me that what we are witnessing, which explains why the Government has created a situation that coincides with the agenda of the banks, is a dilution of protections that existed for people in mortgage arrears and a change in legislation without any conditionality to protect those in arrears.

Does the Minister share the view of Ulster Bank that up to 35% of mortgage defaulters are strategic? Is that the Government's view as well? Given the mindset, as revealed by the bank, will the Government reconsider intervening on behalf of those in arrears and put in place independent oversight to arbitrate between the banks and those in arrears to ensure that those in

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mortgage arrears in this country get a fair hearing and genuinely sustainable resolutions to the predicament in which they find themselves?

Minister for Jobs, Enterprise and Innovation (Deputy Richard Bruton): It is difficult to take lectures from the Deputy opposite about capitulation to banks given the history of what we have been through.

Deputy Bernard J. Durkan: Hear, hear.

Deputy Billy Kelleher: The Minister wanted to guarantee Ulster Bank.

Deputy Barry Cowen: Would an answer be out of the question?

Deputy Brendan Howlin: Deputy Cowen to the rescue.

Deputy Richard Bruton: All of us in this House will express sympathy with those who have lost their jobs in Ulster Bank, which is the initial question raised by the Deputy. I am very much aware that this is an economy in transition.

Deputy Billy Kelleher: In recession.

Deputy Richard Bruton: While we feel for the people who are losing their jobs, we also recognise that we are making real progress. We are seeing parts of the economy that grew too big, which unfortunately included banking and property, adjust to a new reality. We are creating employment in other sectors that are long term and sustainable. That is part of an ongoing transition that is taking place.

The Deputy also raised the issue of people who are in mortgage distress. The Government has taken enormous pains to provide a framework within which such people can be protected.

Deputy Brendan Howlin: Hear, hear.

Deputy Richard Bruton: There is a mortgage arrears relief programme which sets out the code that must be followed. In addition, we have made it very clear that the money the taxpayer have put into the banks to recapitalise and make provision for the losses in their loan books must be used systematically to deal with people who are genuinely unable to meet their mortgages. Targets have been set for the banks to have workable restructuring programmes developed for each mortgage holder, with a 50% target by the year end. We are moving to deal with what has dogged many other countries that have had banking crises of this nature, namely, a failure of banks to face up to the situation and to allow people to get on with their lives. That is what we are putting in place.

In addition to the programme I outlined we have also put in place personal insolvency legislation. That provides people who have failed to reach an agreement at the end of negotiation with the banks to go to the personal insolvency service and have their case dealt with independently.

Deputy Ruairí Quinn: Exactly.

Deputy Richard Bruton: We are putting in place a number of protection mechanisms to allow people to work through problems in a systematic way. Our objective is to move the economy on to allow people who genuinely cannot pay to reach a resolution so that they can restart their lives and to insist that banks use the money that has been put in at enormous cost to

taxpayers to resolve the issues for individuals and businesses.

Deputy Micheál Martin: The Minister referred to expressing sympathy. People need more than that at this stage. I asked him a basic question, whether he shared the Ulster Bank's view that up to 35% of those in arrears were due to strategic considerations. I do not share the view. That is an extraordinary figure. Anybody who has called to people's houses or talked to those in arrears knows how much they have tried to engage with banks.

Deputy Arthur Spring: The Deputy made a big mess of the economy.

Deputy Micheál Martin: Since the Keane report, out of 144,000 people in mortgage arrears, we have only had 144 split mortgages. That is an indication of the lack of engagement to date by the banks with people on the basis of meaningful, sustainable ideas that were proposed two and a half years ago. Yet the Minister refers to adjusting to new realities. New Beginning asserts that there are up to 50 new repossession cases before the courts every month. This is the new reality to which many of those in mortgage arrears are now adjusting.

Bank activity has focused increasingly on such people in the past eight weeks. This is what we are hearing on the ground and from the groups at the coalface. There is an absence of independent oversight of the banks.

Deputy Brendan Howlin: Does the Deputy have a question?

Deputy Micheál Martin: Inexplicably, the Government changed the code of conduct a short while ago and reduced the protections. It stood by and allowed this to happen.

Deputy Ruairí Quinn: And your question is what?

Deputy Micheál Martin: The change gives more power to the banks to do what they want, namely-----

Deputy Brendan Howlin: No question.

Deputy Micheál Martin: -----return to profitability and target those in arrears. There are no safeguards against abuse in terms of increased contact. All the restrictions about contacts with customers are gone.

Deputy Emmet Stagg: One would think the Deputy had just landed. His Government caused the problems.

An Leas-Cheann Comhairle: Deputy, please.

Deputy Micheál Martin: The banks can harass people for as long as they want.

Deputy Brendan Howlin: How about a question?

An Leas-Cheann Comhairle: A question please, Deputy Martin.

Deputy Micheál Martin: For the first time ever, tracker mortgages are now on the table. People are getting no-----

Deputy Brendan Howlin: This is a Second Stage speech.

(Interruptions).

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An Leas-Cheann Comhairle: Order, please.

Deputy Emmet Stagg: Deputy Martin's Government caused the problems.

Deputy Micheál Martin: The truth hurts, Deputy Stagg. There is no independent oversight in terms of those-----

(Interruptions).

An Leas-Cheann Comhairle: Could we have order, please? A question from the Deputy, please.

Deputy Ruairí Quinn: His question is what?

Deputy Micheál Martin: There is no independent oversight of tracker mortgages or the offers that banks may make to people on those mortgages-----

An Leas-Cheann Comhairle: The Deputy is over time.

Deputy Micheál Martin: -----to ensure the wool is not pulled over their eyes.

Deputy Emmet Stagg: Sit down. The Deputy is over time. He has no question.

Deputy Micheál Martin: There is no entitlement to a minimum level of income, for example.

(Interruptions).

Deputy Finian McGrath: A Leas-Cheann Comhairle, do something about this.

Deputy Emmet Stagg: The same old hypocrisy every morning.

An Leas-Cheann Comhairle: Deputies, please.

Deputy Micheál Martin: Fundamentally, the Government has changed the legislation to give all of the power and control in this scenario to the banks.

Deputy Brendan Howlin: A Leas-Cheann Comhairle-----

Deputy Arthur Spring: It stays in the Central Bank.

An Leas-Cheann Comhairle: I am sorry, Deputy, but you have gone over time. You must resume your seat.

Deputy Micheál Martin: I accept that.

(Interruptions).

Deputy Pat Rabbitte: He is well over time.

An Leas-Cheann Comhairle: I must call the Minister.

Deputy Micheál Martin: I just want to ask him, if I may-----

An Leas-Cheann Comhairle: Ask him, please, and conclude.

Deputy Micheál Martin: Many people on the Government benches are aspiring to the Leas-Cheann Comhairle's position and are giving him instructions.

(Interruptions).

Deputy Micheál Martin: Given what was revealed yesterday-----

Deputy Brendan Howlin: Deputy Martin was not very good at giving instructions either.

Deputy Micheál Martin: -----will the Government change tack and ensure independent oversight of the relationship between banks and mortgage holders?

Deputy Billy Kelleher: The Government cannot even keep basic promises.

Deputy Pat Rabbitte: Do the others agree with that?

Deputy Richard Bruton: I am unsure as to whether there was a question. One comment I must make is that-----

A Deputy: There was a lot of hot air.

Deputy Micheál Martin: Does the Minister agree with Ulster Bank?

Deputy Richard Bruton: -----the Deputy opposite does not seem to realise that hundreds of thousands of people-----

Deputy Frances Fitzgerald: Hear, hear.

Deputy Richard Bruton: -----were led into buying property in the midst of a property bubble that was supported by flawed policies pursued by the Government. That is the reality.

Deputy Finian McGrath: Egged on by the current Government.

(Interruptions).

Deputy Richard Bruton: We are trying to deal with the consequences of policies that failed.

Deputy Finian McGrath: Cheerleaders. I remember it well.

An Leas-Cheann Comhairle: Order, please.

Deputy Micheál Martin: Answer the question.

Deputy Richard Bruton: I will answer the question on whether we agree with Ulster Bank's claims. Clearly, we do not know the data in respect of Ulster Bank and its claims, but we have put in place a requirement to have sustainable solutions by the end of the year for 50% of people who are in difficulty. This is overseen independently by the Central Bank. Furthermore, the process-----

Deputy Micheál Martin: It is not. The Central Bank has made it clear that it has no prescriptive powers.

An Leas-Cheann Comhairle: Please, the Minister has the floor.

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Deputy Brendan Howlin: The Deputy is shouting people down.

Deputy Frances Fitzgerald: Does he not want the answer?

Deputy Micheál Martin: The Minister should not mislead the House on this point.

An Leas-Cheann Comhairle: Allow the Minister.

Deputy Richard Bruton: Furthermore, if banks fail to engage in a mortgage arrears resolution process, MARP, the situation can be appealed to the Financial Services Ombudsman.

Deputy Micheál Martin: Would someone in arrears go to the ombudsman?

Deputy Richard Bruton: The banks' commitment to dealing with the regulations as set out is overseen.

Deputy Pat Rabbitte: Deputy Martin should watch behind himself.

Deputy Billy Kelleher: Look at what happened to Deputy Rabbitte.

Deputy Richard Bruton: Individuals who have been unable to find agreements with their banks have the option of going to an independent personal insolvency service where the issues can be independently assessed and a procedure can be put in place to deal with their problems. Right along the trail, there is independent oversight of the different steps in this process----

Deputy Micheál Martin: There is not.

An Leas-Cheann Comhairle: Deputy, please.

Deputy Richard Bruton: -----to ensure those who cannot pay are offered sustainable solutions. This is the route we have sought to pursue. If we fail to face up to these problems in our banks, we will have the sort of zombie problem within banking that traps families, banks and our economy in a situation in which they cannot move forward.

Deputy Finian McGrath: There are a few zombies over there.

Deputy Richard Bruton: The actions we are taking are designed to allow for a recovery-----

Deputy Micheál Martin: And allow more repossessions.

Deputy Richard Bruton: -----after the crisis created by policies about which Deputy Martin knows more than we do.

Deputy Gerry Adams: In budget 2013, the Government signalled that €750 million would be cut from health spending this year and that medical card entitlements would be targeted. During the Easter recess in April, the HSE announced that further restrictions on medical cards were being introduced. This followed on from legislation that lowered the income threshold for medical card qualification among people aged over 70 years. This has come from a Government elected on a promise of free primary health care for all.

Every Deputy knows that constituency offices are being inundated by citizens bearing the brunt of these cuts and whose medical card entitlements have been removed. In many cases, they are from households in mortgage distress and are suffering unemployment and the extra

taxes the Government is pressing down on them.

There are stories behind all of these statistics. In my constituency of Louth, a seven year old with a congenital heart defect who has required numerous surgeries and ongoing general practitioner, GP, and hospital care and medication has seen his card withdrawn.

Deputy Ruairí Quinn: Question.

Deputy Gerry Adams: This is a part of the Government's austerity policy. Parents have needed to cope with such situations. Does the Minister accept that, in taking medical cards from thousands of families, the Government is inflicting financial hardship and poorer health prospects on people who are already struggling? Does he accept that this additional cut is especially severe for families like the one to which I referred, particularly given the outrageous cuts to child benefit? Will the Minister commit to restoring medical card entitlements?

Deputy Richard Bruton: I thank the Deputy for his question. Medical card eligibility is set out plainly in law. The means test has not been changed. People have the right to present individual health cases, which are always addressed. If the Deputy wishes to draw a specific case to the attention of those assessing it-----

Deputy Micheál Martin: Thousands of them.

Deputy Richard Bruton: -----I would be happy to receive it.

The broad picture is that an increasing number of people have medical cards. Never in the history of the State have we had as many as 42% of people eligible for cards. The figure has increased this year. Despite the difficulties in which public services find themselves and the economies that every part of Government has needed to achieve, we continue to expand entitlements for primary care because we recognise that people need eligibility in that regard. There are difficulties in every part of the health service, but we are expanding eligibility in terms of medical cards and we have not reduced the means test in any way. We continue to have a process whereby cases involving particular hardship and medical evidence can be brought to the attention of the decision makers. These aspects are factored into the decisions taken. In difficult times, we are trying to ensure people are catered for in respect of their access to GP and primary care.

Deputy Gerry Adams: That sounds wonderful, but it does not reflect the reality of life for citizens like the one I mentioned. I will provide another example. I received a letter seeking support for a man in County Galway. It reads:

Jimmy is in general good health, but he requires the constant presence of a responsible adult at all times for safety issues as he is registered blind and very deaf. His children (who are now retired) travel on a rota basis to stay with Jimmy and take care of him. His limited income ensures his home is warm and comfortable and that he has good nutrition. He receives a home care attendant service Mon-Fri to support family members. I believe that the family needs a medical card to maintain the home care attendant service.

This man is 102 years old. Come on, Minister. This is the reality for a family.

In the Government's five-point plan, the health section was called a fair care plan. However, there is nothing fair or caring about it. It entails bonuses for corrupt bankers and toadying up to the well-connected and the wealthy. It is forcing families like that one to bear the awful brunt

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of the Government's austerity policies.

There is another twist in the tail. The family made representations, as did health professionals and Sinn Féin representatives, so the decision is being reviewed. However, his medical card has been extended for only one month while the review takes place. The Government is making health care unaffordable and thus inaccessible for the sick, elderly and other vulnerable people. I appeal to the Minister not to give us any palaver, rhetoric and plámás. These cruel cuts should be withdrawn.

Deputy Richard Bruton: I am perfectly happy to arrange that the case the Deputy has raised be investigated.

Deputy Gerry Adams: There are 40,000 such cases.

Deputy Richard Bruton: From what he indicated, it is being reviewed. Generally, anyone who is aged 70 or over is entitled to a medical card if their gross income does not exceed €600 per week. That is the income threshold. The other part of that assessment is that a person may have savings but savings up to €36,000 will be disregarded. The system therefore does attempt to provide for people of a more advanced age-----

Deputy Gerry Adams: It does not.

Deputy Richard Bruton: -----and more prone to illness, to have a much higher income threshold. That is set out in the legislation. In addition, they have the security of knowing that they can have savings and those will not be treated. If there are special circumstances, and undoubtedly there are in this case, those special circumstances will be reviewed in each case.

Deputy Gerry Adams: There are thousands of them.

Deputy Richard Bruton: That discretion is there and it will obviously hinge on the merit of the case. If the Deputy wants to give details of the case he cited, I will arrange for the HSE to examine those details.

Deputy Mattie McGrath: Nearly two and a half years ago, this Government took office with the hopes and dreams of a nation behind it. Like some great prophet, the Taoiseach announced that he was entering into a covenant with the Irish people. Maybe we should have spotted, even then, the delusions he had about what exactly his role would be. Since the Government was formed, however, the Taoiseach has betrayed the hopes and dreams of the Irish people.

Deputy John Deasy: You must be joking.

Deputy Mattie McGrath: The Taoiseach has failed to keep faith with the promises he made and the defined mandate on which the Government was elected.

Deputy Brendan Howlin: Is this a question or a party political speech?

An Leas-Cheann Comhairle: The Deputy has two minutes. Please allow him to continue without interruption.

Deputy Mattie McGrath: I wonder if the Minister, Deputy Rabbitte, is waiting to milk another cow. He has his hands out there.

Deputy Pat Rabbitte: It is like an oration at the grave of O'Donovan Rossa.

An Leas-Cheann Comhairle: Order, please.

Deputy Mattie McGrath: You will be like that very soon, at a graveside. The Government has failed to keep the promises it made. Hardly any group has suffered more from those betrayals than the young people of our country. Emigration rates have continued to rise, not just annually but also monthly and weekly. Over a quarter of Irish households have seen a close family member emigrate in the past two years.

Deputy James Bannon: The Deputy is not adhering to the full stops in his script.

Deputy Finian McGrath: That is the first time in two years that I have heard Deputy Bannon speak.

An Leas-Cheann Comhairle: Can we have order, please?

Deputy Mattie McGrath: Empty vessels make most noise.

A Deputy: Turn down the volume control.

Deputy Mattie McGrath: When he goes back to Longford, he will get his answers from the people he promised on the pro-life issue.

The Taoiseach's so-called covenant has failed to prevent us from losing an entire generation of our young people. This week, the Taoiseach spoke eloquently about Ireland's EU Presidency. I compliment him on his six months in charge but he said the high levels of youth unemployment across Europe are an abomination. He said that on his watch young people would not be locked out of the future. Those are hollow words, indeed.

Deputy Emmet Stagg: Who wrote the Deputy's script?

Deputy Mattie McGrath: Who is the Taoiseach trying to cod? What hope can any young person have that the Taoiseach or the Government will be able to deliver on this grand promise? Ireland has almost the highest youth unemployment rate in western Europe with up to one in four young people aged 17 to 25 jobless and one in three men unemployed.

An Leas-Cheann Comhairle: I ask the Deputy to conclude.

Deputy Mattie McGrath: I am not being allowed to continue.

An Leas-Cheann Comhairle: I am watching the clock.

Deputy Mattie McGrath: I know the truth is bitter but it should not be that hard to sit on. I am entitled to ask a question, am I not?

An Leas-Cheann Comhairle: Yes. Please ask a question.

Deputy Mattie McGrath: Go raibh maith agat.

An Leas-Cheann Comhairle: Could we have silence, please?

(Interruptions).

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Deputy Mattie McGrath: The pizza boy is back. Will the Minister give a commitment today and demonstrate his seriousness in tackling this issue by bringing to the Taoiseach a proposal to create an office with the sole responsibility to target youth unemployment? Will the Government - you are all wise guys there, as well - consider measures similar to those recently introduced in Italy whereby employers receive a tax-break for offering young people under 30 permanent contracts?

Deputy Ruairí Quinn: Well done, Mattie.

Deputy Richard Bruton: First of all, I acknowledge that we inherited an economy that was in an extraordinary situation.

Deputy Mattie McGrath: That is the past.

Deputy Richard Bruton: No, that is not the past.

Deputy Pat Rabbitte: That was before Mattie jumped ship.

Deputy Richard Bruton: The economy we inherited was losing 90,000 jobs per year.

(Interruptions).

An Leas-Cheann Comhairle: I want order for the reply, please. The Minister has the floor.

Deputy Richard Bruton: I am happy to stay all day but I would like to get a chance to answer the question. The truth is that we inherited an economy that was losing 90,000 jobs per year. That is 7,000 jobs per month. The latest CSO figures show that we have added 20,000 jobs in the last 12 months. In respect of the private sector, we are adding 2,000 jobs per month. That is a dramatic transformation. If one looks at what is happening beneath that, one will find that the IDA has had the best two years in a decade and Enterprise Ireland has had its best year in five years. There is a real transition going on in our economy in certain sectors which we discussed earlier. Part of the domestic banking sector continues to have problems but we are seeing the emergence of new strong sectors. That is ultimately the response to the challenge of emigration and youth unemployment.

We need to create more employment and the Government has put in place a number of innovative approaches to deal with this. We have done it through our action plan for jobs, the strategic investment fund and our ability to find innovative ways of funding stimulus at a time when we cannot use conventional borrowing. That is the way in which we will create new employment and deal with the scourge of emigration.

In respect of youth unemployment, the Minister for Social Protection, Deputy Joan Burton, has set this as a very high priority. She has successfully negotiated the agreement at European level to make this a top priority for Europe. Her agreement will now release €6 billion in funding for youth employment initiatives across the EU. We will also be developing that.

As regards the Deputy's specific suggestion, this month the Minister, Deputy Burton, will be announcing a new scheme whereby an employer can take on a person who has been out of work for 12 months and get a subsidy of €72 per week which will be paid monthly in arrears. That is a straightforward cash support to help businesses which are in a position to recruit to take people off the dole.

There are a lot of initiatives going on precisely to deal with the challenge the Deputy has set. It is, and remains, the Government's firm purpose to deal with the employment crisis. That is what gets us up in the morning every day. That is what drives Ministers each day to seek to resolve this matter, which is the central crisis for the economy.

Deputy Mattie McGrath: If that is the best that Ministers can do, they should all stay in bed in the morning.

Deputy Finian McGrath: Hear, hear.

Deputy Mattie McGrath: What people want are sustainable long-term jobs, of which the Minister promised 70,000. Despite this continuous mantra about the last Government, the Minister saw the books before he came into office. He sought the books, got them and knew the situation.

Deputy Pat Rabbitte: It did not change them.

Deputy Mattie McGrath: We all know that the live register numbers have fallen due to FÁS and JobBridge training programmes, as well as the back-to-education scheme.

Deputy Pat Rabbitte: Is the Deputy against them?

Deputy Mattie McGrath: Nobody ever employed anybody by offering €72 after somebody is taken on for 12 months because it is a pittance. The Minister does not understand what makes employers tick. The sooner the Minister and his team of advisers get down and dirty, and understand what makes people employ staff, the better. The Minister does not understand what makes people want to create jobs, wealth and pay their taxes. Despite the Minister's best efforts and the grandiose plans he is talking about, efforts must be mobilised around the shared objective of getting young people jobs. Those were the Taoiseach's words in Europe.

How can we take this Government seriously when it cannot even deal with relatively straightforward issues such as applications for third level education grants? The SUSI system is a shambles. Those involved are people who want to educate themselves in order to obtain work or set up a business.

An Leas-Cheann Comhairle: Thank you Deputy.

Deputy Mattie McGrath: I am not yet finished. The Government has broken all of its promises. The Taoiseach reneged on his commitment to the families of those killed in the Omagh bomb and to the Stardust victims' committee. He told them that they would never have to make another telephone call but they have not heard from him in two and a half years. The Government has also broken its promise on the late Fr. Niall Molloy issue. These are simple issues, which have nothing to do with the economy, on which the Government has reneged on its promises. This is a Government of broken promises. The young people of this country will never forgive it. We cannot allow youth unemployment to continually increase.

Deputy Pat Rabbitte: Deputy McGrath is very hard on us.

Deputy Noel Coonan: The Deputy should read his script.

Deputy Mattie McGrath: Members of the Government backbenches can laugh all they

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like. However, they can hide but they cannot run.

Deputy Brendan Howlin: The saying is “You can run but you cannot hide”.

Deputy Mattie McGrath: The Government can neither run nor hide.

An Leas-Cheann Comhairle: Thank you Deputy.

Deputy Mattie McGrath: There is no place to run.

A Deputy: Run like a rabbit.

Deputy Mattie McGrath: Run like a rabbit in the fog lights.

Deputy Simon Harris: Stick to the script.

An Leas-Cheann Comhairle: A question please, Deputy.

Deputy Mattie McGrath: It is a matter of trust. The young have lost trust in this Government. Why is it that one in four of our young people have to leave our shores? It is a tragedy. Will the Government establish a specific ministry to deal with this issue? The time for talking and rubbing hands has long past. There are too many Departments dealing with this issue. We need a Minister who is focused and dedicated to bringing an end to youth unemployment.

Deputies: Hear, hear.

Deputy Richard Bruton: It is difficult to know where to start.

Deputy Mattie McGrath: That is what happened, the Government never started.

Deputy Richard Bruton: The Deputy said that the Government does not understand enterprise. The truth is that enterprise and predominantly small business have created 25,000 net new jobs in the past 12 months.

Deputy Mattie McGrath: In spite of the Government.

An Leas-Cheann Comhairle: Allow the Minister to respond please.

Deputy Richard Bruton: Most of those jobs were in the export sector. Government support through the IDA-Enterprise Ireland is at the heart of development of this sector. I defy anyone to criticise the work of those agencies whose budgets have been protected. Even in this difficult time we have protected budgets to support enterprise, the value of which is reflected in the 25,000 net additional people at work in the private sector.

Deputy Mattie McGrath: How many full-time jobs have been created?

Deputy Richard Bruton: The Deputy asked what is happening on the live register. The number of people on the live register has decreased for the twelfth month in a row.

Deputy Mattie McGrath: Pat yourselves on the back?

Deputy Richard Bruton: The percentage of people unemployed has also reduced from 15% to 13.6%. While that is progress, it is not enough progress. We need to do more in this space.

Deputy Noel Grealish: The Irish population in Australia has increased by 30%.

(Interruptions).

Deputy Richard Bruton: Some €2.5 million of new funding has been made available through Government agencies to small and medium enterprise. These is new funding to support expansion of the type of enterprises of which the Deputy spoke. As rightly acknowledged by the Deputy, some 60% of those who engaged in JobBridge have been retained in employment.

Deputy Mattie McGrath: That is just papering over the cracks.

Deputy Richard Bruton: The new scheme will provide people in business with the opportunity to recruit directly from the live register and get an upfront cash subsidy.

Deputy Mattie McGrath: What about SUSI?

(Interruptions).

Deputy Richard Bruton: These are new ideas that are showing results. The Deputy wants to remain in the time warp of criticising rather than putting forward worthwhile solutions. His only suggestion is that we create a new ministry. What we need is policies that work. That is what this Government is developing. We are seeing results in terms of the number of enterprises recruiting. That is the ultimate solution to this challenge.

Deputy Mattie McGrath: Live horse and you'll get grass.

Order of Business

Minister for Jobs, Enterprise and Innovation (Deputy Richard Bruton): It is proposed to take No. 10a, motion re membership of committee; No. 17, Houses of the Oireachtas (Inquiries, Privileges and Procedures) Bill 2013 - Report Stage (resumed) and Final Stage; No. 18, Land and Conveyancing Law Reform Bill 2013 - Order for Report, Report and Final Stages; No. 19, Ministers and Secretaries (Amendment) Bill 2012 - Order for Report, Report and Final Stages; and No. 20, Taxi Regulation Bill 2012 [*Seanad*] - Second Stage (resumed).

It is proposed, notwithstanding anything in Standing Orders, that the Dáil shall sit later than 9 p.m. tonight and shall adjourn not later than 10 p.m.; No. 10a shall be decided without debate; the resumed Report and Final Stages of No. 17 shall be taken today and the proceedings thereon shall, if not previously concluded, be brought to a conclusion at 1.30 p.m. today by one Question which shall be put from the Chair, and which shall, in relation to amendments, include only those set down or accepted by the Minister for Public Expenditure and Reform; the Report and Final Stages of No. 18 shall be taken today and the proceedings thereon shall, if not previously concluded, be brought to a conclusion at 6.30 p.m. today by one Question which shall be put from the Chair, and which shall, in relation to amendments, include only those set down or accepted by the Minister for Justice and Equality; the Report and Final Stages of No. 19 shall be taken today and the proceedings thereon shall, if not previously concluded, be brought to a conclusion at 10 p.m. tonight by one Question which shall be put from the Chair, and which shall, in relation to amendments, include only those set down or accepted by the Minister for Public Expenditure and Reform; in the event a division is in progress at the time fixed for taking Pri-

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vate Members' business, which shall be No. 42, Equal Status (Amendment) Bill 2013 – Second Stage (resumed), Standing Order 121(3) shall not apply and Private Members' business shall, if not previously concluded, be brought to a conclusion after 90 minutes.

An Leas-Cheann Comhairle: There are six proposals to put to the House. Is the proposal that the Dáil shall sit later than 9 p.m. and adjourn not later than 10 p.m. Agreed? Agreed.

Is the proposal for dealing with No. 10a agreed?

Deputy Micheál Martin: Perhaps the Minister would outline the purpose of the motion.

Deputy Eric Byrne: The Deputy knows well what it is about.

Deputy Micheál Martin: Will the Minister outline what is involved?

Deputy Paul Kehoe: The Deputy changed membership of a fair few committees in his time.

(Interruptions).

An Leas-Cheann Comhairle: Is the proposal for dealing with No. 10a agreed?

Deputy Micheál Martin: I would like the Minister to set out what committees will be affected.

Deputy Brendan Howlin: They are listed on the Order Paper.

Deputy Michael Healy-Rae: Name the committees.

Deputy Richard Bruton: The motion relates to the change of membership on a number of committees.

Deputy Micheál Martin: Will the Minister name the committees involved?

An Leas-Cheann Comhairle: Is the proposal agreed?

(Interruptions).

An Leas-Cheann Comhairle: Order, please. The motion is on the Order Paper. Does the Minister have anything else to say on this matter?

Deputy Richard Bruton: As in the case of all other motions, the motion is on the Order Paper, which the Deputy, like everyone else, can read.

Deputy Micheál Martin: What does it say?

Deputy Brendan Howlin: This is a procedural matter.

Deputy Micheál Martin: In terms of the procedures of the House, it is ridiculous that the Minister is not willing to stand up and announce the changes.

(Interruptions).

An Leas-Cheann Comhairle: Is the proposal agreed?

Deputy Eric Byrne: If the Deputy does not agree he should call a vote.

Deputy Billy Kelleher: The politburo is back in town.

An Leas-Cheann Comhairle: Is the proposal for dealing with No. 10a agreed? Agreed.

Is the proposal for dealing with No. 17 agreed?

Deputy Micheál Martin: No. This is a lengthy Order of Business. We may not have enough time to get through all that has been proposed.

Before dealing with this specific issue, I wish to congratulate our Ombudsman and Information Commissioner, Ms Emily O'Reilly, on her election as European Ombudsman.

Deputy Brendan Howlin: Hear, hear.

Deputy Micheál Martin: It is an extraordinary tribute to her ability and illustrates the heights to which Irish journalists can go in Europe and globally. I wish her every success in her future career. This reflects well on our own office. I am delighted Ms O'Reilly has been successful in achieving a high honour.

In terms of the motion before us, Fianna Fáil's spokesperson on public expenditure and reform, Deputy Seán Fleming, was allocated only six minutes yesterday to speak on important amendments which have been tabled to the Bill which, if accepted, would strengthen the legislation and broaden the capacity to hold non-officeholders and others to account. However, he was given precious little time to debate his amendments. The Minister appears to agree. It is now proposed to guillotine the Report and Final Stages of the Bill.

Deputy Brendan Howlin: Two hours have been provided for today's debate.

Deputy Micheál Martin: The purpose of today's Order Paper is almost exclusively to guillotine debates.

During Questions yesterday, the House was treated to a presentation by the Taoiseach in which he stated he wanted to have a chat with me, Deputy Adams and others about Dáil reform.

Deputy Bernard J. Durkan: Deputy Martin's party in government did not generate much Dáil reform.

Deputy Micheál Martin: We have been hearing this message every week for the past year and a half. I have never had a discussion with the Taoiseach about Dáil reform because since taking office he has not volunteered to have one. The guillotine is increasingly being used to ram legislation through the House without proper debate.

Deputy Brendan Howlin: That is not true.

Deputy Micheál Martin: This practice is totally contrary to the specific commitment made by both parties in the programme for Government in which they signed up to ensuring that non-emergency legislation would not be guillotined. The social welfare Bill, legislation on the property tax and other Bills were guillotined before and after Christmas and the practice is being continued in the case of the Houses of the Oireachtas (Inquiries, Privileges and Procedures) Bill 2013 and the Land and Conveyancing Law Reform Bill 2013, which is the legislation that will make it easier for banks to repossess family homes. These Bills are being rammed through

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the House, as is the Ministers and Secretaries (Amendment) Bill 2012. This proposal relates to the Houses of the Oireachtas (Inquiries, Privileges and Procedures) Bill 2013, on which Deputy Sean Fleming has done a great deal of work and to which he has tabled many amendments. It is not good enough that he has not been given the time or space to discuss his amendments.

Deputy Gerry Adams: This proposal is characteristic of the way in which the Government is doing its business. The guillotine has been used in more than 50% of Bills before the House and it is proposed to use it today with three other Bills. The Government must show some respect for the process of debate and the right of Opposition and other Deputies to table amendments.

I join Deputies in extending congratulations to the Ombudsman, Ms Emily O'Reilly, on her election to the post of European Ombudsman. I remind the Minister that the Ombudsman has made a number of proposals which the Government has not yet implemented. I hope it will keep faith with the proposals she has made, one of which dates back to the time of the previous Fianna Fáil-led Government, namely, the recommendation that the families of those who have been lost at sea be compensated. I refer specifically to the Byrne family. No action has been taken on foot of this recommendation. There is no point in commending and congratulating the Ombudsman if her recommendations are not taken seriously.

Deputy Richard Bruton: I join Deputies in congratulating the Ombudsman, Ms Emily O'Reilly, on her achievement, which shows the quality of her work. I am sure she will bring the same diligence and quality of work to the new responsibilities she is assuming.

In respect of the proposal, as Deputies will be aware, we had a long Second Stage debate and open-ended Committee Stage debate on the Houses of the Oireachtas (Inquiries, Privileges and Procedures) Bill 2013. We are now moving to Report Stage where the net points of the committee's deliberations will be debated in the Chamber. It is conventional to have a short debate on Report Stage. The two hours provided for the debate will be sufficient to allow Deputies to address the relevant issues. This legislation is urgent. Everyone recognises that the Oireachtas requires powers of inquiry to enable it to hold inquiries into issues such as banking. This is the reason for the genuine concern on the part of the Government to have the legislation passed before the summer recess.

The other Bills before the Houses for the final Stages of consideration are also subject to time constraints arising from finance commitments in respect of membership of the European Union and so forth.

Question put: "That the proposal for dealing with No. 17 be agreed to."

<i>The Dáil divided: Tá, 86; Níl, 43.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Bannon, James.</i>	<i>Adams, Gerry.</i>
<i>Breen, Pat.</i>	<i>Boyd Barrett, Richard.</i>
<i>Bruton, Richard.</i>	<i>Browne, John.</i>
<i>Butler, Ray.</i>	<i>Collins, Joan.</i>
<i>Buttimer, Jerry.</i>	<i>Colreavy, Michael.</i>
<i>Byrne, Catherine.</i>	<i>Cowen, Barry.</i>
<i>Byrne, Eric.</i>	<i>Daly, Clare.</i>

<i>Carey, Joe.</i>	<i>Doherty, Pearse.</i>
<i>Coffey, Paudie.</i>	<i>Dooley, Timmy.</i>
<i>Collins, Áine.</i>	<i>Ellis, Dessie.</i>
<i>Conaghan, Michael.</i>	<i>Ferris, Martin.</i>
<i>Conlan, Seán.</i>	<i>Flanagan, Luke 'Ming'.</i>
<i>Connaughton, Paul J.</i>	<i>Fleming, Sean.</i>
<i>Conway, Ciara.</i>	<i>Fleming, Tom.</i>
<i>Coonan, Noel.</i>	<i>Grealish, Noel.</i>
<i>Corcoran Kennedy, Marcella.</i>	<i>Halligan, John.</i>
<i>Creed, Michael.</i>	<i>Healy, Seamus.</i>
<i>Creighton, Lucinda.</i>	<i>Healy-Rae, Michael.</i>
<i>Daly, Jim.</i>	<i>Keaveney, Colm.</i>
<i>Deasy, John.</i>	<i>Kelleher, Billy.</i>
<i>Deenihan, Jimmy.</i>	<i>Mac Lochlainn, Pádraig.</i>
<i>Doherty, Regina.</i>	<i>McConalogue, Charlie.</i>
<i>Donohoe, Paschal.</i>	<i>McDonald, Mary Lou.</i>
<i>Doyle, Andrew.</i>	<i>McGrath, Finian.</i>
<i>Durkan, Bernard J.</i>	<i>McGrath, Mattie.</i>
<i>English, Damien.</i>	<i>McLellan, Sandra.</i>
<i>Farrell, Alan.</i>	<i>Martin, Micheál.</i>
<i>Feighan, Frank.</i>	<i>Moynihan, Michael.</i>
<i>Ferris, Anne.</i>	<i>Murphy, Catherine.</i>
<i>Fitzgerald, Frances.</i>	<i>Naughten, Denis.</i>
<i>Fitzpatrick, Peter.</i>	<i>Ó Caoláin, Caoimhghín.</i>
<i>Flanagan, Charles.</i>	<i>Ó Cuív, Éamon.</i>
<i>Griffin, Brendan.</i>	<i>Ó Fearghail, Seán.</i>
<i>Hannigan, Dominic.</i>	<i>Ó Snodaigh, Aengus.</i>
<i>Harrington, Noel.</i>	<i>O'Brien, Jonathan.</i>
<i>Harris, Simon.</i>	<i>O'Dea, Willie.</i>
<i>Hayes, Brian.</i>	<i>Pringle, Thomas.</i>
<i>Heydon, Martin.</i>	<i>Ross, Shane.</i>
<i>Howlin, Brendan.</i>	<i>Shortall, Róisín.</i>
<i>Humphreys, Heather.</i>	<i>Smith, Brendan.</i>
<i>Humphreys, Kevin.</i>	<i>Stanley, Brian.</i>
<i>Keating, Derek.</i>	<i>Troy, Robert.</i>
<i>Kehoe, Paul.</i>	<i>Wallace, Mick.</i>
<i>Kelly, Alan.</i>	
<i>Kenny, Seán.</i>	
<i>Kyne, Seán.</i>	
<i>Lawlor, Anthony.</i>	
<i>Lynch, Ciarán.</i>	
<i>Lynch, Kathleen.</i>	
<i>Lyons, John.</i>	

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<i>McCarthy, Michael.</i>	
<i>McEntee, Helen.</i>	
<i>McGinley, Dinny.</i>	
<i>McHugh, Joe.</i>	
<i>McLoughlin, Tony.</i>	
<i>McNamara, Michael.</i>	
<i>Maloney, Eamonn.</i>	
<i>Mitchell, Olivia.</i>	
<i>Mulherin, Michelle.</i>	
<i>Murphy, Dara.</i>	
<i>Murphy, Eoghan.</i>	
<i>Nash, Gerald.</i>	
<i>Neville, Dan.</i>	
<i>Ó Riordáin, Aodhán.</i>	
<i>O'Donnell, Kieran.</i>	
<i>O'Donovan, Patrick.</i>	
<i>O'Dowd, Fergus.</i>	
<i>O'Mahony, John.</i>	
<i>O'Reilly, Joe.</i>	
<i>O'Sullivan, Jan.</i>	
<i>Penrose, Willie.</i>	
<i>Perry, John.</i>	
<i>Phelan, Ann.</i>	
<i>Phelan, John Paul.</i>	
<i>Quinn, Ruairí.</i>	
<i>Rabbitte, Pat.</i>	
<i>Reilly, James.</i>	
<i>Ring, Michael.</i>	
<i>Ryan, Brendan.</i>	
<i>Shatter, Alan.</i>	
<i>Spring, Arthur.</i>	
<i>Stagg, Emmet.</i>	
<i>Stanton, David.</i>	
<i>Tuffy, Joanna.</i>	
<i>Walsh, Brian.</i>	
<i>White, Alex.</i>	

Tellers: Tá, Deputies Emmet Stagg and Paul Kehoe; Níl, Deputies Aengus Ó Snodaigh and Seán Ó Fearghail.

Question declared carried.

An Leas-Cheann Comhairle: Is the proposal for dealing with No. 18, Order for Report, Report and Final Stages of the Land and Conveyancing Law Reform Bill 2013, agreed to?

Deputies: No.

Deputy Micheál Martin: This is very important legislation that essentially gives *carte blanche* to the banks to repossess family homes without any conditionality attached. When this is combined with a dilution of the protections of the code of conduct to unravel the protections that existed for people in mortgage arrears, we have a new landscape. People in mortgage arrears are now much more vulnerable as a result of this legislation and are losing rights and protections. A substantial number of amendments remain to be discussed. On Committee Stage, Members did not have sufficient time to deal with all those amendments. This is the second Bill on the Order Paper to be rammed through the House by guillotine, notwithstanding the Government's commitment in the programme for Government that it would not do this. Further, it is in the context of a proposal to come before the people in the autumn to abolish the Seanad. What we are witnessing, bit by bit, is an incremental reduction of the democratic process, a dilution of the democratic process and a reduction of scrutiny of all measures. One can imagine a unicameral system with one House where the Government has a majority and it can ram Bills of all consequence through without debate. It says it in the document. Only one question can be voted on now. There is no facility to vote on particular amendments because of the guillotine.

We already know that the Government has clocked up a record in terms of the number of guillotines it has introduced since this Dáil commenced on very serious Bills such as those relating to the property tax, cuts to child benefit and the respite care grant. All of those Bills were rammed through in 24 hours with no room for debate.

Deputy Emmet Stagg: Chair, Chair.

An Leas-Cheann Comhairle: Please.

Deputy Micheál Martin: I am entitled to speak. Deputy Stagg is not the Chair.

(Interruptions).

Deputy Micheál Martin: Stop acting with the bully-boy tactics.

Deputy Timmy Dooley: Trotsky is back.

An Leas-Cheann Comhairle: Order, please.

Deputy Micheál Martin: Deputy Stagg is not the Chair. There is enough of a power grab going on now. He wants to run the whole show.

(Interruptions).

Deputy Timmy Dooley: The politburo is back in town.

An Leas-Cheann Comhairle: I want order, please.

Deputy Micheál Martin: This is the standing, a Leas-Cheann Comhairle.

An Leas-Cheann Comhairle: Sorry. I want to ask the leaders for a brief contribution on this.

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Deputy Micheál Martin: I am entitled to speak. This is a very important Bill. We all have people coming to us who are in mortgage arrears and who are worried about the power of the banks and the attitude of the banks to them.

Deputy Alan Shatter: They are Fianna Fáil's victims.

Deputy Micheál Martin: David Hall has said that up to 50 new repossession cases are coming before the courts every month.

Deputy Emmet Stagg: That is Fianna Fáil's legacy.

Deputy Timmy Dooley: What is Deputy Stagg's legacy?

Deputy Micheál Martin: He has said there is an increased frequency in the level of approaches of that kind to people in mortgage arrears. No conditionality is being attached-----

Deputy Billy Kelleher: How many bankers has the Minister for Justice and Equality locked up today?

(Interruptions).

An Leas-Cheann Comhairle: Please, order.

Deputy Micheál Martin: There is no independent-----

(Interruptions).

An Leas-Cheann Comhairle: Please. Standing Orders calls for brief contributions. I ask Deputy Martin to conclude and then we will have Deputy Adams.

Deputy Micheál Martin: I am endeavouring to make my contribution but, in line with the authoritarian streak evident in this Government, all we get is Deputies of the Government parties trying to shout down members of the Opposition when they raise legitimate questions on the Order of Business about the guillotining of Bills, unnecessarily.

An Leas-Cheann Comhairle: Okay. Thank you, Deputy.

Deputy Micheál Martin: There is no necessity to guillotine this Bill. The spokespeople should be allowed proper time and space to table amendments and to discuss and vote on them. There was no need to guillotine the last measure either.

An Leas-Cheann Comhairle: Thank you, Deputy. We are on this issue now.

Deputy Micheál Martin: I know that and the Minister for Public Expenditure and Reform, Deputy Howlin, knows that as well. However, it is being done for the convenience of Government and for the convenience of the Government backbenchers.

An Leas-Cheann Comhairle: I call Deputy Gerry Adams.

Deputy Micheál Martin: It is a disgrace. It is treating the House with contempt and treating the programme for Government with contempt as well.

(Interruptions).

An Leas-Cheann Comhairle: Order, please.

Deputy Gerry Adams: I will not take as long as the leader of Fianna Fáil, a Leas-Cheann Comhairle, but I want to make a point. I was watching the faces of some of the newly arrived Deputies during that whole brouhaha-----

Deputy Ciarán Lynch: Deputy Adams is one himself.

Deputy Gerry Adams: -----including me.

(Interruptions).

An Leas-Cheann Comhairle: Deputy Adams has the floor.

Deputy Gerry Adams: The fact is that this shows the character of this Government. The guillotine has been used over 50% of the time in the House. This is particular legislation which is about facilitating the banks to repossess homes.

Deputy Mattie McGrath: It is eviction legislation.

Deputy Gerry Adams: Let us consider the Government's attitude on this and then, for example, let us consider the failure of the Government to sign up for the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence.

Deputy Brendan Howlin: That has nothing to do with it.

Deputy Gerry Adams: Why does the Government refuse to do that? It is because the Minister for Justice and Equality says it would interfere with a person's property rights.

Deputy Brendan Howlin: Please, a Leas-Cheann Comhairle.

An Leas-Cheann Comhairle: Please, Minister, give me a chance. I cannot hear what is going on.

Deputy Gerry Adams: They are two examples. A battered woman is put out of her own home because the Government has said that to take action would interfere with the abuser's property rights, yet here it is rushing through legislation to facilitate the banks to repossess homes without any care at all for the property rights of the mortgage holder.

Deputy Richard Bruton: As I stated earlier, these are tranches of legislation that are essentially legacies from the situation that we have inherited in this area. We have to deal with the issues. The issues that we are seeking to bring to a conclusion today are powers in respect of an inquiry.

(Interruptions).

Deputy Brendan Howlin: No shouting down, remember.

Deputy Richard Bruton: They relate to powers to deal with flaws that were in the original Bill in 2009 which were recognised at the time the Bill was being presented and whose consequences were not intended to apply. We are dealing with an issue that had not been dealt with properly in 2009. We are also building into this legislation provision for the new personal insolvency legislation which gives protection to people who are under threat of repossession. We need this legislation.

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The legislation we will deal with later is in respect of a commitment made. This is an area where we have made commitments to deliver this legislation in line with agreements with the troika. These are time-limited because of the extraordinary situation we are trying to deal with. We have made commitments and that is why at the end of this process we must get these agreed before the summer recess in accordance with the schedule. That is the background.

Question put: “That the proposal for dealing with No. 18 be agreed to.”

<i>The Dáil divided: Tá, 84; Níl, 42.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Bannon, James.</i>	<i>Adams, Gerry.</i>
<i>Breen, Pat.</i>	<i>Browne, John.</i>
<i>Bruton, Richard.</i>	<i>Calleary, Dara.</i>
<i>Butler, Ray.</i>	<i>Collins, Joan.</i>
<i>Buttimer, Jerry.</i>	<i>Colreavy, Michael.</i>
<i>Byrne, Catherine.</i>	<i>Cowen, Barry.</i>
<i>Byrne, Eric.</i>	<i>Daly, Clare.</i>
<i>Carey, Joe.</i>	<i>Doherty, Pearse.</i>
<i>Coffey, Paudie.</i>	<i>Dooley, Timmy.</i>
<i>Collins, Áine.</i>	<i>Ellis, Dessie.</i>
<i>Conaghan, Michael.</i>	<i>Ferris, Martin.</i>
<i>Conlan, Seán.</i>	<i>Flanagan, Luke ‘Ming’.</i>
<i>Connaughton, Paul J.</i>	<i>Fleming, Sean.</i>
<i>Conway, Ciara.</i>	<i>Fleming, Tom.</i>
<i>Coonan, Noel.</i>	<i>Grealish, Noel.</i>
<i>Corcoran Kennedy, Marcella.</i>	<i>Halligan, John.</i>
<i>Creighton, Lucinda.</i>	<i>Healy, Seamus.</i>
<i>Daly, Jim.</i>	<i>Healy-Rae, Michael.</i>
<i>Deasy, John.</i>	<i>Keaveney, Colm.</i>
<i>Deenihan, Jimmy.</i>	<i>Kelleher, Billy.</i>
<i>Doherty, Regina.</i>	<i>Mac Lochlainn, Pádraig.</i>
<i>Donohoe, Paschal.</i>	<i>McConalogue, Charlie.</i>
<i>Doyle, Andrew.</i>	<i>McDonald, Mary Lou.</i>
<i>Durkan, Bernard J.</i>	<i>McGrath, Finian.</i>
<i>English, Damien.</i>	<i>McGrath, Mattie.</i>
<i>Farrell, Alan.</i>	<i>McLellan, Sandra.</i>
<i>Feighan, Frank.</i>	<i>Martin, Micheál.</i>
<i>Ferris, Anne.</i>	<i>Moynihan, Michael.</i>
<i>Fitzgerald, Frances.</i>	<i>Murphy, Catherine.</i>
<i>Fitzpatrick, Peter.</i>	<i>Ó Caoláin, Caoimhghín.</i>
<i>Flanagan, Charles.</i>	<i>Ó Cuív, Éamon.</i>
<i>Griffin, Brendan.</i>	<i>Ó Feargháil, Seán.</i>
<i>Hannigan, Dominic.</i>	<i>Ó Snodaigh, Aengus.</i>
<i>Harrington, Noel.</i>	<i>O’Brien, Jonathan.</i>

<i>Harris, Simon.</i>	<i>O'Dea, Willie.</i>
<i>Hayes, Brian.</i>	<i>Pringle, Thomas.</i>
<i>Heydon, Martin.</i>	<i>Ross, Shane.</i>
<i>Howlin, Brendan.</i>	<i>Shortall, Róisín.</i>
<i>Humphreys, Heather.</i>	<i>Smith, Brendan.</i>
<i>Humphreys, Kevin.</i>	<i>Stanley, Brian.</i>
<i>Keating, Derek.</i>	<i>Troy, Robert.</i>
<i>Kehoe, Paul.</i>	<i>Wallace, Mick.</i>
<i>Kelly, Alan.</i>	
<i>Kenny, Seán.</i>	
<i>Kyne, Seán.</i>	
<i>Lawlor, Anthony.</i>	
<i>Lynch, Ciarán.</i>	
<i>Lynch, Kathleen.</i>	
<i>Lyons, John.</i>	
<i>McCarthy, Michael.</i>	
<i>McEntee, Helen.</i>	
<i>McGinley, Dinny.</i>	
<i>McLoughlin, Tony.</i>	
<i>McNamara, Michael.</i>	
<i>Maloney, Eamonn.</i>	
<i>Mitchell, Olivia.</i>	
<i>Mitchell O'Connor, Mary.</i>	
<i>Mulherin, Michelle.</i>	
<i>Murphy, Dara.</i>	
<i>Murphy, Eoghan.</i>	
<i>Nash, Gerald.</i>	
<i>Neville, Dan.</i>	
<i>Ó Riordáin, Aodhán.</i>	
<i>O'Donnell, Kieran.</i>	
<i>O'Donovan, Patrick.</i>	
<i>O'Dowd, Fergus.</i>	
<i>O'Mahony, John.</i>	
<i>O'Reilly, Joe.</i>	
<i>O'Sullivan, Jan.</i>	
<i>Perry, John.</i>	
<i>Phelan, Ann.</i>	
<i>Phelan, John Paul.</i>	
<i>Quinn, Ruairí.</i>	
<i>Rabbitte, Pat.</i>	
<i>Ring, Michael.</i>	
<i>Ryan, Brendan.</i>	
<i>Shatter, Alan.</i>	

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<i>Sherlock, Sean.</i>	
<i>Spring, Arthur.</i>	
<i>Stagg, Emmet.</i>	
<i>Stanton, David.</i>	
<i>Tuffy, Joanna.</i>	
<i>Walsh, Brian.</i>	
<i>White, Alex.</i>	

Tellers: Tá, Deputies Paul Kehoe and Emmet Stagg; Níl, Deputies Seán Ó Feargháil and Aengus Ó Snodaigh.

Question declared carried.

An Leas-Cheann Comhairle: Is the proposal for dealing with No. 19, Order for Report, Report and Final Stages of the Ministers and Secretaries (Amendment) Bill agreed to?

Deputy Micheál Martin: No.

An Leas-Cheann Comhairle: Could we have some order please?

Deputy Micheál Martin: Again, I object to the guillotining of this Bill. Twenty-seven amendments have been tabled to that particular legislation and approximately one hour and 20 minutes has been allocated to go through them. This is the third item of legislation this morning the Government is insisting be guillotined through this House.

Deputy Timmy Dooley: Shocking.

Deputy Micheál Martin: Again, this is the Government running the House, deciding what gets debated and for how long, as well as how much time is given for individual amendments. This is jackboot politics and jackboot parliamentarianism.

Deputy Mattie McGrath: Boot-boys.

Deputy Ray Butler: Members opposite were there for long enough.

Deputy Micheál Martin: This is what goes on in here, day in and day out. It flies in the face of what the Government stated it would do in the programme for Government. The Government should tear up the programme for Government and at least be consistent and honest in its approach to the Dáil and Dáil reform.

Deputy Paul Kehoe: Deputy Martin's party tore up its programme.

An Leas-Cheann Comhairle: Please, allow the Deputy.

Deputy Micheál Martin: While the truth hurts, recent research has demonstrated the degree to which the Government has flouted its own commitments in the programme for Govern-

ment in respect of Dáil reform. I refer, for example, to the non-attendance last week by the Minister during large parts of the Private Members' Bill on education. Moreover, the number of times Ministers do not turn up for Topical Issue debates is far in excess of what they committed to and promised. In fairness to the Chief Whip himself, he stated the behaviour of Ministers was deplorable in respect of Dáil reform.

Deputies: Hear, hear.

(Interruptions).

Deputy Micheál Martin: That is what he said on the front page of *The Irish Times*.

Deputy Dara Calleary: The newspaper of record.

Deputy Micheál Martin: I agree with the Chief Whip-----

Deputy Paul Kehoe: Imagine what I said about the Deputy.

(Interruptions).

An Leas-Cheann Comhairle: Order please.

Deputy Micheál Martin: I agree with him that the performance of the Government in respect of Dáil reform has been truly deplorable.

Deputy Pat Rabbitte: Does Deputy Martin agree with his own chief Whip?

Deputy Micheál Martin: Will the Minister give a commitment to Members that this is the last of this kind of series of measures that would be put before the House before the summer recess?

Deputy Michael McNamara: Can the Deputy whip his own Chief Whip?

Deputy Micheál Martin: The Government should have some respect for the House. The Government intends to get rid of the other House and wants to get rid of urban councils.

Deputy Patrick O'Donovan: The Deputy's days are numbered.

Deputy Micheál Martin: Moreover, it is giving people in the Gaeltacht no vote on who represents them on Údarás na Gaeltachta.

Deputy Dinny McGinley: They are very well represented.

An Leas-Cheann Comhairle: Thank you, Deputy.

Deputy Micheál Martin: All that will be left is this House, and as far as the Government is concerned, that suits it fine.

(Interruptions).

Deputy Micheál Martin: With a majority, it is happy to suppress debate and dissent, as Deputy Mathews knows only too well this morning. Despite his financial acumen and his ability, he was summarily dismissed.

An Leas-Cheann Comhairle: Thank you, Deputy.

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Deputy Micheál Martin: There is an authoritarian streak at the heart of the present Government and it is evident every day.

(Interruptions).

An Leas-Cheann Comhairle: Thank you, Deputy. I call Deputy Adams. Order, please.

Deputy Paul Kehoe: The Deputy is trying to save his own skin.

Deputy Gerry Adams: I have made my point. I had intended to bring attention to the Chief Whip's deploring of the Government's lack of good record on Dáil reform.

Deputy Paul Kehoe: Deploring?

Deputy Mattie McGrath: It seems as though he can get something right.

Deputy Gerry Adams: He is the Minister of State who has the responsibility to bring together the committee that is charged with that responsibility. Consequently, I simply register a protest here on behalf of Sinn Féin.

Deputy Richard Bruton: First, it is a bit rich listening to Deputy Martin lecturing on Dáil reform. One should not forget that under the previous regime, the Topical Issue debates of which he complains were closeted away at the very end of business when everyone had gone home.

Deputy Billy Kelleher: Ministers do not even turn up. What Chief Whip said that?

Deputy Richard Bruton: They now are taken in prime time. One also should not forget that for the first time, as exemplified on this Order Paper in respect of the banking inquiries, the Government brought this issue to the committee-----

Deputy Barry Cowen: The Government destroyed that last week.

Deputy Richard Bruton: -----before the heads of Bill were prepared to give the committee an opportunity to make an input. This constitutes opening up legislation to the input of experts, as well as a mature reflection by Deputies of what goes into the Bill. However, Members opposite are complaining that at the end of the procedure, when it is known there is a deadline to get this legislation passed-----

Deputy Brendan Howlin: They are grandstanding.

Deputy Timmy Dooley: It is a false deadline.

An Leas-Cheann Comhairle: Quiet, please.

Deputy Richard Bruton: Despite having had enormous time on Second and Committee Stages, they are refusing to allow a conclusion to be brought.

Deputy Timmy Dooley: No, we seek a debate.

Deputy Richard Bruton: This is about bringing a conclusion to these Bills. Moreover, when Fianna Fáil was in government, it would not even answer questions on a Thursday. No leaders appeared in the Chamber to answer questions on Thursday.

A Deputy: They still do not.

Deputy Richard Bruton: Consequently, progress is being made by the Government on Dáil reform. While there is more to be done-----

Deputy Sean Fleming: Is the Minister, Deputy Bruton, the leader?

An Leas-Cheann Comhairle: Quiet, please.

(Interruptions).

An Leas-Cheann Comhairle: Please allow the Minister to respond.

Deputy Richard Bruton: A leader comes in for questions from the party leaders on Thursday. Fianna Fáil consistently refused to allow that. Members opposite are not willing to recognise that reform is occurring. While of course a lot more must be done and it is the responsibility of the House to bring in additional reform, Members opposite should have the decency to recognise that significant progress has been made.

Question, "That the proposal for dealing with No. 19, Ministers and Secretaries (Amendment) Bill 2012 - Order for Report and Report and Final Stages, be agreed to", put and declared carried.

An Leas-Cheann Comhairle: Is the proposal for dealing with Private Members' business agreed to? Agreed.

Topical Issue Matters

An Leas-Cheann Comhairle: I wish to advise the House of the following matters in respect of which notice has been given under Standing Order 27A and the name of the Member in each case:

(1) Deputy David Stanton - to ask the Minister for Health to debate the urgent need to open the stroke unit in Cork University Hospital as provided for in the national stroke programme;

(2) Deputy Joe McHugh - the mapping exercise for identifying areas of the country that are not serviced with comprehensive broadband connectivity;

(4) Deputy Regina Doherty - the need for regulation in the use of sun beds;

(5) Deputy Heather Humphreys - the need to regulate for the permitted height of hedges and trees in privately owned gardens;

(6) Deputies Denis Naughten and Robert Troy - the steps being taken on foot of the publication of the HSE audit of neglect cases in Roscommon, Waterford and Dublin;

(7) Deputy Catherine Murphy - the circumstances surrounding the death of a man in Naas, County Kildare and the wider effect that cutbacks are having on critical ambulance services around the country;

(8) Deputy Eoghan Murphy - the implementation of the Smarter Transport Bill 2012;

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(9) Deputy Michelle Mulherin - the need to review the policy pursued by the Courts Service which is resulting in centralisation of court services in rural counties like Mayo;

(10) Deputies Dominic Hannigan and Gerald Nash - the need to review the catch and release salmon fishing policy on the Rivers Boyne, Dee and Glyde and the Castletown river in Louth;

(11) Deputy Derek Keating - to report on the Private Residential Tenancy Board, including the responsibilities and powers of the PRTB;

(12) Deputy Brendan Griffin - the shortage of beds at West Kerry Community Hospital;

(13) Deputy Michael Moynihan - the need for the Minister for Health to honour the programme for Government commitments on home helps;

(14) Deputy Billy Kelleher - the need to discuss the increase in day case and inpatient waiting lists;

(15) Deputy Mattie McGrath - the need for Gaelscoil Chluain Meala to be considered for a major funding grant;

(16) Deputy Eamonn Maloney - the improvement in tourist statistics;

(17) Deputy Barry Cowen - the need to discuss ongoing difficulties with rubbish collection in Dublin; (18) Deputy Seán Ó Feargháil - the need to secure the future of Temple Bar as a unique cultural quarter of Dublin;

(19) Deputies Richard Boyd Barrett, Joan Collins, Clare Daly and John Halligan - the need to review local property tax penalties for the self-employed; and

(20) Deputy Simon Harris - the need for the DART fare anomaly which exists for Greystones commuters to be reviewed and rectified.

The matters raised by Deputies Catherine Murphy; Dominic Hannigan and Gerald Nash; Denis Naughten and Robert Troy; and Derek Keating have been selected for discussion.

Membership of Committee: Motion

Minister of State at the Department of the Taoiseach (Deputy Paul Kehoe): I move:

That Deputies Peter Mathews and Billy Timmins be discharged from the Select Committee on Finance, Public Expenditure and Reform and that Deputies Regina Doherty and Paschal Donohoe be appointed in substitution for them.

Question put and agreed to.

Houses of the Oireachtas (Inquiries, Privileges and Procedures) Bill 2013: Report Stage (Resumed) and Final Stage

An Leas-Cheann Comhairle: Amendments Nos. 1 and 2 are related and are being taken together.

Debate resumed on amendment No. 1:

In page 12, line 40, after “device,” to insert the following:

“including a record of phone calls to and from a landline or a mobile phone,”.

-(Deputy Sean Fleming).

An Leas-Cheann Comhairle: The Minister reported progress and therefore I call on the Minister.

Minister for Public Expenditure and Reform (Deputy Brendan Howlin): We were concluding these two amendments. I wanted to give assurances to the Deputy and to the House that the import of what he wanted is fully captured, and I have rechecked that with the Parliamentary Counsel and the Office of the Attorney General. In fact, the advice is that if we try to expand it in a specific way we may exclude things we would like to include. It is better to have the definition that is all-inclusive, as I have indicated. I do not know whether there are Deputies present who were not here last night in terms of reading it again but they can be assured that records of phone conversations or any electronic data, as well as any written documentation, will be subject to access in this definition.

Deputy Sean Fleming: We will not waste any time. My views are well known. I expressed them last night. I am pressing the amendment.

Amendment put and declared lost.

Deputy Sean Fleming: I move amendment No. 2:

In page 12, line 40, after “device,” to insert the following:

“and includes a transcript of phone calls to and from a landline or a mobile phone,”.

Amendment put and declared lost.

An Leas-Cheann Comhairle: Amendments Nos. 3 and 4 are related and may be discussed together.

Deputy Sean Fleming: I move amendment No. 3:

In page 16, between lines 35 and 36, to insert the following:

“6.—A committee conducting an inquiry established under this Act shall consist of a minimum of forty per cent of members of the current Government party and a minimum of forty per cent of members of the opposition.”.

I welcome the opportunity to discuss amendments Nos. 3 and 4. These amendments get to the heart of what this legislation is about, namely, the fairness and impartiality of the Oireachtas

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in carrying out an inquiry. My amendments No. 3 states specifically that the committee conducting the inquiry shall consist of a minimum of 40% of members of the Government and a minimum of 40% of members of the Opposition. The purpose of that is to ensure there is equality across the Chamber. If the Government has a big majority it allows for it to have the majority of members on the committee but at least the Opposition to the Government would have a minimum of 40% of members. On Committee Stage I suggested a 50:50 membership but that may be too high and therefore I have refined it to a more reasonable percentage, and what I propose in amendment No. 3 is reasonable. If the Government cannot agree to this amendment and allow the Opposition 40% of the membership it is a poor look-out in terms of the way any Oireachtas inquiry would conduct its business. If the Government does not accept this it will lead to what I call institutional bias in terms of any future Oireachtas committee of inquiry.

My amendment No. 4 specifically states: "A chairperson of any committee established under this Act shall be a member of the opposition." That is similar to the long-standing practice of, say, the Committee of Public Accounts or our current Joint Committee on Public Service Oversight and Petitions. That has always been a good practice where the Government has a majority, in this case a big majority. If the Government does not accept amendment No. 3, it is not allowing the Opposition have even 40% of the membership. If the Minister does not accept this amendment the Government will be saying, "No. we will want 70% of the membership", If the Minister rejects the amendment on an Opposition chair the Government in effect will be saying that it wants 70% of the membership of this committee and that it wants to chair the committee. It is immediately in the territory of institutional bias at that stage in terms of the Houses of the Oireachtas.

The kernel of the issue that people will appreciate is whether this will be a fair and impartial inquiry. As the Minister is well aware, we are here dealing with this legislation because he proposed a referendum to amend the Constitution to enable the Houses of the Oireachtas undertake full inquiries and overview of the proposed system of Oireachtas inquiry. The Minister put that question in a referendum to the people in November 2011. We will not fight that again but it was lost. It could have been won but the actions of individual members of the Government resulted in it being lost.

On 12 September 2011 the Minister's Department gave us an explanatory note on the reason that referendum was necessary. Obviously, it dealt with the Abbeylara case with which the Minister's Department will be familiar because he drafted it. We are here today confined by the Abbeylara judgment. That is the essence of what is before us. The purpose of the referendum was to broaden the scope of inquiries beyond the Abbeylara judgment. That referendum failed and therefore by definition we are here with plan B to try to work within the Abbeylara judgment.

The briefing the Minister's Department gave us on the Abbeylara judgment referred to the issue of objective bias. We all understand the issue of objective, that is, if individual members of a committee making a determination at the same time make comments in the media which indicate that they had prior strong views or fixed opinions, a situation of objective bias could arise. I would be surprised if there is a Member of this House who has not expressed a prior strong view on the banking situation. In a court of law, and this legislation will end up in the Four Courts before any inquiry proceeds or witnesses are called to give evidence, it will be difficult to find the required number of Members of this Parliament who have not expressed a strong prior view. That is one hurdle this legislation will have to overcome. The Minister's legislation for a banking inquiry is doomed to failure because of the actions of his Government,

particularly in the past week or so.

The second aspect of the *Abbeylara* judgment dealt with bias. I quote from the Minister's explanatory note to us on 12 September 2011 when the Supreme Court referred to the issue of institutional bias. The explanatory note states: "*Institutional bias* refers, in summary, to a situation where, irrespective of the circumstance of a particular case, it is argued that a specific body [that is, the Oireachtas or the Oireachtas committee] may, of its nature, be inherently biased and cannot, therefore, be relied upon to assess evidence and form judgments in an objective and unbiased fashion." They did say that it is not necessarily the case that the Oireachtas suffers from institutional bias. If that were the case we would not be allowed deal with impeaching a President or a judge, and that was the follow-on note in that document, but the question of institutional bias does arise in regard to committees of inquiry.

I suggest that the statement by the Taoiseach last week on foot of the revelations in the tapes from Anglo Irish Bank executives demonstrated institutional bias on the part of the Head of this Oireachtas. He is the elected Taoiseach and leader of this Oireachtas and he said they had to look into the issues of collusion. Collusion is a fraudulent, illegal, undercover arrangement in place between people. The Taoiseach has come in here and said that in relation to the Anglo Irish Bank affair, those tapes raise the question of fraudulent collusion between individuals in the then Government and Anglo Irish Bank.

This indicates that the head of the Oireachtas has formed a strong prior view that an issue of collusion arises. It was the Taoiseach who raised that issue. I am of the view that the conversation in which we are engaging now will be played out in the courts before an Oireachtas inquiry comes into operation because some witness who does not want to come forward will take a case regarding the bias of this institution. That prospective witness will use the words of An Taoiseach to demonstrate the institutional bias referred to by the Supreme Court in the *Abbeylara* case.

The matter does not stop there. The main party in Government has been producing and circulating to all its members documents relating to the roles played by Fianna Fáil and the former Anglo Irish Bank. This demonstrates that Fine Gael and, by definition, all of its members - some of whom will serve on the committee of inquiry - have been influenced by the Taoiseach's approach in respect of what he refers to as collusion between Fianna Fáil and the former Anglo Irish Bank. We entirely refute the idea that there was such collusion. The relevant tapes have subsequently shown how furious were the people in the former Anglo Irish Bank with the then Minister for Finance, the late Brian Lenihan Jr. This shows that there was anything but collusion. Since the Taoiseach made his comments, he has sent out his minions to appear on several national media programmes to restate the position that there are charges to be answered by Fianna Fáil. This shows that a bias exists. Inquiries must examine the facts and people are not brought before them, charged with wrongdoing and made to answer for what they have done. Members of the Fine Gael Party recently appeared on national television and indicated that there are charges to answer. They also restated this view in the House in the past day or two.

The actions of the Taoiseach and his party should be a source of concern to the Minister. The Minister for Justice and Equality, Deputy Shatter, contributed to scuppering the referendum on the previous amendment to the Constitution in this regard by his display of arrogance. Now Fine Gael, led by the Taoiseach and supported by his minions, is talking about collusion and the fact that there are charges to be answered. In my opinion this demonstrates not only subjective bias on the part of individual Members but also an institutional bias on the part of the head of this Oireachtas. Whatever chance the Minister had of having an objective inquiry carried out in

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respect of the banks has been damaged by the Taoiseach and other Fine Gael Ministers. I have not been following everything that has been said by members of the Labour Party on this matter and I accept that I am singling out the Fine Gael Party.

The Minister would, if he could accept these amendments, be in a position to put up some small defence when a case is brought before the courts regarding why this legislation should not be used in respect of the holding of an inquiry into banking. Regardless of what the Taoiseach stated, we are prepared to accept the committee of inquiry being chaired by a member of the Opposition. That is the basis of amendment No. 4. Despite the personal and institutional bias the Taoiseach, as leader of this Parliament, has demonstrated in respect of any future banking inquiry, we are of the view that a minimum of 40% - the Minister could opt for a higher percentage - of the membership of that inquiry should not be from the Government parties. If the Minister were to accept my amendments, he would be showing the courts, the public and those who might be called to give evidence that the proposed inquiry will not be tainted by either institutional or personal bias. As I have already stated, the Taoiseach's comments - which demonstrate personal and institutional bias on the part of Fine Gael and its members - are going to remain on the record. If the Minister cannot accept the amendment to the effect that the inquiry should be chaired by a member of the Opposition and that 40% of its membership should comprise those in opposition, then he will also be demonstrating bias. Not only will he be insisting that the Government should have a huge majority on the inquiry, he will also be insisting that it should control the Chair.

It is not acceptable to state that this is a matter for the Oireachtas to decide upon because the Taoiseach controls the Oireachtas. We witnessed what he did yesterday when members of Fine Gael defied the Whip and voted against the Government. We had not even left the Chamber when e-mails to remove those individuals from Oireachtas committees were issued from the Office of the Government Chief Whip. That is how the Government and the Oireachtas operate at present. If the Minister cannot accept the amendments, this will show an even greater level of institutional bias than that demonstrated by the Taoiseach.

Deputy Mary Lou McDonald: I recognise the intent behind Deputy Sean Fleming's amendments. For the purposes of underscoring inclusivity and putting paid to any concern relating to the Government delivering a ready-up in the context of the membership of a committee of inquiry, it would be useful if they were included in the Bill. I think we are all clear on the fact that in the context of the legislation before the House, we must work within the existing constitutional and legal framework. As a result, we cannot make adverse findings of fact. There is, of course, an issue of bias and there is an attempt to cater for this in the legislation. However, I cannot accept Deputy Sean Fleming's narrative in respect of what has transpired recently with regard to any potential inquiry into banking. By definition, when an inquiry - whatever its format - is under way, it will examine what happened in the banks and a very legitimate public question that will arise will relate to the interaction or otherwise between the political system and the banking system. I do not believe that raising this issue represents bias, it merely acknowledges one dimension of what was, in some ways, a very complicated turn of events.

I am not even sure that this is the right place in which to engage in this discussion. However, I could not allow the Deputy's commentary to pass without stating that for its part, my party recognises the limitations - by definition - of any potential inquiry into banking. The latter will simply reflect the legal position. I am also of the view, however, that a methodology can be found to ensure that bias can be offset. In such circumstances, the inquiry will have to be very structured and focused and I believe this is possible. I do not buy the Fianna Fáil line that

this endeavour is doomed because the Taoiseach has hurt the feelings of that party by making a legitimate political charge against it. Not so long ago, Deputy Sean Fleming was very much in favour of an Oireachtas inquiry into banking. At that time there was some tension between the Committee of Public Accounts and the joint committee on finance on the issue because people believed an inquiry would be a good thing and they all wanted to be involved. Let us not back off holding a legitimate, properly structured, disciplined and functioning public inquiry because as such it is politically awkward. People should not make charges of bias, either individual or institutional, unless they are based in fact. Neither should they make charges of bias against any potential inquiry simply because such an inquiry would be politically uncomfortable. Making such charges is dishonest.

Deputy Shane Ross: I thank Deputy Sean Fleming for putting his finger on the kernel of the problem. I do not agree with everything he said but the issue we must debate and decide upon relates to the composition of the inquiry. This is the most controversial aspect of the Bill. Nobody in the House doubts the need for an inquiry and everybody has been seeking such an inquiry. If, however, we proceed with the composition proposed in the Bill, then it will be difficult, if not impossible, for the inquiry to reach any conclusions.

Deputy Brendan Howlin: There is no proposed composition in the Bill.

Deputy Shane Ross: I apologise, the composition proposed in the amendment. I do not agree that there should be a 40:40 split, that the Chairman should be a member of the Opposition or that a Government Deputy should hold that position. I am of the view that this matter is no longer suitable to be examined by a committee of inquiry comprising Oireachtas Members. I say this for a specific and obvious reason, namely, that I cannot think of any Oireachtas Member who has not already stated quite categorically how he or she feels about the underlying issues relating to this matter. Neither can I think of one who has not made statements about bankers - such statements are almost always in the negative - which will provoke those witnesses who are going to be called at a later stage, namely, bankers and civil servants, into going to the Four Courts. It is common knowledge that bankers and well-off existing and former civil servants are already equipping themselves with well-heeled lawyers as they prepare to injunct this inquiry. That is what will happen and what will delay it for a considerable length of time.

It may mean this inquiry goes the way of other Oireachtas inquiries such as the Abbeylara, the mini-CTC signalling project and the Callely inquiries. Oireachtas inquiries have a very poor record of coming to any conclusion because they end up down on the quays in the Four Courts. This inquiry, whatever about the other ones which have preceded it, will inevitably end up in the courts and it may be stalled or stopped. That will be particularly true because of its membership. This issue has reached a point where it is impossible to find any Member of the Oireachtas - I do not know if it is possible to find one who has not spoken about the banking issue - who has not given hostage to fortune and it will end up in the Four Courts which may mean the inquiry comes to a sticky end and ends in a fiasco. That is a real difficulty we have here.

While Deputy Sean Fleming addressed the issue by going 40:40, he was wrong to accept the premise that will somehow produce a fair result. This issue is deeply politicised at this stage. It is an open goal for many Members of the Oireachtas to be on this inquiry and to kick their opponents in the political solar plexus. We know that is what will happen, that there will be a Government majority on this inquiry and that it will dictate the terms of reference, the result, the tone and so on. It will be impossible for the Oireachtas to hold what is suggested will be an

impartial inquiry.

I agree with Deputy Sean Fleming that the statement by the Taoiseach last week was the height of irresponsibility and that it actually torpedoed this inquiry in one phrase. “Axis of collusion” was a clever phrase and a good soundbite and it went down very well, but it said that this inquiry will look at Fianna Fáil, the Green Party and others and that it will connect them automatically with what happened. The Taoiseach may well be right but he should not have said it because it immediately turned this into a massive political football.

As night follows day, it is inevitable that the day this inquiry opens with whatever number of Oireachtas Members are on it, there will be grandstanding. We will all do it, if it is necessary, in front of the cameras. People will accuse their political opponents of one thing or another. If the Taoiseach is called before the inquiry, of course, the members of Fianna Fáil will put him under extraordinary pressure and if a member of Fianna Fáil is called before the inquiry, as will happen, the Fine Gael and the Labour Party members will put him or her under enormous pressure. They should be put under pressure but not by their political opponents. That is the real danger of this inquiry. It should be taken out of the political arena if it is to have any credibility at all.

Oireachtas Members are unsuitable for this type of inquiry because of their very nature. They deal in the currency of attracting votes and media attention. They are elected to advocate and legislate but not necessarily to use a very important issue of this sort to batter their opponents. It has already been politicised by the Taoiseach.

I am also worried about the timetable of this inquiry. The Minister, Deputy Howlin, said it would take two years, which would be particularly close to an electoral timetable. If this is to be to the advantage of anyone, because of not being in power, the Government Members will benefit from this. That may well be fair but to time this to coincide with the next general election is deeply suspicious and I worry about that.

I worry about this simply being a political trial of political opponents. It is no good to say findings of fact, which are adverse, cannot be made. The terms of reference might be designed in such a way that it looks suspiciously like turning out to be a kangaroo court. That is not what we should have and it makes me doubt whether people are really serious about finding out the facts and that they see this as a powerful political vehicle and nothing else.

If we are going to restrict its terms of reference up to the night of the guarantee, and as we are looking into banking and how it is practised, why can we not look into how it is practised today and not just under one Administration? What happened under the last Administration was indefensible but what is important is that this Administration also comes under scrutiny, if it is to be fair. Serious questions need to be asked as to whether the banks have reformed in any way since the night of the guarantee in 2008. The question the Government is asking here is a legitimate one but there are equally legitimate ones as to whether it has reformed the banking system and the relationship between Government, senior civil servants and the banks in the way it should have done by this stage.

I want to know what happened and how decisions were made about the liquidation of Anglo Irish Bank. I was here on the night, as were many other Members, and it was chaotic. I do not know what happened that night and how decisions were made but anyone who was here will realise-----

Deputy Brendan Howlin: The Deputy was on the wrong side of the debate.

Deputy Shane Ross: The Minister is very good at interrupting. He might listen for a little while.

Deputy Brendan Howlin: I have listened for 20 minutes.

Deputy Shane Ross: There were many people involved in that who were not aware of what was going on or how decisions were made. Those of us who went to the Department of Finance that night - it had echoes of 2008 - were very puzzled by the fact so little information was given to us, that it was given to us half an hour before the Bill was debated and that the civil servants could not explain the relationship between the Government and civil servants at that time. Let us have an extension of the terms of reference - the Minister can shake his head all he likes - to his own stewardship of the banks and not just that of the last Government.

Deputy Brendan Howlin: It is very hard to listen in silence to some contributions.

Acting Chairman (Deputy Olivia Mitchell): The Minister should do his best though.

Deputy Brendan Howlin: I will do my very best. We have been working on this Bill for a considerable length of time - since the rejection by the people of the referendum in 2011 - to structure a framework for the holding of constitutional inquiries. One or two Deputies opposite seem to be under the illusion that this is a measure to set up a particular inquiry into one particular issue. It is overarching legislation which will structure how inquiries are to be conducted by this House and by the other House in the future, including inquiries in regard to the impeachment of judges, the impeachment of the President, should it ever arise, and inquiries into legislation and on the gathering and presenting of facts. It is not legislation designed for one impending inquiry. I know people are motivated to focus on things because of the latest news cycle, but that is not what is intended here.

I want to deal with the specific amendments which we debated previously and which have been slightly amended since Committee Stage. In essence, the argument is that 40% of any inquiry group within the House should be drawn from the Opposition and by law the chair shall be a member of the Opposition. We imbalance the proportion of time allowed in normal debate in the House in favour of the Opposition, which is right and proper, and it has always been like that. Many Deputies are disadvantaged, particularly when there is a very large majority, as they are unable to voice opinions. I am of the school of thought that believes every Member is equal in this House, although some groups demand the right to be disproportionately involved in everything. If the normal balance of the people, or the votes cast in the last election, are reflected, it is seen by these people as somehow crushing their democratic right to have their voices uniquely heard. That even applies to those Members with platforms elsewhere who have vented their views very clearly.

I dealt with the issue in amendment No. 3 on Committee Stage, and I perfectly understand the Deputy's intentions with regard to the composition of the committee of inquiry. In section 19 of the Bill, it can be seen that we have addressed this as far as is practicable. In essence, the reasoning behind the Bill is for committees of inquiry to be determined by this and the other House and not to be dictated by the Executive. Section 19(2)(g) states, "to the extent practicable, achieving a balance between committee members as regards their respective political affiliations", and that is captured as part of the Bill's proposals.

Similarly, with regard to amendment No. 4, it is not appropriate to dictate in legislation that forever more, every single inquiry to be conducted by the House under any of the provisions of

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the legislation, either into the impeachment of a judge or any matter of fact, should have a chair from the Opposition, even if it is demonstrably suitable for a member of the Government parties. That is wrong and it should be a matter for the House to decide. The underlying principle of the Bill, in so far as it is possible, is to confer on the Houses the autonomy to regulate and manage the conduct of inquiries. The House is the determinant of who should chair a committee and the balance to be had on that committee. All through the debate I have argued that it is inappropriate for a Whip system to operate with regard to Part 2 inquiries under this legislation. Each member of an inquiry team is obliged to find individually, with findings appropriate to the evidence heard. It is the same process as that carried out by a juror.

Neither of the amendments is appropriate. We can be myopic and seek to focus on the likely first inquiry, trying to craft legislation to suit it as opposed to what is intended in this Bill. The Supreme Court Abbeylara judgment made a very clear requirement on the State to lay out rules for inquiry. I was at the Supreme Court and the High Court and one of the big criticisms was that we did not set out clearly the procedures to leave citizens sure that there would be safe and constitutional channels dealing with inquiries.

Deputy Fleming made much of the notion of institutional bias. In the Abbeylara judgment, the Supreme Court indicated that the Houses can conduct a legitimate inquiry and rejected the idea that, intrinsically, because of the point referred to by Deputy Ross, politicians are somehow institutionally biased because that is the nature of the trade. That has already been rejected by the Supreme Court as untrue. Inquiries of the Houses allow Members to be involved in this type of investigation as long as they are on a sound constitutional basis. We have set out in this legislation the constitutional pillars allowing for inquiries. In her Supreme Court judgment, Mrs. Justice McGuinness stated:

Members of the Oireachtas have been given highly important constitutional duties; they have been elected by their constituents to fulfil these duties. If whether under Statute or otherwise they have been properly mandated to carry out an inquiry, I consider that they cannot be disabled from so doing by an automatic assumption of objective bias.

That is a clear provision.

I absolutely reject the contention of Deputy Ross that somehow this particular Parliament is so uniquely infirm that it cannot do what every other Parliament does as a matter of course. It is a poor judgment of Members of this and the other House if the Deputy truly believes that. This House can be as forthright, clear, objective, thorough, professional and parliamentary as the House of Commons, the Assemblée Nationale in Paris or any other parliament that does this work as a matter of routine. In the Westminster model, people make clear differences between what goes on at Prime Minister's question time with its associated rough and tumble and the nitty-gritty work of inquiry that goes on in committee rooms. People there would not make the sort of assertions that have been made here on these matters.

I agree with much of what Deputy McDonald said and there are net issues to be inquired into. With the referendum, we sought to allow conclusions to be adduced by a committee on the basis of evidence given. The people did not accept that proposal so what is not acceptable is the assigning of culpability with regard to any matter that is not the proper remit of the Oireachtas

under the Constitution as determined by the Supreme Court. That still gives us enormous scope.

We can deal with the banking inquiry as it is likely to be first up. The people of Ireland did not need any editorial comment to come to their own conclusions on the evidence of the tapes presented. I will not say too much about a banking inquiry as I do not want to stray from the generality of our provisions. People want to know the facts in a banking inquiry and there is no need for politicians to come to a conclusion, assigning guilt to a person or persons. They want to know what happened, and the facts can be put into the public domain by calling all those involved in the run-up to the debacle of a decision made in 2008 to explain the circumstances. I do not want to be drawn into that debate in the short time we have as we can have that discussion when there are proposals to establish an inquiry. I am anxious that it should be done and there is an historic requirement for this and the other House to prove themselves capable of doing that kind of investigation and the people's work. They have risen to the challenge in the past. With this legislation we are crafting an overarching Bill designed to allow us a variety of types of inquiry, and it sets out the scope, terms and rights of people involved in this.

Deputy Ross made two other points, with the first related to the timeframe and how long would be the process. I do not know and the decision is not for me. When it comes to shaping any inquiry, the thrust of the legislation is to hand the authority to the Houses of the Oireachtas. The Oireachtas can be assertive in these matters and determine the terms of reference, the membership and the chair. There should be some debate about that. There will have to be proportionality in respect of it in accordance with the terms of this Bill. I know it is another nice handy sound-bite but there is no question of there being a kangaroo court. We saw posters about that the last time. There will be no kangaroo court because culpability cannot be assigned in respect of any matter. Those are the confines within which an inquiry must work under the Constitution.

In respect of the two-year period, since a committee can only have a horizon of the duration of this Parliament, that would be the horizon. I hope any committee established to look at the banking situation would have different modules of work to do.

In respect of extending the scope of it to the current situation, I am sure another article will come out about that. That can be done at any time by the current Oireachtas Committee on Finance, Public Expenditure and Reform in respect of current banking oversight. There is a need to get on with that. It should be the normal bread and butter of any finance committee's work. It could hear from the Minister for Finance, who would be delighted to attend, and the Governor of the Central Bank and anybody else the committee wished to ask any questions about. What we need to do is have robust legislation that expands as much as it can but lives within the confines of the Constitution to enable this Dáil to have inquiries into matters of public concern and to stand the test of time.

Deputy Sean Fleming: I will be concise and to the point. The Minister's final remarks let the cat out of the bag about this inquiry because he was responding to the remark about what happened after the night of the guarantee. He said it was up to the Oireachtas Committee on Finance, Public Expenditure and Reform to do that at any stage. The implication was that he, as a Government Minister, and this Government would not allow the Oireachtas to do that if the Oireachtas so chose. The Minister said it is a matter for the Oireachtas Committee on Finance, Public Expenditure and Reform. Clearly, he does not intend for it to be done by the inquiry committee. Leaving it to the Oireachtas committee means the Government will dominate it.

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I agree with the Minister about institutional bias. Of course, we can impeach a President or a judge. We are not inherently biased except that the Taoiseach demonstrated inherent bias and abused the privilege of this House by essentially making criminal charges and allegations of collusion. If he believes there is collusion and that criminal charges should be brought, he should refer the matter to An Garda Síochána for investigation. I was very much in favour of this Oireachtas undertaking a banking inquiry until the Taoiseach started showing the true colour of this Government in respect of its sole function regarding what an inquiry is about.

I will finally move on to remarks made by Sinn Féin, whose spokespersons said we were offended by this. I am putting this on the record because I have refrained from saying it before in connection with the remark about us being offended by our relationship with Anglo Irish Bank. I will take no lecture from any member of Sinn Féin about how to deal with banks. It is a party whose associates carried out several armed robberies in this State and the Six Counties. Their associates raided the Northern Bank, robbed post offices and killed members of An Garda Síochána in the process. I will never take a lecture on how to deal with a bank from any member of Sinn Féin in or outside this House.

Deputy Billy Kelleher: I joined this debate because I have concerns that if we are talking about trying to get to the truth of the matter - the Minister says the first inquiry will probably be the banking inquiry, which is the obvious one of public interest - and if it is the Oireachtas that decides these things, it is the Oireachtas and not the Minister or anybody else which decides which inquiry will be the first one. I assume it will be in the context of what we are talking about. There will be inherent bias in it. Let us be very clear. The reason the Irish people rejected the Government's amendment in 2011 was because it believes it will be impossible for this Dáil and Seanad, as presently constructed, to have impartial investigations that can come to conclusions, find fact and report. They do not trust the current situation with political partisanship shown on a continual basis. I spoke against that referendum for that specific reason. I do not believe that one could find and record fact because we are inherently partisan in our commentary here on a continual basis. I can assure the Minister that there is no Deputy on any side of this House who has not made utterances that would prejudice their views in the context of an inquiry. The Minister referred to what former Supreme Court Justice Catherine McGuinness said in her response in the Abbeylara case. The Minister should know the Abbeylara case very well because he was a central character in the judgment.

The bottom line here is that if people are mandated to inquire, the difficulty is that one must go to the people to seek a mandate. We are now establishing an inquiry halfway through a Dáil term and will be in a position where we could as an Oireachtas be inquiring into very serious matters of public importance and the inquiry then falls because of the holding of an election. For the next two years plus, we could be discussing the banking inquiry, going through the whole process, bringing in witnesses, using the available information in the context of the Nyberg and Honohan reports and bringing in all the central figures involved. Then the Labour lads walk out the door and bring down the Government and the entire inquiry falls. It is perplexing. If there was a fixed-term Parliament, one might have some chance. However, we will have modules and, obviously, the political modules will be first. That will take us up to a certain period of time. After that, we will have other characters that will be central to any proper, thorough investigation. However, when a Parliament falls, that is the end of the inquiry. The inquiry cannot even finalise the report because there is an election.

That is an inherent flaw in this legislation and if nothing else, the Government should look to see that there are some obligations somewhere along the line that a report must be finalised

at a certain period of time. We do not have fixed parliamentary terms. Other European jurisdictions and the US have fixed parliamentary terms. This inquiry system could lead to people being brought in and certain slants put on it from a political perspective and there might not be an opportunity for a person to present themselves because an election has been called. That is inherently unfair and wrong.

The Irish people were very clear in their decision on an amendment sponsored by the Government. The Minister does not even have faith in this legislation and the reason why he has no faith in it is because he is already saying that the Government might revisit the constitutional referendum put forward previously. If this is the belt and braces inquiry the Government is talking about, why is it even talking about the need to have another referendum? It is because this is false and failed in the sense that it would not uncover the truth in respect of any investigation, not just the banking inquiry.

Acting Chairman (Deputy Olivia Mitchell): Could I ask the Deputy to confine himself to the amendments before the House?

Deputy Billy Kelleher: We will have two years of a banking inquiry and then have an election and the inquiry will probably not even report. That is how flawed this legislation is. If the Minister could give me an answer on that I might be able to see how this could work.

Acting Chairman (Deputy Olivia Mitchell): I call Deputy Cowen and ask him to confine himself to the actual amendments.

Deputy Barry Cowen: I will seek to do so but I am prompted to speak having listened to the Minister's response relating to the proposed amendments. In his response, he made general remarks about this Bill and the potential of any further inquiries emanating from it. We understand the Bill creates the ground rules under which inquiries may be set up in the future. We appreciate that and respect the fact that the Government spent the first year in office preparing for a referendum that it did not win. We respect the fact that it spent the next 18 months preparing this legislation, which the Taoiseach has put in jeopardy by virtue of what he said to this House last week. We respect the fact that there is a large scope involved.

The Minister said we were directed in our utterances and contributions by the recent news cycle. His obvious reference was to the Anglo Irish Bank tapes. This is disingenuous of him. The sentiment of all Members of the House is that the Office of the Taoiseach is one of privilege and great honour is bestowed on the holder by the House and, by association, by the people democratically. It is quite distinct from the role of leader of Fine Gael. The Minister's reluctance to elaborate on the specifics relating to any such inquiry which may be established to pursue the banking question seems to indicate he does not agree with what was alleged here last week when the Taoiseach stated there was an axis of collusion between those in my party who held office in government and Anglo Irish Bank.

Acting Chairman (Deputy Olivia Mitchell): I ask the Deputy to confine himself to the actual amendment which is on committee chairperson's-----

Deputy Barry Cowen: I understand this, but I prefaced my remarks by referring to the generalisations the Minister made in his response to the specific amendments proposed by Deputy Fleming.

Acting Chairman (Deputy Olivia Mitchell): There have been wide-ranging speeches on

both sides.

Deputy Barry Cowen: It is only right and proper that we be allowed to respond in this regard. I respect the role of the Acting Chairman.

Does the Minister agree with what the Taoiseach stated? If so, does he have any evidence of this being the case? If such evidence exists, which I am sure it does not, is it not the duty of the Minister, the Taoiseach or the Government to go to the local barracks - if they can find one which is open - and present any such evidence? If they have no such evidence, the allegation made should be withdrawn and an apology should be made. I ask the Minister to respond to this.

Deputy Mary Lou McDonald: If we were to adopt the definition of bias as enunciated by some here, we would never get to question anyone because we are on the record on many issues, such as the HSE and virtually every public service throughout the State. Very often our questioning has a political charge to it because we are carrying out a representative function. We must be very careful how we define bias and what damage it could do.

If anyone were to stand up in the House, our friends in Fianna Fáil included, and criticise this legislation and any inquiry which may emanate from it on the basis it is too limited, he or she might have a point. It is a great shame Oireachtas committees cannot make findings of fact, but the people made their determination on this issue and so be it. I think it a great pity that Cabinet confidentiality could create complications with regard to information and documentation we might require. We are all mindful that nothing we do in any inquiry can cut across criminal proceedings and the authority of the courts. That is how it is.

Let us remind ourselves that whoever is on any would-be bank inquiry and whatever its terms of reference, we simply legally cannot make findings of fact. I wonder why the Fianna Fáil benches are so animated on this subject. It strikes me it does not come from an objective analysis or the limitations of the legislation or any inquiry, but that members of Fianna Fáil are using this opportunity during this short debate to grandstand because their feelings have been hurt on the basis of a political charge made by the Taoiseach. To try to use this to scupper the legislation or any banking inquiry I consider to be utterly dishonest on their part.

Deputy Billy Kelleher: We support the legislation.

Deputy Mary Lou McDonald: One would never guess so.

Deputy Shane Ross: I wish to respond briefly to what the Minister stated. I am sure he heard the Director of Public Prosecutions at the weekend-----

Deputy Brendan Howlin: A former DPP.

Deputy Shane Ross: Yes. At the weekend the former DPP, James Hamilton, made comments on the effect this inquiry might have and that it might prejudice upcoming trials.

Deputy Brendan Howlin: Any inquiry.

Deputy Shane Ross: Exactly. I hope the Minister will comment on what the former DPP stated because it came from a non-political source.

It is absolutely self-evident from the debate that we as a House, group and individuals are

intrinsically biased. I echo what Deputy Kelleher had to say. It is quite obvious the banking issue and inquiry are already political footballs, whether we like it or not. We have made the case well here this morning for taking it elsewhere to a group of people or a judge who are self-evidently not intrinsically biased. The Minister states there is no automatic assumption of objective bias when he speaks about the former Supreme Court Justice, Catherine McGuinness, and the interesting word is “automatic”. On this issue there is a proven political bias by what everyone here has already said on the issue. To suggest in the nitty-gritty of committee rooms Members of the Oireachtas suddenly become media shy is, I am afraid, unrealistic. The committees have all become politicised. Even the Committee of Public Accounts, of which I am a member, has, unfortunately, been patently politicised in recent weeks. This is the nature of politicians whether the Minister likes it or not.

Deputy Brendan Howlin: The Taoiseach did not make any criminal charges against anyone that I heard. He made a political charge on the Order of Business. As I instanced, it is a normal expectation that such cut and thrust would be made during Prime Minister’s Question Time and the notion this would impact on the British inquiry system would not arise. I do not want to go into the inquiry on banking which, as the Deputy rightly pointed out, is a matter for the Houses to determine and we will see what comes of it.

With regard to Deputy Kelleher’s analysis of the referendum, after the referendum 58% of those who voted “No” wanted the power to inquire vested in the Oireachtas, which is interesting.

Deputy Barry Cowen: Was there another ballot?

Deputy Brendan Howlin: We asked Behaviour & Attitudes for a complete analysis and presented the findings to a public expenditure and reform committee which had a very robust debate. It was important to look behind why people made the decision, particularly if anybody was thinking of running the referendum again. My judgment on this is that we must prove the House capable of doing the normal work of Parliament. I have again heard people ask that a judge do it, or the bizarre notion of having the inquiry done by a jury of 12 men and women good and just. We have a responsibility. This is what parliaments do. They hold governments and the institutions of the state to account. We must step up to the mark on this and this is the framework within which we can do it.

Deputy Ross spoke about the heart of our democracy. Not only was our economy broken in 2008 but our polity was also broken. People’s confidence in these places to do their business must be restored, and we are well on the way to doing this. The legislation on whistleblowing, which I published today, is part of this.

With regard to the comments of the former DPP, I do not accept we cannot have inquiries. In the interview he instanced the risk that people would use it to grandstand. We must have the discipline and regulation to ensure this does not happen if we are to ask people to have faith in the capacity of Parliament to hold the institutions and the servants of the State to account in the future.

Amendment put and declared lost.

Deputy Sean Fleming: I move amendment No. 4:

In page 16, between lines 37 and 38, to insert the following:

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“(2) A chairperson of any committee established under this Act shall be a member of the opposition.”.

Amendment put and declared lost.

Acting Chairman (Deputy Olivia Mitchell): Amendments Nos. 5, 6 and 7 are related and amendment No. 8 is an alternative to amendments Nos. 6 and 7. Amendments Nos. 5 to 8, inclusive, may be discussed together.

Deputy Stephen S. Donnelly: I move amendment No. 5:

In page 23, between lines 3 and 4, to insert the following:

“(5) Notwithstanding any rules referred to in this section, one quarter of the members of a committee shall constitute a sufficient number of committee members to deem a proposal to have been proposed by a committee.”.

I will discuss amendments Nos. 5, 6 and 7. The amendments have two intents. The first is that in committee, a minority of committee members may refer back to the Dáil the request for a committee of inquiry to be set up. The wording is not perfect. We do not have access to the Attorney General’s office. However, let us say if on the Joint Committee on Finance, Public Expenditure and Reform, of which I am a member, a minority believes a committee of inquiry should be set up, a minority vote is enough to send the matter to this House so that it can decide. A minority of committee members is enough to ask the Dáil to consider setting up a committee of inquiry. That is the first intent.

The second intent is that when the Dáil does consider a committee of inquiry, be it a request from a committee or at its own instigation, that if pushed to a vote, a minority of Members of the Dáil would be sufficient to instigate a committee of inquiry. As the legislation stands it requires a 50% vote. The Minister stated in committee that it is his advice that it would be unconstitutional to do that.

Deputy Brendan Howlin: Article 15.11.

Deputy Stephen S. Donnelly: Right. As we are aware, no amendments ever get accepted on Report Stage anyway.

Deputy Brendan Howlin: That is not always true.

Deputy Stephen S. Donnelly: It has been true in the two and a half years I have been in the House. The point is a relevant one. I appreciate that the proposal might not be constitutional and that a referendum might be required. Several are planned.

The point is a very important one. As the Minister is aware, this is common practice in many European parliaments. Seven European parliaments have in place a system whereby between one quarter and one third of their parliament is sufficient to instigate a parliamentary inquiry. In Germany it is just one quarter. I have Article 44 of the basic law of the Federal Republic of Germany which states the Bundestag shall have the right, and on the motion of one quarter of its members, the duty to establish a committee of inquiry which shall take the requisite evidence at public hearings. I think it is important. We know it is common practice in some well-functioning democracies. For the Germans it is 25%. As I said to the Minister on Committee Stage, I am not hung up on whether it is 25%, 35% or even 40% but I would not go

above 40%. Listening to the previous debate on the banking inquiry and inherent bias I am all the more convinced that something of that nature would be very useful in order to instil some public trust that these kinds of inquiries are being set up for the right reasons.

The Minister made a comment that the Oireachtas can do whatever Westminster does. We have seen some excellent inquiries there, for example, the Leveson inquiry, among others. The Minister said we have to prove this House capable of doing the normal work of parliaments. Unfortunately, due to the stranglehold which the Fianna Fáil Cabinet had for years over the Dáil, and which the Fine Gael and Labour Cabinet now exerts over the Dáil, this House cannot do the normal work of Parliament. Let us look at what happened in recent days. On an utterly non-political issue of deep conscience-----

Deputy Brendan Howlin: It was deeply political.

Deputy Stephen S. Donnelly: It was not party political. The X case legislation is one of deep conscience.

Deputy Sean Fleming: Where was Deputy Donnelly last night?

Deputy Stephen S. Donnelly: I was on parliamentary business in Turkey.

Deputy Sean Fleming: Thank you.

Deputy Brendan Howlin: Why?

Deputy Stephen S. Donnelly: What does the Minister mean?

Deputy Brendan Howlin: Why was Deputy Donnelly there?

Deputy Stephen S. Donnelly: I was representing the Oireachtas at the annual meeting of the Organization for Security and Co-operation in Europe.

Acting Chairman (Deputy Olivia Mitchell): I must inform the Minister that this is not relevant to amendment No. 5 which is currently under discussion.

Deputy Stephen S. Donnelly: I was one of only two Members left when the Government called home its Deputies for a show of strength. It was a total waste of money.

Deputy Brendan Howlin: That was outrageous.

Deputy Stephen S. Donnelly: Yes. It seemed pretty silly to me.

Deputy Brendan Howlin: Deputy Donnelly stayed in Turkey.

Deputy Stephen S. Donnelly: This House cannot do the work Westminster does. Let us look at what happened when four Government Deputies said they could not vote with the Government on an issue of conscience. In Westminster they would not have lost the Whip. They would not have been thrown out. Deputy Mathews would not have got thrown off the Joint Committee on Finance, Public Expenditure and Reform. Last year in Westminster Government MPs voted against the Government 40% of the time and they did not lose the Whip. This is the only parliament in the democratic world that is run like this. There is a consensus among political scientists – the Minister scoffed at the point on the previous occasion when I made it in committee that we would look at the opinion of experts – that Dáil Éireann is the most con-

trolled parliament in the developed world.

I put it to the Minister that I would like the Dáil and the Oireachtas to be able to do some of the stuff that can be done in Westminster, but until the Government relinquishes the obsessive control over its own backbenchers we will not be able to do that. It is reciprocated. The Joint Committee on Finance, Public Expenditure and Reform has just set up a sub-committee to examine taxation loopholes, at my request. It will be important work. At our first meeting only one Government Deputy showed up. When Government Deputies show up on Committee Stage they are not allowed to speak or table amendments against the Government. They are not allowed to say what they want. Therefore the public does not trust us. The latest Bertelsmann study on the public's trust in elected representatives shows that we have one of the lowest levels of trust in the developed world because so much control is exerted over party Deputies.

Deputy Thomas Pringle: Hear, hear.

Deputy Stephen S. Donnelly: I do not for a second suggest that there should be no Whip. Of course there must be a Whip to do the business of politics but not the way it is applied in this House. Therefore, these amendments are important because they say that even if one has a Cabinet controlling up to 60% of the Dáil, there are still enough Members of Dáil Éireann who can instigate a committee of inquiry. That is why this is important. Based on what I have seen happen in this House yesterday, today and this morning in this debate, it is all the more important.

Deputy Thomas Pringle: I wish to speak to amendment No. 8. I tabled the amendment because of my concerns. The Minister outlined the concerns people have on the basis that 58% of the people who voted "No" to the referendum wanted the Oireachtas to have the power to inquire into issues. Everyone across the House agrees it should have such power. One of the main concerns, as highlighted by Members on this side of the House during the referendum campaign, and it is highlighted in the poll results, is that the inquiries could be seen as being politically motivated and orchestrated by a Government to have, in effect, political show trials.

1 o'clock

Amendment No. 8 is an attempt to try to ease that situation, in that it provides that a proposal for an inquiry to be held would not pass unless two thirds of recognised Opposition Deputies supported it. This would provide a safeguard against the Executive dominating the establishment of inquiries in the House.

The Minister's responses to the other amendments were interesting. He constantly referred to the Oireachtas being able to do what it wanted. However, the fact of the matter is that it cannot. The Executive controls the House. The Executive decides what goes on the Order Paper, what is discussed and whether something is guillotined. It governs the House's workings. There may be 113 or so Government Deputies, but only 15 of them have any power in the House. This is the problem, and is what the people saw when they considered the potential risks in the referendum. The Bill can get us over the problem if amendment No. 8 is accepted so that, if a majority of Opposition Deputies are in favour, an inquiry can go ahead. This amendment should be taken on board.

This is an important matter, as the Oireachtas should be able to inquire into the issues in question in the same way as obtains in Westminster and elsewhere. Our inquiries should be quick, strong and reach findings. We and the people need to be able to see that inquiries are fair

and not controlled by the Executive. In the parliaments of seven European countries, a small number of members can ensure that an inquiry is held.

Regarding constitutionality, the legislation provides in section 13 that the House shall make rules and Standing Orders on voting in inquiries. Amendment No. 8 is in line with that section. For this reason, it would be constitutional and should be taken on board.

Deputy Mary Lou McDonald: I support the spirit of a lower threshold to trigger and sanction inquiries. If the Minister accepted some or all of these amendments, it would offset concerns about majoritarianism in the establishment of inquiries. In other parliaments and assemblies, a trigger of one third is deemed an appropriate level to give impetus to the establishment of an inquiry. There is merit in this proposal, as nothing would fall captive to the mathematics of a particular Chamber or committee.

Deputy Brendan Howlin: In amendment No. 5, Deputy Donnelly is proposing that one quarter of the members of a committee should constitute a sufficient number to deem a proposal by a committee to have been passed and to cause it to come to the House.

Deputy Stephen S. Donnelly: Only when the committee asks for a committee of inquiry to be established.

Deputy Brendan Howlin: It is an extraordinary proposition, if one thinks about it. A quarter of the members of a committee could overrule three quarters and have a motion tabled in the House.

I have a number of reservations about this proposal. These inquiries will not be routine matters. They will demand resources and deal with matters of significant substance. Most of us believe there should at least be a case compelling enough for the majority of members of a committee to believe that there should be an inquiry into those matters.

I have a degree of experience in the Houses on a number of issues. For example, and as Deputy Pringle would know, I campaigned for a long time for an inquiry into policing in Donegal. Subsequently, we had the Morris tribunal. There was significant resistance from the Minister for Justice, Equality and Law Reform and the Oireachtas of the day. The then Government had a narrow majority and voted it down.

In any issue where there is sufficient public demand, the House must yield to it. It will not be a matter of a Government denying the clamour of the people. It would be an extraordinary situation if a quarter of a committee - if there were eight members, one quarter would be two members - could overrule the other six members.

Deputy Stephen S. Donnelly: Is the Bundestag an extraordinary situation?

Deputy Brendan Howlin: I am not familiar with the Bundestag. I do not know how it works. However, this is an extraordinary proposition. Whatever about majoritarianism, a dictatorship of the minority would be an interesting concept to debate. There are issues in respect of which a minority should be able to trigger actions and I am not ruling that out in all instances.

In amendments Nos. 6 and 7, Deputy Donnelly is proposing that a vote of one quarter of the Members of the House would be sufficient to pass a resolution in respect of an inquiry. As he rightly stated and as I mentioned on Committee Stage, Article 15.11.1° of the Constitution requires: "All questions in each House shall, save as otherwise provided by this Constitution,

[it is not a rule of the House-----

Deputy Thomas Pringle: The Constitutional Convention cannot make its own rules.

Deputy Brendan Howlin: -----but the House's rules cannot overturn the Constitution itself] shall be determined by a majority of the votes of the members present and voting other than the Chairman or presiding member." The Constitution is clear that a majority of Deputies are needed to pass a resolution of the House. A quarter of the Members of the House overruling three quarters would be an extraordinary proposition.

In amendment No. 8, Deputy Pringle proposes that a vote in favour of conducting an inquiry shall pass if no less than two thirds of the designated Opposition vote in favour. This is unconstitutional for the reasons that I have given. Even were this proposition constitutional, I would reject it. I have been longer on the Opposition benches than I have been on the Government benches in this House. There is almost a flavour emerging that, somehow, the Government side is inherently political and would act politically and the Opposition side does not act politically. I have served long years on both sides of the House. My experience is that the temptation to act politically is not the universal prerogative on either side.

In terms of what is right, we must respect the vote of the people and their democratic decisions.

Deputy Donnelly gave a dissertation on the role of the Whips. He is a new Independent. I entered politics because I was interested in a political party. Originally, I did not expect to be an elected Member, but I subscribe to the views of the party and we debate vigorously within it. We are not sole traders. I do not stand in the Chamber as a sole trader. I must argue my case within the confines of the parliamentary party first and, ultimately, within the confines of the conference of my party, which makes policy. The notion that we are all sole traders and that everyone can amble in here as he or she pleases is not how political parties work. It is not normally the way for Fianna Fáil. Except when the exigencies of the situation, shall we say kindly, require it to be otherwise, Fianna Fáil normally requires the consensus view within the party to prevail. If one is a member of any organisation, one can have a vigorous democratic debate, but once the majority decides, that decision becomes the organisation's policy. We are not sole traders. I understand that it is difficult for people outside the political party system to understand that. If the day comes when one cannot live with this situation, one walks away.

Deputy Stephen S. Donnelly: It is too hard for me to understand.

Deputy Brendan Howlin: This is how it works. Parliament needs it. Consider what this Parliament has needed to do in recent years. The notion that every difficult budgetary decision could be a free vote, the pressure on everybody-----

Deputy Stephen S. Donnelly: Nobody suggested that every vote should be free.

Deputy Brendan Howlin: May I speak as freely as I allowed the Deputy to speak?

Deputy Stephen S. Donnelly: Yes-----

Deputy Brendan Howlin: I thank the Deputy.

Deputy Stephen S. Donnelly: -----and I will interrupt the Minister as much as he interrupted me.

Deputy Brendan Howlin: I do not think I interrupted the Deputy, but maybe I did. If so, I apologise. The Deputy did not say that there should be a Whip on everything.

Deputy Eamonn Maloney: Conscience.

Deputy Brendan Howlin: A Whip on conscience? I have to determine if child benefit is a conscience issue or only a sectionally related issue of conscience. We are in a very difficult area if we are going to say to people that they should determine what is a matter of conscience, and that takes it outside the norms of politics. We all have consciences. I did not get the opportunity to speak in the debate but I find it jarring when people say they are going to vote with their conscience, as if not everybody in this House has a conscience or reflects and makes determinations in light of their experiences, beliefs and ultimately their consciences.

Deputy Donnelly talked about the Executive's control over the Oireachtas. The most vigorous debate happens within parliamentary parties and that determines what happens here. The rows, clamour and strenuous debate that happen within the Fine Gael, Labour, Sinn Féin and Fianna Fáil parties determines that discourse. I understand that a lot of this is alien to Independents who can determine their views----

Deputy Shane Ross: The Minister should attend a Technical Group meeting.

Deputy Brendan Howlin: I find the notion that they are Independents in a group to be perverse. I do not expect a Technical Group to have a consensus because they are all, by definition, independent.

Deputy Eamonn Maloney: Independent of what?

Deputy Brendan Howlin: Independent of each other, I think, which is fine.

We need to ensure that we have effectiveness in parliamentary decision-making. By definition, politics is the art of compromise and we compromise on many matters.

I do not accept Deputy Pringle's commentary about show trials. If we look at every issue that has been inquired into in this House - in so far as we could do so before the Abbeylara judgment - it was done objectively, with restraint and within confines. That applied even to very political issues like the fall of the 1994 Government. I was a witness at that, with some insight into what happened. It was chaired very fairly and impartially by a Fianna Fáil Deputy.

Deputy Sean Fleming: Very well.

Deputy Brendan Howlin: No conclusions were reached.

Deputy Sean Fleming: It was done without this legislation.

Deputy Brendan Howlin: Absolutely, but this legislation has flowed from events since then, when we had an instruction to shape what should happen.

There is a slightly precious view that somehow the Opposition is pure and less base or politic than the Government side. By that definition, therefore, the minority should be able to overturn the view of the majority. That is something I just do not accept.

Deputy Stephen S. Donnelly: No doubt we will continue to debate this matter. However, it is a bit like coming to a meeting of the flat earth society. One comes in here and everybody

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says, “No, it has to be done this way, it couldn’t possibly happen any other way”. When one says that it happens successfully in this “impossible” way in other parliaments, we are told: “No, it couldn’t possibly work. There’d be chaos. All the debate has to happen within the parties and away from the public.”

Heaven forbid that in our national parliament Deputies in the same party would be allowed to disagree with each other. The reality is that the current rules, which give an Irish Cabinet more control over Parliament than in any other developed country, suit whoever comes into power. The Minister spent a long time in opposition and railed against a lot of these things. The programme for Government aimed to get rid of the guillotine system, but once in power the Government chose to keep it. In fact, it is being used three times today because it is useful. They use it on all the sensitive Bills because it is useful. When a Government gets into power, Ministers consider that this level of control is pretty useful. They quite like it and want to keep it.

On national radio recently, the Government Chief Whip described the Government’s efforts at political reform as deplorable. The result is that nobody trusts us. The Irish people trust us less than virtually anyone else in the developed world trusts their politicians. That is because they know, when they are listening to Government Deputies, or Opposition Deputies in parties, that they are not necessarily hearing what those people believe. On radio and television, and in here, I have debated issues with good Government backbenchers. I have listened to them discuss points, although before the debate they have told me they do not agree with them. Yet they have to toe the line and say that I am completely wrong. That is the way it is. They know they are not representing their own views. The people are not stupid and they know it as well.

The Minister’s argument is that the Government will do the right thing if there is an overwhelming demand from the people, but what happens if there is not an overwhelming demand? What happens if it is a really important issue that we in the House know should be investigated, but the public do not really care about it because it is boring and technical? The Government will not investigate these things.

Deputy Brendan Howlin: We will have this debate again. Grandstanding happens. We had a debate which took up time this morning on guillotining this Bill, although we had open-ended discussion on Second and Committee Stages without a guillotine. There is no new substance in this.

Deputy Sean Fleming: There are new amendments.

Deputy Brendan Howlin: No new issues that we have not already skirted around. That is part of the political process and I perfectly understand that. In essence, Deputy Donnelly is saying that if there is no public clamour for it and if there is no majority for it in the Dáil, it should happen anyway because he knows, or a minority knows, or some people who are clearly superior to the mass-----

Deputy Stephen S. Donnelly: Or you know, Minister.

Deputy Brendan Howlin: -----determine that this is important. They think they have the right to play a golden card that overturns the majority in Parliament. I do not accept that, however.

Acting Chairman (Deputy Olivia Mitchell): Does the Deputy wish to reply?

Deputy Stephen S. Donnelly: I think not.

Acting Chairman (Deputy Olivia Mitchell): They are all talked out. Does the Deputy wish to press the amendment?

Deputy Stephen S. Donnelly: I do.

Amendment put and declared lost.

Acting Chairman (Deputy Olivia Mitchell): Amendment No. 6 has already been discussed with amendment No. 5.

Deputy Stephen S. Donnelly: I move amendment No. 6:

In page 23, to delete lines 5 to 9 and substitute the following:

“(a) subject to *subsection (3)*, the one quarter of the members of the House have, in accordance with the rules and standing orders made by the House pursuant to *subsection (2)*, voted to pass the resolution in respect of the inquiry (in this section referred to as “the terms of reference resolution”) specifying—”.

Question, “That the words proposed to be deleted stand”, put and declared carried.

Amendment declared lost.

Acting Chairman (Deputy Olivia Mitchell): Amendment No. 7 has already been discussed with amendment No. 5.

Deputy Stephen S. Donnelly: I move amendment No. 7:

In page 23, to delete lines 21 to 23 and substitute the following:

“(b) if the committee is a joint committee, one quarter of the members of each House vote to pass the resolution with identical terms passed in each House.”.

Question, “That the words proposed to be deleted stand”, put and declared carried.

Amendment declared lost.

Acting Chairman (Deputy Olivia Mitchell): Amendment No. 8 has already been discussed with amendment No. 5.

Deputy Thomas Pringle: I move amendment No. 8:

In page 23, between lines 44 and 45, to insert the following:

“(4) Each house shall make rules and standing orders referred to in *subsection (1) (a)* that shall provide that a vote in favour of the conducting of an inquiry shall be deemed to pass if no less than two thirds of the designated opposition deputies vote in favour of the conducting of the inquiry by a committee.”.

Amendment put:

The Dáil divided: Tá, 45; Níl, 85.

<i>Tá</i>	<i>Níl</i>
<i>Adams, Gerry.</i>	<i>Bannon, James.</i>
<i>Boyd Barrett, Richard.</i>	<i>Bruton, Richard.</i>
<i>Broughan, Thomas P.</i>	<i>Butler, Ray.</i>
<i>Browne, John.</i>	<i>Buttimer, Jerry.</i>
<i>Calleary, Dara.</i>	<i>Byrne, Eric.</i>
<i>Collins, Joan.</i>	<i>Cannon, Ciarán.</i>
<i>Collins, Niall.</i>	<i>Carey, Joe.</i>
<i>Colreavy, Michael.</i>	<i>Coffey, Paudie.</i>
<i>Cowen, Barry.</i>	<i>Collins, Áine.</i>
<i>Crowe, Seán.</i>	<i>Conaghan, Michael.</i>
<i>Daly, Clare.</i>	<i>Conlan, Seán.</i>
<i>Doherty, Pearse.</i>	<i>Connaughton, Paul J.</i>
<i>Donnelly, Stephen S.</i>	<i>Conway, Ciara.</i>
<i>Dooley, Timmy.</i>	<i>Coonan, Noel.</i>
<i>Ellis, Dessie.</i>	<i>Corcoran Kennedy, Marcella.</i>
<i>Ferris, Martin.</i>	<i>Costello, Joe.</i>
<i>Flanagan, Luke 'Ming'.</i>	<i>Creed, Michael.</i>
<i>Fleming, Sean.</i>	<i>Daly, Jim.</i>
<i>Grealish, Noel.</i>	<i>Deasy, John.</i>
<i>Halligan, John.</i>	<i>Deenihan, Jimmy.</i>
<i>Healy, Seamus.</i>	<i>Doherty, Regina.</i>
<i>Healy-Rae, Michael.</i>	<i>Donohoe, Paschal.</i>
<i>Kelleher, Billy.</i>	<i>Doyle, Andrew.</i>
<i>Kirk, Seamus.</i>	<i>Durkan, Bernard J.</i>
<i>Mac Lochlainn, Pádraig.</i>	<i>English, Damien.</i>
<i>McConalogue, Charlie.</i>	<i>Farrell, Alan.</i>
<i>McDonald, Mary Lou.</i>	<i>Feighan, Frank.</i>
<i>McGrath, Finian.</i>	<i>Ferris, Anne.</i>
<i>McGrath, Mattie.</i>	<i>Fitzgerald, Frances.</i>
<i>Moynihan, Michael.</i>	<i>Fitzpatrick, Peter.</i>
<i>Murphy, Catherine.</i>	<i>Griffin, Brendan.</i>
<i>Nulty, Patrick.</i>	<i>Hannigan, Dominic.</i>
<i>Ó Caoláin, Caoimhghín.</i>	<i>Harrington, Noel.</i>
<i>Ó Cuív, Éamon.</i>	<i>Harris, Simon.</i>
<i>Ó Feargháil, Seán.</i>	<i>Heydon, Martin.</i>
<i>Ó Snodaigh, Aengus.</i>	<i>Hogan, Phil.</i>
<i>O'Brien, Jonathan.</i>	<i>Howlin, Brendan.</i>
<i>O'Dea, Willie.</i>	<i>Humphreys, Heather.</i>
<i>Pringle, Thomas.</i>	<i>Keating, Derek.</i>
<i>Ross, Shane.</i>	<i>Kehoe, Paul.</i>
<i>Smith, Brendan.</i>	<i>Kelly, Alan.</i>
<i>Stanley, Brian.</i>	<i>Kenny, Seán.</i>

<i>Tóibín, Peadar.</i>	<i>Kyne, Seán.</i>
<i>Troy, Robert.</i>	<i>Lawlor, Anthony.</i>
<i>Wallace, Mick.</i>	<i>Lynch, Ciarán.</i>
	<i>Lyons, John.</i>
	<i>McCarthy, Michael.</i>
	<i>McEntee, Helen.</i>
	<i>McGinley, Dinny.</i>
	<i>McLoughlin, Tony.</i>
	<i>McNamara, Michael.</i>
	<i>Maloney, Eamonn.</i>
	<i>Mitchell, Olivia.</i>
	<i>Mitchell O'Connor, Mary.</i>
	<i>Mulherin, Michelle.</i>
	<i>Murphy, Dara.</i>
	<i>Murphy, Eoghan.</i>
	<i>Nash, Gerald.</i>
	<i>Neville, Dan.</i>
	<i>Noonan, Michael.</i>
	<i>Ó Ríordáin, Aodhán.</i>
	<i>O'Donnell, Kieran.</i>
	<i>O'Donovan, Patrick.</i>
	<i>O'Dowd, Fergus.</i>
	<i>O'Mahony, John.</i>
	<i>O'Reilly, Joe.</i>
	<i>O'Sullivan, Jan.</i>
	<i>Penrose, Willie.</i>
	<i>Perry, John.</i>
	<i>Phelan, Ann.</i>
	<i>Phelan, John Paul.</i>
	<i>Quinn, Ruairí.</i>
	<i>Rabbitte, Pat.</i>
	<i>Reilly, James.</i>
	<i>Ring, Michael.</i>
	<i>Ryan, Brendan.</i>
	<i>Shatter, Alan.</i>
	<i>Sherlock, Sean.</i>
	<i>Spring, Arthur.</i>
	<i>Stagg, Emmet.</i>
	<i>Stanton, David.</i>
	<i>Tuffy, Joanna.</i>
	<i>Wall, Jack.</i>
	<i>Walsh, Brian.</i>
	<i>White, Alex.</i>

Tellers: Tá, Deputies Thomas Pringle and Aengus Ó Snodaigh; Níl, Deputies Paul Kehoe and Emmet Stagg.

Amendment declared lost.

An Leas-Cheann Comhairle: As it is 1.30 p.m., I am required to put the following question in accordance with an order of the Dáil of this day: “That the amendments set down by the Minister for Public Expenditure and Reform and not disposed of are hereby made to the Bill, Fourth Stage is hereby completed and the Bill is hereby passed.”

Question put:

<i>The Dáil divided: Tá, 123; Níl, 11.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Adams, Gerry.</i>	<i>Collins, Joan.</i>
<i>Bannon, James.</i>	<i>Daly, Clare.</i>
<i>Boyd Barrett, Richard.</i>	<i>Flanagan, Luke ‘Ming’.</i>
<i>Broughan, Thomas P.</i>	<i>Grealish, Noel.</i>
<i>Browne, John.</i>	<i>Halligan, John.</i>
<i>Bruton, Richard.</i>	<i>Healy, Seamus.</i>
<i>Butler, Ray.</i>	<i>Healy-Rae, Michael.</i>
<i>Buttimer, Jerry.</i>	<i>McGrath, Finian.</i>
<i>Byrne, Catherine.</i>	<i>McGrath, Mattie.</i>
<i>Byrne, Eric.</i>	<i>Ross, Shane.</i>
<i>Calleary, Dara.</i>	<i>Wallace, Mick.</i>
<i>Cannon, Ciarán.</i>	
<i>Carey, Joe.</i>	
<i>Coffey, Paudie.</i>	
<i>Collins, Áine.</i>	
<i>Collins, Niall.</i>	
<i>Colreavy, Michael.</i>	
<i>Conaghan, Michael.</i>	
<i>Conlan, Seán.</i>	
<i>Connaughton, Paul J.</i>	
<i>Conway, Ciara.</i>	
<i>Coonan, Noel.</i>	
<i>Corcoran Kennedy, Marcella.</i>	
<i>Cowen, Barry.</i>	
<i>Creed, Michael.</i>	
<i>Crowe, Seán.</i>	
<i>Daly, Jim.</i>	

<i>Deasy, John.</i>	
<i>Deenihan, Jimmy.</i>	
<i>Doherty, Pearse.</i>	
<i>Doherty, Regina.</i>	
<i>Donnelly, Stephen S.</i>	
<i>Donohoe, Paschal.</i>	
<i>Dooley, Timmy.</i>	
<i>Doyle, Andrew.</i>	
<i>Durkan, Bernard J.</i>	
<i>Ellis, Dessie.</i>	
<i>English, Damien.</i>	
<i>Farrell, Alan.</i>	
<i>Feighan, Frank.</i>	
<i>Ferris, Anne.</i>	
<i>Ferris, Martin.</i>	
<i>Fitzgerald, Frances.</i>	
<i>Fitzpatrick, Peter.</i>	
<i>Fleming, Sean.</i>	
<i>Griffin, Brendan.</i>	
<i>Hannigan, Dominic.</i>	
<i>Harrington, Noel.</i>	
<i>Harris, Simon.</i>	
<i>Heydon, Martin.</i>	
<i>Hogan, Phil.</i>	
<i>Howlin, Brendan.</i>	
<i>Humphreys, Heather.</i>	
<i>Humphreys, Kevin.</i>	
<i>Keating, Derek.</i>	
<i>Keaveney, Colm.</i>	
<i>Kehoe, Paul.</i>	
<i>Kelleher, Billy.</i>	
<i>Kelly, Alan.</i>	
<i>Kenny, Seán.</i>	
<i>Kirk, Seamus.</i>	
<i>Kyne, Seán.</i>	
<i>Lawlor, Anthony.</i>	
<i>Lynch, Ciarán.</i>	
<i>Lynch, Kathleen.</i>	
<i>Lyons, John.</i>	
<i>Mac Lochlainn, Pádraig.</i>	
<i>McCarthy, Michael.</i>	
<i>McConalogue, Charlie.</i>	
<i>McDonald, Mary Lou.</i>	

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<i>McEntee, Helen.</i>	
<i>McGinley, Dinny.</i>	
<i>McHugh, Joe.</i>	
<i>McLellan, Sandra.</i>	
<i>McLoughlin, Tony.</i>	
<i>McNamara, Michael.</i>	
<i>Maloney, Eamonn.</i>	
<i>Mitchell, Olivia.</i>	
<i>Mitchell O'Connor, Mary.</i>	
<i>Moynihan, Michael.</i>	
<i>Mulherin, Michelle.</i>	
<i>Murphy, Catherine.</i>	
<i>Murphy, Dara.</i>	
<i>Murphy, Eoghan.</i>	
<i>Nash, Gerald.</i>	
<i>Neville, Dan.</i>	
<i>Noonan, Michael.</i>	
<i>Nulty, Patrick.</i>	
<i>Ó Caoláin, Caoimhghín.</i>	
<i>Ó Cuív, Éamon.</i>	
<i>Ó Fearghail, Seán.</i>	
<i>Ó Ríordáin, Aodhán.</i>	
<i>Ó Snodaigh, Aengus.</i>	
<i>O'Brien, Jonathan.</i>	
<i>O'Dea, Willie.</i>	
<i>O'Donnell, Kieran.</i>	
<i>O'Donovan, Patrick.</i>	
<i>O'Dowd, Fergus.</i>	
<i>O'Mahony, John.</i>	
<i>O'Reilly, Joe.</i>	
<i>O'Sullivan, Jan.</i>	
<i>Penrose, Willie.</i>	
<i>Perry, John.</i>	
<i>Phelan, Ann.</i>	
<i>Phelan, John Paul.</i>	
<i>Pringle, Thomas.</i>	
<i>Quinn, Ruairí.</i>	
<i>Rabbitte, Pat.</i>	
<i>Ring, Michael.</i>	
<i>Ryan, Brendan.</i>	
<i>Shatter, Alan.</i>	
<i>Sherlock, Sean.</i>	
<i>Smith, Brendan.</i>	

<i>Spring, Arthur.</i>	
<i>Stagg, Emmet.</i>	
<i>Stanley, Brian.</i>	
<i>Stanton, David.</i>	
<i>Tóibín, Peadar.</i>	
<i>Troy, Robert.</i>	
<i>Tuffy, Joanna.</i>	
<i>Wall, Jack.</i>	
<i>Walsh, Brian.</i>	
<i>White, Alex.</i>	

Tellers: Tá, Deputies Paul Kehoe and Emmet Stagg; Níl, Deputies Shane Ross and Finian McGrath.

Question declared carried.

Sitting suspended at 1.40 p.m. and resumed at 2.30 p.m.

Ceisteanna - Questions

Priority Questions

Special Educational Needs Services Provision

1. **Deputy Charlie McConalogue** asked the Minister for Education and Skills his views on whether children qualifying for a special needs assistant this coming September will experience reductions in their allocated special needs assistant hours due to the continuance of the cap on numbers at a time when the number of students qualifying for special needs assistant support has increased by 10%; and if he will make a statement on the matter. [32544/13]

Minister for Education and Skills (Deputy Ruairí Quinn): Contrary to the Deputy's public expressions in recent days, I can confirm that there has been no reduction to the overall number of SNA posts for the coming school year.

This provision remains at 10,575 posts - the exact same amount as last year. Let me be very clear - children who qualify for access to SNA support for the coming school year will receive access to this support on precisely the same criteria as they did last year. There has been no change in the method or criteria on which SNAs are allocated. As a result, there is no cut and no changed policy decision on SNA allocations for me to reverse as Minister for Education and Skills.

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It is important to note however, that the level of SNAs required to support children with special educational needs changes from year to year in line with the enrolment of different children with different care needs. The care needs of individual children can also change from year to year. The NCSE takes these factors into account when allocating SNAs to schools. It is therefore not accurate to say a change in a school's SNA allocation has anything to do with budget cutbacks or policy changes.

In June 2012 the NCSE reported that the number of children requiring support for the 2012-13 school year was in the order of 20,000 and the most up-to-date current figures show that for December 2012, there were 21,972 accessing SNA support. This is the 10% increase being cited by Deputy McConalogue but the education system seems to have operated perfectly well and has coped with these demands over the past six months.

Additional information not given on the floor of the House

Indeed, the NCSE has advised me that while it has had to work within the cap introduced by the previous Government in 2010 for three years, it has always had surplus capacity at the end of each academic year. I am confident that the system will be sufficiently resourced in order to be able to meet the demands placed upon it in the coming school year.

Acting Chairman (Deputy Robert Troy): I call Deputy McConalogue, who has one minute.

Deputy Charlie McConalogue: I thank the Minister for his response. This is an issue we discussed on Private Members' business last week. At the outset I express my disappointment that neither the Minister nor a Minister of State from the Department of Education and Skills was present for the second day of that debate. In my experience that is unprecedented in the conduct of Private Members' motions. Parents of children with special needs were present in the Visitors Gallery. There was a protest just outside the gates in which parents of children with special needs came to express their dissatisfaction with the Minister's approach to the issue. The combined groups of parents involved issued a statement afterwards outlining how the policy the Minister is pursuing of keeping the cap the same at a time when there is a 10% increase in demand is leading to cuts.

Deputy Ruairí Quinn: The Deputy is wrong.

Deputy Charlie McConalogue: The cap is remaining the same and there is a 10% increase in demand. Those are two facts. That means there is a reduction in hours available to individual children who need to avail of an SNA-----

Acting Chairman (Deputy Robert Troy): I thank the Deputy.

Deputy Charlie McConalogue: -----because they now have to share those SNAs with more children, meaning there are fewer hours available to them.

Acting Chairman (Deputy Robert Troy): I thank the Deputy.

Deputy Charlie McConalogue: I am disappointed the Minister is not acknowledging that is the impact it is having on the ground - it is leading to a cut for many children. I ask him to acknowledge that and apply the same-----

Acting Chairman (Deputy Robert Troy): I thank the Deputy.

Deputy Charlie McConalogue: -----treatment to SNAs as he did to the issue of resource teachers-----

Acting Chairman (Deputy Robert Troy): I thank the Deputy.

Deputy Charlie McConalogue: -----where he actually increased the number of teachers available there.

Acting Chairman (Deputy Robert Troy): The Minister has one minute to reply.

Deputy Jonathan O'Brien: I ask the Acting Chairman to clarify the times for Priority Questions.

Deputy Ruairí Quinn: I think there is more time than that.

Deputy Jonathan O'Brien: I believe for Priority Questions there is more time.

Acting Chairman (Deputy Robert Troy): I am going with what I am advised.

Deputy Jonathan O'Brien: I understand that, but I-----

Acting Chairman (Deputy Robert Troy): The Minister has two minutes to reply followed by one minute, one minute, one minute and one minute.

Deputy Ruairí Quinn: Is that for Priority Questions as distinct from ordinary Oral Questions?

Deputy Jonathan O'Brien: For Priority Questions I thought there was more.

Acting Chairman (Deputy Robert Troy): They have all changed, yes.

Deputy Ruairí Quinn: I would be happy to write to the Deputy setting out what is contained in the reply because if I am to obey the Chair, I do not have the time to give him the full reply.

I am happy to indicate there has not been the reduction in supply he suggests because the demand has not increased as he has alleged. It was not brought to my attention by any of the education partners that there was a shortage of SNAs in recent months despite the increase in pupil numbers in the system. I do not know how many times I have to say that to the Deputy. He has taken two statistics, seen a 10% increase and presumed that meant a similar increase in supply was required in order to meet that demand. That has not been manifest in the system and even to this year, the allocation so far from the NCSE is below the 10,575 figure because the reserve has been kept.

Deputy Charlie McConalogue: In his final reply I ask the Minister to outline why neither he nor one of his Ministers of State was available to be present in the Dáil last Wednesday night for the debate on the Private Members' motion.

I would be pleased if the Minister could provide some evidence to back up his case. So far we have seen nothing in that regard from him other than an assertion that there has been no cut. We had the same assertion from the Minister and the Tánaiste here in the Dáil that there was no cut in resource teachers and we saw the about-turn the Minister did on that when he admitted there was a cut and he brought forward 500 additional teachers. He is still keeping up this

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pretence without offering any evidence to show it is not having an impact on the ground. I ask him to enlighten the Dáil today as to what the average hours each child, who avails of an SNA, will get in September as opposed to what it was last September. That might clarify whether students are getting fewer hours' access to an SNA as a result of the 10% increase in demand.

Deputy Ruairí Quinn: If the Deputy will not take my word for it, I can only draw his attention to the statement released by the National Parents Council last week which stated: "Parents should have no fears regarding the allocation of SNA support. If a child has been assessed as requiring SNA support then an allocation has been provided for the coming year".

Deputy Charlie McConalogue: Does the Minister have any explanation as to why he was not present last Wednesday night?

Deputy Ruairí Quinn: I had other commitments. Unfortunately the Minister of State, Deputy Cannon, was not available because he was sick and the Minister of State, Deputy Sherlock, was out of the country.

Back to School Costs

2. **Deputy Jonathan O'Brien** asked the Minister for Education and Skills his plans to implement the recommendations of the Oireachtas Select Committee on Education who have proposed that pupils should not be obliged to wear crested uniforms and schools should end the practice of using work plans and if he will present a timetable for when these measures will be implemented. [32342/13]

Deputy Ruairí Quinn: My Department will carefully consider the joint committee's report on tackling back-to-school costs which was published last week.

Tackling the costs associated with school is a major priority of mine. I have recently issued guidance on schoolbook rental schemes. I have also raised the matter of school uniforms informally with the National Parents Council at primary level recommending that it and the National Parents Council at post-primary level mobilise parents' associations to raise this issue with school authorities. I agree with the joint committee's view that more must be done at school level to show greater leadership in this regard.

It is important that all schools are sensitive to the financial pressures on parents not only with regard to school uniforms or books but in respect of any matter that has cost implications for parents. Therefore, I join the call to urge individual schools, boards and patrons to ensure that any steps recommended for schools in the report are implemented as soon as possible.

Deputy Jonathan O'Brien: This issue has been raised on numerous occasions in the Chamber. We have been told consistently that the issue of school uniforms is a matter for individual boards of management.

Deputy Ruairí Quinn: It is.

Deputy Jonathan O'Brien: I welcome the fact the Minister said we need leadership on this issue, but I believe we need leadership from the Minister as well. I imagine the Minister is well aware that under the 1998 Act he has the power to issue recommendations on this or any other matter. This was last done in 2008 in respect of school uniforms. The recommendations issued

in 2008 were not exactly progressive. One of the recommendations made for the current system was that school uniform policy should be left to schools, as before. However, the Minister has the power, by virtue of being Minister, to issue recommendations to change that. It is unfair to say that it is up to parents to mobilise. I understand that must be part of the process but the first step should involve the Minister issuing recommendations to various boards of management.

The other issue relates to voluntary contributions. The Department's discussion document on enrolment envisages the matter of voluntary contributions being regulated by secondary legislation. Are there any proposals by the Minister or the Department to introduce legislation on this issue?

Deputy Ruairí Quinn: I am very supportive of the recommendations of the joint committee. As Deputy O'Brien is aware, they were all-party recommendations. I will be studying the report carefully and I will consider whether it is appropriate for me to make a formal recommendation. I have stated repeatedly during the past two years that in the first instance it is a role for parents, who are represented on the boards of management of schools, to move in the direction suggested in the report.

I hope to have the draft enrolment legislation and the statutory instruments ready fairly soon and to publish them. I will deal with that issue in draft form in the publication when it is ready.

Deputy Jonathan O'Brien: I thank the Minister for his reply. Can we get a commitment that if the schools, boards of management and patron bodies do not take on board the recommendations, then the Minister will actively pursue issuing his own recommendations as the powers vested in his office allow? I offer one example of a school in Cork which was recently amalgamated. Prior to the amalgamation there was a consultation process with the parents. One of the outcomes of the consultation process involved a commitment given in respect of school uniforms such that they would be phased in over several years, because of the additional costs. That was agreed but, unfortunately, it has been reneged on. I have before me a letter from one parent who has three children attending the newly amalgamated school. One of them is in sixth class and that student must get a crested uniform, a crested coat and a crested tracksuit at a considerable cost for one year only. A letter was sent out by the board of management stating that if students do not have the full uniform there will be consequences.

I will pass on information to the Minister but there is a lack of recommendations coming from the Department and this is the result. Individual boards of management are taking ludicrous decisions when it comes to school costs and I have no faith in the ability of individual boards of management to take on board the significant financial pressures that parents find themselves under.

Deputy Ruairí Quinn: All I can say is that since the foundation of the State, and even going back before then, a partnership has existed between the State and school providers and educators. The Department at national level does not micro-manage individual schools. We have endorsed the role of the National Parents Council at primary and post-primary levels.

With all due respect I am not passing the buck but that is the body to which those aggrieved parents should write in the first instance. It is understandable why the people wrote to Deputy O'Brien. I presume they were his constituents. I have met the National Parents Council at primary and post-primary levels and I will certainly take up the issue with them. However, ultimately, all I can do is make a recommendation. It will be for the boards of management, on

which the parents are represented, finally to decide.

School Curriculum

3. **Deputy Maureen O'Sullivan** asked the Minister for Education and Skills in view of the serious concerns regarding the subject of history in the proposed reform of the junior certificate, if he will consider including history as a compulsory subject. [32343/13]

Deputy Ruairí Quinn: Under the new framework for junior cycle, schools will design programmes to reflect not only the key skills and statements of learning of the framework but also to reflect teacher qualifications and the identified needs of students. All junior cycle students will be required to study English, Irish and mathematics. Thereafter, schools will have the flexibility and autonomy to offer short courses and to choose from 18 other subjects, including history.

The vast majority of schools already offer history. More than 90% of students choose history although it is compulsory in only half our schools. Curriculum choice is important in motivating students to learn and to remain in school to completion of senior cycle. Overall, I am in favour of leaving the decision on what is offered at the discretion of each school. I emphasise the fact that 90% of all second level students are taking history.

Deputy Maureen O'Sullivan: I thank the Minister for the reply. No doubt there is much alarm and disquiet among those in the History Teachers Association of Ireland, among people who teach history at third level, like Professor Diarmaid Ferriter, and people within the history industry such as Catriona Crowe from the National Archives of Ireland, at the way in which they see history being downgraded under these proposals.

We all believe that history should be taught as a full subject over a substantial period and in a chronological framework and that it should be seen as part of the core curriculum. What the Minister is suggesting as part of the new proposed junior certificate is the same as the way in which history is taught in transition year in a modular way. The Minister stated that each student will value local, national and international heritage. That is part of what happens in transition year. For example, a particular person, a particular event or a particular organisation might be examined. My school has studied the role of women in 1913 and in 1916 in particular.

The History Teachers Association of Ireland met the Joint Committee on Education and Social Protection. A very involved, frank and open discussion took place. Did the officials report back to the Minister? Is the Minister in a position to take on board what was discussed at that meeting?

Deputy Ruairí Quinn: As it happened I saw some of the debate that took place with the committee in the House. I am sympathetic to the study of history right through to sixth year, as are 90% of students who study the subject. I cannot quite understand why history teachers are so fearful that their subject is suddenly going to be abandoned. As Deputy Maureen O'Sullivan will be aware from her professional background, in the traditional free voluntary sector the subject is compulsory in many schools. However, throughout the entire spectrum of the 723 post-primary schools in the country it is not compulsory, yet 90% of pupils study it. There is clear evidence to suggest that if the curriculum, in terms of what is required to be studied by different students, is too prescriptive and does not allow for different interests to be expressed, then there

would be early departures from the system. That would be a negative effect that I have no wish to bring about either. Anyway, I have every confidence in the interest that Irish people have in history to ensure that the vast bulk of them will continue to study the subject, but not only as a project in transition year. That is not the intention. What the History Teachers Association of Ireland should do is engage actively with the National Council for Curriculum and Assessment to discuss how their concerns can be addressed within the new curriculum.

Deputy Maureen O’Sullivan: The fact that up to now 90% of students have chosen the subject is no guarantee that under the proposed framework that will continue to be the case. We have something that is working, so why try to reinvent it? There is no doubt that the junior certificate history programme needed reform, especially in second year. However, the fear remains that it will not convey all the skills involved with the teaching of history, including literacy, numeracy, analysis, critical thinking and the question of how can we know who we are as a people unless we know where we have come from. It is also important in terms of teaching bias and the role of the media. I do not believe all of that will come across under the new proposal. We have seen the example in England, where changes were introduced. Someone made the point that when Margaret Thatcher died no one from a certain generation knew who she was. Perhaps that is not a bad thing, but nevertheless a certain point was being made.

Deputy Ruairí Quinn: The whole thrust of the junior cycle reforms serves to bring a holistic approach to teaching at second level, which we do not have at present. If one meets primary school teachers, they will tell one they are teachers and that they teach children. However, I have heard too many secondary school teachers state they are history, chemistry or science teachers. It is precisely because of this silo concentration manifested by some, not all, teachers that we are trying to have a holistic approach to the curriculum at second level in order that it is similar to that at primary level. In that context, the use of history for a variety of differing learning outcomes will mean it retain its current primary role. The History Teachers Association of Ireland certainly has articulated these concerns and all I would say to those teachers is to engage productively with the National Council for Curriculum and Assessment, NCCA, to work with it and to ensure the core values of an historical education are retained within the new curricular development. While I do not believe there is any conflict there at all, I recognise many teachers are fearful and I wish to address those fears.

Deputy Maureen O’Sullivan: While the suggestion of engaging with the NCCA is positive, I note the theme of a recent conference of the History Teachers Association of Ireland was whether school history would survive the Decade of Commemoration. It would be ironic if, in 2022, there were classes of young people who did not know what were those decades. I also wish to make a plea for geography, even though I was not involved in it, as they are two core subjects.

Deputy Ruairí Quinn: As 92% of all students study geography, for the life of me I do not understand what are the Deputy’s fears in this regard. Is it that because the curriculum will be improved, the two most popular subjects which are taken voluntarily - nearly in the main - suddenly will disappear off the curriculum?

Deputy Maureen O’Sullivan: I am not convinced it will improve.

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Student Grant Scheme Administration

4. **Deputy Charlie McConalogue** asked the Minister for Education and Skills the number of Student Universal Support Ireland applications for 2012-13 still to receive a final answer; the number of appeals outstanding; the steps he has taken to ensure students are not refused access to examination results due to not having a final answer on their grant application; and if he will make a statement on the matter. [32545/13]

Deputy Ruairí Quinn: I understand from Student Universal Support Ireland, SUSI, that there are 133 cases in which a decision on an application has not yet been made. A number of difficult and complex cases arise every year in the course of administering the scheme. I am assured by SUSI that communication with applicants in these cases is being afforded priority to ensure they are brought to conclusion expeditiously. A total of 492 or 6% of appeals remain to be decided in the SUSI appeals process. I understand from SUSI that these cases are within the 30-day limit prescribed by legislation and are being afforded the highest priority.

As for the payment of fees, where a student has informed the institution that a decision is awaited from the grants system, I understand that SUSI has in place a facility allowing institutions to liaise with it directly to confirm the status of an individual application in order that students can access their examination results.

Deputy Charlie McConalogue: At the outset, I wish to recap precisely what the experience with SUSI has been. In the past year, more than half or approximately 20,000 students did not get paid their first grant instalment until the new year. Parents and families have experienced exceptional hardship in a difficult time with the single biggest cause of hardship being the mishandling by the Minister and his Department of the nationalisation and centralisation of the system for administering grants. In addition, the Government has claimed repeatedly throughout that process that the students were at fault by not providing documentation. This was the standard response to which they were obliged to listen whenever they came up against the wall of not getting an answer regarding their grant applications.

The current position, after examinations are finished, is that almost 500 students remain within the appeals system and 133 students still await a decision. In many such cases, these students are having difficulty in accessing the examination results. I will provide the Minister with one particular example, in which a postgraduate student was not able to access either the examination result or the college facilities to complete the dissertation. This is the type of grief students have been obliged to experience this year as a result of the difficult situation they have encountered.

Acting Chairman (Deputy Robert Troy): I thank Deputy McConalogue.

Deputy Charlie McConalogue: As for the remaining cases, can the Minister clarify further what precisely is the position with regard to them getting their examination results? Can the Minister give Members a deadline as to when they all will be cleared and will have final answers?

Deputy Ruairí Quinn: In respect of the case the Deputy has just cited about a postgraduate student not being able to access the results, that postgraduate student would never have been a client of SUSI. Consequently, SUSI has nothing to do with the difficulties in which that person finds him or herself because SUSI only addressed first-year students who applied for the first

time. SUSI only came into operation for undergraduates last year for the first time. The rest of those students were dealing with 66 separate bodies that were brought together. Incidentally, they were not nationalised. The Deputy's County Donegal colleague brought in the legislation to combine all the separate 66 individual grant-aiding bodies. In many cases, the actual performance was worse than the average outcome. There is a problem with SUSI, which is the reason a special study was made of it and is the reason I am making available additional resources. Three senior staff members are coming in, as well as 23 whole-time equivalent posts to process the material. However, if there are outstanding people who have not received a decision from SUSI but who have completed all the information SUSI needs to make a decision, I will make that inquiry and will revert to the Deputy.

Deputy Charlie McConalogue: In his response, the Minister has just shown how he has completely failed to handle this issue since he introduced the SUSI system. He has just told me SUSI is not responsible for handling postgraduate students when it is responsible and has been dealing with it since last September. This is the very body the Minister set up but one year later, he stands here still not understanding exactly with what it must deal. SUSI has been dealing with maintenance grants for undergraduate students and has been dealing with fee grants for postgraduate students.

Deputy Ruairí Quinn: Sorry, the Deputy is correct. I withdraw my comment.

Deputy Charlie McConalogue: I thank the Minister but in his response, the Minister has displayed his lack of a handle on this issue since the outset. He has shown he does not understand there could be a postgraduate student who only got sorted out in the last couple of days. In the case I cited to the Minister, a postgraduate student has not been able to access that individual's college facilities to complete the requisite dissertation as a result of the way these issues have been handled. The Minister was unaware that SUSI even dealt with such issues.

Deputy Ruairí Quinn: I had temporarily forgotten.

Deputy Charlie McConalogue: Can the Minister give Members a final deadline as to when those students who already have completed their examinations and whose examinations already have been corrected will finally receive an answer from SUSI, the body the Minister has established and of which he has made a mess? Can he give Members an answer as to when the students will get an answer on whether they qualify for a grant?

Deputy Ruairí Quinn: First, I did not make a mess of SUSI and a mess has not been made of SUSI. SUSI was obliged to start from a base in which certain things had to be learned and the body that undertook this project, the City of Dublin Vocational Education Committee, encountered start-up difficulties, which I have recognised. As for the questions the Deputy has just raised, I have been assured by the Higher Education Authority, HEA, that all the colleges have special assistance programmes to assist financially and otherwise students who are disadvantaged as a result of not being able to access the grants to which they are entitled. I have been told by the HEA that additional resources were made available to the various colleges where that was necessary. If someone has had the experience the Deputy has described, and I do not doubt the accuracy of what the Deputy is saying, then redress was available for the person at the time. If the Deputy wishes to provide me with the details, I certainly will find out what happened. While I will take the queries the Deputy has raised to SUSI as it currently is and will get specific responses for the Deputy, with more than 60,000 students I cannot give to the Deputy the kind of assurance that each one of these 60,000 cases most definitely will be dealt

with expeditiously, when this never was the case when there were 66 different awarding bodies.

Special Educational Needs Services Provision

5. **Deputy Catherine Murphy** asked the Minister for Education and Skills how he expects to update the plan for implementation of the Education For Persons with Special Educational Needs, EPSEN, Act to prioritise access for children with special needs to an individual educational plan in view of the reduction in such services in recent years and the increase in demand; and if he will make a statement on the matter. [32499/13]

Deputy Ruairí Quinn: The recently published National Council for Special Education, NCSE, policy advice on supporting children with special educational needs acknowledges the current economic climate makes it unlikely the Government will be able to implement EPSEN in the near future. However, the NCSE report makes recommendations on how changes might be introduced, including in respect of individualised planning for students, which brings EPSEN implementation closer. The report recommends that additional teaching and special needs assistant, SNA, care supports allocated to schools should be deployed on the basis of individualised educational plans, which demonstrate the requirement for this support and the way in which it will be used to benefit the student.

The report makes 28 detailed recommendations which are interesting and significant. They deserve in-depth and detailed examination and exploration. I have asked my Department to
3 o'clock review carefully the recommendations, including the recommendation relating to individualised education planning, and to report back to me on them.

I understand from the Inspectorate of my Department that the majority of schools already use individual education planning to support children with special needs and the Department currently supports schools in the use of individualised planning through policy guidance, support, training and inspection.

I wish to advise the Deputy that the level of resources devoted to supporting children with special educational needs has been maintained at €1.3 billion this year. This includes provision for 10,575 special needs assistants, SNAs, and nearly 10,000 learning support and resource teachers. These resources have been protected despite the ongoing severe financial position.

Deputy Catherine Murphy: I understood this issue would be one of the key priorities in the programme for Government and it is disappointing to say the least that from what I hear from the Minister it is unlikely to happen within the lifetime of this Government. The SNA is an important aspect of the individual educational plan but it appears that a fragmented approach is being taken to many other areas, and that is not entirely within the Minister's own remit. For example, sometimes children will require speech and language therapy. I am dealing with a school where the Health Service Executive has refused to provide the service within the school, which is a special school, and the children have to be marched down to the health board.

Other ancillary issues arise. For example, the Department of Children and Youth Affairs has provided the early child care preschool year but the children who find it the most difficult to take up that year are those who require an SNA or other supports. A fragmented approach is being taken. Is there a linkage between the HSE and the Department of Children and Youth Affairs regarding those aspects? Are there any prospects of at least pulling them together under

one centralised system?

Deputy Ruairí Quinn: The original Education for Persons with Special Educational Needs Act was very ambitious in its objectives, as everybody recognised at the time, and when it was commissioned by the previous Government it was not all commissioned at the same time because of resources. My struggle at the moment, as the Deputy and other Deputies in the House are well aware, is trying to minimise the reductions I have to deliver to meet this country's overall budgetary targets while we remain under the supervision of the troika. However, leaving aside that broader view, there is also the internal operational difficulty of the co-operation between the HSE on the one hand and the education providers on the other, which has not been satisfactory and probably never has been satisfactory if truth be told. I can communicate with my colleague, the Minister for Health, on this matter but I know there are difficulties operationally on the ground in that we cannot force the HSE to deliver the speech therapy services in the special needs school to which she refers. All I can do is take details of it from the Deputy and see if we can get the delivery of those services, which is within the skills remit of the HSE and not the Department of Education and Skills, to the point where they are most effectively delivered.

Deputy Catherine Murphy: It is often the case that when adults fight with each other the children are the losers in terms of the delivery of these services. I will pass on the information to the Minister on the particular case but it is not the particular case I want to highlight. Very often this is a postcode lottery, so to speak. The National Council for Special Education and the special educational needs organiser, SENO, will only be as good as the resources available in any given area. Where they are deficient in an area or where there is a dispute, that is where children run into difficulty. It is critical that the relationship between the HSE and the Department of Education and Skills is addressed and got right but I agree with the Minister. I do not believe it has ever functioned properly.

Deputy Ruairí Quinn: I share the Deputy's point. As we know, there is a massive reorganisation going on in the health services but prior to that reorganisation when the HSE was established there was dissatisfaction from many of the people who were trying to access a holistic service for children with special educational needs. Great progress was made by different Administrations in regard to the education side of the equation but it is fair to say that not the same progress was made on those aspects of the service that came from the health sector side.

Other Questions

Special Educational Needs Services Provision

6. **Deputy Brendan Smith** asked the Minister for Education and Skills the way he can improve the provision of special needs services to post-primary students who require them; and if he will make a statement on the matter. [32258/13]

20. **Deputy Dara Calleary** asked the Minister for Education and Skills when the working

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group to review special education will report; the key priorities the group is addressing; and if he will make a statement on the matter. [32254/13]

Deputy Ruairí Quinn: I propose to take Questions Nos. 6 and 20 together.

The NCSE recently published its policy advice on supporting children with special educational needs. This report makes a number of recommendations as to how students with special needs, including post-primary students, might best be supported in the future. My Department is currently considering the full range of the 28 recommendations.

The NCSE has recommended that a new model should be developed for allocating special needs teaching resources to mainstream schools to ensure that such resources are targeted at those children who need them most.

I have requested the NCSE to establish immediately a working group to develop a proposal for consideration in regard to the new allocation model. Mr. Eamon Stack, chairperson of the NCSE and former chief inspector in my Department, has been appointed to chair the working group. The group, which will include parents, will begin its work immediately and will report progress on the proposed new model by the end of September. The NCSE expects to complete its work by February 2015.

Deputy Charlie McConalogue: I thank the Minister for his reply. My party has welcomed that report. We believe massive progress has been made on special education in the past 15 years in particular. An examination of the way we allocate resources is very important but it is crucial that we ensure it does not lead to any reduction in the resources and money provided nor any reduction of the services to students who need them. I am aware there was much concern following the increased demand on the system this year in particular.

There has been much evidence in recent years showing increased numbers of students with special needs leaving post-primary mainstream schools for special schools. According to research, academic factors were cited as the main reason for students leaving mainstream education, with the students unable to cope with the workload and the lack of support available to deal with emotional and behavioural problems. We have yet to see the same revolution that is taking place in special needs education at primary level happen at second level to the same extent.

What timeline does the Minister have in place for that report? Does he envisage it will be a report that will address the issue of improving the delivery of special education at second level? There is to be a preliminary report from the chairperson of the review, Eamon Stack, in September but when does the Minister expect the final report and what timeline does he expect following that for any potential change which may emanate from that?

Deputy Ruairí Quinn: The first deadline, so to speak, in the system is the end of September this year. I hope the conclusions of that interim report will put us in a better place with regard to giving the Deputy an accurate forecast as to when the complete report would be ready. As I said in my formal reply, the NCSE advises me that it will be early in 2015. That is a long way away and I would like to see changes begin to happen sooner but I am not in a position to anticipate what those changes would be until I get the interim report at the end of September this year.

Deputy Charlie McConalogue: I thank the Minister for that reply. It leaves a lot to be desired in terms of ensuring smooth transition from primary level to secondary level. Has the

Minister undertaken any initiatives or any policy change he is working on, apart from the overall review the National Council for Special Education has been tasked with, to try to enhance the smooth switch-over from primary to secondary level for the students affected?

Deputy Ruairí Quinn: As the Deputy is aware, this is a complex area. The existing model of allocation of resources and the way the system is functioning is effectively 20 years old, and much has happened in the areas of research and experience in similar administrations across the world. I asked the NCSE over a year ago to examine the allocation model we have discussed. I got a report in the middle of May, and I welcome the Deputy's party's support for its broad thrust, but it contains 28 recommendations which have major implications in terms of how best they should be implemented and the best model of allocation of resources. There is also the question of considering outcomes as distinct from inputs in order to see whether the model is working in the way we want it to work and whether we are ensuring that youngsters in their mid-teens are developing the skill sets they require in order to continue in the mainstream system. All of these are specialist matters and I am not qualified to provide a professional opinion on them. We must depend on people examining best practice in other countries and, given the circumstances in which we find ourselves, recommending what we might do. Other than what I said with regard to what will happen in September, I am not in a position to provide any more definite information.

School Staffing

7. **Deputy Jonathan O'Brien** asked the Minister for Education and Skills the number of resource teachers that will lose their jobs or have their teaching hours reduced in the 2013/14 academic year; if he will confirm that principals and school boards of management have the flexibility to employ mainstream teachers without full-time timetables into roles that should be filled by specially trained resource teachers. [32206/13]

Deputy Ruairí Quinn: Resource teaching allocations are being preserved at 2012-13 school year levels. I do not, therefore, anticipate any significant change in the overall number of resource teachers. The arrangements for the deployment of individual teachers within each school to undertake resource and mainstream provision are dealt with at local school level. It has been the policy of my Department for some time that only qualified and registered teachers should be employed by schools. This is set out most recently in circular letters 31/2011 and 0025/2013. Current recruitment procedures direct schools to ensure that teachers, including resource teachers, proposed for appointment to publicly paid posts must be registered with the Teaching Council and have qualifications appropriate to the sector and suitable to the posts for which they are proposed.

Deputy Jonathan O'Brien: I wish to focus on the position at post-primary level, if possible. When I was researching this matter, I discovered that a circular relating to primary schools and the allocation of learning support and resource teachers was issued by the Department. I also became aware of that the general allocation and low-incidence hours can be combined. In the context of post-primary schools which are over quota, is there a policy or circular which states that individual schools can allocate hours to mainstream teachers as opposed to resource teachers? I am aware of this happening at a particular school in Dublin which was over quota and where a resource teacher lost her position. What policy or circular governs the allocation of resource teaching hours at post-primary level?

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Deputy Ruairí Quinn: I am not clear if I fully understand the Deputy's question. Is he referring to a situation where, as a result of a change in the number of pupils, the resource teacher was no longer required and that the school was over quota or is he referring to one where, because of a fall in overall numbers, the school was over quota in the context of its contingent of mainstream teachers and that in order for a particular teacher to remain in the school, he or she would have been given responsibility for resource teaching activities?

Deputy Jonathan O'Brien: I am referring to the latter. As a result of changes in the pupil-teacher ratio, the school was going to lose a mainstream teacher so a decision was taken at local level to retain that teacher who then assumed responsibility for some resource teaching activities and the dedicated resource teacher lost her position. Are decisions of this nature made at the discretion of individual schools or does a departmental circular or policy govern the position?

Deputy Anthony Lawlor: I wish to inquire about circular 07/2012, which relates to resource and learning support hours. All-girls schools are only entitled to four hours per week, whereas all-boys schools are entitled to five. Will the Minister indicate whether he is going to change this policy in order to equalise the position between all-girls and all-boys schools?

Deputy Charlie McConalogue: Will the Minister indicate why schools and principals were only informed last week about the allocation of resource teaching hours and those relating to special needs assistants, SNAs, for the coming school year? I understand that the allocation regarding resource teaching was available four weeks in advance of the provision relating to SNAs. Why were both not released together?

Deputy Ruairí Quinn: I will be obliged to obtain specific information in respect of the question Deputy O'Brien posed. I do not have the full details in my possession and I would not be able to offer an explanation without them. I do not understand the reason for the discrimination or difference regarding the allocation of five hours to all-boys schools and four to all-girls schools. I will obtain that information for Deputy Lawlor. In light of his knowledge of the education sector, I do not doubt that what he has outlined is the situation.

In the context of the announcements relating to SNAs and resource teachers, it has always been the case that the total package is made public at the same time but I accept that clarity emerges sooner in respect of one side of the equation. I will obtain further information on that matter for Deputy McConalogue. To the best of my knowledge, SNA and resource teaching allocations have always been announced together. This is because these allocations both relate to the same special needs space. When all the details relating to both are obtained, the announcements relating to the allocations are made at the same time.

Deputy Charlie McConalogue: It was reported widely in the newspapers that the Minister's Department specifically asked the National Council for Special Education not to release the resource teaching allocations for a period of three to four weeks. Those allocations only arrived after the commencement of the school holidays. This has created immense difficulties in the context of trying to match up resource teaching hours among schools. As the Minister is aware, it is often the case that two, three or four schools may be obliged to come together in order to make up a resource teaching post. I am of the view that the resource teaching allocations should have been announced earlier. I was not aware that the previous practice was to announce them in conjunction with those relating to SNAs. I was of the view that in previous years the allocations had been announced much earlier. Perhaps the Minister might provide further information on that matter.

Deputy Ruairí Quinn: The precise details sought by the Deputy are not contained in the supplementary information provided to me. It is my understanding that they were announced conterminously - that is, at the same time - in the past. I will obtain the exact information relating to this matter and relay it to the Deputy.

State Examinations Issues

8. **Deputy Maureen O'Sullivan** asked the Minister for Education and Skills the basis on which he decided teachers would correct the junior certificate examination work of their own students and schools would provide their own individual certification. [32005/13]

Minister of State at the Department of Education and Skills (Deputy Sean Sherlock): Evidence has repeatedly shown that “unless the examination changes, nothing else will.” Ireland is highly unusual in international terms in having externally set, moderated and marked examinations at the end of lower secondary school. As some 90% of students now complete senior cycle, the junior certificate is no longer a high-stakes examination for the overwhelming majority of students. Treating it as such has been shown to have an unintended negative backwash effect on teaching, learning and assessment in the classroom. The new school certificate and report will reflect the learning of students across the three-year cycle. This reporting method will be much more analogous to the current reporting system used at primary level - which contemplates the holistic experience of students - and will give a much more rounded picture of student achievement.

Deputy Maureen O'Sullivan: I cannot agree with the Minister of State's assertion that the junior certificate is not a high-stakes examination. He ought to visit second level schools when students are preparing to sit that examination, which is a high-stakes proposition for those students and their teachers. I am still not convinced that what is proposed will lead to benefits for students. At present, teachers correct homework and other assignments and also Christmas and summer examinations. They are well used to doing so and they keep records of results etc. Those records form the basis for the discussions which take place at parent-teacher meetings. I have spoken to those in the teaching profession and they are all satisfied that we have an examination that is fair and that every student is treated in the same way because the process is anonymous. There is great benefit in that. I am still trying to figure out how the envisaged new system will benefit students. What the Minister of State is suggesting happens all the time in schools. Teachers correct homework and they talk to students and their parents.

Teachers are not averse to correcting. I have difficulties, as have many schools, with the proposed new school-based certificate because the certificates awarded by certain schools will be seen as being more prestigious than those awarded by others. We are aware that there is not a level playing field in the area of education and I am of the view that the proposed school-based certificate could give rise to even greater inequality. There is a very fair appeals system in place at present. Will an appeals system be put in place in respect of the new school-based certificate and report? It is my opinion that what is proposed is going to lead to an enormous increase in the workload of both schools and the education system. Those are my main reservations. The system we have is very fair and it is anonymous and students buy into it. It is very good so why are we changing it? I am not convinced. I think they are getting this holistic stuff from what goes on in schools anyway.

Deputy Charlie McConalogue: I too have grave concerns about the way the Minister is

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reforming the junior certificate. There is a need for an impartial examination which can have a benefit in ensuring standards throughout the country. That is crucial. As Deputy Maureen O'Sullivan pointed out, teachers routinely correct examinations. In terms of whether the junior certificate is a high stakes examination anymore, it is important we do not set it as one or encourage students to prioritise it in terms of being of major importance in the context of the examination results. However, it is crucial in terms of ensuring standards and giving students a fair benchmark of their progression. My concern is that if we remove it, how do we ensure uniform standards? If the school is doing the correcting, how do we ensure there are not real differences between how schools correct the examinations? There will always be an incentive for schools to mark examinations in a certain way.

Britain is moving away from this and is looking at more standard examinations at junior certificate level. Junior certificate reform is welcome but there are serious concerns about that aspect of it.

Deputy Sean Sherlock: In general terms, we understand the concerns expressed by the Deputies. There is no intention whatsoever to move away from the model of interaction with parents and that kind of continual monitoring of the students' work and their interaction in the classroom and so on with teachers. We want to ensure we continue to have standardised testing in areas such as English reading, science and mathematics, so those standards are in place, and to have a set of guidelines in place to monitor the quality assurance aspect of this. We want to ensure guidelines on moderation, which will be confirmed by the principal. If there are any vagaries in the system, a mechanism will be put in place to monitor them and to ensure a data profile is set up, so that the national and the individual schools' profiles will be monitored. The results awarded in every school will be sent to the Department, so that there is a national monitoring system in place. It will also be subjected to national and international assessments and a full reporting mechanism will be put in place by 2017.

The concerns raised by the Deputies are being worked through the system in advance of the roll-out of the new junior cycle. The first one will be through English in 2014. There will be much learning from that experience in terms of how it will pan out. A significant amount of continuing professional development will be put in place for teachers not only on the pedagogy or the subject side, but also in terms of the modalities of the assessment. There is still some way to go on this.

Deputy Maureen O'Sullivan: Teachers are professionally developed-out at this stage given all of the changes they have taken on board and all the professional development they have done. I am a great supporter of the leaving certificate applied. It works, in terms of the way it is corrected, etc., because the numbers are much smaller. I think the Minister is taking a sledge hammer to something which could be dealt with by a very tiny mallet. I do not think our students will be prepared for the leaving certificate without having had that sort of terminal, outside-corrected junior certificate. I know there are other plans for that but there is not enough joined up thinking on this. The Minister has shown he is able to reconsider and I hope there will be much more debate on this.

Deputy Sean Sherlock: I take the points the Deputy made but I do not agree with her that teachers are professionally developed-out; they are not. As in any profession, we must ensure 100% of the profession take up continuing professional development when it is offered, including the various types of continuing professional development which will become available for this very process. This is an evolving process and there is still some way to go on this. We

genuinely recognise the concern articulated by the Deputy and we are very conscious that we are asking teachers to do a lot. We have asked them to do quite a lot in terms of project mathematics and other subject areas and changing the thinking in regard to moving away from learning by rote to a more collaborative learning type of system, which is difficult to do if one has been teaching a certain system for quite a number of years. We are conscious of that which is why we want to ensure the supports are put in place for those teachers who, as the Deputy said, are professionals in their own right. We want to ensure it is a smooth a transition as possible.

Special Educational Needs Services Provision

9. **Deputy Joe Higgins** asked the Minister for Education and Skills if he will reassure parents and teachers there will be no cuts to other education services following his announcement not to implement his planned cuts to resource hours. [32241/13]

12. **Deputy Joan Collins** asked the Minister for Education and Skills if he will clarify his statement that pupil teacher ratios in schools may be increased to pay for the reversal of planned cuts to supports for children with special needs. [32053/13]

16. **Deputy Willie O’Dea** asked the Minister for Education and Skills the implications for the education budget in 2014 of the additional resource teachers announced on 25 June 2013; and if he will make a statement on the matter. [32249/13]

23. **Deputy Pearse Doherty** asked the Minister for Education and Skills if he will provide assurances that the allocation of an additional 500 resource teachers to meet the increase in the percentage of children with special needs who are attending school from September 2013 onwards will result in funding being withdrawn from the overall education budget; if he will confirm that he has no plans to increase the pupil-teacher ratio. [32216/13]

24. **Deputy Éamon Ó Cuív** asked the Minister for Education and Skills the implications for the education budget in 2014 of the additional resource teachers announced on 25 June 2013; and if he will make a statement on the matter. [32280/13]

Deputy Ruairí Quinn: I propose to take Questions Nos. 9, 12, 16, 23 and 24 together.

I have authorised the NCSE to restore the level of resource teaching allocations to be provided for students with special educational needs to the 2012-13 levels. There will not now be a reduction in resource teaching time for these pupils for the coming school year. The first tranche of resource teaching posts have now been allocated to schools by the NCSE.

A number of additional posts will be required to ensure that allocations can continue to be made for valid applications for resource teaching support received for the coming school year. The full extent of this demand will not be known until September but it may require the allocation of up to 500 additional resource teacher posts.

The implications of this for my Department’s employment control framework and Vote will be raised with the Department of Public Expenditure and Reform and will also be addressed in the forthcoming process in formulating budget 2014. The reality is that the allocation of 500 additional resource teachers could require additional expenditure of up to €22 million by Government in 2014. This is in addition to the pre-existing requirement to identify net savings of €44 million to meet the 2014 ceiling set out for my Department in the expenditure report 2013.

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I am not in a position at this time to anticipate future budgetary decisions. All of these issues will have to be considered as part of the normal budgetary and Estimates process for 2014 and beyond.

Deputy Joan Collins: The Minister was not clear whether that would definitely happen, even though he raised it in the recent reports. By doing that, many people are scared the pupil-teacher ratio will be increased. This sounds very much like the last time, with the decision to reverse the cuts to the DEIS schools and the cuts to the grants to schools. The Minister is accepting the constraints of his budgets. There is supposed to be €1 billion available, which he could source. Is he banging the table or whispering in the ears of Ministers to say we need extra resources to protect people who need this support? We cannot allow any more cuts to people who need resource teachers or special needs assistants. Many schools have cut the number of special needs assistants. Last week, three people in Blanchardstown lost their jobs as special needs assistants. This is an area where the Minister, as a Labour Party Minister for Education and Skills, must put the boot in and say: "No more cuts. The money must come from somewhere else." Has he considered increasing the financial transaction tax by a percentage to ring-fence money for the education of the most vulnerable people in schools?

Deputy Charlie McConalogue: I thank the Minister for the clarification. I take it from his response that he is planning to hire up to 500 additional teachers in the autumn to meet what may be additional demand.

Deputy Ruairí Quinn: If it is required.

Deputy Charlie McConalogue: In a previous response in the Dáil today the Minister indicated that he did not expect any overall change in the number of resource teachers in the system, so the two statements are contradictory. He has brought forward the 500 places from the autumn to now to ensure the extra 12% in demand is met, and there was no clarity until now as to whether the Minister would increase the overall cap. From what I gather, the Minister has indicated he will hire up to 500 additional teachers. Last year there were 500 teachers allocated in the autumn to meet increased demand, so there is every reason to believe the increased demand will come about. Will the Minister give an assurance that the intention is for up to 500 additional teachers to be hired in the autumn to meet demand?

There have been stories in the newspapers this week that it is the Minister's intention next year to increase the overall pupil-teacher ratio to pay for this. Will he give an assurance to the Dáil that this will not be done? It would be unfair and the wrong approach by the Government to increase pupil-teacher ratios in the mainstream. I ask the Minister to assure us he will not consider it for next year.

Deputy Jonathan O'Brien: I take it from the Minister's answer that the €22 million potential cost will not have to come from the education budget and that he is in discussion with the Department of Public Expenditure and Reform to see if it can be found elsewhere. I hope that is the case as we are looking at another €44 million having to come from the education budget this year. It is impossible to say that we can take €44 million, never mind €66 million, from the budget this year on top of what was taken last year and what is proposed to be taken out next year without affecting front-line services. That is not possible.

With regard to how the Cabinet reaches these decisions, every Department is being given a reduced budget and the Minister in question is told to find the savings. That is not the approach

that should be taken and other EU governments take a very collective decision, particularly when it comes to education, where ring-fencing can apply. That means other Departments would have to achieve additional savings but the other countries reap the benefits of prioritising education for generations to come. I do not understand why this Government and the Cabinet operate with a silo mentality, with every Department given a reduced budget. There seems to be little collective thinking and it is not the way to proceed, particularly with education.

Deputy Ruairí Quinn: Of the three big spending Departments, education has been ring-fenced to this extent, and it is the only Department that is hiring additional staff. That is happening because the population is growing.

Deputy Jonathan O'Brien: It is hiring additional staff on a reduced budget.

Acting Chairman (Deputy Robert Troy): The Minister, without interruption. The Deputy will have an opportunity to respond.

Deputy Ruairí Quinn: It is ring-fenced to the extent that where the student population grows - and we know it is growing - extra teachers required are being hired. That is unlike the position in other Departments. It is only to a certain extent that the education budget has been ring-fenced, as each departmental budget must amount to an overall targeted total of public expenditure. The reason for this target is our current position of deficit, where we are borrowing money to provide public services. We are raising taxes and many people are struggling and finding it difficult, so we do not want to put any more of a burden on them, so to speak, in their outgoings. We must try to find savings within the education budget as a result, which is of the order of €8 billion. Within it I have been asked to find €44 million.

We thought we could find a reduction in reducing by a portion of time the allocation of resource teachers to children with special needs. When this was announced, it provoked a reaction that we all saw and I listened to it before deciding to change the policy. In so doing, I had to say that I will find the resources, as I did with the DEIS issue, where we were not taking out DEIS posts but rather legacy posts that had been put in before the DEIS system and retained. In that case there may have been two DEIS schools beside one another with one having more resources than the other because it got its resources earlier. When that attempt at levelling the field provoked a reaction - I understand the reasons the reaction was clear and sincere - we altered the decision, and I have done so again in this case. The modification means that if we must deploy an extra 500 teachers into 2014, the cost will be of the order of €22 million, and we must consider this on top of the €44 million.

I stated that I presumed I would have to find this resource from within my Department. I was asked to put a figure on that and I was asked where it was likely I would get it. All I indicated was that the only place one could easily get money of that particular order was in the pupil-teacher ratio. I assure the Deputy that no decision has been made. I was asked a question and I gave an open and honest answer to it. The question of whether those adjustments in the departmental budgets must be made, who will make them and when it will happen, as well as the issue of exemptions, are part of the budgetary process. That has started and the budget this year will be on 15 October, two months earlier than normal because of European co-ordination purposes. The process has commenced but no decision has been made so I cannot give an indication or assurance about any aspect of the process until its completion.

Deputy Joan Collins: The decision to cut the hours of resource teachers should not have

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been made in the first place, as was decisively shown by the decision to reverse the cut. The country should protect the education system but many people believe it has hit rock bottom and there is very little to give. The pupil-teacher ratio has been increased twice in the past four years and careers guidance counselling has been lost in many schools. Principals have been trying to work through problems for the past three or four years but at this point, as noted by other Deputies, we must hear from the Minister that there will be no more increases in the pupil-teacher ratio. Schools will not be able to cope with that on top of having to provide for students who have been transferred to the mainstream. The decision was taken to put our most vulnerable special needs children into the mainstream so it is the Government's responsibility to meet the needs of those pupils but not at the cost of anybody else. That is the bottom line.

Has there been consideration of issues like increasing the financial transaction tax to provide money for increased hours for resource teachers? I have received reports from schools which have been refused special needs assistant resources despite going through the process. Those questions will be raised in the future and they must be dealt with. The Minister should protect education now rather than bring it down any more.

Deputy Charlie McConalogue: I am quite concerned by the Minister's response indicating that the only place to find the money was in the pupil-teacher ratio. It seems to be the only area identified so far, and the Minister has not yet given us an assurance that he will not go down that path. I remind the Minister of what he said when he stood where I am as Opposition spokesperson for education seeking the job he has today. In October 2008 he indicated that by increasing class sizes, teachers become overly stretched and pupils are paid less attention in class, with the quality of teaching suffering. He argued that this was not good enough in a modern country and that we should be trying to reduce the pupil-teacher ratio rather than increasing it. That was the Minister's position and people at every primary school in the country would be very concerned about his response today, which is that the only area he has identified to find potentially €22 million next year is in the pupil-teacher ratio. I will indicate to the Minister that my party has ring-fenced education spending in our pre-budget submissions. We put it to him that he needs to do the same and protect education. I ask that he does that. Perhaps he might respond to me.

Acting Chairman (Deputy Robert Troy): The Minister will have an opportunity to respond. I call Deputy O'Brien and then the Minister.

Deputy Jonathan O'Brien: Even if by some miracle, the Cabinet decided to ring-fence the education budget this year and not force the Minister to look for savings of €44 million and possibly €66 million, we will still see cuts because we have had multi-annual year announcements. We will see another reduction in capitation grants of 1% in 2014 and another 1% in 2015 so even if a collective decision was taken at this stage to protect the education budget, we will still see a reduction. We might not get to the question in respect of the Education at a Glance report but that shows that our percentage of public expenditure on education is decreasing from 13.7% to 9.7%. We are now ranked 29th in the OECD in respect of how much we spend on education. I believe the Minister is serious about building a high-quality education sector and a knowledge-based economy but we cannot do so if we keep cutting our budgets at a time when we have an increased number of children going to schools. It is impossible. Something has to give. There must be a line where the quality of education will be directly impacted if we continue to cut and I believe we have reached that point. I believe the Minister is also of the view that have we reached such a point. The Government as a collective needs to seriously look at ring-fencing the education budget.

Deputy Ruairí Quinn: We must understand where we all are, not just in this country but across the whole of Europe and indeed in Northern Ireland where there are reductions. People are struggling, salaries have been reduced, people have lost their jobs in many cases and businesses have had to let people go in order to survive. While we have been able to ring-fence a certain aspect of the education budget by virtue of the growing population, I have not and nobody else would have been able to isolate or ring-fence in its entirety an entire budget. They might be able to suggest it in Opposition but if they had to implement it, it would be a different case because other pressures would arise.

At the moment, this country and republic can only borrow money on terms and conditions we can afford from one source. That is what the loss of economic sovereignty means. Hopefully, we will be out of this situation by the end of this calendar year. We will still have to borrow money but we will not be subject to the diktats of the troika as we currently are. The troika has said we must get our budget deficit down in a series of steps to just under 3% of GDP in two years.

Deputy Joan Collins: At the expense of people who need it.

Deputy Ruairí Quinn: The Deputy may not like the realities of the world but she cannot ignore them, in the same way as I do not like them either.

Acting Chairman (Deputy Robert Troy): The Minister, without interruption.

Deputy Joan Collins: Why is he implementing them?

Deputy Ruairí Quinn: The Deputy saw what happened in Greece where the country nearly closed down and had to change. We must navigate our way back to regaining our economic sovereignty so that we control our own destiny. Hopefully, by the end of this year, we will be in a position where we will be able to borrow money on our terms at a price we can afford and be able to deploy our resources in a way that does not dictate the speed at which we recover a balance in our budget. If we do not have a balance in the budget and control our own moneys and how we deploy them, we are not an independent people. Every person who comes out of unemployment and re-enters a job if we can stimulate the economy to create and sustain that job saves the taxpayer about €20,000 on average. When a person moves from being on social welfare and support systems to getting a job and salary and paying whatever tax is due on that, the overall average figure is a saving of €20,000. Therefore, stimulating and managing the economy to create employment is one of the overall responsibilities of the Minister for Finance and the Minister for Public Expenditure and Reform. It is against that backdrop that we must balance matters. Every organisation and household has to live in the same world. The fact that we are trying to do it does not mean we like doing it.

(Interruptions).

Deputy Ruairí Quinn: The fact that we have to do it does not mean we either approve of it or like it. We do not.

Deputy Joan Collins: You are the Labour Party that is supposed to be representing the ordinary working man and woman.

Acting Chairman (Deputy Robert Troy): The Minister, without interruption.

Deputy Joan Collins: What about corporation tax?

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Deputy Ruairí Quinn: All of those measures have been looked at and will no doubt be looked again and those cases will be made but I am charged with answering questions relating to education and am trying to make the case that in a budget in round figures of €8 billion, I must look for a figure of €44 million and possibly an additional figure.

Returning to the point raised by Deputy McConalogue when I was asked where I could find that money, I presume it will have to come from within my own budget. I indicated that the only area that had money of that order and scale where one could do it without a range of other things happening was the pupil-teacher ratio but that was by way of illustration. I said that to find that kind of money, the pupil-teacher ratio is an obvious place where one would start to look. That is what I said and what I intended to convey. No decision has been taken yet in respect of the budget for 2014.

Deputy Jonathan O'Brien: Is it possible to get a commitment?

Written Answers follow Adjournment.

Topical Issue Debate

Ambulance Services

Deputy Catherine Murphy: Clearly, the Minister of State, Deputy O'Dowd, is not the Minister for Health. I accept that this week is an extraordinary one in that there is a Committee Stage debate so I ask the Minister of State to pass on my comments to the Minister and I would welcome a response if there is a further one. I have tabled this Topical Issues matter on a number of occasions, possibly eight or ten, and it has now been selected. What prompted me to do so was the fact that on 19 May 2013, a 46 year old man died in Naas. This individual may well not have survived but there was a very long delay in the ambulance arriving at the scene. He was with his 14 year old daughter, which makes the situation even more tragic. Gardaí were on the scene quite quickly and were able to revive him but the delay in the ambulance getting there certainly did not give him the chance he needed. I am told by people working in the ambulance service that one must get to somebody within the first eight minutes or get them to a hospital within eight minutes for them to stand the best possible chance of surviving.

There have been some modifications to the ambulance services in Kildare. On this occasion, there were two ambulances available. The hospital is only a kilometre from where this happened. One ambulance was out on a call while the paramedic in the second one had to go home ill so that second ambulance was not available. The delay happened because there was no back up ambulance.

People might not understand how large County Kildare is but it is the fourth most populated county in the country with a population of 210,000. I fully accept that developments like the call centre and other examples of centralising services can produce efficiencies but one must have an ambulance and a back up ambulance within a realistic distance and properly staffed to

make sure this scenario does not happen. Is there a modelling system for the changes in ambulance cover which have taken place? I have no doubt an inquiry will take place into this tragedy and we will await the report.

I certainly do not want to give any indication I am criticising the ambulance workers. They can only drive and staff what is in front of them. If there is no ambulance they cannot magic it up. I wonder whether they are being put at risk when they try to arrive within the designated call-out time.

There is little point in us developing our hospital services when there is a question as to whether the ancillary services are capable of getting people to the hospital in time in an emergency. Some of the cover in Kildare has been withdrawn and it is quite difficult to figure out what ambulance cover is now available. Some of it comes from hospitals in Blanchardstown and the fire brigade service. We need to know what is the cover. We must examine the call-out times and receive assurance there is backup if someone is out sick. People are being put at risk.

Minister of State at the Department of the Environment, Community and Local Government (Deputy Fergus O'Dowd): I thank the Deputy for raising this matter and I ask her to accept the apologies of the Minister for Health and the Ministers of State at that Department. Like her, I extend our deepest sympathies to the family of the deceased. The loss of a loved one is hard for family and friends at any time, but a sudden and unexpected death is particularly difficult.

The response of the HSE national ambulance service to the incident was incorrectly reported. In addition, claims have been made, based on this incorrect information, which can, unfortunately, only deepen the distress of this poor person's family. I will outline the facts. The ambulance service received a 999 emergency call at 7.47 a.m. on 19 May 2013, concerning an incident on the ring road between Naas and Newbridge, near a Garda station. Local gardaí, as the first personnel on scene, provided first response treatment. An emergency ambulance was available and was dispatched to the incident. The ambulance arrived at 8.03 a.m. which was within 16 minutes of receipt of the call. A second emergency ambulance, with an advanced paramedic, was also dispatched, arriving within 19 minutes of the call at 8.06 a.m.

The response time of the first emergency ambulance was within the national response time target of 18 minutes and 59 seconds for a patient-carrying vehicle, as set by the Health Information and Quality Authority. The newspaper involved subsequently printed an apology and retraction, admitting its claims on the ambulance response time, staffing levels at the time of the incident, staff management and plans for coverage in the area were incorrect. Similarly, inaccurate claims have been made in the media in a number of recent tragic incidents, contributing further to the distress of the families and staff involved. In one of these other cases, a national newspaper published a retraction and an apology to the ambulance service.

A significant reform programme is under way to reconfigure the way the HSE manages and delivers pre-hospital care services, to ensure a clinically driven, nationally co-ordinated system, supported by improved technology. This includes progressing a number of efficiencies arising from Labour Court recommendations on rostering arrangements. The ambulance service and trade unions have concluded discussions on roster changes at 30 ambulance stations throughout the country, including 11 stations in Dublin, Kildare and Wicklow. The new rostering arrangements have been implemented in a large number of stations, including Tallaght, Swords, Maynooth, Kildare and Wicklow, and these are operating successfully.

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These changes mean resources can be deployed dynamically, based on need and demand patterns, rather than simply by station location. The greater flexibility and responsiveness will produce better response times, and help to ensure a clinically driven, nationally co-ordinated system to support all pre-hospital emergency care activity in the State, as set out under Future Health: A Strategic Framework for Health Reform in Ireland 2012-2015.

I assure the Deputy the Minister for Health, Deputy Reilly, will receive her comments and I fully acknowledge she is not criticising the service with regard to the facts as she saw them and as she raised them here.

Deputy Catherine Murphy: I accept the information delivered by the HSE on the time the call was made and the time the ambulance arrived. I do not dispute this information but having to wait 16 minutes when one is 1 km away from a hospital, which one can almost see, while a number of gardaí are at the scene trying to revive somebody knowing they do not have the equipment which would be in an ambulance does not give a person the best possible chance. I am using this tragic case to question whether this could happen again.

There seems to have been a failure with regard to the backup. I wish to know about the backup provided in general and not just in this particular case. It is all very well to speak about dynamic rostering but if extra ambulance cover for Naas needs to be provided from the far side of Dublin or Athy then the system is failing. How is this modelled? Must we wait and see whether tragic outcomes arise and then state it is a failure? This is the wrong way to go about it. I would like reassurance on how the process works with regard to the deployment of people to cover sick leave because this will happen.

The ambulance service in Maynooth has been taken off each Thursday and instead a paramedic on a motorbike is deployed. This is better than nothing but it is not the same level of cover and it may be inappropriate cover in some situations. The ambulance service is a critical part of the health service and if we do not get it right it does not matter how high-tech the hospital is because if one does not arrive at the hospital one does not have a chance. I ask the Minister of State to come back to me on the process for deploying people where the backup service ceases to be available.

Deputy Fergus O'Dowd: I again acknowledge what the Deputy has stated and assure her the questions she has asked will be brought to the attention of the Minister for Health. I do not have the expertise or the specific knowledge she requests but I have no doubt it will be made available to her as soon as possible. I will ask immediately whether it is possible and I appreciate the Deputy accepting this explanation.

Fisheries Protection

Acting Chairman (Deputy Robert Troy): The next issue is in the names of Deputy Gerald Nash and Dominic Hannigan who have four minutes in total and a minute each for supplementary questions.

Deputy Gerald Nash: As the Minister of State, Deputy O'Dowd, knows only too well since September 2006, angling on the River Boyne has all but ceased with the exception of some sea trout fishing by a small number of anglers in mid-summer. This is a sad development for those who traditionally fished on the River Boyne and the many young people who wish to

engage in salmon fishing and experience what angling has to offer.

The Castletown river in Louth and the Dee and Glyde rivers are also subject to strict salmon catch-and-release policy. Recently Deputy Hannigan and I met representatives of the north east federation of salmon anglers to discuss their legitimate concerns about the implementation of the catch-and-release policy and some of the assumptions underlying it. Clubs such as the Drogheda and District Anglers Club, the Rossin, Slane and District Angling Club and the Dee and Glyde club and others see themselves as responsible custodians of the river.

They have been raising concerns for some time about the methodology applied to many rivers in Louth and Meath which have, essentially, copperfastened the catch-and-release policy since 2006. As the Minister of State, Deputy O'Dowd, is aware, the fishermen want to work in partnership with Inland Fisheries Ireland. They have asked questions about the methodology applied that in their view have yet to be adequately addressed by the authorities. It is my firm opinion from speaking with those involved that a review of the policy is timely, taking on board the relevant and experienced views and evidence supplied by local anglers, fishing clubs and federations in the area.

4 o'clock **Deputy Dominic Hannigan:** I concur with what Deputy Nash said. The Minister of State, Deputy O'Dowd, met the group on many occasions. I go fishing as often as I can, but not often enough. As the Minister of State is aware, fishing is an important past time in this country and it is also a source of revenue to the Exchequer because many tourists, in particular from the Continent, come to this country to fish in our waters. It is very important that we get the catch-and-release system right. As Deputy Nash said, there is currently contention as to whether we are correctly measuring the amount of fish in the rivers.

I wrote to the Minister of State on the matter last April and I received a reply from him. He referred to the forecast model used to identify the number of fish in the rivers. In the Glyde river the forecast is approximately 19% of the conservation limit for salmon and it is 27% for the River Dee. From speaking to fishermen locally who know the rivers in question, they think the figures are very low. All we seek is that the officials would speak again to local fishermen and try to come up with a revised methodology and that both sides can agree on the exact number of fish in the rivers based on as close an estimate as possible. At the moment we contend that we are underestimating the amount of fish and that it would be okay to end the catch-and-release scheme.

Deputy Fergus O'Dowd: I thank the Deputies for bringing this matter to my attention. As they pointed out, I am very happy to meet them at any stage, in particular as we are from the same town. I have met all of the angling organisations in the county of Louth in Ardee and Drogheda on Friday afternoons and Wednesday nights.

Deputy Gerald Nash: The Minister of State has met anglers on Saturday mornings.

Deputy Fergus O'Dowd: I wish to be perfectly clear because I wish to be specific on the matter. Mr. Ciaran Byrne, chief executive officer of Inland Fisheries Ireland, IFI, has always made himself available to everyone concerned. He has visited on Friday afternoons and on Wednesdays. He has gone to Dundalk. His senior management team has met on a number of occasions with interested parties. The first point is very clear, the IFI and I are very happy to meet and to look at all the facts. However, we must deal with the facts and they are as I will outline.

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First, it is not true to say, as Deputy Nash said, that there is no fishing on the Boyne. There is fishing on the Boyne on a catch-and-release basis. That allows people to fish and to catch but it does not allow them to keep. The Deputy is probably misinformed in that respect.

The standing scientific committee for salmon has identified 143 rivers throughout the country which contain 152 fisheries, as some rivers have other tributaries. In 2013, a total of 94 fisheries were open for angling. Of these, 62 fisheries are open because there was a surplus of fish. A total of 32 fisheries are classified as open for angling on a catch-and-release basis only and 58 fisheries are closed as they have no surplus of fish.

In 2006, the Government committed to alignment with the scientific advice and moved to restrict the harvest of fish to those which meet the conservation limits. The effect of this advice was that the mixed stock fisheries were closed. Indiscriminate mixed stock salmon fishing at sea was ceased, that is, drift netting at sea was effectively stopped.

There are five salmon rivers in the Dundalk district which are scientifically assessed on an annual basis, the River Flurry, the River Fane, the Castletown River, the River Dee and the River Glyde. Only one salmon river in the Drogheda district is scientifically assessed on an annual basis and that is the River Boyne. In 2013, one of these six rivers, the River Fane, is open for the harvesting of salmon. Of the remainder, the River Flurry is closed to all angling, and the remainder, the River Boyne, the River Glyde, the Castletown river and the River Dee are open for catch-and-release angling.

This country manages salmon stocks on an individual river basis due to the fact that each river contains a genetically unique stock, which migrates to sea as juveniles and returns to the same river in adulthood to spawn. The conservation imperative means that exploitation of salmon in each river is only permitted where the independent standing scientific committee for salmon, SSCS, which includes expertise from the National Parks and Wildlife Service, NPWS, the Loughs Agency, LA, the ESB, and the Marine Institute, MI, determine that the stock in that river is above the conservation limit. The decision is not a political or administrative decision; it is based on science. The conservation limits are set out in the reply.

Significant analysis has been carried out by Inland Fisheries Ireland through the use of catchment wide electro-fishing to determine salmon fry abundance. In other words, it is not just based on conservation figures, as experts carry out tests in the fisheries to establish whether some fish were not identified. Further research is carried out to establish that. The goal of IFI is to protect the stock and to make it available for the future. If the conservation limit is exceeded, it is possible to catch and keep fish.

Acting Chairman (Deputy Seán Kenny): The Minister of State must conclude now.

Deputy Fergus O'Dowd: I will respond in more detail as I am entitled to a further two minutes following the supplementary questions. I do not know whether the Deputies have my reply but it contains facts and figures. We must be clear on the issue.

Deputy Gerald Nash: I wish to be clear as well about what I said. I did not say that fishing on the River Boyne had ceased; I said that the objective evidence from what I have seen and heard from local fishermen in many respects indicates that fishing on the River Boyne has all but ceased in recent years. The level of activity is certainly not the same as it used to be. That is understandable given the catch-and-release policy.

Essentially, what Deputy Hannigan and I suggest is that the policy would be further reviewed and that IFI would continue to work on a partnership basis with local anglers to try to achieve the best possible outcome from a conservation point of view, which is extremely important, and also from the point of view of fishermen, current and future, who wish to engage in angling and to see a situation where they can at least aspire to having a catch-and-keep system.

Deputy Dominic Hannigan: I thank the Minister of State for his comments and the fact that he is happy to meet anglers. I recognise, as do the fishermen, that he has been very willing to meet them on many occasions. I also thank him for the additional updated information contained within his reply. To date, the fishermen have received no formal response from the IFI to the submission they made in May 2012. Some information has come back informally but I urge that a formal response would be made to their submission of that date.

Deputy Fergus O'Dowd: I would be very happy to ensure a formal response is made. The clarity is in the figures. In terms of opening a river for catch-and-keep fishing, the Flurry river is at 23% of its conservation limit, which is well below the required level. Even if only every second fish was being counted, the level would only be at 46%, which is not even half the level required to catch and keep fish. We must deal with the facts. I would be very happy to meet with the Deputies concerned and to arrange for the provision of any data they or the fishermen have not received.

In summary, 32 fisheries in this country operate on a catch-and-release basis and to unilaterally open the four rivers in the Drogheda and Dundalk districts to harvesting would set a dangerous precedent that would ultimately compromise the entire scientific process to which the Government agreed to commit in 2006. In short, the rivers are open for catch-and-release angling and therefore there are angling opportunities for all anglers. A small minority believe they should be able to take fish and they do not wish to engage in the conservation-focused practice of releasing fish. I accept the majority of people are not in that category. I would be happy to meet the fishermen in question. I meet fishermen around the country all the time. To be honest, I am surprised the Deputies tabled this Topical Issue debate instead of asking to meet me so that I could go through all the facts rather than giving them in this public place. I would do so at any time, but I would prefer to meet the Deputies to go through the details by river, by visit or however they want. I will get the facts for them.

Child Care Reports

Deputy Denis Naughten: I thank the Minister, Deputy Frances Fitzgerald, for attending. As she recalls, she informed me at an Oireachtas committee meeting last July that the audit had been completed and that the report was being prepared, yet the report had been completed three months previously by the consultant, Ms Lynne Peyton. Frustratingly, Ms Peyton discussed the audit's conclusions at a conference in Belfast whereas it took 14 months for the HSE to publish the report.

Since 2005, there have been warnings about inadequate resources and calls for additional social workers in Roscommon to deal with child protection and neglect cases. It was a time of affluence and there appeared to be no shortage of money in some quarters, yet child protection referrals in Roscommon trebled between 2005 and 2009. The case in Waterford was roughly the same. The number of neglect cases increased fourfold, but it was 2010 before additional staff were recruited. At one point, Roscommon was said to be dangerously understaffed. In

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Castlerea, the staffing arrangement was described as unsafe. Social workers in Roscommon had an average caseload of approximately double the national recommended level at 35 versus 17.5. The National Standards Authority of Ireland, NSAI, threatened to withdraw registration unless staffing issues were addressed.

This situation was reflected to some extent in all three of the areas focused on in the report, showing a historical lack of suitably qualified social work staff and resources. In County Roscommon, 180 children have been on a waiting list for psychological services for two years. Nationally, the report highlighted inadequate provision of protection in the case of one in every five families in the neglect category. In County Roscommon, that figure was seven out of 30 families. Nationally, the audit identified 17 families as having been failed miserably by the State. It is important to remember that the audit only represents a small snapshot of the numbers throughout the country. That it took 20 to 30 referrals from a number of agencies for a social worker to be appointed is a damning indictment of the national services in terms of the level of priority they give to the issue of neglect.

Deputy Robert Troy: Unfortunately, we once again find ourselves discussing a report on the welfare of children and the inadequacy of the HSE's response. The most recent report cited cases in which up to 30 referrals had been made before the HSE took action. Is the Minister satisfied that a report that was finalised and given to the HSE in April 2012 took 14 months to be published? What happened to the promise of openness and transparency? Anyone listening to "Morning Ireland" yesterday would have had his or her confidence shattered. After five minutes of repeated questioning, a national specialist was unable to give an explanation for the delay in the report's publication.

Why was the report's publication delayed? When was the Minister made aware of the report's findings? I have continually raised the issue of the number of social workers, but the Minister has always maintained that she was satisfied with current levels. Given Ms Catherine Ghent's statement on RTE news yesterday that 17 social workers were looking after 670 cases, does the Minister remain satisfied?

The neglect of children continues to be a major concern despite being a common feature of previous reports, in particular the child death report. Have we learned nothing from these reports? What does it take for neglect to be recognised? HSE reports that clearly do not convey the severity of situations - words such as "dirty" and "unhygienic" do not adequately describe children with lice-ridden hair, beds saturated in urine, dog excrement on living room floors and mouldy food adhered to kitchen counters - are not good enough. It is a sickening and disgusting practice for a modern, progressive society. What immediate actions will the Minister take to renew confidence in a system that clearly continues to be deficient?

Minister for Children and Youth Affairs (Deputy Frances Fitzgerald): I welcome the publication by the HSE of the report entitled A Review of Practice and Audit of the Management of Cases of Neglect. The report was received by the Department of Children and Youth Affairs in May 2013 and was published on the HSE website two weeks ago.

The report follows the publication in October 2010 of the report of the Roscommon child care inquiry, which catalogued a number of concerns arising from the examination of the management of serious neglect in a family known to the HSE's child protection services. The findings of that inquiry raised the concern, as Deputy Naughten well knows, that this might not have been an isolated case and that there might be more widespread practice and governance

issues in the management of cases of neglect in Roscommon and throughout the country. That report led to work on a national audit of neglect cases.

From the outset, it was the intention of the HSE that the neglect audit would comprise a number of phases. Therefore, the audit was not simply a one-off exercise, but constituted one element of a wider process to improve practice in respect of such cases throughout the country. For phase 1, which is the report in question, the HSE commissioned the services of Ms Lynne Peyton, an independent consultant in child protection, to complete an initial pilot audit of the Roscommon case. This pilot was extended to two other areas, those being, Waterford and Dublin south-east, was conducted in early 2012 and was worked on subsequent to completion. Since completion, the report has acted as an important working document informing preparations for the second and third parts of the process, namely, the workshops and training for staff and the national audit of neglect files that will follow on from this.

Last August, the attention of HSE social work staff was drawn to the ongoing and systemic impact of neglect as identified in the three audits. I welcome the report, from which we see that, in practice, neglect and the terrible damage that it can do to children has not been sufficiently identified. Given the fact that physical and sexual abuse cases have been responded to quickly, it may be a broader societal issue that neglect has not been taken as seriously. The Roscommon case has sensitised us to the situation, as has this initial audit. We need to do the rest of the work. An implementation plan to address the report's recommendations has been developed. I have details of that plan.

The report is well worth reading in detail, as it identifies improvements, changes in practice and instances of more attention being paid to neglect. It is important that these aspects are recognised. I will provide a number of examples of some of the changes that have occurred. In Roscommon, there have been developments with respect to the implementation of monthly child care meetings chaired by the general manager, a restructuring of social work teams and the streamlining of family support services to include a single point of entry for referrals. This is important. In addition, more than 50 staff in all of the relevant disciplines - Deputy Naughten mentioned psychology - have participated in training on the identification of neglect. One of the points the report repeatedly made was that it was critical for all disciplines - doctors, social workers and public health nurses - to take neglect more seriously than had been the case traditionally and to realise the damage that it does to children.

In Dublin south-east the social work department has been restructured and the new arrangements are working more effectively. There has been a blitz on the waiting list there and unallocated cases have been significantly reduced. There are quite a number of other points concerning each area, which are identified in the report. I want to reassure both Deputies that there has been a follow-up implementation plan.

The audit found that parental alcohol misuse was a factor in 62% of families in the overall sample. It states that family dysfunction, which ended up with the kind of neglect that both Deputies have described so graphically, was often associated with chronic alcohol and drug abuse. The audit also found that domestic violence was a key issue, parental mental health issues featured in two thirds of the Dublin cases, and standards of hygiene and physical conditions were unacceptable in more than half the cases.

There is a need to identify neglect at an earlier stage and intervene more effectively. The report makes the point that many children were left in family settings for too long. That is a

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similar finding to the report on child deaths. The new national approach to managing social work cases involves more streamlined procedures, a national risk-assessment and national standards. It will make a huge difference to the disturbing findings that were outlined in this report.

In addition, we are currently undertaking the recruitment of new social workers. Some 84 were recruited recently and the recruitment of a further 90 is under way.

Deputy Denis Naughten: We owe it to the children at the centre of the Roscommon case to ensure that their courage and bravery is recognised. No other family should be failed by the State again to the extent that they were.

When will the national audit of neglect files commence? What steps are being taken to develop a national training programme, which was identified in this report, not just within child care services but also in An Garda Síochána, the courts system and the Judiciary? Will a review of other neglect cases take place in light of the inadequate protections that are in place? I refer specifically to Roscommon. Based on the number of neglect files in Roscommon, 50 more families are potentially under threat in circumstances similar to the seven identified in this audit. Will a full audit of all the files take place now?

Deputy Robert Troy: Having read this and other reports, we are aware that alcohol and drug abuse is one of the main factors in child care and welfare issues. Is the Minister happy that this report, which was finalised over 14 months ago, only came to her Department in May of this year? Did the Minister receive notification of the report before May?

Given that her Department is hiring additional social workers, I take it that the Minister is no longer satisfied with the current staffing levels. She says that 80 new social workers are being employed with a further 90 coming on stream, but when will they come on stream? Will they be deployed to the relevant areas that are so badly in need of them?

What is being done to ensure that this area is being prioritised? It was clear that children were being neglected and nothing was being done about it. What immediate actions will the Minister take to ensure that in instances where the HSE is aware of neglect concerning child protection and welfare issues, but is not doing its job, a safety net will be put in place to protect children's welfare?

Deputy Frances Fitzgerald: There is at least a 30-year legacy concerning Ireland not dealing as effectively as it should have with vulnerable children. My Department's goal is to ensure that children do not fall through the cracks. That is why we are changing the way these services are being delivered. We are developing a focused management team and national leadership which was not there before. I would point out that during the previous ten years, as Deputy Naughten rightly observed, these children were being dealt with like this during the so-called Celtic tiger period. We must now focus on ensuring that these children and their families get the kind of services they have not received previously.

The development of the new child and family agency, together with a more structured approach with national standards and greater risk assessment at an earlier stage, will ensure that children will receive a much better service. The recruitment of social workers is an important part of that. The 270 social worker posts, which were recommended by the Ryan report to bring social work teams to an appropriate level, have been recruited. We do have high levels of maternity leave and some sick leave, but recruitment is going on as we speak. Some 84 social workers have been recruited which has to make a difference to the quality of work that is being

done.

Major efforts are being made by front-line staff. Training has already started and there is a new awareness of neglect as a result of this report. The work that is being done in each area will make a difference to standards. Each area will commence a review and audit of all child neglect cases. This phase will be implemented in line with the recommendations of the Roscommon report. It will also use the methodology applied to complete the national audit of child neglect cases, which will commence in August 2013.

A lot of work has already been done by the HSE as a result of this report. It complements the work the HSE is doing nationally to ensure that we have services that are fit for purpose and which will meet children's needs. As the report outlined, their needs were clearly not met hitherto.

Private Residential Tenancies Board Remit

Acting Chairman (Deputy Seán Kenny): The next matter is in the name of Deputy Derek Keating. The Deputy has four minutes.

Deputy Derek Keating: I thank the Minister of State, Deputy Jan O'Sullivan, for attending. I also thank the Ceann Comhairle for the opportunity to discuss this issue, which is of national importance.

Many Deputies on both sides of the House can relate in some way to the services of the Private Residential Tenancies Board. This arises from the increased dependency over the years by people needing to occupy rented accommodation. As a consequence, they depend on the services of the PRTB when required.

On many occasions in recent years, I have received representations not only from my own constituents but also from others throughout the country who are dissatisfied with the outcome of the PRTB's deliberations. I wish to bring one recent case to the Minister of State's attention. It concerns a young family which is now living in my constituency, but which previously lived elsewhere up to 2008. It vacated rented accommodation and was distressed because it could not recoup a deposit of €2,000 that was due to it from the landlord. It took great heart when three years ago a determination was made by the PRTB that the deposit should be refunded. It could not believe, however, that the landlord did not turn up or engage in the process at all. As a result, it lost heart. The family's opinion of the PRTB is that it is powerless and useless. Five years later, that young family still has not recouped its deposit. The landlord has not engaged with the Private Residential Tenancies Board.

I am conscious that the Residential Tenancies (Amendment) (No. 2) Bill 2012 is proceeding through the Houses. I hope that following its enactment the Private Residential Tenancies Board will have greater powers to enable it bring about the result that families, including the one to which I referred, need and deserve. I would be grateful if the Minister of State could provide me with some comfort on this particular issue.

Minister of State at the Department of the Environment, Community and Local Government (Deputy Jan O'Sullivan): I thank the Deputy for raising this matter. The Private Residential Tenancies Board, PRTB, was established on 1 September 2004 as an independent

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statutory body under the Residential Tenancies Act 2004. The principal activities of the PRTB include the registration of private residential tenancies and the resolution of disputes between tenants and landlords, as well as the provision of information, assistance and advice to the Minister on the private residential rented sector.

The mandate of the Private Residential Tenancies Board is defined in section 151 of the Act and can be summarised as follows: the resolution of disputes between tenants and landlords; the registration of particulars in respect of tenancies in the private residential rented sector; the provision to the Minister of advice concerning policy in relation to the private rented sector; the development and publication of guidelines for good practice by those involved in the private rented sector; the collection and provision of information relating to the private rented sector, including information concerning prevailing rent levels; the conduct of research into the private rented sector and monitoring the operation of various aspects of the sector where the board considers it appropriate; the review of the operation of the Act and any related enactments, and the making of recommendations to the Minister for amendments to same and the performance of any additional functions conferred on the board.

The PRTB received 2,272 adjudication-mediation applications in 2012 and 268 appeals to tribunal. Deposit retention continued to be the single biggest category of dispute and accounted for 37% of all applications in 2012. The case referred to by the Deputy is one of those cases. A tenancy deposit is the property of the tenant. A landlord is only entitled to retain a deposit where there is damage in excess of normal wear and tear or where there are rent arrears or utility bills outstanding. In determinations by the PRTB on deposit retention disputes in 2012, 43% of deposits were partially returned to the tenant, 33% were refunded in full and 24% were retained in full by the landlord. As such, in 76% of cases some or all of the deposit was wrongfully retained by the landlord.

The commitment in the programme for Government 2011 to establish a tenancy deposit protection scheme is to address the problem raised by the Deputy. On foot of this commitment, I asked the PRTB to commission research on such a scheme. The research contract was awarded to Indecon economic consultants. I received the final report on the topic from Indecon in November last year. The report presents a comprehensive analysis of the range of options for delivery of the programme for Government commitment. I am engaging with the Office of the Attorney General with regard to the drafting of proposals to establish a deposit protection scheme with a view to bringing proposals to Government and introducing these provisions on Committee Stage of the Residential Tenancies (Amendment) (No. 2) Bill 2012 in the Seanad, which Bill the Deputy will be aware was debated in this House earlier on this term.

The unjustified retention of deposits by landlords is an issue that concerns me greatly and I am very much committed to the establishment of a deposit protection scheme in this jurisdiction. The establishment of such a scheme was a priority I identified when I was appointed as Minister of State. I am fully committed to delivering on deposit protection in the context of the Residential Tenancies (Amendment) (No. 2) Bill 2012. As I said earlier, it is proposed to introduce the amendment in the Seanad. Following enactment of that Bill there will be a deposit protection scheme in place, which means large numbers of cases, including that referred to by the Deputy, will no longer be required to go directly for arbitration. The deposit will be held by the scheme, which means a much more simplified system of ensuring deposits are returned unless there is a justified reason for a landlord retaining it.

Deputy Derek Keating: I thank the Minister of State for her reply and proposed solution to

the problem. While nothing in life is perfect, particularly in Ireland today, the Minister of State has gone a long way towards reassuring me that the measures being considered will help to deal with the 37% of cases in which deposits were not returned.

I would like to put on the record that in the case to which I referred there was no claim on the part of the landlord for utility bills, damages and so on. The landlord simply did not engage on the issue. I will monitor the proposed deposit protection scheme. It is clear that the Minister of State and her Department have focused on a real need in this area. I hope the resident involved in the case I mentioned and all others being treated meanly by landlords will have their cases resolved. I await the introduction of the scheme.

Deputy Jan O’Sullivan: We all want to ensure the amendment is introduced as quickly as possible in order that the scheme can be established. I believe it will provide relief for the large number of families for whom deposits are crucial, in particular when moving home. It is hard to come up with lump sums at that time. To be deprived of one’s deposit when one is entitled to it is a real difficulty for families such as the one mentioned by the Deputy.

Land and Conveyancing Law Reform Bill 2013: Report and Final Stages

Acting Chairman (Deputy Seán Kenny): Amendment No. 1 has been ruled out of order as it is in conflict with the principle of the Bill as read a Second Time.

Amendment No. 1 not moved.

Acting Chairman (Deputy Seán Kenny): Amendments Nos. 2 and 4 are related and may be discussed together by agreement.

Minister for Justice and Equality (Deputy Alan Shatter): I move amendment No. 2:

In page 4, to delete lines 3 to 5 and substitute the following:

“2. (1) This section applies to land which is the principal private residence of—

(a) the mortgagor of the land concerned, or

(b) a person without whose consent a conveyance of that land would be void by reason of—

(i) the Family Home Protection Act 1976, or

(ii) the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010.”.

Section 2(1) defines the scope of the section. It currently covers land which is the principal private residence of the mortgagor or a person whose consent for a conveyance would be required under the Family Home Protection Act 1976. On Committee Stage, I undertook to broaden the scope of section 2 to cover the shared homes of civil partners under the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010. The purpose of amend-

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ment No. 2, therefore, is to put family homes under the 1976 Act and shared homes under the 2010 Act on the same footing under section 2 of the Bill. Amendment No. 4 is a purely drafting amendment designed to improve the introductory wording of section 2(2).

Amendment agreed to.

Acting Chairman (Deputy Seán Kenny): Amendments Nos. 3 and 5 are related and may be discussed together.

Deputy Jonathan O'Brien: I move amendment No. 3:

In page 4, to delete lines 6 to 17 and substitute the following:

“(2) In any proceedings brought by a mortgagee seeking an order for possession of land to which the mortgage relates in a case to which this section applies, and where no previous engagement with a personal insolvency practitioner has taken place the court, shall:

(a) adjourn proceedings for a period of at least six months;

(b) instruct the mortgagor to consult with a personal insolvency practitioner with a view to the making of a proposal for a Personal Insolvency Arrangement;

(c) instruct the personal insolvency practitioner to make a proposal for a Personal Insolvency Arrangement under the Act of 2012; and

(d) instruct the mortgagee to cover the initial costs of the personal insolvency practitioner from its own resources, including any costs arising from consulting with the personal insolvency practitioner with a view to making an application for a personal insolvency agreement and any costs resulting for the mortgagee rejecting a proposal from the personal insolvency practitioner.”.

I apologise on behalf of Deputy Pádraig Mac Lochlainn who tabled the amendment. He was unable to attend because he is chairing a meeting of the Joint Committee on Investigations, Oversight and Petitions.

The purpose of amendment No. 3 is to ensure that where a bank seeks repossession of a property, the court must insist that the borrower seek the services of a personal insolvency practitioner and that a proposal for a personal insolvency arrangement be made to the lender. This would mean a repossession could not be made prior to the involvement of the personal insolvency service. It would also ensure that the bank would bear any initial costs that arise in the course of making such an agreement.

Amendment No. 5 is a straightforward proposal to change the period of the adjournment from a maximum of two months to a minimum of six months.

Deputy Alan Shatter: As I have previously stated, the intention behind section 2 is to provide that a court may, of its own motion or on request, adjourn proceedings to allow a personal insolvency arrangement to be considered where, for example, none had previously been attempted, as with the requirement in bankruptcy petitions. The purpose is to make an appropriate link with the insolvency provisions contained in the 2012 Act. In contrast, what amendment No. 3 seeks to do is replace the carefully worded proposal contained in the Bill with a much

broader proposal, which would have the effect of rewriting the relevant provisions of the Personal Insolvency Act 2012. There is no provision in the Personal Insolvency Act which would allow a court to direct that a personal insolvency arrangement be considered. A provision of that nature would undermine the voluntary nature of the personal insolvency process.

Under the 2012 Act, the court has no power of instruction in regard to a voluntary process. A personal insolvency arrangement can only be proposed by a debtor through a personal insolvency practitioner where a debtor meets the eligibility requirements for such an arrangement and there are sufficient funds available to make some payments to ground a proposal. The proposed amendment does not have regard to either the context or appropriateness of such a proposal over the debtor's repayment capacity. In any event, the proposed amendment could not have any lawful effect in binding a creditor.

In addition, the amendment seems to consider the personal insolvency practitioner to be an officer of the court, which is a fundamental misreading of the legislation. The personal insolvency practitioner has no role or standing in an application for repossession. There is no provision in the law to provide for the court to appoint the practitioner as an officer to essentially force a settlement on creditors.

The provisions outlined in paragraph (d) of amendment No. 3 seek to impose a duty on the court with regard to the costs of a personal insolvency arrangement. Again, this approach would run counter to the provisions of the Personal Insolvency Act. There is no lawful provision to allow for such an approach, nor could one be imposed.

With regard to amendment No. 5, which proposes an increase in the two month time limit for the adjournment, I remind the House that the Bill includes a provision at section 2(4) which allows the court to consider granting a further adjournment if, by the end of the two month period, it sees real evidence of progress towards a personal insolvency arrangement. The wording of subsection (4) is as follows: "On the expiry of any period of adjournment granted under subsection (2), the court may grant a further adjournment of the proceedings concerned where it considers that significant progress has been made in the preparation of a proposal for a Personal Insolvency Arrangement." I emphasise that the subsection provides that a court may grant an adjournment, not where a proposal has been agreed but "where it considers that significant progress has been made in the preparation of a proposal". As Deputies will note, the wording refers to the preparation of a proposal for a personal insolvency arrangement, in other words, the personal insolvency practitioner has been engaged with the debtor and would have the expertise to ascertain the eligibility of the debtor. In the two month period of the adjournment, the practitioner may examine the overall background financial circumstances and, where he or she considers that a personal insolvency arrangement is possible, he or she can start preparing a proposal.

As I indicated, the provision does not stipulate that the personal insolvency arrangement has to be agreed with the person's creditors. It is a two month period to engage with the personal insolvency practitioner who effectively starts the process of preparing a proposal for a personal insolvency arrangement. The further adjournment provided for in subsection (4) is not time limited in the manner of the adjournment in subsection (2) but is at the discretion of the court. If it is clear at the end of the two month period that there is no prospect of preparing a proposal because there is no reasonable proposal that could be presented which would facilitate the workings of a personal insolvency arrangement, there will not be a second adjournment. However, the opportunity exists for this to happen.

To put the matter simply, the purpose of the two month period is to enable the debtor to engage a personal insolvency practitioner with a view to the consideration of an application for a personal insolvency arrangement and, within the personal insolvency arrangement process, to apply for a protective certificate under section 96 of the Personal Insolvency Act. Deputies should be aware that the effect of the protective certificate, which will operate for a period of 70 days, with a possible further extension of 40 days from the date of issue, will be to prevent the creditor whose debts are covered by the certificate from initiating proceedings or continuing with proceedings, even where such proceedings were initiated before the application for the protective certificate was made. Again, this is an important issue as it provides additional time for matters to be addressed and resolved.

I stress that what is proposed in this section is something that has never existed in the law in this area in the past. What we are doing is enacting a provision that provides an additional protection for home owners to bring into play when there is an application for repossession of their principal private residence. Rather than providing that the courts may grant a repossession order, as they have done under the legislation that was in place until 2009, we are introducing a possibility for the courts to adjourn the case and instruct the debtor to consult a personal insolvency practitioner. The personal insolvency practitioner can examine the debtor's overall financial circumstances and consider whether there is a reasonable possibility of making a proposal for a personal insolvency arrangement. Moreover, the practitioner can obtain a protective order in the courts which gives the debtor additional protection. If a proposal is prepared or in the process of being prepared, albeit not necessarily finalised, proceedings to repossess can be adjourned again. This is a very important protection and reform and one I undertook to introduce when we were dealing with this issue during our discussions on the Personal Insolvency Bill.

In that context, some of the amendments that have been tabled are unnecessary because we have provided a format that is workable. When one factors in the protective certificate and interaction with the insolvency legislation, this provides the protection necessary for anyone who has a reasonable prospect of entering into a personal insolvency arrangement. For all of those reasons, I cannot accept these amendments.

Deputy Jonathan O'Brien: I apologise again for the absence of Deputy Mac Lochlainn who is chairing a committee meeting. He has indicated he wishes to press the amendment.

Question put: "That the words proposed to be deleted stand."

<i>The Dáil divided: Tá, 86; Níl, 40.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Bannon, James.</i>	<i>Adams, Gerry.</i>
<i>Breen, Pat.</i>	<i>Boyd Barrett, Richard.</i>
<i>Bruton, Richard.</i>	<i>Broughan, Thomas P.</i>
<i>Butler, Ray.</i>	<i>Collins, Niall.</i>
<i>Buttimer, Jerry.</i>	<i>Colreavy, Michael.</i>
<i>Byrne, Catherine.</i>	<i>Crowe, Seán.</i>
<i>Byrne, Eric.</i>	<i>Daly, Clare.</i>
<i>Carey, Joe.</i>	<i>Donnelly, Stephen S.</i>
<i>Coffey, Paudie.</i>	<i>Ellis, Dessie.</i>

<i>Collins, Áine.</i>	<i>Ferris, Martin.</i>
<i>Conaghan, Michael.</i>	<i>Fleming, Sean.</i>
<i>Conlan, Seán.</i>	<i>Fleming, Tom.</i>
<i>Connaughton, Paul J.</i>	<i>Grealish, Noel.</i>
<i>Conway, Ciara.</i>	<i>Healy, Seamus.</i>
<i>Coonan, Noel.</i>	<i>Healy-Rae, Michael.</i>
<i>Corcoran Kennedy, Marcella.</i>	<i>Kirk, Seamus.</i>
<i>Costello, Joe.</i>	<i>Mac Lochlainn, Pádraig.</i>
<i>Creed, Michael.</i>	<i>McConalogue, Charlie.</i>
<i>Daly, Jim.</i>	<i>McDonald, Mary Lou.</i>
<i>Deasy, John.</i>	<i>McGrath, Finian.</i>
<i>Deenihan, Jimmy.</i>	<i>McGrath, Mattie.</i>
<i>Deering, Pat.</i>	<i>McLellan, Sandra.</i>
<i>Doherty, Regina.</i>	<i>Martin, Micheál.</i>
<i>Donohoe, Paschal.</i>	<i>Murphy, Catherine.</i>
<i>Doyle, Andrew.</i>	<i>Naughten, Denis.</i>
<i>English, Damien.</i>	<i>Nulty, Patrick.</i>
<i>Feighan, Frank.</i>	<i>Ó Caoláin, Caoimhghín.</i>
<i>Ferris, Anne.</i>	<i>Ó Cuív, Éamon.</i>
<i>Fitzgerald, Frances.</i>	<i>Ó Fearghail, Seán.</i>
<i>Fitzpatrick, Peter.</i>	<i>Ó Snodaigh, Aengus.</i>
<i>Flanagan, Charles.</i>	<i>O'Brien, Jonathan.</i>
<i>Griffin, Brendan.</i>	<i>O'Sullivan, Maureen.</i>
<i>Hannigan, Dominic.</i>	<i>Pringle, Thomas.</i>
<i>Harrington, Noel.</i>	<i>Ross, Shane.</i>
<i>Harris, Simon.</i>	<i>Shortall, Róisín.</i>
<i>Heydon, Martin.</i>	<i>Smith, Brendan.</i>
<i>Hogan, Phil.</i>	<i>Stanley, Brian.</i>
<i>Howlin, Brendan.</i>	<i>Tóibín, Peadar.</i>
<i>Humphreys, Heather.</i>	<i>Troy, Robert.</i>
<i>Humphreys, Kevin.</i>	<i>Wallace, Mick.</i>
<i>Keating, Derek.</i>	
<i>Kehoe, Paul.</i>	
<i>Kelly, Alan.</i>	
<i>Kenny, Seán.</i>	
<i>Kyne, Seán.</i>	
<i>Lawlor, Anthony.</i>	
<i>Lynch, Kathleen.</i>	
<i>Lyons, John.</i>	
<i>McCarthy, Michael.</i>	
<i>McEntee, Helen.</i>	
<i>McGinley, Dinny.</i>	
<i>McHugh, Joe.</i>	

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<i>McLoughlin, Tony.</i>	
<i>McNamara, Michael.</i>	
<i>Maloney, Eamonn.</i>	
<i>Mitchell, Olivia.</i>	
<i>Mitchell O'Connor, Mary.</i>	
<i>Mulherin, Michelle.</i>	
<i>Murphy, Eoghan.</i>	
<i>Nash, Gerald.</i>	
<i>Neville, Dan.</i>	
<i>Ó Riordáin, Aodhán.</i>	
<i>O'Donnell, Kieran.</i>	
<i>O'Donovan, Patrick.</i>	
<i>O'Dowd, Fergus.</i>	
<i>O'Mahony, John.</i>	
<i>O'Reilly, Joe.</i>	
<i>O'Sullivan, Jan.</i>	
<i>Penrose, Willie.</i>	
<i>Perry, John.</i>	
<i>Phelan, Ann.</i>	
<i>Phelan, John Paul.</i>	
<i>Quinn, Ruairí.</i>	
<i>Rabbitte, Pat.</i>	
<i>Reilly, James.</i>	
<i>Ring, Michael.</i>	
<i>Ryan, Brendan.</i>	
<i>Shatter, Alan.</i>	
<i>Sherlock, Sean.</i>	
<i>Spring, Arthur.</i>	
<i>Stagg, Emmet.</i>	
<i>Stanton, David.</i>	
<i>Tuffy, Joanna.</i>	
<i>Wall, Jack.</i>	
<i>Walsh, Brian.</i>	
<i>White, Alex.</i>	

Tellers: Tá, Deputies Emmet Stagg and Paul Kehoe; Níl, Deputies Aengus Ó Snodaigh and Seán Ó Fearghail.

Question declared carried.

Amendment declared lost.

Deputy Alan Shatter: I move amendment No. 4:

In page 4, line 7, to delete “in a case to which this section applies” and substitute “and which land is land to which this section applies”.

Amendment put and declared carried.

Deputy Jonathan O’Brien: I move amendment No. 5:

In page 4, line 12, to delete “for a period not exceeding 2” and substitute “for a minimum of 6”.

Question, “That the words proposed to be deleted stand”, put and declared carried.

Amendment declared lost.

Acting Chairman (Deputy Seán Kenny): Amendment No. 6 arises out of committee proceedings. Amendments Nos. 6 to 8, inclusive, are related and may be discussed together by agreement.

Deputy Alan Shatter: I move amendment No. 6:

5 o'clock

In page 5, to delete line 7 and substitute the following:

“(7) In this section and *section 3—*”.

On Committee Stage I indicated my intention to examine the possibility of requiring that all repossession applications in respect of principal private residences in the case of mortgages created prior to 1 December 2009 be taken in the Circuit Court. The Land and Conveyancing Law Reform Act 2009 already requires this in the case of mortgages created after 1 December 2009. The new section, which I am proposing in amendment No. 8, provides that in the case of mortgages created prior to 1 December 2009 in respect of principal private residences, any repossession proceedings must be commenced in the Circuit Court. This means that such cases must be commenced in the Circuit Court irrespective of the date of creation of the mortgage. I consider that this meets the intention of Deputy Mac Lochlainn as indicated in amendment No. 7.

However, in order to avoid legal challenges in respect of proceedings which have already been commenced, section 2(4) provides that where other such proceedings relating to the enforcement of a mortgagee’s rights have been commenced in the High Court but have not yet been determined, then notwithstanding section 2(2), proceedings for repossession of a principal private residence may be taken in that Court. This provision will also help to avoid the risk of enforcement proceedings being taken in two separate courts simultaneously which would lead to increased costs for the parties concerned. It will also avoid any constitutional difficulties arising with regard to the implementation of this provision. Amendment No. 6 is a technical amendment which ensures that the definitions in section 2(7) will apply to the new section 3 which is being inserted by amendment No. 8.

Deputy Stephen S. Donnelly: I have two quick questions. The first relates to the definition of a principal private residence. The question probably applies to the entire Bill. Will the Minister clarify one point? When we use the term principal private residence most of us believe

it refers to the home a person is living in. However, there is a group of people who, due to the mortgage crisis, are in a somewhat unusual position. They have a principal private residence but, since their family has grown, they have moved to another place. They are renting the residence because they might be in negative equity or whatever. Essentially, they are renting out their principal private residence and are living in rented accommodation. In the context of the Minister's amendment and the Bill, does "principal private residence" afford the same protections in section 2 to a place if people are renting and renting as if they were simply living in it? Second, the Minister should set out the specific reason he is referring these matters to the Circuit Court, as opposed to the District or High Courts, in the amendment and the advantages thereof.

Deputy Alan Shatter: I will deal with the second question first. The proposal was that these matters be dealt with in the Circuit Court as they are appropriate to the Circuit Court and not to the District Court. That is the position in the context of post-1 December 2009 mortgages, as contained in that particular legislation. There is already experience and expertise in the Circuit Court in dealing with these issues and the suggestion arose in the course of Committee Stage that there should be a synergy and the same approach to both pre-1 December 2009 mortgages and post-1 December 2009 mortgages. It was my view that this was reasonable. When the Bill was being drafted, an issue was originally suggested to me that to so change the law might give rise to some constitutional issue because there might be some vested right, for example, in the lenders to take their proceedings in the High Court. I did not think that was a particularly strong issue and have had the matter looked at again. Consequently, I have proposed this amendment, which I hope will be welcomed because it was an amendment urged on me on Committee Stage for which I expressed support, provided the Attorney General's office confirmed to me it could be implemented. This is the reason we are heading down that route.

In the context of all my experience as a lawyer over the years, principal private residence would primarily mean the residence in which someone is residing and this would be the consistent legal interpretation thereof. As it does not normally mean a residence that is being rented to someone else, regardless of circumstances, I am very anxious not to mislead the House in that way. There is a difficulty where it is a rental property as opposed to a property that - if I can put it this way - genuinely is an individual's family home. However, in the exceptional circumstances that have arisen, there may be some area of appreciation or discretion where, bearing in mind the unusual individual circumstances of an individual or a couple, the court may extend that definition. The phrase "family home" has not been used. The phrase "principal private residence" has been used with some deliberation in these circumstances. However, Members also must ensure they do not create a situation in which, for example, someone buys a property with the intention of using it as an investment property and lives in it for two or three months before renting it out and asserting these special procedures should apply. I have dealt with this issue in the manner I believe to be the best way it can be dealt with. It is clearly intended largely to apply to individuals who are in mortgage difficulty or living in the home in respect of which they have mortgage difficulties.

The Deputy, like me, is aware of individuals who for a number of reasons have moved out of homes in which there are mortgage difficulties. Families in two-bedroom apartments simply have found they have grown beyond that original residence they might have acquired in 2004 or 2005. Such people may now have two children who are growing up and, consequently, they have moved out and rented the property. They now are either renting another property or those who are in employment may well have purchased property because of the collapse in values.

Consequently, one could not have two principal private residences. They may be renting it as a matter of convenience or they may be renting it to avoid incurring losses on their original investment. A myriad of different circumstances arise but this principally is about individuals living in a property, that is, residing in that property and in mortgage difficulty with that property, to ensure as best as possible that everything is done to try to avoid their loss of the roof over their heads. Obviously, this is part of an issue. If one is renting somewhere else and if the property one is renting out, which one originally purchased as a principal private residence, is lost in a repossession case, one still has a roof over one's head, namely, the property one now is renting. However, there may be some circumstances in which the courts might be willing - but that will depend very much on individual circumstances that do not lend themselves to definition in legislation - to give some area of discretion or appreciation. The Deputy and I probably could invent at least half a dozen examples to which this might apply but in the context of drafting the legislation, I am advised this is the appropriate terminology that can be used. It is the best that can be done in this context and, hopefully, it will have the intended impact.

I refer to both the Circuit Court issue and the application of the personal insolvency protections, the adjournment of court proceedings and the facility to give people an opportunity to re-engage or to engage with a financial institution when confronted by repossession. I am conscious these all are issues about which Deputy Donnelly had concerns, that were featured in his own Private Members' Bill and which he and I discussed a considerable time ago in the context of the insolvency legislation. Consequently, I am doing what I can in this area to be of assistance to individuals. The Circuit Court obviously is a better venue because whether one is a creditor or the person in debt who has not paid his or her mortgage, the legal costs are less onerous than would be incurred in the High Court. Consequently, there is an important cost issue in keeping it at Circuit Court level. The District Courts have never traditionally had this particular area of jurisdiction. They do not have the background expertise in dealing with it and for that reason, I proposed this amendment.

Deputy Stephen S. Donnelly: I thank the Minister for his reply and for leaving open the door that people who are renting and renting may have the protections afforded to them under section 2. The Minister referred to my Family Home Protection (Miscellaneous Provisions) Bill from 2011 and I wish to take this opportunity to acknowledge the Minister's good faith in this regard. During the debate in 2011, the Minister asked that I withdraw the Bill to avoid forcing a division in the House on something for which there was cross-party support. At the time, the Minister indicated he would consider ways to have what the Family Home Protection (Miscellaneous Provisions) Bill was trying to do brought into the law. Essentially, section 2 is the result of that and I wish to acknowledge publicly the good faith under which the Minister has laboured. It is greatly appreciated.

I take the Minister's point that this might be available in some situations. The reason I emphasise this issue is because a great number of people are in this position. Most of my friends are in this situation, as I imagine are a great many other people in their mid-30s. Such people bought tiny homes for far too much money that they could not afford and did not really want but by 2008, 2009, 2010 or 2011, they had kids, would no longer live in a one or two-bedroom apartment and have moved out. However, although they would love to do so, they cannot sell. Obviously, the original idea would have been to sell and to buy themselves a three bedroom semi-detached house in which to raise their family and so on. However, they are stuck for a few reasons, the first of which is that the tax position changes completely. Once one leaves one's home and one rents, one no longer gets the mortgage interest supplement. One cannot

deduct the full costs from the rental income in respect of tax, as this was reduced from 100% of interest to 75%. Moreover, these same people will now be charged PRSI on the rental income. Consequently, the financial and taxation hit for being obliged to move out is huge and it would be a great pity if such people could not be afforded the protections afforded under section 2.

The purpose of section 2 essentially is to stop the bank from repossessing homes when a sensible personal insolvency arrangement, PIA, could be constructed. Financially, and economically, that is just as important for people who are renting and renting. I do not refer to people who have bought their home-----

Acting Chairman (Deputy Seán Kenny): The Deputy's time has expired.

Deputy Stephen S. Donnelly: I will conclude on this point. I do not refer to those who have bought a new home and are renting. I am talking only about people who bought a home, have moved out of it, who still nominally only own one home and are renting and renting. I ask the Minister to keep this under review because I consider this group of people to be just as deserving of the protections afforded under section 2 as those who are living in their principal private residences.

Deputy Alan Shatter: As I said to the Deputy, this would create major drafting problems to travel the route in full that he is suggesting. We will see how the courts applying interpret the legislation. Linking the two issues - getting stuff out of the High Court into the Circuit Court and also the personal insolvency arrangement, PIA, issue - provides certain possibilities but if anyone is in genuine financial difficulty and if there is a risk of proceedings being brought to repossess, within a matter of days the insolvency legislation will be up and running and they should take the initiative before court proceedings of any description are taken and talk to a personal insolvency practitioner. That is what I would hope many people will do. I hope that people who have the possibility of an engagement that could produce a productive outcome will not wait until they are at the receiving end of repossession proceedings, both for their own peace of mind and to avoid unnecessary expense being incurred.

Amendment agreed to.

Amendment No. 7 not moved.

Deputy Alan Shatter: I move amendment No. 8:

In page 5, between lines 20 and 21, to insert the following:

“Proceedings relating to certain mortgages to be brought in Circuit Court

3. (1) This section applies to land which is the principal private residence of—

(a) the mortgagor of the land concerned, or

(b) a person without whose consent a conveyance of that land would be void by reason of—

(i) the Family Home Protection Act 1976, or

(ii) the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010,

and the mortgage concerned was created prior to 1 December 2009.

(2) Subject to *subsection (4)*, proceedings brought by a mortgagee seeking an order for possession of land to which the mortgage relates and which land is land to which this section applies shall be brought in the Circuit Court.

(3) The jurisdiction of the Circuit Court to hear and determine proceedings referred to in *subsection (2)* where the land concerned is land to which this section applies shall be exercised by the judge of the circuit where the land or any part of it is situated.

(4) *Subsection (2)* does not preclude a person initiating proceedings in the High Court where other proceedings relating to the enforcement of the mortgagee's rights under the mortgage concerned have been commenced in that court prior to the coming into operation of this section where those other proceedings have not been determined."

Amendment agreed to.

Acting Chairman (Deputy Seán Kenny): Amendments Nos. 9 and 14 are related and may be discussed together.

Deputy Jonathan O'Brien: I move amendment No. 9:

In page 5, between lines 20 and 21, to insert the following:

"3. In any proceedings brought by a mortgagee seeking an order for possession of land to which the mortgage relates in a case to which this section applies the court, when making its decision whether to grant a possession order shall consider:

(a) whether a mortgagee has fully complied with the Central Bank's Code of Conduct on Mortgage Arrears;

(b) whether a mortgagee has behaved in a manner deemed reasonable by the court. In determining whether the mortgagee has behaved reasonably the Court will consider any responses by the mortgagee to proposals from the mortgagor or a personal insolvency practitioner aimed at resolving outstanding arrears;

(c) whether, in cases where the mortgagee has rejected a proposal from a personal insolvency practitioner, the mortgagor has been given adequate opportunity to appeal the substantive decision of the mortgagee to reject the proposal; and

(d) the intentions of the mortgagee with respect to the residual portion of the debt that remains after any possession and sale of the property and the impact this plan may have on the financial circumstances of the mortgagor."

I am filling in for Deputy Mac Lochlainn. The amendment does a number of things. It requires a judge, before granting a repossession order, to take into account a number of issues, including whether the bank has behaved reasonably, whether the bank has rejected a proposal from a PIP, whether the borrower was given adequate opportunity to appeal any rejection by the bank and whether the bank has fully complied with the code of conduct on mortgage arrears. If the judge is not satisfied that the lender has behaved reasonably on any of those grounds, he or she may reject the application for repossession.

Deputy Alan Shatter: These amendments both seek to make substantial changes to the

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Personal Insolvency Act. As I have stated previously, this is not the intention of the Bill or of section 2, which provides a necessary link to the personal insolvency process.

Amendment No. 9 contains an astonishing proposal, in paragraph (c), that the court should consider whether, when a personal insolvency arrangement, PIA, has been rejected by creditors, the mortgagor has been given adequate opportunity to appeal the substantive decision of the mortgagee to reject the proposal. This completely misunderstands the way in which the PIA process works. As I have said many times, it is a voluntary process and where the necessary approval of creditors cannot be obtained on the proposal, the process then ends. There is no appeal to the court in this regard. There exists a possibility that the mortgagor could, through his or her personal insolvency practitioner and where time permits under the protective certificate period, propose a new arrangement which could meet with the approval of creditors. That may be a possibility for some. With regard to amendment No. 14, I repeat that the amendment seeks to rewrite provisions of the Personal Insolvency Act, which is not the purpose of this Bill.

The House should be aware that the protection to a mortgagor proposed by this Bill is to require that the court allow for a personal insolvency arrangement to be considered where, for example, none previously had been attempted, as with the requirement now in bankruptcy petitions, and not that the court should direct a first or a new PIA and effectively determine its outcome. Once a PIA proposal has been rejected by the creditors' meeting and no subsequent proposal is made during the protective certificate period, the personal insolvency practitioner's role ends as a mediator or negotiator for the debtor.

However, members should also remember that where a proposal is rejected at a creditors' meeting and where the protective certificate period still exists, as I said earlier, this does not stop a personal insolvency practitioner making a different proposal that creditors may accept. Therefore, once a proposal has been rejected and where there is no other proposal that can properly be made within the timeframe, the personal insolvency practitioner has no standing whatsoever in the repossession process and the law does not provide for the court to appoint him or her as an officer essentially to force a settlement on creditors. As such, a practitioner cannot do that.

Amendment No. 14 ignores the fact that the personal insolvency legislation is designed to allow agreed settlements to be reached as an alternative to court ordered settlements. It is my view this amendment would overturn this carefully calibrated approach. I must add that the Deputy's proposed provision that a PIA proposal should only offer to repay the current value of a property would represent a huge interference in contractual and property rights and would be likely to be subject to swift challenge in the courts. Indeed, it could give rise to constitutional issues. The amendment makes no reference to the repayment capacity of the debtor, which it seems essentially would be determined by the current value of the property. This would have obvious negative consequences for banks, other financial institutions and ultimately for taxpayers.

I believe this amendment could encourage delinquent behaviour on the part of all debtors, nearly 90% of whom are repaying their mortgages, in order to get their mortgages reduced to current value. This would seriously risk a complete collapse of the property market and would threaten the solvency of the financial institutions and indeed the economy. Finally, I consider that this amendment would run the risk of turning every proposal for a PIA into a costly preliminary to repossession. For those reasons, I cannot accept the amendment.

Deputy Niall Collins: I thought the Acting Chairman might have called me to speak to the amendment before calling the Minister.

Acting Chairman (Deputy Seán Kenny): My apologies for that.

Deputy Niall Collins: No problem. We tabled this amendment on Committee Stage also and we discussed it in some detail but I want to reiterate our position on it for the record. I note the Minister is not accepting the amendment. That does not come as a surprise. We discussed this on many occasions in regard to the personal insolvency legislation. The thrust of legislation is all the time recalibrating the balance of power away from the borrower into the hands of the lender, but unfortunately we have seen over the years, and day in, day out in our constituency offices, that the banks adopt quite a high-handed and draconian approach to dealing with people in distress. That is the issue we raised during the debate on the personal insolvency legislation. That is the reason we sought to have an independent appeals process. That is why we pointed out the issue in regard to what we have described as the bankers' veto. We had it again this week in regard to the new code of conduct launched by the banks, with Government support, whereby the protection being afforded to borrowers in distress and in arrears has been watered down and people will now be subjected to more vigorous pursuit by the banks.

Taking all that in the round and remembering also that the bona fides of the banks have to be called into question, have they acted reasonably? The answer is "No". Will they act reasonably from now on with the passage of this legislation? I believe the answer is "No". The Minister mentioned in rejecting this amendment that it would promote delinquent behaviour. The banks can act in a delinquent fashion also.

The effect of our motion was to try to stem the erosion of protection which the borrowers have enjoyed to a certain degree but, unfortunately, the Minister has already said he will not accept that. I note that but I wanted to take the opportunity to speak to the amendment.

Deputy Stephen S. Donnelly: I take the Minister's points on board but I support Deputy Collins's amendment. I would disagree with the Minister's economic analysis. He may be right but I do not think he is for two reasons. Last year, the IMF conducted a 100 year review of the way countries have successfully got out of mortgage crises and it concluded that the only two countries where it ever worked were Iceland and Norway. In Iceland and Norway they did something similar to what Deputy Collins spoke about, which is a very broad write-down of mortgage debt. I met two Icelandic Members of Parliament yesterday to ask them how they managed to do that without destroying their banking system. They informed me that they had split their banks in two, namely, into good banks and bad banks and that the former retained the functioning assets. I am currently involved in drawing up a paper on a debt-for-equity product which would allow something similar to happen here but without the banks being obliged to take a write-down. I disagree with the Minister's economic analysis. I believe the opposite is the case, namely, that job creation and economic growth will only occur and that emigration will only be stemmed when the quantum of household debt is brought back down to a sustainable level. The latter will require the banks to play ball in a way in which I have no faith in them doing.

In the context of the mechanism under discussion, I would like to consider the case of a couple who engage with a personal insolvency practitioner who then engages with their bank on their behalf in circumstances where a reasonable personal insolvency arrangement can be arrived at. Some banks are already engaging in this fashion. To its credit, AIB has made some

very positive noises in this regard. Let us imagine that there is equity in the house owned by the couple to whom I refer but they cannot pay off their mortgage. With some restructuring, they could retain their house but their bank indicates that it has no interest in retaining them as borrowers for the next ten, 15 or 20 years. It then states that it is taking in the house and calls in the full mortgage. The bank proceeds to seek repossession and, as a result of the provisions in section 2, the judge states that there is a deal to be done and that the parties should try to arrive at a personal insolvency arrangement.

The bank then states that while other financial institutions are restructuring in circumstances such as those I have outlined, it is not doing so. It further indicates that it is not interested in such arrangements, that it no longer wants the debt on its books and that it is taking the house and is going to sell it on. The personal insolvency practitioner informs the judge at the next court hearing that it is his or her opinion that there is a personal insolvency arrangement to be arrived at, that such arrangements are being arrived at by other banks and that the bank in question is refusing to play ball. The bank then states that the latter is the case and insists on taking possession of its asset. Can anything else be done at that stage or is this how the Minister sees matters playing out in the context of the powers the banks retain to ignore reasonable personal insolvency arrangements and repossess properties? I am of the view that banks will repossess in circumstances where the house on which a mortgage is held is not in negative equity. Will the Minister outline whether that is his understanding of how the banks might enforce their rights?

Deputy Alan Shatter: There is a very simple answer to the questions posed by Deputy Donnelly. Section 2(4) states: “On the expiry of any period of adjournment granted under *subsection (2)*, the court may grant a further adjournment of the proceedings concerned where it considers that significant progress has been made in the preparation of a proposal for a Personal Insolvency Arrangement.” Let us assume that any progress has been made on one side and that the creditor has not adequately engaged. Section 2(3)(d) refers to the conduct of the parties to a mortgage in any attempt to find a resolution. I am of the view that this is going to guide the courts in certain circumstances. Obviously, this legislation has not yet been enacted but despite the fact that there is no statutory obligation on them, even now judges are adjourning proceedings in order to give individuals experiencing difficulties an opportunity to resolve them. In recent cases a number of judges actually encouraged engagement. Section 2(2) states that in any proceedings brought by a mortgagee seeking an order for possession of land to which the mortgage relates in a case to which this section applies, a court - without prejudice to any other power which a court may have to adjourn proceedings - may, of its own motion, etc., adjourn proceedings. The courts have an inherent power to adjourn proceedings.

In circumstances where if I were the owner of a principal private residence and my lender informed me that it wanted to repossess and if I consulted a personal insolvency practitioner and made an eminently sensible proposal, it must be remembered that in the background there are directions to the banks to engage with those who are in difficulty. They must engage not only in the context of considering the possibility of debt forbearance, but also, in appropriate cases, debt forgiveness. A borrower who is experiencing problems and who is able to truthfully inform a court about a constructive proposal he or she has put forward which makes sense in the overall background circumstances may find that a lender who has not been willing to properly engage may get into great difficulty with the courts. In such cases the courts may simply adjourn proceedings and tell everyone to go away and reconsider matters for a period of three or six months. What the courts cannot do is force a personal insolvency arrangement on any-

body. This is because the fact that there must be agreement is the very essence of the personal insolvency legislation.

We are referring here to debt settlement and personal insolvency arrangements and the emphasis is on the term “arrangement”. Of course, where a mortgage is involved it will be a personal insolvency as opposed to a debt settlement arrangement which will apply. Judges have all sorts of wonderful ways of relaying messages to people whom they believe to be recalcitrant. I am of the view that the Bill creates the legal backdrop to facilitate them in this regard. Judges may show reluctance to grant orders of possession in circumstances where the lender is behaving unreasonably. I accept that I have been talking for far longer than should have been the case but these are important issues.

I hope the architecture we are providing will facilitate that to which I refer. Ultimately, there is a matter of Central Bank oversight. The Central Bank has now required lending institutions to specifically engage in respect of this matter. There have been a number of years of debt forbearance, resulting in medium or short-term relief for many individuals who are in difficulty with their mortgages. The Central Bank requires that the institutions must engage in order to put medium and long-term arrangements that are viable in place. I do not believe it envisages that wholesale repossessions will occur in respect of family homes or principal private residences in circumstances where practical and sensible financial arrangements can be entered into, particularly in situations where, if a sale is forced and if there is negative equity, the lender will not recover its money in full and where there are certain matters which should be addressed. We are putting in place an interesting and important architecture which will allow the courts to assess the bona fides not just of those against whom repossession orders are sought, but also of those who seek such orders.

Amendment put and declared lost.

An Leas-Cheann Comhairle: Amendments Nos. 10 to 13, inclusive, are related and may be discussed together by agreement.

Deputy Jonathan O’Brien: I move amendment No. 10:

In page 5, between lines 20 and 21, to insert the following:

“3. Where the court grants an order of possession the court shall instruct the mortgagee to abide by the full terms of any tenancy agreement in place with respect to the property and for the mortgagee to assume the full responsibilities of the landlord as stipulated in that tenancy agreement.”.

This amendment is designed to ensure that where a repossessed property is a buy-to-let concern with a tenant *in situ*, the tenancy agreement will be respected in full. Amendment No. 11 is designed to ensure that where a repossession order is granted, the existing owner and tenant or tenants will be given six months to arrange alternative accommodation or nine months where children are resident in the house.

Amendment No. 12 relates to a situation where a bank is repossessing a family home and states that any outstanding debt on that property should become the liability of the bank and that the borrower cannot be pursued in respect of it. This will only apply in the case of family homes and not buy-to-let properties.

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Amendment No. 13 is designed to ensure any costs arising from the repossession hearing or from the subsequent sale of any family home that is repossessed will be borne by the lender and not the borrower. Again, this amendment will only apply in the case of family homes and not buy-to-let properties.

Deputy Alan Shatter: These amendments, which are being taken together, to a large extent fall outside the scope of the Bill. Amendment No. 10 relates to situations where tenancy agreements are in place and seeks to invest the court with the power to require mortgagees to abide by the terms of such agreements. Repossession is not the only option in such situations. Where rents are being paid and where it is viable, the mortgagee may opt to appoint a receiver of rents rather than seek repossession. Where, however, the mortgagee wishes to sell the property, the mortgagee is under an obligation to obtain the best price reasonably attainable, which would normally require vacant possession of the property. In those circumstances, the proposal in amendment No. 10 would work to the disadvantage of the borrower and impede operation of the terms of the mortgage contract between the borrower and the mortgagee. For that reason, I cannot accept the amendment.

In regard to amendment No. 11, which seeks to instruct the court in regard to the orders, it may make in reaching its judgment on a repossession action, I will, once again, point out that the court has a general power to stay proceedings, and on a regular basis, the courts stay orders for possession for a period of time to enable people to reorder their lives, obtain alternative accommodation or, as happens on occasion, allow children to sit examinations. In those circumstances, I do not think it necessary to legislate on this issue as proposed in the amendment and, therefore, I will not be accepting it.

Turning to amendment No. 12, if we were to go down this route, which would in effect introduce non-recourse mortgages to this jurisdiction, we would, in the current circumstances where non-recourse mortgages are not available in this country, encourage strategic default and compound our current difficulties. While I stated on Committee Stage that I, on a personal level, would favour the introduction of a non-recourse mortgage product, the fact remains that such products are not available nor can we prescribe them by legislation. To accept this amendment would create even more serious difficulties for both financial institutions and the State and I cannot accept the amendment for that reason.

Amendment No. 13 seems to indicate that the Oireachtas should legislate to provide that the cost of the repossession should be paid by the mortgagee. Again, I cannot agree that such a provision should be enshrined in primary legislation and I cannot accept the amendment.

Amendment put and declared lost.

Deputy Jonathan O'Brien: I move amendment No. 11:

In page 5, between lines 20 and 21, to insert the following:

“3. Where the court grants an order of possession the court shall provide for a stay of at least six months where there are adults living in the property and of at least nine months where there are children resident in the property.”

Amendment put and declared lost.

Deputy Jonathan O'Brien: I move amendment No. 12:

In page 5, between lines 20 and 21, to insert the following:

“3. Where a possession order is granted by the court to land which is the principal private residence of the mortgagor the mortgagee assumes full liability for all debts relating to the mortgage on that property and agrees not to pursue the mortgagor for any outstanding liabilities on that mortgage.”.

Amendment put and declared lost.

Deputy Jonathan O’Brien: I move amendment No. 13.

In page 5, between lines 20 and 21, to insert the following:

“3. Where a possession order is granted by the court to land which is the principal private residence of the mortgagor the mortgagee assumes full liability for all costs related to the repossession of the property and any costs related to the subsequent sale of the property.”.

Amendment put and declared lost.

Deputy Niall Collins: I move amendment No. 14:

In page 5, between lines 20 and 21, to insert the following:

“Power of Court to determine the rejection of a proposal for a Personal Insolvency Arrangement as unreasonable

3. (1) Where in an application by a mortgagee for repossession of a property to which *section 2(1)* applies, a proposal for a Personal Insolvency Arrangement made pursuant to section 98(1)(c) of the Act of 2012 which included the debt of the property had been rejected by reason, in whole or in part, of a vote by the mortgagee at a creditors meeting held pursuant to section 109 of the Act of 2012, the Court shall, with the consent of the mortgagor, direct the Personal Insolvency Practitioner concerned to provide to it a report in writing which shall include the content of the proposal, and any amendments made thereto, for a Personal Insolvency Arrangement.

(2) The Personal Insolvency Practitioner shall cooperate in providing the written report to the Court within a period prescribed by the Court to be not more than 2 months. In making the report to the Court under this section the Personal Insolvency Practitioner shall provide an opinion as to whether the rejection by the mortgagee of the proposal for a Personal Insolvency Arrangement was reasonable.

(3) In providing an opinion pursuant to *subsection (2)* the Personal Insolvency Practitioner shall have regard to whether the proposal of a Personal Insolvency Arrangement constituted an offer to repay an amount, whether on a restructured basis or not, equal to the current value of the property and any other matter considered relevant by the Personal Insolvency Practitioner having regard to his or her experience in the proposing of Personal Insolvency Arrangements.

(4) The Court on receipt of the written report from the Personal Insolvency Practitioner shall cause to be made available to the mortgagor and to the mortgagee a copy of the report and shall provide a reasonable period of time for any response in

writing to be provided by either party such period not to exceed one month.

(5) On receipt of any response provided by the parties the Court shall proceed to fix a date of a hearing for the purposes of determination by the Court of the reasonableness or unreasonableness of the rejection by the mortgagee of the mortgagor's proposal for a Personal Insolvency Arrangement.

(6) Any creditor being the subject of the proposal for the Personal Insolvency Arrangement shall be notified in advance of the hearing and shall, on request, be provided with a copy of the report of the Personal Insolvency Practitioner and any responses provided by the mortgagee or mortgagor and shall be entitled to make submissions at the hearing under this section.

(7) In determining whether or not the rejection of the proposal for a Personal Insolvency Arrangement was reasonable or unreasonable the Court may have regard to the following matters:

(a) the report of the Personal Insolvency Practitioner and any responses received by the mortgagee or mortgagor;

(b) the submissions of any creditor;

(c) whether the proposal of the Personal Insolvency Arrangement constituted an offer to repay an amount, whether on a restructured basis or not, equal to the current value of the mortgaged property;

(d) the housing needs of the mortgagor and his or her dependants;

(e) the conduct of both parties including the conduct of the mortgagee in underwriting the loan/s secured by the mortgage;

(f) any other circumstances or matters that the Court considers relevant.

(8) If the Court determines that the mortgagee's rejection of the proposal for a Personal Insolvency Arrangement was unreasonable the Court may do any one or more of the following:

(a) adjourn the application for repossession for such time as is necessary to enable the mortgagor make another proposal for a Personal Insolvency Arrangement and for a vote on such proposal to be taken pursuant to section 109 of the Act of 2012;

(b) stay the coming into effect of the Order of repossession for a period not exceeding 24 months;

(c) without prejudice to the Courts discretion as to any order for costs it might make order that the mortgagee pay the costs or part costs of and incidental to the following, such costs to include the reasonable costs of the Personal Insolvency Practitioner:

(i) the making of the proposal for a Personal Insolvency Arrangement;

- (ii) the application for the Order of repossession;
- (iii) the hearing under this section.

(9) A copy the Personal Insolvency Practitioner's report together with any responses received and any Order made under this section shall be provided to the Insolvency Service of Ireland."

Amendment put and declared lost.

An Leas-Cheann Comhairle: Amendment No. 15 arises out of Committee proceedings.

Deputy Alan Shatter: I move amendment No. 15:

In page 5, to delete lines 23 and 24 and substitute the following:

"(2) Sections 2 and 3 come into operation on such day or days as the Minister for Justice and Equality may by order or orders appoint and different days may be so appointed for different purposes or provisions."

This is a technical amendment which will allow the commencement of sections 2 and 3 on different dates. I envisage that both sections will be commenced on the same dates so this provision is purely a precautionary measure.

Amendment agreed to.

Bill, as amended, received for final consideration.

Question put: "That the Bill do now pass."

<i>The Dáil divided: Tá, 91; Níl, 42.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Breen, Pat.</i>	<i>Adams, Gerry.</i>
<i>Bruton, Richard.</i>	<i>Boyd Barrett, Richard.</i>
<i>Butler, Ray.</i>	<i>Broughan, Thomas P.</i>
<i>Buttimer, Jerry.</i>	<i>Calleary, Dara.</i>
<i>Byrne, Catherine.</i>	<i>Collins, Joan.</i>
<i>Byrne, Eric.</i>	<i>Collins, Niall.</i>
<i>Cannon, Ciarán.</i>	<i>Colreavy, Michael.</i>
<i>Carey, Joe.</i>	<i>Cowen, Barry.</i>
<i>Coffey, Paudie.</i>	<i>Crowe, Seán.</i>
<i>Collins, Áine.</i>	<i>Doherty, Pearse.</i>
<i>Conaghan, Michael.</i>	<i>Dooley, Timmy.</i>
<i>Conlan, Seán.</i>	<i>Ellis, Dessie.</i>
<i>Connaughton, Paul J.</i>	<i>Ferris, Martin.</i>
<i>Conway, Ciara.</i>	<i>Flanagan, Luke 'Ming'.</i>
<i>Coonan, Noel.</i>	<i>Grealish, Noel.</i>
<i>Corcoran Kennedy, Marcella.</i>	<i>Healy, Seamus.</i>
<i>Costello, Joe.</i>	<i>Healy-Rae, Michael.</i>

<i>Creed, Michael.</i>	<i>Keaveney, Colm.</i>
<i>Creighton, Lucinda.</i>	<i>Kelleher, Billy.</i>
<i>Daly, Jim.</i>	<i>Mac Lochlainn, Pádraig.</i>
<i>Deasy, John.</i>	<i>McConalogue, Charlie.</i>
<i>Deenihan, Jimmy.</i>	<i>McDonald, Mary Lou.</i>
<i>Deering, Pat.</i>	<i>McGrath, Finian.</i>
<i>Doherty, Regina.</i>	<i>McGrath, Michael.</i>
<i>Donnelly, Stephen S.</i>	<i>McLellan, Sandra.</i>
<i>Donohoe, Paschal.</i>	<i>Martin, Micheál.</i>
<i>Doyle, Andrew.</i>	<i>Murphy, Catherine.</i>
<i>Durkan, Bernard J.</i>	<i>Naughten, Denis.</i>
<i>English, Damien.</i>	<i>Nulty, Patrick.</i>
<i>Feighan, Frank.</i>	<i>Ó Caoláin, Caoimhghín.</i>
<i>Ferris, Anne.</i>	<i>Ó Cuív, Éamon.</i>
<i>Fitzgerald, Frances.</i>	<i>Ó Fearghail, Seán.</i>
<i>Fitzpatrick, Peter.</i>	<i>O'Brien, Jonathan.</i>
<i>Flanagan, Charles.</i>	<i>O'Dea, Willie.</i>
<i>Gilmore, Eamon.</i>	<i>O'Sullivan, Maureen.</i>
<i>Griffin, Brendan.</i>	<i>Pringle, Thomas.</i>
<i>Hannigan, Dominic.</i>	<i>Ross, Shane.</i>
<i>Harrington, Noel.</i>	<i>Shortall, Róisín.</i>
<i>Harris, Simon.</i>	<i>Smith, Brendan.</i>
<i>Hayes, Brian.</i>	<i>Stanley, Brian.</i>
<i>Heydon, Martin.</i>	<i>Tóibín, Peadar.</i>
<i>Hogan, Phil.</i>	<i>Troy, Robert.</i>
<i>Howlin, Brendan.</i>	
<i>Humphreys, Heather.</i>	
<i>Humphreys, Kevin.</i>	
<i>Keating, Derek.</i>	
<i>Kehoe, Paul.</i>	
<i>Kelly, Alan.</i>	
<i>Kenny, Seán.</i>	
<i>Kyne, Seán.</i>	
<i>Lawlor, Anthony.</i>	
<i>Lynch, Ciarán.</i>	
<i>Lynch, Kathleen.</i>	
<i>Lyons, John.</i>	
<i>McCarthy, Michael.</i>	
<i>McEntee, Helen.</i>	
<i>McGinley, Dinny.</i>	
<i>McHugh, Joe.</i>	
<i>McLoughlin, Tony.</i>	
<i>McNamara, Michael.</i>	

<i>Maloney, Eamonn.</i>	
<i>Mathews, Peter.</i>	
<i>Mitchell, Olivia.</i>	
<i>Mitchell O'Connor, Mary.</i>	
<i>Mulherin, Michelle.</i>	
<i>Murphy, Dara.</i>	
<i>Murphy, Eoghan.</i>	
<i>Nash, Gerald.</i>	
<i>Neville, Dan.</i>	
<i>Noonan, Michael.</i>	
<i>Ó Ríordáin, Aodhán.</i>	
<i>O'Donnell, Kieran.</i>	
<i>O'Donovan, Patrick.</i>	
<i>O'Dowd, Fergus.</i>	
<i>O'Mahony, John.</i>	
<i>O'Reilly, Joe.</i>	
<i>O'Sullivan, Jan.</i>	
<i>Perry, John.</i>	
<i>Phelan, Ann.</i>	
<i>Phelan, John Paul.</i>	
<i>Rabbitte, Pat.</i>	
<i>Reilly, James.</i>	
<i>Ryan, Brendan.</i>	
<i>Shatter, Alan.</i>	
<i>Spring, Arthur.</i>	
<i>Stagg, Emmet.</i>	
<i>Stanton, David.</i>	
<i>Tuffy, Joanna.</i>	
<i>Wall, Jack.</i>	
<i>Walsh, Brian.</i>	
<i>White, Alex.</i>	

Tellers: Tá, Deputies Emmet Stagg and Paul Kehoe; Níl, Deputies Jonathan O'Brien and Seán Ó Feargháil.

Question declared carried.

3 July 2013

Ministers and Secretaries (Amendment) Bill 2012: Report and Final Stages

An Leas-Cheann Comhairle: Amendments Nos. 1 to 13, inclusive, are related and may be discussed together by agreement.

Deputy Sean Fleming: I move amendment No. 1:

In page 3, line 23, after “approval” to insert “and includes service of the national debt”.

I welcome the opportunity to move amendment No. 1. We are discussing amendments Nos. 1 to 13, inclusive, as part of this overall topic. We discussed it at length on Committee Stage. It is the same amendment, by and large. Some of my other amendments might be slightly different. This amendment is a repeat so I will go through it to the same extent.

There is merit in a number of these amendments. I can understand how the Minister might have a technical issue with one or two issues. The essential issue is that each year when we come to discuss our voted Estimates in the Dáil, we only discuss the Estimates that come before the line Minister for voting. This can equate to somewhere in the order of €40 billion per annum whereas there is approximately another €10 billion per annum which does not come before the Dáil as part of the annual Estimates process. The fact that the national Parliament does not discuss the full range of Government expenditure each year is a flaw. In a way, some of the money is kept away from the full level of public scrutiny one would have during the normal Estimates debate. We could discuss the Estimates debate and I must be critical of my colleagues in the House because they do not give sufficient time to the Estimates debate in respect of line Departments. I know some of them must still go through the House for this year. We all know that most of the money is already spent and committed and we are still only voting on the Estimates.

6 o'clock That said, many Members of the House will give scant regard to the actual Estimates debate. I want all these items to be brought into the Estimates process and voted expenditure. We can have many Departments with budgets of €8 billion, €9 billion and up to €12 billion and €13 billion going through each year and the Estimates debate can take an hour or two. When one takes out the set pieces - the opening statements - very little real detailed scrutiny takes place and I would welcome greater scrutiny for the Estimates across the House.

That said, the purpose of these 13 amendments is to take out items from the Central Fund that should be brought into the Estimates debate. I understand there is an issue with the servicing of the national debt. The Minister's official spoke nicely to me after Committee Stage to say that many countries might not want to lend to a country if they felt it could be caught up in a political wrangle over whether it pays the interest each year. I accept that point. Essentially, the next Government is bound by whatever is agreed now and it cannot be changed by way of an Estimates debate or a Government having a slim majority or no majority on some occasions. There is merit in that point but a halfway house can be found and a proper debate on that issue held in this House in parallel with the Estimates debate. As part of the Estimates debate, there might be an addendum, appendix or complementary note added to it involving items relevant to that Minister's Department, for example, the Department of Finance for payment of the national debt, which will not be voted on but the process of having the debate should happen each year. There is a case to be made for doing that.

My real concern related to when I went down through the list of items. The second item,

which is amendment No. 2, relates to a contribution to the EU budget. I know somebody will give me a reason that the Oireachtas should not be allowed to discuss that each year but I am sure-----

Minister for Public Expenditure and Reform(Deputy Brendan Howlin): It is a treaty obligation.

Deputy Sean Fleming: I am sure the same treaty obligation put an obligation on EU institutions, yet consider the discussion we had in recent months about agreeing its budget. The European Parliament gets to discuss the EU budget - what it takes in and receives from us - but we do not have an equivalent and reciprocal debate, yet we are governed by the same treaty. If the same debate can be held at European level, it should be possible to have it here.

In respect of payments to the ESM, I know there are very large amounts of money but I suspect that very few members of the public are aware that those payments are going through because they are not being discussed here. There is no reason that items like the Houses of the Oireachtas Commission and election posting cannot be included in the Estimates and if, for example, there is to be a referendum that was not planned, a figure could be included as part of the Estimate that would be brought forward to cover the actual referendum.

The Minister understands my point. He will probably not accept these 13 amendments. He did not accept them on Committee Stage and I do not expect him to accept them here. It is a point we will wish to revisit separately from this legislation because €10 billion should not be spent each year on behalf of the Irish taxpayer without a debate in the Chamber. Perhaps it would not happen in the voted expenditure mechanism about which we are discussing but there should be a debate. A payment of €8 billion or €9 billion should not be made each year in respect of the national debt as if the Members of the Dáil and Seanad could not even have a discussion of the matter. They may not have the power to amend it but I think they could.

The Minister refers to international obligations and legally binding agreements. In respect of the promissory note, every known agreement that we draw down is always subject to renegotiation if the NTMA can source other funds and perhaps re-finance it in a better way. That is what the NTMA does every day of the week. It tries to re-finance some of the existing loans in a better manner so there is an ebb and flow in these matters each year, yet we are not allowed to have that debate. The Minister knows my views well.

Deputy Brendan Howlin: Deputy Fleming is right. We had a comprehensive debate on these matters on Committee Stage. I do not disagree with the argument that we should always be pushing out the boundaries of scrutiny to ensure that we can take full account in this House and make officers of the State, particularly the Executive, amenable to Dáil oversight.

As I previously stated, non-voted expenditure represents expenditure which the Oireachtas has declared by law to be paid from the Central Fund without annual reference to the Dáil. These are items that are a permanent charge on the State's revenues. They represent those services that are payable out of the Central Fund - many of them are listed in the amendments tabled by Deputy Fleming - by the continuing authority of statute law. We debate them when we pass laws here that this is an ongoing charge that should be paid from the Central Fund. Therefore, they are not subject to the normal annual voted expenditure-type process.

The Central Fund activity is regularly reported. It is in the public domain through the monthly Exchequer statements that the Department of Finance and my Department publish.

3 July 2013

In addition, the Department of Finance publishes detailed annual accounts of the Central Fund for the previous year, known as the financial accounts. As I explained in some detail to the committee, these accounts contain detailed analysis and classification of receipts and issues of the Central Fund, as well as details of the national debt. In the presentation of the Exchequer figures for this period published this week - I do not know whether Deputy Fleming had a look at them - we disaggregated out the debt servicing elements of it, which was a suggestion of the Deputy, so that it is much clearer.

They must be laid before the Dáil not later than 30 September each year. As discussed on Committee Stage, debt servicing requirements are encompassed in the budgetary arithmetic and are shown in the annual budgetary papers on the presentation of the budget every year. The Bill before us does not deal with debt service or any other Central Fund charge. Consequently, the Bill does not propose any change to the long-standing practice with regard to such non-voted expenditure. Such practices are in accordance with the Constitution and, as I stated on Committee Stage, changing them in the way Deputy Fleming suggests would primarily be a matter for the Minister for Finance rather than for me. I am speaking about treating the annual expenditure voted Estimates in the way I am describing. I understand the transparency issues the Deputy has raised and they are something we can work on.

Even in terms of the Estimates process, we can do much better. The Deputy is right in this regard and I hope we can do this proactively. We will have an opportunity this year as the budget will be in October and all the Estimates must be debated and passed between October and December. Before any euro is expended next year it will have been debated, rather than doing it afterwards, which has been the practice for as long as I am here. This is an innovation in and of itself. This is an evolution rather than a revolution and Deputies will embrace this detailed analysis. I hope more resources will be available to the committee system, particularly if we move to a unicameral House, so we have not only ongoing analysis of expenditure in advance of the money being expended, but also a look at options for expenditure so we will have a real Estimates debate.

Deputy Sean Fleming: The Minister stated the various items I have mentioned in amendments Nos. 1 to 13 are matters which the Oireachtas has decided by law are to be paid. If the Oireachtas can decide by law that they should be paid, the Oireachtas can equally decide by law to remove them from the arrangement they are in and make them voted expenditure. We will return to this issue.

Thank God for Europe and the six pack because they are forcing us to do something which is right. It is an indictment of the Oireachtas and all of us that if we were left to our own devices, we would happily speak about next year's spending next summer when half the year had gone. Europe has brought financial discipline to how we do our business and forced us to consider these matters before the money is spent. The European Parliament has rules whereby if the budget is not passed by the end of January, one twelfth will roll forward until the budget has passed. We have arrangements in place whereby we cannot go over 80% of the previous year's budget and on occasion we had to rush measures through. It had to be done with regard to the Department of Public Expenditure and Reform this year.

Deputy Brendan Howlin: Correct.

Deputy Sean Fleming: One reason we had to bring it forward was for the shared services programme because the budget figure last year was not big enough and we could not spend too

much this year. The system is up and running and I hope it is working well. Thank God for Europe, and perhaps Europe might tell us to do this by way of voted expenditure at a future date.

Amendment, by leave, withdrawn.

Amendment No. 2 not moved.

Deputy Sean Fleming: I move amendment No. 3:

In page 3, line 23, after “approval” to insert the following:

“and includes payments to PSE Kinsale Energy Limited”.

Question put and declared lost.

Amendments Nos. 4 to 13, inclusive, not moved.

An Leas-Cheann Comhairle: Amendment No. 14 arises out of committee proceedings. Amendments Nos. 14 and 17 are related and may be discussed together.

Deputy Mary Lou McDonald: I move amendment No. 14:

In page 4, line 1, after “Government” to insert “, to include all cabinet members”.

We discussed this matter at Cabinet-----

Deputy Brendan Howlin: A future promise.

Deputy Mary Lou McDonald: I am getting ahead of myself. That was quite a Freudian slip.

Deputy Noel Grealish: A left-wing government.

Deputy Mary Lou McDonald: We discussed this matter on Committee Stage and I proposed two amendments to clarify that where the legislation states, “Each financial year the Government”, this should include all Cabinet members. I made the point that significant criticism has been made within the Cabinet because of what is perceived by senior Ministers to be their exclusion from key expenditure and budgeting discussions and decisions. I instanced comments made by the Ministers, Deputies Joan Burton and Simon Coveney.

There is certainly a view that the core of power in Cabinet now resides in the hands of the four Ministers on the Economic Management Council. The four men involved in the group have the balance of influence and this excludes others. I have tabled this amendment to make the point yet again that where expenditure ceilings and spending plans are being set out which represent discipline and rigour to be adhered to, it is only right that Cabinet Ministers and the line Ministers should be fully involved at every stage of the decision-making process. To ensure this is the case in reality it would be most helpful to introduce words after “the Government” to clarify that this includes all Cabinet Members.

Deputy Brendan Howlin: As I informed the Deputy on Committee Stage, the Government is defined in the Constitution, which sets out the role and principles under which the Government operates. A decision of Government represents a decision undertaken by the Government acting collectively, inclusive of all members of the Government. The word “Government” in the Bill automatically constitutionally and legally encompasses all members of the Govern-

ment.

Deputy Mary Lou McDonald: That being the case and given this clarification - of course, I know the constitutional definition of the Government - this definition should be borne in mind when budgetary decisions are being made and when expenditure plans and binding plans are being set out. The inclusivity of the definition cited by the Minister should be recalled and honoured.

Deputy Brendan Howlin: I do not think I will breach Cabinet confidentiality if I state every decision on a budget, including the two most recent budgets in which we have been involved, was individually and then collectively agreed by every individual member of the Government.

Amendment, by leave, withdrawn.

An Leas-Cheann Comhairle: Amendments Nos. 15, 18, 20 and 22 are related and may be discussed together.

Deputy Mary Lou McDonald: I move amendment No. 15:

In page 4, line 7, after “year” to insert the following:

“with due regard of the State’s equality and human rights obligations”.

It was a very positive move that the programme for Government stated explicitly that decisions of public bodies would be taken with due regard to the State’s equality and human rights obligations. This was a very important statement of political principle and political intent. If this is to mean anything, the same equality and human rights obligations need to be hardwired into the entirety of the budgetary process and decisions on expenditure ceilings. It is for this reason I have again tabled these amendments.

If the Government is serious, as it should be about honouring the State’s equality and human rights obligations, then those very obligations must be knitted as a constituent part into the budgetary process, step by step. It should not simply be an add-on or a secondary consideration, or perhaps in some instances not a consideration at all.

Deputy Brendan Howlin: The policy issues raised in the amendments, as I said on Committee Stage, are different from the subject matter of the Bill. We had a disagreement on the matter. This Bill is ultimately concerned with the technical rules for setting limits on expenditure. The fact that I used the word “technical” on Committee Stage caused some ire with the Deputy opposite but that is the fact of the matter. Therefore, the proposed amendments are not appropriate for inclusion in this legislation.

However, considerations of equality, and a range of other issues, form an important component of all budgetary discussions by Cabinet. Cabinet procedures require that proposals put to Government indicate clearly whether there is any impact of the proposal on, among other things, gender equality, persons experiencing or at risk of poverty, persons at risk of social exclusion and people with disabilities. Those considerations are taken into account when Government decisions are being made on any issue, and certainly in regard to budgetary matters.

Deputy Mary Lou McDonald: The Private Members’ Bill that will continue to be debated this evening is concerned with amendments to the Equal Status Acts and the matter of equality budgeting. The Government is opposing the legislation. It cites the Bill’s imperfections, which

could be remedied on Committee Stage, but the truth is that despite commitments and rhetoric on equality and human rights obligations, there is a fundamental resistance from Government - perhaps even from the permanent government - to hardwiring those considerations into the technical, procedural elements that are necessary to bring forward a budgetary proposition.

The disagreement we had on Committee Stage was not so much about the Minister's use of the term "technical", because I accept that this is technical legislation. He might recall that the difference of opinion was based on the Minister saying that equality and human rights considerations were, by definition, subjective. I challenged him on that. I do not believe they are. In any event, I am disappointed that the Minister will not accept the amendments. They would not in any way scupper or compromise the type of system which I support for multi-annual budgeting, proper planning and discipline. All of those matters are very welcome. The Bill is a step forward but it is a huge disappointment that the Minister will not take another logical step and fulfil the commitment to equality and human rights and write it into the technical process by which decisions on spending are made.

Although this is a technical Bill, we must be conscious at every turn that technical processes such as this have real, lived consequences and outcomes for citizens. The reason we set budgets and make decisions on expenditure is bound up with our view of what society needs, what the service needs are or where different categories of citizen and groups within society are and what they need. That is the very process in which we are involved. For that reason, by right the Minister should not alone accept the amendments but I would have thought it would have been something he would have considered at the start of the process when the legislation was being drafted. I am disappointed he has not changed his position. Soft language and in some cases lip-service on equality considerations will not cut it in the long term. At some stage the Government or a subsequent government will have to take the plunge and write into law budgetary processes, expenditure ceilings, decisions, frameworks and equality considerations to make them real.

Amendment put and declared lost.

An Leas-Cheann Comhairle: Amendments Nos. 16 and 21 are related and may be discussed together by agreement.

Deputy Mary Lou McDonald: I move amendment No. 16:

In page 4, lines 23 and 24, to delete "as soon as may be" and substitute "immediately".

The Minister will be familiar with the amendment because we discussed it on Committee Stage. As he is aware, the amendment seeks to replace the term "as soon as may be" with the word "immediately". When we discussed the issue on Committee Stage, the Minister said by way of explanation that "as soon as may be" was a more appropriate and standard turn of phrase and that it gave flexibility in the event that, for instance, a decision is taken and the Dáil is not sitting. However, if one goes back to the process that is envisaged, it would be most unusual and irregular for the Dáil not to be in session when these types of decisions are taken. In the event, "immediately" captures not only the immediacy of the need to communicate the consideration to the Dáil but it also has sufficient flexibility if it were to happen that the Dáil was not sitting that the Government would avail of the first immediate opportunity to communicate the decision to the Dáil.

The reason I have tabled the amendment again, having discussed it unsuccessfully on Com-

mittee Stage, is that the new legislative framework should not allow not just this Administration but any future Administration a flexibility that could by accident or design result in slippage and important decisions not being reported to the House with all due urgency and immediacy.

Deputy Brendan Howlin: This is a technical debate about what is practical in the circumstances. I argued on Committee Stage and I still argue that the form of words, “as soon as may be” is more appropriate as there might be circumstances where the Dáil might not be sitting for any period for a decision to be laid immediately before the Dáil. The normal phrase “as soon as may be” is understood to be an imperative to do it quickly. If the Dáil was in session it would be done as soon as practicable to lay it but one could ask whether the term “immediate” means that day or the next day. “As soon as may be” means as soon as is practicable to do so. The normal way in which that is stated in legislation is “as soon as may be”. There is no intention to have any delay in that regard but that is the normal parliamentary phrase which means with great expedition.

Deputy Mary Lou McDonald: Just to clarify then, “as soon as may be” is terminology that means, in effect, immediately and without any delay.

Deputy Brendan Howlin: As soon as may be.

Deputy Mary Lou McDonald: That is as clear as mud.

Amendment, by leave, withdrawn.

Amendment No. 17 not moved.

Deputy Mary Lou McDonald: I move amendment No. 18:

In page 4, line 34, after “concerned” to insert the following:

“with due regard of the State’s equality and human rights obligations”.

Amendment put and declared lost.

An Leas-Cheann Comhairle: Amendments Nos. 19 and 23 are related and may be discussed together by agreement.

Deputy Sean Fleming: I move amendment No. 19:

In page 4, line 34, after “concerned.” to insert the following:

“The Ministerial expenditure ceiling shall be set out by way of regulation on or before 15 September 2013.”.

The main section in the legislation relates to Government and ministerial expenditure ceilings, a matter that we discussed on Committee Stage. I wish to firm up the significance of ministerial expenditure ceilings. I suspect that the Minister would be happy with the general approach, although he might not agree with my exact mechanism.

Last year’s expenditure ceilings were breached by the Departments of Social Protection and Health. The Minister might claim that the Government has matters under better control this year, but my perspective is based on the largest Supplementary Estimates process in the history of the State, amounting to more than €1 billion, because the Department of Health sought

hundreds of millions of euro in December after failing to control its expenditure. Its Estimates were not valid to start with. This was stated at the outset and proved to be the case. In terms of the Department of Social Protection, requirements in demand-led schemes can change. That Department also returned to the Dáil for additional money. The outcome was that expenditure ceilings for the following year needed to be rejigged, so much so that the members of the troika whom I met last year expressed concern regarding the excessive expenditure by these two Departments in particular. The troika wanted to meet the Ministers in question during some recent visits to discuss why they were not in control of their Departments' spending. Several times during the past 12 months, I told the Minister present that the Minister for Health was not listening to him, the Taoiseach or anyone on the issue of expenditure. It took being hauled in by the IMF. I welcomed Europe's intervention. Perhaps the IMF did some good work in this regard as well.

The Minister for Health claimed that various legislation would reduce expenditure as the year passed, citing two examples. They are the reason behind this amendment. The first legislation was to deal with recouping money from private insurers, some of which has been done. The second was to get a better deal from the pharmaceutical companies on the products they supply in Ireland. It might come as a surprise to the Minister but when the Committee of Public Accounts recently asked the most senior officials at the Department of Health and the HSE, bodies that spend hundreds of millions of euro of taxpayers' money with the companies that supply these products, to explain what happened when they sat down opposite those companies and asked for price reductions, we were told that they had never sat down to have that conversation with the companies. They told us that they met a representative body of the companies concerned and did not deal with them on a one-to-one basis. It would be as if the Government tried to negotiate with the Irish Banking Federation, IBF, instead of the major banks that the IBF represents. This came as a shock and made it immediately clear why we were not making progress, that being, we were not even having face-to-face discussions with the companies.

I will make a suggestion about the cost of medicines, a matter on which I tabled a parliamentary question this week. It is germane to this Bill, as the largest expenditure ceiling is at the Department of Health, where one of the largest costs is the purchase of drugs. We will find out how we stand in the ESRI's international comparison. We should approach the country that is getting the best deal, be that England, France or the Netherlands, and ask it to buy our medicines for us at the price for which it gets its own and to sell them to us at a mark-up of 5%. The cost to us would be a fraction of our current outlay. Other countries seem to be able to get a better deal.

This is the background to the overspend and the need for the expenditure ceilings. I am asking that the latter be set by way of regulation, as there is no sight of an expenditure ceiling in this Bill. The section refers to Government and ministerial expenditure ceilings for this and the coming three years, yet the legislation contains no figures. The Minister might claim that including them in a Schedule would require us to change them each year, but we deal with the finance Bill, the social welfare Bill and appropriation accounts every year. A similar mechanism could be used in this case, thereby strengthening the Minister's hand in his dealings with other Ministers who might not be keeping within their expenditure ceilings. He could tell them that their ceilings were not just something agreed at the Cabinet table, but were on a statutory footing. The Minister will tell me that the figures are printed in some other document, but there is no sight of them in this legislation, the essence of which relates to expenditure ceilings.

Amendment No. 23 on the same issue would set out statutorily those items that are cur-

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rent expenditure and those that are capital expenditure. The Minister will recall the confusion between how Departments interpret current and capital expenditure. He announced a stimulus package recently. Some of that money will go to filling potholes and repairing roads, which I consider to be current expenditure as routine maintenance. However, someone else might view it as capital expenditure because the tar will be there for the next ten years. I do not know which it is.

Deputy Brendan Howlin: I hope it will survive ten years.

Deputy Sean Fleming: Depending on the winters. I have seen crossovers between capital and current expenditure, which is not meant to happen. Even where there is no crossover within a Department, what it considers capital might be considered current by another Department. This issue must be examined.

From an overall public expenditure and policy point of view, the Department of Public Expenditure and Reform should produce a schedule or other document, backed up by way of regulation, that sets out for each Department what is meant by capital and current expenditure in order that Departments might not move from one to the other. It is easy to see how, depending on need and where the budget is flush, something could be considered capital expenditure today and current expenditure next month. We want to know where we are going. The definition should be set out by way of regulation so that, as opposed to just ourselves, everyone in the country and those who are carrying out international comparisons can know what is capital and what is current. Perhaps it was not intended, but the impression is that last year's stimulus package was new capital investment for infrastructural projects, schools and roads. Lo and behold, some of it was current expenditure. For example, I do not know whether the retrofitting of local authority housing is considered capital or current expenditure. Perhaps the finance officers of various local authorities have different opinions on the issue. It is important that there be uniformity so that everyone can know how to compare.

I picked the date of 15 September because it was one month before the annual budget or thereabouts, providing time to examine the ministerial expenditure ceilings and the amounts of capital and current expenditure. As with the appropriation accounts at the end of the year, if the ceilings must be changed, so be it, but it should be done on the floor of the House by way of regulation and legislation.

Deputy Brendan Howlin: We have discussed this matter. A subset of issues are involved. As the House is aware, from this year on, the budget announcement on the expenditure and the taxation sides will take place on 15 October each year. This forms part of the new European semester to which we have all agreed. We will not have a two-phased budget, that is, where the Estimates will be published in advance. When I saw the Deputy's amendments, I wondered whether he had made a mistake in wanting the Estimates ceilings debated a month before the budget. Things change in that month-----

Deputy Sean Fleming: Are they not fixed for three years?

Deputy Brendan Howlin: -----in the final determination and so on. It would be odd to set a ceiling by statutory instrument and then alter it a month later. All the budgetary arithmetic happens on the night of the budget. We lay out the fiscal parameters and both the expenditure and taxation sides are done.

With regard to regulation, the multi-annual ceiling expenditure will be set out as part of

the expenditure report, which will be placed before the House alongside the budget. This will happen this year and in every year going forward. It is not proposed to set ceilings through the use of a statutory instrument for the reasons I have just outlined. The departmental expenditure ceilings are decided by the Government and will be laid before the House and published, as is normal. Reconciliation tables will also be published alongside any revision of the ceilings to show details of any and all changes.

In discussing the previous amendment, I have already referred to the new approach to whole-of-year budgeting, which we have tried to bring in. This will facilitate a much greater *ex-ante* discussion of expenditure, including all the matters the Deputy is talking about. Regularly examining expenditure ceilings and how we are going can all be encompassed in the committee system working more effectively. That is something we will see in future.

The approach we are proposing in this legislation is analogous to that used for capital ceilings, which has been shown to work successfully. The multi-annual capital ceilings have been in place for a number of years. They do not require the use of regulations to set ceilings. In essence, it is a balance between proper oversight and transparency and practical administrative purposes. That is what we aim to achieve with our proposals. In that regard, therefore, I do not think that Deputy Fleming's proposals are practical or helpful, although I understand entirely what he is seeking to achieve.

The Deputy referred to the overspend last year. If one thinks of Ireland Inc. providing services for 5 million people on a 24-hour demand-led basis, the growth outturn was 0.2% last year. Therefore, the excess spend was 0.2% or one fifth of 1%. That puts it into some context.

Deputy Sean Fleming: I am not sure of the percentages. Taxation probably came in in terms of the overall output.

Deputy Brendan Howlin: Yes. PRSI was part of the net figures.

Deputy Sean Fleming: On the expenditure side, there was €1 billion but we will not go there again. The Minister might clarify one small item. He said that the expenditure ceiling will be laid before the House, but can he explain what he means by that? If something is laid before the House, is it just put in the Oireachtas Library?

Deputy Brendan Howlin: It is part of the budgetary documentation which is given on the day of the budget, as is normal.

Deputy Sean Fleming: So it is just part of the documentation.

Deputy Brendan Howlin: Yes.

Deputy Sean Fleming: When the Minister said it was laid before the House, I thought we could see everything.

Deputy Brendan Howlin: It is given to every Deputy as the budgetary process is unfolding, so they can have a comprehensive view of it.

Acting Chairman (Deputy Paudie Coffey): Is the amendment being pressed?

Deputy Sean Fleming: No.

Amendment, by leave, withdrawn.

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Acting Chairman (Deputy Paudie Coffey): Amendment No. 20 has already been discussed with amendment No. 15.

Deputy Mary Lou McDonald: I move amendment No. 20:

In page 4, line 42, after “concerned” to insert the following:

“with due regard of the State’s equality and human rights obligations”.

Amendment put and declared lost.

Amendment No. 21 not moved.

Acting Chairman (Deputy Paudie Coffey): Amendment No. 22 has already been discussed with amendment No. 15.

Deputy Mary Lou McDonald: I move amendment No. 22:

In page 5, between lines 12 and 13, to insert the following:

“(c) the State’s equality and human rights obligations.”.

Amendment put and declared lost.

Acting Chairman (Deputy Paudie Coffey): Amendment No. 23 has already been discussed with amendment No. 19.

Deputy Sean Fleming: I move amendment No. 23:

In page 5, between lines 12 and 13, to insert the following:

“(11) The Minister shall set out by way of regulation those items that are current expenditure and those that are capital expenditure under the Ministerial expenditure ceilings on or before 15 September 2013.”.

Amendment put and declared lost.

Deputy Sean Fleming: I move amendment No. 24:

In page 5, between lines 12 and 13, to insert the following:

“(11) Any Government stimulus package or infrastructure programme that involves current or capital expenditure shall be set out by way of regulations by the Minister.”.

We had a brief discussion on this topic on Committee Stage. This amendment states that “Any Government stimulus package or infrastructure programme that involves current or capital expenditure shall be set out by way of regulations by the Minister”. The Minister will probably say that it is not helpful and will tie his hands. We regularly have announcements of capital expenditure and that we might have a reduction in capital expenditure, yet the following month we see a press release on a stimulus package of €150 million. People think it is new money, while it is part of the capital expenditure. I know the Minister would say the last €150 million was new, but----

Deputy Brendan Howlin: It was new.

Deputy Sean Fleming: It was new money but less money is being spent on capital expenditure purposes compared to the previous year. In the way these things come out, however, one often thinks otherwise. The Minister may make a big cut in capital expenditure of €600 million or €700 million and then he announces an extra €100 million in March and another €100 million in July. People then say that he is great to spend an additional €200 million but he is actually spending €500 million less than last year. The amendment seeks to provide an overall framework for that in the interests of transparency if there is a stimulus package or infrastructural programme that involves current or capital expenditure.

We did not get a full reply to the current versus capital expenditure issue, so perhaps the Minister can spell out the differences between those two areas. He might give some thought to how best that could be done because people are confused. I still do not know about the retrofit scheme in local authorities, including how different finance officers will record it in their local authority accounts, or will they all do the same thing? It would be useful if we knew whether these retrofit schemes will be considered as maintenance or refurbishment. I am not quite sure.

As regards that issue, stimulus packages should be done by way of regulation. Sometimes we get the public relations announcement but it could be three years later before anything happens. Some of the projects that were intended to be covered by the stimulus package might never happen. The amendment might be one way of ensuring that whatever is announced has a legal standing. It might force some of them to happen sooner rather than falling by the wayside.

Deputy Brendan Howlin: We discussed this matter on Committee Stage. The Bill is ultimately concerned with the technical rules for setting multi-annual limits on expenditure. It is a short and discrete Bill in that regard. I do not propose that sub-components of expenditure should be set out by way of regulation within these departmental ceilings. I understand why Deputy Fleming would make a point concerning capital expenditure.

The €150 million I announced was an allocation of €50 million to three different Government Departments. Obviously, that has to be accounted for and voted upon in the normal way. Assuming that they spend everything that has already been voted, there will be an additional €50 million to be dealt with by way of supplementary Estimate. That is the way it will happen. If they make substantial savings, it might not be required, but on the capital side I do not want them to make savings in those areas. We have tried to strike a balance between what is affordable in terms of capital expenditure and maintaining as much State expenditure to a depressed sector of the economy. I wish we could spend more and hopefully through our interaction with the European Investment Bank and other lending agencies we will be able to get more available capital in construction and other sides of the economy including, for example, money for the SME sector.

I am not quite sure whether the Deputy is serious about this or is making a point. However, I do not think it is appropriate to the technical Bill before us.

Deputy Sean Fleming: The Minister might be able to help me as this is the third time I have asked this question. If he does not have the answer, perhaps he can send it on. We are talking about current versus capital expenditure concerning the amendment. The recent stimulus package was very current when we discussed it on Committee Stage because the Minister had just announced it. Does the Minister or the Department know how much of that €150 million is current expenditure versus capital expenditure? I would expect that the part for new schools in the Department of Education and Skills is capital expenditure. That is agreed but I do not

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know if the bit for roads is capital or current expenditure. The Minister might be able to give me a straight reply as to whether it is current or capital expenditure. The other bit was for insulating local authority houses, but is that considered maintenance or refurbishment? Will it be considered in the Department of the Environment, Community and Local Government's Estimates as a current or capital item? I am not quite sure and felt it could be either, so that is why I am asking.

I tabled this amendment because I felt it would be helpful to Opposition spokespersons to know what is capital expenditure and what is current expenditure. As an Opposition spokesperson, I would like to know how these matters are accounted for, whether a supplementary Estimate is being met from current or capital expenditure or whether that is still open for debate. The essence of my previous amendment was this should not be open for debate but should be one or the other.

Deputy Brendan Howlin: I do not have with me the public financial procedures booklet which all good civil servants carry around with them so they can check the rules therein. The Deputy is correct to the extent that there are things intuitively one would think are capital rather than current expenditure and *vice versa*. On the Deputy's specific question in relation to the €150 million, the €50 million to supplement the Department of Education and Skills' schools programme is capital expenditure, the €50 million for house insulation is capital expenditure and the €50 million being allocated to roads is also capital expenditure. They are all capital expenditure.

Amendment, by leave, withdrawn.

Amendment No. 25 not moved.

Deputy Sean Fleming: I move amendment No. 26:

In page 5, line 28, to delete "endorse" and substitute "give its opinion".

We had an extensive debate on this issue on Committee Stage. The Bill provides that the fiscal council shall endorse as it considers appropriate the macro-economic forecast prepared. Despite that we had a lengthy debate on this issue, none of us was convinced and we are all reasonable people.

Deputy Brendan Howlin: I sought clarification on the matter.

Deputy Sean Fleming: Fine. If that is the legal Parliamentary Counsel's opinion, then the Minister should send him or her on a English course. What is provided for in the Bill is not plain English. We are all competent people but none of us can accept that "endorse" means "endorse or not endorse". I know that the Supreme Court often attaches a negative to an interpretation and that such can go either way.

To remove doubt, the amendment seeks the substitution of the word "endorse" with "give its opinion" so that the Bill will read that the fiscal council shall give its opinion as it considers appropriate. The council can then give a positive or negative endorsement, refuse to endorse or give its qualified or, as the case may be, glowing opinion as it considers appropriate. The use of the word "endorse" was unacceptable to us on Committee Stage. While I accept that the Minister has clarified the matter, I do not accept the plain English version of what we are being told.

Deputy Brendan Howlin: I am almost afraid to read out the legal response I was given in

relation to this issue. Apparently, one cannot in law ask people to not do something. The word “endorse” encompasses both. It will allow the fiscal council the binary option of endorsing or choosing not to endorse as it considers appropriate. The binary option is encompassed in the word “endorse”. It is understood, legal and normal. There is no mandatory requirement on the council to endorse. It will have the power to endorse or not endorse. I did have the matter clarified. While in plain English it might sound the appropriate question to ask, I can assure the Deputy that this is how legislation of this type is crafted.

Deputy Sean Fleming: From what document was the Minister reading?

Deputy Brendan Howlin: It is the response to my further inquiries of the advisory counsel from the Office of the Attorney General.

Deputy Sean Fleming: I bow to his or her superior knowledge of the English language.

Acting Chairman (Deputy Paudie Coffey): Is the amendment being pressed?

Deputy Sean Fleming: Yes, in the interests of clarity.

Question, “That the words proposed to be deleted stand”, put and declared carried.

Amendment declared lost.

Deputy Sean Fleming: I move amendment No. 27:

In page 5, between lines 38 and 39, to insert the following:

“(d) the Minister shall, by way of regulation, provide on an annual basis, a detailed reconciliation between the macro-economic forecast and the official forecast.”.”.

Again, this issue was discussed at length on Committee Stage, at which time I indicated my intention to table it again on Report Stage. The intention is not to change the wording in the legislation. The Minister will recall that all of those present during the Committee Stage debate were confused by the provision that the fiscal council shall endorse as it considers appropriate the macro-economic forecast prepared by the Department of Finance and shall then provide an assessment of the official forecast. This means there will be two different documents. While one or two people may have grasped the essence of what the Minister was saying, I am not sure others did. It would be helpful if legislation is understandable to the ordinary lay person. I would be surprised if there are 50 people in Ireland who could tell the difference between the two documents concerned.

Rather than tamper with the wording of the Bill, which I am sure is in place for good reason, the amendment seeks that the Minister shall provide by way of regulation, memorandum or information to the House, on an annual basis, a detailed reconciliation between the macro-economic forecast and the official forecast. What is proposed in the amendment would not tamper with either of the definitions as set out in the legislation but would help the public to understand the difference between the two documents and to reconcile one with the other.

Deputy Mary Lou McDonald: The Minister might, when replying to the amendment, spell out in plain English the difference or similarities between the macroeconomic forecast and the official forecast.

Deputy Brendan Howlin: On the amendment, the Deputy’s suggestion relates to the possi-

bility that the fiscal council could endorse a set of forecasts in advance of a budget and that last minute budgetary measures, involving contraction-stimulation of the economy or on the price side, would have to be taken into consideration in the final forecast. However, existing procedures under the agreed two pack will allow the reconciliation to be made without any difficulty.

Member states are already obliged under regulation 473 on budgetary plans to state the underlying assumptions, the methodology and economic models which drive the forecast underlying the budget. Specifically, each member state is obliged to show the main assumptions of the independent macro-economic forecasts and important economic developments which are relevant to the achieving of the stated budgetary targets.

An annex containing the methodology, the economic models and assumptions and other relevant parameters underpinning the budgetary forecasts and the estimated impact of aggregated budgetary measures on economic growth must also be provided in the documentation. This allows for comparisons to be made between the endorsed and final macro-economic forecasts given that the type of stimulation or contraction about which I spoke would have to be set out in the assumption of both forecasts. The annex on forecast methodology and models would set out how stimulus or contraction impacts on growth for the working of a fiscal multiplier. A departmental working paper on forecasting methodology is being prepared and will explain how this is calculated.

Deputy Sean Fleming: It would be helpful if the Minister could circulate that note to Members tomorrow. The Minister stated earlier that a reconciliation can be done.

Deputy Brendan Howlin: Yes.

Deputy Sean Fleming: Will it be done and, if so, where will it be done? Will it be done this year or will it be next year or the following year before it is done?

Deputy Brendan Howlin: Once the budgetary documentation has been presented on budget day the reconciliation must be done.

Deputy Sean Fleming: How long after budget day will it be done?

Deputy Brendan Howlin: It will be done on budget day.

Deputy Sean Fleming: Will it be contained in the budget documentation?

Deputy Brendan Howlin: Yes.

Amendment, by leave, withdrawn.

Bill received for final consideration.

Question proposed: "That the Bill do now pass."

Minister for Public Expenditure and Reform (Deputy Brendan Howlin): Although this is discrete, short legislation covering the area of multi-annual budgeting, it is important to put it to bed before we embark on the early budget. For this reason, it must be enacted this side of the parliamentary break. I thank the Deputies opposite for facilitating this requirement and giving robust and good consideration to the measures in the Bill. I look forward to an ever improving budgetary process as a result of what Deputy Sean Fleming described as impositions from afar, albeit impositions which are encouraging and helping us to have a more transparent budgetary

cycle and *ex ante* budgetary process.

Question put and agreed to.

Taxi Regulation Bill 2012 [Seanad]: Second Stage (Resumed)

Question again proposed: “That the Bill be now read a Second Time.”

7 o'clock **Deputy James Bannon:** I welcome the Minister of State at the Department of Transport, Tourism and Sport, Deputy Alan Kelly, to the House and acknowledge his hands-on approach to the transport portfolio. He is doing good work on the taxi industry. For example, he met all the key stakeholders and chaired a review group established early this year to examine ways to improve legislation on the taxi industry.

I have the greatest respect for the vital job that is done by taxi service operators as I see it at first hand every day in my Longford-Westmeath constituency and Dublin city. Taxi men and, more recently, taxi women have served their communities for generations. The sector makes an essential contribution to urban life and has helped rural areas move from isolation to connection.

Front-line workers such as taxi drivers must be protected. Taxi drivers are akin to emergency response personnel in that they work irregular hours, away from their families, with no set or guaranteed income at the end of their long working day. They must often wait for long periods in taxi ranks before being called into service. In performing their role, they provide a service to people when it is needed. The burden and sacrifice attached to their job adds a certain amount of hardship and stress.

In the past ten years, taxi drivers have been squeezed by improper and excessive regulation which has been imposed from the top down. Licensed taxi service owners are being threatened daily by illegal operators because enforcement has failed. It is now proposed to remove the right of taxi operators to pass on their businesses to their children. I am concerned about the adverse effects this proposal will have on established licensed taxi service operators. Deregulation in other areas is also destroying the taxi service business.

The enforcement of small public service vehicle rules, which is undertaken by the Garda Síochána and National Roads Authority compliance officers, is not working owing to the excessive amount of cross-compliance. The taxi sector is a good example of an industry that has been over-regulated. Before the Minister of State assumed responsibility for the taxi sector, the voice of the ordinary taxi driver working at the coal face of the business had been seldom, if ever, heard. Taxi drivers deliver the service on the ground and listen to users' views on where services could be improved.

In the past decade, far too many changes and demands have come from the top down. Licensed taxi service owners are finding it more difficult by the day to juggle the demands of work, legislation, deregulation and family life. Taxi operators who started operating prior to deregulation and have built successful businesses through hard work, often to the detriment of their health, have fallen victim to the actions of illegal operators. The problem is not small public service vehicle requirements but the fact that illegal operators are falling through the cracks in terms of enforcement.

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I understand the Commission on Taxi Regulation was established for the purposes of bettering society, improving the security of taxi operators and the general public and delivering a better licensed taxi service. It is heart-breaking that hardworking taxi operators who work long hours as they seek to provide for their families in a difficult and competitive sector are falling victim to legislation which could victimise them and their families by removing the right to pass on their business, except in the event of death of a licence holder. I ask the Minister of State to provide greater clarity on this issue and the provisions of section 2. This proposal runs counter to competitive norms and will act as a major disincentive to enterprise. No one in his or her right mind could condone such a rule. By virtue of their self-employed status, taxi drivers lack certain entitlements. For this reason, we must ensure that, in common with farmers and the owners of land, shops and other businesses, the owners of taxi businesses are allowed to pass on to their children the business they have built up. The current draconian provision should be removed from the Bill to allow taxi drivers to operate in a manner similar to other businesses.

This Bill is the most forward-looking and comprehensive legislation on the taxi sector since the foundation of the State. It replaces a 2003 Act which was written in great haste following a court case and corrects many of the mistakes Fianna Fáil-led Governments made. The current legislation fails to protect consumers and taxi drivers. This Bill will bring to an end the practice of turning a blind eye to taxi regulation and allowing irregularities to continue unchecked. Its main provisions include mandatory disqualification from holding a licence on conviction for certain offences. This provision will be implemented through an amendment to section 36 of the 2003 Act.

The Bill provides for suspension or revocation of a licence or refusal of a licence application, having regard to the suitability of a person to hold a licence, based on, among other considerations, convictions for relevant offences or breaches of taxi regulations. It will remove certain categories of criminals from the taxi sector. When the Garda refuses to grant a person a taxi licence, he or she is able to win on appeal because of the flaws in the old legislation. I am delighted this section is being changed in the interest of public safety.

Taxi drivers should not be allowed to stop suddenly on a main thoroughfare on a busy evening to collect passengers. I have often had near misses as a result of such behaviour and have received many other complaints on the issue. This is a practice that should come to an end and should be liable to a very severe penalty. I hope we will see the use of cameras, CCTV and other apparatus for the enforcement of laws and for this evidence to be used in court proceedings. I was alarmed when I heard of a recent report which pointed out that one in three taxi drivers had experienced threatening abuse and violence against them in the past five years. This is shocking and to prevent this type of behaviour we need enforcement of the law regarding security by way of CCTV cameras and other apparatus.

The often hidden but nonetheless increasingly important service and supports some taxi drivers provide to people with disabilities must be acknowledged. I would fully support extending the excise duty rebate that was given to private bus operators and goods vehicles in last year's budget. This is something that should be considered. Perhaps the Minister of State might bring it to the notice of his colleagues, the Ministers Deputies Noonan and Howlin. It would be very welcome if it were implemented in the forthcoming budget.

Over the years I have worked with many different groups and organisations in my constituency of Longford-Westmeath in an effort to bring about improvements in the day-to-day lives of ordinary families and businesspeople, who have seen their livelihoods destroyed by the re-

cession. I have also worked closely with the Government to improve their circumstances. I meet groups of taxi drivers once or twice a year and they always express their concerns. They are very reasonable people who carry a vast amount of knowledge. They have their fingers on the pulse and provide an insight on how the country is going, the views of the people, etc. We would not need all the opinion polls we see in the media if we listened more frequently to the concerns and issues taxi drivers raise with public representatives.

I welcome that the Bill will give powers to the licensing authority to suspend or revoke a licence for non-compliance with the law. An area that needs to be addressed and cracked down on is taxi operators who hire undocumented immigrants and pay them a pittance. Only a very small minority carry on in this fashion but it is unfair to the legal operators who run their business within the law. As we know, every year thousands of people enter our country legally and another few thousand people come without authorisation or overstay their legal visas. It is rumoured that some of those are employed in the taxi trade. Companies or individuals who hire undocumented workers in this area or any other area are just as guilty of breaking the law as the people they hire and I understand the Bill addresses this ongoing issue.

Customer safety must be a top priority and we must ensure that adequate background checks are done on all would-be drivers and licence holders be they Irish or non-Irish. If this necessitates contacting foreign embassies for further clearance, then so be it. All passengers must be assured that they are travelling with trustworthy individuals. It is important that we require all companies in the taxi business and elsewhere to be in compliance with the law, as we need to hold everyone accountable.

While the Government is ensuring new employment eligibility verifications are being put in place, not alone for taxi companies but for all companies, the odd one still slips through the net. We have made it mandatory for employers to verify that their employees are legally eligible to work in the State. We all know and recognise that the taxi service in Ireland is extremely important to the economic profile of many of our towns with foreign investment, particularly those that do not have a rail service. Taxis provide an essential countrywide service and it is important that it is maintained, enhanced and upgraded.

The rural transport project has proved to be a wonderful success story and has given rural people a wider choice in addressing social exclusion in rural areas and providing a door-to-door service to the most vulnerable in our society. I welcome the provisions in the Bill relating to the rural hackney service, which will give rural people a wider choice. In recognition of the lower levels of access to taxi or hackney services in rural areas, this is very welcome. Many people in rural areas are isolated in their homes. It will provide support to small rural pubs and other businesses. I hope it will enhance the lives of many people in such areas.

Deputy Maureen O'Sullivan: I wish to share my time with Deputy Mattie McGrath.

Acting Chairman (Deputy Paudie Coffey): Is that agreed? Agreed.

Deputy Maureen O'Sullivan: Tá a fhios againn go bhfuil deacrachtaí agus fadhbanna ag tiománaithe tacsáí, agus tá cuid de na freagraí sa Bhille seo, ach ní dóigh liom go bhfuil na freagraí go léir ann. I have lost count of the number of taxi men and women I have met recently who tell me of the difficulty of making a living from driving a taxi. Some other regulations that have been introduced seem to be making life particularly difficult for them. Nobody objects to regulation provided it is fair and equitable and has the best interests of those it is trying to regu-

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late at heart. I know the objectives of the regulations relate to the quality of taxis and ensuring the safety of taxi passengers. At the time the 2003 Act was introduced, we had a quality service and passengers were generally safe. Back in the 1970s when I probably used a taxi for the first time, I was aware that we were getting a good service. However, that does not mean there were no areas in need of reform or regulation.

One issue of major concern to taxi drivers is oversupply, but that is the one issue the Bill does not address or try to regulate. I come from Dublin Central and I see the queues of taxis all the time waiting for fares. There is visible evidence of oversupply. Only yesterday I had to take a taxi. The man told me that I was the second fare in six hours. We know that the large increase in numbers started in 2000. In 2011, the taxi review group stated that the oversupply was between 13% and 22% but I reckon that is something of an underestimate. It is surprising that the taxi review group did not recommend capping numbers.

No doubt when the downturn came it was easy to get a taxi plate. Taxi drivers whose sole means of income was driving a taxi faced severe competition from double jobbers and the increase in those who found it so easy to get a taxi because it seemed to be the answer to the lack of jobs. Had that been handled more efficiently, we would have had a better industry. I believe that lack of regulation opened the floodgates.

As with most jobs, it is all about exits and entrants, but in the taxi business the numbers are not matching. Far more are entering than exiting and this makes it very difficult for taxi drivers to earn an adequate income. This results in their working longer hours and sometimes working beyond the time they should be working. There are resulting issues relating to health and safety. If they work in excess of the permitted time, they could pose a serious risk to themselves, to passengers and to other road users. Therefore, tackling the number should be the first step.

I wish to draw attention to one particular example. Let us consider the lines of taxis waiting on a fare. That can take several hours, but there are parts of the inner city where these lines are not near public toilets and where it is not possible for the taxi drivers to get to a public toilet, with the unfortunate consequence of nearby lanes and corners being used as urinals. This has caused much annoyance to communities in the inner city, who have had to walk past. It has meant that the local authorities have had to carry out a good deal of power washing in these particular areas as well.

One cannot blame drivers for leaving the engine running for heat in cold weather but it is not economical or environmentally friendly. Coming along Dame Street last Friday night was rather like taking my life in my hands because of the number of taxis double-parked and idle, trying to pick up fares. I know the arguments against the regulating of numbers relating to competition, ensuring an adequate supply, ensuring new entrants, ensuring customers have a good supply and the fact that if the competition is not intense then standards will fall. However, I do not necessarily agree with all of that. The Indecon report noted that attempts to restrict numbers have led to difficulties because regulators were not especially good at estimating the level of supply needed to meet demand. However, that is no reason not to try to regulate the numbers to ensure reasonable competition, an adequate supply of taxis and that taxi drivers can earn a reasonable income and work reasonable hours.

Let us consider other jobs and professions that have incentives to retire. I realise taxi drivers are self-employed but perhaps there is a need for some incentives to encourage retirement in certain areas to bring about some matching between entrants and exits. I do not believe the

industry can take any more new entrants at this point, certainly not in Dublin. However, I support the comments of other Deputies about rural areas because certain rural areas could do with a more comprehensive taxi service. We know about the sadness and loneliness in isolated parts of rural Ireland and the social consequences. I believe there is a role for the taxi industry in that regard.

One implication of the new mandatory disqualifications for the conviction of certain offences is that some current drivers may lose their licences. That is fair enough if it is warranted but I hope there will be a fair system, that there will be an appeals system and that it will not be used as a way to restrict numbers.

In the past, the number of taxis was inadequate to meet demand and finding a taxi at certain hours, on certain nights or on certain occasions was like finding gold-dust in the city. Securing a plate almost required gold-dust as well, such were the costs in those times. I recognise that we have no wish to go back to that, but nor do we want what is happening now, which is an oversupply, long and unhealthy hours and too many drivers seeking too few fares.

There is an issue with wheelchair-accessible taxis, which are badly needed. I believe those taxi drivers do a fantastic job. However, the number of specially-adapted wheelchair-accessible taxis is falling. There are very expensive to buy, adapt and maintain. Everyone agrees with taxis being properly maintained and kept in good condition but I believe the economic downturn is causing severe difficulties for taxi drivers who are trying to replace such vehicles. That should be examined as well.

Another issue has come up recently in Dublin. Taxi drivers who normally work at the rank at the Gresham Hotel are going to be moved because of the Luas works. They are being moved from a prime location that accommodates many on O'Connell Street to an area where there are only a few spaces on a small street off O'Connell Street. This will put additional stress on these men and women who are looking for fares.

Another thing struck me when I was reading the Bill. It is a case of too many chiefs because the National Transport Authority, the Taxi Regulator and the Garda Síochána are all involved. Let us consider one example. The Garda Síochána issues small public services vehicle, SPSV, licences. The NTA administers the test. Then it is back to the Garda to certify that the person is fit and proper. Then the NTA issues the SPSV licence. There seems to be a lack of co-ordination between all of these. Surely, one authority could do all of this.

Before I finish I wish to acknowledge the increasing difficulties for taxi drivers. This has resulted in an increasing number of suicides among taxi drivers. I also wish to acknowledge that they do fantastic charity work. We see this in Dublin on certain occasions and the charitable organisations with which they are involved are grateful. On the downside, they take chances and we have all seen examples of U-turns in the middle of the street and of stopping in the middle of the road to let fares out. We know that there is something of a love-hate relationship between taxi drivers and cyclists. However, if they could operate on the basis of mutual respect and if each of them kept all of the rules of the road, it would be better. I will leave it at that.

Acting Chairman (Deputy Paudie Coffey): Deputy, you are in possession and we have no other speakers offering. Deputy McGrath has spoken previously and so he cannot contribute a second time on this debate. Will you move the adjournment, please?

Deputy Mattie McGrath: I came especially to support my colleague, the Minister of State,

from Tipperary.

Acting Chairman (Deputy Paudie Coffey): Thank you, Deputy McGrath. The record shows you have already spoken on Second Stage.

Debate adjourned.

Equal Status (Amendment) Bill 2013: Second Stage (Resumed) [Private Members]

Question again proposed: “That the Bill be now read a Second Time.”

Acting Chairman (Deputy John Lyons): The next slot is for Members from the Technical Group and I understand Deputy Donnelly proposes to share time.

Deputy Stephen S. Donnelly: I wish to share time with Deputies Joan Collins, Boyd Barrett and Mattie McGrath.

Acting Chairman (Deputy John Lyons): Is that agreed? Agreed.

Deputy Stephen S. Donnelly: I support the Bill before the House, which aims to put equality budgeting on a statutory footing and is a welcome proposal. This means that in preparing Bills relevant to the budget and other operations of public sector bodies, the authority can give advice to those public sector bodies on how they should approach and ensure equality in their operations and planning. It ensures the public bodies will have a strategy to foster equality in their operations and in wider society as a result of what they do. Moreover, it will monitor the outputs to ensure these things actually are happening and that the organisations in question will have, through further training, the capacity to do this. Equality budgeting is a sensible path for Ireland to follow and I suggest this is an opportunity to improve Ireland’s planning and implementation capacity in order that particular groups and marginalised groups in particular are not inadvertently discriminated against in highly important legislation, such as the annual budget process.

The Cabinet handbook states that regulatory impact assessments should be conducted for all significant legislation. As every Member of this House is aware, this does not happen. However, it must happen if Members as legislators are to improve their effectiveness over the coming years, and the inclusion of equality budgeting in that process would be a useful addition. There is no downside to introducing equality budgeting in Ireland and putting it on a statutory footing. It improves transparency and provides useful checks on how public assets are deployed to make sure one group is not inadvertently discriminated against or gaining over another group. It also improves strategic thinking and analysis at a national level, at the official level here in Parliament and at a local level within individual public sector bodies. In short, equality budgeting is a more enlightened and smarter way for officials, politicians and civil society to work.

I encountered equality analysis in the form of gender-proofing in the course of policy work I was undertaking in the United Kingdom. It was the first time I had seen it and it was highly effective, because what we were proposing was put through a gender-proofing process and that forces the mind to start thinking in different ways. When thinking about policies or seeking to deploy public assets, it forces the mind to ensure the inclusion of various groups, be they based

on gender, sexual orientation, religion, income level or whatever. I commend the Bill to the House.

Deputy Joan Collins: This is an important amendment Bill which I support fully. The issue of equality budgeting was raised more than a year and a half ago in respect of its impact on sections of society. It has been seen to operate fairly effectively in places such as Scotland, where it has been in place for a number of years. Consequently, useful legislation in this regard exists in other countries that could be used as a map. Equality budgeting is really important because of the internal devaluation that has taken place on foot of the Government's troika programme. It has meant the driving down of wages and conditions in all areas, particularly for the lower paid and in respect of women and young people. As to whether the impact this is having is known, like others, I am aware of its visual impact and of the stories people tell me. However, neither the actual figures nor how it is affecting people are known, and it is really important that they be known. Obviously, such cuts will increase income inequality and it is a question of how other austerity measures, including cuts to the health services, education, special needs assistants, disability supports and welfare entitlements, as well as the imposition of the universal social charge, are affecting the system. A group of carers representing the Give Carers a Break! campaign today made that particular point. They outlined how they had experienced a devastating cut of approximately 5% when there was an overall cut of 1.2% in the social welfare bill last year and they have called for equality-proofing.

I also wish to make a point about a group of people who are particularly vulnerable, namely, the self-employed, who have been badly hit in the economic collapse, particularly given the lack of access to social supports and so on. A man named Tony Rochford has been outside the gates of Leinster House for the past two days. He had his own business that failed and is not paying the local property tax because he cannot afford to do so. He considers it to be the straw that broke the camel's back. He has been on hunger strike for 17 days and while some Members might suggest leaving him outside for a while as he will give up, this man will not do that. He is absolutely determined to make an issue out of this and every Deputy and backbencher in Leinster House should listen in.

Acting Chairman (Deputy John Lyons): The Deputy's time is up.

Deputy Joan Collins: They should state that because of austerity and what has happened in Ireland, a man has been on hunger strike for 17 days and this should not be ignored. Members should be out there supporting him.

Deputy Richard Boyd Barrett: Briefly, I support this Bill. It is absolutely right to add these other categories for inclusion in the equality legislation to ensure that equality extends to all sectors that need it and that potentially suffer discrimination when it comes to dealing with State agencies or in respect of how public assets are deployed. Consequently, this Bill is welcome.

I wish to give two instances of what matters can lead to when equality is not taken seriously. The first is the case of the aforementioned Tony Rochford, who is outside Leinster House. I had never met the man before but he was a self-employed tiler who, like many self-employed people in the construction sector, has been devastated by the economic crisis. He is trying desperately to pay his mortgage, only to then have the property tax loaded upon him. However, because of the particularly draconian manner in which non-payment is dealt with in the case of the self-employed, as opposed to the PAYE sector, he now cannot work because he has not

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been given a tax clearance certificate. This is really desperate; he is faced with a choice of either paying his mortgage or paying the property tax and has taken what is an extreme form of action. I do not suggest it is the right form of action but it is an action he has decided to take, namely, to go on hunger strike. He has been on hunger strike for 17 days and he appears to be expressing determination to go all the way. I ask the Government to consider the self-employed in this regard because in all sorts of ways they are hit disproportionately by the impact of the crisis, the property tax and so on. I believe that Tony Rochford's case underlines the need to do something urgently about this.

How much longer do I have?

Acting Chairman (Deputy John Lyons): The Deputy has 20 seconds.

Deputy Richard Boyd Barrett: I also might mention briefly just where such desperation might lead. I also just now met a man named Mike Mahon outside Leinster House. He is a pensioner who had an interest-only deal on his mortgage whereby he was paying €150 per month. After that interest-only deal ran out, he suddenly was faced with a bill of €900 per month, which he could not pay.

Acting Chairman (Deputy John Lyons): I am sorry, Deputy, but your time has expired.

Deputy Richard Boyd Barrett: He now is facing jail because he did something rather rash and stupid - that is, he glued together an ATM. I ask the Government to intervene in this regard.

Deputy Mattie McGrath: I also wish to support this Bill because I do not believe there is any regulatory impact assessment of public spending and, as for all the Bills being passed in this Chamber, one is more draconian than the next. I saw when, under the late Brian Lenihan, the Oireachtas introduced a pension levy on everyone from the bottom up. However, it was reversed for the senior civil servants and they got away with it.

I believe there is a cartel in the public service that has its hands on the power and is associated with Ministers. It does not care about the ordinary people. It does not care about Tony Rochford or people like him who are self-employed who pay their taxes. He is now on hunger strike and in a very serious situation because of what I believe, as a self-employed person, is an anomaly in the Bill. A section of the Bill states that he cannot get his C2 certificate because he did not pay his property tax. I paid my property tax. I had no problem with that even though I believe it is unjust but this man did not pay it and now he is being penalised. He is not allowed work. He is self-employed. An 8% rebate is total robbery. It is blackguarding self-employed people. It is twice that of what applies to PAYE people, which I do not agree with either in the way it is taken out of their wages.

I am looking across at a Labour Minister of State and I see Labour Party Deputies who talk about standing up for ordinary people and small business people, the backbone of this country. This man wants to pay for his family and earn his keep but this was rushed past him. The property tax was rushed through this House. Despite what the Taoiseach said, it was an unjust and unfair measure in terms of a person's home. This man wants to do work. He had his C2 and was tax compliant but now he cannot do anything because he has not paid the property tax. That is a disastrous law. I know the Government must try to collect it whatever way it can and I do not mind if the full amount of property tax is taken out of a self-employed person's business but I have a huge problem with not giving him a C2, not allowing him do his VAT returns and putting him out of business. Furthermore, if he has no business, he will not get any unemploy-

ment benefit or assistance. It is a perilous situation that has driven him to the gates of these Houses on hunger strike for 17 days.

I appeal to the Minister of State, Deputy Lynch, to bring some sanity to the situation. Legislation was rushed through this House and guillotines were used and what is the Government doing? Abolishing the Seanad when we could better scrutinise legislation. I ask her to consider these issues because there is no proof-reading of legislation. It is just tax, tax, tax, cut, cut and cut and attack the ordinary people.

Acting Chairman (Deputy John Lyons): I call Deputy Regina Doherty who I believe is sharing time with Deputies Michael McCarthy, Frank Feighan, Heather Humphreys and Darragh Murphy. Is that agreed? Agreed.

Deputy Regina Doherty: I must be honest. I had to read the Bill a number of times to try to figure out its purpose, and I am still not sure about that. I think the author of the Bill is trying first to extend the nine discrimination grounds in the Equal Status Acts to include a number of additional grounds such as the rural ground and the convicted prisoner ground and, second, to create a duty on existing public bodies to have regard to promoting equality of opportunity and developing equality impact schemes for approval by the Equality Authority and also to make sure that anything it introduces is proofed in this way. One such thing it is proposing is the annual budget.

According to its author Sinn Féin's Bill seeks to introduce mandatory equality impact assessments on public bodies, introducing measures that impact on these categories as well as the existing nine categories of gender, civil status, family status, etc. I hate to point out the obvious but the Employment Equality Act already prohibits discrimination in the employment sector and the Equal Status Acts prohibit discrimination in the provision of goods and services in each of the following nine grounds: gender, civil status, family status, sexual orientation, religion, age, disability, race and membership of the Traveller community. There are already a range of detailed exceptions that avoid extreme or unintended consequences, for example, to protect children or the age ground that applies to the maximum age at which people can attend school, etc.

I am not clear if the omission of the Employment Equality Act was done deliberately or by way of a drafting error. There were not any notes published with the Bill, which made it more difficult for me to understand what it was about. There were no assessments of the impact the obligations in the Bill would have on any of the statutory bodies. There was no assessment of the scope of the grounds or what the impact of incorporating them would be on the State. There were no qualifications or exceptions as to the possible variations that might be present in the equality legislation, and there was no assessment as to the considerable staff resources each public body would have to provide to enact the changes. I have to ask if this is serious equality legislation or just ill-thought out.

Equality legislation has come a long way, and I regret when legislation such as this is put before the House when we can speak of the record not just of this Government but previous Governments. What we are faced with currently is the challenge to turn the rhetoric of fundamental rights into the reality for people living every day under the rule of law throughout our communities.

In terms of what is happening on the ground and what our Government is doing as opposed

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to talking about, earlier this year the Minister for Justice and Equality, who is present, appointed the members of the new Irish Human Rights and Equality Commission. The Minister said that the merger of the Irish Human Rights Commission and the Equality Authority is to promote human rights and equality issues in a more efficient, effective and coherent way, a single institution whose remit is to establish a footprint at local level. It is independent of Government and that independence is guaranteed by its statute. The status is vital to its credibility, here in Ireland, in Europe and internationally. The body will become the front-line body for turning commitment to human rights and equality into reality at national and local level. I am in favour of practicalities and on a practical level it will promote public awareness campaigns in the print media, radio and online. It is to remind the members of the public of their rights and to reinforce awareness of the support and redress mechanisms available.

Equality is not always about treating everybody the same but it is about people treating others in such a way that the outcome for everybody is exactly the same. From the outset this Government has shown that it is about best practice in words and in deeds. That is the reason I will be opposing the Bill tonight.

Deputy Michael McCarthy: On the issue of equality, the Minister of State, Deputy Lynch, was in the 25th Dáil when the constituent members of the then rainbow Government, which now form the current coalition, drove an equality agenda when it was neither popular nor profitable to do so. If we cast our minds back to the genesis of the debate on equality, in July 1973 that coalition Government, which is what we were referred to before Fianna Fáil got into the habit of coalition, introduced legislation to remove the marriage ban. This country has an appalling history of treating women badly and unequally but that Act passed in the 1970s removed a discriminatory ban on women who were married and working in the Civil Service. We all know and are perhaps related to people whose careers suffered as a result of that. If we look back to 1973 and the record of these two parties in government then we see that this discriminatory nonsense was removed.

We created the Department of Equality and Law Reform. When the Labour Party went into Government in 1992, Mervyn Taylor was Minister for Equality and Law Reform and he initiated the campaign to remove the constitutional ban on divorce. The prohibition on divorce in the Constitution basically meant that we were treating citizens of this country inherently unequally. The decriminalisation of homosexuality and the passing of the Equal Status Act are the hallmarks of the now constituent parties in government. The record in that regard is there for anyone to see, and it is a very proud record.

Listening to the Deputies opposite one can understand the confusion that Deputy Doherty has pointed to in regard to the specific pieces of legislation to which the Private Members' Bill refers. It refers to the Equal Status Acts of 2000 and 2004 but curiously, either erroneously or deliberately, it does not refer to the Employment Equality Act. That confusion is only matched by the level of debate I have heard thus far in the context of this Private Members' business. We heard a great deal about what we already know, such as the protests and so on, but something that happened this evening should not necessarily inform a debate about equality. All our experience as professional politicians, public representatives or people involved in active citizenship in communities in some shape or form should cherish that notion of equality and speak about it in isolation, irrespective of whether the economy is struggling or buoyant. We all know where it should stand.

The Bill proposes to create a number of grounds in terms of the Equal Status Acts, one

of which, curiously, is trade union membership. How do we establish whether someone is a member of a trade union? I am a member of SIPTU. I carry a SIPTU membership card with a Labour Party membership card in my wallet but how can we tell if someone is a member of a trade union? The other curious heading is the native Irish speaker. How do we distinguish between someone who speaks cúpla focal fluently and competently or someone who speaks it because it is their native language? How does one put in place a measure to evaluate the position in that regard? Nuair a chuaigh mé go dtí Scoil Phádraig Naofa i nDún Mánmhaí fadó fadó, d'fhoghlaim mé a lán Gaeilge. Nuair a d'fhág mé an scoil, rinne mé dearmad ar go leor de. We are all students of politics because we are here practising it at a level that is important in the context of our professionalism. However, we also have personal links. How does one assess whether someone is a competent speaker of Irish or whether he or she is a native speaker? What would be the position with regard to someone who speaks German as his or her native language? How would the provisions of this legislation apply to such an individual?

Another issue which arises is that which relates to qualifying prisoners. One can easily understand the subjective nature of the provision in this regard. In terms of the law, however, a prisoner is a prisoner. How does one distinguish between the reasons one individual has been imprisoned and those - non-political - reasons another person has been imprisoned? There is a vested interest in this regard. It is difficult to understand how this matter should be viewed in the context of equality.

Reference is made in the legislation to a person's socioeconomic background. How does one establish this? Should one sift through the reports of the CSO and examine the breakdown of social classes? Should one allow for the massive social mobility that occurred in this country during the Celtic tiger years? There could be one person who left school without sitting the leaving certificate and who obtained employment on a construction site at a rate of €1,000 per week and another individual with a degree in business who took up a managerial position in a company and earned half that amount. How should we assess people's socioeconomic backgrounds?

The Bill is extremely flawed and there is a great deal of confusion surrounding it. I am of the view that the flaws and confusion in question are not deliberate but are the result of error. I, along with other colleagues, will be opposing the legislation.

Deputy Frank Feighan: I neither welcome nor agree with this Bill. The Employment Equality Act prohibits discrimination in the area of employment and the Equal Status Act prohibits discrimination in the supply of goods and services. A great deal of work was done in order to produce these two items of legislation.

A number of members of the Opposition raised the case of Tony Rochford, who is on hunger strike outside the Houses. Mr. Rochford is similar to many self-employed people. I was self-employed and I employed 30 people at one stage. The self-employed are experiencing serious difficulties. Self-employed people work every hour that God sends and they put a great deal of time and effort into their businesses. In many instances those businesses are family concerns. As a result of the downturn, many of these people were obliged to diversify. Diversification can involve moving into other areas of business but it can also mean moving into property or buying shares in banks - which were previously perceived as blue-chip companies - in order to provide for one's pension. Many people such as Tony Rochford have experienced tough times. I am of the view that the Government should try to meet this man and address his grievances.

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People in this country are currently involved in a love affair with the airwaves and other forms of media. They feel that their problems can be solved by contacting Joe Duffy's "Live-line" programme or the Shannonside radio station, using Twitter or writing to the newspapers. I have seen evidence of this. As a local Deputy, people telephone me in respect of various issues. I ask them to meet me and discuss how their problems might be resolved with the relevant Minister, Department, etc. However, they do not want to do this. It may have been the case when we were on the other side of the House but I believe matters have become worse as a result of a race to the bottom because all those in opposition now want to do is to go on the airwaves and state how bad things are. As sure as day follows night, people's problems must be solved at some point. This must be done in a rational way by trying to identify the nature of such problems and then finding solutions to them. The Opposition must oppose the Government and that is great. However, we must tell our constituents the truth and try to resolve the issues they raise with us rather than attempting to score political points.

Point-scoring such as that to which I refer occurred in respect of both the household charge and the local property tax. Like everyone else, I am obliged to pay the local property tax. I do not particularly like paying it but I must do so. I am also obliged to pay the second home charge. I was only in a position to pay that charge on half the properties I own and, as a result, an additional fee of €20 will be applied in respect of each of them next month. When I get paid next month I will pay those charges, but I do not want to pay them. However, we must all pay these charges because they relate to the provision of services. There was a great deal of hoo-ha about the charges to which I refer and there were those who stated that people should not pay them. Unfortunately, many individuals listened to what was said and are now being charged extra as a result. I inform anyone who approaches me to see if anything can be done that I cannot help them. I cannot even do anything about the charges that apply to me. In my opinion, those who advised people not to pay should take responsibility for their actions. As has often been stated, two things in life are certain, namely, death and taxes.

We must try to be lenient because there are other people who, like Tony Rochford, find themselves in difficult situations. As already stated, Mr. Rochford's problems would be much better resolved if representatives of the Government met him and, hopefully, tried to address the matter about which he is aggrieved. It is not good that politicians in this House are seeking to try to articulate his case in the House in a way which appears to make a martyr of him. Having said that, my heart goes out to the man. The Government and other politicians must try to resolve this matter.

The Bill would require the adoption of a hugely resource-intensive approach. It is far too much to expect local authorities to try to address many of the matters with which it deals. In light of the constitutional status of the Irish language, it is not clear what is intended by the provision that deals with native Irish speakers. Does this provision relate to the 2% of our people who are native Irish speakers or to the further 8% or 10% who are competent speakers and who are natives? The position in this regard is not clear. Tá mé ag foghlaim na Gaeilge agus tá feabhas ag teacht orm. I had the honour of being made a member of the Fine Gael Front Bench three years ago and 10% of my brief related to the Irish language. A number of academics who profess to speak a much purer form of Irish than anyone else decided to write to the newspapers about my elevation. We in this country can hardly speak English properly. Like tens of thousands of others, I spent 14 years trying to learn Irish in school but I was put off the language by people such as the so-called academics to whom I refer, who expressed the view that they did not consider me pure enough to hold the position on the Fine Gael Front Bench to which I was

appointed. The native Irish speakers I encountered during my time on the Front Bench - those in Conradh na Gaeilge and Comhdháil Náisiúnta na Gaeilge - were absolutely fantastic. They understood the position in which I found myself and I really appreciate the support they gave me.

I have fundamental problems with this Bill and I will be opposing it.

Deputy Heather Humphreys: I welcome the opportunity to contribute to this debate. I accept the spirit in which the Bill has been introduced. My understanding is that the basic intent behind it is to ensure that decisions made by the Government and public bodies will, in essence, be proofed in order to assess the impact they might have on certain sections of society. In theory, that is a fair enough concept. However, the problem is that the Bill is simply not practical.

As everyone is aware, the Government is operating within extremely tight and difficult budgetary constraints. Major efforts have been made to reduce the numbers in the public service in order to bring down costs. A number of State bodies have been abolished or merged as we attempt to secure greater efficiencies of service. The Haddington Road agreement, if implemented, will lead to many public servants working additional hours as well as making other major sacrifices. Only last week the Minister for Justice and Equality, Deputy Shatter, announced the redeployment of 54 staff from the Department of Agriculture, Food and the Marine and other areas of the public service to the Garda central vetting unit. While this is most welcome and will, I hope, help to alleviate the delays relating to the processing of vetting applications, and also the backlog, it also serves to highlight the severe constraints within which we are working when staff must be moved from one Department to another to alleviate backlogs. This is all because the continued focus of this Government since taking office had to be on trying to do more with less. It is in this regard that this Bill does not stand up to scrutiny. The Bill proposes what could be very resource-intensive obligations on a number of public bodies to prepare and publish equality impact assessments of their work for approval by the Equality Authority. While such a move is likely to create much paperwork, it will not necessarily lead to greater equality.

I welcome the commitment from the Minister of State, Deputy Kathleen Lynch, that the Government will shortly publish the Bill to establish the new Irish human rights and equality commission. As she stated, the Government is focused on imposing a positive duty on public bodies to look at the equality issues they face and address these in their annual reports. The role of the human rights and equality commission will be an active one, which focuses on providing support and facilitation - in other words, less administration and less paperwork and more results.

The Bill proposes to create five new grounds in the Equal Status Acts, including the case of criminal conviction. This is an area in which I have a particular interest as, over the past two and a half years, I have encountered a number of cases where people have experienced major difficulties when applying for jobs due to relatively minor offences on their criminal records. That certainly is an issue of equality. Obviously, if a person breaks the law, regardless of how minor the offence, he or she deserves to be punished. There should be no ambiguity about that. However, the bottom line is that we all can make mistakes, in particular when we are young. It is important these mistakes are not held against a person for the rest of his or her life, thus impinging on future career opportunities. This issue has been dealt with in some detail by the Minister for Justice and Equality, Deputy Shatter, who brought forward the Criminal Justice (Spent Convictions) Bill some time ago and which is currently on Report Stage in the Dáil and, hopefully, will be enacted in the autumn.

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That Bill is much more practical in its application than the one before us. Rather than dealing with all convictions as if they were equal, the Criminal Justice (Spent Convictions) Bill differentiated between various convictions. For example, convictions for offences such as murder, manslaughter and sexual offences may never become spent. Likewise, convictions resulting in sentences of more than 12 months may not become spent and not more than two convictions in a person's life may become spent. Essentially, the Bill aims to ensure that those who commit minor one-off offences are not stigmatised when seeking employment in the future. In essence, the Criminal Justice (Spent Convictions) Bill was about giving people a second chance.

This Bill has chosen to extend the discrimination grounds in the Equal Status Acts but not in the Employment Equality Acts. I am confused as to the reason for this but I understand that, as it stands, the Bill will not apply to employment issues.

The Bill also proposes to extend the discrimination grounds in the Equal Status Acts to those living in rural areas, which is an interesting point. I live in a rural area and I recall last year having a conversation with a gentleman about the household charge. He argued that he did not avail of any of the amenities the charge was supposed to cover. He lived in the countryside and he advised that he did not use the public library, the swimming pool, the park and certainly did not have street lighting. He said all of these amenities were in the town and that he did not use them but eventually he agreed that he used the roads. Obviously, these need to be maintained too. It was ironic this year, when the property tax took effect, that those who lived in the major cities and towns felt they were being discriminated against as their properties were of a higher value. It was a case of the shoe being on the other foot.

I note the Minister of State, Deputy Kathleen Lynch, made a similar point last night in regard to the provision of broadband services. Often people living in the countryside are not able to obtain as good a quality of service as those living in towns. Under the proposed Bill, this could be also seen as discrimination when, in fact, it is sometimes due to logistics and economics. On that note, I was pleased, when I met with Eircom this evening, to hear it is investing €1.5 billion of capital expenditure to deliver the nation's newest fibre network, reaching 1.2 million homes and businesses. I was particularly pleased that fibre broadband will be available in Monaghan town from July of this year and that by June 2015, Eircom fibre broadband will be extended to the towns of Carrickmacross, Castleblayney and Clones.

I note that under the Bill the Government would be also classed as a public body and as a result, the annual budget would also have to be proofed and approved by the Equality Authority. The Government and all the elected representatives of this House engage with various interest groups and organisations in the lead-up to the budget each year. A number of these organisations hold pre-budget submission meetings which every Deputy has the opportunity to attend and take on board concerns and raise these matters thereafter. This Bill seems to propose that we take budgetary decisions and put them in the hands of an unelected State body.

At the outset I said I accepted the spirit in which the Bill was being brought forward but what it proposes is simply not practical. It is for this reason and the other issues I have outlined that I will not support the Bill.

Deputy Dara Murphy: I welcome the opportunity to contribute on this Private Members' Bill. When I first read it, my sense of it was that it was positive and that this was a well-meaning Bill. I still hold that position. However, as someone who speaks on Private Members' and other Bills from time to time, I requested the explanatory memorandum but there was none. I then

found there was no impact assessment nor scoping of the cost of the various measures. I am sure the Deputies opposite will not welcome this observation but it is an exceptionally broad attempt, which covers many areas. In that regard, it is almost impossible for the Government to amend it in such a way as to support the intent.

I was in business for 20 years, employed people and provided services and I came across the Equality Status Acts and the Employment Equality Acts on many occasions and in many different ways. This Bill does not pertain to the Employment Equality Acts but much of its sentiment belongs with those Acts. Many of the issues are covered by them, including the right to be a member of a trade union and the people's diversity and socio-economic backgrounds are protected.

When we talk about the Equal Status Acts, it is difficult to envisage a situation in which in the purchase or the provision of services, the issue of whether someone is a member of a trade union, his or her socio-economic background or whether he or she speaks Irish would apply. I would be interested to hear specific examples of where that might apply. As a purchaser of services, in particular, my focus would be on the cost of what I was purchasing rather than on where, how or by whom the services were being provided.

There is more substance in the area of criminal convictions. The Minister for Justice and Equality, Deputy Shatter, was very open to amendments to the Criminal Justice (Spent Convictions) Bill. We are now awaiting Report and Final Stages of the Bill. The spirit of allowing people with convictions to be allowed to rehabilitate is worthy of pursuit, and many of the amendments went towards allowing people a second chance. That will cover a large portion of the criminal conviction issue.

I disagree about trying to designate a crime by type of person or whether it is linked to a cause. For example, that might apply to an act of violence of a certain level carried out by somebody who may be an animal rights campaigner or who may believe an act of vandalism is a valid protest against the property tax. That would create a great difficulty so the matter should be set, as it is currently within the Criminal Justice (Spent Convictions) Bill, at the crime level rather than at person type. I support that element of the Bill.

There is the potential for further debate on rural issues, particularly with regard to publicly provided services. There is a requirement to protect people living in rural areas but when we speak about privately provided services, we should accept that for some provision of services, the cost of delivery to rural areas must be built into pricing. One cannot allow for prejudice against people living in rural areas but equally we cannot force an uneconomic cost on business.

The spirit of the Private Members' Bill is good and if parts of it could come back before us, it would have merit. There was much good work done here in debating spent convictions and the Minister for Justice and Equality, Deputy Shatter, accepted amendments from many parties. I urge the Minister of State, Deputy Sherlock, to push through that legislation as it would go a long way to achieving what is requested in this Bill.

Acting Chairman (Deputy John Lyons): The next speaker is Deputy Stanley, who is sharing time by agreement. Is that agreed? Agreed.

Deputy Brian Stanley: Equality is at the core of what we believe should be modern republicanism. Sinn Féin has long promoted the idea of an Ireland of equals in a Europe of equals, and this not just a hollow slogan dusted down for elections. Sinn Féin is committed to building

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a united Ireland where equality is at the centre of how we measure the nation's success. This equality will include social, political and economic equality but, unfortunately for citizens on the island, we see an Ireland far more unequal now than in the past. Consecutive Governments have pursued policies that have created inequality and contributed to the level of inequality that exists today. A former Minister for Justice, Equality and Law Reform, former Deputy Michael McDowell, promoted inequality when he stated, "A dynamic liberal economy like ours demands flexibility and inequality in some respects to function". He also indicated that it was such inequality "which provides incentives". I hope we have moved on from that view.

In November last year Sinn Féin pledged support for the Equality Budgeting Campaign, a broad-based coalition of trade unions, community groups and non-governmental organisations seeking the introduction of equality budgeting in this State. Simply put, equality budgeting means that no Government could introduce a budget without it being equality-proofed first. It is no surprise that this Government has failed to embrace this process as budgets we have seen here would never see the light of day if they were equality-proofed.

So what will the Sinn Féin Equal Status (Amendment) Bill 2013 do? It has three basic aims. It will add six new additional anti-discriminatory categories to the already existing nine categories. Namely, Sinn Féin would include in the category trade union membership, socio-economic back ground, Irish language speakers and former political prisoners. The previous speaker referred to this and although he may not be familiar with it, this concept is in the Good Friday Agreement. It specifically refers to people who were in prison as a result of the conflict and who have served their sentences or got early release under the Good Friday Agreement.

We would also include rural dwellers in the list of categories. The Bill will also introduce equality impact assessment, with all public bodies and Departments having to implement the process. It will also introduce a notion of equality budgeting, where economic policy making and planning places equality at the centre of decisions concerning public expenditure and income.

One issue I want to raise is the right to join and be represented by a trade union. People have the right to join a union but they do not have the right to be represented. We should remember that any gains made by ordinary people and their families were achieved after campaigning and struggle, and without trade unions many of the gains we now take for granted would never have been achieved. Issues of child labour, maternity benefits, annual leave and the 40-hour week were all successfully won not because the likes of William Martin Murphy woke up one morning and said he would grant such requests but rather because trade unions won the fight. In this city we are commemorating the 100th anniversary of the 1913 Lock-out and in the streets around here, people were engaged in an epic struggle for the right to join and be represented by trade unions. Jim Larkin and James Connolly gave leadership and dignity to those people.

It is only appropriate tonight that we reflect on the gains made by trade unions and we must also reflect on challenges facing us today. How much has really changed? Sadly, workers remain fearful of the consequences of joining a union, and I am sure the Minister of State comes across such people as much as I do. It is shameful that 100 years after the great Lock-out, men and women live in fear of what their employer will do if they join a trade union. This is a very common issue and I feel very strongly about it. I have met trade unions organisers in the midlands on this very matter, and they recount stories of workers - men and women - living in fear of even being associated with trade unionism, never mind joining a union.

In particular, this problem prevails in the meat industry, where some employers in their race to the bottom to increase profits have employed immigrants on a minimum wage - in some cases it is reported to be even less - and proceeded to isolate them from the rest of the workforce. When unions attempt to engage with and organise the workers they are met with a wall of silence and fear. We have heard of cases where fathers use their children to translate stories to union organisers of bullying and victimisation in work and threats from employers. This is unacceptable and should not be tolerated in 21st century Ireland. This Bill is an attempt to help overcome some of this fear, and it will make it illegal to discriminate or bully workers who organise themselves in a union. It is 100 years since the Lock-out and such steps are long overdue.

I will also highlight inequality in our communities. For years the great and the good, including people in Government, have dismissed any debate on inequality as airy-fairy, but such arguments can no longer be dismissed. The boast of being a low tax economy has had serious negative social effects, and we only have to look at number of telling statistics to see that. The number of children living in poverty has increased by nearly 32,000 since last year, from 200,000 in 2012 to 232,039 in 2013. That is nearly one in five children living in poverty. The number of people living in poverty overall has jumped from 706,000 to 731,984 during the same period. This is the human face of austerity and inequality, which forces people into poverty and divides our society with devastating consequences. The overall tax take in this State as a percentage of GDP is 31.3%, well below the European average of 35.6%. Linked to this is the startling figure of €11.49 billion. That is the figure this Government grants in tax relief. We must look seriously at this and I urge the Government to look at it in the run up to the budget. It is the case that people who are wealthy get richer.

In their book *The Spirit Level*, Richard Wilkinson and Kate Pickett claim that for each of 11 different health and social problems such as physical health, mental health, drug abuse, education, imprisonment, obesity, social mobility, trust and community life, violence, teenage pregnancies and child well-being, outcomes are significantly worse in more unequal countries. We know that from looking around the globe. Their striking conclusion is that the societies that do best for their citizens are those with the narrowest income differentials - the Nordic countries - while the most unequal such as the US and the UK do worst.

In conclusion, the question is where we want Ireland to be in a few years' time. Do we want a more unequal society or do we want a more equal one that is safer, more caring and more productive? We should say "Yes" to that.

Deputy Pearse Doherty: Tá mé iontach sásta seasamh anseo anocht chun tacaíocht a thabhairt don Bhille um Stádas Comhionann (Leasú), 2013. Tá moladh mór tuillte ag an Teachta Mac Lochlainn, a tháinig chun tosaigh leis an mBille seo. Tá moladh le tabhairt fosta chuig na heagrais phobail uilig atá ar cúl an fheachtais mar cheannródaithe ar an iarracht atá á dhéanamh comhionannas a chur i gcoilár an Rialtais seo; go háirithe ionas go ndéanfar scrúdú comhionannais ar an gcáinainéis atá againn gach bliain. Tuigim fosta gur tháinig ICTU and SIPTU amach go láidir inniu ag rá gur chóir tacaíocht a thabhairt don Bhille seo. Is comhartha iontach láidir é sin, go háirithe do Pháirtí an Lucht Oibre, a bhfuil ceangal acu leis an gceardchumann SIPTU. Ar an drochuair, tá sé iontach soiléir go bhfuil daoine i bPáirtí an Lucht Oibre a bhí mar bhaill bhródúil de SIPTU sular toghadh iad isteach sa Teach seo, ag dul in éadan an cheardchumann sin. Tá siad ag dul in éadan toil na grúpaí pobail, atá ag cur na hargóinte seo chun tosaigh, agus in éadan toil a bpáirtí féin, mar go bhfuil sé mar pholasaí ag an bpáirtí go mbeidh comhionannas curtha isteach i gcoilár cáinainéis na tíre seo.

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I am delighted to support this legislation. This legislation is not revolutionary or unrealistic. It is a simple step forward in the way a normal democratic society should deal with its affairs. There should be protection for the six different areas that have been listed in this legislation. Very importantly, equality budgeting should be the cornerstone of how we deal with budgets into the future.

The question we have before us in this legislation and the question Deputies must ask themselves when a vote is called later on tonight is whether they fear equality and fairness and whether they want to turn their backs and protect themselves and the Government in which they are involved in continuing with the budgets they have implemented over the past number of years, which are a far cry from the slogan of equality. I have listened to the contributions made in this Chamber. I am amused, particularly by the Labour Party which is voting against its own party policy on equality budgeting and the views of SIPTU and the ICTU, of which many of them are proud members and shop stewards and in which they have a long history, and both of which have asked all Members of this House to support equality budgeting and this legislation. I am amused by the squirming of Labour Party Deputies in particular when they try to come up with reasons to justify voting against the issue of equality.

We heard Deputy Ciarán Lynch tell us that equality is a subjective concept. This is very similar to the cries made by the former leader of the Progressive Democrats, Michael McDowell, which said he was against equality. I ask the Labour Party Deputies of 2013 to imagine what it would be like if they transposed themselves back to nearly 100 years ago, if one of their leaders was in place of the great labour leader, James Connolly, when they sat down to discuss what would be in the Proclamation of the Irish Republic, and if when James Connolly put forward the notion that all children of the nation would be treated equally, the Labour Party of today said “equality is a subjective concept, James, we can’t have that in the Proclamation”. That is the message they are sending out here today.

Why fear equality? The answer can probably be seen in the type of measures this Government has introduced over the past two years. Equality is not a concept. Equality is something that is rooted in the Irish people and very dear to them but it is something that is very distant from this Government, as has been seen in its actions. We have seen it time and time again in budgets and in the presentation made by the Carers Association in the AV room today. It will not be the only group that will come in here asking, demanding and begging that the Government and Deputies bring forward the issues of equality and fairness. Why attack carers when the wealthiest in society are being protected? Why attack those with special needs while those in the privileged elite are protected?

We know there is no easy way out of this crisis. We know the mess Fianna Fáil, its banker friends and corrupt developers left this State in but there is a fair way to get out of it. This Bill would lift the veil of this Government which likes to proclaim that it is standing shoulder to shoulder with those who demand equality and fairness but which in its actions does something quite different. I commend this Bill. I hope the Labour Party Deputies look into their consciences and vote to support this legislation, which their party dictates they do.

Deputy Seán Crowe: A phrase to the effect that any free society or state should be judged on the basis of how it treats its most vulnerable members or lowest class has been used by many people down through the years. However, its meaning is as important today as it ever was. I think every Member of this House could agree that the Government needs to ensure that it protects the most vulnerable members of society. Again, there is commonality in respect of that

statement. Irish society has changed rapidly over the past two to three decades and while there have always been vulnerable groups in our society, the increased diversity of our society means more and more groups and individuals need enhanced protection from State resources.

This Bill proposes to create that protection and supports closing the clear cracks in Irish society. This Government recently released *One World, One Future*, its new policy for international development, and reducing inequality is a key part of that policy. In fact, the policy paper states:

Evidence clearly shows that high levels of inequality, including gender inequality, can not only harm economic growth, but can also lead to people being trapped in poverty across generations, and in some cases social and political unrest.

It commits the Government to using its aid programme to “target those most excluded, deliberately addressing the inequalities these people face”. Does this evidence not apply to Ireland? That is the question we are asking here tonight. Does the Government believe that this should only happen abroad in foreign countries? Inequality does not fix itself through market forces or by simple state hand outs. To reduce inequality, one has to tackle the root causes of it and this requires robust mechanisms whose essential element is ensuring that vulnerable groups are protected. Over 60 countries worldwide use equality budgeting to tackle inequality and poverty and surely it is time this State considered following suit.

Existing equality laws ban discrimination and unfair targeting of people based on their gender, civil status, family status, age, race, religion, disability, sexual orientation, and membership of the Traveller community, but we all come across cases of discrimination every day. Our Bill would add new and additional anti-discriminatory categories. It would prohibit discrimination against trade union members, Irish language speakers, former political prisoners who served their sentences before the Good Friday Agreement or were released under its terms and rural dwellers and on the grounds of socio-economic background. This approach would ensure that all Departments and public bodies, when introducing new policy or budget measures, would complete equality impact assessment schemes and consultation on a statutory compulsory basis. The Bill would ensure the Government and public bodies exercised their functions in a way designed to reduce inequality and create the conditions for a more inclusive society. Who could be opposed to this? It should be a key priority of the Government at all levels.

Everyone is aware of the economic crisis we are going through. It is affecting families and individuals in every village and town in Ireland, but it affects some groups more than others. Some in the vulnerable groups I mentioned earlier are overwhelmed. The Government talks the talk of getting Ireland’s finances back on track, on improving our international standing and increasing trade, but we must ask, for whom? In the meantime the Government is going after the unemployed, single parents, the elderly, the sick, the disabled, the youth and those with special needs. Have those at the very top, the high income earners, the wealthy and the speculators felt the pinch? Do they shoulder their fair share of the weight? This has led to a significant rise in inequality and poverty in the State. Figures show the gap between the richest and poorest in Ireland increased by 25% in 2010, with the top 20% earning 5.5 times the income of those in the lowest 20%.

The percentage of people in Ireland living in consistent poverty increased in 2010, as did the percentage of children at risk of poverty which stands at 19.5%. I see this in my constituency of Dublin South-West. Large parts of my constituency have unemployment rates of more than

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40% and the Government has no magic wand. Yesterday in the Dáil I raised the case of two constituents with life threatening illnesses who have been waiting for more than three years for housing adaptation grants. These simple grants would not cure them of these terrible illnesses, but they would massively improve their lives and the lives of their families. These people are not looking for millions, but for small amounts which would transform their quality of life. Under the Bill their rights would be supported.

It is time the Government woke up to the needs of the Irish people. The average family and household in Ireland is drowning in debt yet every budget takes more and more from their disposable income. Families the length and breadth of the State deserve better. They deserve equality budgeting and it is time the Government started serving the needs of the majority of our citizens.

Deputy Gerry Adams: Yesterday I listened to Deputy Pádraig Mac Lochlainn opening the debate. In the course of his speech I received a text from someone in my office telling me to ask Deputy Emmet Stagg and other Labour Party Deputies whether they support the Bill. Unknown to me the person who sent the text had read the Labour Party's policy. I replied that I would ask. I listened to the arguments made by the Minister of State, Deputy Kathleen Lynch, and I was not impressed. I am impressed at Fine Gael's ability to put Labour Party Ministers and Ministers of State on the front line for contentious issues such as this. Yesterday it was Deputy Kathleen Lynch and today it is Deputy Seán Sherlock.

Essentially the Minister of State, Deputy Kathleen Lynch, said we cannot afford equality. From a Fine Gael Minister this would have been understandable because Fine Gael does not believe in equality, but the Labour Party's stated policy is for equality proofing. By opposing this equality-proofing Bill Labour Party Deputies will vote against their party's policy position. What is the value of the Labour Party in government if its only role is to bolster the conservative economic and social politics of Fine Gael?

As Deputy Pearse Doherty stated, the Labour Party's founding father James Connolly is accepted as the principal author of that part of the Proclamation which guarantees religious and civil liberty, equal rights and equal opportunities and the section which commits to cherish all the children of the nation equally. The fact is equality does not exist in this society. It is a republic in name only and the policies of the Government and of successive Governments have contributed directly to a growing inequality, particularly between the rich and the poor.

I am an Irish republican. I believe in a republican system of governance. I believe in a real republic in which the people are sovereign and equal and have all-encompassing rights, including economic rights, the right to a home, job and education, to a health service from the cradle to the grave, to a safe and clean environment and to civil and religious liberties. This is what republicanism and genuine democracy are about. They are about embedding equality into the daily life and experience of citizens. The imposition of equality duties and equality-proofing Government policies and budgets and public bodies through impact assessments are a means of achieving this and of dictating outcomes. Without this, equality will remain little more than a pipe dream.

It is a fact that inequality is all around us in this part of the island. It famously exists also in the North, but there it has the added dimension of generational, sectarian and political discrimination. Interestingly, the other parties here reference the continued existence of inequalities in the North as a pretext for attacking Sinn Féin. There is no logic, truth or rationale to this posi-

tion. They quote poverty levels in west Belfast to justify their own position. They refuse to acknowledge the citizens of west Belfast, in common with other communities throughout the North, are tackling these issues on a daily basis and succeeding against the odds. It is because these citizens took a stand – they would be waiting a long time for Fianna Fáil, Fine Gael or the Labour Party to help them – that generational and political discrimination are being tackled. In the Six Counties there are now equality protocols and equality-proofing of government policies, budgets and public bodies. If this is good enough for the North why cannot citizens in this part of Ireland have these rights?

Equality is cited 21 times in the Good Friday Agreement, including in the pledge of office for Ministers. The Government is co-author and guarantor of this Agreement. A complete section is given over to equality protocols, and legislation is designed to ensure equality in employment. We all live in a post-Good Friday Agreement Ireland. This is very obvious in the North but not so obvious here. It is catch-up time in this State and legislating for equality here must be a key part of this. This should include the charter of rights to which the Irish Government signed up 15 years ago.

Active discrimination against the Traveller community is totally and absolutely unacceptable. Apart from being ethically wrong, no person or community should be treated as second class or non-citizens. Equality is good and inequality is bad for society. Inequality is expensive and uneconomic. Sinn Féin's equality legislation is about achieving a more equal and prosperous society, which is in everyone's interests.

If we consider the programme and record of the Government the need for this approach is obvious. The ESRI found the budget for 2012 had a disproportionate impact on the least well-off in society and this was repeated in the budget for 2013. Every day we see the removal of citizens rights and the reinforcement of privilege for the elites in society. Our Bill would require an equality impact assessment to prevent the implementation of unfair policies, which is why the Government opposes the Bill.

We also need equality for the Irish language and for rural Ireland. I commend the Bill. I repeat what I said previously, that it will bring us in line with the North. I repeat also that it is official Labour Party policy as adopted at last year's conference. I appeal to Labour Party Teachtaí Dála to stand by their own policy. They can forget about Sinn Féin. They should stand by their party's policy and vote for this Bill.

Minister of State at the Department of Jobs, Enterprise and Innovation (Deputy Sean Sherlock): In the five minutes available I will do my best to address the contents of the Bill. The Bill proposes to extend the discrimination grounds in the Equal Status Acts, which deal with provision of goods and services, but not in the Employment Equality Acts, which cover employment, by adding five or six new grounds for discrimination which have been articulated by Deputy Stanley.

The existing equality legislation prohibits discrimination on nine grounds, but also contains a range of qualifications and exceptions to ensure that we avoid unintended and extreme consequences. Thus, discrimination based on age is outlawed, but we ensure that children are protected and special treatment can be provided for older people where that is appropriate. Gender may not be used to discriminate in employment, except, for example, in employment providing intimate caring services.

Many of the contributions from the Opposition benches last night covered employment issues, to which the Bill as published does not apply. We were told last night that this is a drafting error that can be easily fixed. However, it is not the type of drafting error that can easily be corrected. That is because there are no exceptions or qualifications proposed in the Bill in respect of the proposed five new grounds. That is a serious omission. As my colleague, the Minister of State, Deputy Lynch, said last night, equality legislation seeks to eliminate unfair or prejudicial discrimination based on a person's inherent characteristics - gender, race or age, for example - rather than affecting rational assessments of risk based on a person's previous actions. The question of wiping the record of criminal convictions, for example, requires a nuanced approach via spent convictions legislation. I acknowledge Deputy Dara Murphy's point in that regard. In certain employment areas, as well as in the provision of certain goods and services, a history of conviction for serious criminal offences, such as sexual offences, fraud or theft, can be directly relevant risk factors which should be taken into account.

The second major defect is that the Bill does not understand the way in which equality legislation interacts with other legislation. Reference was made last night to taxi licences and the security industry. The Bill may be an attempt to compel the relevant authorities to grant licences in such cases, irrespective of genuine concerns about suitability, but it cannot achieve that objective. The Equal Status Acts apply to the provision of goods and services other than public services that are regulated by other legislation. The Equal Status Act 2000, in section 14, makes clear that it operates without prejudice to other statutory provisions. Essentially, the 2000 Act does not apply to an issue that is governed by separate legislation.

The overly simplistic approach is also illustrated by the inclusion of living in a rural area as a proposed ground for discrimination. Access to broadband was raised in last night's debate, as it was tonight. The Government is committed to ensuring that we have high-quality broadband services and that rural areas are served as well as urban areas. Deputy Heather Humphreys spoke on that point. Does anybody seriously think this goal can be achieved by a simple prohibition on discrimination, or that increased provision of broadband services in the market would be positively encouraged by an outbreak of litigation before the Equality Tribunal?

The third problem area is the proposal to create an elaborate new proofing mechanism by which all public bodies would draft equality schemes for approval by the Equality Authority. The Government is taking a much more balanced, nuanced and proportionate approach to embedding concern for human rights and equality in the work of the public sector. In the Bill to establish the new Irish Human Rights and Equality Commission, IHREC, we are taking a different approach to ensuring that public bodies place equality and human rights at the heart of what they do. Instead of a formalistic box-ticking exercise, with an enormous administrative overhead, we are imposing a positive duty on public bodies to look at the human rights and equality issues they face and address those in their strategic plans and annual reports. Instead of agreeing voluminous paper schemes and deploying a small army of staff for monitoring, the role of the new IHREC will be the much more active one of providing support and facilitation. That will be a much more positive and useful approach.

The final point is that budgetary decisions are for the democratically elected Government of the day and for the approval of the national Parliament and cannot be subject to approval in terms of the process or content of any State agency's board. The Government opposes the Bill.

Deputy Pádraig Mac Lochlainn: That was the exact same speech as the one given last night. The Department could at least have had to courtesy to write a new speech for the Min-

ister of State.

Deputy Dessie Ellis: In a real republic, one that honours the commitments of those who brought this State into being through their sacrifice and struggle, equality would be the watchword of any Government of the people. It would be at the heart of every policy and would be the aim of every initiative. That kind of approach would not just honour our past but ensure our future, not simply as an economy or a state but as a society thriving and growing, cherishing its people and nurturing the generation that will carry it onwards. Some might describe that as woolly rhetoric, but those ideas are the foundation of a progressive approach and a government that ignores them is not worth electing. I appreciate that government is not an easy task. I know that many in this Government have been pushed to do things they did not want to or to accept policy they did not support because they felt it was unfair or unequal. But if one starts policy discussions on the basis of what one can get away with rather than what is the right thing to do, one has already lost.

The Government has been far from the equality-driven Administration I described. In nearly every instance it seems to have taken the opportunity to take from those who can least absorb a cut, to take services from those who need them most and to deny those who are most vulnerable their most basic rights. The only time Ministers have reflected on those decisions has been after the expression of widespread vocal anger, such as in the case of recent cuts to services for disabled children.

This Bill proposes to make equality budgeting a legislative requirement. Equality-proofing a budget or policy would mean that each Minister would have to approach his or her brief and budget with the impact on wider society of the policy in mind. It would require the carrying out of equality impact assessments by Departments. I have asked the Minister for Transport, Tourism and Sport and the Minister for the Environment, Community and Local Government on a number of occasions whether they had impact assessments carried out when deciding on certain policies. The answer I received was depressing but also enraging. The respective Departments claimed they had no responsibility for such a practice. It was bad enough to be told that no impact assessments were carried out, although I suspected as much given the nature of the policies in question, but to be told that a Minister had no responsibility to ensure a policy did not increase inequality was really galling.

The Bill proposes to amend the existing legislation, which was a positive step when introduced but is relatively passive and toothless. While setting out to protect some sections of society, it did not put the onus on policy makers to prove their work was based on the principles of equality. That is the much-needed ingredient this amendment adds and to fear it is to fear good governance and good policy.

One of the groups the original Act protects is the Traveller community. However, we do not have to look too hard to find that this group has not benefited greatly from the current legislative protection. Perhaps in the context of a requirement to carry out such assessments and to promote equality, the Minister for the Environment, Community and Local Government, Deputy Hogan, would have thought again before intervening in the housing of Traveller families he did not know. Perhaps he would have chosen also not to speak when he used an ethnic slur against Travellers to journalists or when he stood over a cut to the maintenance of Traveller housing which saw funding drop to just €50,000 for the city of Dublin. Equality-proofing requirements might also have caused the Cabinet to pause for further reflection when the idea of cutting housing adaptation grants for disabled or elderly people by 40% was proposed, or perhaps it would

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have changed minds on the cut to the transport mobility grant.

Another situation in which the Government has moved with no consideration for the wider impact on society is its attack on the livelihoods of taxi drivers, particularly those who were at one time political prisoners. Despite my campaign, it is clear the Government does not give a damn that its measures will put people out of work and put their families on the breadline. Government Members will claim that Sinn Féin is not being real about the finances of the State. I propose that those who believe they will build an economy and maintain a society based on cuts to the most vulnerable - the disabled, the elderly, Travellers and single parents - are not being real. They are being lazy and callous. If they are neither of these, then they are weak and apologetic for these grossly unfair and insufficient approaches. Equality is something for which we should all strive. We should oppose inequality across the board. The Minister of State's rhetoric indicates that he will never strive towards equality, given some of his excuses.

Deputy Jonathan O'Brien: Tonight, we saw the Labour Party's version of equality, that being sharing the same speech two nights in a row so that both speakers might make the same statement.

I will cite some of the arguments made last night by the Minister of State, Deputy Kathleen Lynch, and again tonight in the same speech given by the Minister of State, Deputy Sherlock, for not supporting our Bill. One of the reasons given by the Minister of State, Deputy Kathleen Lynch, for the Government not supporting the Bill was that "the Bill proposes that there would be very resource-intensive obligations on the full range of public bodies to prepare and publish equality impact assessments of their work for approval by the Equality Authority". This is an absurd argument and is an argument for not doing anything. This is surprising, given that it is the Labour Party's policy. How are jurisdictions with less resources than Ireland able to conduct budget equality impact assessments when this State cannot because doing so would overburden an already stretched public sector? The North and Scotland can do it, but Ireland refuses to do it. The only reason is that there is no political will on the part of the Labour Party and Fine Gael.

The Minister of State, Deputy Kathleen Lynch, also stated: "In the Bill to establish the new Irish Human Rights and Equality Commission, IHREC, which we are working on and hope to publish before too long, we are taking a different approach to ensuring that public bodies place equality and human rights at the heart of what they do." Let us see how this fits in with the Government's proposals.

Last September, the Taoiseach attended a ceremony to celebrate the tenth anniversary of the Irish Human Rights Commission, IHRC. While he was commending the work of the IHRC, he was proposing to merge it with the Equality Authority and to water their powers down. At the time, we published a Bill to oppose the merger because we wanted to safeguard the bodies, one of which - the IHRC - was established as part of the Good Friday Agreement of which the Government is a co-guarantor. In opposition, the Ministers of State, Deputies Kathleen Lynch and Sherlock, opposed any such merger. Now in government, they seem to have rolled over to Fine Gael's demands.

Last night, the Minister of State also stated:

The reality is that resources are limited and additional expenditure demands or costs arising - for whatever reason - will have to be paid for through expenditure reductions else-

where or through the raising of additional revenue. Nothing is this Bill can change that reality or be of any help to the Government in making the difficult decisions its members have been elected to make on behalf of the people as we work to restore the country's economic sovereignty.

After attacking some of the Bill's technical drafting issues, she got to the nub of the issue, that being, what would be the point in proceeding with the Bill if, as she believed, it would change nothing. If she believes that the introduction of a budget impact analysis assessment process will achieve nothing, it says more about her than it does about anything else. This is her party's policy. SIPTU, ICTU and a number of non-governmental organisations, NGOs, came out yesterday and today in support of the Bill. Is the Minister of State telling them that the introduction of such analyses will have no positive or progressive effect on society? It beggars belief.

I also wish to cite two comments made by Deputy Ciarán Lynch last night. He stated:

Equality is a subjective concept. Someone might come before this House and propose that because of the mortgage difficulties which obtain, everyone should receive a write-down of 30% on his or her mortgage. That would be an equal measure but it would also be subjective because we would be giving a break to people who would not deserve it and we would probably not be giving enough assistance to those who require it. When we discuss equality, we should place it in a subjective context.

This is complete waffle. I do not even know where he gets it. He is obviously confusing the concept of equality with equity. He also stated: "The legislation before the House constitutes another aspect of Sinn Féin's subjectivity when it comes to dealing with prisoners." He may recall that Sinn Féin tabled a Private Members' motion in the Dáil to mark the 15th anniversary of the Good Friday Agreement last May. In moving the Government amendment, the Tánaiste, Labour's leader, and the Taoiseach stated during the debate:

-- the Government, as joint and co-equal guarantors of the agreements, is committed to continuing to:

-- work to ensure that the agreements are fully implemented.

There is nothing subjective in what we propose. It may have escaped Deputy Ciarán Lynch but the agreements also include political prisoners. Is the Labour Party stating that it refuses to implement the agreements fully?

Deputy Ciarán Lynch also stated: "If the Bill is an attempt on the part of Sinn Féin to embarrass the Government, then it has missed by a mile." We are not in the business of trying to embarrass the Government. It does a good enough job of that itself.

Deputy Pádraig Mac Lochlainn: Hear, hear.

Deputy Jonathan O'Brien: It does not need help from us. We are concerned with proposing constructive solutions and working with Deputies to try to better the lives of Irish citizens. This Bill is an attempt to do so. Instead of focusing on what Government Members perceive to be drafting issues, why do they not sit down and work with us on its positive aspects and allow it to move on to Committee Stage where we could work together to strengthen it?

As the Ministers of State have criticised the Bill and its drafting, I should point out that it

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was drafted with the help of some of the legal experts provided and resourced by the Bills Office of the Oireachtas. It is not just us who the Ministers of State are criticising, but also the people working in the Bills Office who helped us to draft this legislation.

I wish to address the points made by the Minister of State, Deputy Sherlock, on criminal convictions. He stated that we were proposing to scrub them. That is not what is being proposed in this legislation. We are aiming to apply equal rights to those who have previously served their sentences. A number of Deputies spoke about the Criminal Justice (Spent Convictions) Bill, which has been in committee for the last 18 months.

Deputy Pádraig Mac Lochlainn: God help them.

Deputy Jonathan O'Brien: There is no sign of it coming out of the committee. There is no urgency around it. If this Bill does not meet the Government's standards and is to be rejected here, then that is unfortunate. The challenge, however, is for the Government to bring forward its own legislation to ensure that budgets are fairly analysed and an impact analysis is done.

9 o'clock If that type of legislation had been in place initially, the Minister for Education and Skills would not have reversed a decision on resource teachers last week or reversed the DEIS decision. In addition, the Minister for Health would not have reversed disability cuts. If all those impact analyses had been done in the first place, all those sectors in society, including the parents concerned and people with disabilities, would not have had to camp outside the gates of Leinster House to get what is rightfully due to them.

That will be the challenge following the vote to take place after I conclude speaking. When the Government votes down this Bill it should bring forward its own legislation to ensure that budgets are fair and equitable. We should stop discriminating against people based on what they may or may not have.

Question put:

<i>The Dáil divided: Tá, 46; Níl, 89.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Adams, Gerry.</i>	<i>Bannon, James.</i>
<i>Boyd Barrett, Richard.</i>	<i>Breen, Pat.</i>
<i>Broughan, Thomas P.</i>	<i>Bruton, Richard.</i>
<i>Browne, John.</i>	<i>Butler, Ray.</i>
<i>Calleary, Dara.</i>	<i>Buttimer, Jerry.</i>
<i>Collins, Joan.</i>	<i>Byrne, Catherine.</i>
<i>Collins, Niall.</i>	<i>Byrne, Eric.</i>
<i>Colreavy, Michael.</i>	<i>Cannon, Ciarán.</i>
<i>Cowen, Barry.</i>	<i>Carey, Joe.</i>
<i>Crowe, Seán.</i>	<i>Coffey, Paudie.</i>
<i>Doherty, Pearse.</i>	<i>Collins, Áine.</i>
<i>Donnelly, Stephen S.</i>	<i>Conaghan, Michael.</i>
<i>Dooley, Timmy.</i>	<i>Conlan, Seán.</i>
<i>Ellis, Dessie.</i>	<i>Connaughton, Paul J.</i>
<i>Ferris, Martin.</i>	<i>Conway, Ciara.</i>
<i>Flanagan, Luke 'Ming'.</i>	<i>Corcoran Kennedy, Marcella.</i>

<i>Fleming, Sean.</i>	<i>Costello, Joe.</i>
<i>Fleming, Tom.</i>	<i>Creed, Michael.</i>
<i>Grealish, Noel.</i>	<i>Creighton, Lucinda.</i>
<i>Halligan, John.</i>	<i>Daly, Jim.</i>
<i>Healy, Seamus.</i>	<i>Deasy, John.</i>
<i>Healy-Rae, Michael.</i>	<i>Deenihan, Jimmy.</i>
<i>Keaveney, Colm.</i>	<i>Deering, Pat.</i>
<i>Kelleher, Billy.</i>	<i>Doherty, Regina.</i>
<i>Mac Lochlainn, Pádraig.</i>	<i>Donohoe, Paschal.</i>
<i>McConalogue, Charlie.</i>	<i>Doyle, Andrew.</i>
<i>McDonald, Mary Lou.</i>	<i>Durkan, Bernard J.</i>
<i>McGrath, Finian.</i>	<i>English, Damien.</i>
<i>McGrath, Mattie.</i>	<i>Farrell, Alan.</i>
<i>McGrath, Michael.</i>	<i>Feighan, Frank.</i>
<i>McLellan, Sandra.</i>	<i>Ferris, Anne.</i>
<i>Murphy, Catherine.</i>	<i>Fitzgerald, Frances.</i>
<i>Naughten, Denis.</i>	<i>Fitzpatrick, Peter.</i>
<i>Ó Caoláin, Caoimhghín.</i>	<i>Flanagan, Charles.</i>
<i>Ó Fearghail, Seán.</i>	<i>Griffin, Brendan.</i>
<i>Ó Snodaigh, Aengus.</i>	<i>Hannigan, Dominic.</i>
<i>O'Brien, Jonathan.</i>	<i>Harrington, Noel.</i>
<i>O'Sullivan, Maureen.</i>	<i>Harris, Simon.</i>
<i>Pringle, Thomas.</i>	<i>Hayes, Brian.</i>
<i>Ross, Shane.</i>	<i>Hayes, Tom.</i>
<i>Shortall, Róisín.</i>	<i>Heydon, Martin.</i>
<i>Smith, Brendan.</i>	<i>Hogan, Phil.</i>
<i>Stanley, Brian.</i>	<i>Howlin, Brendan.</i>
<i>Tóibín, Peadar.</i>	<i>Humphreys, Heather.</i>
<i>Troy, Robert.</i>	<i>Humphreys, Kevin.</i>
<i>Wallace, Mick.</i>	<i>Keating, Derek.</i>
	<i>Kehoe, Paul.</i>
	<i>Kelly, Alan.</i>
	<i>Kenny, Seán.</i>
	<i>Kyne, Seán.</i>
	<i>Lawlor, Anthony.</i>
	<i>Lynch, Ciarán.</i>
	<i>Lynch, Kathleen.</i>
	<i>Lyons, John.</i>
	<i>McCarthy, Michael.</i>
	<i>McEntee, Helen.</i>
	<i>McGinley, Dinny.</i>
	<i>McHugh, Joe.</i>
	<i>McLoughlin, Tony.</i>

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	<i>McNamara, Michael.</i>
	<i>Maloney, Eamonn.</i>
	<i>Mitchell, Olivia.</i>
	<i>Murphy, Dara.</i>
	<i>Murphy, Eoghan.</i>
	<i>Nash, Gerald.</i>
	<i>Neville, Dan.</i>
	<i>Nolan, Derek.</i>
	<i>Noonan, Michael.</i>
	<i>Ó Riordáin, Aodhán.</i>
	<i>O'Donnell, Kieran.</i>
	<i>O'Donovan, Patrick.</i>
	<i>O'Dowd, Fergus.</i>
	<i>O'Mahony, John.</i>
	<i>O'Reilly, Joe.</i>
	<i>O'Sullivan, Jan.</i>
	<i>Perry, John.</i>
	<i>Phelan, Ann.</i>
	<i>Phelan, John Paul.</i>
	<i>Rabbitte, Pat.</i>
	<i>Reilly, James.</i>
	<i>Ryan, Brendan.</i>
	<i>Sherlock, Sean.</i>
	<i>Spring, Arthur.</i>
	<i>Stagg, Emmet.</i>
	<i>Stanton, David.</i>
	<i>Tuffy, Joanna.</i>
	<i>Wall, Jack.</i>
	<i>Walsh, Brian.</i>
	<i>White, Alex.</i>

Tellers: Tá, Deputies Aengus Ó Snodaigh and Jonathan O'Brien; Níl, Deputies Emmet Stagg and Paul Kehoe.

Question declared lost.

Message from Seanad

An Leas-Cheann Comhairle: Seanad Éireann has passed the Further Education and Training Bill 2013, without amendment.

Estimates for Public Services 2013: Message from Select Committee

An Leas-Cheann Comhairle: The Select Committee on Foreign Affairs and Trade has completed its consideration of the following Revised Estimates for the Public Services for the year ending 31 December 2013 - Votes 27 and 28.

Taxi Regulation Bill 2012 [Seanad]: Second Stage (Resumed)

Question again proposed: “That the Bill be now read a Second Time.”

An Leas-Cheann Comhairle: The next speaker is Deputy Halligan, whom I understand is sharing time with Deputy Pringle. Is that agreed? Agreed.

Deputy John Halligan: In essence, I welcome the Bill. In 2003, the taxi sector was deregulated. In terms of how this was done, it was an abject and total failure. I accept that at the time there were too few taxis in some areas, particularly Dublin. However, this was not relevant to other parts of the country, particularly rural areas. Under the new system anybody who wanted to could apply for a taxi licence. Most of those who applied for a licence were unemployed. The introduction of deregulation led to conflict between local authorities. For example, there were so many taxis in Waterford and in other areas the number of ranks available was insufficient. This and a lack of sufficient parking for taxis gave rise to conflict between taxi drivers and the Garda and local authorities.

Deregulation was a grave error and was introduced for two reasons. The reason cited by the Government at the time was to address a shortage of taxis in some areas. I suspect, however, that another reason was to reduce the number of people drawing unemployment benefit by encouraging people to acquire a taxi licence. Deregulation has resulted in a large number of taxi drivers being unable to earn a regular or decent income. This had a twofold impact. First, a taxi driver who decides to leave the taxi industry because the job is not working out will find it extremely difficult to obtain social welfare benefits because taxi drivers are self-employed. This is unfair. Second, it led to people on unemployment benefit entering the taxi industry to bolster their income. Given that they were acting illegally to some degree, this created conflict. The result has been that we have too many taxis on the roads and many taxi drivers are unable to make a decent living. This issue should have been addressed because it has done considerable damage to the perception of the taxi industry.

I stand open to correction but I understand it is possible to purchase a taxi licence through the *DoneDeal.ie* website. While I understand this issue is being addressed in the Bill, it is beyond me that this position was allowed to continue for so long. I accept, however, that the problem precedes the election of the current Government. Taxi drivers generally support my view that all licensing should be processed through the Taxi Regulator.

Deputy Pringle and I have spoken to representatives of taxi drivers. They would like a re-

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tirement age to apply to taxi drivers, as is the case in other industries, and an arrangement to be made so that in cases where drivers are unable to work due to a long-term illness, their taxi plate would be returned to the regulator. No such legislative provision is in place. I have met taxi drivers who have been unable to work due to long-term illness but still have their taxi licences. Perhaps their licences should be automatically returned to the regulator. I believe the Irish Taxi Drivers Federation would accept such a measure.

I return to the decision to deregulate the taxi industry. The large increase in the numbers of taxi drivers has meant that taxi ranks have become a dreadful problem nationwide. In Waterford, Kilkenny and similar towns, taxis are found all over the place. One cannot blame the drivers for the problem and we need to discuss with the relevant planning authorities what they propose to do to address it. If some form of stay is not imposed on the issuing of new licences and people continue to be granted licences provided they meet certain conditions, the problem will quadruple in the coming years. An accurate assessment must be made of the number of people who hold taxi licences versus demand for taxis in various areas. For example, should the same ratio of taxi drivers to population apply in Dublin as in relatively small towns, such as Kilmac, County Waterford. Such an assessment would prevent much of the conflict that is taking place in the taxi industry. Before travelling to Dublin earlier this week, I spoke to gardaí in Waterford who deal with taxis. They informed me that while they do not want conflict with taxi drivers, there are constant problems because many drivers park illegally as they try to get as close as possible to full ranks.

While I not have a problem with the Bill in general, given the volatility associated with the taxi industry and problems with how the system operates, it will be necessary to maintain ongoing contact with the Irish Taxi Drivers Federation.

Taxi drivers agree with me on the need to ensure passengers are automatically provided with receipts and that receipts are monitored. I take a taxi occasionally and I am only sometimes given a receipt. In most other countries in Europe receipts are provided automatically. A system must be put in place that ensures punters believe they are getting a fair deal. While taxi passengers generally do get a fair deal, people purchasing goods or services in shops are entitled to a receipt. It should also be mandatory to provide a receipt in the taxi industry, although I am not certain how any such requirement would be monitored. The issuing of receipts would prevent disputes between taxi drivers and their customers. How often has one heard someone say he or she was ripped off or overcharged by a taxi driver? Many of them will not have been ripped off because much depends on traffic and so forth. I ask the Minister of State to consider this proposal, which taxi drivers support. It would be a step forward for punters if they knew they would be charged a reasonable amount for their journey and would be given a receipt that is monitored to prevent overcharging.

The Minister of State will be aware of the volatility of the taxi industry which had given rise to taxi disputes all over the country. We need to keep in contact with the various representative organisations, of which I understand there are two, although there may be several unofficial organisations. They are making an effort to unionise the industry and ensure it offers a decent service to customers. They know it is in their long-term benefit to achieve these objectives but they need assistance. Taxi drivers need to be treated as other workers in industry are treated. They require reasonable rates of pay and must be able to retire. Many of them are earning wages that are far below the minimum wage but cannot sign on for social welfare benefits because they are self-employed.

I understand there are 25,000 taxi drivers. This is a significant number of people who are generating money for the economy, providing a service and paying tax and PRSI. If any other industry was employing 25,000 people, we would ensure it was regulated and monitored and those employed in it paid tax and PRSI and were paid a reasonable rate for the service they provide. This is all taxi drivers are asking. If we do this, the Exchequer, tourists and taxi users will benefit.

Deputy Thomas Pringle: I welcome the opportunity to speak to the Bill, which repeals and replaces the 2003 Act. Under the legislation, people with certain convictions will be precluded from obtaining a public service vehicle licence. The Bill also introduces a demerit or penalty points system and transfers the licensing authority from the Garda Carriage Office to the National Transport Authority. It also makes provision for service agreements for the enforcement of the regulations.

Before I discuss the provisions in the legislation, I wish to mention a recent proposal from the Minister of State for a rural hackney service. From the limited media reports I have seen I understand it is to be introduced by December and will be administered through the rural transport companies. I believe there will be restrictions on the areas in which the hackneys can operate. Today I searched for some time on the Department's website and the NTA's website and I could find no details of it - I could not even find details of an announcement of it.

Deputy Alan Kelly: It was in the review.

Deputy Thomas Pringle: There is a two-line paragraph in the review and perhaps this is where this has all come from. I have serious concerns because many hackney drivers operate in the rural part of County Donegal where I live. Even though Killybegs has a population of 1,200 or 1,300 about eight or nine hackneys operate there every weekend. I can see the thought behind introducing this system through the rural transport companies, but existing hackney licence holders should be allowed to apply or tender and then it should be administered through the transport companies. This will introduce a third layer of taxis. We have the taxi-plate holders, the hackneys and now these new rural hackneys. There will be major problems with the policing and regulation of it. A person getting this new hackney licence might be restricted to operating within a five-mile radius of a small village in County Donegal. However, nothing will prevent him or her from going to operate in the nearest town. We know there will be no regulation because there are only nine enforcement officers.

Deputy Alan Kelly: That will change.

Deputy Thomas Pringle: Nineteen would represent a big improvement. However, for a country of this size there is no way it will be possible to enforce regulation in that industry. Existing hackney licence holders should be able to tender with the rural transport companies. The payments can then be arranged with the rural transport companies. Hackney licence holders in rural areas are struggling and barely making a living as things stand.

The difficulty in making a living leads me to a matter not addressed by the legislation, which is the oversupply of taxis in the country. While it is difficult to make estimations, the Indecon report estimated that the oversupply could be as high as 22%. Based on what I see in Dublin I believe that is an underestimation of the oversupply. We all remember the complaints in 2001 and 2002 about the lack of taxis in Dublin. Then we had deregulation and the supply exploded. It is an example of market failure at the other end where the market has failed due to oversupply

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and has not been able to rectify itself. It would be an interesting study for some economist to figure out how to adjust for market failure in the other direction. We always talk about market failure being a lack of supply but we now have a complete oversupply. While it is not covered in the Bill, it needs to be addressed.

I know that the whole country is now effectively a taxi-meter area and taxis from rural areas can come in and operate in Dublin at the weekends etc. They will go where the business is and try to make a living. That further highlights the difficulty taxi drivers have in making a living as things stand at the moment. We cannot rely on the recession to deal with it because when the recession is over and things improve again, the supply will explode again. I do not know how it can be addressed but it needs to be considered on a longer-term basis.

I agree with the Bill's provisions to exclude people from getting PSV licences based on past convictions. I cannot understand why the provisions in the 2003 Act were never implemented because potentially a sex abuser or rapist could be plying his trade as a taxi driver, which makes no sense. I take it that will be implemented rapidly on the passing of the legislation. I have one note of caution. Existing taxi drivers who lose their licences under this provision can opt to go to the courts to have the licence reinstated if they show their good character in the intervening period since their convictions. However, it should be possible to have a system that is not as costly as going to the courts to have that right vindicated. Particularly in the transition period where existing taxi drivers lose their licences we should provide that a judge, a barrister or someone else could hold a review and make the decision on that basis rather than requiring that they go through the courts to have the right vindicated.

I agree with the assertions of the Sinn Féin Deputies about the provisions of the Good Friday Agreement and the former combatants who would be excluded under this Bill. There may be an obligation on the State to make some provision for that. That should be addressed.

Moving the licensing to the NTA and away from the Garda and the Carriage Office streamlines the process. However, the Bills digest for the legislation referred to concern that has been expressed relating to the Criminal Justice (Spent Convictions) Bill that is on Committee Stage in the Dáil. It specifically states that its provisions do not apply to applications for licences under section 34 of the Taxi Regulation Act 2003. Owing to timing constraints it might not be possible to address that in this Bill, but it should be addressed and people with spent convictions should not have to disclose them when applying for taxi licences.

I agree with the introduction of a demerit system. I have already mentioned the lack of enforcement officers, which is a problem we have throughout Irish society. We are great at making the laws but terrible at enforcing them and we do not commit to the enforcement. I know the Bill provides that the NTA can enter service agreements for the enforcements. I have concerns about that. The outsourcing of enforcement is a retrograde step and we should have a system that is financed through the licence fees with our own enforcement officers. We should not outsource more enforcement. We have outsourced speed cameras and we will probably privatise and outsource the Garda at some stage in the future, which is not the way to go. That is a philosophical point of view I have.

Deputy Alan Kelly: I agree.

Deputy Thomas Pringle: I agree with the basic tenets of the Bill. I ask the Minister of State to review the provisions of the Criminal Justice (Spent Convictions) Bill and to have a dif-

ferent system for licence holders who are excluded for previous convictions. Apart from that, I believe the Bill should be acceptable.

Minister of State at the Department of Transport, Tourism and Sport (Deputy Alan Kelly): I thank the Deputies for their very comprehensive contributions across a range of issues.

In response to a query from Deputy Pringle, the whole of Ireland is a taxi-meter area, but an individual is required to have a licence to operate in each area. While a taxi driver can pick passengers up in Donegal and drop them at their destination, it is not possible for the taxi driver to end up in Dublin and start operating out of Dublin. The Deputy has made a very good suggestion about the courts. However, the Bill provides for an appeal mechanism which will probably meet the Deputy's requirements.

Deputies' contributions have ranged from the legislation before us to the multiplicity of regulatory changes introduced as a consequence of the implementation of the review which I chaired. As there is considerable duplication and overlap, I will refer to both of them. Indecon estimated a 22% oversupply, which I regarded as quite low. While I rarely see Dublin on a Saturday night, even on a Thursday or a Friday it is possible to see it. Clearly, there is oversupply and I accept that totally. However, I want to say out straight that I deal with the taxi industry at a level of detail that, by and large, no other Minister has done previously. The majority of taxi drivers are decent, honest and genuine people and that is the case throughout the country. I have met them in Letterkenny, Galway, Cork, Portlaoise and throughout the country. This is the case in particular for full-time taxi drivers. The motivation behind the regulations and legislation I am introducing is to ensure they can do an honest day's work and not work a 16 hour day to ensure they bring home an honest day's pay. Unfortunately, through the *laissez-faire* and non-priority approach politically of previous Governments towards this industry the food has been taken out of their mouths, but I aim to change that. Much of this work is motivated by my personal experience, knowledge and interaction with such people, who, I believe, are decent hard-working people.

I examined the issue of capping licences when I first came to office. However, legally I cannot do it. There are various reasons relating to Irish and European law which mean I cannot do it and there are several court cases that have set a precedent in this area. All of this means it would be folly for me to try to set a cap. Having said that, we have considered the issue through this legislation and the regulatory changes we are introducing through the National Transport Authority. The idea is to change completely the way the industry is regulated through the NTA. Under the authority there will be a range of qualitative and legislative changes to deal with the industry and make it fit for purpose. This will not happen overnight - I accept that - but I believe it will take place as a result of all the changes. If they are truthful about it, those in the industry will admit they have seen that already.

Some Deputies raised the issue of a buyback scheme for licences in order to bring down the numbers. To put it straight, I do not believe licences should have a monetary value. My driving licence does not have a monetary value and similarly I do not believe taxi licences should have such a value. Years ago a person had to pay thousands for a licence which were trading for serious money and it was absolutely ridiculous. I am ensuring there is a prohibition on the transfer of licences. This is something the majority of taxi drivers have welcomed. The situation of the rental market and that aspect of the industry was completely ridiculous. Now, when a person rents a car, he must rent the whole package. A person does not simply secure his licence and then proceed to get the car and the equipment. The whole thing must be in one and, therefore,

an owner is responsible.

I had to make one change relating to the prohibition on licence transfer. This relates to when someone with a licence passes away. There is an exemption in this area for several months afterwards and someone can apply as a member of the family to take on the licence. To be honest, I did that as a result of representations to the taxi steering group and I made the change on the basis of the request.

The issue of prohibition has been raised. An amendment will be introduced on the next Stage relating to companies because a percentage of licences are owned by companies and we need to ensure there is an approach to deal with that. I will deal with that on Committee Stage.

Much of the Bill deals with the issue of people who have serious convictions and who have a licence to drive a taxi. Put simply, there are people, possibly driving by this building tonight, who simply should not be behind the wheel of a taxi. I am not suggesting there are many of them, but they do exist. Given that there is legislation providing powers to deal with this, it is an insane and crazy situation in 2013. We all have loved ones who could get into the back seat of a taxi driven by a person who certainly should not be behind the wheel of any public service vehicle. That is the motivation. The motivation is to ensure we have an industry fit for purpose and, from a consumer point of view, one in which the consumer can trust and feel safe using. In addition, drivers must feel safe as well because the number of attacks on drivers is ridiculous and there has been completely unacceptable behaviour by some among the public.

People have raised the issue of the various timelines that are being put out depending on the conviction. This relates to the number of years, whether retrospective or in future, a person will lose his licence if he has certain convictions. We must be proportionate and we need to work closely with the Attorney General to ensure the prohibition or withdrawal of a licence is proportionate to the crime of which the person is convicted. This is what the table in the Bill outlines.

The issue of those who have convictions and who were released under the Good Friday Agreement has been raised by several colleagues, especially those in Sinn Féin. I simply do not believe this is the appropriate place to deal with that issue, but that is not to dismiss it. The issue goes beyond the Taxi Regulation Bill. It is a broader issue. I have taken many soundings and advice, including advice from the Attorney General. The issue is broader than the Bill and most Deputies, if they thought about it logically, would accept that. There is a broader issue in respect of those who were released under the Good Friday Agreement, their rights under the Agreement and how, as a nation, we are dealing with it. That is why there is a provision in the Bill to allow people a fair amount of time to go through the courts in a reasonable way if they believe they should have their licences back. However, there is another point, which was raised by Deputy Pringle as well. There is a possibility that this issue should have been raised under the Criminal Justice (Spent Convictions) Bill in some fashion. Some Deputies, especially from Sinn Féin, have said that amendments were tabled. I have not had a chance to clarify it but I understand amendments were tabled to this Bill in the Seanad. However, to my knowledge no amendments were tabled in the Dáil or Seanad on the Criminal Justice (Spent Convictions) Bill in respect of the Good Friday Agreement. That may be something that should be reflected on by others.

This legislation brings changes in the area of fixed penalties. I took advice from the taxi advisory committee in respect this issue. I changed the penalties and made some of them more lenient because I believed it was necessary. We added several penalties and we brought in the

issue of penalty points or demerits as they are termed in the legislation because if someone is constantly going against the regulations and laws, he should have his licence suspended.

I accept absolutely the views of every Deputy on rank space. It is an issue in every major city. Every year I meet people in local authorities in the major cities and I am always asking them to provide more rank spaces for taxis. We are constantly looking at this and local authorities are constantly looking at the issue of bus lanes and lay-by space and anything that can be used, especially at night because that is when the surge occurs. Work is ongoing in this area with all the major local authorities.

Many speakers have said that we are doing a good deal of work in this area but they have questioned whether there will be enforcement. There will be enforcement. I estimate the number of enforcement officers will treble. This will not necessarily unfold as Deputy Pringle envisages. We need to consider this area and reflect on what meets the requirements. However, the capacity of the Bill allows flexibility if we need to ramp up or down in certain areas. To be frank, initially, after this legislation is enacted, we need to ramp up quickly and that is what the Bill allows us to do. I imagine Deputy Pringle appreciates that. Enforcement is a major issue and there is no point in putting in place all of these regulations and the legislation to back them up if we do not enforce them.

Technology has contributed significantly to the industry in recent years. For example, the National Transport Authority has developed an app for one's telephone that enables one to check every taxi driver before getting into the car. This is a fantastic, widely used application, which incidentally is used a great deal by taxi drivers. One also sees the Hailo app among others and technology is contributing greatly. However, one must be able to ensure the industry is good enough both to allow this technology to facilitate people and to embrace the technology in the first place in order that it all works together, as I believe it will.

I propose to introduce a number of amendments on Committee Stage on a range of issues, one of which concerns the issue of a notification to the employer that one is driving a taxi. There is an issue regarding the volume of hours that drivers work that often is discussed with the Road Safety Authority in my Department. Some drivers could have other jobs and I note the case of the "Prime Time Investigates" television programme when someone also was a bus driver. This issue must be dealt with because it is not safe to drive vehicles, be they buses or trucks, for hours on end and then get into a taxi straight away and continue driving. I believe everyone will accept this point. Rural hackney licences are necessary because of market failure. This issue is being teased out at present and is a requirement in rural Ireland. I emphasise its purpose is not to displace taxis but simply to ensure there is some form of provision in place to enable communities in rural areas to go about their business, socialise, etc., in a safe environment. Everyone is aware of anecdotes concerning arrangements in different parishes whereby people get lifts, only for tenners to be left on seats and so on. This simply is unacceptable and one is merely waiting for an accident to happen at which point someone will ask why the Government did not do something about it. This is the reality, as I live in rural Ireland and know it well. There also is the issue of community cars but I accept Deputy Pringle's point in particular regarding the subject of hackneys, examining that space and ascertaining how closely together they can be brought. However, I believe this must happen, as rural Ireland is suffering detrimentally and this measure, together with a realigned rural transport scheme, can really help in this regard. This is the reason I am making so many efforts on this issue.

A personal ambition is to ensure the issue regarding those with a requirement for wheelchair

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taxi is dealt with completely and rapidly. It is unacceptable for people to receive subsidised licences on the basis they will offer this service, only to see them pulling up at Dublin Airport with a load of golf clubs in the back. This is not acceptable. I accept the cost of and specification for these cars are way too high and I am working on a separate measure to bring down those specifications. Moreover, it is intended to create a centralised system whereby those who need such services will be able to place an order. As a result, in the case of someone who refuses to meet the passenger or accept the booking on a number of occasions, there will be a consequence for that person. I believe this to be appropriate and that all Members share my views in that regard.

I will conclude by making the point that over the past year and a half or more, I know of no other Minister who has met industry figures as often as have I. I met them before and as part of the review. I received deputations, accepted submissions and have met groups throughout the country. Moreover, I continue to get representations and I deal with them as much as I can. However, there is a point at which one must make decisions. The industry is extremely fragmented and there are many disparate groups. One probably cannot put two different groups or even two different taxi drivers into a room and get them to agree on things because they simply will not. All Members present are aware of that and are all smiling and laughing because it is the truth. That said, I acknowledge they have genuine concerns. They have been represented and I have taken on each issue and digested it to come out with the best solution possible within the legal parameters that exist. I hope Members respect the point that legal parameters are in place and my Department is bringing forth a combination of this legislation with the regulatory changes, comprising more than 46 measures, that are being put in place in tandem with this Bill. Collectively, this will lead to a better and far superior industry in the coming years. I look forward to the Committee Stage debate later, when I intend to introduce amendments. I also will consider all amendments tabled by any Members at that Stage. I thank Deputies for their time.

Question put and agreed to.

Taxi Regulation Bill 2012 [Seanad]: Referral to Select Committee

Minister of State at the Department of Transport, Tourism and Sport (Deputy Alan Kelly): I move:

That the Bill be referred to the Select Sub-Committee on Transport, Tourism and Sport pursuant to Standing Orders 82A(3)(a) and (6)(a) and 126(1) of the Standing Orders relative to Public Business.

Question put and agreed to.

The Dáil adjourned at 9.55 p.m. until 10.30 a.m. on Thursday, 4 July 2013.